

THE CASE OF THE CONTESTED DIVORCE

(i) The Marriage

William Hopkins and Mary Jane Horton were married at the beautiful and ancient Church of St. John the Baptist in Middleton North Warwickshire on 4th August 1889. The bride was a twenty-nine year old widow, a nurse who lived at North Kensington in London; her father was Elijah Barnes, a waggoner. The groom was a twenty-five year old bachelor, a labourer living at Middleton, the son of John Hopkins, also a labourer. One can only speculate how a London nurse came to marry a labourer from the tiny village of Middleton, and why the marriage took place in the groom's, rather than the more usual bride's, local church. The newly-married couple, together with Mrs Hopkins' young son by her first husband, took up residence at 2 Church Row in Middleton and soon started a family of their own. A daughter, Alice Jane, was born in July 1890 and a son, William Frederick, followed in November 1891. A third child was subsequently born, but did not survive. The family had a short spell living at Coton near Tamworth and then moved back to Middleton.

According to Hopkins' later testimony, the marriage was a happy one until the death, in November 1896, of Mrs Hopkins' uncle (her mother's brother) named Massum or Massom (both spellings are adopted in the legal documents of the case). He lived at 12 Northcroft Lane Newbury with his wife Ann and two sons, John Edward Didcot Massum, known as 'Didi', and William Massum. Mrs Hopkins went to stay with her uncle's widow for a week to help her through the funeral, but actually remained there for a month. Before returning home she wrote to her husband the following letter on black-edged paper, reproduced with its misspellings, dropped aitches, haphazard use of capital letters and complete lack of punctuation:

My dear husband and Children how are you Getting on with out me so long I trust you are all rigtt you had better pay your Club 8/6 and send 4/- to Walsall for [indecipherable name, possibly Hopkins' stepson] that will put Our Club Strait Get the Stamp and send it in time for Monday you had better Look in My Box on the Bible for your Club Card you had better let Mrs Jackson [a neighbour in Church Row] do you a bit of washing for you untill I Come for Aunt begs of Me to Stay for another fortnight as things is not all Settled yet My expences will be all paid My cousin [Didi] is Going to come back with Me for a Holiday you will like him very much is father as left all to him he Just is Good to Me and will not let Me want any thing I shall be well Loaded when I Come home I don't now [know] how to bring all You will have to meet us at Sutton when I Come you now they Cant do or Get Me any thing nice enough aunt Cry every time I speak about going home she is 77 years of age take Care of that news paper I sent you for I shall want it did you read about My Uncle Driveing the Mail it was all is own take Care of this Death Card Now you Must Manages as well as you Can Get your self plent to eat this is My home now at any time all that is left is for me we shall have plent of News to tell you My Cousin as made me a wine Barrell 6 Gallon [indecipherable] I will right again next week all very Bessey [?] Look after the Children

Apart from showing that Mrs Hopkins was a woman of little education, this letter gives the impression that she was bossy and self-centred, and it is to be noted that she doesn't ask her husband if her cousin can visit them, but merely tells him that he is going to, and doesn't ask him to meet them off the train at Sutton but tells him he will have to. She and Didi arrived on 19th December and it soon became apparent that Hopkins was not happy having Massum living with them; he was suspicious that the relationship between his wife and her cousin was more intimate than it should have been. It can easily be imagined that the Christmas of 1896 in the Hopkins household was not one of goodwill to all men;



The Parish Church of St. John the Baptist Middleton
where William Hopkins and Mary Jane Horton
were married in 1889
Photograph by courtesy of Caroline Irwin

accusations, recriminations and bitter rows ruined the festive season. Matters came to a head on Boxing Day when Mrs Hopkins and Massum left Middleton, and after visits to Walsall and Birmingham returned to Newbury, taking the three children with them, and also some furniture which Hopkins claimed was his and was valued at £5. The runaway pair were hoping to stay at his mother's house, but she refused to take them in and they rented a house at 9 Jack Street Newbury. Hopkins was not to see his wife again until they faced each other across the floor of the High Court five years later.

(ii) Separation

Hopkins wrote to his wife in the week after Christmas 1896, addressing the letter to 9 Northcroft Lane Newbury, asking her to return home and more particularly to bring their children Alice and William with her. Getting no reply he wrote a second time and received the following letter from William Massum dated 13th January 1897:

Dear Sir,

I have returned your letters you sent here to that woman who was your wife and while deeply sympathizing with you in your great trouble beg to say she is not stopping here. Unfortunately my mother who is nearly blind and cannot read very well at her time of life opened them for which I am very sorry. I should advise you to send them to her direct at 9 Jack Street Newbury. I am Sir Yours sincerely Wm Massum.

Hopkins wrote to Ann Massum on 30th January for help in gaining custody of his children. It is evident that both she and her son William had taken against Mary Hopkins, but she was more vitriolic in her opinions. She wrote to Hopkins on 3rd February:

Dear Sir,

In answer to your letter of Jan 30th I shall be pleased to assist you in anyway that lays in my power for you to recover your children. You can stay here if you like but we shall not have anything to do with your wife. Kindly let me know what day you are coming and oblige

Yours faithfully

Ann Massom [sic]

To which a long postscript was added:

After working hard all the time to get a little then to be upset by such a thing as her, my poor husband only been dead two months today, to think I got all this trouble since, through my Son as I thought was going to be a comfort to me. I shall have to go to the Workhouse allthrough her. I should thought 2 husbands had been enough for her. I feel truly sorry for you, and poor children I gave her all I could as I thought it would be useful to you things that I could have made money of, then for her to have the cheek to come back here. She must have the cheek of the Devil. I hope you will get your poor children back you may depend they will have to rough it. She and Didi got a house living together but thinks about shifting, after a while I shall be going to the workhouse in the course of a month, but if you will be kind enough to write to me as soon as you can I will write to you I feel truly sorry for you but she is a regular bad one I hope you will get your children back. I thought you see something you did not approve of we have had the policeman to her a time or two. She took some bags away that Bill [her son William Massum] had in the house belonging to a gentleman So we sent the police after them. She came down one day to see if I had any letters for her I told her no I told her to keep away from my house for she was a disgrace to all Womanhood. P.S. write back soon

from yours truly

Ann Massom

Mrs A Massom North Croft Lane Newbury

Hopkins then spoke to Rev Robert Hodge, the Rector of Middleton Parish Church who had conducted his marriage ceremony seven years earlier, and asked him to enlist the help of Rev Edward Gardner, the Rector of St. Nicholas Church Newbury. Hodge's letter to Gardner is not extant, but the rough gist of its contents can be guessed from Gardner's reply dated 29th January 1897:

My dear Sir,

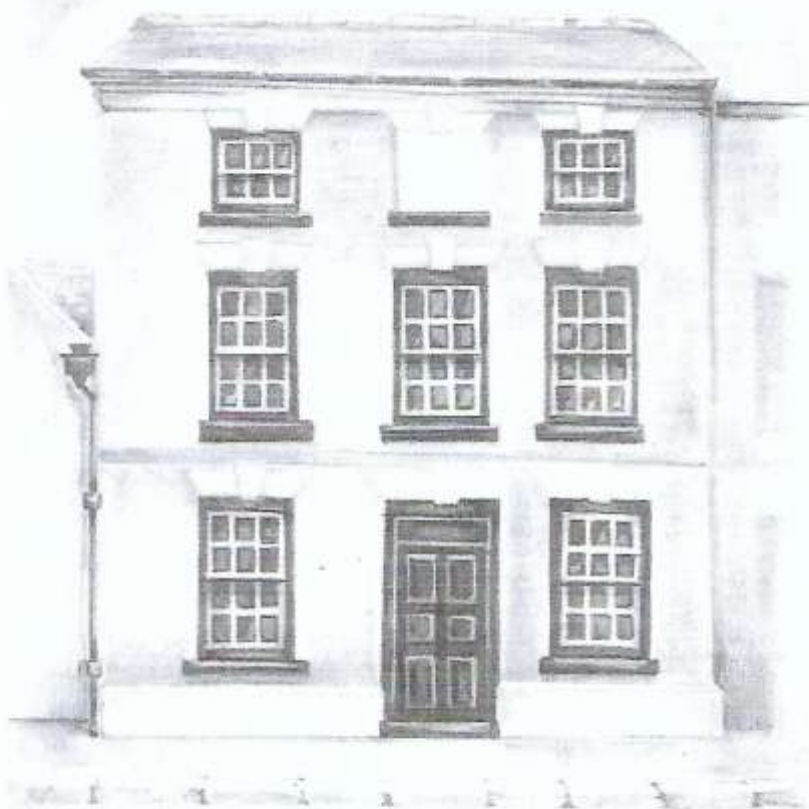
I cannot possibly do what you suggest which wd appear to me to be something like making myself an agent for kidnapping the children. I agree with you in my entire distrust of the mother and I have put before her very thoroughly the gravity of action in the matter and the scandal of her present position. She herself has shown me what appears to be a genuine certificate of a doctor that her husband was in a very dangerous state and she affirms that she is afraid of her life owing to these paroxysms wh come on suddenly (of course I know only wh she tells me). the man I have also seen and had much talk with, he is not at all a bad sort of fellow very steady and for many years in the same place he assures me that their relations are innocent. I have pointed out that in any case they are indecent. he is however rather a thick witted fellow The brother who lives with the mother is a regular tipler and you must receive what you hear fr their side cum grano [cum grano salis, with a pinch of salt]. It is a most difficult case and I really don't know how to act in the matter, only whatever I do must be above board. I could not get the children here on false pretences. they seem nice children and are kept regularly at school. the mother is already beginning to find her position a very difficult one. If you can suggest anything in wh I can help openly I will do what I can

The doctor referred to was Dr L. Scudamore who practised in Middleton. Details of his certificate emerged later.

(iii) Solicitor Consulted

Hopkins became resigned to the fact that his marriage was over, especially as he now had a new woman in his life, by whom he had fathered a child. His thoughts naturally turned towards divorce. Before 1857 the only method of obtaining a divorce was by a private Act of Parliament, the cost of which was prohibitive for all except the very wealthy. The 1857 Matrimonial Causes Act gave the High Court the power to grant divorce decrees to a husband if he could prove that his wife had committed adultery and to a wife if she could prove that her husband had committed adultery and was guilty of cruelty or desertion. Cruelty and desertion without adultery were not grounds for divorce, but could lead to a decree of judicial separation. Only divorce permitted the parties to remarry. Hopkins did not have the resources to apply for a divorce immediately, but he started saving up for it.

