

ART. XIV.—*The case of Hannah Rushforth.* By PAUL
N. WILSON, M.A.

Read at Kendal, September 10th, 1971.

SHORTLY after 5 p.m. on Tuesday, 1 February 1859, Hannah Rushforth walked on to the north-bound platform of Kendal railway station, and left unnoticed with a black bag, the property of the Rev. Henry Lowther,¹ rector of Distington in West Cumberland.

This act of pilfering started a chain of events which caused a furore in Kendal, and might have landed an ex-mayor, one of the town's most distinguished citizens, on a criminal charge at Westmorland assizes. Such was the feeling aroused that a large number of working men in Kendal banded together to raise a considerable sum of money to make him a presentation to thank him for what he had done.

The story illustrates how the traditional ideas of right and wrong were breaking down, and the principles of dealing sensibly with young offenders were on their way to acceptance.

Mr Lowther and his sister, on their way to Windermere, stopped at Kendal for two hours and went to the Commercial (now the Kendal) Hotel. They returned to the station at 5 o'clock in the evening, and saw that the black bag was with their luggage. The platform was probably not well lit; when the train came in Mr Lowther found that his bag was missing, and reported the loss to ". . . the company's servants".²

Hannah Rushforth was a girl under fourteen

¹ The Rev. Henry Lowther, M.A., J.P., Rector of Distington 1813-1876. The patronage, surprisingly enough, was the Earl of Lonsdale.

² The *Westmorland Gazette* and *Kendal Mercury*, Saturday, 19 February 1859, reporting the Magistrates' Court proceedings.

years of age, the daughter of “. . . a hard-working, honest man, and . . . had no mother”. According to the *Mercury* the girl was “. . . not of very quick intellect . . .”.

The bag contained some money (oddly enough the amount is not stated), Miss Lowther's work-box and *Mr Lowther's will*. The last item was to become a most important feature of the case.

Hannah made the mistake of many simple-minded amateur thieves; she was seen to be spending much more money than she could possibly have had, and her father questioned her. After some denials she admitted the theft. He was greatly shocked. The working classes in a closely knit community like Kendal abhorred theft. A bit of poaching or a punch-up on a Saturday night or at election time could be condoned, but not stealing. This was also the view of the upper classes, although they regarded poaching in much the same light as bag-snatching.

Rushforth consulted his brother who was a trusted employee of J. J. & W. Wilson, Woollen Manufacturers at Castle Mills, Kendal.³ They were one of the largest employers of labour in the town, and the senior partner, John Jowitt Wilson, was a highly respected member of the community.⁴ At this time he was 49

³ Castle Mills was the largest and oldest mill in Kendal. See John Somervell, *Water-Power Mills of South Westmorland* (Kendal, 1930) pp. 59-62, also Paul N. Wilson, "Canal Head, Kendal", CW2 lxviii 132-150. The mill was completely re-built in 1805/6 by John Jowitt Wilson's father Isaac Wilson II, in partnership with his *uncle* William Wilson. It was owned by Kendal Corporation, but J. J. Wilson and his *cousin* William Wilson bought the leasehold in 1853. They produced woollen cloth and travelling rugs. The tall mill building on the east side of Aynam Road dominated the low-lying area of central Kendal until it was demolished in 1969.

⁴ John Jowitt Wilson, 1809-1875, was the great-grandson of Isaac Wilson I, 1714-1785, who came to Kendal *c.* 1728. His parents lived at High Wray, but the family came from Grasmere; direct records go back to the 16th century. Isaac Wilson I was a shearman dyer, and for over 150 years the family remained in the woollen textile business. See John Somervell, *Isaac & Rachel Wilson, Quakers of Kendal* (London, 1924). J. J. Wilson took a great interest in everything that went on in Kendal, and particularly in his workpeople. He appears to have been universally liked and trusted. It was a time of religious change; J. J. Wilson left the Quakers and joined the Plymouth Brethren at Sand Aire Chapel. He was a strong Liberal.

years of age, a magistrate, mayor of Kendal in 1853 and 1857 (he was twice mayor thereafter), and secretary of the Kendal and Windermere Railway. He lived in the substantial house on Kent Terrace (now Thorney Hills) which was later to become the Kendal High School for Girls.

