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It is a principle of the law of evidence, that, on a prosecution for bigamy and in actions for *crim. con.*, the marriage must be strictly proved. The cases cited at the argument from 4 Burr. 2057, 1 Will. Bl. 632, and 1 Doug. 171, and the uniform practice, says Baron Parke, ever since these decision, seem to have settled (we may now indeed say have conclusively settled) that in actions for *crim. con.* and on an indictment for bigamy it is necessary for the plaintiff or prosecutor to show what the Courts call a marriage in fact—that is an actual marriage, valid, or avoidable and not yet avoided (3 Inst. 88): and that acknowledgment, cohabitation, and reputation, which raise a presumption of a valid marriage are not sufficient.

The marriage, also, if it be a marriage abroad, must be proved to have been celebrated according to the laws of the country in which it took place.

These are admitted rules, but the quantity and kind of proof which the law recognizes, it is not quite so easy to determine. Proof, according to *Archbold* in his *Criminal Evidence*, 752, that the ceremony was performed by a person appearing and officiating as a priest, and that it was understood by the parties to be the marriage ceremony, according to the rites and customs of the foreign country, would be sufficient presumptive evidence of it so as to throw upon the defendant the *onus* of impugning its validity, and he cites *Rex v. Inhabitants of Brampton*, 10 East, 282. But this was a case of settlement, to which the stricter rule does not apply, and although the law will be satisfied, in this case as in most others, to act upon certain presumptions, I cannot help thinking that in the above passage the learned author has gone further than the cases will justify. It must be conceded, I think, that a foreign marriage must be proved to have been in accordance with the foreign law, and it was established by the *Sussex Peerage Case*, 11 Cl. & Fin. 85, 134, overruling *The Queen v. Dent*, 1 Car. & K. 97, that the foreign law must be proved by an expert—a person *peritus virtute officii* or *virtute professionis*. It is evident that a failure of justice will often be occasioned by this strictness. In case of a second marriage, shocking it may be the moral sense of the community, how is the first to be proved which may have