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The Waterford Chronicle

# The Waterford Chronicle.

The Voluntary Slave that makes the Oppressor. T. 1830

No 459

THURSDAY, APRIL 1, 1830

Price 6d

## THE LATE STANDISH S. O'GRADY, ESQ.

### CONCLUSION OF THE EVIDENCE OF THE INQUEST.

The Jury assembled on the inquest into the death of Standish Stamer O'Grady, Esq., re-assembled on Wednesday, in the School-room, at Portobello Barracks.

George Griffin, Esq., Surgeon, 32d Regiment, was the first witness called. His deposition was to the following effect:—About five o'clock, on the morning of the 18th March, Capt Markham's servant came over to my quarters; Captain Markham's Christian name is Frederick; the servant told me that his master wished to speak to me; I went as soon as I had dressed myself, and I found Captain Smith in Captain Markham's room; Capt Smith's Christian name, I believe, is John; Captain Markham told me that Captain Smith had had a difference with a gentleman in the town; he either said "difference" or "quarrel," I forgot the precise word, and he told me that they were going to meet him, and wished me to go with him, or be there, in case my professional assistance might be necessary, but that from the circumstance of Mr Macnamara being the friend of the gentleman in question, he thought the matter could be managed; that in consequence of Mr Macnamara being the friend as well as the relative of the gentleman with whom Captain Smith had had the difference, he thought the matter would be accommodated; I consented to go with them; I remained on the bridge, I do not know the name of it, and they passed over towards Portobello barracks, leaving me on the bridge; I remained there for some time walking about, till I heard the call of some people who were down from me on the road, and who were waving their hats, handkerchiefs, and hands, and calling at the same time; I saw Captain Smith leaping a ditch towards the canal, not towards me; I ran down the road as fast as I could; I then saw a person lying in a field, supported by another; the person lying afterwards found to be Mr O'Grady, and the person supporting him to be Mr Macnamara, of the 8th Hussars; he was not in uniform; Mr O'Grady said to me, "Doctor, I am mortally wounded;" I said, "I hope not, let me examine your hurt;" I undid his small clothes, and found he had received a gun shot wound in the abdomen; Mr O'Grady took hold of my hand and said, "for God's sake, Doctor, do not leave me;" I told him he might depend upon it I would not; in answer to the question of Mr Macnamara, I stated my opinion that the wound was mortal; he put the question to me privately, that Mr O'Grady might not hear it; I recommended him to send for the best professional assistance that Dublin could afford; I then called the people, who were standing in some numbers, about half a dozen, and I directed them what way they should carry Mr O'Grady to the road with the most perfect ease to himself; these people were to the road when I spoke; I then had repeated solicitations from Mr O'Grady, not to leave him, as he seemed apprehensive I should do so; I got into the carriage with him and Mr Macnamara, and accompanied them to these barracks, to Mr Macnamara's rooms; I then sent for the two surgeons of the 8th Hussars; Assistant-Surgeon Ore came first; I stated to him what had occurred, and said, "I leave this gentleman in your care;" I then took leave of Mr O'Grady, and quitted the barracks, having previously examined him on the left side, as he said he was certain he felt the ball there, which I discovered to be the case; when I went up to the sofa to shake hands with him, he said the ball might be felt there; I put my hand, and found it was there; I pass over his lamentations and expressions in the coach; he said "what will my poor mother think?" and so on; I came up here again, after I had got home, and also called on the following day, but hearing that his friends were with him, I did not go up.

Juror—How did you come to the place? I came with Captain Smith and Captain Markham in the car.

How many years have you been in the regiment? Since March 1817—thirteen years, this month.

How many years in the regiment were you acquainted with Captain Smith? I was on a detachment in Limerick, when he joined; I think he is in the regiment about two years; I cannot speak positively. He joined on that occasion as commanding officer of the detachment at New-castle. I always understood Captain Smith to be an Irishman, and his family to be at Blackrock in the County of Cork.

