

the Castle Hotel, Clitheroe, to come to reside with her there, paying nothing for her board and lodging, but giving at her will some help in the management of Mrs. Partington's business in the hotel. Whilst the plaintiff was living under the said circumstances at the Castle Hotel the defendant sent her by telegraph the three messages which are the libels complained of in this action. Of the defamatory import of these messages, which in disgusting terms imputed to her sexual immorality, there is no question, nor, inasmuch as they were telegraphic messages, is there any question as to publication. The plaintiff showed them after their arrival to Mrs. Partington, and that lady, although she was much attached to the plaintiff, felt obliged, after reading the third telegram, to ask the plaintiff to leave her house. The plaintiff thereupon commenced the present action against the defendant. She does not ask for substantial damages. Her aim is by obtaining an injunction to prevent the repetition of this injurious and insulting conduct on the part of the defendant. The facts are not disputed by the defendant. There is no justification for the libels. His defence to the action is that, in point of law, it is not maintainable. He contends that, as these libels are libels upon the plaintiff's personal character, and not in regard to her business or property, and she is therefore not suing him, "for the protection and security of her own separate property" within the meaning of the Married Women's Property Act, 1882, s. 12, the action is one of tort, which, as a married woman, although separated from him by the magistrate's order, she cannot bring against her husband. I agree with the defendant's counsel that the plaintiff is not helped by the last-mentioned enactment. The question is this. Can the plaintiff, not being enabled to do so by the Married Women's Property Act, 1882, sue the husband for a libel? The inability in general of the wife to sue her husband for a tort is founded not merely upon a rule of legal procedure necessitating the joinder of the husband as a co-plaintiff, but upon the principle that husband and wife form in the eye of the law one person. This was expressly decided in *Phillips v. Barnett*, 45 Law J. Rep. Q. B. 277; L.R. 1 Q. B. Div. 436. Unless, therefore, this is affected by the peculiar position of the plaintiff as a wife who has obtained a separation order, the defendant is apparently entitled to succeed in the present action. Is it so affected? This depends upon the effect to be given to certain provisions of the Summary Juris-