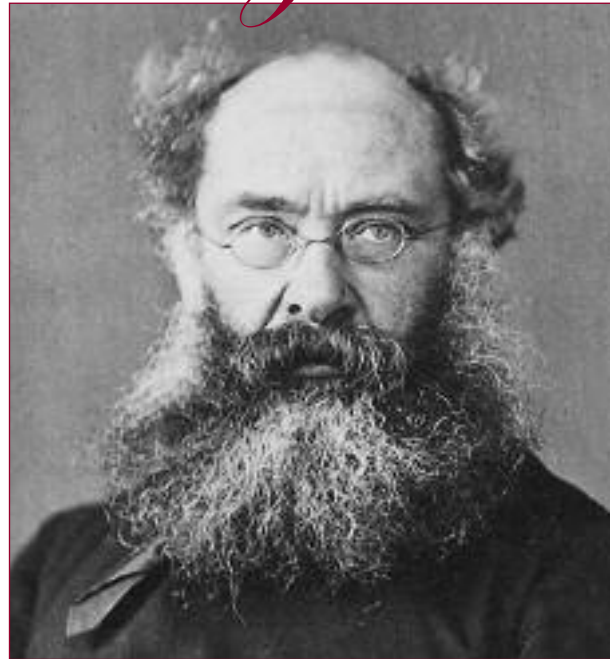


The Lawyers of Anthony Trollope



By Henry S. Drinker

British novelist Anthony Trollope (1815–1882) wrote, in addition to 47 novels, an autobiography, a book on Thackeray, five travel books, and 42 short stories. Henry S. Drinker (1880–1965) was a partner in the law firm of Drinker Biddle and was also a musicologist. The essay that follows was an address delivered to members of the Grolier Club in New York City on Nov. 15, 1949. It is presented as it was published by the Grolier Club in 1950, in a book entitled *Two Addresses Delivered to Members of the Grolier Club*; the other essay that appears in the book is “Trollope’s America” by Willard Thorp. Only 750 copies of the book were printed.

When I received the delightful invitation to speak on Trollope—one of my chief enthusiasms—it was immediately clear to me that my subject must be his lawyers; first, because, as a lawyer, I should thus be able to make a more valuable contribution to the growing store of comment on his writings, and, second, because I believe that Trollope’s ideas about and attitude toward lawyers have not been understood or appreciated by any of his various biographers or commentators.

“A novel,” says Trollope in his *Autobiography*, “should give a picture of common life, enlivened by humor and sweetened by pathos.”

Trollope was—perhaps I should say he became—an extraordinarily careful observer of what was passing around him, and his genius lay in his ability to re-create, with convincing vividness, the types of people whom he observed wherever he chanced to be. He did not create his characters with any desire to point a moral, nor did he use them as a medium for expressing his own ideas or epigrams. This being the case, we may conclude, as we study his lawyers, that during the first twenty years of his literary career, his acquaintance with barristers of the first rank was second-hand—from the newspapers and by hearsay. During this period he regarded all successful bar-

risters with contempt, believing that their sole function was to turn black into white, or white into black, as the occasion demanded; that they delighted in securing the acquittal of obviously guilty criminals, and in bullying and confusing honest witnesses, actuated solely by the desire to achieve personal success in winning the case.

To trace a novelist's slowly changing views from this embittered concept to one of admiration and genuine understanding of what constitutes greatness in lawyers, and of the real basis of legal philosophy, is a fascinating study, particularly when, as with Trollope, the incidents of the author's experience fully corroborate the internal evidence from his delightful novels.

Trollope's barristers may be divided into three periods: (1) those before 1860—the Pre-London Period; (2) *Orley Farm* (1861)¹—the Transition Period; and (3) those after 1861—the London Period. The barristers of the first period—of whom Mr. Chaffanbrass of *The Three Clerks* is the chief—are not actual convincing realities, but rather characters formed to a conventional pattern; *Orley Farm*—the transition—shows Mr. Chaffanbrass becoming considerably more human, Felix Graham, still fanciful, and Mr. Furnival, almost a reality; while the third period has produced the Mr. Chaffanbrass of *Phineas Redux*, Mr. Dove of *The Eustace Diamonds*, Mr. Quickenham of *The Vicar of Bullhampton*, Sir John Joram of *John Caldigate*, and, best of all, Sir William Patterson of *Lady Anna*—all types which every colleague will at once recognize. The transition from the conventional type to the actual barrister was coincident with Trollope's permanent removal to London in the winter of 1859–60. Prior thereto his acquaintance with barristers had apparently been confined to the newspapers, with the exception of the enlightening personal experience, presently described. Thereafter he met and associated on equal terms with England's most distinguished men, including the leaders of the British Bar. Justice Holmes once told me that he met Trollope at the Athenaeum in the '70s and listened to a heated argument between him and another author as to whether it was their duty to go to the funerals of other authors whom they did not know particularly well, Trollope, who supported the affirmative, having just come from one.

Trollope's first introduction to the inner circles was, he tells us in the *Autobiography*, on June 5, 1860 (when he was 45 years old), at a dinner given by Mr. George Smith, editor of the *Cornhill*, to the contributors. Here, for the first time, he met Thackeray, Sir Charles Taylor, Robert Bell, G.H. Lewes and J.E. Millais. Naturally those of the literary group were the first. His admission to the Garrick came in 1861 and his membership in the Athenaeum in 1864.