In July 1900 Hopkins had the necessary funds and, having moved from Middleton to Whitehouse Common Sutton Coldfield, he consulted Herbert Eddowes of Messrs Eddowes & Son Solicitors of 46 High Street. Eddowes was in partnership with his father Thomas Eddowes, who had been admitted as a solicitor in 1849, practising initially in Loughborough and, since 1855, in Sutton Coldfield. Thomas Eddowes had been active in local politics as a member of the Sutton Coldfield Corporation from 1857 to 1886, holding the post of Warden (the equivalent of Mayor) for three years from 1871, but being now seventy-five years old and in poor health he was semi-retired, leaving his son to take control of the legal business. Herbert Eddowes had been a solicitor since 1890 and had joined the practice as his father's junior partner in 1894. The firm's main lines of business were conveyancing, wills and probate;



46 High Street Sutton Coldfield
where Herbert Eddowes practised as a
solicitor from 1894 to 1936
Drawing by Kate Brinkworth (2022)

matrimonial law made up only a small part of the practice and then almost entirely cases heard before the local Police Court. Divorces could only be granted by the High Court of Justice in London. The original intention had been to set up local courts throughout England and Wales to deal with divorces, but this provision fell by the wayside. All provincial solicitors had a 'London agent', a firm of London solicitors who could take control of their litigation in the London courts. Eddowes & Son's London agents were Messrs Kingsford Dorman & Co of 23 Essex Street Strand W.C.

Eddowes wrote to Kingsford Dorman & Co giving them preliminary instructions and enquiring what the cost of the proposed divorce would be. The instructions were as follows:

Hopkins v Hopkins and Massum

Instructions for divorce

Mr Wm Hopkins formerly of Middleton near Tamworth Labourer, now lodging with John Statham Whitehouse Common, worked for Mr Fred Knight of Middleton Farmer since a lad, now working for John Jennings of Sutton haulier, wages now 18/- a week.

Married Mary Jane Horton (a widow) on 4th August 1889 at Middleton Parish Church. She was about 30 years of age. Lived together at Middleton until 26th Dec 1896. They had 2 children aged now about 11 and 10. The girl named Alice Jane is the older, Wm Frederick is the younger. The wife had one child by her former marriage.

About the end of November 1896 she went to Newbury Berkshire to attend the funeral of an uncle who had recently died there. She went ostensibly for a week but stayed nearly a month.

While there she became great friends with his son whom (as her cousin) she had known before and brought him back to Middleton with her about a week before Boxing Day.

She had previously written from Newbury to say that she was coming back with the son.

Her conduct was such that her husband had to complain to her. She endeavoured to make out that the cousin was mad and that it was necessary for her to go at any time of the night and see that he was not destroying himself.

She replied that he was jealous and she would give him something to be jealous about. She was always hanging around the corespondent. Wouldn't get her husband meals.

She wanted him to go to bed at nights and leave her and her cousin sitting up to which the husband objected. She tried to make out that the husband was mad.

On Boxing Day 1896 she went away with the cousin to Walsall to her relations there taking all the children with her and about £5 worth of his goods.

The Husband wrote to these relations and told them all particulars.

The wife was there when the letter came. The relations endeavoured to persuade her to stay there until the husband who was in search of her came over.

She would not stay but went off to her sister in Birmingham taking the cousin with her and the children.

The sister refused to take the cousin in but she did not object to the wife or her children.

Thereupon the wife and cousin and children went off to Newbury and they are there now.

The cousin had been living with his mother but when he arrived with Hopkins' wife and children the mother refused to take them in.

He then took a house and they lived together and have done so since.

The corespondent's name is John Edward Didcot Massum, a working mechanic in receipt of (it is believed) 25/- or 30/- [£1.5.0d or £1.10.0d.] a week.

Hopkins has never seen his Wife since nor asked her to return to him. She left him much in debt. She is living at 11 Denmark Street Newbury Berkshire.

Owing to being left in debt by his wife Hopkins has not had the means to institute any proceedings before. He has been saving money with a view of bringing this action.

About a year and a half ago Hopkins became liable to contribute towards the maintenance of a child, not by any order of Court but by agreement between himself and the mother [Not a reference to his children by his wife, but to the illegitimate child he had fathered]. He doesn't know whether his wife knows of this.

The Vicar of Newbury to whom Mr Hodge vicar of Middleton wrote about the wife told him the wife was living in adultery with the corespondent.

The Vicar of Newbury spoke to the corespondent about his conduct but did no good with him.

In July 1897 Hopkins went over to Newbury to endeavour to see the children but failed to do so. He called at the house where the corespondent and his wife were living but didn't see her.

He wrote once and asked the wife to let him have the children or one of them but she refused.

The corespondent's mother writes occasionally to let Hopkins know how the children are going on.

Hopkins says that his wife's conduct during the lifetime of her first husband was very bad.

He wrote after his visit to Newbury and told his wife that she would have to face him in a Court of Law but she made no reply.

Kingsford Dorman & Co replied on 30th July:

We find the costs in small cases usually come out at about £40. In this case you say that the Wife left the husband in 1896. Unless you can prove that she has also committed adultery he can get no more than a Judicial separation. The adultery of the husband would be a complete answer to the petition and if not set up by the Wife might be set up by the Queens Proctor.

'Proctor' was the name given to attorneys and solicitors who practised in the ecclesiastical courts, which had jurisdiction over divorces prior to 1857. The name dropped out of use after the 1873 Supreme Court of Judicature Act combined proctors, attorneys and solicitors under the name of Solicitors of the Supreme Court, but the Queen's Proctor, a post which had been created in 1860, survived. The role of the Queen's Proctor was to ensure the integrity of legal proceedings in divorce and probate cases, with power to intervene to prevent a divorce being finalised if it was discovered that the parties had colluded or not presented all the material facts to the court. The post is now known as His Majesty's Procurator General and Treasury Solicitor.

(iv) The Petition

Eddowes made a note on his copy of the instructions to the effect that on 7th August 1900 he saw Hopkins and told him of the risk he ran because he himself had committed adultery, and that a petition would cost £40. This was approximately ten months' wages for Hopkins who was earning £47 a year; Hopkins paid Eddowes £30 on account of costs on 26th November 1900 and on the following day Eddowes instructed Kingsford Dorman & Co to institute proceedings.

The divorce petition, addressed to the Right Honorable the President of the Probate Divorce and Admiralty Division of the High Court of Justice, set out in paragraphs 1 and 2 details of the marriage and the children, and, after stating in paragraph 3 that the parties separated on 26th December 1896 and had not cohabited since that date, went on to allege:

4. *That on some day or days in the week immediately preceding to the said 26th December 1896 the said Mary Jane Hopkins at Middleton aforesaid committed adultery with John Edward Didcot Massum of 11 Denmark Road Newbury in the County of Berks Working Mechanic.*

5. *That from about early in the month of January 1897 to the present time at 8 Kings Road Newbury aforesaid and at 11 Denmark Road Newbury aforesaid the said John Edward Didcot Massum and Mary Jane Hopkins lived and cohabited together as husband and wife and that at such residences aforesaid the said John Edward Didcot Massum and Mary Jane Hopkins habitually committed adultery together.*

The petition ended: "Your Petitioner therefore humbly prays that your Lordship will be pleased to decree that his said marriage may be dissolved and that he may have the custody of his 2 children and that the Petitioner may have such other and further relief as may be meet."

Hopkins swore an affidavit on 16th December 1900 before Thomas Vincent Holbeche, a solicitor and commissioner for oaths of 1/3 Coleshill Street Sutton Coldfield and also Sutton's Town Clerk, that the statements in paragraphs 1, 2 and 3 of the petition were true and that the statements in paragraphs 4 and 5 were true "to the best of my knowledge information and belief", adding that "there is not any collusion or connivance between me and my said Wife Mary Jane Hopkins in any way whatever". This last sentence was necessary as if the parties to a divorce were in collusion to deceive the Court or effect some agreement by which the case was not defended, the Court was bound to dismiss the petition. Likewise, a petition would be dismissed if connivance was established, in other words "conduct intentionally directed to procure the adultery".

Under the 1873 Supreme Court of Judicature Act the High Court of Justice was divided into five divisions, Queen's Bench, Chancery, Common Pleas, Exchequer and the mixed-bag of Probate, Divorce and Admiralty. The Common Pleas and Exchequer Divisions were abolished in 1880 and the mixed-bag division was renamed the Family Division in 1970. The President of the Probate, Divorce and Admiralty Division from 1892 to 1905 was Sir Francis Henry Jeune, 1st Baron St. Helier (1843-1905).

Kingsford Dorman & Co had warned that evidence of adultery was needed to obtain a divorce; mere belief that adultery had been committed was insufficient. If Eddowes had been more experienced in matrimonial cases he would have delayed commencing proceedings until he was assured that evidence would be forthcoming, in the form of witnesses prepared to attend court. Ann Massum was the obvious first port of call. She and Hopkins had kept in touch, particularly with regard to the children, but with increasing age her letters were becoming more rambling. She wrote before Christmas 1900:

*Dear Mr Hopkins I now with pleasure answer your letter wich I received this Morning and I was very pleased to here from you and was very Soory to here you was not well I have been ill so long I can Ardley see my way about they want to send me to the hospital after Christmas they are moved but they live in the town somewere I did not know as they was moved till a wowman Come to see me a lived next door them and she told me but I will find out there adress and then I will send it to you I seen Genny [Alice Jane Hopkins] and they Children are all quite well I am very Sory I could not rite to you before I will rite to you again soon and let you have there adress if you have any thing to send the Children if you send it to me I will send it to them I wish you a merry Christmas and a happy new year I remain your truly A Massom
I will rite a gain Soon as I can get out to find there rite adress*

A second letter arrived towards the end of January 1901:

Dear Mr Hopkins,

i now take the pleasure of writing these few lines to you in answer to your very kind letter wich i was very pleased to receive and to hear you are pretty well as it Leaves me very poorly i have got the errelipsia [epilepsia?] So Bad in one of my harms; am not able to Do anything i Return to you many thanks for what you Sent me i have made enquiries about the chilldren they are allright and goes to School But they go in the name of Norton [a mistake for Horton, Mrs Hopkins' former name] But i am Doing my Best to find out their proper address and as soon as i can get it i will Let you know But my eyes is So Bad that i have got a Pole to find my way about anywere But i keeps makeing inquireing i shall find out But i must take time Because i am not Like anyone as can See their way about But as soon as i can possible find out i will Let you know as i sure the chilldren are all right and Looks well genney goes to the girls British School She wears spectacles now Willy goes to the Boys British School So if you Like to write to the Master and Misstress you can Do So i am Sending you the address of the Master and Misstress But i hear they go in the Name of Norton you must tell them the chilldren has got very Light hair then perhaps they will know Better who they are i must close from yours truly Ann Massom Let me know if you hear

A separate sheet gives the names of the school mistress and master: Miss Pascoe and Mr Slight.

