

Chapter 10

Lord Mansfield

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William Murray, Earl of Mansfield, was born in 1705 and died in 1793. Mansfield dominated English law for half a century and his influence remains strong today. Many areas of the law, particularly commercial law, bear his distinct fingerprints. His legacy is so rich that it is impossible to do it justice within the confines of this chapter. Before examining his life and some of the major themes of his jurisprudence, it is worthwhile to outline briefly the world into which Mansfield was born and in which he lived.

Mansfield's world

Mansfield was born in Scotland, two years before the Acts of Union merged the Kingdoms of England and Scotland. Scotland at that time was one of the poorest countries in Western Europe and still bore the scars of the sectarian fighting of the "Glorious Revolution". Support for the deposed Catholic King James was particularly strong in Scotland, as would be seen in the various Jacobite uprisings that took place until 1745. A substantial proportion of the Scottish populace was illiterate, and the Scottish Enlightenment – the remarkable flowering of intellectual achievement that led to Scotland becoming the most literate nation in Europe and moving ahead of England in many areas – was not to begin for about another 20 years.¹

England, with an estimated population of just over 5 million, was at the time also remarkably primitive by today's standards. At the time of Mansfield's birth, only 45 years had elapsed since the English monarchy had been restored, and only 39 years had passed since the Great Fire of London and the end of the Great Plague of London. Illiteracy in England was almost as bad as in Scotland. London was a fraction of its present size, and relatively undeveloped: London Bridge was the only crossing for the Thames; there were no water or sewage reticulation systems, and no public full-time police force (the Metropolitan Police did not yet exist and policing was still carried out by constables and justices of the peace).

1 Houston, *Scottish Literacy and the Scottish Identity* (CUP, Cambridge, 1985), 20-83.

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