

## SOME LONDON COURTS

The Courts I have chosen are those where I appeared over many years and whose names alone remain to recall their place in London's legal history.

It is now almost 60 years since I first entered the Old Bailey, probably the most famous court in the world. It stands on the site of the notorious Newgate Prison where prisoners had been incarcerated for more than 700 years. London was a walled City and soldiers were kept at the City Gates; so it came about that the more dangerous persons were held there until trial for the gravest charges. As long ago as 1200, the King's Judges came to "deliver" the Gaol, that is, try those awaiting at Newgate and this has gone on until our own day.

There was no Court House, and trials were held in the Gaol or in a neighbouring house hired specially. It was not until 1539 that the City built the first Court House — "Justice Hall" as it was called — in the Old Bailey. The cost was about £6,000 and the careful City Officers sought to recoup the expense by hiring the House out for private purposes between Sessions. One can hardly picture domestic happiness or festivities in the place where men's doom was usually pronounced. Another odd feature of that first court was that there was originally no roof provided except near the Bench: the discomfiture of jurors and prisoners can be easily appreciated.

The Old Bailey that I knew in 1927 had been opened by King Edward VII in 1907. It was the Central Criminal Court as created by the Act of that name in 1834. The new Court had cost £350,000. In status, it was in effect part of the High Court of Justice. It was the Assize Court for Greater London and parts of the Home Counties. The 1834 Act of Parliament included as the Judges, High Officers of State, including the Archbishop of Canterbury and President of the Board of Trade, the Lord Mayor and Aldermen, the Recorder and Common Serjeant, the Additional Judge of the Mayor's Court and such others as specially named by the Crown. The Lord Mayor as senior alone occupied the centre chair in Court One.

The Sheriffs had important duties. Historically, it was their duty to escort the Judges when they came into their City or County. I well remember before the War seeing a City carriage with a Sheriff and the Under Sheriff in attendance driving up to the Law Courts in the Strand to bring the "Red Judge", already robed in red worn at criminal trials, to take his place at the opening of the Old Bailey Session; and there the Aldermen with the Lord Mayor awaited him. In fulfillment of this ancient duty, the Judges are daily conducted to their Courts by an Alderman or Sheriff with the Under Sheriff in attendance.

In further discharge of their traditional duties, the Judges are entertained daily

at lunch by the Lord Mayor and Sheriffs. The Lord Mayor only attends if Royalty or very distinguished guests are present. In Victorian days when the Court sat from 9 a.m. until 9 p.m. there were two dinners, one at 2 p.m. when the High Court Judge presided, the Recorder presiding at 5 p.m. It is recorded that only the Chaplain (Ordinary) attended both meals, presumably to pronounce the Grace. The Judges sat 2 or 3 together, thus enabling each in turn to dine and the Court to continue. At the end of each lunch a man soberly dressed in black entered the Dining Room at a signal from the butler who handed him a glass of port. This he raised to the Sheriff, then drank it, bowed and departed, not a word being uttered. He was the Hangman.

Quill pens were still provided, herbs were still strewn and posies carried from May to September, a custom which began when outbreaks of gaol fever had attacked the Lord Mayor and Judges.

There were 12 Sessions a year. The Red Judge tried the murders, the Recorder, Common Serjeant and the Commissioner, as the other Judge was called, dealt with the remaining list. After the second week, only two courts were required as there was usually a gap of one week between the Sessions.

The Bar was not forgotten by the Sheriffs. During the morning, their butler would look into court to see who were appearing: if fortunate a printed invitation from the Sheriffs would be delivered by a liveried footman to lunch: this was in the beautifully panelled Dining Room with paintings of bygone Judges on the walls, but the room was lost in the building of the new Courts. Here, as guests, came day by day leading personalities in all walks of English life. It was a great privilege to be asked. I still have the first invitation I received — it is dated 14th February 1935.

There was no Legal Aid as we know it today. A poor prisoner if he had £1.6.0., being one guinea to the barrister and 5 shillings for his clerk, could ask the Judge for a 'Dock Brief'. He could then pick any barrister in court. The chosen man would go down to the cells with papers often lent to him by Prosecuting Counsel to interview his client; and, in due course, the case would be heard, usually a plea of guilty but for that nominal fee the barrister would appear and conduct the case as long as necessary. It was a tradition of the Bar to provide this service for the poor prisoners. There still came regularly in those days to the Bailey a number of barristers, some elderly, who really had no practice except an occasional prosecution for the Police in a simple case or a Dock Brief. I can still see some of them sitting anxiously in the Courts when Dock Briefs were being asked for: some of the faces would have fitted well into Dickens' pictures or Hogarthian cartoons: they were the briefless barristers novelists wrote about.

Sir Henry Dickens, surviving son of Charles Dickens, was the most respected and loved Judge when I first went to the Bailey. He had been appointed in

1917 and retired in 1932. He was gentle but firm when required, and very patient with young barristers. He wrote with a quill pen to the end. Once, a prisoner said he was a great admirer of his father's books and the Common Serjeant replied he could read some in the next few months.

Legal Aid on modern scales not being available, it often happened that a young barrister, briefed at a modest fee or even undertaking a defence without fee for a poor man being helped by his friends or a charity, would find himself opposed by Senior Treasury Counsel for the Prosecution. This befell me in my first murder case within less than two years at the Bar. It ended well with a merciful verdict and sentence for manslaughter.

It must have been the first time I had walked in the Great Hall at the Bailey when I read of William Penn, a devout Quaker. The jury refused to convict him of sedition despite the scandalous conduct of his trial for preaching illegally. Their courage established the right of a jury to return a verdict as they thought just, the foundation stone of our liberties. No one should enter the Old Bailey without acknowledging the steadfastness of that jury in the 17th century. William Penn, freed, went on to found Pennsylvania.

