

As to the alleged conversion also, it was not necessary to prove malice and want of reasonable or probable cause, but this is unimportant, as, in my opinion, as I have said, no conversion was proved.

Ward's appeal should, in my opinion, be dismissed with costs.

The case of the other plaintiffs differs in its facts. The case is that the infant plaintiff Green, though he was not sick or infected, was taken to the temporary hospital, and kept there for several days; that he was afterwards brought from the hospital to and placed in an office building on the premises of his father, and kept there for several days longer; that he contracted smallpox while in the hospital, owing to his being brought into contact with the smallpox patients who were there; and he claims damages for these wrongs. The other plaintiff Green, his father, claims damages for loss of business owing to his house, in which the boy lived with him when he was sent to the hospital, having been placarded with a smallpox card.

This action also was, I think, rightly dismissed. The case failed on the facts. The proper conclusion on the evidence, in my opinion, is, that the boy was suffering from smallpox when he was taken to the hospital; that he went there voluntarily; that he did not contract the disease owing to his having gone to the hospital; and that the house was rightly placarded.

I am also of opinion that, malice and want of reasonable and probable cause not having been shewn, as they were not, plaintiffs Green would not have been entitled to succeed in their action even if defendants had been mistaken as to the boy being sick or infected with smallpox.

In any case the same reason which prevents Ward from recovering against the board of health, as such, is a complete answer to the Greens' claim to recover against the board.

Appeal dismissed with costs.

DECEMBER 19TH, 1904.

DIVISIONAL COURT.

O'REILLY v. THOMPSON.

*Sale of Goods—Action for Price—Combination of Dealers—
Agreement—Construction—Course of Dealing—Company.*

Appeal by defendant from judgment of Judge of County Court of Carleton, in an action upon an account for the price of coal, in favour of plaintiff for \$167.49 with costs.