

1901, called the Island Committee, who are elaborating a plan of park improvement, which will for the first time supply a definite policy to work upon from year to year. The city has treated the leases existing at the date of the first by-law in November, 1880, though then liable to forfeiture, as existing and valid leases, under which rent has been paid on the whole lots down to 1883 or 1884, or perhaps later, and after that on parts of the lots on which buildings or improvements have been made, down to 1895, if not to the present time. Taxes have also been levied upon these lots during the terms of the leases, and have been paid to the city as an annual charge. Some 50 houses or structures including a church building, have been erected upon the lots in question since 1880 till the present time. Plans have also been made, with the sanction of the city, and registered, of certain of the lots, on which streets are laid out, with reference to which trees have been planted and houses built. The term used in intituling the by-law, to "establish" a park, does not denote the idea of permanency or unchangeableness. It indicates that much would be required in the particular locality to be done before the park could take a fixed form and definite area. As said by the Court in *Osborne v. S. D. Co.*, 178 U. S. 38, it is manifest that to construe the word "establish" to mean, to fix unalterably, would throw the powers of the board into confusion and contradiction. See also *Dundee v. Morris*, 3 Macq. 166. The defendants acted in the belief that there was power to deal with the land designated as park land by leasing it, imposing and collecting rents and taxes, approving of the laying out of new streets on registered plans, and otherwise exercising the control of owners, though some regard for the enjoyment and benefit of the public has been always kept in view. The park scheme has not been abandoned, but the details and the area of its occupation on the island have been modified from time to time by successive councils. If the city has the power to exercise such control, it is not for the Court to interfere, nor can the wishes of the residents on the Island control the situation as against the legislative and dedicating powers of the corporation. In the absence of any distinct authority, the conclusion is, that the city has not exceeded its corporate or legislative powers in dealing as has been done with this Island Park. The doctrine of irrevocable dedication is not applicable to the case of a park which is established by by-law out of land belonging to the corporation as owners in fee simple. Having enacted a by-law to establish a park, the same body or its successors may repeal, alter, or amend