During your knowledge of him as a gentleman of the 32d, was he always regarded with respect by his brother officers? He was always very much liked indeed.

Did you ever understand that he had a mortal conflict with any gentleman before this, whether military or civilian? Never, upon my honour from the time I knew him.

Did you hear of any dispute at the theatre, lately? I heard a rumour of that.

Did you hear the gentleman's name who was concerned in that? No, I did not.

It is material to know, Dr. Griffin, was the fatal duel the subject of conversation in the regiment? Certainly.

Pray did the conduct of Captain Smith from the commencement of the quarrel till its fatal determination, meet with the approbation or disapprobation of the gentlemen of the regiment? That I cannot speak of.

Are we to understand that there was some cause for a meeting before the collision of Capt. Smith's gig with Mr O'Grady in Nassau-street? Not to my knowledge.

It has been suggested to ask you, whether you stood in view of the ground or heard any shot? I did not; there was a very strong wind that morning, and it was by accident I saw, when turning round, some persons waving their hands, and then when I passed the house, I saw Capt. Smith walking over the ditch.

Had Mr O'Grady expressed himself as Capt. Smith had not acted fairly? He said in the carriage, "Captain Smith ought not to have fired at me, I was not in the wrong." Perhaps it is right for me to state, that when I got to Mr Macnamara's, Mr O'Grady took out of his breast a paper, and said, "this is a paper, I wish you to read it, to see whether it be sufficient for the purpose I mean it." It was a testamentary disposal of certain sums of money to his father, arising out of the collection of certain dues; I knew nothing of it, and I said to him that I thought it sufficient for the purpose intended by it.

Did the violent indignation of the horsewhip known to be given by Captain Smith, within your knowledge receive the disapprobation of the officers of your regiment? I can't say the thing was particularly spoken of; I do not know that it was condemned or approved of, but merely spoken of as having taken place.

Did you understand after the fatal issue of the duel whether an accommodation had been offered on the ground? Not that I know of.

Do you know whether detaching pistols were used? Am I to say what I know, or what I heard?

What you know. Then I know nothing about it.

One of the Jurors suggested that the pistols of both parties should be produced.

Mr Kiddahl stated that the pistols used by Captain Smith would be produced before the jury, and he hoped the pistols used on the other side should also be produced.

Rev. John Darley—I was, on Wednesday, 17th March, riding from Grafton-street in Nassau-street, in company with my friend, Mr O'Brien, when my attention was arrested by a cabriolet coming down from Merrion-square towards Grafton-street; in the place where the cabriolet was moving, on the same line, there was a carriage, or some other vehicle, and a gentleman was in Nassau-street, riding towards Merrion-square; the street was very narrow; the cabriolet was on the College side; that was the driver's right hand side and the gentleman was riding between the cabriolet and the College wall; the gentleman was riding very easy; he was walking; the gentleman on horseback was pressed so close to the flags, as to be obliged suddenly to move his horse on the flag-way; in doing so I distinctly observed him making use of his hand with the whip in it, but as it appeared to me with a view of frightening the horse from coming in on him.

Juror—Would you, under like circumstances, have done the same? I certainly should have done what I conceived him to have done.

Examination resumed—Mr O'Grady rode away from the cabriolet, in the direction of Merrion-square, apparently quite unconcerned; the officer who was in the cabriolet very abruptly pulled up his horse, and pursued Mr O'Grady; I then saw him inflict very severe blows with the whip on Mr O'Grady's back and shoulders; I think there was one across his hat from the marks that were on it; after the flogging, the officer returned to the cabriolet, which he met at the corner of Dawson-street; Mr O'Grady followed him, and overtook him at the corner of Dawson-street; there were some words exchanged by them there, which I did not overhear; Mr O'Grady rode up Dawson-street, and the officers continued on their way towards Grafton-street.

Juror—Did you think that Mr O'Grady merited the punishment he received, from what you had seen? I think he was far from having merited it.

