

**Trial of William Congreve Alcock and Henry Derenzy Esqs.,
for the murder of John Colclough Esq., Wexford Assizes 26th March 1808
Sir Jonah Barrington's opening address:**

My Lord and Gentlemen of the Jury.

In this extraordinary and affecting trial, I am counsel for the prosecution, and never did an advocate rise oppressed with more penetrating concern, than I am upon this melancholy and lamentable occasion. Melancholy to the friends of him who has fallen, and melancholy to the feelings of him who has survived. I feel sincerely for both. Gentlemen of the Jury, the friends and the executors of the late Mr John Colclough, in the absence of his brother, avow this prosecution ... if he had fallen by the hand of Mr Alcock in a duel conducted upon the ordinary principles or arising out of injured honour you would have heard of no prosecution. But his representatives feel, that under the circumstances which I am to detail, they would be highly culpable did they not bring forward for investigation, a case equally unprecedented, ... and affecting ... they have concluded in convincing proofs that he gave no offence, that the deceased was the man insulted, the man challenged, and the man slain. Nay, even to gratify his adversaries he truly denied what he might fully have justified. The duel did not proceed on what we call common duelling principles, but on a premeditated plan to overawe the freeholder in his interest was urged by ambitious views and conducted with mischievous dexterity. Gentlemen, they have been further led to institute this prosecution from a knowledge of the character of the deceased gentleman, his inoffensive conduct and inexperience in dueling rendered him a feeble antagonist to any person as skilled as Mr Alcock. All these impressions were too strong to be resisted and whatever reluctance might be felt in calling these gentlemen to a bar of a court of justice, it was considered an insuperable duty to the public, the country and the memory of Mr Colclough. These reasons invincible overcame every other consideration and urged his friends to call upon you to investigate and to decide. The British Law founded on the finest principles of eternal justice consider every man innocent until a competent tribunal shall pronounce him guilty. He is confined, not as a proof of his crime, but as a security for his person. He is indicted, not as an anticipation of his guilt, but as a test for his innocence, and his accusation is submitted to the decision of a jury, that they may discuss it with justice, and decide upon it with mercy. But so jealous in the Constitution of entrusting the lives of British subjects to the decision even of the most enlightened experienced and honourable of their fellow subjects, that before it submits a prisoner's fate into their hands, it exacts from them the sacred pledge of their character and their conscience for the past performance of their duty, and in the open face of their country, they take the solemn obligation of an oath, upon the Book of God, to decide according to the evidence before them, and that oath, connected with their verdict remains a public record of their character and their conduct, for the inspection and instruction of posterity. The moment a jury suffers any feeling but the principle of rectitude and humanity, as directed by law, to invade their minds, they cease to be jurors and become the slaves of prejudice and the instruments of injustice. But an equally important attribute of British law emphatically points out ... equal justice. Justice must be equal to be effective in these realms it knows no rank and acknowledges no personal distinction amongst subjects. The prince shares the same justice as the commoner. And the guilty peer

