

DECEMBER 19TH, 1904

DIVISIONAL COURT.

WARD v. LOWTHIAN.

GREEN v. MARR.

*Public Health Act—Contagious Disease—Proceedings taken by Local Board of Health to Prevent Spread of Infection—Converting Hotel into Hospital—Action by Owner of Hotel—Illegality—Malice—Reasonable and Probable Cause—Members of Board—Board Sued as a Corporation—Violation of Provision of Act—Conversion of Goods—Confinement of Person in Hospital—Exposure to Infection.*

Appeals by plaintiffs from judgment of FALCONBRIDGE, C.J., 3 O. W. R. 362, dismissing these actions.

M. Wilson, K.C., and W. A. F. Campbell, Ridgetown, for plaintiffs.

W. Mills, Ridgetown, for defendants.

The judgment of the Court (MEREDITH, C.J., MACLAREN, J.A., TEETZEL, J.), was delivered by

MEREDITH, C.J.—Ward's action is against the 5 members of the local board of health of the town of Ridgetown individually, F. B. Marr and John Golden, two members of the medical profession who are alleged to have been medical health officers for the town, and against the local board of health as a corporation.

Ward's complaint . . . is against defendants other than Marr and Golden for their neglect to provide a hospital, hospital tent, or other place of reception for the sick and infected upon the happening on 9th February, 1903, of an outbreak of smallpox in the town, and then causing the sick and infected to be confined in his hotel in the town, which, it is alleged, they converted into a smallpox pest-house or isolation hospital, and for 5 days used the hotel for that purpose, and confined the sick and infected in it; that the same defendants neglected to provide any other building or tent in which to place the guests of and boarders at the hotel, and servants and members of Ward's household, who had been exposed to contagion, but kept them in the hotel during the 5 days and for 17 days afterwards, without effectually isolating the sick and infected; and all these acts are alleged to have been done illegally, maliciously, and without reasonable and probable cause. Ward complains as against defendant Marr that during all this time he (Marr), as medical