The noticeable development on the part of Trollope in matters legal is confined to his creation of barristers, and does not extend to his solicitors, the reverence for whom by the English gentleman Trollope recognizes in *The Eustace Diamonds*:

There is no form of belief stronger than that which the ordinary English gentleman has in the discretion

and honesty of his own family lawyer. What his lawyer tells him to do, he does. What his lawyer tells him to sign, he signs. He buys and sells in obedience to the same direction, and feels perfectly comfortable in the possession of a guide who is responsible and all but divine.

Under the English system, the activities of solicitors are confined to the drafting of deeds, agreements and other legal documents and the preparation of trial briefs for the barristers, who have the exclusive right to conduct litigation in the courts. Solicitors of all types—good, bad and indifferent—like bishops or baronets—are found throughout the land; the successful barristers congregate in London, the scene of most of the important litigation. Mr. Daly of Tuam, the Irish country solicitor of *The Kellys* (1848) and Mr. Prendergast, the respectable family solicitor of *Castle Richmond* (1860) are types whom Trollope doubtless met frequently during his sojourn in Ireland prior to 1860. They do not differ in kind from Mr. Camperdown of *The Eustace Diamonds* (1871), Mr. Masters of *The American Senator* (1877) or Mr. Gray of *Mr. Scarborough's Family* (1883), the three latter reflecting merely Trollope's matured ability to depict any character whom he actually knew. In the early novel *Dr. Thorne* (1858) there is another bit about solicitors:

Mr. Gazabee was the junior partner of Gumption, Gazabee & Gazabee, of Mount Street ... The firm had been going on for a hundred and fifty years, and the designation had often been altered; but it always consisted of Gumptions and Gazabees differently arranged, and no less hallowed names had been permitted to appear. It had been Gazabee, Gazabee & Gumption; then Gazabee & Gumption; then Gazabee, Gumption & Gumption; then Gumption, Gumption & Gazabee; and now it was Gumption, Gazabee & Gazabee.

No such humanizing process is noticeable in Trollope's solicitors as that which bridges the gap between the Mr. Chaffanbrass of *The Three Clerks* (1858) and Mr. Chaffanbrass of *Phineas Redux* (1874), or that between Sir Abraham Haphazard (*The Warden*, 1853) and Sir William Patterson (*Lady Anna*, 1871).

The characters with whom Trollope was supremely successful were those with whom he allowed himself to become thoroughly acquainted—Plantaganet and Glencora, the Archdeacon, Lily Dale, Lucy Robarts, the Rev. Josiah, gentle little Mr. Peter Prosper, Arabella Trefoil, and the like. He had not the faculty of depicting a type by means of a chance sentence relative to a casual character. Accordingly the most representative of his barristers are those whom we are privileged to observe both professionally as they appear in court, and naturally as they appear at home and among their friends. Even these are a changing type with the widening of Trollope's own experience and observation.

The Pre-London Period

The two principal barristers of the period prior to 1860, are Mr. Chaffanbrass (*The Three Clerks*, 1858) and Sir Abraham Haphazard (*The Warden*, 1855). Each, in his respective line, is eminently successful; both are obviously despised by the author, the first as a perverter of justice and a tormentor of innocent witnesses, the second as a highly efficient machine devoid of all humanity.

A distinguished English barrister, Sir Francis Newbolt, relates (citing an eminent judge as his authority) an experience which may well account for Trollope's early antagonism to lawyers. From 1844 to 1860 Trollope was a supervisor and inspector in the Postal service, stationed at various points in Ireland, with excursions into England and foreign countries. During the latter part of this period his duties required him to uncover and prosecute thefts from the rural post-office in Ireland, and on one occasion he caught the thief in the possession of a marked half-crown. In the prosecution Trollope was called by the Government to testify as to the marking of the coin and the identity of that found on the thief. He was then cross-examined by Sir Isaac Butt, the resourceful barrister representing the prisoner, who "put it to him" that he had not only marked the coin, but had himself slipped it into the prisoner's pocket. We can imagine the indignation of the ingenuous and impeccable Anthony at the supreme impertinence of such an accusation. Hence, Mr. Chaffanbrass.

Trollope apparently chose Mr. Chaffanbrass' name before he fully came to know him. "Chaff" and "brass" appear as his predominant qualities only in his initial entry, where he unsuccessfully leads in the defense of Alaric Tudor for embezzling, as trustee, the funds of the niece of his disreputable, though aristocratic friend, Undecimus Scott. At the Old Bailey, Mr. Chaffanbrass "is cock of the dung-hill." He arrives five minutes late, unperturbed and imperturbable, shoulders the other lawyers out of his way, caring not when he disturbs their papers, and answers the mild reproof of the judge with a little bold and respectfully familiar flattery.

The judge, knowing of old that nothing could prevent Mr. Chaffanbrass from having the last word, now held his peace and the trial began.

Mr. Chaffanbrass is represented as the type of criminal practitioner who specializes in the defense of "culprits arraigned for heavy crimes," and delights in securing their acquittal in proportion as they are apparently guilty. Where the evidence, public opinion and the trial judge are all against him, "Justice with her sword raised high to strike, Truth with open mouth and speaking eyes to tell the bloody tale"—the thwarting of justice, by the use of his skill, experience and personality, constitutes his greatest triumph. "When he achieves that, he feels that he has earned his money."

