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[Single copies, 3 cts.]

VOL. XV.

RICHMOND HILL, THURSDAY, DECEMBER 22, 1892.

No. 25

"The Liberal"

IS PUBLISHED EVERY
THURSDAY MORNING
AT
THE LIBERAL PRINTING & PUBLISHING HOUSE
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Vaughan Road Case.

The following is a statement of the case
re. Vaughan road, as handed to the
Vaughan Council by their solicitor:

In the fall of 1890 after frequent com-
plaints had been made by various rate-
payers of the Township of Vaughan, a
petition was presented to the Council re-
questing the Council to proceed in having
the Vaughan Road Company's road in-
spected, and if possible, try to get the
road improved or the toll-gates removed.
Acting upon that the Council saw Mr.
Gibson in the matter, and he advised
that the township solicitor should be
consulted, as difficulties might arise in
connection with the affair. Acting upon
his suggestion, Mr. A. G. F. Lawrence
was instructed to advise with Mr. Gibson
in carrying out the proceedings. Nothing
was done in the year 1890, nor until the
spring of 1891, as it was not thought
possible for the Engineer to make any
report as to the state of the road when it
was frozen up.

In the fore part of April, 1891, the
formal requisition calling upon Mr.
Gibson to proceed, was served, and about
the 23rd of April Mr. Gibson examined
the road, and reported it out of repair,
and gave the Road Company three
months in which to get the same repair-
ed. The Road Company at once took
the position that they would not recog-
nize Mr. Gibson's authority and did
everything possible to avoid being com-
pelled to repair the road according to the
requirements of the Engineer. They
did, however, make some pretence at
this, or of doing some repairs. How-
ever, in the end of July the three
months' time having expired, Mr. Gibson
again examined the Company's road and
did not find that they had repaired the
same properly and so notified them.
Notwithstanding this the Company still
continued to take to its ignoring all the
proceedings that had been taken. Mr.
Gibson then consulted with the Solicitor
and it was thought advisable to try to
compel the Road Company to begin pro-
ceedings, rather than to attack them, as
the Solicitor said it was an extremely
difficult matter, but that he thought the
proceedings taken by Mr. Gibson and
the Council were correct. Accordingly
printed notices were again served on the
toll-gate keepers, signed by the Solicitor
on behalf of the Township, notifying
them that until the road was repaired
they were no longer entitled to demand
tolls, and copies of these notices were
posted up in various places along the
road. Shortly thereafter the Solicitor
for the Road Company consulted with
the township Solicitor and negotiations
were begun to bring about a meeting be-
tween the Township Council and the
Directors of the road. This meeting was
from time to time deferred and finally
on the 12th of September, in pursuance
of this arrangement, the Council met in
Toronto and had an interview in the
Solicitor's office with Mr. Abell, the sole
representative of the Company, and his
solicitor. A long discussion ensued and
no terms could be arrived at other than
the purchase by the Township of the
road from Mr. Abell. Thereupon the
Council instructed their Solicitor to take
the necessary steps to bring an action in
the Superior Court to try to get an In-
junction restraining the Road Company
from collecting tolls.

Shortly thereafter the Road Company
laid information against Messrs. Hol-
lingshead and Whitmore for refusing to
pay tolls and destroying property, and
Hollingshead was fined, the Solicitor ad-
vising that the fine be paid rather than
apply to quash conviction, which there
was no doubt could be done.
As it was necessary to bring the action
for the Injunction in the name of the
Attorney General, the Township Solicitor
interviewed the Attorney-General's de-
partment in reference thereto, and the
matter of granting leave to use his name
was taken into consideration. After
some delay on the part of the Attorney-
General's department in replying, a letter
was received by the Solicitor, whereby
the Attorney-General refused to grant
leave as he did not think he had the
authority to do so, but recommended the
Council to try to enforce their rights by
laying information against the toll gate
keepers or Directors for illegally taking
tolls. Thereupon on the 3rd of October
informations were laid against John
Abell, McKenzie and Hagle, before Mr.
J. C. McQuarrie, for illegally taking toll,
and on the 10th of October these cases
were tried at Maple and fines imposed.
However, the Solicitor was anxious that
an action should be brought rather than
proceed by conviction, and accordingly
an interview with the Attorney General
was arranged, and on the 15th of Octo-
ber the Council, with the Reeve of King
and local members, went with the Soli-
citor to the Attorney-General, when the
question was again brought to his notice
and a statement of the case made by the
Solicitor with reasons why it was proper
for the Attorney-General to grant leave
to proceed. The Attorney-General re-
quested the Solicitor to send him a

