

to guard against the danger of parol proof in matters where it would be very likely to lead to perjury and fraud or, at all events, where it might be misapprehended and misconstrued (see also *Stonestreet v. Bowie*, 6 Md. 418, as to agreements between husband and wife during coverture). . . . It is therefore to be regretted that the Courts have not adhered more closely to this provision of the Statute." It should be remarked, and the Court observed upon it, that the testimony of Stoddert, one of the original contracting parties, which had been obtained *in **530** *Bowie v. Bowie*, was wanting in *Stoddert v. Bowie*. And with respect to part performance, what has been before observed may properly be repeated here, that part performance by the party to be charged is not sufficient, *Caton v. Caton*, 1 L. R. Ch. App. 137.

Letters containing promises of a provision are good marriage contracts within the Statute, if they sufficiently furnish the terms of the agreement, and contain not only an express promise but the nature and extent of it. The subject is discussed and the authorities collected in *Ogden v. Ogden* and *Stoddert v. Bowie supra*. In *Ogden v. Ogden*, the complainants, who filed their bill against the representatives of the deceased uncle of the wife for the recovery of a marriage portion he had promised to give her, had resolved to marry before the letter which was supposed to contain the contract had been written, and, said the Chancellor, if it had been communicated to the husband, it would not have been the inducement on which he married the niece. In *Bowie v. Bowie supra*, the Court said, upon an objection that there had been no communication of the contract to the husband constituting an inducement to the marriage, that the cases go no further than this, that where the party is ignorant of the agreement it is no part of the consideration. There was in that case no direct proof that the husband knew or did not know of the contract before marriage, but the Court held that, if such knowledge must be shown, positive proof need not be given, but that it may be inferred from circumstances. And they went on to say, that in the absence of proof of any other means of providing for the maintenance of a family than that which was to come from the parents, if the marriage takes place and the property is found in the possession of the husband, it may be inferred that he knew of the agreement.

There seems to be an impression, created by a passage in the opinion of Lord Lyndhurst in *Hammersley v. De Biel supra*, that a representation made by a father in view to the marriage of his daughter, of his intention to make a provision for her by his will, would bind his conscience, and that his estate would be enforced to fulfil his intention so expressed. But from *Jorden v. Money*, 5 H. L. Cas. 185, it appears, that the discrimination is clearly made between a representation in respect to the existence or non-existence of a matter of *fact*, and a representation in regard to intention. The true view to be taken of *Hammersley v. De Biel* is, therefore, that where, in an agreement in writing, containing stipulations, there is also a clause expressing an intention to provide further for the parties by will, the Court will construe the latter expressions as words of pact or contract, if, on collating the words of the entire instrument, it is necessary to do so to effect the objects of the parties.