

that there was no retainer, and that these items were not properly chargeable against the guarantors. Success being divided, there should be no costs. Grayson Smith, for the solicitors. H. S. White, for Peter McDonald. T. J. Agar, for the other respondents.

RAEFF V. DIMITROFF—KELLY, J.—APRIL 19.

Principal and Agent—Contract—Remittance of Money to Foreign Country—Disobedience by Agent of Instructions of Principal—Profit Made by Agent—Currency—Exchange—Accounting—Costs.—Action to recover \$1,358.50 which the plaintiff entrusted to the defendant with instructions to remit \$1,300 or its equivalent in United States currency to Bulgaria. The action was tried without a jury at a Toronto sittings. KELLY, J., in a written judgment, said that he had to determine what was really the contract between the parties. The defendant received \$1,358.50 from the plaintiff. The \$58.50 was for exchange. What he actually did was to exchange that sum into Greek currency (drachmas) payable at Salonica and send the amount in that currency to his own correspondent, who sent 2,000 levs to the plaintiff's father in Bulgaria, and deposited 30,500 levs to the plaintiff's credit in a bank. This was contrary to the plaintiff's instructions and to the defendant's own receipt, in which it was stated that the amount was to be forwarded to La Banque Nationale, Bulgaria, City of Trozan, the money to be placed to his own account, the bank-book to be forwarded to Toronto. In more ways than one the plaintiff failed to carry out the plaintiff's instructions; he did not even remit the money in the currency (United States currency) which he said the plaintiff directed; and, instead of remitting it direct to the bank, he disregarded the instructions and remitted it through his own agent in Salonica. This course enabled him to make a profit out of the transaction, of which the plaintiff had no knowledge, and to which the defendant, being the plaintiff's agent, was not entitled. The 32,500 levs which went to the plaintiff's credit in Bulgaria were purchasable there with \$970.15 in United States currency, at a rate of exchange agreed upon by counsel. The difference between \$1,300 and \$970.15—viz., \$329.85—should be accounted for by the defendant; and the plaintiff was entitled also to a return of the exchange on this \$329.85 at the rate (4½ per cent.) paid on the 1st October, 1919, in the purchase of the \$1,300 in United States currency—\$14.84. There should be judgment for the plaintiff for these two sums, totalling \$344.69, and interest from the 1st October, 1919, with costs on the lower scale without set-off. W. A. Henderson, for the plaintiff. R. R. Waddell, for the defendant.