



O'Malley Clan Association Monthly Newsletter

This month's highlights

- Time to focus our efforts against the virus!
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- About the O'Malley Clan Association
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We need to focus our efforts against the virus!

Greetings to all you out there from Chieftain Tom O'Malley, and all of us in The O'Malley Clan Association! As We move into the 7th Month of the pandemic, and heading into winter (up here in the Northern hemisphere anyway), We need to re-double our efforts to keep the virus at bay. With a rise in the numbers of cases in many areas of many countries We need to get the focus back on the basic prevention measures of social distancing and hand washing. We may have to live with the virus for a while it seems, so we all need to take care of each other and wear a mask in public spaces. Stay safe out there and keep those hands clean!!



The month's highlights

Welcome to our new newsletter from Clan Chieftain Brigid O'Malley

We hope with the creation of our brand new monthly newsletter that we'll be able to continue our sharing, support and connection with all those O'Malleys wherever they are around the globe.

The O'Malley Clan Association has been active in the area of raising and maintaining the O'Malley Clan DNA Project. This has been a great success for over 20 years now, and with the latest new technology, website, and team work, we have been able to bring the project to a new level.

The main aspect of the work is the O'Malley Clan DNA Project, which is a project to identify and connect O'Malleys worldwide.

Clan Chieftain Brigid O'Malley



The New US Ambassador to Ireland Mr Kevin F O'Malley

The O'Malley Clan Association was pleased to welcome the new US Ambassador to Ireland, Mr Kevin F O'Malley, to the O'Malley Clan Association.

Mr O'Malley has been working hard to bring the O'Malley Clan Association to a new level.

Welcome to Ireland Ambassador O'Malley

Get in touch and share your O'Malley Heritage!

Have you got an article or old photographs that you'd like to submit for future editions of "O Maille" The O'Malley Clan Association Newsletter.

We'd love to hear from you wherever you're based around the world. Old photographs and stories to go with them, old letters, family trees or just an article

that you'd like to share with the rest of the clan. Drop us a line and We'll get right to it!



Granuaile Castle, Clare Island



In the 16th century during the lifetime of Grace O'Malley, Ireland's Pirate Queen, her castle on Clare Island played an important part in the life of the island. It acted as a strategic outpost for those protecting the island from invasion and it also was an employer for islanders. Since that time it has had many uses but sadly fell into disrepair at the end of the 1800s. The roof collapsed and apart from some small maintenance interventions by the State, it has remained in a sorry state for the past 100 years, while still commanding a proud presence at the entrance of the Bay.

There have been a number of attempts to bring the castle back to life over the intervening years but sadly up to now nothing has worked. However a couple of months ago the Granuaile Castle Group in collaboration with the Clare Island Development Company, began the process of applying for Government funding for an updated feasibility study on the Castle, to include recommendations for an interpretative centre and how best to use the Castle for the benefit of the island and the islanders. Sadly there was a mistake made in the process of the application and it has to be completed again. While this has delayed the plans it has not scuppered them.

In the meantime many of you will have experienced the virtual O'Malley/ Mayo Gathering in July sponsored by the Business Post, Fáilte Ireland, Mayo CO. CO., TG4, Tribe 101 Ireland, the Grace O'Malley Whiskey and supported by the O'Malley Clan. During the event we highlighted the castle project. We are very excited by the very positive responses we received from the Virtual Gathering and by the many people who have expressed an interest in helping us make the plans for the castle a reality. I had hoped to get back to you sooner with the plans from the feasibility study but because of the delay in

Granuaile Castle, Clare Island

the application process this is taking a bit more time. I would ask for your patience and assure you that I will get back to you as soon as possible.

