

The Ontario Weekly Notes

Vol. II.

TORONTO, JULY 5, 1911.

No. 41.

COURT OF APPEAL.

JUNE 17TH, 1911.

REX v. NAOUM.

Criminal Law—Bigamy—First Marriage in Macedonia—Evidence—Admission—Macedonian Law—Proof of—Criminal Code, sec. 307.

Case stated by the Junior Judge of the County of York, at the request of the prisoner, who was convicted on a charge of bigamy.

The case was heard by MOSS, C.J.O., GARROW, MACLAREN, and MAGEE, J.J.A., and MIDDLETON, J.

L. V. McBrady, K.C., and H. E. McKittrick, for the defendant.

J. R. Cartwright, K.C., for the Crown.

The judgment of the Court was delivered by MACLAREN, J.A.:—The accused was convicted of bigamy in a case tried without a jury in the County Judge's Criminal Court at Toronto.

The second marriage at Toronto was fully proved; also the fact that the first wife was alive when this second marriage took place. The learned County Judge reserved for this Court the question whether there was sufficient legal evidence of the first marriage which took place in Macedonia, upon which to found or warrant the conviction of the accused. The evidence was made a part of the case.

Bigamy is defined in sec. 307 of the Criminal Code. That portion of the section which covers the present case reads as follows: "Bigamy is the act of a person who being married goes through a form of marriage with any other person." Before the enactment of the Code in 1892 it was defined in our statute as the act of any "one who being married, marries any other person