

"notorious cause of *Mr. Solicitor Boulton vs. Randall*; (see the proceedings of the Provincial Parliament in this case;) should the action have been tried at the last Assizes by *Mr. Hagerman*, now acting as a Judge of the Court of King's Bench, and for any misdirection or impropriety on his part at the trial at *Nisi Prius*, a new trial be moved for, who is to decide? Surely *Mr. Justice Sherwood* (if a Judge) cannot, because he is a party; and *Mr. Hagerman* ought not, because his own judgment is called in question. In such a case—a case probably at this moment pending—the construction of the Act contended for by *Mr. J. Sherwood* would, so far from obviating difficulties, increase them tenfold; and place beyond the possibility of doubt the wisdom of the Legislature in providing that a Chief Justice, together with two Puisne Justices, should preside in the said Court. There always should and must be three Judges present, a Chief and two Puisne Judges, to act legally in the Court of King's Bench in Upper Canada. If any one of them be a party in a cause, the only inconvenience thereby arising is, that until the obvious course I have mentioned be taken, the Court cannot proceed in that cause."

May it therefore please Your Honorable House to cause inquiry to be made into the allegations contained in this humble appeal to your equity and justice, to consider whether the oppressions complained of require your direct interference, whether the course pursued by *Mr. Boulton* toward the deceased, *Robert Randall*, was that of a fair and candid legal adviser, or whether it was fraudulent and deceitful—whether the note taken from *Randall* at *Niagara* was for a full and fair consideration, or the contrary,—whether *Boulton* deserted his client in his time of need, while secretly and deceitfully, under color of law, but in defiance of its material precepts, seizing a valuable estate and selling it, the distressed owner thereof not even knowing that there had been a lawsuit carried on against him by his own lawyer, and the property being so very secretly sold, that not even those in the immediate neighbourhood of it knew of an intended sale by auction,—one brother-in-law being the buyer, another the Sheriff, a third the seller. Whether *Mr. Boulton's* services to *Randall* entitled him over and above the retaining fees paid him, to take a mortgage on *Randall's* real estate, leave his lawsuit unfinished, and hold on to the mortgage after he had despoiled his client secretly of his choicest estate, the value of which he had long known, having, with his father, the Judge, been previously employed to get a patent for it for his client, from the Crown,—whether as "misrepresentation, whether by word or deed constitutes fraud," *Boulton's* misrepresentations to the Court of King's Bench, before he got his judgment, did not constitute fraud, seeing that no care, wisdom or foresight on *Randall's* part, could have proved a protection from his attorney's machinations?—whether, as the Statute required that a demand for *Randall* to plead to *Boulton's* declaration should be left at *Randall's* usual place of abode, the leaving it at a place a hundred miles distant, and where *Boulton* knew that *Randall* had never lived, was not such an intentional deception "whereby one party has taken an unconscientious advantage of another as constitutes actual fraud?"—whether "as without the express provision of an Act of Parliament, all deceitful practices in defrauding, or endeavouring to defraud another of his known right, by means of some artful device, contrary to the plain rules of common honesty, are condemned by the common law," the Court of King's Bench was, or was not in error in refusing redress when *Randall's* Counsel, Messrs. *Stewart* and *Rolph*, made prompt applications for relief, it being the general policy of Courts of Justice "to protect the suitors, and to overhaul judgments after a considerable lapse of time, even when regularly obtained by a solicitor against his client for security for costs?" whether, if such a course of conduct as the report of the Committee of the House of Assembly of Upper Canada have shewn *Mr. Boulton* to have pursued, was not checked, there would be any bounds to the crushing influence of the power of an Attorney who has the weighty affairs of a man, especially an embarrassed man, in his hands?—whether, as it is set down as the rule in equity, by the highest authorities, that if a sale of an estate "at public auction be obtained under cir-