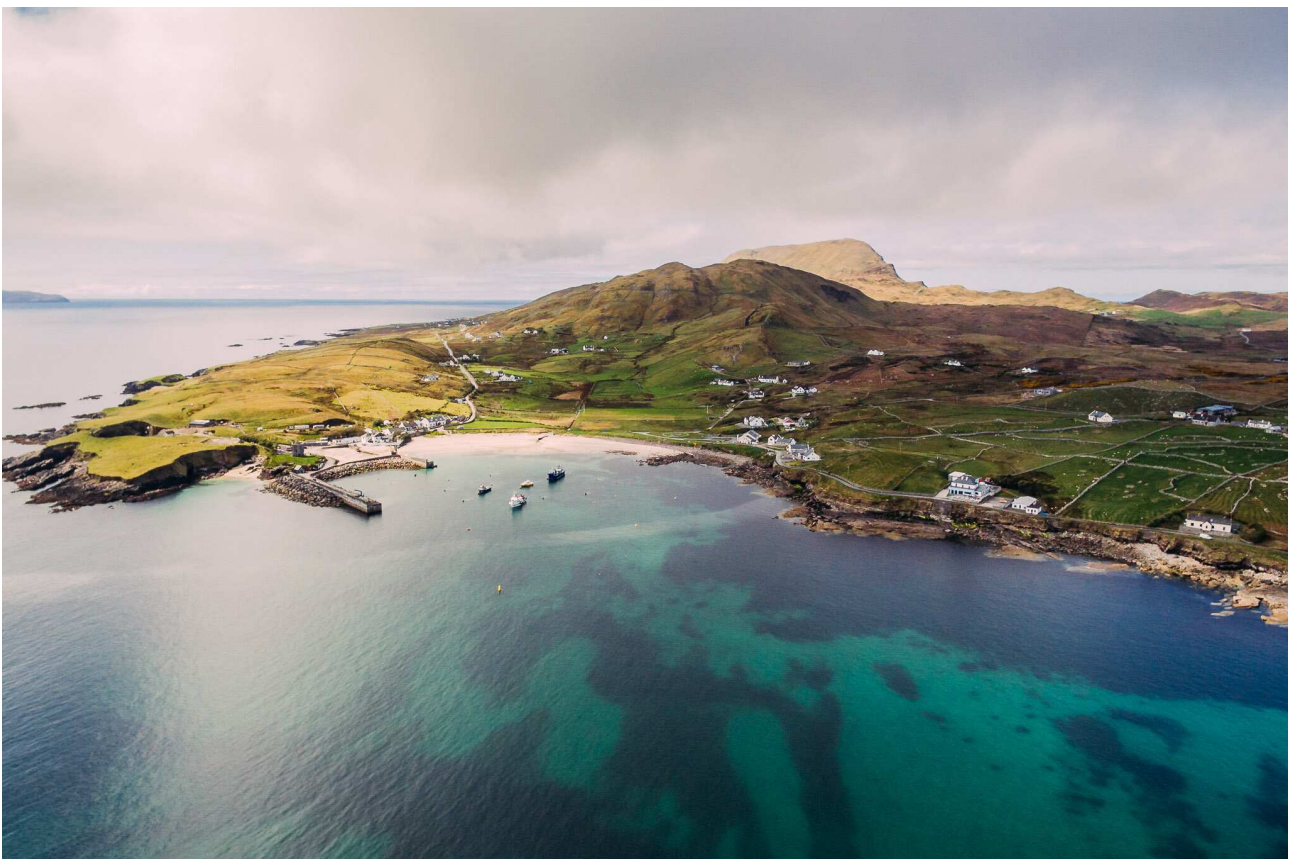
Clare Island offers a unique opportunity, in a world that moves so fast, to visitors who visit, to relax in a beautiful landscape with a community who are welcoming and interested in sharing the amazing history of the island and its people. It is also open to welcoming more families to live on the island now that we have the new experience of being able to work from home with good broadband services. An unforeseen positive consequence of the Covid-19 pandemic.

It is more important than ever now to ensure that we can leverage the use of the Castle for the benefit of the sustainability of life on Clare Island.

