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0521623952 - John Scott Lord Eldon, 1751-1838: The Duty of Loyalty

R. A. Melikan

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JOHN SCOTT, LORD ELDON, 1751–1838

The Duty of Loyalty

John Scott, Lord Eldon (1751–1838) was a dominant figure in Georgian public life, and ranks amongst the most important Lord Chancellors in the long history of that office.

This biography – the first for 150 years – also surveys Eldon’s earlier career as an MP and law officer. As a lawyer entering Parliament, he encountered both prejudices against ‘learned gentlemen’ and opportunities for advancement. Once in office, he swiftly made his presence felt, drafting the Regency Bill of 1788, and conducting the government’s legal campaign against republicanism.

Retiring at last in 1827, Eldon spent his final years opposing political reform. Labelled by many as a relic of ‘Old Toryism’, Eldon’s views of government, politics, and the constitution represent an important strand in Georgian political thinking, and his career illuminates the work of the major legal offices of British government.

R. A. Melikan is a Fellow and College Lecturer at St Catharine’s College, University of Cambridge.

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Steel engraving of Eldon, aged 74, by H. Robinson, after T. Lawrence

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PUBLISHED BY THE PRESS SYNDICATE OF THE UNIVERSITY OF CAMBRIDGE  
The Pitt Building, Trumpington Street, Cambridge, CB2 1RP, United Kingdom

CAMBRIDGE UNIVERSITY PRESS  
The Edinburgh Building, Cambridge, CB2 2RU, United Kingdom  
<http://www.cup.cam.ac.uk>  
40 West 20th Street, New York, NY 10011-4211, US  
<http://www.cup.org>  
10 Stamford Road, Oakleigh, Melbourne 3166, Australia

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First published 1999

Printed in the United Kingdom at the University Press, Cambridge

Typeset in Imprint on 10/12 pt [cE]

*A catalogue record for this book is available from the British Library*

*Library of Congress cataloguing in publication data*

Melikan, R. A.

John Scott, Lord Eldon 1751-1838: the duty of loyalty / R. A. Melikan.

p. cm. - (Cambridge studies in English legal history)

ISBN 0 521 62395 2 (hc.)

1. Eldon, John Scott, Earl of, 1751-1838.

2. Judges - Great Britain - Biography.

3. Great Britain. Lord Chancellor's Departments - History.

4. Law and politics - History.

I. Title. II. Series.

KD621.E43M45 1999

347.41'014'092 - dc21 98-42867 CIP

[B]

ISBN 0 521 62395 2 hardback

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Steel engraving of Eldon, aged 74, by H. Robinson, after T. Lawrence (courtesy of Professor J. H. Baker)

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## PREFACE

I was introduced to John Scott, Lord Eldon, a decade ago in Professor Emmet Larkin's Modern British History seminar at the University of Chicago. Since then I have regularly been asked to explain my focus upon him. As my recent work has developed out of a doctoral dissertation, I have tended to reply with the reasons that founded my original study. First, I preferred to concentrate on a person rather than a trend or general phenomenon. Secondly, I was interested in the late eighteenth and/or early nineteenth century. Thirdly, I wanted to study a person whose work linked the worlds of law and politics. Fourthly, I hoped to find a suitable subject whose life had not been both recently and ably studied. Fifthly, my subject must have produced and prompted a reasonable cache of accessible materials. The combination of these factors produced Lord Eldon, although I must admit to an early indecision involving his brother, Lord Stowell, happily resolved by the appearance of Henry Bourguignon's book in 1987.

While inevitably the task of research tends to focus one's mind on the more prosaic of the above criteria, the first has imposed the most significant limitations upon my study of Eldon. Disraeli described biography as 'life without theory', and while I think it is both difficult and undesirable to aspire to the complete exclusion of theory, I have attempted to concentrate on Eldon rather than larger legal or political themes. As a result, I do not deal with Eldon's professional work as Lord Chancellor, with the exception of considering how this work led to complaints about the conduct of business in Chancery and the House of Lords. I base this omission on the belief that, while his judicial career was important to Eldon's life, it would not sit comfortably in a representation of his life. Since it has never been my aim to use Eldon to illustrate the development of particular doctrines or practices in the court of

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Chancery, any discussion of the court would have had to be justified as a means of enriching my presentation of *him*. Such are the complexities of the doctrines of equity and Chancery practice, however, that they would have required substantial explanation before their significance to Eldon could have been made out. The inevitable hiatus in Eldon's story occasioned by that explanation was not, in my opinion, justified.

