

was a brother of the more celebrated Dr. John Rolph. One night in June, 1836, a number of persons broke into his house, with their faces blackened and otherwise disguised, and took Rolph out of the house and tarred and feathered him. He brought an action against Titus Geer Simons, (Dr.) James Hamilton and Alexander Robertson for assault and battery. The action was tried at the assizes for the Gore District, Saturday, 25th August, 1827, before Mr. Justice Macanlay and a jury.† The judge's note-book is still extant and gives a full account of the shameful affair. Dent says ("The Upper Canadian Rebellion," vol. 1, p. 168), that "the outrage arose out of private complications and no political question arose in the course of the trial." But no one who is acquainted with the political situation of the time and the personnel of the parties, can read the judge's notes without seeing that the outrage was very largely political. Perhaps the assailants justified themselves to their own minds and consciences, but it is notorious that a sin in a political opponent seems blacker than in any other. It was, at the trial, proved that the gang had blackened their faces at Dr. Hamilton's, that tar was taken from near there, and generally it was sufficiently shewn that Simons and Hamilton had been ringleaders of the mob.

Andrew Stevens, who had been subpoenaed, was called as a witness by the plaintiff, "he declines being sworn, says he can answer no questions but may criminate himself. After argument," the judge says: "I think him competent and that he is bound to be sworn, but not to answer questions that will implicate himself criminally. He refuses to be sworn. Were it a criminal case the refusal is a contempt for which he might be committed; in a civil case, I consider it a contempt also, the witness having appeared in court, but as the refusal may be tantamount to a disobedience of the subpoena, I will not commit him, the party having a remedy in case I should be wrong; but

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†James Buchanan Macaulay who became a justice of the King's Bench in 1829, Chief Justice of the Court of Common Pleas in 1849, and who was afterwards in 1857 knighted, had been 3rd July, 1827, appointed temporary Justice of the King's Bench in the room of Hon. D'Arcy Boulton.