In court he is arrogant, supremely sarcastic, domineering, venomous, merciless, unshakable in his confidence. Beginning his cross-examination in his softest voice, with

a few civil words, "when he had his mouse well in hand, out would come his envenomed claw, and the wretched animal would feel the fatal wound in his tenderest part." Having, by large practice, attained the reputation of being a bully, he feels bound to maintain his character before his audience, and hence "bullies when it is quite unnecessary for him to bully; it is a labour of love ... He never spares himself and he never spares his victim."

When he has succeeded in turning black into white, in "washing the blackamoor, in dressing in the fair robe of innocence, the foulest, filthiest wretch of his day," then, "as he returns to his home, he will be proudly conscious that he is no little man."

Trollope thus describes him in court:

Those, however, who most dreaded Mr. Chaffanbrass, and who had most occasion to do so, were the witnesses. A rival lawyer could find a protection on the bench when his powers of endurance were tried too far; but a witness in a court of law has no protection. He comes there unfeed, without hope of guerdon, to give such assistance to the State in repressing crime and assisting justice as his knowledge in this particular case may enable him to afford; and justice, in order to ascertain whether his testimony be true, finds it necessary to subject him to torture. One would naturally imagine that an undisturbed thread of clear evidence would be best obtained from a man whose position was made easy and whose mind was not harassed; but this is not the fact; to turn a witness to good account, he must be badgered this way and that till he is nearly mad; he must be made a laughing stock for the court; his very truths must be turned into falsehoods, so that he may be falsely shamed; he must be accused of all manner of villainy, threatened with all manner of punishment; he must be made to feel that he has no friend near him, that the world is all against him; he must be confounded till he forget his right hand from his left, till his mind be turned into chaos, and his heart into water; and then let him give his evidence. What will fall from his lips when in this wretched collapse must be of special value; for the best talents of practised forensic heroes are daily used to bring it about; and no member of the Humane Society interferes to protect the wretch. Some sorts of torture are, as it were, tacitly allowed even among humane people. Eels are skinned alive, and witnesses are sacrificed, and no one's blood curdles at the sight, no soft heart is sickened at the cruelty.

This picture of Mr. Chaffanbrass obviously constituted Trollope's "compensation" for the realization that Sir Isaac Butt had made him ridiculous in the Irish cross-examination and for the suspicion that Sir Isaac had injured his reputation for honesty.

Trollope, however, never makes a character either without fault, or all bad. The Geroulds draw an unfair pic-

ture of Mr. Chaffanbrass, even in *The Three Clerks*.

At home “he is one of the most easy, good-tempered, amiable old gentlemen that ever was pooh-pooed by his grown up daughters and occasionally told to keep himself quiet in a corner.” Fond of hospitality, he delights in a cozy glass of old port with an old friend, sitting in his old coat and old slippers.

He delights also in his old books, in his daughters’ music, and in three or four live pet dogs and birds and squirrels, whom morning and night he feeds with his own hands. He is charitable, too, and subscribes largely to hospitals founded for the relief of the suffering poor ... As a lawyer, in the broad and high sense of the word, it may be presumed that Mr. Chaffanbrass knows little or nothing. He has, indeed, no occasion for such knowledge. His business is to perplex a witness and to bamboozle a jury, and in doing that he is generally successful.

The other principal barrister of the Pre-London Period, Sir Abraham Haphazard, is not so important as Mr. Chaffanbrass. The characteristics which Trollope stresses in him are, first, the total absence of any regard for inherent justice, and second, his attainment of success as an advocate, not by emphasizing the strong points in his client’s case, but by discovering and taking advantage of the technical flaws in that of his adversary.

He conquered his enemies by their weakness rather than by his own strength, and it had been found almost impossible to make up a case in which Sir Abraham, as an antagonist, would not find a flaw.

Sir Abraham is pictured as a “machine with a mind,” without a drop of the milk of human kindness in his make-up, ready effectively to serve all who pay his fee—“a man to use and then have done with”—but in a manner contributing greatly to the indignation of the laymen at seeing justice thwarted by means of technicalities.

When Trollope settled at Waltham Cross in December 1859, his opinion of the successful barrister as a useful and desirable member of society was very low. In *The Bertrams* (1859) there is the following colloquy between George Bertram, then a prospective law student, and his uncle:

(George), “I doubt whether a practicing barrister can ever really be an honest man.”

“What?”

“They have such dirty work to do. They spend their days in making out that black is white; or, worse still, that white is black—... When two clear headed men take money to advocate the different sides of a case, each cannot think his side is true.”