This does not mean, however, that I am not interested in the professional dimension of Eldon's public life. In some phases, and in certain aspects of his work, I found it possible to discuss explicitly professional activities – for example, in his legal opinions, criminal prosecutions, and during his tenure in the court of Common Pleas. In each context, however, my decision was based on the relationship between the technical demands of the material, and the likely illumination of Eldon's character. In particular, the demands of this exercise focused my work, albeit not exclusively, upon the constitutional aspects of Eldon's legal career. By 'constitutional' I mean the opportunities he had as a lawyer to affect the working of the state: as a draughtsman, prosecutor, royal adviser, and parliamentary leader.

To the extent that I have used Eldon to illustrate a particular theme, it is the nature of the British constitution during the period *c.*1790–1830. Eldon is, I believe, uniquely suited to this purpose, on account of the length of his official career, and the range of responsibilities that devolved upon him as a consequence of his ability and temperament. Such a purpose, however, ranks a distinct second to the primary purpose of my study. Primarily I am interested in Eldon the individual long important in public life, and not as the illustration of some aspect of public life. I see this as an inevitable consequence of Eldon's own historiography. Horace Twiss' biography, written under the eye of Eldon's grandson, was published in 1844. Surtees and Townsend produced shorter pieces in 1846, and Lord Campbell included Eldon in his *Lives of the Lord Chancellors* in 1847. The picture that emerges from these texts is balanced only in the sense that extremes of virtue and vice create an overall moderation. Scholars have tended to ignore Campbell, and to rely on Twiss particularly as a compendium of Eldon's personal correspondence. With little else upon which to base Eldon's character, he has become relegated to generalisation, if not caricature. He personifies High

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Toryism; he is 'Old Bags', George IV's henchman; he grinds down the litigants in the interminable *Jarndyce v. Jarndyce*. Undoubtedly, Eldon is an important political and constitutional figure in the first decades of the nineteenth century. His career spanned the ministries of the Younger Pitt and Lord Liverpool. He played important roles during the illnesses of George III, and the divorce of George IV, and his name is inextricably linked with the repeal of the Test and Corporation Acts and Catholic Emancipation. He held the office of Lord Chancellor longer than any man in history. His significance cannot be assessed, however, until his work and achievements are addressed in their own terms, and not simply as incidental illustrations of a larger study. I hope that the following goes some way to address that need.

I owe a significant debt of thanks to several people, who have helped me produce this book. Because it grew out of my Cambridge PhD thesis, I would first like to thank my supervisors, Professor G. H. Jones and Dr A. J. B. Hilton, for their advice, support, and encouragement. More recently I have also benefited from discussions with and comments from Dr Hilton, Professor A. W. B. Simpson, Professor J. H. Baker, and Dr M. E. C. Perrott. I would also like to thank the following for their support and friendship: Dr J. W. F. Allison, Dr J. D. Ford, Mr M. Kitson, Mr F. D. Robinson, and Dr W. D. Sutcliffe.

For their help in providing access to manuscripts, and for kind permission to quote from and cite relevant materials I wish to thank the following: the Archbishop of Canterbury and the Trustees of the Lambeth Palace Library; the Archifdy Meirion Archives (Gwynned); the Bedfordshire and Luton Archives; the Beineke Rare Book and Manuscript Library (Yale University); the British Library; Cambridge University Library; Marquess Camden; the Centre for Kentish Studies; the William L. Clements Library (University of Michigan); the Controller of Her Majesty's Stationery Office; the Cumbria Record Office (Carlisle); the Devon Record Office; the Dorset Record Office; the Gloucestershire Record Office; the Earl of Harewood; the Hartley Library, (Southampton University); the Inner Temple; the Earl of Lonsdale; the Masters of the Bench of the Honourable Society of the Middle Temple; the Trustees of the National Library of Scotland; the Newcastle-upon-Tyne City Library; the Northumberland Record Office; the Free Library of Philadelphia; the Public

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Record Office; the Rare Book, Manuscript, and Special Collections Library, Duke University; Lord Redesdale; Lord Ridley; the late Colonel H. E. Scott and Mr David Scott; the Scottish Record Office; Lord Sidmouth; the East Sussex Record Office; Mr S. C. Whitbread; and the Warden and Fellows of Winchester College.

My greatest thanks, however, goes to my husband, Quentin, on whose help, support, and encouragement I have consistently relied. Moreover, he has never known me without Lord Eldon, yet has behaved magnanimously toward his venerable rival.

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## ABBREVIATIONS

AMA	Archifdy Meirion Archives (Gwynedd)
BL	British Library
BLA	Bedfordshire and Luton Archives
CRO	Cumbria Record Office (Carlisle)
CUL	Cambridge University Library
DevRO	Devon Record Office
DorRO	Dorset Record Office
ER	<i>English Reports</i>
GRO	Gloucester Record Office
LCS	London Corresponding Society
LDA	Leeds District Archives
NCL	Newcastle-upon-Tyne City Library
NLS	National Library of Scotland
PRO	Public Record Office
SCI	Society for Constitutional Information
SRO	Scottish Record Office
SUL	Southampton University Library