O'Malley Orphans Caught in Religious Tug-of-War

By

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On the 20th of November 1858, the Court of Chancery in Dublin was densely crowded to hear the judgement of the Lord Chancellor in the much-discussed case of the O'Malley orphans. The eight unfortunate children, the eldest of whom was only ten years old, had lost their father and mother within fifteen months of each other and were now the subject of a religious tug-of-war between their Catholic uncle William O'Malley and Church of Ireland (Protestant) aunt Jane Robinson. Behind the protagonists, financial muscle and influence was provided by the Roman Catholic priest Fr John Coyne and the nuns of the Sisters of Mercy, Tuam, on the one hand and the Honourable Miss Plunkett, a connection of the Church of Ireland Bishop of Tuam, on the other. The case had been heard over several days earlier in the month and had been extensively reported in *The Freeman's Journal* and *The Nation*. Such was the public interest in the case that Mr O'Hagan QC had been wildly applauded on completion of his arguments for William a few days earlier.

This article is based on the news coverage in these two newspapers at the time.

John O'Malley, father of the children, was a constable in the Irish constabulary, stationed in Tuam. Born in 1812, he was thirteen years older than his wife, Ellen Jameson, daughter of Sergeant William Jameson, also of the Irish constabulary, most likely his superior officer. John was a Catholic, while William and his daughter were Protestants. They had eight children between 1845 and 1857, five boys and three girls. John had been stationed in a number of places over the period of his marriage, so the elder children attended various schools.

Ireland in the 1840s and '50s was beset by famine and poverty, so a job in the constabulary was a vital lifeline. Despite the gradual relaxation of the penal laws in the first half of the nineteenth century, there were still many disadvantages in being Catholic. John had become head constable in Tuam, at a time when promotions in the force might not have come to an overly zealous Catholic. The practice of his religion seems to have been limited to having his children baptised as Catholics, and on at least some occasions, they were brought to Protestant services and Sunday School by their mother.

In early 1857, while Ellen was about to give birth to their youngest child Samuel, John fell ill. He died aged 45 in March of that year, leaving Ellen with no means of support for her eight children. The court was told that the Inspector-General of Constabulary awarded her £60 as "compensation" following John's death, not an inconsiderable sum at the time. Nevertheless, early the following year (1858), she went to visit her sister Jane Robinson in Drumkerran, Co Louth to appeal for help. Jane was unable to provide any financial assistance and so Ellen was left with no other option than to enter the workhouse in Tuam, together with her eight children. Not long afterwards, she took ill herself and died in June, aged only 33.

Workhouses in 1850s Ireland were grim places, intended to be a last resort for the destitute. On entry, families were broken up; men, women, boys and girls were separately accommodated in dormitories and workrooms and forbidden all contact with each other. The food was poor, the conditions spartan and the work hard. Only the really desperate entered them.

After Ellen's death, there was no parent alive to determine the childrens' religion – Catholic or protestant. Other orphans at the time whose parents were of the same religion attracted little if any public attention and were lucky to find an orphanage willing to take them in. In this case, however, the opposing religious forces, backing up the Catholic uncle William and the Protestant aunt Jane, moved into action. It is clear from the newspaper accounts of the case that the primary concern of both sides was the religious upbringing of the children.

On the Protestant side, the Honourable Mary Plunkett proposed to provide the funds to bring the children up in the Protestant faith. She is referred to as "the Bishopess" in *The Nation's* editorial on the case, and seems to have been connected to the Bishop of Tuam at the time, Thomas Plunket, later the 2nd Baron Plunket. The Bishop is known to have evicted Catholic families who refused to send their children to Protestant schools, so it is likely that Mary's initiative would have met with his approval. The Church of Ireland rector of Tuam wrote to the Guardians of the workhouse asking them to hand the children over to Miss Plunkett who undertook to support and educate them as Protestants. She later retreated into the background, promising instead to provide the money for Jane Robinson, Ellen O'Malley's sister to assume responsibility for the children.

About the same time, William O'Malley, John's brother, supported by Fr Eugene Coyne, Catholic parish priest of Tuam, asked the Guardians to turn the children over to him, saying that the Sisters of Mercy in Tuam had promised to provide support for the upbringing and education of the children as Catholics.

A few months earlier, no-one could be found to lend a helping hand to keep an unfortunate widow and her eight children from the workhouse, but now there were two contenders proposing to support and educate the children, not just that, but ready to engage expensive lawyers in the Court of Chancery in pursuit of their claims.

