

226.46 BIGAMOUS COHABITATION.¹ FELONY.

The defendant has been charged with bigamous cohabitation.

For you to find the defendant guilty of this offense, the State must prove four things beyond a reasonable doubt:

First, that the defendant was married to (*name first spouse*) on (*name date*) in North Carolina.

Second, that thereafter on (*name date*), while still married to (*name first spouse*),² he married (*name second spouse*) in (*name other State*).

Third, that (*name first spouse*) was alive at the time he married (*name second spouse*).

And Fourth, that after the defendant married (*name second spouse*), they cohabited in North Carolina; that is, lived together as husband and wife.

If you find from the evidence beyond a reasonable doubt that on (*name date*), the defendant married (*name first spouse*) in North Carolina and that thereafter, on (*name date*), while still married to (*name first spouse*) and while (*name first spouse*) was alive, he married (*name second spouse*) in (*name other State*) and thereafter cohabited with (*name second spouse*) in North Carolina, it would be your duty to return a verdict of guilty. If you do not so find or have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

1. See *State v. Jones*, 277 N.C. 94, 40 S. E.2d 700 (1946).

2. G.S. 14-183 provides: "Nothing contained in this section shall extend to any person marrying a second time, whose husband or wife shall have been continually absent from such person for the space of seven years then last past, and shall not have been known by such person to have been living within that time; nor to any person who at the time was of such second marriage shall have been lawfully divorced from the bond of the first marriage; nor to any person whose former marriage shall have been declared void by the sentence of any court of competent jurisdiction." If the jurisdiction of the court purporting to grant the divorce or annulment is in issue, see *State v. Williams*, 224 N.C. 183 (1944).