British Court System Thri

By James Bassett

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LONDON—Sir Peter Rawlinson, Her Majesty's attorney general and principal law officer for the crown in England and Wales, leaned back in his chair in his commodious office in the Royal Courts of Justice. and observed:

"There could never be any Perry Masons in Britain."

Nor, one might add after surveying justice, British style, could there be any such deliberate legal obstructions as characterized the Tate-LaBianca, Chicago Seven, and a dozen or so other recent U.S. trials.

The longest murder trial in Britain's history lasted less than four weeks. And an English judge remarked, after studying firsthand the Manson "family's" 10-month, $1 million legalistic circus :"We'd have disposed of this matter in 10 days at the most."

The answer to why British judicial system outspeeds the American lies in two words: absolute discipline.

Trial judges rule their domains with velvet-gloved iron hands. Errant attorneys suffer swift and terrible consequences to their professional careers.

Only barristers, rigidly trained for courtroom appearances and bound by custom to behave with exquisite decorum, actually try cases. The preliminary work is handled by solicitors and their clerks.

Depending on their viewpoint, Americans would be entranced or appalled by the relatively small numbers of judges and practicing lawyers in Britain. California, with less than half the population of England and Wales (which together have about 45 million inhabitants), boasts 33,000 lawyers—all entitled to handle cases in court. England-Wales have 22,600, of whom only 2,600 are courtroom barristers.

As for the bench, California has approximately 450 superior court judges who try major cases. England and Wales get along with 70 high court justices, with jurisdiction over any civil case involving more than $1,800, admiralty and criminal matters. All are appointed directly by the lord chancellor.

Part of the efficiency of the British judicial process depends on its physical make-up. Take, for example, that most famous and dreaded court of the land: Old Bailey. Although its trial rooms are the largest in the six-acre London complex where the royal courts are clustered, they are modest by some U.S. standards. Court No. 1 can hold about 200 persons within its stained oak walls.

Above them looms the high court justice in his ermine-trimmed red robe, visible but not necessarily audible to all those in the chamber. The canopied witness box is closest to him. In the center of the room stands the prisoner's dock, obscuring everyone's vision, with its tiny elevator to fetch the accused from his detention area below.

Neither prosecution nor defense counsel can approach the jury, the witnesses or the accused. From their pit, which contains the "advocates' benches," they must address their questions across a fairly wide expanse. There is no finger-shaking under a witness' nose, no hypnotic eyeball-to-eyeball confrontation with a jury.

One day a barrister may be defending a case, the next prosecuting. The attorney general himself occasionally takes on a really big trial particularly when an issue of paramount concern, such as national security, is at stake.

Unlike the panel it took weeks to select in the Manson case, British jurors are seated almost immediately. All that the defense or prosecution know about them are their names and occupations. Questioning of jurors is taboo under the 800-year-old system.

The defense may reject up to seven jurors without stating reasons. Both sides can claim "lack of impartiality" —i.e., too many men, or women, or too many of any given occupation among the original 12 — and the judge will then use his discretion on whether to retain them or not. But this is rare.

More than 40 years ago, grand juries were eliminated. Lower-ranking magistrates, under a system not unlike mun-

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icipal court arraignments in the United States, decide whether the evidence merits a high court criminal trial.

Persons charged with murder must come to trial within 60 days. But lesser cases may have to wait six to nine months between committal and hearing.

Legal aid for the poor has been a way of judicial life here since 1949. Defendants are guaranteed counsel who are picked from a list of available barristers.

Outside the courtroom, criminal affairs are chiefly the responsibility of the Home Office, including maintenance of law and order, efficiency of police and fire services, public safety and civil defense.

Mark Carlisle, a barrister, Member of Parliament. And an ascendant star in the Conservative government at 42, is the parliamentary undersecretary of state for that office. His main forte is penal reform and social welfare policy.

Asked about recidivism, Carlisle replied: "It's fairly high among those who have finished their terms—the hard-liners. But we have been fortunate with our parolees. Since 1968, only 303 of 6,000-plus of them have been 'recalled' to prison."

Lifers, when paroled, may be called back at any time for any reason, by the Home Secretary.

Once a convict has served his time, Carlisle said, all his civil rights, including voting and office-holding, are restored. The sole exception is the lifetermer.

Admissibility of evidence and search-and-seizure guidlines are considerably more relaxed here than in the United States.

Concerning confessions: When a suspect is questioned, he need make no statement. Once he has been charged with an offense, "judges' rules" (which carry vast authority although without the force of law) prohibit the police from quizzing him further, except under extreme circumstances involving public safety. Should a suspect claim during his trial that a confession was forced out of him, the judge may "try" this allegation virtually as a separate case, with the jury absent.

British judges also have wide latitude during an appeal to decide whether a relatively minor error in procedure or evidence actually affected the ultimate verdict. If it hasn't, the case is upheld, rather than returned to the court of origin for retrial on what they would regard as a technicality.

Overall, one of the most striking differences between justice, U.S. and British style, is the growing lack of public confidence in the former, and the built-in public faith in the latter. As the American Bar Association and sundry judicial bodies go about the difficult business of trying to improve the administration of justice in the United States, they could do worse than study the English system.