

CHIEF JUSTICE COCKBURN.

"The judicial career of the late Lord Chief Justice was a long one, lasting over precisely twenty-four years. His charges to juries were masterpieces of popular oratory; and there was little chance for the most skilful counsel if the Lord Chief Justice became convinced of the duty to sum up against him. His considered judgments were marvels of exposition. It was said of another learned judge that he knew nothing of the law of the case when the other judges began to deliver their judgments, but that by the time they had finished he could produce an admirable piece of eclectic reasoning. Sir Alexander Cockburn was also quick to pick up points from counsel or his learned brethren. An indisputable merit of Sir A. Cockburn was that he took pains with his work, especially with such portions of it as came into more than usual publicity; and he would, in important cases, find some reason for adjourning the court, in order that he might prepare a judgment or a charge which would be of classical excellence." But the most important trial in which he was concerned was, of course, the Tichborne trial, which began in 1873. "Thomas Castro had lost his action for ejectment in 1871, before Lord Chief Justice Bovill, in the Common Pleas; his indictment for perjury was tried at bar for 188 days in the Queen's Bench before the Lord Chief Justice and Justices Mellor and Lush. Sir John Coleridge had led in the civil action, Mr. Justice Hawkins (then Mr. Hawkins, Q. C.) led in the prosecution which sprang out of it. Dr. Kenealy was the leading counsel for the defence. Sir Alexander Cockburn's chief task was to control the zeal of Dr. Kenealy. His patronage had formerly been invaluable to this powerful but unscrupulous advocate, but he met with nothing but insults and ingratitude. Even when the trial was over Dr. Kenealy pursued him with the grossest calumny in a scurrilous paper which he published. How severe was the constraint to which the Chief Justice could subject himself was shown in the Kenealy incidents of this trial. Such was the impres-

sion of power which the Chief Justice produced on the bench that there were few men who dared take a liberty with him. A word from the voice which could speak daggers was generally enough. Dr. Kenealy's manner, therefore, was little likely to be brooked by a Chief Justice so accustomed to respect and almost subservience. But the Lord Chief Justice knew that Dr. Kenealy's committal for contempt would seriously embarrass the trial of the Claimant in public estimation, and he refrained from that step, although it was fully deserved. The Tichborne trial in other respects was such as to test to the utmost the moral side of the judicial nature. The Lord Chief Justice was unwearying in patient listening, and untiring in collating and expounding the facts. His summing up was a model of lucid statement and elaborate reasoning. It lasted eighteen days, and made the acquittal of the prisoner impossible."

The *Law Times*, speaking on the same subject, takes a view less favourable, saying:—

"It is equally certain that, whilst he carried on to the bench this high code of honor, the very loftiest sentiments which could animate a judge, the deepest regard for his office, and the keenest sense of its responsibilities, he never thoroughly shook off the passion of the advocate. If there is one fault which can be laid to his charge as a judge, it is that with too rapid a judgment he formed his opinion, basing it frequently upon the evidence and bearing of particular witnesses. The opinion formed, it was put forward in the summing up with the art of the advocate, repressed more or less, but still preceptible, and occasioning sometimes the impression that the scales of justice had not been held with that absolute impartiality which is essential to the strict administration of the law. No one who has attempted the perusal of the summing up in the *Tichborne* case—an effort which the Lord Chief Justice subsequently published separately, and which in itself forms a volume—can fail to perceive with what dexterous skill the case for the defence was broken