

**THE TRIAL OF MR. THOMAS  
SAXELBYE ON A CHARGE OF  
FORGERY OF A WILL, WHEREOF  
HE WAS HONORABLY  
ACQUITTED**

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The Trial of Mr. Thomas Saxelbye on a Charge of Forgery of a Will, Whereof He Was  
Honorably Acquitted by William Brodie Gurney

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**WILLIAM BRODIE GURNEY**

**THE TRIAL OF MR. THOMAS  
SAXELBYE ON A CHARGE OF  
FORGERY OF A WILL, WHEREOF  
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HONORABLY ACQUITTED**



48.

THE  
**TRIAL**  
OF  
**Mr. THOMAS SAXELBYE,**

ON A CHARGE OF  
**Forgery of a Will,**

WHEREOF HE WAS  
HONORABLY ACQUITTED,

TRIED AT THE

*Old Bailey Sessions House,*

LONDON,

On SATURDAY, the 8th Day of DECEMBER, 1821,

BEFORE

THE HONOURABLE MR. JUSTICE BAYLEY, AND  
THE HONOURABLE MR. BARON GARROW.

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TAKEN IN SHORT HAND BY

WILLIAM BRODIE GURNEY, Esq.

SHORT HAND WRITER TO BOTH HOUSES OF PARLIAMENT.

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LONDON:

PRINTED BY LUKE HANSARD AND SONS,  
AND SOLD BY MESSRS. BALDWIN, CRADOCK AND JOY,  
PATERNOSTER-ROW;  
AND MR. WILSON, AND ALL THE OTHER BOOKSELLERS  
IN HULL.

1821.

WJ

Saxelbye

SLN

THE  
**TRIAL**  
OF  
THOMAS SAXELBYE.

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SATURDAY, 8th DECEMBER 1821.

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The defendant was arraigned and pleaded,  
Not Guilty.

*Mr. Adolphus.* IT is desired that all witnesses on both sides should be out of court; those gentlemen who attend from public offices, to produce records, need not go, nor any persons who attend to give the prisoner a character, but all others must retire.

[*The witnesses retired.*]

The Jury were charged with the prisoner in the usual form.

*The indictment was opened by Mr. Brodrick.*

*Mr. ADOLPHUS.*

May it please your Lordship,  
Gentlemen of the Jury,

**Y**OU have gathered from the short hearing of the contents of the indictment, that the crime imputed to the prisoner, is that of having, after the decease of a person, forged and altered and put away, as a true will, a false and counterfeit will, the intent of it being to deprive those who by law were entitled to the succession to that deceased person's property, and to vest that property in another person.

**B**

Gentlemen, it is not my duty nor is it my intention to lead you one step towards a conclusion in this case, by speaking of the enormity, or saying one word in aggravation of the offence; the law has pronounced all which is necessary, by inflicting upon it the highest punishment known to our laws; it will be for me only to state the facts which I am instructed I shall substantiate by proof; and if I do substantiate them, you will have the duty of pronouncing the prisoner guilty; if, on the contrary, my proof fails, or if the circumstances which I conceive to be proof of this charge, are satisfactorily met by circumstances on the part of my learned friends, you will have the more satisfactory task of pronouncing the prisoner not guilty, and of sending him away a free man; which of those will be your conclusion, it is not for me to assert. I am here to do my duty as an advocate, my feeling and my persuasion has nothing to do with it; your feeling and your persuasion, after having heard the evidence, is that which is to decide, and to that I shall address the facts.

Gentlemen, the circumstances out of which this prosecution arises, are these: in the year 1815, there lived at Hull, a gentleman of the name of Thomas Robinson, of the age of twenty-eight, a bachelor, possessed of property to the amount of between fifteen and twenty thousand pounds; being a bachelor he lived in the house of his mother-in-law, the widow of his father, but not his own mother; he boarded and lodged with her. She had besides an annuity of 250*l.* charged upon the estate of her deceased husband, the present deceased's father. About the beginning of May 1815, this gentleman, Thomas Robinson, was seized with a disease which in seven days terminated his existence; he died on the eighth. Immediately

upon his death, his mother-in-law, who alone was in possession of the house in which he lived, and of all his property remaining in it, made diligent search and enquiry to find whether there was a will, and it was for a long time supposed he had died intestate; however, upon a search among his papers, this paper was found, which was sent up to London, and attempted to be proved as a will, "The contents of the whole of this property," and then there is part of a word torn off, so as to leave only the syllable—ing,—"the money and the conveyance of a house in Albion Street, is dedicated to Mrs. Eliza Robinson, my father's late relict." This paper was sent up to Doctors Commons, and attempted to be proved as the will, as early, I believe, as the month of May or June, in the year 1815, after the decease of Mr. Thomas Robinson. Upon that suit was instituted in the court, and the court declared that this paper was not in any sort to be considered as a will, and that unless a will, or some testamentary paper, which could enable the court there to act upon it as a will, was produced, on or before the 5th day of September, a decree would be issued by the court, that the deceased had died intestate, and that his next of kin had succeeded to his property, and this of course would have put his mother-in-law, who was not his next of kin, quite out of possession of his property, and frustrated all her hopes; but on the 3d of September, just at the close of the time at which the court was to make that decree, comes out of the hands of Mr. Saxelbye, the prisoner at the bar, a paper to this effect: "The whole of my property I wish to give my mother-in-law, if she survives me; my uncle having bad conduct, I hope she will be good to him, when she finds it necessary." Signed, "Thomas Robinson." And this paper so opportunely produced, is that paper which we state to



