

CHIEF BARON KELLY.

It would appear that the law is different in some parts of the United States, as it is there held a right of suit exists in the subsequent incumbent of the office, at all events where the engagement is for the benefit of some public or quasi-public body. See *Fisher v. Ellis*, 3 Pick., 325; *Kean v. Fisher*, 5 Serg. & Raw, 154, and *Commonwealth v. Sherman's Executors*, 6 Harris, 347.

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The Right Hon. Sir Fitzroy Kelly, Chief Baron of the Exchequer, died in London, as our readers are aware, on the 18th Sept. He was born in 1796; was called to the bar in 1824 and made King's Counsel in 1835, and Chief Baron on the retirement of Sir Frederick Pollock in 1866. He was Solicitor-General under Sir Robert Peel, and Attorney-General in Lord Derby's Cabinet. An exchange thus relates the beginning of his circuit business in 1858.

"Mr. Kelly, on becoming a barrister, joined the old Home Circuit, now fused with the Norfolk into the South-Eastern, but left it because he found the work on this busy circuit was prolonged into the Vacation. As has been just said, he had an old-fashioned reverence for the long interlude to forensic battle which tradition has imposed upon lawyers and clients, and he changed to the Norfolk Circuit for the sake of his Vacation. The migration proved a very fortunate one. The assize was opened at Norwich. Mr. Kelly arrived at that city in the evening, and went to bed briefless. At one o'clock in the morning his clerk came to awake him with the news that an attorney wished to see him with a brief. It was for the defence of a publican and a bill-sticker, against whom a charge of libel was preferred. They had exhibited bills charging a certain clergyman with being a fit person to be made co-respondent in that Divorce Court which Sir Fitzroy Kelly was afterwards concerned

in founding. The person libelled had engaged all the leading counsel on the circuit; and the attorney, wandering in town at his wits' end, had been recommended by a friend to try the new junior. On a point of practice Mr. Kelly threw the other side over for a time, but the cause came on at Thetford. Here the leader, who had been most feared, could not attend; and Mr. Kelly got the publican off scot free, while the bill-sticker escaped with a slight loss of money. Before he left the Court the attorneys for the other side threw to him over the table two retainers, and other briefs followed him at his lodgings. From that time till he left the circuit, owing to the stress of London work, his reputation on the Norfolk Circuit was unbounded."

Chief Baron Kelly was one of the oldest of the long lived men who have adorned the English Bench. The following extract from the *English Law Journal* contains several instructive points in connection with the career of the late Judge.

"The interesting and instructive career of the late Chief Baron may be said to have been incomplete in one respect, and too complete in another. He ought to have died a peer of Parliament; and he ought to have left the bench four years ago. Why these two events were not brought about has not been satisfactorily explained. The party to which the Chief Baron had rendered good service was in power. It is true that the Chief Baron had suffered pecuniary losses; but, having no son, his peerage would not have called for an endowment, and the Chief Baron himself was believed to wish the elevation. It can hardly be supposed that his party were guilty of the ingratitude of forgetting a man who had served them, but whose services were no longer valuable. Retired from the bench and a peer, the Chief Baron would have found vent, without reproach, for those political utterances which, breathed into the ear of the Lord Mayor from the bench of a Court of Justice, were justly said to be out of place. It can hardly be supposed that Lord Beaconsfield, who