Ellen O'Malley Dunlop

Guardian Chieftain of the O'Malley Clan

Chairperson of the Granuaile Castle Group



Tom O'Malley on the courts system and the virus impact

Tom O'Malley, a law lecturer and barrister with expertise in criminal law, sentencing, criminal procedure and constitutional law, looks at an interesting English experiment in virtual jury trials.

The resumption of jury trials for serious criminal offences is probably the biggest difficulty facing the courts system as we make our way out of lockdown. Social distancing will remain critical for controlling the spread of the coronavirus, but if there is one place on Earth where social distancing is not possible in normal times, it is the jury box. Many other participants and observers also find themselves seated in close proximity to one another throughout a trial.



Several competing interests must be balanced when deciding if jury trials should be resumed and, if so, the form they should take. The health of individual jurors must not be placed at risk. Courts must therefore be sympathetic to persons called for jury service who are apprehensive about serving. Social distancing must be maintained, and this probably means seating jurors in the body of the court rather than in the jury box. At the same time, jurors must have ready access to any documentation or exhibits that would normally be given to them and, crucially, they must be able to deliberate in private without feeling any pressure to reach a verdict more quickly than in normal times. Obviously, persons other than jurors must also be present at trial (leaving aside for the moment members of the public) and this, in turn, may necessitate allocating the various participants and observers to different courtrooms.

One possible solution would be to adjourn all jury trials until they can safely be resumed in the normal way. But this would scarcely be viable – certainly not the optimal solution – when other factors are considered. Accused persons on remand in custody remain entitled to have their trials held with reasonable expedition and in accordance with their constitutional rights to due process. Victims too have a right to expect that trials will proceed without undue delay, especially where a long interval has already elapsed between the date of the alleged offence and the projected trial date, or where there have already been one or more adjournments. Further, a wholesale adjournment of jury trials would lead to a “pile up” in the future, and possibly a deluge of applications to have trials prohibited because of prejudice or hardship resulting from delay.

JUSTICE, a British organisation that does tremendously valuable work in many areas of law, recently conducted four experiments involving mock jury trials where all participants joined the court by video link. The fourth is the most interesting and, I gather, in their estimation the most successful. That involved bringing a jury together in a physical hub where all necessary safety measures were in place. The judge (a retired judge in this instance), registrar, counsel, defendant and witnesses were in other (different) locations. All were visible and audible to each other. There was also a virtual public gallery. Apart from a few very minor hitches, the trial went remarkably well from a technical point of view. It was a fairly short trial involving one defendant charged with an offence of wounding contrary to s. 20 of the Offences Against the Person Act 1861 (still in force in

