

**Promises, Promises in Belmont County, Ohio:
Robert Gray's Disputed Marriage Contract, 1813-1817
And His 1815 Marriage to Nancy Ann "Agnes" Alexander,
the First White Child Born in Belmont County**

By Dr. John V. Richardson Jr., Ph.D.

Any enterprising genealogist should be familiar with the concept of a reasonably exhaustive search¹ of primary and secondary sources; in this case, I thought I knew a lot about my third great grandfather, Robert Gray, including the fact that he had been married twice. Indeed, we all have ancestors who have solemnized their marriage vows and gone on to have many children and to live happily ever after; at least, that's the expected "fairy tale" outcome, right? Yet, we have all experienced the serendipity of consulting a seemingly random, secondary source and discovering something totally unexpected. In this case, I found a secondary source² which suggested that the Appearance Book of the Court of Common Pleas of Belmont County, Ohio around the years 1812-1816³ would be worth consulting. Oh dear—what sordid details of a civil grievance appear in those courthouse records! This litigation reveals the nature of marriage records including marriages licenses (and several other interesting options which thoughtful genealogists will want to pursue) as well as the penalties for failing to make ministerial returns to the county.

Allegedly, Robert Gray of Colerain Township in Belmont County, fathered a child born during October 1813⁴ by a 25-year old woman named Margaret Logan,⁵ and he didn't follow through on his offer to marry her. Before the 20th of October 1812 when "John

¹ Board of Certification for Genealogists, *Genealogy Standards*, 50th Anniversary edition (Washington, DC: Ancestry.com an imprint of Turner Publishing, 2014), p. 74.

² Irene M. Ochsenbein and Catharine F. Fedorchak, *Belmont County Ohio Before 1830* (Barnesville, Ohio: Belmont County Chapter of the Ohio Genealogical Society, 1977), page 100.

³ Ironically, that volume does not appear to exist today; at least, nobody in Belmont's Court of Common Appeals could locate it in April 2019 or again in June 2019.

⁴ This conjugal relationship was consummated about February 1813, that date being about nine months earlier.

⁵ On page 152 of Benjamin Tappan, *Cases Decided in the Court of Common Pleas in the Fifth Circuit of the State of Ohio*, "Norwalk, Ohio: Laning Printing Company, 1899), court said that she and her family were—"of good character and respectable family of farmers, in middling circumstances."

Logan,⁶ the plaintiff's brother, being about to leave home to [go] out in the army, the defendant told him that he and the plaintiff were to be married in two weeks, and the defendant then agreed to take charge of John's family and property in his absence."⁷

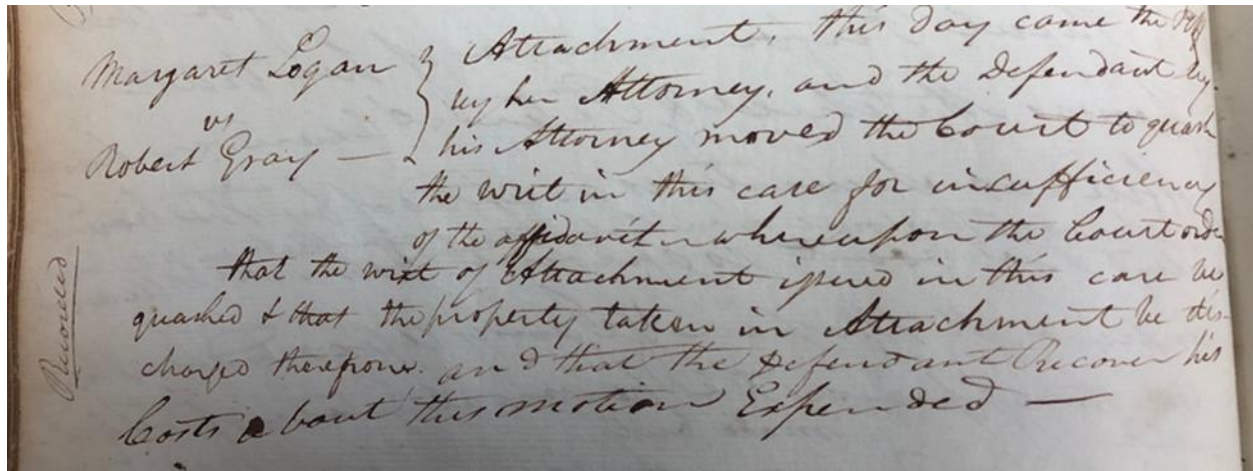


Figure 1. Court Moves to Quash the Plaintiff's Attachment (22 November 1814)