With the rise in population and the increase in crime, new courts were needed in the post-war years. In 1964, the City had promoted its own Act of Parliament enabling the appointment of six Additional Judges. I had the honour to be the first Additional Judge to sit. In 1959, my name had been added to the Commission and I had sat as a Commissioner from time to time. When I first went to the Bailey, there were 4 courts. When I left in 1980 the courts were sitting daily up to 23 in number, including the temporary courts on the west side of the Old Bailey, and elsewhere. Now the daily sittings occupy 19 courts added to if need be elsewhere.

The Central Criminal Court exists now in name only. When the Crown Court in 1972 replaced the centuries old Assizes and Quarter Sessions, the Central Criminal Court as created by the Act of 1834 came to an end. However, the Crown Court that sits in the Bailey was permitted to preserve that famous name, a gesture at least to its history.

Much has changed in my time, more Courts than ever imagined, a vast increase in the number and complexity of trials and a larger Bar employed all the time. Much, too, has survived. The Lord Mayor alone occupies the centre seat in the First Court. The Sheriffs and Under Sheriff remain, together with the traditional City hospitality: but, perhaps above all, the fame of the Court in the Old Bailey — whatever its status — goes on unbroken.

Close by Guildhall Yard on the Court adjoining the Hall of the Irish Society is the name plate of "The Mayor's and City of London Court". Neither of these Courts now exists as the Court in that building is the County Court for the

City of London. Again the names of ancient courts were retained and so their memory is not lost.

I remember the Mayor's Court. I appeared there on a number of occasions before the War. There were two courts at the west end of Guildhall, alas, destroyed by enemy bombs. Beneath where we now sit was the Guildhall Justice Room forming the west side of Guildhall Yard. Behind the Justice Room was the Clerk's Room and this could lead into the South Court — not used in my day — and across Guildhall to the North Court. The usual entrance to these two Courts was at the south and west corners of the west end of Guildhall. The Mayor's Court sat in the North Court. There was a row for Barristers, another was marked "Attorneys". Here only civil cases were heard: I remember Recorder Holman Gregory, Common Serjeant Dickens, and Judge Whiteley in this Court.

"The Court of our Lord the King Holden before the Mayor and Aldermen in the City of London" — to give it its ancient title — existed before the Courts were established in Westminster Hall. It had an original jurisdiction at Common Law and in Equity without limit on all matters arising in the City. The Recorder was the sole judge at first, juries sat as required. It held 8 sittings a year, was open to all, freemen or not. It attracted a large volume of business and important commercial matters were decided by it. Merchants, including foreign traders, relied on it to recognise accepted commercial practice and custom. Cases came on there without delay. Out of the Equity side, it developed a Court of Orphans to take care of the orphans and widows and to protect them in their property. They saw to it that none were left unprovided for. Counsel used the crypt as a robing room, and, in my day, one could still read the names of well known Victorian Queen's Counsel under the pegs where wigs and robes were hung. With the modern changes in the High Court, the Mayor's Court ended in 1972 save in name. It had served the City well for centuries and by exercising a criminal jurisdiction enforced its Byelaws and Customs.

The City of London Court was created in 1867. It replaced the two Sheriffs' Courts which had been amalgamated in 1824. Each Sheriff had a Court: the Senior Sheriff's Court for the Poultry Compter or Prison sat on Thursdays and Saturdays. The Junior Sheriff, who had his prison in Giltspur Street, sat on Wednesday and Friday. The Judges, elected in Common Council, were called Deputy Judges or Under Sheriffs. At one time, these Courts had the same jurisdiction as the Mayor's Court, but any matter could be referred to or reheard by the Mayor's Court: so, in effect, only straightforward claims for debt or personal actions were tried in the Sheriffs' Courts. Business declined and in 1920 the Mayor's Court and City of London Courts were joined, each keeping its own jurisdiction. The Sheriffs' Courts with their weekly sittings had become very useful Small Debts Courts, providing quick relief.

In the Mayor's and City of London Court we addressed the Judge as 'My Lord' recognising in him the Lord Mayor. Whilst its work was that of a County Court, the past was not forgotten and if Counsel addressed the Judge as 'My Honour' a Court official who seemed to have no other duty at once rose and put before him a card bearing the words "My Lord here, please". All now gone into history.

I often appeared at the Justice Room in the Mansion House and at the Guildhall. With the court attendants wearing the City Livery, there was no atmosphere of a Police Court. The Aldermen were the Magistrates by virtue of City Charters and one Alderman had the powers of two Justices of the Peace as a Court of Summary Jurisdiction. At one time, a Court Room or Justice Room could be found in many houses where a magistrate lived. I think, now, the Mansion House is the only residence where the Magistrate has a Justice Room in his own house.

At the Justice Room, the Alderman would be announced by the Beadle of his Ward in historic garb as The Worshipful . . . Alderman and Fishmonger or Gardener as his Company indicated. At the Mansion House, "The Right Honourable the Lord Mayor" would be announced. In recent years, changes have brought Justices of the Peace to these places: so as to be robed as Aldermen were, these City Justices all now wear black gowns when sitting. I know of no other Justices robed in this way.

In those Justice Rooms, Mayors and Aldermen have served the City trying trivial matters or grave matters. None, perhaps, more historic than the judgment of the Lord Mayor in 1767 at the Mansion House when freeing a runaway slave. This was 5 years before Chief Justice Mansfield in 1772 first declared that as soon as any slave set foot on English soil, he came free. In more palatial surroundings at Guildhall and at the Mansion House these ancient Justice Rooms maintain the great traditions they have inherited, built up over more than 8 centuries.