Tom O'Malley on the courts system and the virus impact



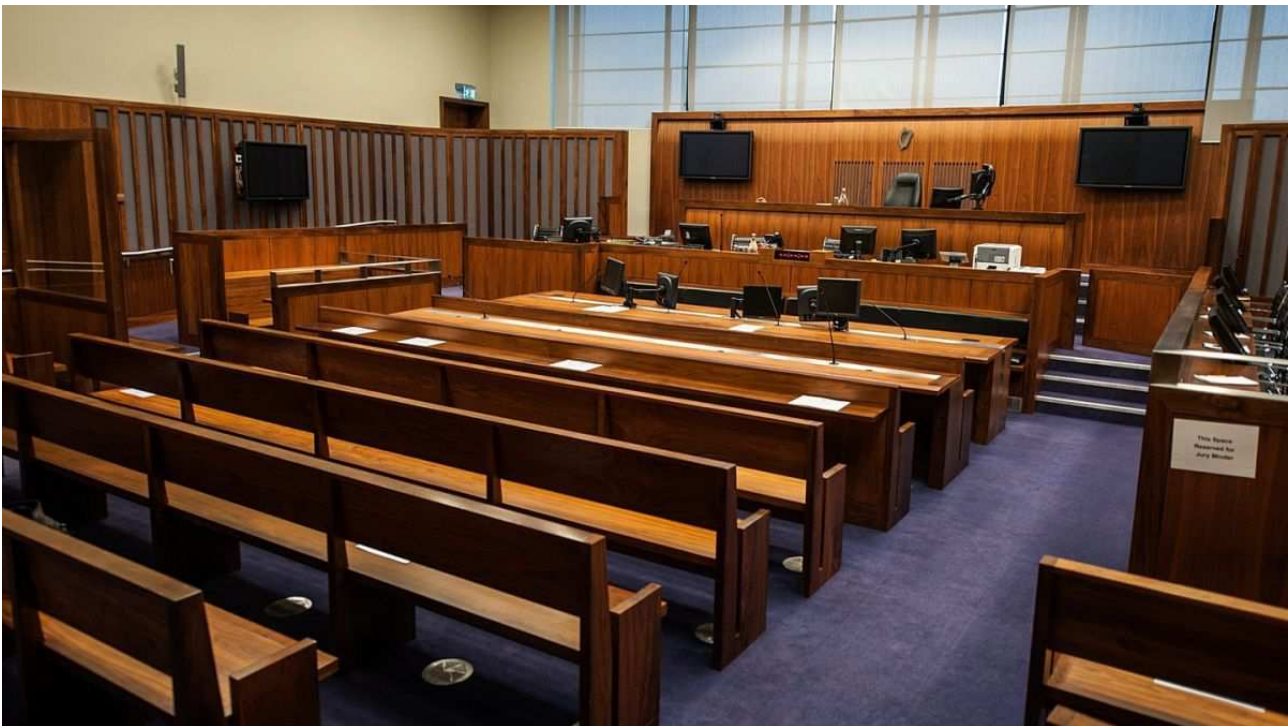
England and Wales). Experts who evaluated the experiment and those who served on the jury were very positive about the entire exercise. Some remarked that they could hear and see the various participants even better than in an ordinary trial. I can vouch for that, having watched it online. Everyone could be very clearly heard and, as someone who can be hard of hearing at times, I can assure you that this is not something that can always be said about Irish courts where microphones are usually available but, from what I can see (or not hear), they are seldom used. Supreme Court, in particular, please take note! In any event, a full account of the experiment can be found on the justice website which has a link to the trial. The experiment was developed in collaboration with a firm of solicitors and an audio visual solutions company (AVMI) to whose website you will be directed to view the trial which lasts almost four hours.

The trial in the JUSTICE experiment was by any standards a straightforward one. The charge was equivalent to assault causing harm under our law, the allegation being that the accused had committed an unprovoked attack on the complainant outside a pub. There were four witnesses (including the defendant) and there was nothing complicated about either the facts or the law. There was no CCTV footage to be shown, but photographs and documents could be displayed on the screen, alongside the trial proceedings, for the benefit of those in the public gallery. There was even a very short trial within a trial in the absence of the jury for a ruling on the admissibility of a particular piece of evidence. The trial could therefore be completed well within a day (though because of time constraints, it ended without the jury being able to agree on a verdict). A virtual trial might not, as the researchers concede, be suitable where, for example, one or more witnesses qualified for special measures as would sometimes be true of sexual offence trials. Still, there may be some trials that could be run in this way.

Secondly, this was a mock jury trial, though very carefully organised so that it resembled a real trial in every essential respect, apart from the virtual element. This can be a very valuable research strategy for investigating and evaluating a wide range of jury-related matters. Such experiments have recently been described by Professor Fiona Leverick as follows:

“Mock juror studies simulate the experience of sitting on a jury by asking participants to read, listen to or watch trial materials. The trial materials used are generally fictional and significantly abbreviated in comparison with a real criminal trial. Studies vary greatly in terms of the extent of their realism and this in turn affects generalisability – how far their

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findings are likely to apply to real juries, deliberating in actual criminal trials.”

(Leverick, “What do we know about rape myths and juror decision making?” (2020) *International Journal of Evidence & Proof* (forthcoming)).

