

FIRST DIVISIONAL COURT.

DECEMBER 20TH, 1918.

*REX v. DEBARD.

*Criminal Law—Bigamy—Proof of First Marriage—Foreign Law—
Marriage Certificate—Correspondence—Admissibility—Know-
ledge of Accused of Former Marriage and that Wife still Living
—Proof of.*

Case stated by the Senior Judge of the County Court of the County of York.

The prisoner was charged with and convicted of the offence of bigamy—the offence being that she went “through a form of marriage with Judson B. Hogate, knowing at the time that his wife was living.”

The questions submitted were: “(1) Was I right in holding that the first marriage in the State of Iowa was sufficiently proved? (2) Was any evidence improperly admitted whereby a substantial wrong or miscarriage was occasioned on the trial? (3) Was I right in law in convicting the accused upon the evidence properly admissible; and, if not, should the conviction be quashed?”

The case was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, HODGINS, and FERGUSON, JJ.A.

H. H. Dewart, K.C., for the prisoner.

Edward Bayly, K.C., for the Crown.

The judgment of the Court was read by MEREDITH, C.J.O., who said that the case of the Crown was that Hogate was married to Anna Moore on the 20th February, 1873, at Jefferson County, in the State of Iowa, by a Justice of the Peace having authority, under the laws of that State, to solemnise marriage, and that Anna Moore was living when the prisoner went through the form of marriage with Hogate.

Proper proof was adduced of the law of Iowa, and it was shewn that a Justice of the Peace was, at the time the marriage took place, one of the persons who were by that law authorised to solemnise marriage.

The fact of the marriage having taken place at the time mentioned was deposed to by Anna Hogate, the wife, who also testified that it was solemnised by George H. Case, who held the office of Justice of the Peace; that she and her husband lived together as man and wife for 20 years after the marriage, and that a son, issue of the marriage, and still living, was born in 1874.

A certificate of the marriage, signed by Case, and a certificate of the record of the marriage, signed by the clerk of the District