

CHAPTER VI.

IN THE COURTS

In 1820 Randall was elected to the House of Assembly by the freeholders of the District of Niagara and during the winter of 1821 while sitting in the Assembly, he was informed to his utter astonishment by William Morris, who had been elected the member for the Johnstown District that his property at the Chaudiere had been sold under the judgment at the suit of Henry J. Boulton.

Randall was still in financial difficulties, but he was able to persuade an old friend of his, Alex. Stewart, practicing at Niagara to launch a motion to set aside the judgment which Boulton had obtained. Mr. Stewart discovered several irregularities in the obtaining of the judgment. It had been secured in several respects contrary to the practice required by the Court which practice, had it been followed or enforced, would have afforded some protection to Randall. In the discussion of these irregularities, it must be confessed that the non-observance of the requirements, while technically prejudicial to Randall's interests, in that he was kept in the dark as to what was being done, may not have really prejudiced him as, owing to his financial position, it is very questionable whether he could have saved the property. By 1820 there were several judgments against him, and all his other lands had been sold by different Sheriffs. The non-observance of legal requirements, however, is always serious and apt to lead to injustice, and does not excuse Boulton for his neglect.

The following rules had not been observed:—

“It is ordered that in future in cases of judgment by default on bonds conditioned for the payment of money a rule nisi to refer the bond to the Master for taxation should not be necessary, but in lieu thereof, a notice of motion for the pre-emptory rule shall be given in writing to the defendant or his attorney, but the rule shall be made absolute in the first instance on an affidavit being made of the service of such notice”.