must sink into the same grave with the guilty peasant. That is the steady and firm pedestal on which justice must stand if she means to be permanent. On the foundation alone she can raise her temple or elevate her altar and in this case more particularly where expectation is high, perhaps where the eyes of men are blinded by the mists of faction and cool discernment yields to the heat of party, it is more than commonly necessary for a jury not only to be cautious, but legal, and to consider the case of Mr A. accused of the premeditated homicide of Mr C. exactly in the same cool and dispassionate principle as they would hear and decide on that of the meanest cottager. Therefore, Gentlemen, I can never too much warn a jury, in a case like the present, of great expectation, novel in many of its points, melancholy in more. I cannot call too frequently upon you to shake off prejudices and with minds so pure as a sheet of white paper, receive impressions from the evidence alone and thus discharge an important duty to the justice of the country and your own characters. And I trust that under the direction of the able and learned judge who presides, you will do that justice which the Law and the Constitution calls for. Gentlemen the circumstances of this duel were not like those of common cases, originating in a moment of irritation and of passion. They are not to be deduced from motives of a personal quarrel. The causes were more distant, but more rooted than those in common occurrences and it will be necessary to call your attention to some remote periods of the history of this country, in order to show you what led onto this melancholy event. Gentlemen, I need scarce remind you that Wexford, from the unfortunate year of 1798, had become exemplary for every misfortune. Neither time nor reason has terminated the miseries of animosity, or even forwarded the work of reconciliation. It is unnecessary to remind you, that since that unfortunate era it has never ceased to be the victim of faction and of party. Disloyalty has ceased, but oppression and bigotry have continued. And the word loyalty has been continued a pretence for the abuse of power the county of Wexford was governed by one man. No shelter and no patronage were to be found, but under the branches of the tree which overshadowed it. Mr Colclough lopped its branches and had put the axe to its root. The county saw their interest rising under his exertion. His father and ancestors had in many parliaments represented that county with honour and integrity. They called on his son. The great power was shaken. And Mr Colclough's brother after a hard contest, was duly elected. On the next election the great power could make no stand. It was utterly overthrown. And Mr Colclough with his friends were elected without opposition. On the last election the spirit of independence rose high. The landholders flocked to Mr Colclough's tally room. They confided in him. His opponents felt the final extinguishment of their power approaching. The freeholders were obstinately virtuous and Mr Alcock's partisans determined to draw the sword on the person of the candidate, as the surest mode of vanquishing the independence of the electors. With these views, and actuated by that object, partisans in their own feuds lost sight of the principles of social duty. The ties of society were loosened. Bigotry and oppression seem to be the governing principles of many of that class, whose education should have taught them to have been a meritorious and not a mischievous example to the people. For what can be expected from an ignorant peasantry, when unconstitutional outrage becomes the leading principle of those whose conduct should guide them by precept and improve them by example. For this unfortunate county it has been reserved, to give to the

united Empire the unparalleled example of one candidate falling by the hands of another, in the very act of receiving the suffrages of the people, and sending to the Imperial Parliament an indenture sealed with the blood of a claimant for the representation. But it was not to Mr Alcock this was wholly attributable. He had no friend to steer him from the precipice. Those whom he thought his friends, actuated more by their own animosity than his interest, had, under pretence of friendship led him to the extent of injury, and induced him to commit an act, from which his soul would revolt in a cooler moment. Mr Alcock, a highly respectable man, giving himself up to the guidance of persons of a different character, became their instrument, whilst he thought he was doing himself justice. And too late feels the error he committed, and the false ... impossible to avoid it. The late Mr John Colclough was my relative and friend. The recollection of his merits and fate oppresses me and you will excuse my sufferings upon this distressing occasion. The benignity of his heart and the independence of his disposition were well known in this country. He had no wish beyond the advantage and benefit of society. He had through a chequered life experienced the favours and the frowns of existing government. He has been the subject of accusation and oppression but his spirit triumphed over all and when the moment called for him, he became the champion of the county. The great power fell before him, and from that success arose the enmity which caused his death. Gentlemen, I revert with horror to the first day of the last election when I am obliged to detail the foundations of this unfortunate transaction. A gentleman who I am obliged to name and who ought now to stand where the prisoners are placed, a gentleman of the name of Pierce Newton King, upon the first day of the election avowed the principle upon which that election was to be conducted. It was found that the landholders began to know their interest and independence, that the character and conduct of Mr Colclough had attached his country to him, that the great power that was opposed to him could not stand, and then was adopted a principle the most atrocious in every point of view. Mr King formed one of the committee for Mr Alcock, and his acts became the acts of Mr Alcock. Upon the first day of the election, on the hustings, while Mr Alcock was standing by his side, Mr King avowed the principles upon which the election was to proceed: "that if any man interfered with the tenants of another, he was to be made personally responsible," that is, the blood of the candidate was to be the payment for the affection of the tenantry. Never was so unconstitutionally and illegal a principle publicly inculcated and effectually acted upon, a principle founded upon tyranny, and at once an open declaration of war against law and constitution, a violation of the first rights of freemen and the first laws of humanity, a contempt against the law of parliament and an extinguishment of the rights and privileges of the subject. In Ireland the landholder generally holds no duty to the landlord but that which arises from the benevolence he experiences and the protection he enjoys, and if he enjoys it he is sure to be grateful. There is hardly an example in this county, where the good and protecting landlord does not uniformly and jealously receive the active and unqualified support of his tenantry. And it is only those whose oppressive acts or unrelenting bigotry induce them to lose sight of the mutual relation and duties of landlord and tenant who have ever reason to complain of the want of attachment in the peasantry who surround them. Gentlemen, in all elections, it is necessary to organize and form a committee, or at least it is the practice to do so. Mr Giles, Mr

