



## Legacy Dispute

**Salisbury Assizes, March 1841**

**Regina v. John Hull and Edward Hull** – Charges for stealing wheat, tried before Mr. Justice Wightman.

In the first count of the indictment the property was laid in Christopher Rose, the prosecutor. In the second it was laid in the executors of J. Barfit, deceased, omitting Christopher Rose.

Mr. Slade, for the prosecution, proved that some wheat had been lost about January: and that some similar to that lost was found in the house in which the prisoner lived.

Mr. H. Wilde, on cross-examination, proved that the prosecutor and the children of J. Barfit, deceased, named in the second count, claimed as executors only – that there had been no disposition of the property under the will – that other persons inhabited the room in which the prisoners lived, and where the wheat was found – and that the prosecutor had lately married his deceased wife's sister.

Mr. Wilde objected that the property was not correctly laid, either in Christopher Rose alone, or as in the second count in J. Barfit, Mary Barfit, and Elizabeth Rose, omitting Christopher Rose, who was also an executor; and that if the husband claimed in the right of his wife, they should have been joined.

Mr. Justice Wightman said, that as the marriage was void, under the recent Act of Parliament, the property might well be laid in the husband only.

Mr. Wilde contended, that if the marriage was void, he could have no title arising from it, as supposed. And that, if the marriage was void, Elizabeth Rose was not rightly named in the indictment; that she should have been called by her maiden name.

Mr. Justice Wightman entertaining doubt on this point, after consulting Mr. Justice Erskine, said, assuming that she, Elizabeth Rose, had such name by common reputation, it was sufficient.

Mr. Wilde then objected to the evidence as insufficient to call on the prisoners for a defence. The only proof against them was possession, which, not being proved to be "exclusive" was insufficient. 2 Stock. Evid. 450(n) Ros. Cr. Evid. 17.

The objections not prevailing, Mr. Wilde addressed the jury, and the prisoners were acquitted.

**Salisbury and Winchester Journal, Monday, 8 March 1841**