

*Commentaries on the Laws of England*, by William Blackstone. General editor Wilfrid Prest, Oxford, Oxford University Press, 2016, 4 vols., £69.00 (paperback), ISBN 9780199600984

Book I edited by David Lemmings, 410pp., £17.99 (paperback), ISBN 9780199600991

Book II edited by Simon Stern, 425pp., £17.99 (paperback), ISBN 9780199601004

Book III edited by Thomas P. Gallanis, 378pp., £17.99 (paperback), ISBN 9780199601011

Book IV edited by Ruth Paley, 409pp., £17.99 (paperback), ISBN 9780199601028

A review of Blackstone's *Commentaries* may seem to be about 250 years too late. What is left to be said? The *Commentaries* shaped generations of lawyers, for good or ill, and brought Blackstone enduring fame. Recent work under the auspices of Wilfrid Prest (the general editor of this edition) has also seen a resurgence of interest in Blackstone.

As it happens, much remains to be said. This review will not be of the *Commentaries* themselves, but of this particular edition. It is a unique and valuable contribution to scholarship. As might be expected, the edition translates non-English material in the original, and also expands Blackstone's citations, including adding cases names. The editors have also inserted notes providing explanations of Blackstone's references and allusions. All of this is very helpful and welcome.

This is not an edition of a particular version of the *Commentaries*. Instead, it identifies and incorporates the changes made by Blackstone in the first nine editions of the *Commentaries*. In doing so, it is possible to track developments in the text over time. This is no small task, with innumerable minor changes to the text. The base text of this edition is the first edition of each book of the *Commentaries*, with varia identified by angled brackets in the main text and included at the end of each volume, grouped by chapter. This is perfectly functional and does not overly clutter the main text in a manner which would have made the text much harder simply to read. The varia were identified using a computer programme. The general editor's preface to Book I includes some useful guidance and warnings for anyone about to embark on such a project. While there is clearly much potential here, it is also evidence that adding a computer programme is not a simple or easy solution to the challenges of editorial work, nor does it remove important roles for human editors.

As might be expected with a project of this scope, there is room to quibble with editorial decisions. I did find it frustrating that case names inserted into Blackstone's citations were not italicised, departing from current practice, nor were the years of cases added to the references. I am not sure why this was approach was chosen, but it is a little jarring to a modern reader. In terms of the substance of the edition, changes to the text which were reversed in subsequent editions are not identified. But as Ruth Paley's preface to Book IV shows, in some instances these varia might

reveal something about the printing of the *Commentaries*. Leaving these in place might have been fruitful for scholars interested in the *Commentaries* as a physical book, rather than as a text. Finally, in the guidance to the varia, attention is not drawn to the difficulties in numbering the editions of the *Commentaries* (although this is mentioned in the preface to Book III). For example, the first printing of Book III of the *Commentaries* occurred in 1768, the same year as the third edition of Books I and II. The second printing of Book III was then reprinted as part of the fourth edition of the *Commentaries* as a whole, but is really only the second edition of Book III. The varia lists appear to number editions from the first printing of Book I, so that there are what appear to be curious gaps in the varia.

Blackstone, as Thomas Gallanis describes him in his preface to Book III, was a 'tinkerer'. Much of this tinkering is in fact excluded from the varia identified in the volume, including minor changes of word order. Every volume includes an explanation of the editorial practices in the edition as a whole, so even a reader interested only in the subject-matter of a particular volume will not misunderstand the nature of the project.

The varia highlighted in this edition do show rather more than a tinkerer, and in this the edition is particularly valuable. Not all of the changes were entirely disinterested. David Lemmings notes that in Book I Blackstone seems to have made some changes when he was a Member of Parliament and concerned that his own *Commentaries* might be quoted back at him. A similar motivation seems to have underpinned Blackstone's response to published criticisms of the *Commentaries*. In general, Blackstone ignored such criticism. Very occasionally he amended the text of the *Commentaries* in response, but without drawing any attention to the changes. The only exception, where Blackstone did engage directly with a critic, concerned the topic of protestant non-conformity. Ruth Paley suggests that Blackstone made such a response because the critic, Joseph Priestley, was well-known, and his 'criticism could do real damage' (Book IV, pp.xix-xxi). Blackstone here comes across as a prickly and defensive character.

However, in other instances, Blackstone sought to be more even-handed. Simon Stern observes that in Book II Blackstone amended his discussion on copyright in an attempt to give a 'fair account' of the arguments against perpetual copyright, despite personally favouring perpetual copyright. More generally, Blackstone seems to have gone back to his original sources and amended the *Commentaries* in light of his rereading, as well as reading more widely (often going back to older common law material) and incorporating the results of that reading into his work. This Blackstone is more an example of scholarship, willing to re-examine and amend his own work. That example is to some extent undermined by the evidence which shows Blackstone to have taken some of his citations from intermediate sources who themselves made mistakes.

Each of the volumes in this edition includes a valuable preface. It is worth reading all of these prefaces to gain a greater understanding of the *Commentaries* themselves. David Lemming's introduction to Book I describes Blackstone as writing an 'epic story' of the development of freedom under common law. Blackstone would, I am sure, have been delighted to be recognised as not just a Coke, or even a Justinian, but a Homer. This focus on freedom under law recurs in Simon Stern's preface to Book II and Paley's to Book IV. Seen in this light, the *Commentaries* appear to be rather more than the sum of their parts.

Despite the achievements of this volume, this will not be the final word on the *Commentaries*. For example, there has still been no systematic study of notes taken by students at Blackstone's lectures, comparing these to the *Commentaries* themselves. Stern's introduction to Book II does include some such comparison, and a fuller study could well be rewarding.

Like all good scholarship should, this edition expands our understanding, but also challenges us. In light of Blackstone's textual tinkering, what were the *Commentaries*? This edition destabilises the idea that there is a single version of Blackstone's work. However much Blackstone and his *Commentaries* have been carved in stone and cast in bronze, the text itself is revealed to be much less permanent.

Users of the *Commentaries* now have no excuse not to be more careful in their understanding of the mutability of this important text. Legal historians have (or should have) been sensitive to these changes, but for other users of the text these changes might be important. For example, does (or should) it affect the legitimacy of using Blackstone in the modern United States that the varia reveal Blackstone to have amended Book I in opposition to the cause of the revolting colonists? Ruth Paley in her preface to Book IV similarly notes that greater understanding of Blackstone's sources casts some doubt on his utility as a guide to the law. If Blackstone recycled material from the seventeenth century, should he be relied upon uncritically as describing the law of the eighteenth century?

Such challenges should provoke further scholarship, and future scholars will benefit immensely from this exceptionally valuable contribution to legal history, the standard edition of Blackstone's *Commentaries* for the future.