(v) Citation

Kingsford Dorman & Co required a copy of Hopkins' marriage certificate, but as Hopkins did not have one Eddowes applied to Rev Robert Hodge the Rector of Middleton for a copy, paying him 3/7d. in postal orders. Once the petition had been lodged with the Court it was necessary to obtain a citation and to serve it on the respondent and co-respondent. The citation reads as follows:

In the High Court of Justice

Probate, Divorce And Admiralty Division (Divorce)

Victoria, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith,

To Mary Jane Hopkins of 8 Kings Road Newbury Berks

Whereas William Hopkins of Whitehouse Common Sutton Coldfield in the County of Warwick Labourer claiming to have been lawfully married to you Mary Jane Hopkins of 8 Kings Road Newbury Berks has filed his Petition against you in the Divorce Registry of Our said Court, praying for a dissolution of his Marriage wherein he alleges that you have been Guilty of Adultery with John Edward Didcot Massum of 8 Kings Road aforesaid Now This is To Command You that within eight days after service hereof on you inclusive of the day of such service you do appear in Our said Court then and there to make answer to the said Petition, a Copy whereof Sealed with the Seal of Our said Court is herewith served upon you. And Take Notice that in default of your so doing Our said Court will proceed to hear the said charge proved in due course of Law and to pronounce sentence therein your absence notwithstanding. And take further Notice that for the purpose aforesaid you are to attend in person, or by your Solicitor, at the Divorce Registry of Our said Court, at Somerset House, Strand in the County of Middlesex and there to enter an appearance in a book provided for that purpose, without which you will not be allowed to address the Court, either in person or by counsel, at any stage of the proceedings in the cause. Dated At London the 11th day of December One thousand nine hundred and in the sixty fourth year of our Reign

D.W. Owen Registrar

A similar citation addressed to the co-respondent was also issued by Kingsford Dorman & Co and sent by them to Eddowes to effect service. Eddowes sent his managing clerk, John Henry Perry, who later qualified as a solicitor and became Eddowes' partner, to Newbury on 19th December 1900 to serve the citations. Perry went to 11 Denmark Street and 8 Kings Road but had no luck at either of these addresses. He sent a telegram to Eddowes from Newbury Post Office at 2.12 p.m., which arrived at Sutton Coldfield Post Office at 3.03 p.m. The message became somewhat garbled in its transmission:

*False address both places nothing
Know about Massum is anything
an instructions to help
me wire reply at postoffice
Here*

Eddowes replied by telegram, at a cost of 10½d.:

*Enquire at 12 Northcroft Lane
Newbury Massums mother lives there
if unsuccessful can do nothing
more today*

In February 1901 it was discovered that Mrs Hopkins and Massum had moved to a house in Old Newtown Road Newbury. Perry made another journey to Newbury on 18th February and successfully served the citations on both parties. According to Perry's note he caught Massum at 44 Cheap Street Newbury (his place of work?) and Mrs Hopkins in Station Road.

Kingsford Dorman & Co wrote to Eddowes on 20th February:

We are in receipt of these Citations and will send you the necessary forms of affidavit to be deposed to if the Respondent and Co Respondent do not appear in due time. We sincerely hope Mr Eddowes is well again.

Hopkins was hoping that his wife and Massum would fail to enter an appearance within the very short time limit of eight days, which would mean, once the date of service of the citations had been established by affidavit sworn by John Perry, that they could take no part in the court proceedings; this would make the task of proving adultery to the satisfaction of the Court much easier. The last sentence in the letter of 20th February referred to Thomas Eddowes, who during his long legal career had had many occasions to employ Messrs Kingsford Dorman & Co as his London agents. He was now suffering from the infirmities of old age and was to die in May 1903.

(vi) Better Particulars

Hopkins' hopes of having an easy ride were dashed when on 25th February Kingsford Dorman & Co wrote to Eddowes to inform him that Mrs Hopkins and Massum had instructed Messrs Bedford & Godding Solicitors of 52 Arbour Square Stepney East London to act for them and they had entered an appearance, that is put their name and interest on the court record, which implied that the petition would be defended. Bedford & Godding applied to Mr Registrar Owen for an order for Hopkins to deliver better particulars of the adultery alleged in paragraph 4 of the petition, which was granted on 8th March.

Hopkins swore an affidavit before Thomas Vincent Holbeche on 18th March to the effect that the following particulars were all that “can be given by me from the facts now within my knowledge”:

On the 19th December 1896 the Respondent who had been staying at Newbury returned to the house of the Petitioner in Church Row Middleton bringing the Corespondent with her and on the night of 21st December 1896 she went into the Corespondent’s bedroom and remained with him for some time and the Petitioner believes that they there and then committed adultery.

On other occasions between the 19th December and the 26th December 1896 the exact dates the Petitioner does not remember the Respondent went into the Corespondent’s bedroom at Church Row aforesaid and remained with him for some time and on those occasions or some of them the Petitioner believes they also committed adultery and on 26th December 1896 they finally went away together and the Respondent has never returned to the Petitioner since that time.

The above are the times and places when and where the acts of adultery were committed as referred to in the 4th paragraph of the Petition and are delivered pursuant to the Order of Mr Registrar Owen dated the 8th day of March 1901.

This affidavit fell short of proving adultery, but merely gave reasons for Hopkins’ suspicion or belief that adultery had taken place; the twice-used phrase “for some time” was particularly vague, perhaps intentionally as originally Hopkins had said “for some minutes”.

(vii) Damages

Hopkins then had the thought that he should claim damages from Massum. Eddowes raised this point with Kingsford Dorman & Co, who replied on 21st March:

Damages are very rarely claimed where the parties are as in this case in such humble circumstances – besides the Wife having conducted herself in such a worthless manner it is difficult to see that the Petitioner has sustained any loss by her having left him and moreover if it were a case for damages what could you get from the Corespondent who is merely a working mechanic. It does not appear to us to be a case for damages but if you wish a claim made the petition will have to be amended and reserved [i.e. re-served] and the case tried by a Jury.

Kingsford Dorman & Co, who had originally drafted the petition, should themselves have considered this point at an early stage, but in view of their negative comments the possibility of claiming damages was dropped.

(viii) The Answer

Mrs Hopkins’ answer to the petition was filed on 28th March. As a solicitor, Eddowes knew there were two sides to every argument and therefore he may not have been particularly surprised, even if he was somewhat put out, when he read what Mrs Hopkins had to say:

The Respondent Mary Jane Hopkins by Bedford & Godding her Solicitors in answer to the Petition filed in this Case saith

- 1. She did not commit adultery with the Co-Respondent as alleged in the Petition.*
- 2. Further on many occasions between May 1892 and the end of December 1896 (which occasions the Respondent is unable to specify more particularly) the Petitioner threatened to kill the Respondent by cutting her throat with a razor knocking her brains out or drowning her. The Petitioner thereby*

caused the Respondent great terror and made future cohabitation intolerable and unsafe. The Petitioner also on many occasions between May 1892 and the end of December 1896 (which occasions the Respondent is unable to specify more particularly) struck the Respondent with his hand and his clenched fist. In particular he struck her in the face with his fist on the night of December 22nd 1896 in their bedroom in Church Row Middleton. By reason of the premises the Respondent says that the Petitioner was guilty of cruelty towards her. Wherefore the Respondent humbly prays that your Lordship will be pleased to reject the prayer of the Petitioner and decree

- 1. A judicial separation*
- 2. The custody of the children of the marriage*
- 3. Such further and other relief as is meet*

Mrs Hopkins clearly believed that attack was the best form of defence. Massum filed an answer on the same day merely saying that he did not commit adultery with the Respondent as alleged in the petition.

On the following day Kingsford Dorman & Co forwarded copies of the answers to Eddowes without comment, adding:

We shall be glad to hear from you if We are to set the case down for hearing. If set down within the next few days the trial will take place towards the end of next month.

Eddowes gave instructions for Kingsford Dorman & Co to proceed and they wrote on 3rd April:

We are applying for the Registrars Certificate for leave to set down the case for hearing. We shall get the Certificate after the holidays and the case can be then set down and you must be prepared to go to trial at the expiration of ten days from that time.

(ix) Brief for Counsel

Easter Sunday was on 7th April in 1901. The Hilary term ended on the Wednesday before Easter Sunday and the Easter term commenced on the second Tuesday after Easter Sunday; the holiday in 1901 was from 4th to 22nd April. Eddowes set about preparing a brief for counsel. The brief, which runs to sixteen pages, sets out verbatim the divorce petition, Hopkins' affidavit in support of the petition, the two citations, the request for further particulars, Hopkins' second affidavit and the Respondent's and Co-Respondent's answers, and then details the "Case", which is very similar to the original instructions given by Eddowes to Kingsford Dorman & Co (see above), but with further details of the evidence which Hopkins was prepared to give in court, relating to the week in December 1896 when Massum was staying at 2 Church Row Middleton:

William Hopkins will prove

That the respondent and corespondent were on very affectionate terms and constantly in each other's society

That the witness [Hopkins] being out nearly all day at his work he had not much opportunity of closely observing their conduct except in the evenings

That the witness complained to the respondent about her behaviour during the evenings

That on the night of 21st December 1896 the respondent when in bed with the witness suddenly rose up and went into the bedroom of the corespondent remaining there several minutes

That either on the night of the 20th or 21st December 1896 the respondent refused to accompany the witness to bed at about 10 o'clock

That about an hour later the witness who was in bed hearing a noise downstairs went down

That the witness found the respondent and corespondent sitting on the sofa

That the sofa cushions were disarranged being upside down

That the respondent and corespondent both looked confused

That the witness asked them what they had been doing

That the respondent replied "Nothing"

That the witness returned to bed and the respondent followed some time after

That on other occasions between the 19th and 26th December 1896 the respondent went into the corespondent's bedroom during the evening and remained there with him for some time

The brief does not, of course, mention Hopkins' illegitimate child.

Despite the further details given, this evidence was still not proof of adultery, but merely of suspicion; it is notoriously difficult to prove adultery unless there is a confession or the parties are caught *in flagrante delicto*; Eddowes was hoping that the circumstances were such that adultery could be presumed on the balance of probability. It would have been a stronger case if evidence of Mrs Hopkins' and Massum's life together in the four years since they left Middleton could be adduced. The brief mentioned that the Vicar of Middleton had written to the Vicar of Newbury and was informed by him that Massum and Mrs Hopkins were living in adultery, which was not actually what he said; although he thought their living under the same roof was a "scandal" and "indecent" he was assured by Massum that "their relations are innocent" (see letter of 29th January 1897 above).

The brief said that owing to Hopkins having been left in debt by his wife's behaviour he had not the means to institute proceedings before, but had been saving money for this purpose. This needed to be stated because, even if adultery was proved, the Court had a discretion to refuse a divorce if there had been undue delay in bringing the proceedings. If there was a long delay after the petitioner learnt of the adultery the Court was obliged to consider the motives behind the delay, and particularly whether the adultery had been condoned or forgiven, but if the reason was lack of funds the Court usually regarded it with sympathy.

With regard to Mrs Hopkins' allegations that her husband was violent towards her, the brief for counsel says:

The Petitioner denies the allegations of cruelty contained in the answer of the Respondent. On no occasion between the dates specified in the said answer nor on any other date did the Petitioner threaten to kill the Respondent. On no occasion between the said dates nor on any other did the Petitioner strike the Respondent with his hand or with his clenched fist. The Petitioner did not strike the Respondent in the face with his fist on the night of 22nd December 1896.

