

## BREACH OF PROMISE

IT IS AN EASY MATTER FOR A WOMAN TO OBTAIN DAMAGES.

Simple Compliments or Acts of Gallantry Are Sufficient in the Eyes of the Law to Support Proof of a Promise to Marry.

Ever since Margaret Gardiner and her daughter Alice brought what is reputed to have been the first breach of promise suit, against John Keech of Yppswich, showing that he, the said John Keech, had received a sum of money on condition of his marrying the aforesaid Alice and that he had married Joan Bloys, "aygaine all good reason and conscience," breach of promise suits have been recognized among all English speaking peoples. Lord Holt enforced it at common law, holding that "the wounded spirit, the unmerited disgrace and the solitude which would be the probable consequence of desertion after a long courtship were considered to be legitimate claims for pecuniary damages as the loss of reputation by slander or the wounded pride in slight assaults and batteries."

These matrimonial contracts are sui generis. No grim visaged lawyer draws up a formal contract to be executed; no notary pries into the intents and purposes of the parties and certifies the same under his official seal; no go-between Pandarus is present to hold the hands of Troilus and Cressida and solemnly pronounce:

"A bargain made. Seal it, seal it. I'll be the witness."

No. In the vine clad arbor or behind the protecting screens of parlor walls, in some shady nook or in the dim moonlight deep down some lonely dell, "far sunken from the healthy breath of morn and eve's one star," there these engagements are softly whispered and the contract sealed with a kiss.

For these reasons, while the making of the contract is a question of proof, it need not be proved in toto in veribus and is often inferred from the actions, language and conduct of the parties, and it is difficult to tell under what circumstances the court would be justified in finding that a promise had been made. Many a young man not fatally bent on matrimony would sometimes be surprised to find that his language, intended only as compliment to some charming damsel, or his conduct, meant solely as an act of gallantry, is sufficient in the eyes of the law to support proof of a promise to marry.

A gentleman once concluded that it would be a very elegant and a very funny thing to send to his dulcinea a newspaper article entitled "Love, the Conqueror," marking it, "Read this." The lady did read this, and when the funny gentleman declined to marry her, she brought suit against him and read the article to the jury, who gave her \$4,000 damages. The supreme court of Illinois, sustaining the verdict, said: "The article may be regarded as the defendant's own letter. It doubtless contained sentiment which he sanctioned, couched in language more choice than he could compose. It was his appeal for marriage. It foretold in clear and emphatic language his object and intent in his courtship with her. She doubtless placed this construction upon it, as she well might do, and laid it aside as a rare treasure."

In a New York case it was shown on the trial that a widower, a pious elder of fifty-three years of age, soon after the death of his wife visited the plaintiff, a maiden lady of thirty, and taking out a memorandum book, from which he read, or pretended to read, stated in a confidential way that he had noted down some requests made by his wife four days before her death; that it was something he "could not tell her now," but that she (the maiden lady) "would know some day," darkly hinting, so the lady took it, that the deceased wife had requested the forlorn widower to lighten his grief by marrying the plaintiff. It was proved that after this confidential talk there were rides and drives together, frequent visits extending till late in the evening, and, to cap the climax, the widower told the plaintiff that after the lapse of a year from the death of his wife (the widower's quarantine, it seems) he intended to marry, and he then entered into a minute description of the lady he wanted to marry, which description was an exact photograph of the plaintiff. While we cannot but admire the shrewd diplomacy of this wily widower, courting by dark insinuations and covert suggestions and not committing himself by an open avowal, yet, as the sequel shows, he ran amuck of the doctrine of estoppel.

The sanctimonious Proteus forgot his Julia and found him another sweetheart, and, knowing that he had become somewhat involved in his affair with the plaintiff, he diplomatically undertook to checkmate the lady. He told her that he did not want her people to think that he was paying her the attentions of a lover so soon after the death of his wife, and in order to allay that suspicion he drew up a note, in which the plaintiff was made to say that she regarded his visits as "simply evidences of friendship and nothing more," and got her to sign it. The jury found in her favor, and the court of appeals of New York upheld the verdict.

