

No Canadian or English case bearing on it was cited or found. The decision follows: *Kelsey v. Kendall*, 48 Vt. Rep. 24, and *Murphy v. American Soda Fountain Co.*, 39 S. Rep. 100, cited for the plaintiff.

The following cases were also cited: *Coulthard v. Parr*, 29 C.J.L. (1893) 269; *Walker v. Hyman*, 1 Ont. App. 345; *Tuff's v. Mottashed*, 29 C.P. 539; *Smith v. Hobson*, 16 W. C.R. 368; *Forristal v. MacDonald*, 9 S.C.R. 12; *Banque D'Hochelaga v. Waterour Engine Co.*, 27 S.C.R. 406.

A. Weir, for plaintiff. Towers and Burnham, for defendants.

FOURTH DIVISION COURT, COUNTY OF PRINCE
EDWARD.

Morrison, Co. J.]

[Nov. 1.

TOWNSHIP OF AMELIASBURG v. PITCHER AND WIFE.

*Public Health Act—R.S.O. 1897, c. 248—Parent and child—
Medical attendance—Necessaries.*

The defendants were husband and wife, parents of a boy under sixteen years of age, who while absent from home attending school in Belleville was taken ill. A doctor there was consulted, and, suspecting smallpox, sent the boy home, and notified the health authorities of the plaintiffs. A resolution was passed by the Board of Health authorizing a doctor under s. 85, sub-s. 2, of the Public Health Act to take charge of the case as medical health officer and exercise all the authority and powers necessary for the preservation of the safety and good health of the public generally. The fees for the doctor to be \$10.00 a day, exclusive of any other expense he might find necessary. The malady proved to be smallpox. The boy recovered. The plaintiffs paid the doctor the amount of his claim, \$420.00, and they sought in this action to recoup themselves \$100.00 thereof, as a reasonable proportion which the defendants should bear. This claim was based on s. 93 of the Act, which provides that under such circumstances a local Board of Health may provide nurses and other assistance and necessities for the patient at his own cost and charge, or at the cost of his parents or other persons liable for his support, if able to pay the same. There was judgment for plaintiffs for \$100.00. The defendants applied for a new trial.

Held, that the word "necessaries" covers medical attendance