Perceval, Mr King and others whose names it is not necessary to mention, were upon the committee of Mr Alcock. Mr Colclough had also his committee, no doubt there was much party heat and warm blood on both sides. But it was not so with Mr Colclough. The mildness and moderation of his conduct will appear better from a description of the witnesses than from my statement. The committee of Mr Alcock acted upon the principle of Mr King, and let me tell you it was a principle of all others that ever disgraced a public meeting the most illegal and unconstitutional. It excited party spirit to the highest pitch and men worked themselves up to a forgetfulness of their duty to the public, and of humanity to their friends. Gentlemen, the first proof that this system was acted upon, respected tenants of Mrs Cholmondeley, Mr Colclough's character in the county, his mild and moderate manners, his resistance to oppression, and more than all, his integrity and humanity, had gained him the affections of the people. The tenantry began to feel their own weight and know their own consequence. Mrs Cholmondeley's tenantry thought proper to come to the tally room of Mr Colclough. The principle of Mr King had so strongly impressed itself upon the clicks of Mr Colclough who accordingly kept as clear as they could and did not interfere with the tenants of any person known to be adverse to him. The tenants came to vote for Mr Colclough. But Mr Alcock acting upon the principle of Mr King, and conceiving that he was bound to uphold it, asserted that he had got a letter from Mrs Cholmondeley stating that he should have her interest. Upon that letter, Mr Alcock conceived that nothing but the blood of Mr Colclough could restore those tenants to their allegiance. It was determined that he should call upon Mr Colclough to give up these votes, or answer personally. Dangerous, illegal, unprecedented and vicious there must be that declaration which says that the penalty of death or at least the risk of mortal battle would be inflicted on that man, whose benevolent conduct, inoffensive habits and established
... tenantry of a county were to be driven like a flock into the pen, and that any candidate who happened to receive a wanderer was to be dishonoured, to fight or die for his imprudence. Yet this doctrine was acted upon and the miserable result of that doctrine has been that by its practice the honest man has been hurried to the grave, and another brought to the bar of justice. The Irish peasant in fact purchases his independence, from the landlord he buys his independence by the payment of heavy rents, from the state he acquires his independence by the payment of his taxation, and even from the church he becomes free by a contribution of a full proportion of his labour, his food and his raiment. No Russian or Polish vassalage here identifies the peasant with his flocks, or transfers him from the demesne of one petty tyrant to another as an instrument of his power or an appendage to his aristocracy. Here he is free and independent, save his gratitude to his protector and his obedience to the laws. Whilst he obeys the laws he is protected by them and the freeholder enjoys his share in the exercise of the constitution only by his free agency in choosing his representative. 'Tis that proud prerogative which the British beyond other nations and he is no friend to his country who would persuade them they have lost it. The peaceable character of Mr Colclough has been so well established and known in the country that it was conceived by these mad and vicious partisans he would be but a feeble adversary to their designs. Mr King's principle was still acted upon and though the law does not reach Mr King and though he is not now responsible for his conduct upon that day, yet the time will come when he must

answer to his God and to his conscience. He is responsible for the transaction, for the feelings which he excited in the mind of Mr Alcock and those who became the supporters of his system. A personal attack was determined on the part of Mr Alcock and Mr Perceval his committee man declared they might as well give up the election as suffer the tenants of a person who had promised her interest, to vote against them. Mr Colclough was called upon to give them up, to give up the independence of the county, his own rights, the constitution and the law, because they did not vote according to the transfer of her to whom they paid their rent.