The girl's uncle met John Jowitt Wilson in Lowther Street at about 10 p.m. on the Thursday night after the theft. There were probably not more than one or two feeble gas-lamps in the street, so it must have been quite a cloak-and-dagger affair. Rushforth gave him the bag, and asked him to trace the owner and return it. J. J. Wilson deserves credit for his decision to help an unfortunate orphan and thereby find himself in hot water.

The following day he put the stolen bag into another bag and went to Windermere to see Mr Lowther, to whom he explained the circumstances. Mr Lowther's statement about the interview is quoted in the *Westmorland Gazette's* report on the proceedings in Court:

Mr Wilson brought the bag in another bag. He stated when he made known his name that he was a magistrate. He (the prosecutor) [Lowther] said that he also was a magistrate, and he thought that to take back the bag under such circumstances would be very like compounding a felony, to which Mr Wilson replied that he did not think it would. He asked Mr Wilson the name of the man who brought the bag, and he replied only that he was a very honest industrious man. On his asking Mr Wilson who the other parties were, he said he did not know either the man or his daughter. Some further conversation passed, in the course of which Mr Wilson again said he thought the matter might be overlooked. He (the prosecutor) said he would give it his consideration. Next morning, however, he thought it his duty as a magistrate to write to Mr Hasell⁵ and his directors, and make the case known.

At this point the unfortunate Hannah Rushforth

⁵ Mr E. W. Hasell, of Dalemain, was chairman of the Lancaster & Carlisle and Kendal & Windermere railways.

rather sinks into the background, and J. J. Wilson becomes the dominant figure.

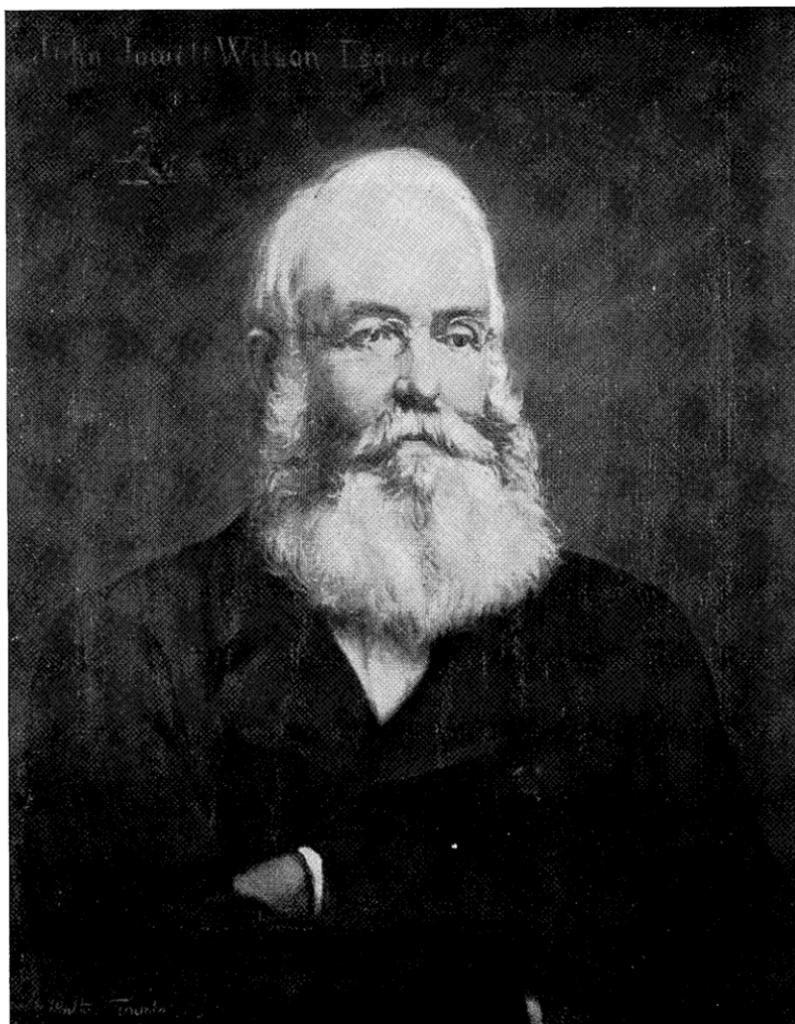
The railway company decided to prosecute Hannah, and on Saturday, 5 February, John Bibby, Police-superintendent of the Lancaster & Carlisle Company, accompanied by sergeant Hoggarth of the Kendal police, called on J. J. Wilson and asked him for the name of the person who stole the bag and the identity of the man who had given it to him. Mr Wilson refused to give this information. He said that he was quite prepared to communicate the facts to Mr Hasell, but that, considering the youth of the offender, he still thought that the case should be dropped. The superintendent then threatened to give him in charge to the sergeant for having received stolen goods knowing them to have been stolen. After about 20 minutes or half an hour Mr Wilson gave the information.

