

work for the defendants by reason of the negligence of the defendants or their servants, as the plaintiff alleged.

The action was tried before MEREDITH, C.J.C.P., without a jury, at Toronto, on the 25th March, 1913.

H. H. Dewart, K.C., for the plaintiff.

J. A. Paterson, K.C., for the defendants.

MEREDITH, C.J.C.P.:—I retained this case yesterday afternoon for the purposes of further consideration of one or two of the points respecting the legal character of the defendants and of the University, urged very fully, and with much force, by Mr. Paterson in the interests of the defendants.

Under the later legislation affecting the University and creating "The Governors of the University of Toronto"—called "The Board" in such legislation—they are made a legal entity—a corporate body; differing in that respect from the council of a municipal corporation and from any ordinary board of directors of any ordinary corporation; and being so incorporated, and having expressly conferred upon them capacity to sue and be sued; and admitting, as they do, that the work in which the plaintiff was injured was their work, and was under their contract; and that the persons engaged in it were their servants; this action is, I think, quite properly brought against them, in their corporate capacity, instead of against the University.

The contention that the rule that the King can do no wrong applies to the wrongs of "The Governors of the University of Toronto" was ruled against upon the argument. The mere fact that the Lieutenant-Governor in Council of the Province appoints most—not all—of the Governors does not confer upon them the character of Crown officers. Such an appointment, in itself, has no such extraordinary effect; and indeed is not even extremely unusual. I mentioned, during the argument, two other instances: one being the appointment of a member of a municipal hospital board; and the King in council, I believe, appoints the members of a University board in England. There is no reason why the Lieutenant-Governor in Council might not appoint members of a board of directors, or of management, of any concern; I mean there is no legal reason; and, if that were done, the effect in law would be none other than the effect of a like appointment made in any other valid manner.

Nor do the other powers, respecting the university, which the Lieutenant-Governor in Council has, under the enactments