

**THE MAYOR'S COURT OF
LONDON PROCEDURE ACT, 1857,
WITH NOTES; AND AN OUTLINE
OF THE PRACTICE THEREOF**

Published @ 2017 Trieste Publishing Pty Ltd

ISBN 9780649644971

The Mayor's Court of London Procedure Act, 1857, with Notes; And an Outline of the Practice Thereof by Pym Yeatman

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LONDON:

S. AND J. BRAWN, STEAM PRINTERS,
13, GATE STREET, LINCOLN'S INN.

Recd. May, 15, 1899.

PREFACE TO FIRST EDITION.

THE object of this little work is twofold—to supply a want in the profession of a guide to this important court, and to endeavour, if possible, to draw attention to the ancient rights and privileges of the city, that the silent encroachments of time and envy may be swept away, and the court restored to its former state of usefulness.

After centuries of attempting complete centralization, even in the face of the increased facilities afforded by railway communication, the country is finding out the greater virtues of localization, so well understood by our ancestors; and the object of modern legislation would seem to be to give speedy and cheap relief to suitors in the very presence of their neighbours, so that the administration of such relief may have a valuable effect upon those who might otherwise venture to do wrong unto others.

There is a talk, and it will probably be a long one, of establishing throughout the country “Courts of First Instance.” This court, if not fettered by encroachments, has the full powers of such a court, with the greater recommendation of being no innovation, but of an age superior to that of any court in the

kingdom. It is to be hoped that modern law-reformers will let it alone.

It is a very remarkable circumstance that although the legislature had expressly authorised the application of the common law rules to this court, as well as the sections of various Acts of Parliament; no such application has been made to render those sections capable of being applicable for the working of the process of the court, thus leaving to the learned Recorder the task of "making bricks without straw;" the necessary result is that a great number of the orders made by the Court and Registrar are illegal and without warrant.

The author, in supplying an outline of the practice of the court, has borrowed very largely from the able treatise of Mr. Woodthorpe Brandon; for the observations upon the judgment of the House of Lords in Cox's case the author is alone responsible.

3, Pump Court, Temple, E.C.

October, 1870.

PREFACE TO THE SECOND EDITION.

THE Common Law of England is not to be traced to any Saxon origin, but is mainly British, tempered by Roman Institutions; by British is meant Gaellic, the title of which is preserved in that of the eldest son of the King of England, who is still the Prince of Wales, or of the Gauls, as the French designate him; and again in the name of England itself—the land of the Angles—or to translate the word literally—of the Gauls—Angle being the equivalent of An Gael—the Gaul.

In the customs of the city of London, and in its municipal government is to be found a greater admixture of Roman law than perhaps is to be found in any other part of the kingdom. London, as recent discoveries have confirmed us, was more than any other English city, Roman, and remained so during the troublous times which elapsed from the departure of the Roman Legions to the period when the firm hand of Canute grasped the reins of the disjointed kingdoms and wielded the mass into one great Norman kingdom.

London during this period retained her own government and her own laws, despite the marauding Saxon or the ravening Dane, and hence to this day she boasts of Roman Institutions and Roman Courts, and as the Mayor, like the old Mayors of Paris, is her chief magistrate, so his court is the *caput regni et legum*, the chief court of the empire, and so three centuries ago it was regarded by the great Lord Coke himself.

Whilst almost every Court in the kingdom has changed, not in forms, but in substance, London still

retains in her civic customs the purest forms of ancient Celtic laws, though reformed upon a Roman model, and now, unhappily, it has the only court governed by the practice of the old common law: London has witnessed the birth of the courts at Westminster with their ever increasing powers without jealousy. Those courts compared with her own antiquity are but of yesterday, and she has but recently witnessed their decease, or rather transformation into uncertainty, each event having but little interest for her since her own rights have been by successive monarchs secured to her by the most solemn charters, the chief enactment of which was ever the same, that none but a judge of their own choosing should judge the same men of London.

Modern encroachments, as well perhaps as ignorance, have tended to break down the barriers and to incorporate the civic courts as a portion of those at Westminster, but as it was clearly laid down by the Master of the Rolls in the case of *Jacobs v. Brett*, 20 L.R., Eq. 1, rights of so sacred a nature cannot be taken away without express enactment, and the only enactment on the subject, if fairly construed, would tend rather to increase than diminish the ancient privileges of the city; these enactments are embodied in the Act of the 20th and 21st Vic., c. clvii, entitled the Mayor's Court of London Procedure Act, 1857, the subject of these pages.

The author wishes to acknowledge the practical help given to him by Mr. C. R. Y. Macdonald, Student of the Middle Temple, in passing these pages through the press

6, Kings Bench Walk, Temple, E.C.

January 31, 1878.

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