The case was heard before the Kendal Justices on 14 February. The magistrates were John Wakefield,⁶ Eldred Harrison,⁷ and John Whitwell.⁸ Mr Thomas Harrison was Clerk of the magistrates' court, and Mr

⁶ This was John Wakefield III, 1794-1866, mayor of Kendal (for the fourth time) 1858/9, and so automatically chairman of the bench. He was the grandson of John Wakefield I, 1738-1811, who, like Isaac Wilson I, was apprenticed as a sheerman dyer. In 1764 he built a gunpowder mill at Sedgwick, the first devoted exclusively to the manufacture of black blasting powder and not situated close to the Thames Estuary. Paul N. Wilson, "The Gunpowder Mills of Westmorland and Furness", *Trans. Newcomen Soc.*, xxxvi (1963/4) 47-65. He also started the bank which was to become Wakefield Crewdson's Bank, and built a brewery in Kendal. W. H. Wakefield, 1828-1899, whose name is mentioned later, was the son of John Wakefield III, and was born and lived at Sedgwick House. He gave the name of *W. H. Wakefield & Co.* to the gunpowder mills, which moved from Sedgwick to Gatebeck (near Endmoor) in 1850. He was also a banker. William Wakefield, J.P., 1825-93, who lived at Hyning, four miles south of Kendal beyond Sizergh, was a nephew of John Wakefield III, cousin of W. H. Wakefield, and grandfather of Lord Wakefield of Kendal. George Chandler, *Four Centuries of Banking* (A History of Martins Bank) (London, 1968), ii, ch. 1 "The Kendal Bank".

⁷ Eldred and Thomas Harrison were solicitors of Stramongate, Kendal. Eldred was on the Kendal Bench, and Thomas was Clerk to the magistrates of the borough and county.

⁸ John Whitwell, J.P. 1811-1880, was descended from Dorothy Wilson, eldest daughter of Isaac Wilson I, who married John Whitwell I. He lived at Bank House, Beast Banks, Kendal, and was Liberal M.P. for Kendal 1868-80.



From the portrait by William Tyndal.

JOHN JOWITT WILSON, J.P. (1809-1875),
woollen manufacturer of Kendal.

Richard Wilson,⁹ a Kendal solicitor and coroner for Kendal and Lonsdale Wards, prosecuted on behalf of the railway company.

Hannah admitted the theft, and pleaded guilty.

