

Charles C. G. Evans, Esq., City Solicitor (cont'd)

The title to Venable Park, therefore, is vested in the Mayor and City Council of Baltimore, in fee simple, by the deeds pursuant to which the City acquired Venable Park. All of the terms and conditions of both the authorizing Act of Assembly and the effectuating Ordinance have been complied with, that is to say, the funds used for the purchase of Venable Park were used for park purposes "and for no other purposes whatsoever". It should be noted that Venable Park was acquired by public moneys and an unrestricted title vested in the City; Venable Park is not a gift to the City by a private citizen or a parcel of land restricted for park uses. There is no restriction in the authorizing Act of Assembly or in the effectuating Ordinance from which it can reasonably be inferred that the land purchased from the proceeds of the Park Loan should forever be held and used for park purposes, regardless of changed conditions which might make a continuation of such uses undesirable.

There has been much litigation throughout the country in regard to the problem presented by the question being considered. The effect of the decisions in the various cases is well summarized in the annotation entitled "To What Uses May Park Property Be Devoted", 18 A.L.R. 1246, at 1247:

"The municipal authorities have power to devote park property to uses which are proper park purposes or consistent with the purposes of its dedication; but it is generally held that they cannot divert park property from park purposes or the purposes of its dedication.

The uses to which park property may be devoted depend, to some extent, upon the manner of its acquisition, i.e. whether dedicated by the owner thereof, or purchased or condemned by the municipality.

Thus, the uses to which land dedicated by its private owner as a park may be devoted depend upon the purposes of the dedication, as determined by the intention of the dedicator, and such land cannot be used for any purpose which is inconsistent with such intention.

The dedication of lands as 'public grounds' is an unrestricted dedication to public use, and in such case the use is indefinite and may be any public use.

A different construction is placed upon dedications made by individuals from those made by the public. The former are construed strictly according to the terms of the grant, while in the latter cases a less strict construction is adopted.

When the purposes for which public squares may be used are defined by positive law, such a square may not be devoted to a use which does not come within one of the enumerated purposes.