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William Dummer Powell. A Critical
Incident in his Life, 1792.

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Some weeks ago there was sent to me the following extract from "*The Gazette of the United States*" of Saturday, July 23rd, 1792.

"By a gentleman of veracity from Canada we are informed that when he passed Three Rivers, he met an escort who had Judge Powel of Hesse District in Upper Canada with them, a prisoner and in irons. The charge against him was said to be treason—letters having been detected written in his name, and as report says in his hand, giving information to his friends in the United States how Detroit may be easily carried. This gentleman was formerly of Boston, in New England; and when our informant saw him he was on his way to Quebec, by order of the Commanding Officer at Detroit."

This referred to the Honorable William Dummer Powell, who was born in Boston in 1755, educated in England; returned to Boston; served under General Gage; upon the evacuation of Boston went to England, where he was called to the Bar; came to Canada in 1779; practised for some years in Montreal; was appointed Judge of the Court of Common Pleas for the District of Hesse in May, 1789; went to England with the petition of the Upper Canada Loyalists and helped procure the passing of the Act of 1791; and was resident at Detroit until the latter part of 1793 or early in 1794, being succeeded by Judge Jacques Baby. He was appointed Chief Justice of Upper Canada in 1815 and remained upon the bench until 1825. He died in Toronto in 1834. The record of his life as given in Read's "*Lives of the Judges*" shows him to have been a man of great ability, who rendered splendid service to Upper Canada and who had the confidence of the people. I could find no reference whatever there or in any of the histories to the matter set out in *The United States Gazette*. Was it a case of mistaken identity or a case of early Yellow Journalism? The fact that the item appeared in *The United States Gazette* suggested that there must be some foundation for the bit of news. Of course the charge of treason could not be true, but had such a charge been made or had anything happened that might be so construed? Here was something about which our histories were silent—this only added interest and aroused curiosity to know what was behind it all.

Recently I had occasion to search among my pamphlets for some information and among others went carefully over two old bound volumes of Upper Canada Pamphlets, one labelled "Religion, etc.," the other "Politics, etc.," The third pamphlet in the second volume was entitled "Story of a Refugee," York, printed at the Patriot office, 1833, pp. 46. Across the title page the original owner had written "The late Chief Justice Powell." Even if this had not appeared upon the title page, the reader would easily have identified the author, who concluded the pamphlet with this paragraph:—

"The Refugee has given place in this narrative of his progress up and down the hill of life to divers reminiscences which may be thought not to belong to the subject but as his object was to redeem his memory from the odium attempted to be imposed on it by the several published calumnies affixed to it, he has thought it excusable to enliven the narrative with foreign matter which had the slightest reference to any act of his; such as the Indian warfare, and sale of prisoners; the provision for the altar; and the abuse of Justice under the name, if not the garb, of Law."

Evidently we shall herein find the Chief Justice's own statement or explanation of the matter set forth in *The United States Gazette*.

After referring to his duties as a Commissioner to visit the Loyalists from Point au Bodet to the head of the Bay of Quinte, in order to investigate their conditions and learn their desires, he states that he was given a responsible position in adjusting the accounts for freights on the Great Lakes incurred in the late war, and before this work could be completed he was appointed sole Judge in the District of Hesse.

"This elevation of the humble Refugee, carrying law, equity and justice into that vast region, raised him to observation and envy, but to no direct censure, until 1792, after more than two years residence as sole administrator of the law; when on failure of all just cause, he was assailed by a vile forgery in the shape of a letter to the American Secretary of War, then carrying on exterminating inroads upon the Indian nations under British protection."

Then follows a copy of the forged letter addressed to Major-General Henry Knox, Secretary of War, Philadelphia. It was dated Feb. 2nd, 1792, but had no signature.

The letter, which was a long one with many details, purported to show that with a few resolute men Detroit could be taken and a garrison organized out of the discontents in the neighbourhood. When this letter was presented to the Refugee as a paper found in the garrison at Detroit

"he could not but admit at first sight that it must be his writing, which however no one who knew him would believe on reading the

contents; yet there was an active enmity in the vicinage, which had gratification in stirring up the savages by going into their villages, explaining the horrors of this hellish libel insomuch that his life was thought in danger beyond the Posts, and he decided to seek protection of the Commander-in-Chief at Quebec."

