Illinois Supreme Court History: Jilted Brides

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Jilted brides, left at the altar, broken engagements, and hell hath no fury like a woman scorned were some descriptions of females who had been abandoned by their would-be husbands. What recourse did these women have? Plenty, according to the legal system.

The beginnings of this action date to England, from where the United States and Illinois adopted most of their legal traditions. Assumpsit was the common law action for a breach of contract, and it allowed a wide variety of broken agreements to be adjudicated, including the promise of marriage. Both men and women could sue to recover damages, but it was nearly universal that women sued men. In the United States, the 1818 Massachusetts case *Wightman v. Coates*, 15 Mass. 3 (1818), case validated the action after Joshua Coates argued that breach of promise of marriage suits were not legitimate in the young United States.

The Illinois Supreme Court first considered a breach of promise to marry lawsuit in *Greenup v. Stoker*, 7 Ill. 688 (1845) and 8 Ill. 202 (1846) with Justice Norman Purple noting that the "rules applicable to contracts of marriage do not differ materially from those governing contracts in general." In *Butler v. Eschleman*, 18 Ill. 44 (1856), Thomas Butler attempted to portray his jilted fiancée Susanna Eschleman as a woman of poor character to justify him breaking his promise to marry her. However, Justice Walter Scates affirmed Eschleman's judgment against Butler, noting that a "suitor, with a full knowledge of the character of his lady-love, will be considered to have waived all objections to her by a promise of marriage."

During his 25-year legal career in Illinois, Abraham Lincoln was involved in seven breach of promise to marry cases, none of which reached the Supreme Court. Interestingly, Lincoln represented the woman in all seven cases, winning three of them, securing an agreed dismissal in three of them, and losing one after failing to prove the plaintiff's case.

By the late 19th century, there was a backlash against women suing for damages since most cases were easy wins for them, sometimes with large damage awards. Critics argued that these women were mercenaries using the courts to win large sums of money. The Supreme Court noticed this in *Walmsley v. Robinson*, 63 Ill. 41 (1871) when Justice Sidney Breese commented that it could be "dangerous for an unmarried man to pay attention to an unmarried woman" out of fear that simple courtship can be misconstrued as a promise to marry.

By the early 20th century, the overuse and abuse of these cases caused many states, including Illinois, to pass the 1935 Heart Balm Act, which abolished the breach of promise to marry action. The Illinois Supreme Court declared the act unconstitutional in *Heck v. Schupp*, 394 Ill. 296 (1946)—the only state of 17 to invalidate its Heart Balm Act. Justice Clyde Stone wrote the opinion that the act was unconstitutional because the "contract of marriage has always been

known in the law as a contract involving civil rights just as other contracts involve such rights, and no reason appears why, under section 19 of article II of our constitution, such rights should not have their day in court."
As a result, the Illinois legislature passed the 1947 Breach of Promise to Marry Act, which restored most of the previous common law requirements for bringing a suit but with restrictions on damages. The new law was written "to prevent plaintiffs with improper motives from being able to manipulate the laws to his or her own advantage." The Illinois Supreme Court validated the constitutionality of the 1947 act 11 years later in *Smith v. Hill*, 12 Ill 2d. 588 (1958).

In 2010, Dominque Buttitta sued her former fiancée Vito Salerno in 1910 to recover $96,000 of expenses prior to their wedding. Salerno had called off the wedding four days before the event was to take place. The parties ended up settling for an undisclosed amount, but the case made national headlines. In 2016, the Illinois legislature repealed the 1947 Breach of Promise to Marry Act to focus more on mediation and amicable resolutions to domestic disputes rather than vindictive tortious lawsuits.