Gentlemen, Mr McCord who was the friend of Mr Colclough, had been in the room when the tenants of Mrs Cholmondeley offered to be polled. But so oppressed was his humane heart with the threat of Mr King and so careful was he not to provoke what had been avowed, that he questioned the tenants before he suffered them to go upon the tally. He asked them whether they were under any influence or whether they had been applied to by Mr Colclough. They said they were not, and that no person had influenced them. And so determined was Mr McCord to avoid any imputation of interference, and to prevent all excuse for enmity, that he prevented these people from polling until he examined them again. He asked them in the presence of Mr Alcock and Mr Roper who acted for Mr Alcock and was so far his friend, as the election was principally conducted by him) whether they were influenced or called upon by Mr Colclough or if their landlady was present how they would vote! They answered they were not influenced, that if she was present they would vote for Mr Colclough, that they paid their rent to the day and were under no obligation to her. (note: their rallying cry was and it is still remembered in the county Wexford: "Hurroo for Colclough, tho' she broke me"). Therefore it was found that nothing could prevent the final success of Mr Colclough, but his death. The growing independence of the freeholders, his increasing popularity, discomfited his adversaries. What was the remedy? The death of Mr Colclough. It was determined to take that step and I repeat in the presence of the gentlemen I have named, my report, that there was not one man in the county to shew Mr Alcock the precipice to which he was driven. They called themselves his friends, but they were his enemies – they were hostile to his real character. They should have defended him by that gentleness and moderation of conduct which governs others upon such occasions. I lament that there was not one cool dispassionate and reflecting man, to shew the error. Gentlemen, Mr Alcock urged, not by his natural feelings but by the zeal of his friends who surrounded him, declared he would put a short end to the matter. You observe, I trace the principle of Mr King, avowed upon the first day of the election, down to the day of this transaction, and I am now to state the mode in which it was put in practice. This was on Saturday 30th of May. The election had begun on the Saturday before. Mr Alcock went out to look for Mr Colclough. He met him, the latter was a peaceable man who had never raised his arm against any man, his health had no disposition to transgress Alcock immediately broached the principle I have mentioned. He asked him if he interfered with the tenants of Mrs Cholmondeley, his answer was "upon my honor Mr Alcock, I have not." "No matter," said Mr Alcock, "some friend did, and you shall give them up." Mr Colclough answered "I did not interfere, nor did any friend of mine. But I would be inexcusable to the county if I gave up those who came voluntarily to support me." "Then you must answer in half an hour." That is, you must answer with your blood,

and nothing but your blood can secure me. That is the substance of the declaration and the principle of Mr King was thus carried into full effect. Mr Alcock applied to a gentlemen present to be his second, and Mr Colclough said "If it must be so, I cannot help it, but upon my honor, neither I nor Mr McCord interfered."

This passed in the presence of many persons. It was determined that the election should be concluded by a duel, and that Mr Colclough should fall in the contest. His inexperience and his incapacity for such an encounter, the reverse of the gentleman at the bay, for it was not the first time he was so engaged upon a similar occasion. Dueling is a popular crime, sanctioned occasionally by custom, or conceded to the claims of injured honor or sullied reputation where the laws were silent as to redress or reparation, yet in all points of view illegal. But this offence acquired a new character when it originated without personal insult or injured known, where it not only waged battle against the law, but waged war against the constitution. And that which should be preserved for the last protection of personal character was made the first instrument of political decision. This was the case of Mr Colclough. For Ireland, then, it is reserved to elect its representatives by the sword, or by the pistol, and to count its freeholders by the number and the tyranny of its landlords. Gentlemen, Mr Colclough accordingly went away, to prepare for the event, conscious of having given no offence. No injured honour excited Mr Alcock to the contest, no insult warmed his feelings, but a cool determination to put down a constitutional right. A place was appointed for this mortal contest. Some of Mr Alcock's committee, feeling that he had gone too far, but preferring the view of one of other party to a retraction of the error they suffered him to fall into, entered into a resolution, but before any step of that kind was taken, Mr Perceval delivered a message and assigned as a reason for it, that if Mr Colclough did not give up the tenants of those in the interest of Mr Alcock, he must prepare to fight in half an hour, and a place was appointed. Some of the committee, though they felt the error, yet had not the humanity to correct it, but took a step, which if acceded to, would have deprived Mr Colclough of all character for spirit. A message was sent by Mr Alcock's committee to Mr Colclough's committee, that they considered Mr Alcock to be their property and they required that the duel should be postponed till after the election. There was no effort of friendship or effort to reconcile but the attempt was to throw further disgrace upon Mr Colclough. They wished that he who was publicly charged should be considered as destitute of spirit. Did they come direct from Mr Alcock! He sent no message to postpone or retract the battle. They were asked whether they came from him. They said they did not. They came from themselves to desire that Mr Colclough, the insulted and challenged man, would postpone the duel.