In a Connecticut case the defendant had been heard to remark on his happiness when in plaintiff's company and

less misery unless in her society. The parties had exchanged daguerreotypes, the defendant had taught the plaintiff's nephew to call him uncle and had told the plaintiff's brother-in-law that "all the courting was done," little suspecting that the plaintiff would take a hand at "courting" in the presence of judge and jury. The defendant afterward went on a

voyage, and while on the sea he dictated effusive love letters to the plaintiff, telling her how constantly he thought of her while awake and how he dreamed of her while asleep, touchingly adding, "While I am tossed and fro on this wide ocean, I love thee still."

Yet notwithstanding all this the man broke off his engagement.

The plaintiff's "courting" was fully as successful as had been that of the defendant, for she recovered a judgment for \$1,500.

In a Vermont case the plaintiff and defendant were neighbors, and the defendant paid neighborly visits to the plaintiff's family. It was shown that these visits were at first to the entire family and that they were gradually narrowed until they were confined to the plaintiff alone. This fact, together with the proof that during the periods of the defendant's visits lights were frequently seen burning in the parlor on Saturday and Sunday evenings and some other circumstances, led the jury to find for the plaintiff.

A very cruel case occurred in Michigan. A man who, strange to relate, bore the name of Constant while engaged in courting had his financial eye open and borrowed money from the lady. On his last visit to her he renewed his notes for one and two years and then went off and married the other girl. The court held that it was proper to allow proof of this money transaction, holding that "an engagement broken off suddenly and without warning would very naturally create more pain and mortification than if ended under any other circumstances, and if a jury were to regard this conduct concerning money matters as calculated, under the circumstances, to have caused additional grounds of pain or grievance to the defendant in error, we think they would not be violating ordinary probabilities."

Where the defendant asked the hand of the lady in the presence of the latter's mother, who consented, and the lady said nothing and the defendant thereupon gently took the hand of the mother and touchingly said, "Henceforth consider me as your son," it was held sufficient proof of the lady's consent, and in a New York case the lady was permitted to show that she had procured a wedding dress and had gone so far as to get a wedding cake, as showing her acceptance, while in Iowa the plaintiff was allowed to prove in support of her acceptance that she was making preparation for her marriage "piecing quilts and doing fancy work, and that when she heard of defendant's marriage 'she hated it avowedly.'

While the law makes it easy to prove a proposal by the gentleman and equally easy to show that the lady accepted, when it comes to evidence showing a release on the part of the lady the proof must be strong to sustain the defense.

In one case a bachelor of fifty-three had been paying his respects to a maiden of forty-three summers for the unlucky period of thirteen years. During all this time she declared to others that she would never marry him and spoke of him in terms of derision and contempt. After thirteen years of courtship the bachelor summoned sufficient courage to propose and was promptly accepted. After the engagement he heard of the double dealings of the maid and refused to marry her. The court held it was no defense to the action, although it might go in mitigation of damages.

In a Pennsylvania case the lady wrote the defendant a letter in which she said: "I don't want you, for I know that I would have a devil's life of it. If you were any kind of a gentleman, you would not act as you have. I pray night and day that you may never prosper in this world. I just pray for every hair in your head to come out." And yet she recovered a judgment for \$2,000.

In looking beneath the surface for the reason for this verdict it is quite evident that the jury believed that the lady was goaded to desperation by the attentions of her fiance to her rival and that she did not in fact mean to say that she did not want to marry him and did not really desire that he lose all his hair, for in her letter she says cruelly of her rival, "Well, if I am poor I do not wear the one hat for five or six years, like she does, and turn it half part before, like she does."

Under the weight of authority, then, if a party does not want to find himself in the eyes of the law an engaged man he must look well to his daily walk and conversation, for if he has so conducted himself as to be estopped from denying the engagement he will have a difficult problem to convince a judge and jury that the lady has duly released him.—Green Bag.

**A Wine Bath.** Do you want to bathe in wine? In all probability the answer of nine-tenths of our readers to this question will be "No." If you were in Italy, however, and you were to put the question to an owner of a vineyard, you would get a reply in the affirmative. There is a curious superstition among the vineyard owners of Italy that the man who takes a bath in the juice of his own grapes will have a happy and prosperous year. Maybe some of our readers will say that there is quite as much sense in this notion as in the English custom of drinking "a happy new year" to every one.—London Notes.

## LONDON DOCTORS.

They Have a Stricter Etiquette Than American Medical Men.