have been a forgery by Mr. Saxelbye, and to have been uttered by him at Doctors Commons, for the corrupt purpose of procuring the property to the mother-in-law, and of depriving the heirs of it.

Gentlemen, I shall proceed to state very shortly the circumstances on which is founded the charge of this having been a forgery, and the defendant knowing it to be so. In the first place, I am told I shall prove to you by witnesses, who as far as the knowledge of those writings go, cannot possibly be mistaken, that the words "Thomas Robinson," subscribed to that paper, are not of the hand-writing of the person deceased. I shall prove that to you by persons who were in habits of intimacy with him, by persons to whom he had pointed out certain peculiarities in his signing his name, which peculiarities are not there, by persons who transacted business with him on all occasions, and who well knew his hand-writing, and by a gentleman in the banking house of Messrs. Pease and Company, to which his checks constantly went in, and who will tell you, that if a check came in, signed as that was, they would not have paid money upon it. The words above it are avowedly in the hand-writing of Mr. Saxelbye.

The account the defendant gave of this paper when he came up to Doctors Commons, in order to prove its genuineness, I will read to you, as they appear upon the deposition, because it will form a very material document in this case. Mr. Saxelbye, in that paper, states, "that on the afternoon of Sunday, the 30th day of April, of the year 1815, or last year, after dinner, as he usually did on Sundays," that is, Mr. Saxelbye, "being about two or three o'clock, he called upon the deceased, Thomas Robinson, whom he then found in a parlour, on the ground floor of the house of the said Eliza Robin-

son, apparently ill in bodily health, and being then ill of the illness whereof he died. That when he first entered the said parlour, the said Eliza Robinson was sitting in company with him; and deponent having asked him general questions as to his health, which the said deceased answered soon after he went into the said parlour, the said Eliza Robinson left the same, and the said deceased and deponent were then alone together; and deponent, seeing that he was poorly in his bodily health, and thinking it a pity any person having property of consequence to leave, should die without a will, when they were left alone, as by him last deposed, addressed himself to the said deceased, and said, that he hoped he had settled his affairs, or made his will, or to that effect; to which the said deceased replied, I have not done it, but I will be obliged to you to do it for me, or to that effect, and then said something about his not liking attornies; whereupon deponent told him he would get it done, and then immediately taking out of his pocket a piece of paper, being a piece of a letter, asked the deceased how he would have it done, meaning how he would leave his property, and the said deceased then saying it, meaning his said will, would be done in a few minutes, then by word of mouth gave the deponent instructions for making his said will; and agreeably to what the deceased so told him, deponent wrote on said piece of paper, and what he had so written being very short, he, the deponent, read over audibly and distinctly to the deceased; and he then asked him if he approved of it, meaning what he had so written; to which he, said deceased, replying yes, the deponent asked him, as he thinks, to sign it, and, as he now best recollects, the deceased having the said piece of paper in his hand, did himself also peruse

what deponent had so written thereon. That he well remembers, after the same had been by the deponent read as aforesaid, and deceased had signified his approbation thereof as aforesaid, he the deceased having a pen in his hand, subscribed his name thereto, and then gave it to the deponent, and said it was right. That it was what he wished, and desired deponent would get his will drawn from it ; and the deponent then received the said paper writing, with an intention of getting a more formal will drawn up ; and having been with the deceased on said occasion about three quarters of an hour, he left him, and brought away with him said paper writing, which is as follows :” then it follows in the words I have already read to you, which I will not trouble you with repeating. The deponent then says, “ that it is now produced to, and carefully viewed by him, and that it refers to what is by him pre-deposed, and says, that he knows that the name, Thomas Robinson, appearing subscribed to the said will, was and is of the proper hand-writing of the said deceased, who did as by him pre-deposed, write and subscribe the same as now appears thereon, in the presence of this deponent ; and this deponent further says, that the said will,” which is the paper last mentioned “ of the said deceased marked with the letter B, remained in the custody and possession of this deponent, from the time of said deceased signing the same as aforesaid, and his then receiving it, until one day, happening about two or three months after the said circumstance, but particularly as to time he cannot depose, when he delivered the same to Eliza Robinson ; and having perused the same as aforesaid, he says, that the same appears to him to be, and is, as he verily believes, in the same plight and condition, in every