

according to warranty. Motion for a new trial on the ground of misdirection.

Held, that where a judge undertakes to put the evidence before the jury he is not at liberty to present in a strong light all the facts and circumstances that make for the contention of one of the parties, and entirely, or practically, ignore the evidence that makes for his opponent. A charge constructed on such lines is tainted with misdirection and the verdict resultant therefrom will not stand unless the case is so clear that a verdict for the other party, on the evidence before the Court, would be set aside as one that no reasonable jury could give.

W. E. Roscoe, K.C., for appellant. J. J. Ritchie, K.C., and S. Jenks, for respondent.

Weatherbe, C.J.]

[Jan. 30.]

AMERICAN HOTEL & SUPPLY CO. v. FAIRBANKS.

Foreign company—Failure to comply with Act requiring registration—Exclusion from carrying on business.

Under the provisions of R.S.N.S. (1900) c. 127, s. 18, as amended by Acts of 1904, c. 24, every company not incorporated by or under authority of an Act of the legislature of Nova Scotia, which carries on business in Nova Scotia, is required to "before beginning business in the province make out and transmit to the provincial secretary a statement under oath shewing, etc."

In an action brought by plaintiff against defendant claiming damages for breach of a contract in writing, whereby defendant undertook, during the period over which the contract extended, to make use in his hotel of an "advertising inkstand cabinet" supplied by the plaintiff, it appeared that plaintiff was a foreign company, incorporated under the laws of Illinois, in the United States of America, and had not complied with the requirements of the statute of this province in relation to registration.

Held, that in the absence of the statement under oath required by the statute, the language of the Act was prohibitory and that the business carried on by plaintiff was within the mischief contemplated and that defendant was entitled to judgment with costs.

W. B. A. Ritchie, K.C., and T. R. Robertson, for plaintiff.
H. Mellish, K.C., for defendant.