Hopkins was prepared to add that he had always treated his wife kindly and that she endeavoured to provoke him to strike her on several occasions but he did not do so. In the absence of a witness, it was her word against his and a question of which of them would be believed by the judge when giving evidence in court. The scene was now set for an early courtroom battle, but there was immediately a delay. Kingsford Dorman & Co wrote to Eddowes on 11th April:

Before directing this cause to be set down for trial the Registrar requires the 2 alterations which appear in the petition to be initialed by Mr Hopkins and the alteration in the affidavit initialed by the Commissioner and the affidavit resworn. We therefore return them for that purpose.

(x) Correspondence with clergymen

It seems that Eddowes was conscious that Hopkins' case was a weak one and he therefore set about trying to enlist the help of independent witnesses, something which should have been done before proceedings were commenced. He first of all wrote to Rev Robert Hodge the Rector of Middleton, who replied on 14th April, writing from The Vicarage Fisherton Delamere Wylde Wiltshire:

I corresponded with the Vicar of Newbury soon after Mrs W. Hopkins had left her husband; and I believe he considered she was to blame in the matter. But I have not heard from him for (I think) four years, so am unable to say what his present opinions may be.

Hodge wrote again from The Rectory Middleton three days later:

Having been obliged to return home unexpectedly, I could if you wish it, make an appointment with you here on Friday morning. But I could not give you any information beyond what I wrote in my letter, which you will by this time have received, and would venture to suggest that it would be more satisfactory to apply to the Vicar of Newbury direct.

Eddowes had, in fact, written to Rev Edward Gardner, the Rector of Newbury, on 16th April:

Our client Mr William Hopkins is taking proceedings for a divorce against his wife Mary Jane Hopkins. The Correspondent is Mr John Edward Didcot Massum of Newbury. Mrs Hopkins left her husband in December 1896 and went to live at Newbury with the Correspondent. We understand that the Rev R. Hodge Vicar of Middleton (in this parish) [in fact, Middleton was a separate parish from Sutton Coldfield, and Hodge was the Rector not the Vicar] where our Client and his wife for some time resided has had some correspondence with you upon the matter and that you informed him that Mrs Hopkins and the correspondent were living together at Newbury as man and wife.

Assuming you can verify this fact your evidence will be most material to our client in proof of the adultery alleged in the Petition – we shall probably be obliged to serve you with a summons to attend the hearing of the case. We shall therefore be much obliged if you will kindly send us at your early convenience full particulars of all the facts which you can bring forward to assist in proving our Clients case. The action is expected to be heard in the course of the next month.

Gardner replied by return of post:

I am sorry I can give no help whatever in this suit. I have not the faintest remembrance even of the names of the persons you mention nor of the subject of any correspondence I may have had with the Mr Hodge you mention. If Mr Hodge has any correspondence of mine on the subject it will speak for itself I suppose, but I can add nothing to it whatever it was, for I have absolutely no recollection where the people lived or what their name was or anything at all about them. If I wrote at any time that they were living together as man and wife it was I imagine an inference from circumstances, and I certainly cannot verify it.

(xi) Evidence of Middleton Neighbours

It seemed therefore that the reverend gentlemen could be of no assistance. Eddowes then approached Hopkins' former neighbours in Church Row Middleton and took statements from Charles Jackson and Emma Ball. Jackson's evidence was as follows:

*Charles Jackson of Middleton Labourer will prove [i.e. state]
That he has known the Petitioner all his life
That he knew the respondent all the time she lived in Middleton
That he remembers the respondent coming to Middleton a few days before Christmas 1896 with a man said to be her cousin
That he noticed that the respondent made a great fuss of the co respondent and seemed very familiar with him
That the Respondent fetched the witness [Jackson] one morning (shortly after she returned to Middleton with the co respondent) about 6 o'clock saying that the Petitioner had cut his throat
That the witness went to the house and found that nothing of the kind had happened
That while the witness was there the respondent and co respondent went upstairs and remained there for several minutes
That the Respondent told the witness that she could not live with the Petitioner as her life was in danger
That the Petitioner was never cruel to the respondent
That the witness never heard of any quarrel or disagreement between them*

Emma Ball's evidence was similar:

*Emma Maria Ball wife of George Ball of Middleton Labourer will prove
That she was a neighbour of the Petitioner and respondent in Church Row Middleton
That she lived at No 1 Church Row and the Petitioner and Respondent at No 2
That she remembers the respondent and co respondent coming to Middleton before Christmas Day 1896
That she noticed that the respondent and co respondent were very intimate and constantly about together during the daytime
That she saw them go away together
That the Petitioner was always very kind to his wife and waited on her hand and foot
That she never heard anything approaching a quarrel
That she must have heard if there had been one*

Eddowes also interviewed Mrs Dixon, the widow of William Dixon, who lived at 3 Church Row and was Mrs Ball's mother, but noted that she "can't speak to what happened". The neighbours' evidence went some way towards countering Mrs Hopkins' allegation of cruelty, but did nothing to prove adultery.

Eddowes also tracked down the Walsall relative to whom Mrs Hopkins and Massum first went on leaving Middleton. This was a Mrs Barnes of 54 Pleck Road Walsall. Eddowes wrote to her asking to meet her and she replied that she would be very pleased to meet him on the following Monday at 2 o'clock "if it is convenient for you". This was the rather unsatisfactory way in which appointments were made before telephones came into use. Eddowes jotted down four questions he wanted to ask her:

1. *How long have you known the Petitioner and his wife?*
2. *When did his Wife come to your house with the Co respondent?*

3. *How long did they stay with you?*
4. *Did they occupy different rooms?*

It turned out that Mrs Barnes was Mrs Hopkins' step-mother, the second wife of her father Elijah Barnes; she had known the parties for over twenty years. Her recollection was that Mrs Hopkins and Massum came to Walsall on the Saturday night before Christmas 1896 (it was in fact on Boxing Day) and stayed for about four days. In reply to the all-important fourth question, Mrs Barnes told Eddowes that although "they went about together arm in arm, Massum slept at her son's house" and "nothing went on wrong as far as could be seen". Eddowes' hopes were dashed and Mrs Barnes was not called as a witness.

Eddowes sent the proofs of Charles Jackson and Emma Ball to Kingsford Dorman & Co who replied on 22nd April, taking a firmer line than previously:

It will be necessary to subpoena Mrs Ball and Mr Jackson and we return their proofs in which they must go more into detail stating the specific acts of familiarity which they observed, the more general statements not being sufficient. It seems indispensable that some evidence must be procured at Newbury for as the case at present stands the petitioner will fail. You were relying upon the Vicar of Newbury to prove the adultery but as he has given way you must obtain some other evidence.

This was easier said than done.

(xii) Subpoenas

Eddowes replied to Kingsford Dorman & Co on 27th April:

We have seen the witnesses Jackson and Ball again. They can speak to no more familiar conduct on the part of the respondent and corespondent than was stated in the rough proof of their evidence that we sent you, although they are emphatic as to the absence of any cruelty by the Petitioner. We served them both with subpoenas. Would one of them be sufficient, so as to save expense? [subpoenaed witnesses were entitled to 'conduct money', i.e. travelling and other expenses]. We have also seen the respondents relatives at Walsall to whom she and corespondent went on leaving Middleton but can get no further evidence from them. We shall be glad to know whether we should subpoena the Vicar of Newbury and what you think as to his letter to the Vicar of Middleton in January 1897 a copy of which we sent you. It shows that he was acquainted with the case although he now says he does not recollect it. If we cannot have him as a witness we will endeavour to obtain other evidence from Newbury. We shall also be glad to know of a convenient hotel or lodging where the Petitioner and witnesses can stay when the time arrives. Could we subpoena any of the children who are with the respondent?

Kingsford Dorman & Co replied on 29th April, taking an even more negative view of the chances of success:

There is absolutely no evidence at present upon which you have any chance of proving adultery. Evidence should be obtained at Newbury and if the Vicar is seen the facts may come to his recollection which caused him to write his first letter. If the children are old enough to appreciate the position they can be called as witnesses. At all events you cannot proceed without further evidence of the alleged adultery.

Hopkins' children were aged eleven and ten, too young to give evidence, but his stepson was five or six years older.

Kingsford Dorman & Co had obtained a 'subpoena ad testificandum' (summons to give evidence, 'subpoena' literally translating as 'under a penalty') with blanks for Eddowes to fill in the names of the chosen witnesses. The completed subpoena, with George Ball subsequently named in place of his wife, reads as follows:

Edward the Seventh [Queen Victoria had died in January], by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith, To Charles Jackson of Middleton in the County of Warwick Labourer and George Ball of the same place Labourer

Greeting: We command you and every of you to be and appear in your proper persons at the sittings of the Probate, Divorce, and Admiralty Division of Our High Court of Justice at the Royal Courts of Justice, Strand, in Our County of Middlesex, on Tuesday the 30th day of April One thousand nine hundred and one by half-past Ten of the Clock in the forenoon of the same day, and so from day to day whenever the said Division of Our said Court is sitting, until the cause or proceeding is heard, to testify the truth according to your knowledge in a certain cause now in Our said Court, depending between William Hopkins, Petitioner, and Mary Jane Hopkins, Respondent, and John Edward Didcot Massum Co-Respondent on the part of the Petitioner and on the aforesaid day, between the parties aforesaid to be heard. And this you nor any of you shall by no means omit, under the penalty of each of you of One Hundred Pounds.

*Witness, The Right Honourable Sir Francis Henry Jeune
Knight, at Our High Court of Justice the 16th day of April
One thousand nine hundred and one in the first
year of Our Reign*

*Subpoena issued by Kingsford Dorman & Co
25 Essex Street, Strand W.C.
Solicitors for the Petitioner*

*D.W. Owen
Registrar*

N.B. – Notice will be given to you of the day on which your attendance will be required

The legal jargon and general mangling of the English language used in this form of subpoena seems calculated to confuse even an intelligent layman, let alone a couple of labourers. Eddowes personally served the subpoena on Charles Jackson at Church Row on 26th April, explaining to him that the date of 30th April was not actually the date of the hearing, which had yet to be fixed, and he would be given notice of the actual date when known in due course.

(xii) Evidence from Newbury

Eddowes wrote to Rev Edward Gardner asking to meet him. Gardner replied on 1st May:

As far as I know I shall be at home after Thursday in next week or on Monday but I really think it will be quite useless you coming to see me. I have tried to recall the matter and if I do so rightly this young man was a cousin and took the woman and her children into his house on some Quixotic idea that he ought to do so.

I may have pointed out to him that such an arrangement was sure to be misunderstood by the neighbours, but if this is the case you refer to I feel sure I could not have said more than this because though I thought the man a great fool I never did believe that he was living with the woman as his wife

and certainly would not say so indeed I should say the very reverse. I think therefore the less you have to do with me the better. Whatever I may have said to this Mr Hodge was a private and privileged communication between two clergymen and ought not to have been shown to you or to anyone else without my consent. I have no recollection what it was about though I fancy it was about the two children in the school here. What has this Vicar of Middleton got to do with the case and why does he not write to me instead of showing my private letters about.

