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Courts: Contrasting the exterior features of the English and American courts

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the state or conceals himself within the state with intent to defraud his creditors.[9]

In case of nonresidents, a judgment obtained in an action *in personam* where there has only been substituted or constructive service provided by statute upon the defendant, has never been held valid in other jurisdictions, other than that in which it was rendered although held to be valid there.[10] And the case of *Pennoyer v. Neff* (1877) 95 U.S. 714, 24L. ed. 565, has been uniformly regarded as placing beyond question the doctrine that a personal judgment against a nonresident who was not served within the state, and who did not appear or assent, expressly or impliedly, to the mode of constructive or substituted service adopted, is invalid, even in the state where rendered.[11]

In the face of the authorities and the doctrine of *stare decisis* it is very improbable that this chapter 94 of the session laws of 1925 will be upheld as constitutional. This is most regrettable, for there is no doubt the result sought to be accomplished by this statute is highly desirable.

EVERETT P. DOYLE

Courts: Contrasting the exterior features of the English and American courts.—One often hears, from interested American lawyers, questions regarding the external forms surrounding the administration of British justice. It is a subject which intrigues the average attorney, partly because of our heritage of the English common law, and partly because of lack of cultural, educational, and social understanding between the two countries.

The differences between the administration of justice in the British Empire and this country may be said to consist chiefly of ceremony, dignity, and atmosphere. British courts have about them an elusive aroma of medievalism, archaic, yet pleasing, which would be almost theatrical were it not for the background of centuries which support it. American courts, less formal, contrive to combine dignity with the urgent dispatch of business.

The English court room is, on the average, smaller and less ostentatious than the American. The decoration usually follows the squat lines of Anglo-Saxon Gothic, rather than the classic purity of most American public buildings. The judges' throne, a most imposing piece of furniture, is always placed at that end of the room which faces the formal entrance. It is occasionally surmounted by a canopy. Either the throne or canopy invariably supports the royal coat of arms, symbol of authority, approximated in this country by the American flag.

In the space or "well" in front of the judicial dais are the barrister benches, and one is struck by the absence of tables. The jury box to

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[9] Secs. 2636 (4), 2639 (2), Wis. Stats.

[10] *Galpin v. Page,* 18 Wall. 350, 21 L. ed. 959; *Thompson v. Emmett,* 4 McLean, 96 Fed. Cos No. 12, 953.

[11] *Lutz v. Kelly,* 47 Iowa 307; *Eliot v. McCormick,* 144 Mass. 10, 10 N.E. 705; *McKinney v. Collins,* 88 N. Y. 217.

the right of the judge, is a box in every sense of the word, being enclosed on all sides, the only mode of ingress being through a little gate. To the left of the judge are tables and benches for the court officials, the whole being surrounded by a polished brass rail or bar, hence the expression "called to the bar."

The prisoner's dock is placed directly opposite the judicial dais but outside the bar. It is a high box, capped by a railing lined with upstanding spikes, and, when occupied, one can see only the head and shoulders of the accused. He is placed higher than the judge or any of the spectators and, during a trial, is the cynosure of all eyes. This dock is not removable and, while civil cases are being tried, stands there as a sinister reminder to the criminally inclined.

No one, not even a barrister, is permitted to pass inside the bar. For a layman to do so would cause an unparallelled sensation. Barristers before entering must be properly wigged and robed, a process undergone in the barristers' robing room before entering the court room. They wear robes of black "stuff," pleated and tucked, a small two-pointed cravat of starched white linen, and a periwig of white curled horsehair. A King's Counsel (an honorary degree for eminent lawyers) is permitted to wear a gown of black silk.

When the judge enters, there is no outcry from the sheriff or bailiff, as in this country. The spectators do not rise. The judge is preceded by an official who scatters flower petals before him, a custom dating from antiquity, when the odor of the spectators was offensive to the judicial nostrils. While on the bench he also has, on the desk before him, a small bouquet of flowers and a box of myrrh, presumably for the same reason.

