
REPORTS AND NOTES OF CASES.

Province of Ontario.

COURT OF APPEAL.

Full Court.]

[Jan. 17.

ROSS 1st. TOWNSHIP OF LONDON.*Public Health Act—Employment of physician by local Board of Health.*

Appeal by plaintiff from the judgment of MEREDITH, C.J.C.P., 20 O.L.R. 578. The action was for a mandatory injunction directing the defendants, other than the corporation of the township of London, who were members of a local Board of Health, to issue an order for \$2,300 in favour of the plaintiff, as payment for medical services in a small-pox outbreak in the township of London, and directing the township corporation to pay the same. The Board had issued an order for \$350 for these services, but the plaintiff declined to receive that amount as in full of his demand. He claimed a larger sum under an alleged agreement made by him with the Board before the services began. This the defendants denied and the trial Judge found in favour of the defendants, so that if the plaintiff could recover it would have to be on a quantum meruit. The local Board of Health was not as such a party to the suit.

Held, 1. No order could be made against the individual members of the Board of Health who were co-defendants in the action. See R.S.O. 1897, s. 248, s. 48.

2. The Board being a quasi corporation might be sued and the plaintiff's remedy, if any, would be against the Board, notwithstanding s. 58 of the same Act.

3. There was no right of action against the township or corporation. It was not in default in any way. Appeal dismissed.

Johnston, K.C., and *McEvoy*, for plaintiff. *G. Meredith*, K.C., for defendants.