

ANTHONY TROLLOPE CROSS-EXAMINED BY ISAAC BUTT, JULY 1849, KERRY  
SUMMER ASSIZES

TROLLOPE, working as a deputy post office inspector with headquarters at Banagher in what is now Co. Offaly, had endeavoured on 19 September 1848 to identify at which local post office money sent inside a letter (not an uncommon practice) was being stolen. Trollope contrived an ingenious scheme. He posted a marked sovereign inside an envelope that was addressed to the fictitious Jemima Cotton, care of the equally fictitious Mr T. Payton, at the imaginary address of Artaglia, Ardfert. Trollope then followed the envelope's progress through various towns and villages, using his authority as a Post Office official to inspect the mail bags. Eventually, he discovered in one village post office that the letter had been opened and resealed. The (pretty and popular) postmistress Mary O'Reilly was arrested when it was discovered the marked sovereign was in her possession. Trollope-after an initial hearing at an earlier Assize-appeared in late July 1849 in the main trial at Court House, Tralee, as the principal witness for the prosecution. He faced cross-examination by no-one less than Mr (later Sir) Isaac Butt (1813- 79), celebrated lawyer, writer, and subsequently Home Rule leader. Self evidently, the case was hard against the defendant and Butt's task difficult. Like the barristers in OF, his best option was to try to confuse his witness and discredit Trollope by forcing him to blunder. Butt's tactic did not work.

Justin McCarthy (1830-1912), at that point a young journalist on the *Cork Examiner* and later a prolific novelist and Irish nationalist MP .described in his memoirs what he could remember of the trial (he reported the case for his newspaper):

Anthony Trollope was the principal witness for the prosecution, and Butt's<sup>1</sup> whole case depended on the chance of his bewildering Trollope, and causing him, somehow, to bungle or to break down in his evidence. In those days an extent of licence was allowed to cross-examining counsel, which the more rigorous practices of our law courts at present would render wholly impossible. Butt was a splendid cross-examiner, and did everything he could to baffle and bewilder the post-office inspector. He produced in court one of Trollope's own novels<sup>1</sup>-one of the very few novels he had published up to that time - and he proceeded to cross-examine Trollope as to the meaning of certain passages in the book which professed to describe a trial in an Irish court of criminal law. Trollope was asked whether he wrote this passage and that passage and the other, whether he had described the judge on the bench in these particular words, and the garnishing of the bench in these other words; and whether he held by his humorous descriptions as a just and faithful picture of an Irish court; and whether his description of the countenances and manners of the gentlemen in the jury-box was intended to apply only to an imaginary jury, or meant as a deliberate caricature of Irish juries in general. Butt's object was, in part, to bewilder Trollope and make him lose his temper, and so get into a condition of mind which might lead to his blundering in some way when he came to give the material part of his evidence; and in part also to prejudice the jury against him as a cockney slanderer who was endeavouring to cast ridicule on the institutions of the Green Isle. Butt, however, failed completely in his attempt; he could not puzzle Trollope, or bewilder him, or even cause him to lose his temper; nor did Trollope ever fail to give an effective and droll answer to every effective and droll question. The contest became a most amusing trial of skill, readiness, and temper between the clever counsel and the clever witness. Butt tried his best to make Trollope contradict himself with regard to the peculiar marking of the gold coin in the letter; but Trollope stuck to his position and maintained with great force and success that the very oddity of the mark on the coin was the best security for its practical recognition. It was a duel in which neither combatant for a moment lost his temper or his self-control, and the spectators of the scene were filled with intense delight. At last the cross-examination came to an end. Butt released the witness with the good-humouredly sarcastic words, 'Good morning, triumphant post-office inspector'; to which Trollope retorted with the equally good-humoured and sarcastic words, 'Good morning, triumphant cross-examiner'; and Butt himself felt, I think, that he had not had quite the better of it in the trial of skill.

Justin McCarthy, *Reminiscences*, 2 vols, 2nd edn  
(London: Chatto & Windus, 1899), i. 24Cr8.

But we can know more about the details. The trial transcript of Trollope's cross-examination was published in the *Kerry Evening Post* (28 July 1849), 4, and is reproduced below exactly as in the newspaper. The transcript is sometimes confusing, as well as oddly repetitive. There are also mistranscriptions corrected in the notes: AT's name is given incorrectly (in two different forms) throughout. Nevertheless, the transcript gives us one of the very few accounts of Trollope speaking in real life.