The Barristers of *Orley Farm*

Orley Farm was written between July 4, 1860 and June 15, 1861, the period immediately following the move to London, when Trollope had begun to meet the celebrities, but before his admission to the Garrick Club (1861) and

the Athenaeum (1864). The plot (which Trollope considered his best) turns on the question as to whether Lady Mason forged a codicil to her husband’s will, and the climax is reached in her trial for perjury in swearing that she saw him sign it. Trollope did not here sacrifice legal probabilities to help out his plot, as he did in *The Macdermots*, *Phineas Redux* and *John Caldigate*. *Orley Farm* is full, from end to end, of law and lawyers. Numerous strictures on its legal accuracy to the contrary notwithstanding, *Orley Farm* will be found, on careful examination, to be remarkably free from legal mistakes, except for occasional slips in small matters purely technical, such as would naturally be expected and are readily excusable in a novelist. Trollope, by this time, has apparently met and talked to some real lawyers, although evidently he did not formally take counsel on his legal points, as he tells us he did later in the case of the legal opinion in *The Eustace Diamonds*. The scene in *Orley Farm* in which Matthew Round, the city lawyer, relegates Dockwraith (the country solicitor who presumes to worm himself into the litigation) to his proper place as a mere witness, is one of Trollope’s most delightful cross-sections of actual life. Mr. Chaffanbrass, considerably older, but still vigorous and domineering, has become much more human. His principal comment to his colleagues relative to Lady Mason, during their preliminary consultation, is that he understands that she is a remarkably pretty woman. Although in *The Three Clerks* he professed to care not at all whether his case was just or not, he now tells Mr. Furnival that he can do better in a case when his “heart is in it.” While in *The Three Clerks* he prefers to have the judge against him, in *Orley Farm* he tells Solomon Aram (his Hebrew solicitor) that the judges are everything. “If I were asked what point I’d best like to have in my favor, I’d say a deaf judge.” It is also significant that in *Orley Farm* Trollope no longer gives his new barristers fanciful names, such as Mr. Allewinde and Mr. Getemthruit (*The Macdermots*), Mr. Neversaye Die (*Castle Richmond*) or Mr. Chaffanbrass, indicating perhaps that he was now beginning to think of them, not as types, but as individuals. While the barristers in *Orley Farm* are becoming more real, Trollope still persists in his insistence that their principal function consists in “turning black into white.” This he does in his portrayal of the hero, Felix Graham (who acts as junior counsel to Mr. Chaffanbrass and Mr. Furnival in securing Lady Mason’s acquittal) and in his indignation against the conduct of Mr. Furnival in continuing to defend Lady Mason after he suspects that she is really guilty.

Any cause was sound to him [Mr. Furnival] when once he had been feed for its support, and he carried in his countenance his assurance of this soundness,—and the assurance of the unsoundness of the cause of his opponents.

“I cannot understand how any gentleman can be willing to use his intellect for the propogation [sic] of untruth, and to be paid for so using it.”

“No amount of eloquence will make an English lawyer think that loyalty to truth should come before loyalty to his client.”

Felix is the young idealist who will never undertake a case until thoroughly convinced of its “justice.” Idealism in the law, as everywhere else, is splendid, but to be an effective influence, must be coupled with deep reasonableness, and with a sincere desire to see the point of view of others and an inclination to respect their conflicting ideals. The idealism of Christ and St. Francis, though utterly steadfast, was thus humble and tolerant. Also, while no lawyer should knowingly promote an untruth, a lawyer who presumes to prejudge a case disregards the whole theory and basis of our legal system, which is to ascertain the truth by having able advocates present the two sides to an impartial judge and jury for their determination. The Felix Grahams in actual life are usually found, on graduation, serving as Assistant Secretaries of Uplift Societies. Unless they soon learn, by contact with the actual world, to modify their irritating attitude of moral superiority toward all who do not hold their precise views, they never do much actual uplifting. We may hope that, under the kindly guidance of his father-in-law, Judge Stavely, Felix learned this lesson very shortly after the last page.

Mr. Furnival is pictured as the *successful* rather than as the great lawyer. Trollope was not yet ready to admit that a barrister may exercise a really constructive influence on the community. Mr. Furnival’s success was due, first, to his never having, permitted himself to be diverted from the law to outside activities; second, to his joy in grappling with difficulties—“There is no human bliss equal to twelve hours’ work with only six hours to do it in,” and finally, to his loyalty to his clients, which latter characteristic is offered in mitigation of his willingness to pervert justice. “It was to this feeling of loyalty that he owed much of his success in life.”

He [Mr. Furnival] had been no Old Bailey lawyer, devoting himself to the manumission of murderers, or the security of the swindling world in general. He had been employed on abstruse points of law, had been great in will cases, very learned as to the rights of railways, peculiarly apt in enforcing the dowries of married women, and successful above all things in separating husbands and wives whose lives had not been passed in accordance with the recognized rules of Hymen.

The London Period, 1861 To End

Trollope, having moved to London in 1859–60, began to meet the celebrities in the following spring, and was admitted to membership in the Garrick Club in 1861 and in the Athenaeum in 1864. The Mr. Chaffanbrass of *The Three Clerks* (1858) is the barrister of the melodrama and the penny dreadfuls [sic], colored by Trollope’s irritation from his personal experience. So also is the Mr. Chaffanbrass of *Orley Farm* and so, for the most part, Mr. Furnival, with some mitigation and considerable realism. Felix Graham is Trollope’s pre-London idea of the perfect bar-

rist, drawn not from one he knew, but by contrast with the imaginary type which he despised. Sir John Joram and Sir William Patterson are the actual leaders of the Bar, with whom Trollope dined and played whist at the Garrick and the Athenaeum. After *Orley Farm*, the first barrister whom we meet is Mr. Chaffanbrass, who again appears in *Phineas Redux* (1870–71)² to defend Phineas on the charge of having murdered his political opponent, Mr. Bonteen, in a dark passage off Berkeley Square. The distinguished and beloved Trollopean, A. Edward Newton, told me a year or two before he died that he had hunted up and visited this very alley the previous summer.

