

created, Powell was made a justice of that court. William Osgood was the first chief justice of Upper Canada, having come out in that capacity shortly after Simcoe, but he never sat in the King's Bench in Term. Powell sat either alone or with Hon. Peter Russell who received a commission more than once for a temporary period, until Elmsley was appointed chief justice in 1796. Allcock was in 1798 appointed a puisne justice, and thenceforward with short intervals the court was composed of a chief justice and two puisnes, until it was merged in the High Court of Justice in 1881. Although the full court was in theory three judges, two or even one of them exercised the powers of the full court. Powell was a diligent judge. Only one instance is known of his being absent from the Bench in Term for any protracted period: that was from July, 1806 till November, 1807, when he was in Spain in the successful attempt to secure the release from a Spanish-American prison of his son who had joined Miranda in his unsuccessful revolutionary incursion into Venezuela.* He was made chief justice in 1816 on the resignation of Chief Justice Scott, and was also appointed Speaker of the Legislative Council.

During the last few years of his judicial life he rather fell out of the good graces of the administration, and when he desired to resign upon a pension, the Executive Council reported against it. Notwithstanding this, he finally was granted a pension for life of £1,000 sterling. He lived the short remainder of his life—nine years—in Toronto, dying there in 1834.

D'Arcy Boulton was an Englishman who came before the beginning of the last century to Upper Canada, arriving in York (Toronto) in 1807. He received a licence to practise in 1803 from the Administrator of the Government and became a member of the Law Society the same year (No. 22 of the Society's Roll). He became Solicitor-General in 1805. In 1810 sailing for England he was taken by a French privateer after being

*In the first Term after his return from Spain he took part with Scott, C.J., in discussing the only action of *Scandalum Magnatum* ever brought on this side of the Atlantic. The proceedings were taken by Mr. Justice Thorpe against Joseph Ryerson: "Thorpe *qui tam*. v. Ryerson."