written statement of all the facts and law
on the subject again, which was done,
and shortly thereafter his leave was
granted to bring the action. A writ was
accordingly issued and served and a
motion for an Injunction was made.
Some considerable delay, however, was
necessary in getting the material ready
to bring the motion on. However, the
motion was argued on the 20th of No-
vember, before Judge Falconbridge, and
as the matter involved considerable im-
portance and intricate points of law, the
learned Judge thought it better to send
it to the Divisional Court, where a bench
of Judges might hear it, and it was then
argued before Sir Thomas Galt and Judge
McMahon on the 23rd of November, and
judgment was reserved. In the mean-
time, Mr. Abell proceeded to appeal
against the convictions given by Mr.
McQuarrie, and all these convictions
were brought up before the Superior
Court, and on the 27th of November the
motion to quash these convictions was
argued and judgment reserved. On the
4th of January judgment was given sus-
taining the convictions with costs how-
ever in the Abell cases only, as the Court
thought it would be a hardship to give
judgment against Hagle and McKenzie
for costs, seeing they were likely mere
creatures of the Road Company, and the
costs against Mr. Abell were taxed at
over \$75.00, which he paid, and as he
could not appeal, this had to drop.
Judgment was also given the same day
granting an Injunction restraining the
further collection of tolls. Notwith-
standing this tolls were continued to be
collected, and it appeared that the toll-
gate keepers had asked Mr. Abell for in-
structions as to whether they should
collect tolls or not, and he told them to
go on and do so.

Thereupon a motion was made to com-
mit him for contempt of Court, and on
the 19th of January the motion was
argued before Judge Rose, who reserved
judgment, and on the 22nd of January
judgment was given, in which the Judge
severely criticized Mr. Abell's conduct,
and declared he was guilty of contempt
of Court, but made an order that upon
payment of the costs of the motion the
matter might drop. The costs were ac-
cordingly taxed against Mr. Abell per-
sonally at about \$70, and he paid the
same and the matter then dropped.

The Road Company then proceeded to
appeal against the judgment of the Divi-
sional Court granting the Injunction, and
it was suggested by the Township Soli-
citor that it might be well to have some
senior counsel employed in the Court of
appeal, and accordingly he was instructed
to retain Mr. S. H. Blake. The matter
came on before the Court of Appeal on
the 12th of February, and judgment was
reserved. On the 1st of March judgment
was delivered, whereby the order for the
Injunction was set aside, the Court hold-
ing that the proceedings were irregular,
in that the Act under which they were
taken did not govern the Road Company
nor their charter. The judgment was
not unanimous, however, Chief
Justice Haggart dissenting, and holding
that the Company were governed by the
Act proceeded under. By the procedure
of the Court no appeal could be taken
from this judgment, it being a judgment
on a motion only, and not a judgment
at a trial, so that the Road Company
were able to tax their costs against the
Township and get payment thereof with-
out the Council having any remedy
thereof. The Council then met with
the Solicitor and considered the position
of affairs, and advised them that he still
thought the Council were right in the
proceedings they had taken, and that the
judgment of the Court of Appeal was
wrong, and he also pointed out that if
the matter stopped where it was, the
Council would be liable for damages to
the Road Company on account of the
proceedings they had taken, and in get-
ting their tolls stopped, the damage for
which was estimated at \$500.00 by the
Road Company, and he strongly urged
an appeal to the Supreme Court in the
matter, which he was directed to take.

Accordingly the question in dispute
was sent down to trial and was formally
tried on the 26th of April, when judg-
ment was given dismissing the action
with costs, and giving a reference as to
damages. This judgment had to be given
in this way on account of the judgment
of the Court of Appeal which was upon
the trial Judge. The matter was then
appealed direct to the Supreme Court
where it was argued on the 9th of No-
vember, and judgment was reserved.

On the 13th inst. judgment was given
by the Supreme Court allowing the ap-
peal with costs, which means that the
Injunction restraining the Vaughan Road
Company from collecting tolls, until
they are authorized to do so, is granted.
Immediately upon being advised of this
judgment the Solicitors wrote John Abell,
the President of the Company, and also
the Solicitors for the Company, advising
them that if tolls were collected they
would be prosecuted, and they informed
the Township Solicitors that they had in-
structed their toll gate keepers to dis-

continue the collection of tolls.

