

OF INTEREST TO HOSPITALS.

IERZINO v. TORONTO GENERAL HOSPITAL.

A case was decided by Judge Winchester, the senior Judge of the County of York, a few days since, which is of peculiar interest to hospitals.

The action was brought by the plaintiff to recover from the Toronto General Hospital the sum of \$160, which the plaintiff claimed had been taken from him by the defendant, its servants or agents. The facts in connection with the case appear sufficiently in the text of the judgment.

Mr. R. W. Eyre appeared as counsel for the plaintiff, and Mr. H. D. Gamble, solicitor for the Toronto General Hospital, appeared as counsel for the defendant.

Mr. Gamble contended for the defendant,—

That the defendant could not be made liable as bailee, for, if this was a bailment, the defendant was a gratuitous bailee, and that to make it liable gross negligence on its part must be shown, whereas, upon the evidence, no negligence whatever had been proved.

In answer to the charge that the money had been stolen by one of the servants of the defendant, he submitted that the defendant could only be made liable where the tort of the servant was within the scope of the employment, and referred to *Cheshire v. Bailey*, 21 T. L. R., 130, where the law is very clearly set forth.

He further submitted that the defendant could not be made liable by any analogy to inn-keepers, the law with relation to inn-keepers being peculiar, inn-keepers being one of the exceptions to the rule that bailees are not insurers of the goods in their custody. Among other cases, he referred to *Cayle's case*, 1 Sm. L. C., 11 Ed., page 119, which is the leading case on this subject.

He also submitted that boarding-house keepers not being responsible for the loss of their lodgers' property, and the defendant being in a very much stronger position than boarding-house keepers, inasmuch as the institution was a charitable one, making no profit whatever from the inmate, could not be held liable. He also referred to *Holder v. Soulby*, 8 C. B., N. S., 254.

The motion was dismissed.

The evidence on behalf of the plaintiff is to the effect that the plaintiff, being seriously injured in the head and body, was taken to the Emergency Hospital belonging to the defendant, and while there, \$160 wrapped up in a handkerchief, and tied around his leg below the knee, was taken from the plaintiff by a ward tender in the defendant's service, and that he has not received