

this would amply justify and legalize what was done by the testator in completing his purpose with regard to Battershall Park, as it is called in the conveyance.

It is argued that the will is inoperative as to this land, because it was not made 6 months before the testator's death, under the Mortmain and Charitable Uses Act, 1902, 2 Edw. VII. (O.) ch. 2, sec. 8 (ii.). I do not read this late statute as affecting the operation of the revised statute as to public parks. "Assurance" in the Act of 1902 includes disposition by will. Section 3 provides that land shall not be assured to any corporation in mortmain otherwise than "under the authority of a statute for the time being in force." This in effect recognizes the validity of the Public Parks Act, and there is no pretence of repealing any of it under the schedule of Acts repealed by the Act of 1902.

The whole Act of 1902 is to be read as part of the Mortmain and Charitable Uses Act, R. S. O. 1897 ch. 112, and it cannot be supposed as intended to derogate from the express power given to municipalities to take and hold land for parks.

The case was argued as if the provisions of the Act of 1902, sec. 8, were at variance with the other legislation in the Public Parks Act. But I think that the heading of the statute, above sec. 8, "Exemptions," gives the clue to the real meaning. The difficulty of the Act in relation to charitable uses was dealt with . . . in *Re Barrett*, 10 O. L. R. 337, 5 O. W. R. 790. But as to parks we have to consider the mortmain aspect of the statute, and clause 8 provides for the exemption of other cases from the operation of the Mortmain Acts in addition to those already existing, such as, e.g., those provided for the Public Parks Act. The Act of 1902 does not disturb any existing licenses or statutes authorizing holding lands in perpetuity: see secs. 3, 4, and 11; but extends the power to hold to other cases (parks, museums, and school houses), where the right does not exist independently of the Act of 1902. Cases that fall under the Act must conform to its methods of assurance or to time limit, but these directions are not pertinent to the present case.

I have now disposed of all the questions submitted. Costs out of estate.