son v. Valpy (1829), 10 B. & C. 128, 140. . . . In the later case of Ford v. Whitmarsh (1840), Hurl. & Walm. 53, Parke, B., in giving the judgment of the Exchequer Chamber, said: "The defendant would be liable if the debt was contracted while he was actually a partner, or upon a representation of himself as a partner to the plaintiff, or upon such a public representation of himself in that character as to lead the jury to conclude that the plaintiff knowing of that representation, and believing the defendant to be a partner, gave him credit under that belief." Accepting this as the test, in the case at bar the plaintiffs must fail, because, assuming in their favour that there was a holding out, no attempt was made at the trial to bring the case within either branch of the rule. No evidence was given to shew that at the time credit was given the plaintiffs knew of the circumstances now relied on as constituting a holding out, or that they gave credit upon the faith of any public repute which would satisfy a jury "that the plaintiffs knew of it and believed him to be a partner." The trial Judge, who here occupied the position of the jury, was not so satisfied, and there was not any evidence upon which he could be asked so to find. . . .

[Reference to Edmonson v. Thompson and Blakley, 8 Jur. N. S. 235; Thompson v. Toledo National Bank, 111 U. S. 529; Pott v. Eyton, 3 C. B. 32.]

The necessity of knowledge by the plaintiff of the facts relied upon would appear to be plain when it is remembered that the liability is based upon estoppel: Scarf v. Jardine, 7 App. Cas. 345.

For another reason, the plaintiffs, in my view, fail. The holding out was of a partnership as "general insurance agents." The liability sought to be imposed is as "agents for the sale of signed money orders" issued by the plaintiff. Such an agency is beyond the scope of the business held out.

Upon the argument of the appeal it was suggested that the plaintiffs might have presented their case in a more formidable way thus: "At the request of Harry Maughan, we supplied 'John Maughan & Son' with the money orders in question. We gave credit to 'John Maughan & Son,' and, if John Maughan is the sole member of the firm, he is liable for that which was supplied to him under his trade name at the instance of his agent, be he partner or servant." The same answer, I think, is open to the defendant. The act was beyond the apparent scope of the agency. Had the money orders been supplied for use in the business carried on, the contention would have been sound, but the sale of money orders is, as I have said, beyond the scope of the business of "general insurance agents," and I do not think the plaintiffs' case