The Guardians delayed the decision for a week and then decided to hand the children over to William. The two principal reasons for this decision seem to have been a) that they accepted that John had expressed a dying wish to have the children brought up as Catholics and b) that at that point Jane was not proposing to bring up the children herself but to hand them over to Miss Plunkett, who was no relation to them.

On the 23rd September, the matter first came before the Court of Chancery in Dublin. This move was a serious and expensive escalation, requiring a solicitor, junior counsel and two Queen's Counsel to present Jane Robinson's case to the Lord Chancellor. The case was heard *ex parte,* meaning that only Jane and her representatives were present. She maintained that the children had been brought up as Protestants with the agreement of their father, who was represented as not really committed to his own faith. Furthermore, she asserted that he had agreed prior to his death that his wife Ellen should continue to bring them up as she had always done and noted that when she entered the workhouse with her eight children, they were all registered as Protestants. The Lord Chancellor granted an *ex parte* order making the children wards of court and appointing Jane to be their guardian. The Master, Edward Litton, was tasked with reporting the ages of the children, how it was proposed by their guardian to educate them and with whom they should reside.

A full hearing followed on 13th November, to hear the petition of William O'Malley against the court order. William was represented by a similar legal team to Jane and the court heard evidence over two days. Jane's team reiterated their earlier arguments that the children had always been brought up as

Protestants, that John had been happy with this and that she was willing to make an investment (provided by Miss Plunket) that would provide an income to support and educate them. William's team countered that John's wishes were that the children should be brought up as Catholics, that William and the Sisters of Mercy would provide for them, that they had been living with William since the guardians had handed them over in August and that they were very happy in their current environment. Both teams provided witness statements and affidavits aimed at making their own case and undermining the arguments of the other.

In the course of the case, a sad picture emerged of John and Ellen's circumstances in their last days. They were so poor that Ellen, in her confinement before and after giving birth to their youngest child, Samuel, had to share the same bed as the mortally ill John. The Reverend Fowler, a Protestant clergyman, came to visit her and took the opportunity to read passages from scripture to John, later testifying that John's agreement with the spirit of these passages indicated Protestant views and cast doubts over whether he really was a Catholic. Later that day, John sent one of his police colleagues to summon Fr. Coyne, the parish priest of Tuam. Fr. Coyne, who admitted that he had never met John before, administered the last rites and brought up the issue of the children's religious education. According to Fr. Coyne, supported by four witnesses, John expressed the wish that his children be brought up as Catholics. The witnesses present at the time were two nuns and two (Catholic) policemen – there seems to have been quite a concern to get John's statement on the record. They also agreed that Jane then said: "I would wish to carry out your intention, but what means have you left for that?" Another witness, a friend of Ellen's, said that after the priest had left, John said that she should bring up the children as she always had. Further, Ellen wrote a letter to her sister Jane describing the scene, in which she said that "the priest and two of the nuns thought to come around me in the presence of my poor dying husband; but I baulked them completely."

So what was the truth of it? It seems clear that during his life, John did not observe his Catholic religious duties to any great degree and that he at least acquiesced in his children being instructed in the Protestant religion at school. Ellen's personal commitment to Protestantism seems clear, but we can only guess how seriously they differed over the children's religious education over the years of their marriage. On his deathbed, did John change his mind or did he just lack the energy to disagree with the priest and nuns? We shall never know for sure.

Various points of law and precedents from other cases were quoted by the respective legal teams, focusing on the father's wishes, the ability to support the children, the jurisdiction of the court and the degree to which their religious upbringing to date had left "impressions" on the children.

After a week's deliberation, on Saturday 20th November, the Lord Chancellor announced his verdict to a packed court. He went through the various arguments that he had heard at some length but eventually found that "in church, in the family, and at school, these children were, with the full consent of both their parents, carefully trained up as Protestant children." He took the view that to now change their religion could present "a great danger to their spiritual welfare and moral character". On that basis, he disallowed William O'Malley's petition and upheld his earlier order awarding guardianship of the children to Jane Robinson.

The nationalist press was outraged. *The Nation* announced that "in the sanctuary of justice, bigotry flung its sword into the scale and claimed a conqueror's ascendancy."

On the following Monday, Jane Robinson and her solicitor arrived at the convent schools of the Sisters of Mercy in Tuam. According to *The Nation*, "the children wept and screamed and called on the priest and good sisters to save them, but Mrs Robinson and her attendant attorney caught them up in their arms and hurried them away". The newspaper cited the case as "a warning to Catholics against the danger of mixed marriages."

This was the end of the affair as far as the public is concerned, but one wonders what happened to the children afterwards.