Gentlemen, reflect for a moment upon this conduct and . how it should be reprobated. Mr Colclough was insulted publicly and challenged publicly, and yet he was called upon to say I will postpone. It was impossible. His friends answered, that if Mr Alcock thought proper to retract, or withdraw, or postpone, Mr Colclough would be perfectly satisfied. But this was declined and Mr Colclough's friends thought proper not to interfere. Why! Because that would carry the point and leave the challenged man to withdraw from the meeting. He would then be stigmatized in the

face of the county. He would be upbraided with a want of courage and spirit and lose the advantage of a popular character. If Mr Alcock's committee were humane or serious they might have withdrawn the challenge which could have been renewed when occasion offered. They might have endeavoured to reconcile but in the animosity of partisans they lost sight of humanity and they suffered two men, having no personal hostility to each other to go out together for the slaughter of each other. The character of their friend was forgotten in their violence and barbarity.

Gentlemen, Mr Colclough went to the field, almost unprepared, because he was inexperienced, and this brings me to the last stage of the transaction. But before I go to that, I should mention that Mr Dudley Colclough hearing there was a dispute between his friend John Colclough and Mr Alcock, from that principle of humanity which seemed to be altogether relinquished by Mr Alcock's friends came up to Mr Alcock and asked him what the matter was and wished to reconcile them. Mr Alcock gave no satisfactory answer, but repeated the story whole turned, that he had taken away the tenants of Mrs Cholmondeley, and it was his determination that for so doing he should meet him in half an hour.

Mr Colclough went to his mother's house and from thence to Arkandridge (*Ardcandrisk*) with a few friends. Mr Alcock's conduct shews his premeditation and you gentlemen will hear from the learned judge what the law is upon the subject. Mr Alcock changed his dress, instead of a light coloured coat he put on a dark one, instead of a white cravat he put on a black one, he had used white mounted spectacles he put on dark coloured ones. I do not state that their circumstances were the cause of Mr Colclough's death but they showed the cool blood, that he was not hurried by any violence of passion. He undressed, and dressed in a different suit with a view to the combat and as most likely to carry his purpose.

When they came to the ground, Mr. King who had been the author of the whole, appeared there, an action partisan for Mr Alcock. Mr Derenzy now at the bar who was no second nor employed to interfere, became also an active partisan. The pistols were charged between them. That man who had originally proclaimed the principle that the blood of the man receiving the vote of the tenants of another should answer now carried it into effect by loading the pistols. The seconds stood by inactive while those promoters of murder were active, while those promoters of murder were active. Mr Derenzy who had nothing to do as a second scraped the balls to fit them to the pistols and Mr King loaded them with deadly effect. Mr Alcock came to the ground and it was proposed by Mr Henry Colclough who appeared as the friend of John Colclough that they should stand at 12 paces. "No," said Mr King, "they shall not stand farther than ten." Mr Henry Colclough seeing that Mr Alcock had changed his glasses, expostulated with him saying that upon a former occasion he had been obliged to take them off, and that it was not proper to wear them, as Mr Colclough was also near sighted and it would give Mr Alcock an advantage that was not fair.

