

Desertion & Custody of Children 1896-1900



John Mould, an ostler, at present residing at Over Wallop, Hants, was summoned at Tisbury Petty Sessions yesterday (Thursday) for deserting his wife, Sarah Mould, a resident of West Tisbury.

Mr W Marsh, Yeovil, appeared for the complainant. Defendant pleaded guilty.

Mr Marsh, in opening the case, stated that in February last the defendant formed an acquaintance with a young girl who was at that time in service in Tisbury, with the result that the subsequent home life of his wife became a very unhappy one.

On two occasions defendant beat Mrs Mould in a most shameful manner, and the police had to be called in; and finally, on the 15th of August, he left her, saying that he was going away to look for work.

The wife heard nothing from him for some time and then discovered that he was living at Over Wallop. A couple of months after he returned to Tisbury he took away two of the young children, and had remained away ever since.

When he returned to Tisbury, he told his wife that an old woman, who he had taken out of a Workhouse, was keeping house for him, but it had since been ascertained that the person who was living with him was the young woman who had been the cause of the unhappiness at Tisbury.

Mrs Mould now asked the Bench to grant her a separation order under the Married Women's Act of 1895, and to allow her the custody of the children under 16 years of age, at the same time requiring the defendant to make such payment for the support of herself and children as, under the circumstances, they might think fit.

Mrs Mould was called and gave formal evidence of ill treatment and desertion. She mentioned that there were five children under 16 years, the youngest being aged two. She received 4s a week from one and 3s from another. This was all her income. Defendant had not contributed anything towards her support since he left her.

Defendant said he had been married nearly 20 years, and had not had 12 months' happiness. He was willing to take his wife back as a friend, but not as a wife, and to look after the children. His present wage was 10s a week, not including house rent. His reason for leaving his wife was that she ran him into debt.

The Bench made the order asked for, and ordered the defendant to contribute a weekly sum of 4s towards the support of Mrs Mould and the children, the wife to have the custody of all the children under 16 years of age.
Western Gazette Friday 27 November 1896

Maintenance Arrears

John Mould, late of West Tisbury, and now of Over Wallop, Hampshire, was brought up in custody on Tuesday, on a warrant, charged with being in arrears to the amount of £1 on an order obtained on November 26th last by his wife for desertion. Defendant paid the amount, together with 12s costs.
Western Gazette Friday 26 March 1897

Father's Application for the Custody of Children

Mr G F W Mortimer, of Romsey, applied on behalf of John Mould, an ostler, formerly employed at the Benett Arms Hotel, for an order against the Guardians of the Tisbury Union to deliver up his three children. Mr W Marsh, clerk to the Guardians, opposed the application.

Mr Mortimer said the Guardians had passed a resolution under their powers contained in an Act of parliament, which they said applied in this case. He had been a magistrates' clerk for three divisions for over a quarter of a century, but he had never had a case like this, and on communicating with the magistrates clerks of Hampshire, he found that there had been a similar case in that county.

His client was a person known to the magistrates because a separation order between him and his late wife was made at this Court. He had never been in receipt of relief and he was now in a very good position at Horsebridge, near Stockbridge, where he was engaged as an ostler at the Fishermen's Rest, where he was in receipt of 17s per week. The only allegation made against his character was that he was separated from his wife. On November 26th 1896 when an order was made that he should deliver up his children to his wife. He had taken the children with him to Wallop, but on the order being made, they were delivered over to the wife. Mr Marsh: That is not so; the police fetched them.

Mr Mortimer (continuing) stated that the 4s ordered by the Bench had been regularly paid for the maintenance of the children and therefore Mould could not be said to have deserted them. The circumstances which led up to this were that the man went off with a girl from the neighbourhood of Tisbury, called Miss Butcher. He had lived with her ever since, and on the death of his wife, he had married her, and she was now his lawful spouse, and was living with him. He (Mr Mortimer) thought it spoke well for the application that after doing the girl a wrong he should have kept by her all this time and had married her and put her in a proper position. He had applied for the custody of his children, but for some reason or another, the Guardians had refused to give them up to him.

Mr Mortimer held several testimonials as to the applicant's character whilst at Horsebridge, and handed them in. Mr Marsh objected to the statements being received as evidence unless the persons who wrote them were present in court, and subjected themselves to cross examination. The Bench upheld the objection and, on the application of Mr Mortimer, the Clerk, Mr J Mayo, made a note of the point.

Continuing, Mr Mortimer said as he had been over-ruled, he would give his own testimony as to the character of Mould, who had been at Horsebridge for about two years, and held a good reputation for that period service. Cross-examined, Mr Mortimer said he knew nothing about the man's home and did not know anything of him when he took his children away at Wallop.

Mr Mortimer then raised the point that the Acts under which the Guardian were proceeding did not apply to his client because he had never put himself under the Poor-law in any way whatever. He argued that the order of the Guardians for the retention of the children in the Workhouse was *ultra vires*. Mr Marsh contended that the Guardians were within their right in retaining the children if the parent was not fit to have control of them. This man Mould, he said, had been living with a woman other than his wife, and she had illegitimate children by him, and she had an illegitimate child before she went away with him. Mr Mortimer: That was another man's child.

Mr Marsh said the mother and the children were reported to be in a destitute condition in a cottage at Tisbury. The relieving-officer obtained an order and brought them into the Workhouse in July last. The Guardians would be only too glad to let the children go if they could possibly do so consistently with their duty to the children.

Mr Dunston asked whether any notice was given to Mould, when the mother died, that the children were left destitute. Mr Mortimer - No.

Mr Dunston: Is it a regular proceeding to give notice to the parent?

Mr Marsh - Yes, if he is a respectable man. But when you hear the evidence presently I think you will see that the Guardians would not have been doing their duty if they had asked this man to assume control of the children.

Mr Dunston said the Guardians had to show that the children were legally under their control. It seemed that they had not given the father any notice when the children were found to be destitute and how could they say that he had deserted his children.

The Bench retired to consider the point raised by Mr Mortimer and were absent for about a quarter of an hour.

On returning into Court the Chairman, announcing the decision, said, "We are of opinion that the order of the Guardians, made on the 7 September 1900 (for the children to be retained in the Workhouse), is *ultra vires* and, therefore, have no jurisdiction". Mr Marsh: Then you rescind the order? Mr Mayo: We cannot rescind an order which is *ultra vires*.

Mr Marsh entered a strong protest against the decision of the Bench being arrived at before they heard the evidence and demanded that the Guardians would not give up the children

Mr Mortimer said he should take them away and appealed to the Bench on the point, but Mr Mayo said the matter was one between the applicant and the Guardians and did not come before the magistrates.

The children, who were present in the court, were eventually taken back to the Workhouse.

Western Gazette Friday 19 October 1900