

administration had been granted as set forth. But they alleged, that the intestate Henry left other next of kin beside those mentioned in the bill, and that Mary the mother of the plaintiffs, who was a sister of the half-blood of the intestate Henry, had been first lawfully married in Ireland about the year 1789, to John Lewis, who was still alive and had always resided there; and that she, after having cohabited with him for some time as his wife, left him about the year 1792 and came to Maryland, where she continually resided until her death, leaving her lawful husband John Lewis then and still living. Whereupon the defendants averred, that the alleged subsequent marriages of Mary with Davidson and with Fulton were utterly void; and that the plaintiffs, Ann, Sarah, Andrew and William, were illegitimate; and, as such, absolutely incompetent legally to demand any thing as the next of kin of Henry Somervell.

A commission was issued to Ireland, and the depositions of several witnesses were taken and returned; from which it appeared, by the testimony of two witnesses who were present at the marriage ceremony, that Mary, the sister of the intestate Henry, had been married to John Lewis, who was then living; and that they had afterwards cohabited, as husband and wife, for about two years; when she left him, and, as they had always understood, went from Ireland to America. The testimony of these two witnesses was corroborated by that of others, who declared, that they knew the intestate Henry's sister Mary and John Lewis to have lived together some time, as husband and wife; and that they were so
481 *reputed to be in the neighborhood in which they lived; and that Mary left her husband John Lewis and migrated to America about the year 1792, where, as they had heard, she had continually resided until her death; and that John Lewis does now, and always has resided in Ireland. In addition to which the deposition of an attorney was taken, who testified, that such a marriage, as that described by the other witnesses, was valid according to the law of Ireland; and, that he had known such marriages to be held valid in the Courts of justice there.

BLAND, C., 12th July, 1828.—This case standing ready for hearing, and having been submitted without argument, the proceedings were read and considered.

Marriage has been considered among all nations as the most important contract into which individuals can enter, as the parent not the child of civil society. *Dalrymple v. Dalrymple*, 2 *Hag. Con. Rep.* 54. It would seem, that in the dark ages a notion prevailed of the mysterious nature of the contract of marriage, in which its spiritual nature almost entirely obliterated its civil character; by which notion, some were carried so far as to say, that a marriage of an insane person could not be invalidated on that account. In