The Subsequent District and Appellate Court Cases

Understandably and not surprisingly, shortly after the delivery of her child, Margaret Logan filed a grievance on 21 December 1813 in Belmont County's Court of Common Pleas as Logan vs. Robert Gray. She, as the plaintiff, was represented by Charles Hammond⁸ and John C. Wright represented Robert Gray, the defendant.⁹

A year later in November 1814 (see figure 1), the court ordered that the writ of attachment be quashed and the property taken in attachment be discharged and that the

⁶ During the War of 1812, John Logan served as an Army private in Captain John McElroy's company of Militia starting on 20 October 1812, according to A. T. McKelvey's *Centennial History of Belmont County* (Chicago: Biographical Publishing Company, 1903) on page 111 col. 1, "but was only out for a short time" and "rendezvoused near Mansfield most of the time." It might be worth noting that John Logan was also involved in a lawsuit Logan vs. Samuel Connell in March 2015, but the case was dropped according to Belmont County, Ohio, Court of Common Pleas, Journal B, p. 118. In 1824, he died "being drowned in Yellow Creek" according to FAG Memorial #35759406.

⁷ Benjamin Tappen, *Cases Decided in the courts of Common Pleas in the Fifth Circuit of the State of Ohio: Commencing with May Term, 1816* (Norwalk, Ohio: Laning Printing Company, 1899), p. 37.

⁸ Charles Hammond (19 September 1779-3 April 1840) had served as the county's prosecuting attorney in 1801 and as a newspaper editor.

⁹ John C. Wright was admitted to the Ohio Bar in 1809 and became United States District Attorney in 1817 and eventually a Judge on the Ohio Supreme Court in 1831.

defendant, Robert Gray, recover his costs.¹⁰ In July 1815, the parties agreed to delay, until the next term of the court, this case regarding damages of \$1000 in his alleged breach of marriage contract.¹¹ In the December 1815 term of the court, the sheriff had served Gray and by her attorney Logan complained that Gray had promised to marry her but did not keep his promise.¹² Yet again in April 1816 and May 1816, the parties agreed to continue this case until the next term at the cost of the defendant.¹³ Finally, on 20 November 1816, a twelve-member jury¹⁴ upheld the "Breach of Promise of Marriage" and found in favor of the plaintiff in the amount of \$1000.¹⁵

¹⁰ Belmont County, Ohio, Court of Common Pleas, Journal B, p. 77.

¹¹ Belmont County, Ohio, Court of Common Pleas, Journal B, p. 152.

¹² Records of the Supreme Court of Ohio, October Term 1817 meeting in Belmont County, p. 229.

¹³ Belmont County, Ohio, Court of Common Pleas, Journal B, p. 223 and 240.

¹⁴ Consisting of Michael Martin, James Barnes, John Shepherd, Joseph Morrison, Andrew Scott, George Sinclair, Jacob Moore, Jacob Worley, Lambert Pond, Robert Thompson, John Maxwell and William Quigley according to the Records of the Supreme Court of Ohio, October Term 1817 meeting in Belmont County, p. 230.

¹⁵ Belmont County, Ohio, Court of Common Pleas, Journal B, p. 285-286 and Records of the Supreme Court of Ohio, October Term 1817 meeting in Belmont County, p. 230. Even the *Canton Repository* of 19 December 1816 reprinted the *Ohio Federalist's* blurb of 21 November.

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 November 1816
 Jacob Bradley, Lambert Pond, Robert Thompson, John
 Maxwell, H. Williams, Dingley, all good and lawful
 men who being duly sworn and tried and sworn well
 and truly to try the issue aforesaid do say upon
 their solemn oaths and affirmations that the
 jury for the Plaintiff, and after the Plaintiff
 Damages to one thousand Dollars, whereupon
 it is ordered and adjudged by the Court that the
 Plaintiff recover of the Defendant the Damages
 aforesaid in full aforesaid as per the Jury
 aforesaid and her costs about her suit in
 this behalf Expended and the Defendant in
 Mury &c — The defendant gives Notice
 that he intends to appeal to the Supreme Court
 Appeal Bond filed

Figure 2. The 12 Member Jury Finds for the Plaintiff (November 1816)

As the defendant, Gray promptly gave notice that he intended to appeal to the Ohio Supreme Court; and his appeal bond was filed. The next day Thursday the 21st of November the plaintiff's attorney, Charles Hammond, published a notice of the trial's outcome in his own newspaper, *The Ohio Federalist and Belmont Repository*, which *The Western Herald* (Steubenville) reprinted on 29 November 1816 and *The Ohio Repository* (Canton) on 19 December 1816.