Gardner was clearly annoyed at being dragged into the case, and, seemingly having some recollection of it after all, was making sure that he would not be bothered again. Eddowes told Kingsford Dorman & Co that Gardner would not support Hopkins in his divorce, and they wrote again on 13th May, reiterating their previous opinion:

We do not see how you can safely advise your Client to proceed with his petition whilst the evidence remains in its present unsatisfactory state. There appears to be no evidence to support the charge of adultery and it is quite out of the question to rely entirely on the cross-examination of the Respondents Son who may not be called by her as a Witness at all. It must be borne in mind that the petitioner has to begin and must prove his own case which will break down if he cannot produce evidence in chief. There are several Solicitors at Newbury – perhaps one of them could procure some evidence for you.

Taking up this hint, Eddowes wrote on 14th May to Messrs B. & J.C. Pinniger Solicitors of Newbury:

Hopkins v Hopkins and Massum

We are concerned for the Petitioner in this divorce case. He lives in this town and is a Labourer. His wife is Mary Jane Hopkins (formerly Horton a widow) and the corespondent is John Edward Didcot Massum a cousin of hers. They are now living in the same house in Old Newtown Road Newbury. She goes under the name of Horton. They have had previous addresses in Newbury in Jack Street, at 11 Denmark Road and at 8 Kings Road. The corespondent is described as a working mechanic in or was recently in the employ of Mr Smart of Kings Road. There are 3 children with them. One a boy about 16 the Respondents by her former marriage and a girl about 10 and a boy about 9 children of the Petitioner. We have ourselves made enquiries of neighbours in the streets named and we are informed that the respondent is tenant of the house where they now are at 3/6 a week and that the corespondent is her lodger at 12/6 a week. We cannot at present obtain evidence that they are living as man and wife in order to support the charge of adultery and shall be glad if you can assist us. The Respondent left her husband in December 1896 going away with the corespondent who we believe had up till then lived with his Mother in Newbury. We are informed that the mother (who now lives at 12 Northcroft Lane Newbury) then declined to receive her Son at home and he thereupon obtained a house and has lived with the respondent ever since. Our client has not had the means to take proceedings until now. We are anxious to get the necessary evidence with as little delay as possible. Messrs Bedford & Godding are acting for the respondent and corespondent.

B. & J.C. Pinniger did not reply until 27th May;

We duly received your letter of the 14 inst. but deferred writing as we hoped to have written you with some evidence of adultery but at present we have nothing to communicate that would support such a charge, however we will make further enquiries.

They wrote again on 15th June:

We regret that we have been unable to obtain any evidence of adultery herein and do not think we are likely now to do so.

Pressed to say what they had discovered, they replied on 18th June:

The only information we could glean was that Massum who appears to be a hard working man had lodged with Horton for some years but we could obtain no particulars of adultery or acts of familiarity between them.

We propose to make a nominal charge of £1.1.0

(xiii) Security for Costs

As Kingsford Dorman & Co had delayed applying to the Court for a hearing date while Eddowes was trying to gather better evidence, Messrs Bedford & Godding decided to be more pro-active; firstly, they drew up their bill of costs to date and applied for a court order for security of future costs, as reported to Eddowes by Kingsford Dorman & Co on 8th June:

The Wifes Costs have been delivered to us with an appointment to tax for Thursday next at which time application will be made to the Registrar to fix the amount of security to be given by the husband to cover the prospective Costs in the action. This is the usual course of proceeding in these divorce cases and there is no resisting the Wifes claim for Costs unless We can satisfy the Court that she has separate Estate.

Courts were concerned that if a husband alleging that his wife had committed adultery failed to prove his case, the wife might find herself in financial difficulties if, as was often the case, she had no funds in her own name. It may seem strange that an order for costs should be made before the matter had come to trial, but the practicalities were that if the husband lost he would have to pay the costs, and if he won the co-respondent would be ordered to pay all the costs, which would include reimbursing the husband for any contribution to the wife's costs made during the progress of the case. Following the lodging of the solicitor's bill of costs with the Court, the costs were 'taxed', which merely means 'assessed', by a court official known as a Taxing Master (nothing to do with the Inland Revenue). As a secondary safeguard, the Registrar could at any time require a party bringing an action to deposit a sum of money with the Court as security to cover the other party's costs; of course, if they won the case the money so deposited would be refunded.

(xiv) Want of Prosecution

A further development occurred five days later, as appears in another letter from Kingsford Dorman & Co to Eddowes:

As We do not proceed with the Case the Respondent's Solicitors have served Us with a Summons to dismiss the Petition with Costs for want of prosecution. The Summons stands for hearing on the 21st instant by which time We shall be glad to hear if you have obtained sufficient evidence to justify you in going on with the Petition [;] if not the case will have to be dismissed. The taxation of the Wifes Costs which stood for this morning has been adjourned generally.

Concerned that Hopkins would end up paying a lot more than the original estimate of around £40, which was probably based on the belief that the petition would be uncontested, Eddowes suggested

to Kingsford Dorman & Co that Hopkins' petition should be amended to ask for judicial separation on the grounds of his wife's desertion, in which case he would be bound to be successful and not have to pay his wife's costs. Kingsford Dorman & Co replied on 18th June:

If the present petition were dismissed it would not prevent you filing a fresh Petition upon evidence being obtained of the Wifes adultery but you cannot apply for a Judicial Separation in the present action without amending the whole of the proceedings and making an alternative claim. Before submitting to the Petition being dismissed or in fact taking any further steps We think you could not do better than have the evidence you have already obtained laid before some divorce Counsel and be guided by him as to what is best to be done in the circumstances – Shall We do this.

We thank you for your kind enquiry respecting Mr Candler and are glad to say that he is much better.

Mr S.H. Candler was one of the partners in Kingsford Dorman & Co. Eddowes agreed to take Counsel's advice, but in the meantime Bedford & Godding applied for the petition to be immediately dismissed at the Registrar's hearing on 21st June. The Registrar ordered that the action would be dismissed with costs unless Kingsford Dorman & Co proceeded with the petition within the next fortnight.

(xv) Counsel's Opinion

Kingsford Dorman & Co laid the papers before Louis Diston Powles (1842-1911), a barrister of 2 Tanfield Court, Temple. Powles had been called to the bar in 1866 and had had a somewhat chequered career. After failing twice to be appointed as a Queen's Counsel, he took up the post of Stipendiary Magistrate in the Bahamas in 1886, but was forced to resign a year later after he sentenced James Lightbourne to a month's imprisonment for beating a black maid. This decision was overturned on appeal on the grounds that "the black witnesses lacked credibility". Lightbourne was a Wesleyan Methodist and Powles was a Roman Catholic, and Powles declared that he would rather believe the word of a black man than that of a Methodist, which resulted in clamour for his dismissal. Back in England, he wrote *The Land of the Pink Pearl, or Recollections of Life in the Bahamas* in which he sought to justify his original decision. He then resumed his career at the bar until he was appointed as the Probate Registrar for Norwich.

Powles gave his opinion on 24th June which was much more upbeat than Kingsford Dorman & Co's pessimistic forecast:

I am not quite clear how I am to read the last sentence of the instructions, does it mean that no other witnesses can be obtained but E.M. Ball and Charles Jackson? or does it mean that the Vicar of Newbury and Wm. and Ann Massum will give evidence as well? In my opinion the petitioner's evidence corroborated [sic] by that of Ball and Jackson together with the further evidence of the Massum's is quite ample to obtain a decree for dissolution. It does not appear what the evidence of the Vicar of Newbury would be, but that of the Massum's judging from their letters, would suffice to prove adultery at Newbury, though it would strengthen the case of course to have the Vicar's evidence as well.

If the case rested on the Petitioners evidence corroborated by that of Ball and Jackson only, it would be weak no doubt, but even then I should not despair of getting a decree. The worst that could happen, as there will be no jury, would be that the judge would adjourn the case for further evidence. He would not, in my opinion dismiss the petition.

With respect to the cruelty it is for the Respondent to prove that. There is no onus with regard to it on the petitioner I should think his own denial supported by the evidence of Ball and Jackson would be more than a sufficient answer.

Kingsford Dorman & Co wrote to Eddowes on 25th June, no doubt relieved that they now had someone else to blame if things went horribly wrong:

Herewith We send you a copy of Counsel's opinion which is so far satisfactory that We shall at once set the case down for hearing. Please take a note of the evidence of William and Ann Massum having regard to what is stated in their letters and then send it to us in order that We may complete the Brief. Their evidence with that of Ball and Jackson to corroborate the petition will in Counsels view be sufficient.

The letters referred to are William Massum's letter to Hopkins dated 13th January 1897 and Mrs Massum's letter of 30th January 1897, quoted above, which certainly show that they had a very low opinion of Mrs Hopkins (Massum's cousin and Mrs Massum's late husband's niece), not referring to her by name, but as "that woman who was your wife" and "a disgrace to all Womanhood". However, they only infer but do not prove adultery.

(xvi) Evidence of Ann and William Massum

Kingsford Dorman & Co obtained a subpoena for service on the Massums which named 8th July as the hearing date, but with the usual caveat that notice would be given of the actual date. They sent the subpoena, with copies, to Eddowes to serve on the witnesses and he in turn sent them to B. & J.C. Pinniger, with a request for them to take statements from the Massums. However, B. & J.C. Pinniger enlisted the help of the Newbury County Court in serving the subpoena; an endorsement on the subpoena reads:

Served on Ann Massum Personally on the 1st July 1901. Served on William Massum the 2nd July 1901. Personally. In both cases at their place of abode Northcroft Lane Newbury. J.W.N. Kemp Bailiff Newbury County Court.

Service of the subpoena on the Massums caused them to immediately consult a friend, Joseph Smith of Speen, a small village two miles north-west of Newbury, who apparently had some legal knowledge. Smith wrote to Kingsford Dorman & Co on 2nd July:

Gentn.

Hopkins v Hopkins and Massom

Mrs Masom [sic] whom I have known for many years and her Son William have this morning brought me your Subp in this matter.

Mrs Massom is 80 years of age and very infirm and also nearly blind and has been for some years past. She can give no evidence whatever of any use to the Petitioner.

All that her Son William can say, he believes that about a fortnight or so after the Father's death (He is [sic] Mother and Brother having moved to 12 Northcroft Lane) his Brother with Mrs Hopkins went to see her Husband and after about a fortnight she and her 3 Children came to Northcroft Lane in the evening and to which he very much objected and after some words the Police was sent for and as it was late she and her Children slept there and in the morning they went away and has not returned he has never been to any of the houses where his Brother and the Respondent resided and have only spoken to him once since.

If you think any Evidence they can give will be useful in the Case please send me a Draft Proof and I will go through it with them and return it to you.

They are very poorly off and the Son works hard as a Bill Sticker and if the Son will be wanted (I am quite satisfied the Mother will be of no use) you must send the Railway Fare and look after them when in London. Apologising for troubling you, I am

Yrs faithfully

Jos. Smith

The name of the Co Respondent is John Alfred Didcott [correctly Edward Didcot] Massom not Massum

Kingsford Dorman & Co sent a copy of this letter to Eddowes on 3rd July:

Enclosed we send you Copy of a letter received this morning from a Mr Joseph Smith who does not appear to be a Solicitor. The two Witnesses he refers to appear to have been subpoenad [sic] at which time We suppose you had a note taken of their evidence which We should like to have sent up here at your earliest convenience. According to this Mr Smith neither of the Witnesses can give evidence of adultery but this is hardly consistent with their two letters which you sent Us. If Mrs Massums evidence is material and she is too old and infirm to travel We could take her evidence at her own house or in her own neighbourhood under an order of the Court but we must first know what she can say in order that We may see that her evidence is material.

