

SIR EDMUND SAUNDERS.

tenacious of his legal knowledge. Some superfluous words got into a plea, which now would be instantly rejected, but the court sustained the objection, and against Saunders, who very quietly added to his note—"But I believe their principal reason was, because they would not determine the matter of law." On the other hand Saunders was contending that a fault in a declaration was matter of substance. Hale, *ceteris tacentibus*, ruled that it was only a matter of form. Yet Saunders urged that there were twenty books to prove it matter of substance. The chief confessed this, but he said the opinion had been otherwise for ten years past—"But I believe he meant his own opinion," said the reporter." It is curious that Levinz, a great advocate of his day, began to take notes in the same year with Saunders; the latter, with some exceptions, contributed those cases in which he was chiefly concerned.

Levinz reported more at large, but was careful to supply on his part, the cases in which he had been counsel. At the time when forensic fortune was smiling upon Pemberton, Winnington, Maynard, Sir William Jones, Saunders, and others, his contemporaries, the latter was, most likely, living at a tailor's house in Butcher Row, with the landlord's wife for a kind of nurse to him, a very questionable kind of nurse, according to evil disposed people. Their names were Gilbert and Jane Earle. Now he might have required some occasional attention, for he was seldom without a pot of ale, served in court, and placed on the forms where the lawyers sat. Strange as this may seem, it is not so very extraordinary, if it be true that a judge of high place in one of our criminal courts was wont to have a bottle of port on the bench beside him after dinner. And truly there may be other instances. With all his intense labour, all the drafts upon his acute mind, all the energies he was obliged to display in court, the subject of this memoir seems to have been peaceable and content in the domestic circle he chose for himself. He was fond of piping, an art not very high in the scale of harmonies, but one which Virgil's shepherds loved, whose songs were "formed on fancy and whistled on reeds." But unlike to Arcadia, he drank brandy and beer the while, laying a foundation of the disorder which cut short his judicial and his pastoral life. The pipe, however, was not his only accomplishment. Being invited to dine with North, the Chief Justice of the Common Pleas, he played some jigs upon the harpsichord which he learnt upon an old instrument at his landlady's. It does not appear that he was ever invited again. Nevertheless, amidst all this dissipation, he had the prudence to hand-over his money which he got in profusion, to his host and hostess, and there is every reason to believe that they dealt honestly by him. He was, it may be remarked, in himself honest in worldly matters.

And now that we are in the heart of his professional career (we will come to speak of his contemporary antagonists immediately) we must pause for a moment. Sir Matthew Hale, and Saunders, the eminent advocates were constant companions in court. Hale was not the likeliest judge to admire Saunders, although Saunders was too easy a man to conceive any great dislike to any one, far less to Hale, whom he revered according to his ideas of respect. In themselves, Hale might have been called a saint; he prided himself upon purity of character and conduct. His father had abandoned the law by reason of its supposed subtleties; he himself was a good criminal lawyer, and, in his day, burnt a witch, and was quite enough skilled in pleading to see through Saunders' able traps. Hale was sober and modest to a fault, Saunders never pretended to either of these virtues; yet if Saunders was on his guard against the Lord Chief Justice, the latter, in his turn, knew that he had a formidable legal foe in the advocate on the bench beneath him. It naturally followed that Hale conceived the strongest suspicions of an unfavourable character towards the pleader, and, when he conveniently could, fell upon him, if we may speak, in open court. Such rebuffs and reprimands must have damaged a lawyer of inferior attainments, for attorneys are not prone to employ counsel who have decidedly lost the ear of the court. But whoever will take the pains to read the reports of this master of the forum with even ordinary attention will quickly come to the conclusion that the pet of the attorneys would not be easily shaken by a "gloom from a great man." In truth, he was far less corrupt than many of those around him. Such was the faithlessness of the times that the very introduction of a "Quirk" might, strange to say, produce substantial justice. An example of this may be offered in a case before Lord Chief Justice Kelyng, who must have prejudiced Hale, when chief baron, against Saunders. A man gave a bond of submission, with a penalty of £2,000; the matter was referred to arbitration. The award was that the defendant should pay £3,100. Saunders, his counsel, knew that nothing was due in respect of the original debt; so, by an effort of skilful pleading, he strove to evade the inevitable course of the law. For there was the penalty, and the submission to arbitration was a crushing part of the case. Whatever the subtlety might have been, it was probably nothing more than a legal quibble, common, sad to say, to all periods of our history. His readiness and fortitude did not, however, forsake him; he showed much spleen at the interruption of Kelyng and declaimed against the hardship upon his client, whose payment was fixed at £1,100 more than the penalty, admitting the existence of a debt. True, on the one hand, constant disappointment and censures sour the temper, deaden the faculties, and sicken the heart. But, on the other, our