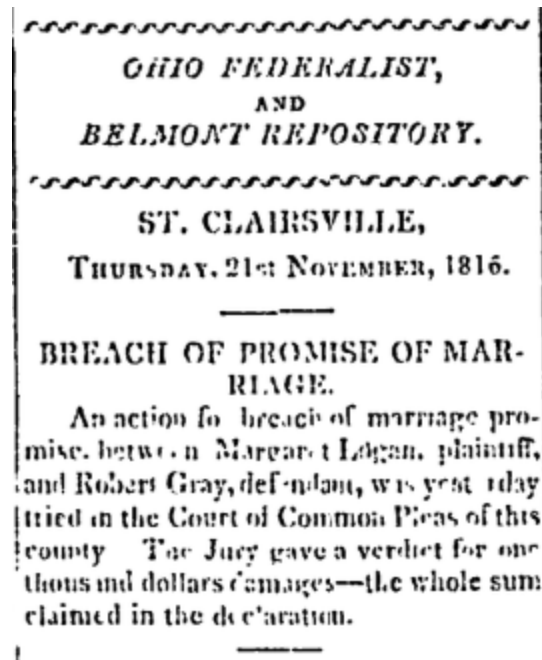


Figure 3. *Ohio Federalist and Belmont Repository*, vol. 2, issue 101, 21 November 1816, page 2, col. 3

Gray's Intervening Marriage of 4 July 1815

The plaintiff, Margaret Logan delivered her child in October 1813. In court she “complained to a justice, of the defendant, as father of the child and proceedings were commenced under the statute (i.e., December 1813), which were stopped on defendant’s promising to marry the plaintiff (see delays noted above). The defendant acknowledged, to the plaintiff’s mother, that he had not fulfilled his promises to the plaintiff. The defendant always spoke of the plaintiff’s child as his own.”¹⁶ Yet, in the midst of all these legal proceedings and despite Margaret’s allegations, Robert Gray determined to marry another woman by the name of Agnes “Ann or Nancy” Alexander, the first¹⁷ white child born in Belmont County, Ohio in 1792 and the daughter of James Alexander, a prominent judge in Belmont County.¹⁸ What must

¹⁶ Seymour Cunningham, *Ohio Decisions on Evidence: A Digest of the Ohio Decisions* (Chillicothe: Peerless Printing and Manufacturing Company, 1997), p. 38.

¹⁷ A. T. McKelvey, *Centennial History of Belmont County* (Chicago: Biographical Publishing Company, 1903, p. 642, col. 1.

¹⁸ And in this breach of promise, “Judge Alexander did not sit on the trial, the defendant being a connection of his...” according to “Common Pleas Courts,” In Benjamin Tappan, *Cases Decided in the Courts of Common Pleas in the Fifth Circuit of the State of Ohio* (Norwalk, Ohio: Laning Printing Company, 1899), page 39.

Robert Gray have been thinking? What about those alleged promises? How did this event make Margaret Logan feel; and why would Agnes Alexander agree to such a marriage under these circumstances? We may never know, of course; but at least we should have the satisfaction of locating the relevant marriage documents for evidence. Typically, a marriage license is issued by the clerk of the court of common pleas in the county wherein the couple is married.¹⁹ Genealogists know to look for these records. But, in fact the Ohio Legislature in its 1803 "Act Regulating Marriages," allows several other options available to a prospective couple wishing to announce their impending marriage: "That previous to persons being joined in marriage, notice thereof shall be given, either in writing affixed at some public place within the township where the parties reside, **fifteen** days before the day of marriage, ...or publicly declared on **two different days** of public worship; the first publication to be at least **ten days** previous to such marriage, within the county where the female resides...."²⁰ So, that may explain why we can't prove their marriage because there is no record of a marriage license in Belmont County, Ohio.²¹ However, the lack of evidence gets worse. There is no return from a Justice of the Peace or the minister's solemnization despite the fact that "The person who performed the marriage had neglected his duty."²² The only way we know that they had been married is from Tappan's court transcription which indicated that "The defendant [Robert Gray] is worth about \$5,000, and was married on the 4th of July, 1815 to Miss A--."²³