Eddowes replied by return of post:

We are obliged by your letter. We instructed our Newbury Agents (Messrs B & J C Pinniger) a week ago to serve the subpoenas on Ann and William Massum and to take and send to us a note of their Evidence. We heard from them yesterday that the subpoenas had been served but that they had not (for some reason unexplained) taken the evidence. We wrote them an urgent letter last night to send us the Evidence at once and we hope to send it to you tomorrow.

Messrs B. & J.C. Pinniger did as requested. Mrs Massum's draft witness statement or proof reads as follows:

Ann Massum will prove

That she is the Mother of the Co respondent and lives at Northcroft Lane Newbury

That the witness knows the Petitioner (a little) ["seen him once" is written in the margin in pencil] and the respondent

That the corespondent is a Mechanic and lived with the witness up to about December 1896 or January 1897 and contributed to the support of the house

That in or about the month of January 1897 the corespondent ceased to reside at the house and went to live with the respondent at 9 Jack Street Newbury

That the corespondent also resided with the respondent at 11 Denmark Road Newbury 8 Kings Road Newbury and is now residing with her in Old Newtown Road Newbury

That the witness ascertained that they were living together as man and wife

That the Petitioner's 3 Children are living with them

Mrs Massum signed this proof in the presence of Mr Pinniger's clerk, John Westacott, with a mark, which indicates that her health must have declined since she wrote to Hopkins earlier in the year. The draft proof underwent several changes. Kingsford Dorman asked that Mrs Massum should state the source of the information whereby she had ascertained that her son and Mrs Hopkins were living as man and wife, whereupon she changed her mind and told Westacott that she did not believe they lived

together as man and wife “as she understood that they had a lodger and the co-respondent slept with him”. The final proof submitted with the brief to counsel omitted this sentence.

William Massum’s draft proof was in similar terms to his mother’s. When pressed for further evidence of the parties living together, he said that he “couldn’t say they live together as man and wife” and that “when they came to Northcroft Lane and stayed one night he ordered them out because he thought she was a bad woman”. The final version merely said “that they are now living together in Old Newtown Road” (a subtle difference from Mrs Massum’s “now residing with her in Old Newtown Road”). It seems that both witnesses were backtracking, perhaps in the hope of avoiding being called to give evidence. According to Mr Pinniger both of them “were rather reluctant to speak”. It is extremely doubtful that Mrs Massum would make a good impression in court. If Mrs Hopkins and Didi Massum had been unrelated their “living together” would have been taken to mean “living as man and wife”, but as they were first cousins there could be an innocent explanation. In other words, what William Massum was prepared to say was still not concrete evidence of adultery.

On 5th July Kingsford Dorman & Co informed Eddowes that Mrs Hopkins’ costs to date had been taxed at £17.0.10d. and that the security for her prospective costs of the trial had been fixed at £30, meaning that £47.0.10d. had to be paid within seven days. Kingsford Dorman & Co acknowledged receipt of Eddowes’ cheque on 19th July and added to their letter:

As Mrs Massum’s evidence is substantially to the same effect as that of her Son Counsel thinks her attendance at the trial may be dispensed with and that it is not worth while to take her evidence under an order of the Court.

(xvii) Common Jury

Five days later Kingsford Dorman & Co told Eddowes that Messrs Bedford & Godding had successfully applied to the Registrar for an order that the case be tried before a Common Jury, rather than by a judge sitting without a jury as was the more usual procedure. A common jury was one selected from local householders whose property had a ratable value of at least £30 in London and £20 elsewhere, as opposed to a special jury, which was selected from householders whose property had a ratable value of at least £100 in a large town or £50 in a small town. Special juries were used for more complicated cases where it was envisaged that more intelligent or knowledgeable jurors were required, the theory being that wealthier persons were more likely to fit the bill. The distinction between common and special juries was abolished by the 1949 Juries Act. Mrs Hopkins’ solicitors must have thought that a jury would look on her more favourably than a single male judge would. Juries were all male until the passing of the 1919 Sex Disqualification (Removal) Act.

Mr Powles changed his mind about Mrs Massum’s evidence, as reported by Kingsford Dorman & Co on 15th July;

As this Case has been transferred to the Jury list We must in the opinion of Counsel make our case stronger than if it were to be tried by the president [of the Probate, Divorce and Admiralty Division] and he thinks now that that there is to be a Jury it will be wise to take Mrs Massums evidence under a Judges order. We therefore enclose form of affidavit in support of the application which please return duly sworn at your early convenience.

The affidavit, which was sworn by Eddowes before Thomas V. Holbeche on 16th July, reads as follows:

*In the High Court of Justice
Probate, Divorce and Admiralty Division
(Divorce)*

*Between William Hopkins Petitioner
and
Mary Jane Hopkins Respondent
and
John Edward Didcot Massum Co.Respondent*

I Herbert Macaulay Eddowes of Sutton Coldfield in the County of Warwick a Member of the firm of Eddowes & Son of the same place Solicitors for the above named Petitioner make oath and say as follows:-

- 1. This is a husbands Petition for the dissolution of marriage on the ground of the adultery of the Respondent with the Co.Respondent*
- 2. The Respondent has replied denying the alleged adultery bringing a countercharge of cruelty and praying for a judicial separation*
- 3. Ann Massum is a material and necessary Witness for the Petitioner in this Petition and I verily believe that the said Petitioner cannot proceed safely to the hearing of the said Petition without her evidence*
- 4. The said Ann Massum is at present residing at Northcroft Lane Newbury in the County of Berks*
- 5. I am informed by the Petitioner and verily believe that the said Ann Massum is nearly blind and very aged and infirm and totally unable to travel to London to be present at the hearing of this Petition*

The next letter from Kingsford Dorman & Co showed that this was a wasted exercise:

The Respondents Solicitors have filed the affidavit of a Physician residing in Newbury stating that he is well acquainted with Mrs Ann Massum and that she is well able to travel and to attend in person on the trial of this action – the Registrar has therefore declined to make an order for her examination. If she is able to attend it will be much more satisfactory than merely reading her deposition if she can speak as to the kindness of the petitioner and as to the familiarities between her Son and the Respondent.

(xviii) Trial Date Awaited

It seemed, therefore, that everything was in place for the trial to go ahead at an early date, but then a further delay arose, as Kingsford Dorman & Co informed Eddowes by letter dated 23rd July:

We are informed by the Court that no further Common Jury Cases will be taken this Sitting and that the case will consequently go over the vacation.

In 1901 the Trinity Term ran from 4th June to 31st July and the summer vacation was from 1st August to 30th September. The Michaelmas Term started on 1st October and ran until 21st December. A delay of two months was therefore expected, but Kingsford Dorman & Co wrote on 9th October:

The Trial of Common Jury actions will commence on the 29th instant. We shall write you when the cause list is published informing you how this case stands and the trial will probably take place early in November.

Eddowes went to Church Row Middleton in the last week of October to update the witnesses on the anticipated date of the hearing and to make a final decision on who was to give evidence. He had to visit outside office hours, following a letter from Charles Jackson:

In answer to your letter I shall be at home any time after six of an evening and all day on Sunday.

Emma Ball was reluctant to be called as a witness, so her husband George agreed to take her place, and Mrs Dixon, Mrs Ball's mother, was also roped in despite having previously been ruled out. Presumably, the thought was the more witnesses the merrier, even though Mrs Dixon could only say she was not aware of Hopkins having ill-treated his wife, but could say nothing about the alleged adultery. Eddowes wasn't sure if a new subpoena would be needed, but Kingsford Dorman & Co told him:

There is no necessity for you to issue a fresh subpoena in this case. Provided you insert Mrs Ball's mother's name as one of the three witnesses subpoenaed the subpoena will be valid. Of course you must serve her with a copy.

Kingsford Dorman & Co wrote to Eddowes on 25th October, reviving their earlier concerns about the outcome of the case:

This case stands tenth in the list of Common Juries with every prospect of being in the paper for trial next Wednesday [30th October]. We shall be glad to receive the supplemental proof at your earliest convenience. The evidence as you know is exceedingly weak and Counsel would like to see the Witnesses some time before the case goes into Court. Mrs Ann Massum must of course come up. We shall telegraph you when the case is coming on. What time can the Witnesses get here if they start early in the morning.

Eddowes sent a telegram to Kingsford Dorman & Co on the following day:

*Hopkins supplemental proof follows tomorrow
we had better come Tuesday
night please give address of
lodgings for witnesses and advise
amount of conduct money*

Receiving no reply, Eddowes wrote on 27th October, indicating another change of mind over the local witnesses:

We hoped to have heard from you this morning in reply to our telegram of yesterday. We have been over to Middleton and subpoenaed a witness named George Ball in place of Mrs Dixon. She is an elderly woman and was very reluctant to give any assistance but Ball can give practically the same evidence as she could, and we enclose a copy of it. Unless we hear from you to the contrary we shall come up on Tuesday afternoon and are writing to the Inns of Court Hotel (where we shall stay ourselves) for rooms for the witnesses. We have instructed our Newbury Agents (Messrs Pinniger) to inform Mrs Ann Massum and Wm. Massum of the arrangements we are making and have sent them conduct money.

The Massums' conduct money was £1 each; Charles Jackson and George Ball received £2 each, the difference arising from the relative distances of Newbury and Middleton from London.

Everything now seemed to be last minute and a sense of panic can be detected. With no telephone, the efficiency and reliability of the post was a godsend; some letters posted in London before midday arrived at Sutton Coldfield later in the same day. B. & J.C. Pinniger wrote on 28th October:

We have to-day attended on Ann Masson and W Masson and obtained their signatures to proof of evidence which we herewith return and also enclose you their separate receipts for the conduct money.

Kingsford Dorman & Co wrote on the same day:

This case is only two out of tomorrows paper and is almost certain to be in for trial on Wednesday. Unless therefore you hear from us to the contrary you may rely on it being in Wednesdays paper and We should like the Witnesses to be at this office on Wednesday shortly before ten o'clock.

Another letter followed on 29th October:

This action is in the paper for trial tomorrow and stands fourth. We did not telegraph as you were to come up with the Witnesses if you did not receive a telegram to stop you.

