

CXXVII.

Re QUEEN'S PARK AND AVENUES, ATTORNEY-GENERAL V. THE CITY.

Toronto, February 6th, 1882.

DEAR SIR,—In this matter, the Senate of the University (in the name of the Attorney-General) ask for an Injunction against the City of Toronto, restraining the City from using the Queen's Park and Avenues otherwise than as a Park and Avenues, and for forfeiture of the lease under which the City holds the Park and Avenues, on the ground that the City has not observed the conditions of the lease.

1. The lease in question binds the City to keep the Park and Avenues for the purpose of a Park and Avenues and for no other purpose whatsoever.

2. The roads and ornamental grounds within the Public Park and the Avenues and other approaches thereto, with the gates and fences belonging thereto, shall be put in repair and kept in repair by the City Council.

In case of neglect or refusal on the part of the City Council to perform the stipulations contained therein, the Bursar may re-enter the lands demised and the lease may be declared forfeited.

This agreement is modified to some extent by an agreement of 19th July, 1883, by which the Senate, on certain conditions therein fully set forth, allowed the Street Railway Company to lay lines down Yonge Street Avenue. This agreement, however, in no way affects clauses (1) and (2) above referred to.

The statement of claim on the part of the Attorney-General, represented as aforesaid against the City, after reciting clauses (1) and (2), sets out

(1) That the City of Toronto have used the Park and the Avenues for other purposes than those of a Park and Avenues.

(2) That the gates and fences are not being maintained, but are being removed, and unauthorized entrances into the Avenues and Parks are being made and used.

(3) The ornamental grounds are not kept in order by the City of Toronto.

The whole question involved is this, the Senate do not wish the Avenues to be used as public streets whilst the public generally and the owners of property adjoining the Avenues desire to use them as such, and have been using them as such.

The University authorities decline to allow the owners of lands adjoining the Avenues to front their lots on the Avenues and have entrances therefrom into the Avenues—unless the owners of such lots enter into an agreement not to use their property for other than residence purposes, to maintain such fences as the University Senate Committee may approve of, and make a payment of, I think, \$5 per foot frontage on their lots for such privilege.

These conditions have been accepted by the owners of the lands on the south side of Yonge Street College Avenue between McCaul Street and the west end of the Avenue.