The 1817 Supreme Court of Ohio Ruling

The circuit riding Supreme Court of Ohio, consisting of presiding judge the Honorable Benjamin Tappan along with associate justices James Alexander, John Wiley, and

¹⁹ "By the law of 1803, the clerk of the court of common pleas of the county, rather than the governor, became the source for licenses..." according to Ruth L. Douthit, *Ohio Resources for Genealogists* (Detroit: Detroit Society for Genealogical Research, 1961), p. *1-12*.

²⁰ *The State of Ohio, Act of the State of Ohio: First Session* (Chillicothe, OH, Printer to the State, 1803), vol. 1, pages 32-33. Thus, one might want to look for a local newspaper articles in the *Ohio Federalist* or in the *Steubenville Herald* for example. However, <https://chroniclingamerica.loc.gov/search/titles/> And, of course, local church records; later in life it is clear that Gray was Presbyterian.

²¹ At least not in Belmont County, Ohio, Marriage Book A&B and they are not listed in Wes Cochran, *Belmont County OH Marriages, 1803-1849* (Parkersburg, WV: NP, NP), p. 13-15.

²² One might wonder if a certain judge performed this marriage.

²³ Tappan, p. 38.

Joseph Anderson returned to Belmont County for their October term in 1817. Yet again, the court empaneled another twelve-member jury consisting of Peter Babb, Alexander Armstrong, George Sharpless, Henry Sidwell, Joseph Hulse, Isaac Cowgill, Evan Philips, William Shepherd, James Dilton, Patrick *ellons, John Copeland and James [page torn]. This jury also found for the plaintiff, but this time in the amount of nine hundred dollars rather than the thousand dollars which she was seeking.

BREACH OF PROMISE OF MARRIAGE.

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Tappan, President; Alexander, Wiley and Anderson, JJ. Associates.

[Belmont County, November Term, 1816.]

LOGAN V. GRAY.

Case, for Breach of Promise of Marriage.

1. Whether evidence of a promise to marry, generally, will support a count on a promise to marry on request, or at a particular time.
2. In an action on the case, for breach of promise of marriage, the plaintiff may give in evidence, that she had a child, and that the defendant treated and spoke of the child as his, although no special damages are claimed on that account.
3. Whether two persons intermarried, is proveable by parol.

PLEA—Non assumpsit.

Hammond, for plaintiff.

Wright, for defendant.

Evidence for the plaintiff—That the defendant had courted the plaintiff a considerable length of time, and had often conversed with her family connections about marrying her, previous to the 20th of October, 1812, when John Logan, the plaintiff's brother, being about to leave home to go out in the army, the defendant told him that he and the plaintiff were to be married in two weeks,

and the defendant then agreed to take charge of John's family and property in his absence. The plaintiff had a child born in October, 1813; she complained to a justice, of the defendant, as father of the child, and proceedings were commenced under the statute, which were stopped on defendant's promising to marry the plaintiff. The defendant acknowledged, to the plaintiff's mother, that he had not fulfilled his promises to the plaintiff. The defendant always spoke of the plaintiff's child as his own. The plaintiff is of a good character and respectable family of farmers, in middling circumstances, and about 25 years of age. The defendant is worth about \$5,000, and was married on the 4th of July, 1815, to Miss A—.

Wright, for the defendant, observed, that the declaration contained only one count, and that the promise to marry was laid to be "on request;" he asked the court to decide:

- 1st. Whether the evidence given, proved the promise as laid.
- 2d. Whether evidence could be received of the plaintiff's having been pregnant, and having had a child by, the defendant.
- 3d. Whether parol proof of defendant's marriage could be received.

He contended, that to let in proof of the plaintiff's pregnancy, and having a child by the defendant, it should have been averred in the declaration. That this action was solely for breach of promise of marriage, without any special damage; and that, therefore, evidence of special damages would not be received: that the law requires all marriages to be recorded, and that a copy of the record was the only evidence competent to prove a marriage.