In case this letter did not achieve same-day delivery, they also sent a telegram from Fleet Street Post Office at 5.51 p.m. which was received at the Sutton Coldfield Post Office in Mill Street at 6.15 p.m.:

*Hopkins will be tried tomorrow
be here about ten ock*

There was no point in sending this telegram as Eddowes had already caught the afternoon train to London by the time it arrived. Before leaving he had sent a telegram to Pinnigers:

*Please instruct witnesses to come
to Inns of Court Hotel
tonight we shall arrive there
about six*

(xix) The Hearing

The big day finally arrived and all the arrangements went according to plan. When a case is fourth in the list there is always a danger that the first three cases will take longer than expected and push the list back to the following day, but Hopkins' case was heard, and, despite the number of witnesses, was all over in one day. A report of the hearing appeared in *The Times* on 31st October:

*PROBATE, DIVORCE, AND ADMIRALTY DIVISION,
(Before Mr. Justice Gorell Barnes and a Common Jury)
HOPKINS V. HOPKINS AND MASSUM*

This was the petition of William Hopkins for the dissolution of his Marriage with Mary Jane Hopkins, formerly Horton, on the ground of her adultery with John Edward Didcot Massum. The respondent and co-respondent denied the charge, and the respondent petitioned for a judicial separation on the ground of her husband's cruelty.

Mr. Powles was for the petitioner; Mr. Ll. Davies for the respondent and co-respondent.

Mr. POWLES said that the parties were married on August 4, 1889, at the parish church of Middleton, Warwick, the respondent being at the time a widow with one child, and there were two children living of the marriage. The parties lived fairly happily until November, 1896, at which time the respondent went on a visit to her aunt. When she returned home she brought with her the co-respondent, her cousin. The petitioner at once noticed that the respondent and co-respondent appeared to be on very familiar terms. One night she insisted on going into the co-respondent's bedroom. The respondent, however, explained that her cousin was out of his mind and that he required watching. Finally, on December 26, 1896, the respondent and co-respondent and her three children left the house, and had since lived under the same roof at Newbury. In these circumstances the jury would have no difficulty in inferring that misconduct had occurred. With regard to the counter-charge of cruelty it was without foundation.

The petitioner was called and gave evidence in support of his case. In cross-examination he stated that when his wife had gone into the co-respondent's room he forbade her to go, but he did not attempt to prevent her doing so, or accompany her to prevent any misconduct. It was not true that his wife had left him on account of his cruelty, or that he had threatened to murder her and commit suicide. He had not objected to the co-respondent's coming to lodge in his house, and had not made any attempt to prevent the respondent and co-respondent from leaving the house together with the three children. He himself was not out of his mind in December, 1896, although a doctor was sent for.

Mrs. Hopkins, the respondent, was called and said that her husband had frequently since 1892 assaulted and threatened to kill her. She had not complained to the neighbours, as she was afraid to do so. There had never been the slightest familiarity between herself and the co-respondent. She had left her husband in consequence of his cruelty, and had since supported herself by letting lodgings and dressmaking. The co-respondent had been one of her lodgers.

Dr. L. Scudamore said that in 1896 he was in practice at Middleton and was called in to see the petitioner, who was then in a state verging on insanity. He considered he was in a dangerous condition and directed, *inter alia*, that "he should be watched night and day and that all sharp and heavy instruments should be kept out of the patient's sight."

The co-respondent was called and denied the charge of adultery.

Evidence was also given to show that the relations which had existed between the respondent and co-respondent were of an entirely innocent character.

MR. JUSTICE GORELL BARNES inquired how far the alleged insanity of the petitioner affected the respondent's petition for a judicial separation.

Mr. POWLES intimated that he did not propose to take any part in the discussion.

MR. DAVIES referred to "*Harbury v Harbury*" (1893, P., 222 [Probate Division Law Reports for 1893 page 222]), "*Marsh v Marsh*" (28 L.J., 13 [Volume 28 of the Law Journal Reports page 13]), "*Martin v Martin*" (29 L.J., 106), and "*Hall v Hall*" (33 L.J., 65).

Counsel having addressed the jury,

MR. JUSTICE GORELL BARNES, in summing up, reminded the jury that the burden of proof lay on the petitioner, who was bound to satisfy them that adultery had been committed. With regard to the question of cruelty, if the husband was in fact insane, the wife could not obtain the relief she sought, but if not, she was entitled to the protection of the Court, for "if bitter waters are flowing it is not necessary to inquire from what source they spring."

The jury found (1) that the respondent and co-respondent had not committed adultery, and (2) that the petitioner had been guilty of cruelty.

MR. JUSTICE GORELL BARNES. – Quite right, gentlemen. The petition must be dismissed, with costs, and there will be a judicial separation, with costs and custody of the children.



Mr Justice Gorell Barnes
who presided over the High Court case of
Hopkins v Hopkins and Massum in 1901
Caricature for Vanity Fair by 'Spy' (Leslie Ward) (1893)

John Gorell Barnes (1848-1913), later 1st Baron Gorell of Brampton, was an expert in admiralty cases and was appointed as a Judge of the Probate, Divorce and Admiralty Division of the High Court of Justice in 1892; he succeeded Sir Francis Jeune as President of the Division in 1905. Arthur Llewelyn Davies (1863-1907), Mrs Hopkins' barrister, was more well-known for his family connections than his own achievements; his wife, Sylvia du Maurier, was the aunt of the novelist Daphne du Maurier, his niece, Theodora Llewelyn Davies, was the first woman to successfully apply to become a barrister, and his five sons were the inspiration of the Peter Pan stories by J.M. Barrie.

As is the usual practice, Powles scribbled the result of the case on the front of the brief before returning it with his bill:

*30th Oct 1901 Case heard –
Petition dismissed
Respondents Charge of cruelty sustained
Judicial separation and custody of children to wife
Petr pay costs*

He probably had no qualms about having given his opinion that the evidence was “quite ample to obtain a decree for dissolution” and that Hopkins' “own denial supported by the evidence of Ball and Jackson would be more than a sufficient answer” to the charge of cruelty, but he was wrong on both accounts, and the result of the case was a complete disaster for Hopkins. It appears from the newspaper report that Mr Justice Gorell Barnes was biased towards Mrs Hopkins in his summing up; having told the jury that it was up to the petitioner to prove his allegation of adultery, he should also have said that it was up to the respondent to prove her charge of cruelty, whereas all he said was that Mrs Hopkins was entitled to the protection of the Court, and quoted a proverb which runs contrary to the judicial requirement to enquire into the evidence supporting an allegation.

It is regrettable that the newspaper report does not touch on the legal arguments. After the passing of the 1857 Matrimonial Causes Act there were many court cases which established a body of ‘case law’, that is law as pronounced by judges on matters of detail not covered by Acts of Parliament. The 1864 case of *Hall v Hall* dealt with the question of whether conduct arising from insanity could be treated as cruelty, and the 1858 case of *Marsh v Marsh* related to the relevance of parental behaviour on the awarding of custody of children. The legal principle that the best interests of the children are of paramount importance did not evolve until later; the *Marsh* case decided that “the Court should protect a child from the offending parent's evil influence”. The earlier cases were not binding precedents, except when confirmed by a higher court, but judges tended to follow them unless the facts could be distinguished.

It is also a pity that the newspaper report fails to mention the evidence of Charles Jackson, George Ball, Ann Massum or William Massum, but it is evident that their testimony did not prevent the jury from accepting Mrs Hopkins' apparently unsupported allegation of cruelty. Another point of interest, which does not seem to have been gone into is Mrs Hopkins' suggestion that both her husband and her cousin were ‘insane’, which might mean no more than ‘depressed’. The fact that Hopkins was continuously employed as a labourer from before his marriage and Massum was a ‘working’ mechanic (as opposed to an out-of-work mechanic?) does not support this allegation. On her marriage certificate Mrs Hopkins is described as a nurse; was caring for mental patients her speciality? and did this speciality result in her diagnosing ‘insanity’ where it did not exist? Speculative questions, to which we will never know the answers.

(xx) Claims for Witnesses' Expenses

Soon after the case had been decided, Eddowes received letters from the witnesses asking for further payment. Charles Jackson wrote on 3rd November:

I beg to ask if there are any more expences allowed for Hopkins case as if there is not any more I shall be considerably out of pocket through it and as Hopkins said whatever expense I was at he would pay I quite thought I had more to follow in the first place. I lost 4 day's work, one day I had to go [to] Tamworth to provide things to go in which I could have very well have done without that day was lost two day's lost going to and from London and of course the other arriving home late made me unfit for work next day. I don't wish for anything unfair and as I was at peice work at the time and earning 3/6 to 4/- per day is a loss to me and having my Father and mother to support as well as my wife and 2 children. I remain Sir yours respectfully C. Jackson

On the following day Ernest R. Flint, a solicitor from Newbury, wrote:

Dear Sirs, Hopkins v Hopkins and Massum

I am requested by Mr W. Massum on behalf of himself and his Mother Mrs Ann Massum, both of whom were subpoena'ed as witnesses in this case to apply to you for payment of their allowances and expenses in this action.

My clients were obliged to be in London two days and although they received £2, that amount was barely sufficient to pay their travelling expenses, which through Mrs Massum's age were necessarily heavy. Under the circumstances I estimate that a further payment of £2 is about the amount to which they are entitled and shall be obliged by receipt of same.

(xxi) Eddowes' Expenses

By the same post Messrs B. & J.C. Pinniger sent Eddowes their bill for the extremely modest sum of £1.18.10d., which Eddowes settled by return of post. Eddowes had prepared the following rough calculation of his own out-of-pocket expenses:

	£	s	d
Agents charges against Eddowes & Son (Bill No 41)	5.	7.	8.
ditto (Bill No 42)	27.	10.	—
Marriage certificate		3.	7.
Rail Fare etc. to Newbury (3 Joys [Journeys])	3.	7.	—
Messrs Pinniger Costs	1.	1.	—
Comm[issione]rs Fees and Rail Fare to Walsall		6.	—
Conduct money to Witnesses	6.	—	—
Expenses to London for Hearing (Self and Witnesses)	4.	2.	6.
Respondents taxed costs	17.	0.	10
Paid into Court as Security for further ditto	30.	0.	0
		47.	— 10
		94.	18. 7
Cash from Hopkins	30.	0.	0
Ditto	7.	10.	0
		37.	10 —
Actual costs out of pocket		£57.	8. 7

[in pencil]		
Messrs Pinnigers further costs (say)	3. 3. 0	
Agents further costs including		
Counsels Fees say	<u>10. 0. 0</u>	
		<u>13. 3. –</u>
		<u>£70. 11. 7</u>

The bill for Eddowes' stay at The Inns of Court Hotel Limited, paid by him on 30th October, came to £2.18.8d., made up as follows (presumably part of the £4.2.6d. in the above calculation):

	£ s d
Apartments	16. 6
Attendance	1. 6
Inclusive Terms	1. 15.—
Dinners	2. 2
Ale, Stout, etc	6
Breakfasts	<u>3. —</u>
	<u>£2. 18. 8</u>

With regard to the request from the witnesses for additional expenses, Eddowes sought the advice of Kingsford Dorman & Co and they replied on 6th November:

In reply to your letter of yesterday's date, we do not consider that Mrs Massum is entitled to more than five shillings a day for her evidence in this action. Mr Massum would be entitled to the amount he has lost by his attendance at the Courts, and if that cannot be ascertained we think 5/- a day would be an ample allowance. This of course would be in addition to the Conduct money.