Mr. Chaffanbrass has now ceased to be the lawyer-villain of the newspapers and has become the rather likable rough and tumble practitioner in the Criminal Courts whom we all know and who, while not doing everything exactly according to the ethics of all his brethren at the bar, nevertheless lives up to his own very definite standards. In a scene between him and Mr. Wickerby, his solicitor, just before the trial, Chaffanbrass deplores the recent modification of the law by which forgery is no longer a capital crime, since this indicates a relaxation in the hatred of dishonesty. He further ridicules the maxim *caveat emptor* for the same reason. In the same conversation Mr. Chaffanbrass expresses his reluctance to interview a client:

“But I don’t want to hear his own story. What good will his own story do me? He’ll tell me either one of two things. He’ll swear he didn’t murder the man.”

“That’s what he’ll say.”

“Which can have no effect upon me one way or the other; or else he’ll say that he did—which would cripple me altogether.”

“In such a case as this I do not in the least want to know the truth about the murder.”

“What we should all wish to get at is the truth of the evidence about the murder. The man is to be hung not because he committed the murder,—as to which no positive knowledge is attainable; but because he has been proved to have committed the murder;—as to which proof, though it be enough for hanging, there must always be attached some shadow of doubt.”

“I will neither believe or disbelieve anything that a client says to me—unless he confess his guilt, in which case my services can be of little avail.”

In spite of the above, Mr. Chaffanbrass does visit Phineas on the evening before the trial. Phineas (himself a lawyer or at least an ex-law student) tries to impress on him the supreme importance of a full acquittance before the public, and not merely the acquittal by the jury. Chaffanbrass replies that Phineas himself will be able to fight better for ultimate vindication after a verdict of acquittal by the jury, than any friend could fight for him after he had been hanged.

After the interview, there occurs a conversation be-

tween Mr. Wickerby and Mr. Chaffanbrass which shows that Trollope has been unable to keep himself from getting fond of Mr. Chaffanbrass.

“He’s [Phineas] not a bad fellow, Wickerby.”

“A very good fellow, Mr. Chaffanbrass.”

“I never did,—and I never will,—express an opinion of my own as to the guilt or innocence of a client till after the trial is over. But I have sometimes felt as though I would give the blood out of my veins to save a man. I never felt in that way more strongly than I do now.”

“It’ll make me very unhappy, I know, if it goes against him,” said Mr. Wickerby.

“People think that the special branch of the profession into which I have chanced to fall is a very low one,—and I do not know whether, if the world were before me again, I would allow myself to drift into an exclusive practice in criminal courts.”

“Yours has been a very useful life, Mr. Chaffanbrass.”

“But I often feel,” continued the barrister, paying no attention to the attorney’s last remark, “that my work touches the heart more nearly than does that of gentlemen who have to deal with matters of property and of high social claims. People think I am savage,—savage to witnesses.”

“You can frighten a witness, Mr. Chaffanbrass.”

“It’s just a trick of the trade that you learn, as a girl learns the notes of her piano. There’s nothing in it. You forget it all the next hour. But when a man has been hung whom you have striven to save, you do remember that. Good morning, Mr. Wickerby, I’ll be there a little before ten. Perhaps you may have to speak to me.”

The events of the trial itself show that Trollope has attained much legal experience and accuracy during the decade (1860–1870) since *Orley Farm*, and there are some beautiful bits of legal reality.

“It seems that some one had called him ‘Phinees’ instead of ‘Phineas’ and that took half an hour.”

Lawyers will note the subtlety of Chaffanbrass in urging the rather weak evidence against Emilius (the greasy husband of Lady Eustace, of Diamond fame, whom we are all along reasonably sure will prove to be the real murderer) *not* as indicating that the latter had actually committed the murder (which conclusion, if *not* believed, might prove a boomerang), but merely as serving, by raising a doubt, “to snap asunder the thin thread of circumstantial evidence by which his client was connected with the murder.” Also the masterly way in which Mr. Chaffanbrass develops the point that a murder thus committed must have been premeditated long before and could not have been planned and carried out by Phineas in the fifteen minutes between his quarrel at the Club with Mr. Bonteen and the actual murder in the dark passage. This

is beautifully brought out in his cross-examination of Mr. Bouncer, the distinguished novelist, where he shows that there is no standard novel involving a murder which was not planned long before, and that novels portray human nature correctly. Whether, in this passage, the misnomer “Glossop” and the confusion of *The Antiquary* with *Guy Mannering* is intentional or accidental I have never been able to make up my mind. Trollope also indicates that he has an extraordinarily accurate conception of the effect of a pardon, in merely doing away with punishment and not in annulling the verdict.

Even, however, the most ardent defender of Trollope must admit that in this trial he is gravely at fault in his legal practice and procedure.

No witnesses were apparently called for the defense except character witnesses, and these testified as they would never have been permitted to do. In the middle of the trial comes a telegram from Mme. Goesler which the Judge permits Mr. Chaffanbrass to read to the jury. Then, despite the Attorney General’s request for an acquittal, Mr. Chaffanbrass addresses the jury “for the greatest part of an hour” and the Judge charges for four hours. It would have been well for Trollope to have consulted a lawyer before indulging in such absurdities.