These facts emerged when the case was opened; Mr John Wakefield, the chairman of the bench, contended that as the girl had pleaded guilty they should get on with the case, but Mr Richard Wilson, the prosecuting solicitor, objected strongly. To quote the *Gazette*:

Mr R. Wilson [said that] there were other persons besides the prisoner who were implicated. There were two persons not there, and there was one present much more culpable in the matter than the little girl. Mr Wilson went on to contend that Mr J. J. Wilson having had possession of the stolen property, ought to be proceeded against as a receiver, knowing the property to have been stolen. He then went on to read a clause in the Act to support his views.

Mr E. Harrison [magistrate]. But this is not the sort of receiving meant by the terms of the Act.

Mr T. Harrison [clerk to the court]. No, no; of course not.

Mr R. Wilson reiterated that the very fact of Mr J. J. Wilson taking the bag in another bag when he conveyed it to the owner was an act of concealing stolen property. He then demanded a commitment against the parties.

A rather warm discussion ensued between Mr R. Wilson and the Clerk to the Magistrates, in which the latter, evidently treating Mr R. Wilson's charge against Mr J. J. Wilson of feloniously receiving as an absurdity, confined his remarks to the question of what was the nature of the girl's offence. This Mr R. Wilson contended to be a felony because there was a will inside the bag.

Mr T. Harrison. How can you make it a felony? What is the will worth?

Mr John Wakefield. Mine's worth very little. (Laughter.)

The Rev. H. Lowther. And so is mine, but I've paid a great deal of money for it.

Mr T. Harrison gave it as his opinion that the offence of the

⁹ Richard Wilson was a Kendal solicitor whose office was in Kent Street, Kendal. He lived at Thorns, Underbarrow, just south of the Kendal to Newby Bridge road $2\frac{1}{2}$ miles west of Kendal. He was not related to John Jowitt Wilson.

girl was one of simple larceny and might be summarily dealt with, under the juvenile offenders act.

Mr R. Wilson contended that it was not simple larceny, and that the magistrates were bound to send the girl to the assizes on account of a will having been stolen. He regretted that the whole circumstances of the case demanded further investigation. A magistrate had been asked to compound a felony by another magistrate. Does not that (with great vehemence) demand investigation? The railway was unprotected. Felonies of this description were continually practised on the platform. With every respect to the Bench, he must tell them that it was their duty to have the matter brought before the Judges at Appleby. They ought to bind over Mr J. J. Wilson to appear at the next assizes to answer any charge that might be preferred against him, taking bail for his appearance. Mr R. Wilson concluded with great warmth — I charge Mr J. J. Wilson with receiving that property, knowing it to have been stolen, and I ask the magistrates to commit him.

Mr T. Harrison (referring to the case against the girl). Point out where there is a felony. It does not appear to me to be so.

Mr R. Wilson. It's larceny stealing the bag, and a misdemeanour stealing the will. It doesn't require a minute's consideration; your clerk, gentlemen, for whom I've a great respect, is not doing his duty if he does not advise you so. I must discharge my duty to my clients. It's a disagreeable thing to come here and charge a gentleman, but I suppose I was sought out to do it because some others might have a dread of doing it; and I'm not afraid of anything. And I think Mr Thomas Harrison ought not to be afraid. I charge you that you ought to commit the prisoner to the assizes for felony, and Mr J. J. Wilson for receiving the goods knowing them to have been stolen.

Mr T. Harrison remarked upon the strange way Mr Richard Wilson had of testifying his respect. To charge a person with dereliction of duty, and with being afraid to do his duty, and at the same time to express great respect for his character, was a curious kind of compliment.

Mr R. Wilson (very warmly). I've a respect for you as a private gentleman, but not for the position you occupy as clerk at this moment.

The room was soon afterwards cleared, and the magistrates deliberated on the question whether they should summarily deal with the prisoner, or send the case to the assizes.

After the lapse of about a quarter of an hour the public were readmitted.

Mr Wakefield said, as there seemed to be some doubt as to the magistrates' power to deal with the case, they had thought it best to send it to the assizes.