In the course of family tree research, quite a detailed story emerges. Of the eight O'Malley children, one died young, two have not been traced and the other five married and between them had twenty children. Robert emigrated to take up farming near Winnipeg in Manitoba, Canada. Three of his siblings, Jane, Catherine and John, emigrated to England and John subsequently moved with his family to join Robert in Manitoba. Samuel remained in Ireland, but three of his five children also emigrated to join their cousins in Manitoba. Further detail is given in the Appendix.

All subsequent records show the religion of the O'Malley orphans and their descendants as Church of Ireland, Church of England or Anglican. Miss Plunkett was the clear victor.

Appendix: Descendants of John and Ellen O'Malley

1. William O'Malley (1845 – 1865) died in Clifden aged only 20.

2. Jane Sarah O'Malley (1850 – 1883) married Robert Jameson (perhaps a cousin?) and was recorded in the 1881 census living with her husband and son Henry Alfred Jameson in Bethnal Green, London. She died in 1883 in Preston, Lancashire aged only 33.

3. Catherine Martha O'Malley (1850 – 1920) and her cousin Hannah Jameson (probably the "illegitimate" daughter of Ellen and Jane's brother, referred to in the course of the court case as living with Jane) emigrated to England where they were employed in the household of David Hampson in Manchester. Catherine went on to marry William Mee, described as a labourer in the census, and they had four children. She died of influenza in 1920, aged 70.

4. Eleanor Mary O'Malley (1851 - ?). No records found

5. Robert George O'Malley (1852 – 1938) emigrated to Canada in 1876, when he was 20. He took up farming in Lorne, Manitoba, near Winnipeg. He married Sarah Clouston and they had four children: Ellen Ethel born (1889 -), Robert George (1892 -), Irene May (1893 -) and Lillian Grace (1895 -). The 1921 census records Robert as widowed and living at 352 Home St in Winnipeg with his three daughters. He died in Winnipeg on 9 Oct 1938. Robert Jr married Stella Helena Shaver and had a daughter Phyllis. A second marriage was to Marie Nazalia Tremblay with whom he had two daughters, Margaret and Norma. His three sisters appear not to have married.

6. Creighton O'Malley (1853 - ?) No records found

7. John Henry O'Malley (1855 – 1940) moved to England where he married Jane Cowburn in 1884. In the 1891 census, they were living in East Hanningfield, Essex where he was employed as a farm manager. Their six children were James Cowburn O'Malley (1885 -1954), George Blackledge (1887 -1982), Creighton Jameson (1888 – 1985), Robert Kenyon, (1890 – 1977), Annie Jane (1891 – 1942) and Eleanor Martha. They all emigrated to Canada in 1914 and settled on farmland in Selkirk, near Winnipeg, Manitoba, close to John Henry's brother Robert. In the 1921 census, three of the 4 boys (George, Creighton and Robert) are shown on separate farms near their parents. His eldest son James married Rachel Aldridge and had three children, James Aldridge (1929 -1970), Elizabeth Jane (1931 – 2018) and Etty May (1933 – 1999). He died in Saskatchewan. George appears not have married. Creighton married Mary Ellen Lambert and they had four children: John Henry (Jack) (1909 – 1971), Edith Mary (1916 – 2019), Irene Isobel (1918 – 2001) and Creighton Robert (1921 – 1988). Robert K married Maggie Ross and they had 2 children. Annie Jane married Albert Clarkson and Eleanor married Frederick Broadfoot.

8. Samuel Robinson O'Malley (1857 – 1919) became a schoolteacher in Dublin and married Marianne Rogers from Inverin, Co Galway, also a teacher and daughter of a teacher. They were married in the Church of Ireland parish church in Spiddal, Co Galway and went on to have five children: Eleanor (Nellie) (1887 - ?), Creighton Robert (1889 – ?), William Albert (1894 – 1997), Cecil Arthur (1894 – 1972) and Kathleen Amy (1896 - ?). The 1901 and 1911 census records both show the family living at an address in Lurgan St., Dublin, near the King's Inns. Samuel died in Dublin at the age of 63 of bronchial pneumonia. Creighton emigrated to Canada in 1910, initially to Toronto, but later went on to Winnipeg where his cousins lived. He married Annie Smith and had 4 children,

Annie May (1918 -), Jack (1919 -), Johann and Maureen. Cecil also moved to Canada and died in Vancouver in 1972. There are no records of a marriage or children. William also emigrated to Canada, where he married Florence Holmes and had eight children: Katherine (1954 -), Creighton, Doreen, Mabel, Florence (1918 – 2001), Samuel (1919 – 2014), Cecil (1922 – 1985) and Joyce (1933 – 2008). There appears to no further information on Kathleen.