In addition to the Mr. Chaffanbrass of *Phineas Redux*, the principal Trollope barristers after *Orley Farm* are Mr. Dove, who gave the famous opinion (actually written by Mr. Trollope’s barrister friend, Charles Merewether, Esq.) in re paraphernalia in *The Eustace Diamonds*; Mr. Quick-enham, who discovered the defect in the Earl’s title to the Puddleham dissenting chapel in *The Vicar of Bullhampton*, and who is the sort of human dynamo which would result from combining Sir Abraham and Mr. Furnival and adding a considerable measure of human kindness; and Abel Wharton, Q.C., of *The Prime Minister*. In contrast to the habitual bully, Mr. Chaffanbrass, we should know Mr. John Cheeky, the relentless cross-examiner of *Cousin Henry*, called ‘supercilious Jack,’ from “the manner he had of moving his eye-brows when he was desirous of intimidating a witness,” *but* “under no circumstances would he bully a woman—nor would he bully a man, unless, according to his own mode of looking at such cases, the man wanted bullying.” Also we should know dear little Mr. Apjohn, the lawyer for the estate in *Cousin Henry*, and chuckle over his unselfish joy at the final triumph of justice which his acumen brings about.

“I own,” he says, “to all the litigious pugnacity of a lawyer. I live by such fighting, and I like it.” *But*, “The truth is, Brodrick, the whole of this matter has been such a pleasure to me that I don’t care a straw about the costs. If I paid for it all from beginning to end out of my pocket, I should have had my whack for my money.”

There is also Sir Thomas Underwood, the procrastinating biographer of Sir Francis Bacon, in *Ralph the Heir*; Sir John Jorim, the principal barrister of *John Caldigate*, who, though originally professing complete unconcern as to the actual guilt or innocence of his client, ends by becoming so interested in John and his sweet wife and so upset by his unjust conviction for bigamy that he gives up his

sacred grouse shooting to secure John's immediate pardon by the Home Secretary.

While all these famous lawyers would merit discussion and analysis, we may pass them over for the barristers of the less known novel, *Lady Anna*, chief among whom is Trollope's greatest lawyer, Sir William Patterson.

Sir William Patterson, The Lawyer's Lawyer

If Trollope had wished to construct a typical lawyer's lawyer, one to whom most other lawyers, past middle age, with ambition, ideals and common sense, would point as representing what they themselves would like to be, he could hardly have done better than Sir William. In order to understand him we must know something of the rather complicated plot of this little-read novel.

Six months after Josephine Murray had married, for his title and money, the disreputable but very rich Lord Lovel, he told her that she was not his real wife, but that he had previously married a woman in Sicily, who was then still alive. He soon sailed off in his yacht, leaving her destitute with her newborn daughter, Lady Anna. They were both supported by a neighboring elderly and very respectable tailor, Thomas Thwaite, whose son Daniel and Lady Anna grew up together and learned to love one another.

After about 20 years Lord Lovel came back, infirm in mind and body, with an Italian mistress, and soon died leaving his large personal estate to the mistress.

Lady Anna's cousin, young Lord Lovel, heir to the title and the small real estate, started a suit against Lady Anna and her mother, to determine title to the personal property (more than £35,000 a year) alleging that the old Lord was insane when he made the will; that the Sicilian woman had been his wife when he supposedly married Lady Anna's mother, but had predeceased him; that Lady Anna was not his right intestate heir and therefore he, the young lord, was entitled to everything.

It appearing fairly clear that the old lord was non compos when he made the will, the Italian mistress was finally bought off; the supposed Sicilian widow was dead, so the question narrowed down to whether she had been still alive when the lord had married Lady Anna's mother.

Sir William Patterson was the chief counsel for young Lord Lovel and the family. He became very doubtful of his chance of proving Lady Anna illegitimate and at once began his endeavor to settle the case by having the young lord marry Lady Anna.

Sir William is preeminently a *great* lawyer as well as an eminently *successful* one, great and successful not merely in court—in this novel he has no real court battle—but in a way that every lawyer would like to be—able, by farsighted wisdom, suavity, and force of character, to make people do what he correctly senses to be best for all concerned. The others come to realize this only after they have all, against their will, but under the influence of his strong personality, done what they ultimately recognized was much the best thing for them.

It has been intimated that Trollope did not admire lawyers, or regard the law as a high and useful calling. Sir William is a conclusive demonstration that any such

charge must be confined to the two earlier periods. If we knew the polished, good-humored, powerful and successful barristers whom Trollope met at the Garrick and Athenaeum after he wrote *Orley Farm*, doubtless it would be possible to pick out the model for Sir William. It would have been utterly impossible for Trollope to have created him nineteen years before, when he gave us Sir Abraham Haphazard, the legal robot in *The Warden*.

That Trollope admired Sir William and his kind is clear. He is a "great barrister," "a gentleman born and bred."

"He is a great man—a very great man indeed," said the Attorney General, in answer to some one who was abusing Sir William. "There is not one of us who can hold a candle to him. But, then, as I have always said, he ought to have been a poet."...

"The world was beginning to observe that in this, as in all difficult cases, the Solicitor General [Sir William] tempered the innocence of the dove with the wisdom of the serpent."