Had Captain Smith any time for deliberation? He had some distance to run, but if he were excited by conceiving any injury had been done him, I should say he had no time for deliberation.

Could the driver of the cabriolet have turned aside to give Mr O'Grady way? I could not state what distance there was between the cabriolet and the carriage on the opposite side of the way—if Captain Smith were in a passion, it had not time to subside, but I do not mean to state that Smith had any cause for being in a passion.

Were you near enough to the collision to hear whether offensive words were used at it? Offensive words might have been used without my hearing them.

Did you see Mr O'Grady use any menacing gesture? No; except with the whip.

You did not construe that to be a menacing attitude? Very far from it. Mr O'Grady walked slowly away, as he had been before the collision with the cabriolet. If Mr O'Grady had pulled up he must have been run down by the cabriolet.

In your experience of such collisions, might they not have occurred without exciting strong feelings of resentment in either party? No doubt they might. What I would wish to say is this, that there was not sufficient time for Captain Smith, if he were in a passion, for his passion to subside; but there was sufficient time to allow him to see the necessity for an explanation.

Mr Paisley—We want to see the pistol that produced the death.

Captain Edwards—It shall be produced. (A case of pistols were handed in to the coroner.) You can see at examination, that these are flint and steel pistols. There is another case of detaching pistols. I should wish them also to be produced.

The Rev. Mr O'Brien, F. T. C. D., was bound by the coroner to appear and prosecute when called on.

James Alexander Ore, Esq.—I am Assistant Surgeon of the 8th Hussars; between half past six and seven o'clock, on Thursday morning, Lieutenant James Macnamara came over to my quarters, and said, that his friend had been shot; I do not know where Lieutenant Macnamara is now; I went to Mr Macnamara's quarters, and found a gentleman whom he introduced to me as Mr

O'Grady, lying on his sofa, wounded through the body; a little after Dr Badenock, the surgeon of the regiment, came, and Surgeon Crampton and Professor Macnamara—I mean the Surgeon General, by Surgeon Crampton—O'Grady said he felt the ball outside his left hip; the ball was extracted in presence of Surgeon Macnamara; Mr O'Grady asked me to sign a paper regarding the disposition of his property; O'Grady said he felt himself morally wounded, and wished us to express our opinion; he said he did not expect that Captain Smith would have fired; he said he forgave him; Mr O'Grady said he was not certain whether he had fired or not; one of the detaching pistols had been discharged; it appeared to have been lately discharged; it was quite moist and the cap was broken; we remarked the ball that was extracted as very large one; I have known Macnamara about six months; I believe he never attended a duel before; I believe he was perfectly ignorant on duelling; I know several of the 32d, but I do not know Captain Smith or Captain Markham; I do not even know them by sight; Lieutenant Macnamara is much liked in the regiment; he is a very young man; he is not, I think, quarrelsome.

Surgeon Reid—On Wednesday last about three o'clock, I was walking in Dawson-street, towards Grafton-street, and passing Morrison's I saw two gentlemen in military uniform, driving a gig very rapidly, at the turning of Dawson-street; when they had turned into Nassau-street, a gentleman was riding on the opposite side, near the College wall, and towards Merrion-square; it was my impression that the gig must have come in contact with the horse; it was crossing the street and contracting the space to which the gentleman had to ride; the gentleman on horseback appeared to be forced up on the pathway, to avoid contact; he was, by his horse going to the left, upon the flag-way; at that moment I saw him stoop forward, but what was the cause of that motion I cannot tell; the gig had intercepted my view; immediately after he appeared to have cleared the gig, and passed on towards Merrion square; the reason that the gig passed to the right side was, I think, that carriages were drawn up on the left, the gentleman who was driving, drew up immediately, and he descended; he had a gig whip in his hand, and he followed the gentleman who had passed on, in or about ten paces; when he overtook him from behind, he struck him round the head and face, and repeated his blows round the head and face with great violence; he continued to flog him; I heard no words at the time; the officer struck him at least twenty or thirty times; the horse naturally was anxious to get away, and the gentleman, as he was endeavouring to pull him in, had no opportunity of defending himself; the gentleman seemed to be unconcerned on the cause of the assault; the officer applied the whip with great celerity, and seemed to be very active with his whip; the gentleman at length got his horse to turn, and came up with the officer as he was about to ascend the gig; I did not hear what the gentleman said; but I heard the officer say loudly, "I am Captain Smith, of the 32d, if you have anything to say to me," he announced himself loudly, that every one in the street could hear him; the gentleman rode quietly up Dawson-street, the officers drove on to Grafton-street; I saw no more of them; I am positive he said Capt. Smith, but I am not certain as to the other words; but I think they were the words used; it struck me that the stooping motion was to strike the horse, so as to cause him to swerve; the whip might have touched Captain Smith's cap; it is within the range of possibility.

