

her to the plaintiffs (retail traders) as his wife, and she obtained goods (articles of personal attire) from them on credit. Some of the goods were paid for by Inwood. This action was brought in the County Court of the County of York, against both, for the price of goods not paid for, but for which Inwood had promised to pay, when dunned. The action was afterwards discontinued against Inwood, who was said to have absconded.

The goods were charged by the plaintiffs in their books to the defendant Zimmerman under the name of "Mrs. F. G. Inwood Jr.;" but it was explained in the evidence that it was the custom of the plaintiffs to charge goods to the person actually buying; it was not the custom to charge the husband, unless he asked it or the wife asked it in his presence. On several occasions when Mrs. Zimmerman ordered goods, Inwood was present in the plaintiffs' shop with her. All the articles bought were what might fairly be considered necessary for a woman in her apparent station of life.

Judgment was given by DENTON, Jun. Co. C.J., in favour of the plaintiffs against the defendant Zimmerman, who appealed.

The appeal was heard by FALCONBRIDGE, C.J.K.B., BRITTON and RIDDELL, JJ.

T. N. Phelan, for the appellant.

M. L. Gordon, for the plaintiffs.

The judgment of the Court was delivered by RIDDELL, J., who (after setting out the facts) referred to Bowstead on Agency, 4th ed., p. 38; *Watson v. Threlkeld* (1798) 2 Esp. 637; *Ryan v. Sams* (1848), 12 Q.B. 460; *Blades v. Free* (1829), 9 B. & C. 167; 21 Cyc. 1233; and proceeded:—

The facts are amply sufficient to bring the case within what I consider the true rule—a rule that has not been controverted in any of the cases and which is sound on principle. Where a man represents a woman to be his wife, and a third party acts upon that representation, the man is estopped from saying that she is not his wife; "his representation that she was his wife would have been conclusive against him:" per Lord Ellenborough in *Munro v. DeChemant* (1815), 4 Camp. 215, at p. 216. And where the defendant, having been married before, went through a ceremony of marriage with another woman (his wife living), "he was estopped to set up bigamy . . . he had given the woman . . . every appearance of being his wife;" per Lord Ellenborough in *Robinson v. Nahon* (1808), 1 Camp.