

NICK AGOSTINOAPPELLANT;

1951

AND

*Nov. 29, 30.
*Dec. 17.

HIS MAJESTY THE KINGRESPONDENT.

ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA.

Criminal law—Evidence—Sale of drugs—Denial by accused—Proof of identification—Duty of Crown as to calling of witnesses—Whether notice of appeal must be signed by the Attorney General—Power of Court of Appeal to enter conviction—Opium and Narcotic Drug Act, 1929, S. of C. 1929, c. 49—Criminal Code, ss. 1013(4), 1014, 1023(2).

The facts in this case were similar to that of *Lemay v. The King*, reported in this volume at page 232, with the exception that the sale was made by Agostino to Bunyk on the street and that Powell, but not Lowes, was present on that occasion. The members of the Court were the same, and for the reasons respectively given by them in the *Lemay* case, dismissed the appeal (Cartwright J., dissenting in part, would have ordered a new trial).

J. Stevenson Hall for the appellant.

Douglas McKay Brown for the respondent.

Solicitor for the appellant: *H. T. Fitzsimmons*.

Solicitor for the respondent: *Hon. Gordon S. Wismer*.