Juror—If in Captain Smith's situation, would you have felt called on to make an apology?

Witness—I think I should not, in such a predicament as Captain Smith was placed in, have felt vexed if my horse had been struck; it would be a different thing if I had been struck myself.

Surgeon General Crampton—I had no acquaintance with the parties; on Thursday I was called on by Lieut. Macnamara to see a gentleman who was lying dangerously wounded in his room; I proceeded there immediately, and saw Mr O'Grady, who, I found, had received a gun-shot wound through the body; I continued to visit him till he died; the wound was the cause of his death; I stated at the time to Lieutenant Macnamara that the wound was mortal.

William Patrick O'Connor, Esq.—I saw Mr O'Grady struck by a person in the garb of an Officer; I never saw a dog nor a spaniel more cruelly beaten by a dog-teacher in my life; Mr O'Grady seemed to be so completely surprised as to be devoid of feeling; I saw Mr O'Grady riding up with his hand in his pocket, as if looking for his card; I did not hear him saying anything to the Officer, when the Officer said "Captain Smith of the 32d," I thought he said "Smith," not "Smith."

Captain George Warren Edwards—I am Captain in the 32d; these pistols are my pistols; these were used in the duel; these are flint and steel pistols; I regret that I lost in my purse the ball that I drew out of one of these pistols, and which has the mark of the ramrod on it; the bullets used are small for this pistol; the original mould for these pistols was lost, and the bullets I now use are too small for it; Captain Frederick Markham borrowed these pistols from me on the evening of Patrick's Day; I could not state how old Captain Markham is; in my mind he is not more than two or three and twenty years of age; he has recently got a company; these pistols were never used in a duel since they came into my possession, that is, about five years; the pistol with the cross on the butt is the one from which the shot was fired; the reason of the mark is this, and I wish to state it, lest any wrong impression should go abroad, one of the pistol locks was injured, and as I armed myself with these pistols sometimes, I marked that pistol, because the lock is a round one; I must believe that that

was the pistol used in the duel, from the other pistol having the bullet in it, which I myself extracted.

Juror—Now, Captain Edwards, you seem to understand something about pistols—is it your opinion that a person using a detaching pistol has any advantage? My idea is, that the action of a detaching pistol is quicker than that of a flint and steel pistol, and that it is also more certain; I never was connected in any way with a duel.

Mr Paisley—Do you know where Captain Markham, your brother Officer is now? I do not know.

Have you heard from him? I have heard from him.

Was it by post? It was.

What post mark was there on the letter? It was my intention to have burned the letter last night. I burned some other papers, and I suppose that along with them.

Where was Captain Markham when he wrote that letter? I cannot tell.

Had not the letter a superscription? I did not look at it; I did not see the post mark or the date; I am on my oath, and I neither know the date when, or the place where it was written.

Do you know from the body of the letter where he is now? I do not.

Do you know where Captain Smith is now? Of Capt. Smith, I have no positive knowledge; in the regiment he always went by the name of "Dick Smith." I did not send an answer to Captain Markham's letter.

Were you the gentleman in the gig with Capt. Smith? I was not.

