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James Oldham. *English Common Law in the Age of Mansfield*. Chapel Hill: University of North Carolina Press, 2004. xviii + 426 pp. ISBN 978-0-8078-5532-4; ISBN 978-0-8078-2869-4.

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Mansfield's Part

Here is a book that all students of Hanoverian English culture and society will want to have on their shelves. In 1992 James Oldham produced a two-volume edition of key passages from the fifty-five surviving notebooks kept by William Murray, First Earl of Mansfield (1705-1793) who, as Lord Chief Justice of the Court of King's Bench from 1756 to 1786, was perhaps the most famous and influential English judge of his age—perhaps in all English history. Oldham's marvelous compilation—filled out by exhaustive work amongst the printed and manuscript reports of the courts, newspapers and periodicals of the era, and the private manuscript collections of contemporaries—is a must-have for all serious historians of English jurisprudence, despite its considerable expense.[1] But its readership always had far wider potential, for in producing introductions to each substantive issue dealt with in the notebooks, Oldham also performed the titanic intellectual task of situating Mansfield's rulings in their larger jurisprudential and social contexts, carefully elucidating the extent to which Mansfield transformed legal thinking in almost all areas of English law.

A dozen years later, and with a considerable body of additional secondary literature produced in the field of English law, Oldham has comprehensively revisited these introductory passages and issued them as a separate volume, complete and coherent in itself. The result is not only the most carefully nuanced portrait of a legendary figure of English jurisprudence, but even more important and useful, an affordable guide to virtually every aspect of eighteenth-century criminal law. No brief

review can do justice to the breadth and depth of this work, one in which not a single word is wasted and which consequently defies easy summation. Its readers will find themselves concisely enlightened as to the substance of prevailing legal thought concerning the full range of issues that came before the courts of Hanoverian England. The highlights for the non-specialist in law are equally wide-ranging.

Regrettably (from the perspective of the present reviewer), Mansfield's criminal trial work is amongst the least well-represented material in his surviving notebooks, though Oldham has discovered and deployed enough peripheral materials to demonstrate Mansfield's conscientiousness there as in all other facets of his judicial business. There is also a great deal of material touching on the extent of powers of arrest and imprisonment accorded to various law officers, and Mansfield made a significant ruling on the question of whether the Lord Mayor of London himself ought to be held negligent for his failure to check the Gordon Rioters in June 1780—whose activities had included the destruction of Mansfield's own house in Bloomsbury Square!

Much of the first half of this book deals with the various dimensions of property law—contract, bankruptcy, insurance, negotiable instruments, usury, trade and prize law, and intellectual copyright—all of which will be useful for those seeking to learn more about these complex yet common elements of Georgian English law. Other issues will be of greater interest to the non-specialist reader.

The chapter on libel reminds us of Mansfield's central role in the government's efforts to prosecute John Wilkes for seditious libel over issue Number 45 of the *North Briton*, as well as the subsequent publications of "Junius," in all of which cases Mansfield vigorously held to the principle that juries were only empowered to decide the fact of a libel's having taken place and not consider any question of intent—despite, Oldham carefully emphasizes, the availability of an alternative precedent in the Seven Bishops' Case (1688). Mansfield also upheld the legal restrictions on freedom of religious observance that remained a central pillar of the Georgian constitutional order until the late 1820s, even though he seems personally to have been decidedly sympathetic to a wider degree of toleration than the law allowed.

Most famous of all cases for the non-specialist, however, is surely that of James Somerset in 1772, where Mansfield prevented an escaped slave in London from being forcibly returned to bondage in the West Indies. It has only been relatively recently that historians have more closely examined a pervasive belief that Mansfield's ruling was tantamount to a declaration that any slave setting foot on English soil was thereby automatically rendered free. Oldham's extended re-assessment of the famous decision, set in the context of other rulings by Mansfield and subsequent cases concerning the same is-

sue, leaves little room for doubt that Mansfield, personally doubtful of the ethical bases of slavery but mindful of its central role in the imperial economy, read and decided the matter in the narrowest possible terms so as to avoid setting any potentially problematic precedents. That determination on his part was somewhat compromised, however, by the skill with which Granville Sharp and other anti-slavery crusaders sought to disseminate a more wide-ranging interpretation of Mansfield's decision for their own purposes. And Oldham adds the intriguing anecdote of Massachusetts Governor Thomas Hutchinson's 1779 encounter at Mansfield's home with Dido, the latter's African grandniece, whom the Lord Chief Justice treated with such tender affection that it seems unlikely that he would have been altogether displeased with the subsequent interpretations placed upon his words of 1772.

So kudos, then, to the University of North Carolina Press for making Oldham's masterful work available to the wider audience it deserves. This is a book that will repay careful reading for years to come.

Note

[1]. James Oldham, *The Mansfield Manuscripts and the Growth of English Law in the Eighteenth Century*, 2 vols. (Chapel Hill: University of North Carolina Press, 1992).

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