Note how Sir William persuaded two or three very respectable earls and marquises, friends of the family, to say a word to Lord Lovel as to the clear propriety and advisability of his asking Lady Anna to marry him.

While his wisdom, knowledge, resourcefulness and strength of character made him respected, he is lovable too, due to his ability always to see the other's point of view, and to his broad capacity for sympathy and understanding.

He was a man especially given to make excuses for poor, weak, erring, unlearned mortals, ignorant of the law,—unless a witness attempted to be impervious.

"Gentlemen," he says to the other lawyers who profess to be shocked at Lady Anna's adherence to the tailor, "you have no romance among you."

The secret of Sir William's success as a lawyer is his possession, to a superlative degree, of the three qualities which make a great lawyer,—*imagination, judgment and personality*.

His was "the gift of seeing through darkness,"—the power of analyzing the facts before him, of instantly and unerringly picking out the essential and discarding the rest, and of applying to such essential facts his knowledge of human nature, so as to predict the outcome of a given course of action.

What asses were these people [his clients and colleagues] not to understand that he could see farther into the matter than they could do.

Trollope, with his unerring knowledge of human nature, has realized how a trained lawyer comes to know, by a sort of sixth sense, the strong points as well as the dangers in his case.

“It is a case of feeling sure, and not being sure,” says Sir William to Aunt Julia.

It was this quality—imagination—that would have made him a poet. But the great poet, however rich and fertile his imagination, requires neither judgment nor personality. The great lawyer must have both. Sir William was not only able to look into the future, but having done so, could weigh accurately the different alternatives, with but one consideration—the best interest of his clients; never permitting the *gaudium certaminis*—the craving to accomplish the immediate objective—to divert him from his primary duty to serve the client.

With Sir William, contrast his opponent, Sergeant Bluestone, who, though the compromise proposed by Sir William was obviously best for both sides, would not consider or accept it until it was forced on him by the inevitable trend of events, his reluctance being the result solely of his irrepressible desire to go on and win his case in court. Compare also Mr. Hardy, Sir William’s second in command, who was forever sticking in the bark, through a distorted view of minute questions of propriety, and allowing such considerations to obscure the ultimate interest of his clients. Hardy lacked the sense of proportion. “He [Hardy] hated compromise and desired justice.”

A lawyer may have both imagination and judgment—he may be able to foresee uncannily the outcome of the possible alternatives, and to judge accurately and without prejudice which will ultimately be best for his client, but yet lack the personality to compel the adoption by others of the course of conduct which he advises. If so, he should devote himself to research and authorship, where his ideas will be self-sustaining, having all eternity for their acceptance, without requiring the power of his personality to make them immediately effective.

Personality, like beauty, is a quality of which it is impossible to convince by mere direct description. The pages which Trollope devotes to describing the hair, eyes, nose, “oval face,” etc., of his various heroines and heroes are forgotten, while the beauty of Burgo Fitzgerald is forever established by the reverential awe of the street walker, whose supper Burgo bought after Lady Glencora had decided not to run off with him.

So as to Sir William. We are not convinced of his power merely because Trollope tells us that he was a “man of might, whose opinion domineered over theirs,” but by observing how, on each encounter, he invariably emerges as the dominant figure.

Aunt Julia Lovel comes to him, convinced that the “Countess” and Lady Anna are imposters, and that no compromise with them is conceivable. She goes away, gravely shaken, and soon becomes Lady Anna’s most effective feminine ally. The combination of tact, subtle flattery, legitimate argument and force of character by which Sir William accomplishes this is a typical example of Trollope’s genius.

“Your nephew is entitled to my best services, and at the present moment I can perhaps do my duty to

him most thoroughly by asking you to listen to me.”

The first interview with Sergeant Bluestone and the two solicitors, in which he proposes the marriage of the two clients, is a marvellous description. All the lawyers do and say just what live lawyers would do and say under such circumstances. Note the force, the dramatic simplicity, with which Sir William blurted his astounding suggestion, and the inevitable influence on the unwilling minds exerted by the forces which he looses upon them. Also the subtlety and skill with which he plays up their mutual interest to confound the Sicilian woman.

His interview with Lord Lovel after the latter’s rejection by Lady Anna and her disclosure of her engagement to the tailor’s son, Daniel Thwaite, is equally convincing. When Lord Lovel asks him to keep the engagement secret, Sir William ends the interview with “The matter is too heavy for secrets, Lord Lovel.”

Always they come to do as he directs, believing that he knows what is best for them, and trusting that his advice is motivated solely by their best interests.

Sir William’s greatness is most apparent in the final scene, when he calls on Daniel Thwaite (the young tailor) after Daniel has been reluctantly accepted by all the Lovels as Lady Anna’s future husband. Sir William’s imagination had led him to foresee that a continuance of the litigation would result in the defeat of his client’s case and in the recognition of Lady Anna as heir to all the property. While there was yet time he persuaded them all to abandon their opposition to Lady Anna and to join forces with her in defeating the Sicilian impostors. The best way to accomplish this was the marriage of his client, Lord Lovel, with Lady Anna; when this means failed, by reason of Lady Anna’s attachment to Daniel, ripened by her mother’s insane opposition, Sir William immediately adopted the next best expedient—the hearty acceptance of Daniel. He knew that he might rely on Lady Anna’s generosity, on the adequacy of the estate to care for them all, and on Lady Anna’s pride in her family, as appealing forces which would induce her to make adequate provision for the head of the family, so that the title might be supported with becoming dignity and splendor.