Gentlemen it is not for me as an optician to tell you the effect of glasses, they do not strengthen the arm, but they assist the sight and the man who could not hit a mark

in the open day without them, can hit a lighted candle in a dark room. The effect of glasses is to exclude all other objects and a steady eye is as necessary as a steady arm in shooting at a mark. Mr Colclough was a near sighted but he used no spectacle. A conversation ensued. Mr Henry Colclough applied to Mr Perceval and said he thought it unfair to wear them. Mr Perceval referred him to Mr Alcock himself and it was understood there was a compact to take them off. But when he saw Mr Alcock upon the ground with other and different glasses from what he had before Mr H Colclough told him, he thought it unfair and if any accident happened he should be prosecuted for murder. While this was going on, where were the friends where were the friends who answered for Mr Alcock? Did they interfere to save the life of either? Was their conduct according to usual habits on such occasions? No! Mr Colclough, feeble in his health and almost unable to stand begged to be permitted to sit upon a box which Mr Derenzy had brought there. This was refused, and being asked what was in it, he said it was full of powder and ball, and Mr Colclough was kept standing whilst the instruments of destruction were preparing. When they took their ground Mr Derenzy went officiously up to Mr Alcock, instructed him in the mode of standing, fixed his arm and showed him the mode of inflicting death. He stood thus until the moment of firing. Mr Colclough felt no enmity to his adversary and before he took his ground he publicly declared he did not wish to hurt a hair of Mr Alcock's head. And so far as the evidence of witnesses can go to observations at such a crisis, Mr Colclough raised his pistol far above the level of Mr Alcock's person. Mr Alcock had a very different feeling. He took cool, deliberate and fatal aim. The ball penetrated the breast of Mr Colclough and he dropped dead at the feet of his fellow candidate and with him fell as warm a friend, as sincere a relative, as benevolent a being, and as honest a man, as ever honoured and adorned a country. The mildness of his manners kept pace with the spirit of his heart and his private virtues could only be equaled by his public independence. He fell by the hand of a misguided friend, and died a sacrifice to his principles and a martyr to his country.

Gentlemen this is a case of great expectation, the rank of the parties is high, the eyes of your country are upon you, in your consideration of the subject you have able assistance, a discriminating and able judge, clear and unequivocal evidence, his lordship's duty prescribes to him to state to you the law, I shall therefore only lay down its principles generally and shortly. To the jury I shall leave it, whose duty, as well as that of the learned Judge, is explicitly defined and determined. The willful real crime, and only as a deliberate and premeditated act though no positive malice appears and the very act raises the legal inference and it assumes the name of murder. Nay, though the positive malice actually existed, yet if the killing happens in the furtherance of an illegal act, it is held murder. The law, however, softens down its rigour when the death is occasioned through the sudden gust of passion which considerable provocation naturally excites in the human mind. In such cases it is termed manslaughter, but a killing with intention must necessarily in law come within one description or the other and cannot be altogether guiltless. And though the humanity of jurors may divert them from a recollection of offence, or give an authority by law to substitute sympathy for their duty. And though that duty is painful, yet it is mandatory. But has this

consolatory reflection that the clemency of the crown is never denied to well palliated delinquency. In this case there is no doubt Mr Colclough received his death by the hand of Mr Alcock willingly and intentionally inflicted, it is for the jury to determine the name and degree of the guilt. Willful homicide it certainly was, and willful homicide is certainly a guilt, nor can the sophistry of argument, or refinement of reasoning, under that altogether innocent which the law declares altogether guilty. Far be it from me to urge a sanguinary principle to the extent of its bearings, but in this case a general acquittal would be found impossible unless the custom of homicide in this country should be set up as a justification against the enacted statutes of the land, and the established law of the country.

If Mr Alcock had only sent a challenge to Mr Colclough, or even provoked him by common expressions to fight a duel, though no duel should actually ensue, yet Mr Alcock, if prosecuted for that offence, must certainly be found guilty and would as certainly experience a heavy punishment from this court. Can it therefore be argued or determined, that if the mere intention of Mr Alcock to fight Mr Colclough would be an offence, or received a heavy sentence, yet, that he should be innocent if he killed him also? Yet a general acquittal of Mr Alcock in this case would thus declare him guiltless, though he killed Mr Colclough whereas the very same jury would have found him guilty, if he had only intended it, and establish this distracting incon jury, that they would hold it more culpable to intend a crime, then absolutely perpetrate it, and thus established a heavy punishment for a lesser offence, and an established precedent for the commission of a greater.

Note: happily the jury acquitted the prisoners, but how they were able to arrive at such a verdict will be for ever a mystery. I did not calculate on the foregoing occupying so much space but I felt that this collection of family records would be incomplete without it.