In those jurisdictions, including Ireland, where the questioning of jurors about their deliberations is strictly prohibited, simulated jury research is often the only realistic means of investigating the impact that certain factors may have on jury decision-making. One example that comes to mind is the study conducted by Professor Sally Lloyd-Bostock, a leading scholar in this area, on the effect of informing jurors about a defendant’s previous convictions. See Lloyd-Bostock, “The effect on juries of hearing about the defendant’s previous criminal record: A simulation study” [2000] *Crim. L.R.* 734. Simulated jury trials can be expensive to run and require meticulous planning and implementation, but in the right hands they can yield valuable results.

A third general comment is that we must be careful to place the present pandemic and the measures it has necessitated in proper historical perspective. Radical permanent changes to well-established legal structures and practices would scarcely be wise in order to deal with what will hopefully be a fairly short-term problem. There is, to be sure, a school of thought among historians of infectious diseases and pandemics to the effect that, far from politics and law merely responding to such emergencies, many political policies have been shaped in far-reaching ways by the imperative of preventing contagion. See, for example, Peter Baldwin, *Contagion and the State in Europe, 1830-1930* (Cambridge University Press, 1999). Be that as it may, it is fair to predict that at least some of the measures we have had to adopt in response to the Covid-19 pandemic may endure, in one form or another, long after we have defeated the virus. Remote working is one such possibility. We must think carefully about which aspects, if any, of the

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legal system we would be willing to see permanently changed as a result of our experiences during the pandemic. Jury trial is scarcely one them, but that does not

preclude the possibility that this form of trial might be conducted in a somewhat different way while the pandemic lasts.

Finally, there is one further measure that might help to reduce the backlog of criminal trials, though it should be adopted only with great caution and circumspection, and that is to offer an enhanced sentence discount for a guilty plea with the assurance that this will be additional to any credit due for other mitigating factors. Plea incentives must always be treated with caution. After all, a guilty plea effectively amounts to an acceptance that the prosecution has proved the charge beyond a reasonable doubt and it is also, of course, a waiver of the defendant's constitutional right to trial in due course of law. Incentives to plead must always be surrounded by safeguards designed to ensure that defendants, especially vulnerable defendants, do not feel any pressure to plead to an offence of which they may not, in fact or in law, be guilty. A person convicted following a trial that was delayed for some appreciable length of time because of the Covid-19 restrictions may also be entitled to some reduction in sentence on that account, but that is a different matter.

Tom O'Malley is a law lecturer and barrister with expertise in criminal law, sentencing, criminal procedure and constitutional law. This article first appeared on his Sentencing, Crime and Justice blog.





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The O'Malley Clan Association aims to reach out to O'Malleys from all around the world and foster links between the O'Malleys around the globe and the clan at home here in Ireland.

The Clan Association formed in 1953 has been connecting O'Malleys around the world in The US and Canada, Britain, Australia, South Africa, New Zealand, South America, and anywhere else you can think of for over 60 years now.

We hope with our new website, and newsletter, that We can go from strength to strength in our aim to connect all the O'Malleys around the world.

The O'Malley Clan DNA Project on Family Tree DNA

The most common queries we get at The O'Malley Clan Association are queries in relation to helping to trace peoples ancestors in Ireland. As we all know, written records can only take us so far, (if you're lucky you'll get back to the early 1800's or late 1700's).

Many of the Irish Census Records and other historic documents were destroyed during the early part of the 20th century and as a result it can be very hard to trace ancestors back beyond the 19th century. Church records are a help, but can be patchy at times.

One way of narrowing down the search is through DNA testing. The O'Malley Clan Association is involved in a project with Family Tree DNA to test as many O'Malleys as possible to try and expand our knowledge of our roots as much as we possibly can.

There's a specific page for the project on the Family Tree DNA website:

<https://www.familytreedna.com/groups/omalley/about>

Check it out, there's lots of info there, and administrators also for any questions.