To accomplish this, Daniel, too, must be brought to the properly cordial frame of mind, and his socialistic tendencies be modified so far as to recognize the merits of the aristocratic Lovels.

Then that great decider of things, Sir William, came to him, congratulating him, bidding him be of good cheer, and saying fine things of the Lovel family generally. Our tailor received him courteously, having learned to like the man, understanding that he had behaved with honesty and wisdom in regard to his client, and respecting him as one of the workers of the day; but he declared that for the Lovel family, as a family,—he did not care for them particularly. “They are poles asunder from me” he said. “Not so,” said Sir William, “They were poles asunder if you will. But by your good fortune and merit, if

you will allow me to say so, you have travelled from the one pole very far towards the other.”

“I like my own pole the best, Sir William.”

Sir William then proceeds to explain to Daniel the fallacy of the ultra-radicals, who would reduce all to a common level, as well as the inevitable re-emergence of a new aristocracy in case the radicals were thus successful.

“The subject is so large that I should like to discuss it with you when we have more time. For the present let me beg of you, for your own sake as well as for her who is to be your wife, that you will not repudiate the civility offered to you by her family. It will show a higher manliness in you to go among them, and accept among them the position which your wife’s wealth and your own acquirements will give you, than to stand aloof moodily because they are aristocrats.”

“You can make yourself understood when you speak, Sir William.”

“I am glad to hear you say so,” said the lawyer, smiling.

As in the case of others of Trollope’s greatest characters, Trollope did not recognize Sir William’s greatness when he introduced him, but developed it as he became interested in the character. Similarly, when Trollope had come really to know Archdeacon Grantley, he would not have had him read Rabelais on the sly, as he did in *The Warden*. Neither would Plantaganet have had the mild flirtation with Griselda which we find in *The Small House*.

As Sir William first appears at the beginning of Chapter III, he is merely a leading barrister, superficial, and imbued with the arrogance resulting from repeated success in making “mince meat” of his opponents. When Mr. Flick, his solicitor, intimates the unexpected strength of the case of the Countess and Lady Anna, “Sir William Patterson stood aghast and dismayed.”

The real Sir William, whom we know later on, would have been neither aghast nor dismayed. Long before Chapter III he would have strongly suspected what Mr. Flick then told him. If Mr. Flick had disclosed anything both important and unexpected, his keen and resourceful mind would have rejoiced at a new obstacle to overcome. The real Sir William is dismayed at nothing, realizing that if he cannot find a way to overcome the difficulty, he will in any event find a way to get around it, both of which experiences constitute his principal enjoyment in life.

It is not until we get well along with the lawyers’ conferences that Sir William becomes himself. Mr. Flick returns from Sicily thoroughly convinced of the ultimate soundness of the other side’s case, but having deliberately refrained from completing his investigation, in order to retain sufficient doubt to make compromise justifiable. He does not tell Sir William all he knows, but merely hints at it. Sir William, instantly sensing the situation, asks no further questions, but forthwith bends all his energy to effect a compromise.

It is not for him to go on and prove his client wholly in the wrong, as a Felix Graham would have done.

“It may be that such would be the juster cause, but then, Hardy, cannot you understand that though I am sure, I am not quite sure; that though the case is a bad one, it may not be quite bad enough to be thrown up? It is just the case in which a compromise is expedient. If but a quarter, or but one-eighth of a probability be with you, take your proportion of the thing at stake. But here is a compromise that gives all to each.”

Every day, all over the world, thousands of lawyers are devoting their intelligence, their experience and their utmost energy to obtain various sums of money which they contend have been unjustly withheld from their clients by the clients of other lawyers, or to defend their clients against the others’ unjust demands. One-half of them will be more or less successful today, the other half tomorrow. These lawyers (who spend their time wrangling over whether \$X is due by this person to that on account of past occurrences) though performing no really constructive service, are doing a necessary and useful part of the world’s work, in procuring the settlement of disputes in an orderly manner. In proportion as they are successful they will be duly rewarded.

Included in the number, however, there are a few great ones who have the judgment and the constructive imagination to discover, as well as the personality to bring about, a solution of the controversy which not only gives the client what the client really desires, but does so without expense or hardship to the other side—“a compromise that gives all to each.”

It is to this class that every constructive minded lawyer aspires. Second to none among such, in fiction, is Sir William Patterson. **TFL**

Endnotes

¹Dates supplied throughout the text in references to Trollope’s works are in each case the speaker’s best estimate of the year in which the book was written.

²Jacob Bunce, Phineas’ London landlord, considered himself an “authority on law, having been a journeyman copyist in a legal stationer’s office.”

Editorial Policy

The Federal Lawyer is the magazine of the Federal Bar Association. It serves the needs of the association and its members, as well as those of the legal profession as a whole and the public. *The Federal Lawyer* is edited by members of its editorial board, who are all members of the Federal Bar Association. Editorial and publication decisions are based on the board’s judgment. The views expressed in *The Federal Lawyer* are those of the authors and do not necessarily reflect the views of the association or of the editorial board. Articles and letters to the editor in response are welcome.