

The plaintiff Underwood and the defendant's husband returned to defendant's house with the agreement, which, on the way from the solicitor's office, had been signed by Mary Ann Cox.

The defendant did not then read the agreement, but she admits that she understood the proposal for settlement made by her brother on the 4th and discussed by the parties assembled at her house on the 5th. There is no doubt, and the defendant admits it, that the agreement is in the exact terms then proposed. Under these circumstances, its not having been read over at the time of its execution is not a ground for repudiating the agreement: *North British R.W. Co. v. Wood* (1891), 18 Ct. of Sess. Cas. (4th series) 27.

The defendant shewed some hesitation about signing, and the plaintiff Underwood said to her: "Now, Jane, you do not need to sign that paper, and don't sign it unless you feel that you are giving what you feel that I should have; I consider this is a just claim, and if you don't consider so, don't sign that paper;" and further, "You don't have to sign it." The defendant's husband then said, "What will happen if she don't sign it?" Underwood replied: "We will let it stand on its own merits, will let the case stand on its own merits, and the case will settle itself."

At the trial it was admitted that there was no duress; and there was no evidence of it; but it was attempted to be shewn that there was fraud and misrepresentation on the part of the plaintiff Underwood, and that he had intimidated the defendant and obtained undue influence over her.

The evidence does not satisfy me that these contentions are well founded. I do not find that the plaintiff Underwood or Joseph Laurie made any misrepresentations to, or perpetrated any fraud upon, the defendant; nor do I think that any fiduciary relationship, or relationship of confidence, existed or was established between these parties such as would justify the assumption of undue influence; nor is there any evidence of intimidation.

The defendant asserted that she was in a weak state of health; that she had no independent advice; and that she was unduly pressed by the plaintiff Underwood, and was hastened into the settlement.

It was true that she was not then in the best of health, but she was not so unwell as not to be able to attend to her household duties, which she was doing unaided at that time, including the preparation of dinner for those who assembled at her house on the 5th May. She was not unduly pressed or hurried into the