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

It follows a fortiori that the same power would exist to designate another public use. In the Wright case the Court holds, under the Massachusetts law, that that power was vested by the Constitution of Massachusetts in the Legislature of Massachusetts. In Maryland, such power is vested in the Mayor and City Council of Baltimore, as will hereinafter appear.

Another case even more closely in point is Antonakas vs. Anderson Chamber of Commerce (Sup. Ct. of S.C., 1924), 130 S.C. 2150, 126 S.E. 35. In 1826 the State of South Carolina purchased one hundred and thirty acres of land in what is now the City of Anderson, South Carolina. It sold off a number of lots but did not sell the Plaza Lot in the center of the town. The plat of the one hundred and thirty acres did not number the Plaza Lot, and for many years the Plaza Lot had been used as a public park. A monument to the Confederate dead was built upon it and it was beautified by the Civic Association of Anderson. In 1924 the Legislature of South Carolina passed an Act, leasing the Plaza Lot to the Anderson Chamber of Commerce for ninety-nine years for the purpose of erecting a building, which was to be the property of the State at the expiration of the lease. The lessee agreed to maintain offices free of rent for the County Agent and other public agencies and one thousand square feet of the floor space of the building were to be given to the County free of rent for an auditorium. The plaintiff property owner adjoining the Plaza Lot filed a bill in equity against the Chamber of Commerce to enjoin the defendant from building on the lot, charging that the Act of Assembly of 1924 was unconstitutional. The lower Court dismissed the bill and the decree was affirmed on appeal. It was held (1) that there was not sufficient evidence of a dedication by the State of the Plaza Lot to a public use as a park, and (2) that even if such a dedication had been proved, it would not preclude the State from changing the existing use to another public use, as that contemplated by the Act of Assembly of 1924.

This case is almost precisely in point with the Venable Park situation and the case is clearly authoritative for the proposition that power exists to change the use of land from one public use to another. This case, of course, involved land belonging to the State of South Carolina and holds that the power to change the use is vested in the Legislature of South Carolina.