

SIR EDMUND SAUNDERS—IN RE BURNS AND POTTER.

[P. C.]

Now it was contemplated at court that if, under a fair pretence, the charters of the kingdom could be seized, a magnificent triumph over their opponents, the enemies of the Duke of York and of Popery, would be gained. And they had another object within their hopes which historians have dealt with, though scantily; the refreshing by fines, of a lean exchequer. In the year 1682 he was made a Bench of his Inn, and the 22nd December, Saunders was made Chief Justice of the King's Bench, and was knighted. He was called Serjeant on January 13, and took his seat on the same day. He had not the slightest idea of such a promotion, and he scarcely seemed to wish it, for he must needs leave his tailor and Butcher Row, and emigrate to Parson's Green. It was supposed that the King liked him for his jovial behaviour, so he gave "*Principi sic placuit*" rings.

He did not, however, survive his promotion for one year, and, before his death he was so lost, that when his brethren came to him to enable them to confirm his opinion against the city on the *Quo Warranto*, he expostulated with them, asking "why they would trouble him, when he had lost his memory." So he died at Parson's Green, on the 19th of June, 1683, in the 51st or 52nd year of his age, of, it is said, apoplexy and palsy. He was never sworn of the privy council, although when Pemberton was finally removed from the bench, he was consoled with that distinction. Saunders heard the arguments on the law warrants against the city, and he presided at the trial of Sir John Pilkington and others, for a riot, and assault upon the Lord Mayor, Sir John Moore, who warmly supported the court party in the dispute concerning the election of sheriffs. When the defendant's counsel in this case came to challenge the array, Saunders broke out—"Gentlemen, I am sorry you have so bad an opinion of me as to be so little of a lawyer as not to know that this is but a trifle, and nothing in it. Pray, gentlemen, don't put these things upon me." Here the judge reflected that he was really beloved by the bar for his good nature, and so he went on,— "Because I am willing to hear anything, and where there is any colour of law I am not willing to do amiss; therefore, you think I am now become so weak that you may put anything upon me." He had a strong remembrance of Hale,— "You would not have done this before another judge. You would not have done it if Sir Matthew Hale had been here." The defendants were convicted and fined.

The death of this Chief Justice was probably a coincidence. The sedentary employment of a judge would scarcely have accelerated his end in so short a time. Relief from the toil of advocacy would rather have had a favourable tendency. He was badly, mortally diseased before his appointment, and it was a marvel that his mind, even for so few months, was competent to sustain his enfeebled body.

It is difficult to speak of a man's character of whom it can scarcely be said that he had any. The reader can form his own judgment from the materials we have supplied. It is affirmed that he never deserted the tailor and his wife, although he moved into the country. And certain it is that he must have kept his eye upon his relations in the country, since he mentioned them so distinctly in his will. He left something considerable behind him, which he derived, probably, from the care of these people. His will was dated 23rd Aug. 1676, republished 2nd Sept. 1681, and proved 14th July, 1683. His executor and executrix were the tailor and his wife, and they were made residuary legatees, "as some recompense for their care of him, and attendance upon him for many years." His works must be at once comprised in his immortal reports. His book has been called the Bible, and he himself by the great Lord Mansfield, the Terence, of Pleaders.—*Law Magazine*.

## UPPER CANADA REPORTS.

## PRACTICE COURT.

(Reported by HENRY O'BRIEN, Esq., Barrister-at-Law,  
Reporter in Practice Court.)

IN THE MATTER OF ARBITRATION BETWEEN  
THOMAS BURNS AND D. M. POTTER.

Arbitration—Service of notice of award and demand of payment.

A County Court and a Division Court suit, and all disputes, were referred to arbitration, and a sum of money awarded to be paid by A. to B. after ten days' notice of the award. This notice was served upon the attorney who had acted for A. on the arbitration, but who disclaimed any right otherwise to represent him. Held, that the service was insufficient.

[P. C. H. T., 1867.]

On a reference of a County Court suit and a Division Court suit, and all matters in dispute between the parties, to the County Judge of Wellington, an award was made directing, among other things, that \$40 57 should be paid by Potter to Burns, together with a proportion of the costs. The award directed that the sum awarded should be payable "in ten days after notice of this my award."

In December last, shortly after the making of the award, the attorney who had acted for Potter in the arbitration was served by the attorney for Burns with a notice of the award having been made, and the directions contained in it, and a demand of the said amount payable to Burns.

On the 9th February, 1867, Mr. McMillan, the attorney for Burns served Potter with a copy of the rule making the deed of reference a rule of court of the award, and of the power of attorney from Burns to his attorney to receive money, &c., and as was stated in the affidavit of such attorney, he at same time demanded from Potter the amount awarded, though, as was alleged by Potter afterwards, no explanation as to the facts, &c. was given, nor was a proper or sufficient demand made. Immediately after this, Potter tendered to Burns' attorney the sum of \$40 57, but, as he refused