Hammond, contra.

President—As to the 1st point: the evidence goes to prove a promise to marry, generally. The inclination of my mind is, that such evidence will not support a count in which the promise is laid either to marry on request or at any particular time; but that the proof must strictly conform to the allegation; the cause may progress, however, and we will reserve this point, if counsel think proper to move it hereafter.

As to the 2d point: I am of opinion that the evidence is admissible. The general rule of law is, undoubtedly, as stated by Mr. Wright: in order to let in evidence of special damage, it must be averred in the declaration; but this kind of action, and this kind of evidence, may form a reasonable exception to the general rule; for in this form of action it would seem difficult to prove that, in point of fact, the defendant was the father of the plaintiff's child;

Logan v. Gray.

and I do not understand that it is attempted to be so proven. That she had a child, and that the defendant treated the child as his own, may be given in evidence to prove the intimacy of the parties, the extent to which her affections were engaged by his attentions; and it seems as apposite as evidence of his conversations and conduct in other respects toward her and her friends. Perhaps even a promise of marriage may be implied from a combination of such circumstances. If it might be so implied, then surely, the evidence is admissible under a general count, to prove an implied promise.

There is much less doubt on the third point; for the fact, to be proven, can only be proven by parol evidence. The question is not whether persons of the names of A B and C D intermarried on a given day; you might produce a record of the marriage of Robert Gray, and be no nearer proof of the fact of this defendant's marriage than you would be without the record. The question is, did this defendant marry at a particular time? It is a question of identity, to the proof of which a record in the usual form does not reach, and which can only be answered by those who were eye witnesses of the ceremony, or were in a situation to know the fact. Suppose that no record had been made of this marriage? The person who performs the ceremony had neglected his duty; but the marriage remains valid, and susceptible of proof.

The defendant then proceeded with his evidence.

Verdict for the plaintiff, \$1,000 damages.

The defendant gave notice of appeal. The point reserved was not moved. Judge Alexander did not sit on the trial, the defendant being a connection of his.

Figure 6. Tappen, *Cases Decided in the Fifth Circuit Court*, Page 39

In Conclusion

Unfortunately, after her successful lawsuit of October 1817, little seems to be known about Margaret Logan's subsequent life (or that of her nameless child). Apparently Agnes Alexander Gray died shortly after child birth in 1825. We do know that Robert Gray went on to father a total of fifteen children in three different relationships. As genealogists, though, we need to be aware of civil suits and look for this type of

evidence. We need to know that marriage licenses aren't the only source of marriage evidence (i.e., look for public notices in local newspapers and in local church records as well). It's possible that a marriage announcement could still turn up and that the minister's solemnization was recorded in a local church.

In the end, the author descends from Robert Gray's third relationship and second marriage to Ann May "Annie" Turner, so maybe it doesn't really matter to the author's direct line genealogy, but what a wild ride!

Appendix of Interested Parties:

- 1) Robert Gray (After 1782-Bef 1786—Apr 1860), a member of the extended Gray family who were "stable and industrious" as opposed to the early squatters who were "indolent, careless...unstable"
- 2) Agnes Alexander (1792-1825), daughter of Judge James Alexander (1762-1852)
- 3) Margaret Logan (About 1787—unknown), daughter of "of good character and respectable family of farmers, in middling circumstances" however, parents are unknown at this writing
- 4) Child of unknown gender, born to Margaret, in October 1813
- 5) John Logan, War of 1812 soldier, brother to Margaret, and of unknown parents
- 6) The lawyers for the plaintiff and for the defendant:
 - a. Charles Hammond, publisher of the *Ohio Federalist and Belmont Repository* and a distinguished and able lawyer considered "one of the most profound lawyers in his day and generation, and is classed with such great constitutional lawyers as Marshall, Story and Webster."
 - b. John C. Wright, admitted to the Ohio Bar in 1809 and became US District Attorney in 1817 and became a Judge on the Ohio Supreme Court in 1831.

Acknowledgements

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About the Author:

John V. Richardson Jr., PhD is Professor Emeritus in UCLA's Department of Information Studies, having taught graduate level courses on genealogical information resources since 2011. His personal focus is on early 19th-20th century Ohio, and is a member of OGS's First Families of Ohio, as well as the Sons of the American Revolution. He is also the Richardson Surname Administrator for Family Tree DNA.

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