It should perhaps be observed that the jury, neither at the end of their first nor second consideration, could agree whether Miss O'Reilly was guilty or not. To the best of my knowledge, the *Kerry Evening Post* reported what the outcome was nor have I been able to establish it from elsewhere.

CROSS-EXAMINED BY MR BUTT-It was with this 'official' seal he sealed up the sovereign at last assizes; it was an official; it was not made under the direction of the post-office authorities, but under that of a friend-an official authority, kept no *fac simile* of the sovereign when he scratched it in Killarney; did not take another sovereign and mark it in the same way so as to enable him, by comparison to identify the mark; it never occurred to him, nor did he think it would be a better way of identifying it; has not the slightest doubt of the sovereign from this mark; the mark was made with a penknife under the neck on the head (loud laughter)!

MR BUTT-On the head under the neck!

MR TROLLOPE-I did not say that. You are making more mistakes than I am.

MR BUTT-I ask you was it on the head?

MR TROLLOPE-I marked it under the neck on the head (great laughter)

MR BUTT-You marked it under the neck on the head! You are acquaint 'd with the English language, writing it occasionally?

MR TROLLOPE-Occasionally.

MR BUTT-And yet you cannot give an intelligible answer on this head.

MR TROLLOPE-You had better give it up.

MR BUTT-You marked it on--what is it?

MR TROLLOPE-I marked it under the neck on the head (renew 'lllaughter).

MR BUTT-Be so kind as to tell his Lordship what part of the body that is?

MR TROLLOPE.-I think you misunderstand me. I didn't say I marked the sovereign on the head under the neck, but I marked the neck und r the head (great laughter).

(To the Court)-Means by the head, on the obverse.

MR BUTT-You would make it a head or harp?

MR TROLLOPE-I didn't mean a head and harp. I marked it under till' neck on the head (laughter)-under the neck on the obverse part of coin, that which has the Sovereign's head upon it.

MR BUTT-Show me on another sovereign where under the neck on the head is.

MR TROLLOPE-Below the whole figure of the Sovereign's head.

MR BUTT-There was no other scratch on the sovereign when he marked it, equally visible to the one he put on it; would not state on his oath there was no other scratch; would not say there were not a thousand scratches on it; examined the sovereign so as to identify it; cannot tell if there is another scratch on it; cannot tell the length or depth of the scratch; did not put more than one scratch on it; put another on it since last assizes, after folding it up, and one only; this was not for the purpose of identifying it again, but to enable him to know if it altered while in the hands of the lawyers (laughter.) [*sic* punctuation]

MR BUTT-Then you did not depend on your knowledge of the scratch?

MR TROLLOPE-Not after you knew how it was marked; no sovereign could be marked accidentally in that way, in the pockets; the mark was deeper and broader than the sovereign would get from feeling or use; a person fiddling with a knife might make that mark upon it, but there is •no other such mark upon it; has identified the sovereign.

MR BUTT-Where did you put the second mark?

MR TROLLOPE -I cannot explain till I see the second sovereign; puta mark on the letter 'u' in Brittan[n]iarum; put no other mark upon it.

MR BUTT-Now take the ear on the head above the neck of the sovereign, which I now give you, and tell me is there any mark on it?

MR TROLLOPE -I see a mark not so deep as my mark. I undertake to say it is not a quarter so deep.

MR BUTT (To THE COURT)-Does not use magnifying glasses; uses short sighted glasses;

COURT-Then they magnify (laughter).

MR TROLLOPE-No; their effect is [to] make my sight equal to that of other people.

MR BUTT:--Now tell me, as a matter of fact, when you found the sovereign in Miss O'Reilly's purse, whether this last mark was on it or not?

MR TROLLOPE-I cannot tell.

MR BUTT-When did you put the second mark upon it?

