

OGDEN v. OGDEN.

The statute of frauds does not embrace mutual promises to marry, but extends only to agreements to pay marriage portions; and in such cases according to the proper signification of the word agreement; the whole, the *consideration* as well as the *promise*, must be in writing.

If a person writes a letter promising to give a fortune with his daughter or niece to a man if he should marry her; and, under the encouragement of the letter, the man does marry her, he shall recover; the agreement having been executed as far as it could be on his part; but the court must be satisfied, that the letter imports a concluded agreement, or affords sufficient materials for a more formal agreement.

This bill was filed in Baltimore County Court, on the 7th of June, 1818, by *John W. Ogden* and wife, to recover of the representatives of their late uncle *Amos Ogden*, a marriage portion, which the bill alleges, he had promised to give her. After the answers had come in, and testimony had been collected, under a commission issued from that tribunal, the case was removed to this court under the act of 1824, ch. 196, and the proceedings filed here on the 15th of May, 1826. Some time after which the case was brought on for a final decision. All the circumstances are fully and carefully stated by the Chancellor.

5th June, 1827.—BLAND, Chancellor.—This case standing ready for hearing, and the solicitors of the parties having been heard, the proceedings were read and considered.

Laying aside such of the allegations of the parties as are neither admitted nor sustained by proof, with the irrelevant testimony, and the case is this:—*Amos Ogden*, owing to some unhappy circumstances, had separated, and lived apart from his wife, during a period of about thirty years before his death; he had no children; and his wife survived him. At the time of his death he had a considerable estate; consisting of lands lying in Baltimore county, lands in the Big-bend of Green river in Kentucky, and some personal property. About ten years before his death, his niece *Nancy Ogden*, then about seventeen years of age, was brought to live with him. He maintained and educated her; and she managed his household affairs; in which situation he became so attached to her as to consider her as his adopted child.

Some time in the early part of the year 1817, *John W. Ogden*, a nephew of *Amos*'s, and a cousin of *Nancy*'s, visited and addressed her; a mutual attachment was formed, and they became engaged to be married at a convenient time thereafter. On the