The judge himself is a resplendent figure, garbed in a flowing robe of scarlet velvet trimmed with ermine which is gathered in at the waist by a girdle. He also wears about his neck a rich gold chain of his office. The sleeves of his gown are voluminous, and, in the higher degrees of the judiciary, trimmed with heavy gold braid. Upon his head is a tremendous wig, which falls down over his shoulders and is reminiscent of the wigs worn by the dandies at the court of Charles II. When on the bench the rubescent hue of his habiliments presents a striking spot of color, set against the dark Gothic paneling of the court room and the somber vestments of the barristers.

The judge, who is styled as "His Lordship, Mr. Justice," is addressed as "Your Lordship!" or "My Lord!" and counsel always refer to each other as "My very learned friend." The court takes, what to American eyes must seem, an unduly active part in the proceedings, questioning the witnesses, and often admonishing the barristers, particularly if the latter are not outstanding veterans in the law. Sharp exchanges take place between the court and the lawyers. Some judges relish this sport keenly, and, as a result, the proceedings often become highly acrimonious. Lord Darling is an outstanding example of a jurist of this type. His wit is keen and biting.

Barristers do not engage in flights of oratory to the jury as in this country. They simply rise in their places and address the jurors in a calm and dignified manner. After they have finished their arguments, the judge sums up the evidence, usually digressing to point out that

defendant's witnesses are unworthy of credence, and giving the defendant himself a very black character. However, the jurors are quite independent and pay no attention to these admonitions of the court.

Perhaps the greatest difference between the British and American systems, however, has to do with the lawyers themselves. In England, barristers do nothing but appear before the courts. They are all trial men, and the more adept they become at trial work, the greater their reputation. The second division, or solicitors, bring the work to them. Barristers have been known to make as much as $5,000,000 in a lifetime of pleading cases. In this country the opposite condition exists. A trial lawyer is generally looked upon with less favor and, in the profession, the high honors and emoluments are reserved for him whose practice is largely advisory.

In the last analysis any comparison of the two systems is bound to be invidious. Our courts have their own peculiar system, reflecting the democratic spirit of our republican institutions, and while they may be lacking in color and atmosphere, they make it up in a sort of Spartan dignity and simplicity. It seems to this writer that the English system, colorful and awe compelling as it is, reflects too much the panoply of a dead age when individuality and initiative were suppressed by the iron-bound conventions of class consciousness.

JAMES MAXWELL MURPHY

Landlord and Tenant: Lessee entitled to quit, where lease of premises, including lessor's homestead, was not signed by wife.—The Wisconsin case of *Hovie v. Pleshek,* 203 N. W. 910, was an action brought upon a written lease, in the execution of which the wife did not join with the husband. The defendants demurred to the complaint, contending that the lease was void because a portion of the premises demised constituted the homestead of the plaintiff. The defendants placed reliance on the following statute: "No mortgage or other alienation by a married man of his homestead, exempt by law from execution, or any interest therein, legal or equitable, present or future, by deed or otherwise, without his wife's consent, evidenced by her act of joining in the deed, mortgage, or other conveyance, shall be valid or to any effect whatever, except a conveyance from husband to wife."[1]

The court reaffirmed its decision in prior cases by ruling that this statutory condemnation reached every feature of the contract, wherein the homestead was involved, and that there could be no valid obligation for its alienation, interest therein, or the incurring of any liability thereunder without the wife's consent.[2]

Prior to 1905, there was a statutory provision which stated that: "No mortgage or other alienation by a married man of his homestead, exempt by law from execution, shall be valid or of any effect as to such homestead without the signature of his wife to the same."[3] In passing

[1] Sec. 2203, Wis. Stats.

[2] *Rosenthal v. Park,* 166 Wis. 598, 166 N.W. 445, *Helander v. Wegensen,* 179 Wis. 520, 191 N. W. 964.

[3] Sec. 2203, Wis. Stats. (1905).