MR TROLLOPE-In the hotel in this town, after returning from Court; if ten sovereigns were marked in that way, he couldn't pick out the one, brought the police with him to the post-office; prisoner was there when he went in; doesn't think any one else was there; is quite sure Mr Mason was in the office before witness spoke a word; there were three or four persons in the shop from which the office is partitioned off; does not remember the window being put down- the office window (the sliding panel) by Miss O'Reilly; does not remember her saying anything when she closed it; saw no one at the window named Loughnane, did not hear her apologising to anyone for closing the window; will not swear this did not happen; did not observe it; might have observed it and forgotten it. Mr Mason said he had no money about him and turned out his waistcoat pockets; he was searched and had no money; Miss O'Reilly took out her purse; she didn't hesitate in doing so; this sovereign and some silver were in the purse; cannot say if there was anything else in the purse.

MR BUTT-What made you say, without being asked 'I cannot say if there was anything else in the purse'?

MR TROLLOPE -Because I was asked the question last assizes, and could not give an absolute answer; I since heard there was a pound note in it.

MR BUTT-It is not because you afterwards heard there was no pound note in it that you gave that qualified answer?

MR TROLLOPE-No.

MR BUTT-Will you now swear that Miss O'Reilly did not say 'I got the money from Mr Mason three days ago'?

MR TROLLOPE -I'll swear she didn't say that.

MR BUTT-Can you tell a single word she spoke in that sentence?

MR TROLLOPE -I cannot.

MR BUTT-Did she then say she got that sovereign from Mr Mason?

MR TROLLOPE-I'll swear she led me to understand that she got that identical sovereign from him. I cannot tell the words.

MR BUTT -Did you say to the constable give her back that sovereign, it is her own money, or give her back that pound note?

MR TROLLOPE -I suggested in the presence of Mr Drummond that the constable should give her back any other money as she might want it; she was examined by a woman; the constable didn't ask him for the sovereign; will not swear if he asked him for it that he would not give it to him; cannot tell if he asked him.

MR BUTT-Did the policeman say to you that his was the proper custody?

MR BUTT-Look at that jury, and tell them, on your oath, you cannot recollect.

MR TROLLOPE -I have no recollection.

MR BUTT-How long did you keep the sovereign before you sealed it up?

MR TROLLOPE -An hour and a half

MR BUTT-In that hour and a half, you did not-of course by accident-mark the sovereign?

MR TROLLOPE-I did not. I took the precaution of putting it in a pocket where there was nothing else; the mail was brought by a foot messenger to Ardferf; he was above sixteen.

MR BUTT-What was the name of your Correspondent?

MR TROLLOPE-Miss Jemima Cotton

MR BUTT-She had no existence except in your fine imagination?

MR TROLLOPE-It was a purely fictitious name.

MR BUTT-And Mr Payton?

MR TROLLOPE -Was equally a fictitious person.

MR BUTT-You seem to deal in fictitious characters?

MR TROLLOPE -In another way.

MR BUTT -Do you know The Macdermot's [sic] of Ballycloran (laughter) [?].

MR TROLLOPE [s1c]-I know of a book of that name.

MR BUTT -Do you remember the barrister of the name of Allwind (laughter)?

MR TROLLOPE-I do.

MR BUTT -And another name O'Napper [?]

MR TROLLOPE-Yes.

MR BUTT-I believe in drawing that character, I was your intention to favour the world with the beau ideal of a good cross-examiner?

MR TROLLOPE -Yes. I dreamed of you (loud laughter).

MR BUTT-Do you remember the red moreen over the judge's head(laughter) [?]

MR TROLLOPE-Undoubtedly.

MR BUTT (READING FROM MR TROLLOPE'S BOOK)-You thought that red moreen, if it could only speak, if it had a tongue to tell, what an indifferent account it could give of the conscience of judges, and the veracity of lawyers (loud laughter)? I hope you do not think that now (laughter)?

MR TROLLOPE -I'm rather strengthened in my opinion (tremendous laughter).

MR BUTT-'He told them what he had to say should be very brief, and considering a lawyer and a barrister, he kept his word with tolerable fidelity' (loud laughter). You pictured to yourself a model cross-examiner?

MR TROLLOPE-I dreamed of someone like you in cross-examination(laughter).

MR BUTT-Had you the mark of the money under the neck on the head when you dreamed of me?

MR TROLLOPE-Not that mark exactly.

MR BUTT -Fine imagination.

MR TROLLOPE-Admirable cross examiner.