It is possible for the Road Company to
appeal from this decision to the Privy
Council, but whether they will do so or
not is doubtful. The chances are that
this is a final termination of the matter
as far as the right to collect tolls or
otherwise is concerned. As the action is
against a Company the plaintiffs have to
look to the Company to recover the costs,
and if the Company discontinue the
collection of tolls and forfeit their
charter, there is no available asset on
which to realize to recover the costs;
moreover, there is said to be a mortgage
upon the Road Company's property for
\$900 or more, so there seems to be no
possible way of recovering the amount of
the costs incurred, although the judg-
ments awards them.

At the time the proceedings were first
begun in the Courts, the Road Company
issued writs for damages and an Injunc-
tion against four parties, Alexander Cam-
eron, Michael Fisher, Emerson Smith
and Robert Douglass, and the Township
Solicitor appeared for all these parties.
A motion was made on behalf of all these
defendants to have only one action tried
as a test case and have the other actions
stayed for the purpose of saving costs.
This was most strenuously opposed by
the Road Company. A motion was made
in Court before the Master-in-Chambers
and was by him referred to the Chancel-
lor, before whom it was again argued on
the 16th of November, 1891, and judg-
ment was reserved. Shortly afterwards
judgment was given by the Chancellor
holding the motion to have been properly
made and directing that one of the ac-
tions only should come to trial, giving
the Road Company the right of selection.
They selected the one against Michael
Fisher and it was accordingly entered for
trial at the Assizes held in Toronto in
January, 1892, but at the request of the
Township Solicitor the Road Company
agreed not to press the trial of this
matter until the question was decided
whether or not the Company was govern-
ed by the Township's proceedings, as in
the event of it being held that they were
subject to the proceedings they could not
possibly succeed against these parties, so
these actions have remained in that po-
sition ever since.

Death of Mr. T. C. Milligan.

The announcement of the death of Mr.
Thomas C. Milligan, the well-known and
promising young barrister, which occur-
ed on Sunday last, will be received by
his many friends with feelings of unfeigned
sorrow. Mr. Milligan had been ailing
for a year past, never having fully re-
covered from an attack of grip last win-
ter, and, lately, pneumonia developed,
which, with other complications, brought
about his decease at the early age of 33
years. He was a native of Guelph, and
a graduate of Toronto university whence he
graduated in 1881 with high honors and the
gold mathematical medal. For many years
he was law partner with Messrs. A. G. F.
Lawrence and J. A. McAndrews, afterwards
becoming head of the firm of Milligan &
Cane. In 1886 he was elected to the covet-
ed position of president of the Varsity Lit-
erary and Scientific society, and the as-
sociation enjoyed a large measure of
prosperity under his guidance. In politics
he was a Reformer and did much efficient
work for the party.—Globe.

Presbyterian Church.

A splendid program was executed by
the Mutual Improvement Society in the
lectures room of the Presbyterian Church in
this village on Friday evening last. The
chair was ably filled by Mr. Allen E. Mc-
Lean, the president of the society. The
musical part consisted of several choruses,
a solo by Miss Belle McComaghy; a duet by
Miss Palmer and Mr. McCallum; a duet by
the McCallum Brothers, and a violin solo by
Mr. J. McKenzie. Mrs. John Innes presided
at the organ. The literary part of the
programme consisted of a very interesting
and instructive address on the subject of
"Electricity," by W. F. Maclean Esq., M.P.,
of the Toronto World. Mr. Maclean showed
an intelligent conception of the subject he
undertook to discuss, and succeeded in hold-
ing the attention of the audience from the
youngest to the eldest. The speaker pre-
dicted, that in the very near future, electric-
ity would completely revolutionize all the
industries of our land, and had also a good
word to say in favor of the proposed electric
road on Yonge st. He also mentioned the
fact that Bell, the inventor of the telephone,
was an Ontario boy, and vainly tried to get
some of the wealthy citizens of Toronto to
advance him enough money to patent the
invention in the United States. Had they
done so, it would have been millions of
dollars in their pockets, but they let slip
the best chance of their life. Mrs. Maclean
also favored the audience with three recita-
tions, which afforded ample evidence of
perfect training upon her part. In fact it
was one of the greatest treats with which we
have been favored, in this line, for some
time, and should she favor our village again
with another visit at some future time, she
will be sure to be greeted with a crowded
house. At the close, a hearty vote of thanks
was moved by the Rev. Dr. Percival and
seconded by Mr. Alex. Moodie, and carried
unanimously. The meeting was closed
with the Doxology and Benediction.