The girl, on being asked the usual questions, had nothing to say, but began to cry. [This was hardly surprising, under the circumstances.] She was then committed.

The Rev. H. Lowther was bound over to prosecute, and the case terminated.

Hannah was sent to Westmorland assizes at Appleby and was tried before Mr Justice Byles. Her defending counsel said that arrangements could be made for her to go to Milnthorpe Workhouse where "... she would be under proper surveillance and half a crown a week would pay for her maintenance". The judge rebuked her, sentenced her to a further two weeks in the House of Correction,¹⁰ (probably she had been detained there since her arrest) to be followed by *five years* domestic service at Milnthorpe Workhouse.

In spite of the fulminations of Mr Richard Wilson at the Kendal Magistrates' Court, John Jowitt Wilson was not charged at the assizes. After reminding its readers about the bare facts of the case, the *Westmorland Gazette*¹¹ reported:

It is not generally known, however, what the learned judges at Appleby, to whom the facts were made known, thought of the matter. We are credibly informed that Mr Justice Byles so far from animadverting of the course pursued by Mr J. J. Wilson, spake in terms of approval of the benevolence and consideration by which it was sought to save this girl from what his lordship, in sentencing the child, termed "... the contamination of gaol."

As the processes of the law worked themselves out, feeling ran high amongst the working-men of Kendal. They took the view that their champion, trying only to do good, had been very badly treated. The Working

¹⁰ The [Kendal] House of Correction was a euphemistic description for the Kendal prison. This was a gaunt building on the south side of House of Correction Hill, now Windermere Road, the steep hill on the A59 road leading out of the town from St Thomas's Church. It was demolished in the early nineteen thirties.

¹¹ *Westmorland Gazette*, 26 February 1859.

Men's Association, under the chairmanship of Mr William Houghton, decided to show John Jowitt Wilson that they were solidly behind him.

Some 850 of them raised 70 guineas in a few weeks, had a testimonial inscribed on parchment, and bought a silver tea-and-coffee service and silver salver. These were presented to J. J. Wilson at a crowded meeting at the Oddfellows' Hall, Highgate, at eight o'clock in the evening on Tuesday, 19 April 1859. In addition to the committee, whose names are on the Testimonial, the following well-known local citizens were on the platform: John Wakefield [the mayor], William Wakefield, W. H. Wakefield, John Whitwell, James Thompson, T. W. Wilson, James Cropper,¹² C. L. Braithwaite,¹³ and others.

The speeches are fully reported in the *Kendal Mercury* of 23 April 1859. They are the usual slightly pompous orations of the Victorian era, but an excerpt from J. J. Wilson's speech of thanks is worth quoting as showing the intelligent thoughts about real justice which were spreading through the country.

I have not before had any public opportunity to state my reasons for the course I took, and therefore, without for one moment imputing blame to those who took a different view, I will simply say that I cannot, upon reflection, see that in the main I acted differently to what most men would have done under similar circumstances. (Cheers.) Public opinion, the opinion of judges upon the bench, the opinion of our most experienced magistrates and philanthropists, the course of legislation, and the thought of every right mind, point decidedly to the reformation of offenders, especially of "juvenile offenders" as the object to be attained, rather than simply their punishment. While in the fullest manner maintaining the duty of obedience to the law, it is not inconsistent, with my reading of the duty of a magistrate, to exercise a certain amount of discretion in special cases on the mode of dealing with juvenile

¹² James Cropper, J.P., of Ellergreen, Burneside, founder of the paper-making industry.

