"I will tell you what you ought to have done under the circumstances, and if you say you did not know, I must tell you that the law conclusively presumes that you did. You should have instructed your attorney to bring an action against the seducer of your wife for damages; that would have cost you about £100. Having proceeded thus far, you should have employed a proctor and instituted a suit in the Ecclesiastical Courts for a divorce *a mensa et thoro*, that would have cost you £200 or £300 more. When you obtained a divorce *a mensa et thoro*, you had only to obtain a private Act for a divorce *a vinculo matrimonii*. The bill might possibly have been opposed in all its stages in both Houses of Parliament, and altogether these proceedings would cost you £1,000. You will probably tell me that you never had a tenth of that sum, but that makes no difference. Sitting here as an English judge it is my duty to tell you that this is not a country in which there is one law for the rich and another for the poor. You will be imprisoned for one day."

These observations exposing the absurdity of the existing law, attracted much public attention, and probably did more than anything else to prove the need of its reform.

Then followed the Matrimonial Causes Act of 1857. The Act of 1857 terminated the jurisdiction of the ecclesiastical courts in all matrimonial matters and causes, and directed that all such jurisdiction conferred by the Act should henceforward be exercised in Her Majesty's name by a court of record to be called "The Court for Divorce and Matrimonial Causes". It substituted the expression "judicial separation" for divorce *a mensa et thoro*, and enacted that such a decree could be obtained "either by the husband or the wife, on the ground of adultery, or cruelty, or desertion without cause for two years and upwards".

The Act of 1857 also provided for the dissolution of marriage on the petition of a husband on the ground of his wife's adultery since the celebration of the marriage. On the other hand, it provided that a wife might petition for a dissolution on any of the following grounds: namely, that since the celebration of the marriage her husband had been guilty of: (1) incestuous adultery; or (2) bigamy with adultery; or (3) rape, sodomy or bestiality, or (4) adultery coupled with such cruelty as without adultery would have entitled her to a divorce *a mensa et thoro*, or (5) adultery coupled with desertion, without any reasonable excuse, for two years or upwards.

As mentioned earlier, this so-called "double standard" in respect of adultery has since been removed both in Canada and in the United Kingdom.

To complete the Canadian mosaic in respect of divorce, it becomes necessary to revert briefly to the law of Ontario. I do not know whether this happened while you were attorney general or not, Senator Roebuck, you can tell me when I read this.

The CO-CHAIRMAN (*Senator Roebuck*): I plead not guilty.

Mr. HOPKINS: As previously mentioned, the English law "as to the dissolution of marriage and as to the annulment of marriage" as that law existed on July 15, 1870, was incorporated into the law of Ontario by the federal Divorce Act (Ontario) of 1930. It is to be noted that this provision did not incorporate the whole of the matrimonial law of England but only that part of it related to "dissolution or annulment". One result of this limitation has been that the Ontario courts have held that an action for judicial separation does not lie in the Ontario courts since it is not an action for dissolution and annulment.

The CO-CHAIRMAN (*Senator Roebuck*): Dissolution does not lie?

Mr. HOPKINS: Dissolution lies, but judicial separation does not because it does not fall into the category of "dissolution" which was the only jurisdiction conferred.