Eddowes paid Ernest Flint an additional £1. It appears that, not surprisingly, Hopkins was unable to pay the balance due to Eddowes in one lump sum, but on 14th November he paid £4.10.0d. "on account of monies paid by us in the action". This reduced the figure of £57.8.7d. to £52.18.7d., plus £1.18.10d. (rather than £3.3.0d.) for the balance of Pinnigers' fees. Then, on 5th December Kingsford Dorman & Co wrote to Eddowes:

The Wifes further Costs have been taxed today at £41.11.9 which after deducting the amount in Court leaves a balance of £11.11.9. The Corespondents Costs have been taxed at £14.4.2. We need scarcely remind you that if these sums are not paid within the next few days Execution may issue.

This letter was written on black-edged paper following the death of Kingsford Dorman & Co's senior partner, Mr C. Dorman. 'Execution' means a visit from the court bailiff to seize goods (not capital punishment). The taxed costs added £25.15.11d. to Eddowes' rough calculation, as he had assumed that the respondent's costs would not exceed the £30 paid into Court and had forgotten about the co-respondent's costs. Mr Powles' fees came to £9.0.6d. (£2.4.6d. for advice, £5.10.0d. for representation in court and £1.6.0d. for conference with witnesses), which was included in Kingsford Dorman & Co's bill No 42. The total fees and expenses, but without Eddowes' own charges, which Hopkins was liable to pay amounted to £120.14.6d. (three times Kingsford Dorman & Co's original estimate), of which he had paid £42. At the rate of £4.10.0d. per month, it would take Hopkins seventeen months to pay off the balance. There is nothing in the file of papers to say what Eddowes' own charges were, or whether

he wrote off his fees to experience, conscious that he should have advised Hopkins against presenting a divorce petition.

(xxii) Children's Maintenance

To make matters worse, Eddowes received the following letter, dated 14th March 1902, from E.G. Bryant Godding Solicitor of Newbury and also at 1 Tavistock Place London W.C., who was presumably one of the partners in Messrs Bedford & Godding:

Hopkins and Hopkins

My Client Mrs Hopkins has instructed me to write you to ascertain whether or not W. Hopkins will pay something per week towards supporting her Children, she having been given the Custody of them by the Court. I must ask you to let me know his intentions without delay, as failing his complying with this request I am instructed to at once proceed against him to enforce same. Kindly give the matter your immediate attention and oblige.

Hopkins v Hopkins and Masum

The balance of costs have not been paid yet. Kindly arrange as to this also.

No doubt Hopkins was horrified at the prospect of further costly court proceedings. Eddowes wrote to Kingsford Dorman & Co for advice, who replied on 19th March:

Where the parties are as in the present case in humble circumstances the course usually taken is to put the poor law in motion by getting the Guardians [of the Poor] to take proceedings against the father of the children but as Mrs Hopkins has obtained a Decree of Judicial separation and for custody of the children we think she could make the application for their maintenance by a petition to the High Court viz in the Divorce Division. Mr Hopkins will have the opportunity of answering that petition and can subsequently give evidence as to his means.

We do not have Eddowes' reply to Bryant Godding's letter, but evidently he offered a payment of two shillings a week on condition that Hopkins was allowed to have access to the children. Bryant Godding replied on 27th March:

Your letter of 26th inst. to hand. In face of the order made in Court I cannot consent for your Client to be allowed to see the children at reasonable times and intervals and the weekly payment offered by you is extremely small, and before such an amount could be entertained some proof of your clients earnings should be given. Perhaps you will let me have a line as to this.

Receiving no reply, Bryant Godding wrote again on 7th April, addressing his letter to Sutton Coalfields:

Please let me have a reply to my former letter to you in this matter and oblige.

Eddowes replied on 9th April with details of Hopkins' wages in support of his original offer. Bryant Godding wrote by return of post:

I thank you for your letter of yesterday's date, and in reply state I cannot advise my Client to accept your offer. If your Client will pay 4/- [four shillings] a week, I should be prepared to advise my Client to accept same, and I consider this is letting him off very lenient. I should like to know what he has done with the furniture and personal apparel and other articles belonging to Mrs Hopkins, as the same

should be sent to her. Please also let me know if you are prepared to pay the balance of taxed costs on action, as the sum must be paid.

Again, Eddowes' reply has not been kept, but it seems that he provided details of Hopkins' weekly expenditure, presumably not mentioning that he was paying maintenance for an illegitimate child, and repeated the offer of 2/- a week. He also referred to Hopkins' claim that his wife had removed £5 worth of furniture when she left home in 1896. Bryant Godding's next letter is dated 17th April:

Your letter of 16th inst to hand. I cannot for one moment believe you seriously mean what you state therein, as the charge of 2/- per week for lodgings without board is altogether unreasonable for an agricultural Labourer. I may say that my Client did not take any thing away that did not belong to her, and there was a great deal of furniture etc left which the husband refused to hand over to her unless she personally came for same, perhaps he has forgotten this transaction.

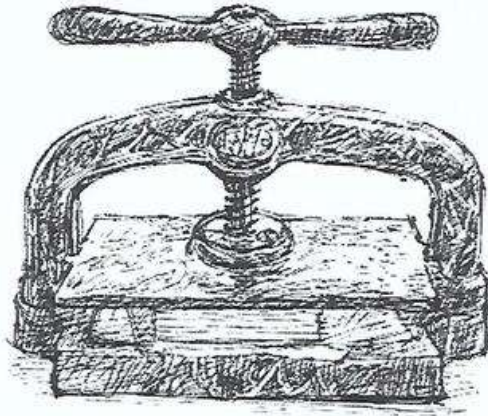
Unless I hear from you by Wednesday next consenting to the terms of my former letter, viz:- to pay 4/- per week to my client, I shall at once proceed against Mr Hopkins in the matter.

(xxiii) Screw Letter-Copying Press

Eddowes' reply probably suggested a compromise of 2/6d. or 3/- a week. All Eddowes' letters were written in longhand (as were the letters of all the other solicitors involved in the case), and copies of the letters were made using a letter-copying press. James Watt had first patented a screw copying press in 1780 and such presses became standard office equipment after they were exhibited in the 1851 Great Exhibition in the Crystal Palace, Hyde Park, London. A contemporary explanation of the process reads as follows:

In addition to the press offices need to buy a copying book with up to a thousand pages of tough tissue paper, copying ink, copying paper dampers, oiled paper, and blotting paper. A copying clerk should begin by counting the number of letters to be written during the next few hours and by preparing the copying book. Suppose the clerk wants to copy 20 one-page letters. In that case, he should insert a sheet of oiled paper into the copying book in front of the first tissue on which he wants to make a copy of a letter. He should then turn 20 sheets of tissue paper and insert a second oiled paper. Next, letters are written with special copying ink, which is not blotted. The copying clerk should arrange the portion of the letter book to be used in the following sequence starting from the front: a sheet of oiled paper, then a sheet of letter book tissue, then a letter placed face up against the back of the tissue on which the copy is to be made, then another oiled paper, et cetera, oiled paper being in all cases placed next the damp paper, to prevent the ink forcing beyond the paper intended to receive it. Finally, close the book, put it into the press, and screw tightly down, letting it remain a minute or two under pressure, when the copy will be properly taken, and may be dried with blotting paper. When the letter book was pressed, some of the ink transferred from the letters to the moist tissues in the book. Because the ink penetrated the tissues, copies can be read from the front sides of the tissue. [Granville Sharp's Review of Office Equipment at the 1851 Industrial Exhibition]

The copy letters were not therefore put in the individual client's file, but were retained in the letter book. No doubt, Mr Thomas Eddowes thought that writing out copies of letters in the traditional fashion was a lot less complicated.



A Victorian Screw Letter Copying Press
Sketch by Richard Bell (2004)

Bryant Gould responded to Eddowes' offer on 29th April:

Your letter of 21st inst to hand. I have seen my client thereon and she does not see her way clear to accept less than 4/- per week, and I do not hesitate in saying your client can well afford to pay this, and unless I hear from you in the course of the present week accepting same I am instructed to proceed. The furniture must also be handed over such as belongs to my client.

Bryant Godding sent a reminder on 7th May, this time addressed to Sutton Coalfeilds. Hopkins was not to be bullied into giving way by Bryant Godding's threats, and Eddowes wrote again setting 3/- per week as Hopkins' best offer. Surprisingly, it was Mrs Hopkins who gave way, Bryant Godding writing on 30th May:

Although the sum offered by your Client is extremely small, my client has instructed me to accept same viz 3/- per week, and the same must be paid to me on behalf of my client. In the event of Mr Hopkins not keeping up his payments regularly my client reserves the right of taking immediate proceedings in default. Please let me have remittance every Monday morning.

There was one aspect of paying maintenance for children which Eddowes apparently overlooked, possibly because he was inexperienced in this field of law, namely the period of time during which the payments were to continue; was it until the children were aged fourteen, or aged twenty-one, or had ceased to attend school, or were in employment, or, in the case of the daughter, until she married? There were various possibilities, but they were not discussed.

It seems that Hopkins failed to keep up the payments, and the last letter on the file is from Bryant Godding dated 1st July 1902:

Unless I hear from you by Thursday next with instalment due in this matter on terms arranged, I shall at once proceed with the matter.

There is a draft reply scribbled in pencil on the back of this letter:

We do not think that our client should be put to the trouble and expense of sending the instalments every week and we have arranged with him that he shall send them monthly.

(xxiv) Conclusions

And here the file of papers peters out, so we will never know if Hopkins kept his payments up, or how the dispute over the furniture ended, or what Eddowes did about claiming his fees (if anything). When Eddowes was first instructed by Hopkins, knowing that the only way there could be a successful outcome was to prove that Mrs Hopkins had committed adultery, he should have taken down in detail the evidence of potential witnesses as a first step and then submitted the evidence to a barrister to evaluate, and only if the barrister's advice had been unequivocally in favour of taking proceedings should a divorce petition have been filed. Everything was done the wrong way round; Eddowes took Hopkins' belief that his wife had committed adultery as gospel and jumped straight into commencing proceedings and then at the eleventh hour found himself scrabbling around, almost completely without success, for evidence to support the petition.

As far as Hopkins was concerned, he would have been better advised to drop the idea of a divorce. He might possibly have wanted to marry the mother of his illegitimate child and this wish might have clouded his judgment, but the fact remains that before the divorce proceedings he was effectively separated from his wife, was paying no maintenance for his children and was not legally barred from seeing them, whereas after the hearing he was judicially separated from his wife (which made little if any practical difference), his wife had been granted sole custody of the children with no arrangement for access, he was paying three shillings a week in maintenance and he was saddled with a huge bill for costs, in the region of two and a half times his yearly wages.

Another unanswered question is why the file of papers was kept. Solicitors' files are usually destroyed after twelve years or so and in a small office storage space for old files is limited. Eddowes was in the habit of taking on articled clerks, and one suggestion is that he kept the Hopkins file for them to read as an object lesson in how not to conduct a divorce case. My father was Herbert Eddowes' articled clerk in 1933, so it is possible that he was given the file to peruse as part of his legal training.

Kerry Osbourne
November 2025