

item 224 of the tariff of costs) on the first day's hearing, and (2) to an allowance for costs of the negotiations for settlement under item 224 of Schedule No. 4.

R. L. Reid, for appellant. *W. J. Whiteside*, for respondent.

Full Court]

LOVE v. FAIRVIEW.

[April 18.

Fire escape Act—Neglect of statutory duty—Injury to guest while rescuing fellow-guest from fire—Contributory negligence—Volenti non fit injuria—Misdirection—New trial.

Appeal from judgment of HUNTER, C.J., dismissing plaintiff's action for damages for injuries sustained in a fire in defendant's hotel while he was a guest in it.

Held, where a guest in a burning hotel is injured in consequence of the proprietor having failed to provide the means of fire escape required by the Fire Escape Act, an action for damages will lie against the proprietor notwithstanding that a penalty is imposed for breach of the statutory duty.

The defence arising from the maxim *volenti non fit injuria* (the guest being aware of the lack of means of fire escape and having made no objection) is not applicable where the injury arises from a breach of a statutory duty.

The fact that the guest delayed his exit in order to rescue a fellow guest, and thereby lost his own chance of getting out safely, is not as a matter of law "contributory negligence:" whether the plaintiff did anything which a person of ordinary care and skill would not have done under the circumstances, or omitted to do anything which a person of ordinary care and skill would have done, and thereby contributed to the accident was for the jury to decide.

Judgment of HUNTER, C.J., set aside and new trial ordered, IRVING, J., dissenting.

Davis, K.C., for plaintiff, appellant. *Bodwell*, K.C., for defendant, respondent.

Book Reviews.

The Law and Practice Relating to the Formation of Companies. With forms and precedents. By VALE NICOLAS, Barrister-at-law. Second edition. London: Butterworth & Co., Temple Bar; 1904.

This is one of the many books on Company law, but is confined to the formation of companies. Whilst the difference between our statute law on this subject and that of England renders much of the information given of but little service in this country, there are some chapters which will be as useful for reference here as there, such as the promotion of