Who was? Am I to give you my belief? Yes. Than my belief is, that Captain Markham was in the gig with him; I joined the 32d regiment in Kilkenny, on the 24th March last; Captain Smith was in the regiment before me.

How soon after your joining did Captain Smith and you become so intimate as you lately have been? I don't know how to answer that question; I have known him for twelve months, and have never found my affections particularly engaged; we have been generally quartered together.

Do you know of your own knowledge, or have you reason to believe, that Captain Smith was engaged in any duel previous to the late fatal one? Of my positive knowledge I do not, but my firm belief is, that he never before was engaged as a party to one, either as principal or second; I can say the same of Captain Markham; I have known him for the same period.

Do you conceive a readiness to seek satisfaction for personal offence as indispensable in the character of a gentleman in the army? According to the constituted laws of society I think it is indispensable. Of course if the coroner says I am obliged to give answers to such questions I shall give them; but I do not wish to appear to volunteer to answer them. I should prefer not answering them, because I do not wish to give my opinion.

Juror—I want to show that the act of Captain Smith did not meet with the approbation of gentlemen of his profession.

Witness—I believe from circumstances that have come to my knowledge, that the impression on Captain Smith's mind was, his having received a most unprovoked and unwarrantable assault from Mr O'Grady; I would prefer designating it unwarrantable—I would not say unprovoked—because that would involve the feelings of the other party; Captain Smith conceived he had received an unwarrantable assault by word of mouth; the evidence I am now going to give you is from a conversation I had with Captain Markham before the duel took place; Captain Markham told me that Captain Smith was driving him in his gig, and that they passed a gentleman on horseback, and that in passing him the wheel of the gig came near this gentleman and his horse, without touching them; that the riding horse swerved on the footway, and that as the rider was passing the horse and the gentleman were at the party in the gig; I will not now swear to the exact words detailed to me in the first conversation; but as they were again stated to me subsequently to the duel, they were "God bless you, Sir, mind what you are at;" I know that the impression on Captain Smith's mind was, that that was personally addressed to him, and that as the gig horse passed, the rider (Mr O'Grady) leaned forward and aimed a blow at Capt. Smith's head, and that the blow had descended on the capote of the gig; Captain Smith being a tall man, any blow aimed at his head must have descended on the capote of the gig; I know, for it was told to me in the most unquestionable way, that the impression on Captain Smith's mind was, that a blow had been aimed at him; I have since seen the band of the gig, and it bears the mark of a lash of a whip six inches in length; I saw the gig on the following day [Thursday], and the mark of the lash is on the same side with Captain Smith; the idea on Captain Smith's mind distinctly was, that an assault was committed on him by Mr O'Grady; the assault, as he supposed, was committed on him by Mr O'Grady, and so strong was that feeling on his mind, that he called at Mr O'Grady's house; Captain Markham called at Mr O'Grady's house and left his name; Mr O'Grady was not at home; I do not know whether it was his own or Captain Smith's card he left there; but Captain Smith drove him there; Captain Smith felt himself so insulted, that if Mr O'Grady had not sent him a message, he would have sent one to Mr O'Grady.

Have you any reason to believe there was any cause for resentment between Captain Smith and Mr O'Grady? Captain Smith had never known Mr O'Grady, and had no resentment or ill-will against him; Captain Smith felt excited against Mr O'Grady, in consequence of the blow, which he conceived had been most unquestionably directed at his head.

The coroner (Mr Paisley) said, the jury would wish to have the gig whip produced.

Captain Edwards sent for the whip; it was a light gig whip; he said that evidence could be produced to show that it was the whip required by the jury.

