

Where several prisoners, foreigners, were on trial, one of them gave evidence against the others. His examination-in-chief was translated for benefit of the others, but not his cross-examination.

*Held*, that as it appeared that nothing on his cross-examination which did not appear in his evidence in chief was so material that its non-translation occasioned any substantial wrong or miscarriage on the trial, the conviction should stand.

*Appeal dismissed with costs.*

O'Connor, K.C., for appellant. Newcombe, K.C., for respondent.

B.C.]

BENTLEY v. NAISMITH.

[March 21.

*Principal and agent—Real estate broker—Listing property for sale—Option to sell or purchase.*

N., a real estate broker, being informed by B. that he had some land which he wished to sell, noted the particulars of the property and on returning to his office listed it for sale in the usual manner. Three months later, having reason to believe that this property would advance in value, he obtained from B. an option for 30 days to sell or purchase it at a price named which included his commission if he sold. Four days afterwards he effected a sale as owner for double the price named which B. refused to carry out. In an action for specific performance of the agreement giving him the option.

*Held*, per FITZPATRICK, C.J., that by the terms of said agreement, N. became an agent for sale with an option to purchase; that he could not purchase until he had divested himself of his character of agent; that as agent he was bound to disclose to his principal the knowledge he had of the prospects of the property, and the exercise of his option to purchase did not relieve him from such obligation.

*Held*, per DAVIES, IDINGTON, ANGLIN and BRODEUR, JJ., that N. was B.'s agent when he procured the option and having failed to disclose to his principal the knowledge he had acquired as to the land he could not have the agreement enforced for his own benefit.

Judgment of the Supreme Court of British Columbia, 16 B.C. Rep. 308, reversed.

*Appeal allowed with costs.*

J. E. Bird, for appellant. E. A. Lucas, for respondents.