Very few people outside of the profession, said a well known English physician recently, have the slightest idea how medical men are hedged round by etiquette until they can scarcely take a step, however innocent, toward procuring a patient without a serious risk of putting their foot in it with the medical council.

So fearful are the authorities lest any member of the profession should be suspected of such a horrible thing as soliciting custom that the very letters of the name on his doorplate may not exceed a certain size. If he moves from one house to another he mustn't proclaim the fact, and he must at once remove his plate from the house he is leaving.

He should not allow his name to appear in the papers if he can help it, and indeed the editors of the leading newspapers have been requested by the authorities to suppress any reference to doctors by name as far as possible.

These are but samples of the jealousy with which honor is guarded until the modest violet that blushes unseen is an audacious flower compared with the doctor who has his bread and butter to make, but mustn't show a sign of it.

Of course there are heaps of doctors who do advertise in spite of all these restrictions and the penalties for defying them. There is the man who can not take his seat once a week in church without being summoned away by a perspiring messenger to an imaginary patient and the man whose carriage you are always meeting driving furiously as if on a life or death errand.

Then there's Dr. Blank, whose wife and relatives advertise his "wonderful skill" in the most unblushing way, and Dr. Dash, who gets so desperate that he takes the bit in his teeth and deliberately touts for patients.

But when a man is caught offending his shirk is short, for he is quickly summoned to appear before the tribunal to account for his delinquencies. This tribunal is the doctor's court martial and holds its sittings periodically in an impressive court.

The court consists of members of the general medical council, all doctors of eminence, who sit around a long table, at the head of which is the president on a raised seat. Facing the presiding judge at the lower end of the table is the happy culprit whose case is being investigated and who generally feels just about as happy as if he were being tried on a capital charge. And little wonder, for on the verdict of the court depends whether or not he leaves the court a ruined man.

The trial is very similar to those held in an ordinary court. There is the prosecutor, an official of the council; there are witnesses to be examined, cross examined and re-examined, and there is the defendant's counsel, often a well known barrister. When all the evidence has been taken and sifted, the room is cleared of all but the judges, who decide on their verdict while the defendant and his friends wait outside.

At last the signal is given, the door is thrown open and the verdict of the court is read out. It may be an acquittal or a severe reprimand or even a suspension for a time from practice, or, if the offense has been great, it may be a sentence of expulsion from the profession—that the defendant's name be struck off the register—and this means absolute and hopeless ruin.

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## Frank Criticism.

Many years ago in Paris at the first presentation of a tragedy that had for its closing scene the murder of a Swedish king, which had taken place nearly half a century earlier, all went well till the murder scene came on, when a very dignified old gentleman in the stage box showed signs of strong dissatisfaction and at length called out angrily:

"Absurd! They've got it all wrong!" The manager himself heard this plain spoken comment, and, being naturally disturbed by so sweeping a condemnation, he sought out the critic and

## DO YOU GET UP WITH A LAME BACK?

Kidney Trouble Makes You Miserable.

Almost everybody who reads the newspapers is sure to know of the wonderful cures made by Dr. Kilmer's Swamp-Root, the great kidney, liver and bladder remedy. It is the great medical triumph of the nineteenth century; discovered after years of scientific research by Dr. Kilmer, the eminent kidney and bladder specialist, and is wonderfully successful in promptly curing lame back, kidney, bladder, uric acid troubles and Bright's Disease, which is the worst form of kidney trouble.

Dr. Kilmer's Swamp-Root is not recommended for everything but if you have kidney, liver or bladder trouble it will be found just the remedy you need. It has been tested in so many ways, in hospital work, in private practice, among the helpless too poor to purchase relief and has proved so successful in every case that a special arrangement has been made by which all readers of this paper who have not already tried it, may have a sample bottle sent free by mail, also a book telling more about Swamp-Root and how to find out if you have kidney or bladder trouble. When writing mention reading this generous offer in this paper and send your address to Dr. Kilmer & Co., Binghamton, N. Y. The regular fifty cent and Home of Swamp-Root sizes are sold by all good druggists.

## Constipation

Headache, biliousness, heartburn, indigestion, and all liver ills are cured by

**Hood's Pills**

Sold by all druggists. 25 cents.

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