¹³ Charles Lloyd Braithwaite, 1811-1893, was first cousin of J. J. Wilson. He built and lived at Ghyll Close, Greenside, Kendall, next door to Underfell which was built by J. J. Wilson.

offenders. I would do much to avoid the painful necessity of calling upon a bereaved father to bear witness against his offending child, and more especially where, so far as I could judge, he had, in an honest straightforward way, done all in his power to restore the stolen property, and repair the wrong. (Great Cheering.) Believing then, that the ends of justice could be fully answered without the painful ordeal of a public trial, I endeavoured to arrange for this poor girl to be placed under the care most likely to conduce to her reformation and restoration as a useful member of society.

The prosecutors, however, thought differently, and the case went to trial. That at one time I was the object of a somewhat severe attack for the part I took, is well known to you all. I felt then, as I feel now, that my course was the right one, and having this consciousness, was not greatly anxious as to the ultimate result, when once the facts should be fairly known and stated.

The Testimonial¹⁴ reads as follows:

ADDRESS

from the

WORKING MEN of KENDAL

to

JOHN JOWITT WILSON, Esqr: J.P.

Sir,

It is with feelings of unmixed pleasure we meet you this evening to tender to you our deep sympathy with your late trials, and to testify our indignation at the attempt made to soil your name and character by imputations so far opposed to that love of truth and justice which you are so well known to possess.

We firmly believe that your acts have always been suggested by desires and intentions of the most generous character, and we feel proud to meet you with the deepest respect and

¹⁴ The *Testimonial* is parchment inscribed in copperplate handwriting, 30 in. by 25 in., contained in an octagonal wooden box. It has been deposited in the Record Office in Kendal.

J. J. Wilson left the silver to his eldest son, my grandfather, Isaac Whitwell Wilson, of Castle Lodge, Kendal. He left it to his eldest son, John Jowitt Wilson; J.J.W. sold it to my father, Norman Forster Wilson. He, in turn, passed it on to his youngest brother Philip Whitwell Wilson, a distinguished journalist who was Liberal M.P. for South St. Pancras 1906-10. He emigrated to New York and was a well-known columnist in the *New York Times*. It is now in the possession of his eldest son, Oliver Whitwell Wilson in the U.S.A.

sympathy, to testify our appreciation of your actions — our lasting regard for the motives which induced you by the most christian and praiseworthy means to yield back to the loser his property, and at the same time to try to snatch a poor erring sister from the vortex of crime — to hold back the Sword of Justice till every fair and honourable means had been tried — and to return the guilty to the bosom of her friends, and the home and heart of an honest but sorrowing father.

We know, sir, that the past has brought you many crosses and much grief, that you have indeed had to bear the weight of no ordinary sorrow, but we hope and sincerely wish that the cloud which has darkened the past may have passed away for ever, and that you may have a long and bright future before you, full of every happiness both in private and public life; and that you may be spared to continue the exercise of that love of truth — mild justice — and christian charity, which has endeared you amongst your fellow-townsmen, and which has brought forth as a testimony of our deep regard this Memorial which we ask you to accept along with the Silver Tea and Coffee Service and Salver, as the spontaneous expression of good-will and approval of several hundred of the working-classes of your townsmen with the earnest prayer that you may be long spared to exercise as a Father, an Employer, a Magistrate, and a Christian, those principles which have called forth this mark of our admiration and esteem.

KENDAL, 19 APRIL 1859.

Signed on behalf of the
Subscribers of the Committee.

William Houghton	Henry Houghton
William Taylor	Robert French
William Longmire	Martin Hodgson
Robert Atkin	Thomas Boak
Matthew Derome	Andrew M. Low
Matthew Rooke	James Naylor
Richard Arkwright	Thos. Thwaites
Matthew Crawley	

When John Jowitt Wilson died, sixteen years later, the obituary notices in the *Mercury* (Liberal) and *Gazette* (Tory) make it clear that he was held in the highest respect. Both devote much space to the great amount of public work he did for Kendal, and also

refer to the case of Hannah Rushforth and the presentation. It was not just a nine days' wonder.

We can only hope that Hannah's five years in the Milnthorpe Workhouse were not too reminiscent of Oliver Twist, and that her story ended happily.