Here then we have Judge Powell's own statement of what took place and out of which the "gentleman of veracity from Canada" or the enterprising editor of *The United States Gazette* evolved the somewhat startling news item with which we opened our narrative.

At Quebec, Judge Powell met John Graves Simcoe, the new Lieutenant-Governor of Upper Canada, who had arrived the previous year and who was awaiting a quorum of his new Executive Council. Simcoe had not been idle for the past few months. He had been learning all he could of Upper Canada and of her principal men. He had visited Montreal. He at once told Judge Powell that the authors of the libel were two officers under the Judge's official protection who had accompanied him from Montreal. Simcoe introduced him to the Duke of Kent, the Commander of the Forces, and to Sir Alured Clarke, the acting Governor-General, who assured him of their confidence. It soon became apparent that the matter traced back to some trouble at Montreal of some years standing, something in connection with the Indian department "and that threats had then been held out of future revenge."

Judge Powell presided at a session of the Court of Common Pleas at L'Assomption (Sandwich) on March, 1792, and on the 3rd of September of the same year presided at the Court of Oyer and Terminer for the District of Hesse. It will be seen therefore that, after clearing himself of the serious charge, he returned to his duties in the western part of the Province apparently with enlarged powers of administration. Simcoe left Quebec for Upper Canada on the 7th of June, 1792. The Judge therefore must have made his hurried trip to Quebec at some time during the months of April and May.

And now let us have the story back of it all which links Detroit and Montreal.

There lived in North Carolina at the outbreak of the revolutionary troubles a well-to-do planter named La Force. He was of French descent, but of British sympathies. Being disturbed and harassed by his neighbours on account of his loyalty, he collected his flocks and herds and all his slaves, and with wife and family struck out westward into the wilderness to seek a new home. Having proceeded beyond the settled area, a day of rest and thanksgiving was decided upon. An ox was shot and while the sons prepared the carcass, the parents retired to their tent to sleep. The work was completed and the sons picked up their rifles to put them away. A tent cord caught the trigger of one of

the loaded rifles and the bullet passing through the tent killed the father as he lay asleep. After recovering from the awful shock, they buried the father and then continued their westward journey as far as the Ohio, where they selected a promising location and decided to establish their new plantation. As a protection against wild beasts, they surrounded their new home with a strong stockade. For years they lived unmolested and prospered. One day an "armed force of Indians and Britons prowling for prey" appeared. They entered the property, insults were offered, a fight took place, and the surviving whites and blacks were marched off as prisoners of war. They were first taken to Detroit where the slaves were sold and then the white prisoners were marched to Montreal, 600 miles away. Judge Powell was then in Montreal and saw the prisoners brought in. He had opportunity to talk with Mrs. La Force and collected sufficient money to obtain some food and clothing for the entire family. Mrs. La Force next day gave him a complete list of the slaves and their purchasers. This he transmitted to the Commander-in-Chief at Quebec, Sir Frederic Haldimand, who sent forward to Detroit orders for the return of the slaves to Mrs. La Force, but it was impossible to carry it out, and when Judge Powell went to Detroit some of the officers of the Indian Department still retained their booty in the shape of slaves. The attempt to get rid of the Judge by the forged letter was doubtless prompted by the fear that he might attempt to revive the claims of Mrs. La Force and her children.

"The awful termination of the career of the libellers (one by drowning in a state of intoxication, the other in foreign dungeon for no good) gave quiet to the Refugee so long as he continued sole Judge of the District of Hesse when his removal to the Provincial Court of King's Bench closes the first part of this narrative."

And so it turns out that not only was the account of Judge Powell's trip to Quebec in 1792 "very much exaggerated," but that back of it there is a bit of Canadian history that, while it reveals a sad story of frontier life, reflects honor and credit upon the man who played an important part in the formation of Upper Canada and in the War of 1812, and whose "manly, independent qualities endeared him to the people, and gained for him a high reputation as a Judge." (Read)