Dillon Macnamara, Esq.—Between the hours of four and five o'clock, on the 17th March, Lieutenant Macnamara called on me, and stated to me that he was concerned in a very unpleasant affair, and wished my advice on the subject, as he never was before concerned in a case of the kind, that he was perfectly ignorant of the rules of such business; I told him, were I so similarly situated, that it is to an officer I would look for advice, and referred him to his own regiment; he stated there was no officer in his regiment who had ever been engaged in a thing of the kind, to his knowledge; he then detailed to me the circumstances of the case as he knew them, as he was informed by Mr O'Grady, and after weighing the matter in both our minds, he left me to call on Captain Smith, and to accept a suitable apology, if offered by Captain Smith; the account given to me differed with the detail given by Captain Edwards, as relating to the origin of the transaction, inasmuch as that the impression on Mr O'Grady's mind, as detailed by him to Lieutenant Macnamara, was, that he had offered no offence to Captain Smith; but was driven on the flag way by Captain Smith, by which his horse was near falling, and that he could not account for Captain Smith's conduct, except that his whip might have touched the top of the cabriolet, when scrambling for a fall, but of which he was quite unconscious; that he considered no more of the matter, and was riding on his way towards the Square, when he was pursued and struck; I was consulted as to the nature of the apology he was to receive, and Lieutenant Macnamara left me with the impression that he would be safe in taking an explanation and an apology. Lieutenant Macnamara promised to send me word what was the result of his communication, and he called himself that evening as he was going to the ball at the Castle, but I happened not to be at home; I do not know where Lieutenant Macnamara is now; my idea was that the thing could be settled; I should think it was Mr O'Grady sent the message, but I do not know it; Lieutenant Macnamara agreed with me that an apology might be most safely taken.

Colonel Maitland stated that Captain Smith and Markham were reported about without leave.

The inquest then adjourned to the following day.

THURSDAY.  
On Thursday the Jurors summoned in this case again assembled in the School-room, at Portobello barracks.

Captain George Warren Edwards was, at the desire of one of the jurors, again called to give evidence, when the following investigation took place:—

Did you, Captain Edwards, during the time that your regiment, the 32d, was in Kilkenny, hear that Captain Markham was engaged in a quarrel with a man in humble life, named Grey? I did. I was present at the transaction.

Juror—However forward, Sir, I may appear in this, my object is to give an impartial decision between the parties; as you were present at the transaction, you had better detail it.

Captain Edwards—Does this bear on the present inquiry?

Juror—Did you hear that Grey had been the object of an outrage by Captain Markham, and through his means lost his eye?

Captain Edwards—He did accidentally, in consequence of an assault made on Captain Markham, and in defending himself the accident occurred. Captain Markham, however, made ample compensation for it, and liberally compensated all the parties, and prevented the matter from being brought before a court of justice.

Juror—Do you swear that the compensation was voluntary, and without being forced from him by the threat of a prosecution?

Captain Edwards—I have no hesitation in answering that question. The compensation was offered before any legal proceeding was commenced; I know it, as I myself was the person commissioned to make that offer.

Juror—I have another point to examine you on. Several persons here called out that the juror was going into extraneous matter.

Juror—I'll not be interrupted except by force. There is a Mr Grogan who holds the rank of Lieutenant in your regiment.

Captain Edwards—Certainly not. I believe he holds the rank of Ensign.

Juror—Have you heard, or do you know or believe, that Mr Grogan had a quarrel lately with a citizen of Dublin?

Captain Edwards—I consider that to be an entirely different case from the one before the jury.

Juror—You are bound to answer the question.

Sir Edward Stanley—In all cases of evidence the best evidence should be sought for. It there be any fact which Mr Grogan can prove Mr Grogan can be produced.

Juror—This facts I seek to establish are eliminatory of Mr Grogan, and no man is bound to criminate himself.

The Coroner—Is Mr Grogan on his trial?

Juror—No matter; it is absolutely necessary that all the facts of the trial should be before the jury.

Captain Edwards—I decline answering that question.

Juror—What is the oath you have taken?

Captain Edwards—If you choose I shall take it over again.

Juror—I want to show that your declining to answer that question is a violation of your oath.

Coroner—Not at all; he is bound to answer all such questions as may be relating to the death of Standish Stamer O'Grady.





