

how he could furnish the evidence, and, therefore, I think that if it appears that the conveyance was made during the treaty and in contemplation of marriage—and it does not appear that it was made known to the intended husband, either expressly or by construction of law—that he will be assumed to have been ignorant of it, and that all the consequences of such ignorance will attach to the transaction.

The deed in this case was executed and acknowledged on the 17th of April, 1843, and recorded on the 19th—two days thereafter; and the marriage took place on the 14th of May following. Now the promptness with which it was put upon the public record certainly does not indicate a desire to keep it a secret from the husband or from any one else, and I think it may be well doubted whether the registration of the conveyance shall not be regarded as constructive notice to the husband. It is as Mr. Justice Story says, the settled American doctrine, "That the registration of a conveyance operates as constructive notice upon all subsequent purchasers of any estate, legal or equitable in the same property." 1 *Story's Eq.*, sec. 403. And if subsequent purchasers are by such registration affected with notice upon the ground that it is their duty to search for prior incumbrances, the means of which search are within their power; it is not easy to suggest a good reason why the intended husband, if he wishes to inform himself of the situation of the property of his intended wife and see that nothing has been done to interfere with his marital rights, should not be required to be equally vigilant. The equity of the husband is certainly not stronger than the equity of a *bona fide* purchaser without actual notice; and if the latter is affected with constructive notice by the registration of the deed, it would seem the former should be also.

But without meaning to decide at this time that a husband will not be allowed to assert his marital rights with respect to property conveyed away by his intended wife in contemplation of marriage and without notice to him, except such notice as is inferred from the fact of registration, another view may