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THE EXTRATERRITORIAL POWERS OF A MUNICIPALITY

By William Hemingway*

It is the purpose of this paper to ascertain the nature and extent of the power of a municipal corporation to purchase, acquire, and hold lands outside of its municipal boundaries. In approaching this problem we will first discuss generally the nature of the powers of a municipal corporation under the American system of municipal law. We will then consider in detail the powers of such a corporation to acquire, own and hold land under the following circumstances: (1) when the property is within the territorial boundaries of the municipality; (2) when it is outside the municipality, but not within another municipality; (3) when it is within the territorial limits of another municipality; and (4) when it is in another state. In determining the nature and extent of the power in each instance, we shall consider whether it is implied, incidental or indispensable. We shall consider whether a municipality may, under any circumstances, own and possess land in another municipality. If it does have this power, is it implied, incidental or indispensable?

For some time, writers and jurists have been in disagreement as to the exact nature of the powers exercised by municipalities. This disagreement is especially noticeable in the deci-

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1This subject is discussed by Professor William Anderson in a series of two articles, "The Extraterritorial Power of Cities," 10 Minn. L. Rev. 475, 564 (1926).

sions of the New England courts during and shortly after
the colonial period. It is also noticeable to a lesser extent in
the court decisions of some of the other states, during the same
period. According to one view the common law vested cities or
municipalities with certain inherent rights, so that they possess
certain powers not expressed or impliedly granted by the state.\(^3\)
Without delving into the merits of this argument it is sufficient
to note that the accepted view today of the vast majority of
state courts, and of writers as well, is that municipalities are
subservient to the state and have only those powers granted to
them by the state.\(^4\) Since under the federal Constitution all
powers not delegated to the federal government are reserved
to the states it results that the state determines the units of
local government, and, as is generally conceded, the state exer-
cises all rights over local government. It grants to the munici-
ppality its charter which, with the acts of the Legislature, are
the sources of the power vested in the municipality. This being
the accepted view we will pass over the arguments of those who
contend that municipalities possess certain inherent rights.

In certain respects a municipal charter may be compared
to the federal Constitution. The federal Constitution contains
only delegated powers—delegated to the national government
by the sovereign power of the nation. The state delegates to
the incorporated municipality all the powers which it possesses.
Since the state creates municipalities, they have no powers ex-
cept those granted by state law.\(^5\)

It is immaterial whether the municipal charter be obtained

\(^3\) See Eaton, loc. cit. supra note 2.
\(^4\) Tooke, "Construction and Operation of Municipal Powers," 7
Temple L. Quar. 267, at 271 (1933) says, "If we recognize the fact that
our municipal corporations are strictly of a public nature, owing their
existence and their powers to the legislative will of the state, it in-
evitably follows that the only powers they can exercise are those that
are clearly delegated to them by the state."

\(^5\) Professor Tooke thinks that the only possible approach to the
problems of the extent, interpretation, and exercise of powers by mu-
icipalities is through "our present institutional system of determin-
ing the powers in any given case based upon the assumption that the
municipality has only those powers which are directly granted or im-
plied from the express grant in the light of the general welfare clause,
other statutes in pari materia, and all existing and settled principles
for the interpretation of powers as found in the doctrines of statutory
interpretation, applied in view of the effect which legislative and judi-
cial policies must necessarily have when the solution is not clear and
under the home rule provisions of the state constitution or by statute. The rule is that the municipality is limited in its powers to the grants made in its charter and by acts of the state legislature. This rule was laid down at an early date by the courts and it was concisely stated by Judge Dillon in his work on municipal corporations, as follows: “It is a general and undisputed proposition of law that a municipal corporation possesses and can exercise the following powers, and no others: First, those granted in express words; second, those necessarily or fairly implied in or incident to the powers expressly granted; third, those essential to the accomplishment of the declared objects and purposes of the corporation,—not simply convenient, but indispensable.” Sometime later this rule was worded in the following terms by McQuillin in his work on municipal corporations: “Accordingly a more accurate statement of the general rule would be: A municipal corporation possesses and can exercise, first, all powers granted in express terms consistent with the United States Constitution, treaties and laws, and the state constitution and general laws of the state; second, certain implied or incidental powers, in like manner consistent (1) necessarily arising from those expressly granted, or (2) those essential to give effect to powers expressly granted, or (3) those recognized as pertaining or indispensable to local civil government, to enable it to fulfill the objects and purposes of its creation.”

It is apparent that Judge Dillon looked to a third type of power; that is, those “essential to the accomplishment of the declared objects and purposes of the corporation,—not simply convenient but indispensable.” He rejected the doctrine that municipalities possess certain inherent powers, as had been suggested by Judge Cooley and other jurists and writers. See Tooke, “The Status of the Municipal Corporation in American Law,” 16 Minn. L. Rev. 343, 359 (1932). See also A. T. Dedden, “Power of a City to Appropriate Funds for Advertising Purposes,” 6 U. of Cin. L. Rev. 465, 476-477 (1931).


See the citations made by McBain, loc. cit. supra note 2. Note the conclusion reached by that author in regard to the views that have been advanced by jurists and writers that there is an inherent power in municipalities. “It seems reasonable to conclude that every one of the four arguments that have been advanced in support of the doctrine...
Dillon placed border line cases, that is, those in which the power was not clearly implied, under the head of essential powers or those powers indispensable for the accomplishment of municipal purposes. It was McQuillin’s view that municipal powers should be divided into express and implied powers. He subdivided the implied powers so that they included the third part of Dillon’s rule. In the viewpoint of the writer, McQuillin’s interpretation seems best. However, McQuillin, in his explanation of the rule, at times infers that cities have certain inherent powers. The writer does not agree with this conception of the powers exercised by a municipality.

It is submitted that municipalities possess and exercise only two types of powers—express and implied. In the main, the express powers of a city are to be found in its charter, although these may be increased or elaborated upon by statute or even by the constitution of the state. All other powers exercised by a municipality must be implied from those expressly granted in order to be valid. It is the function of the courts to determine, as litigations are presented, whether the powers exercised by the municipalities are express or implied. If the courts find that the powers exercised by the municipality are neither express nor implied, then it is their duty to hold that the municipality has gone beyond its grant of powers.

We will now discuss the question of how a municipal corporation may acquire lands within its territorial limits. It is agreed that in the absence of restrictions in the municipal charter or in the law of the state a city may acquire property in any of an inherent right of local self-government is fatally defective in character. However salutary the application of such a doctrine might have been in the course of the evolution of relations between state legislatures and municipal corporations in the United States, it seems clear that upon careful analysis the entire line of reasoning by which it had been sought to be sustained is resolved into a thin issue of legal sophistication.” Id. at 315.

*For example, note the following statement, 3 McQuillin 704, Sec. 1204: “The power to acquire property may be derived from the constitution, statute, charter, or it may be inherent in the municipality.” Italics supplied. See also 1 McQuillin 512, Sec. 138.

*Elliott, Municipal Corporations (1925) 34, Sec. 38, “All powers may be classified in two general groups as ‘express powers’, and ‘implied powers’. Those that are express, are such as the legislature has set forth in so many words. Those that are implied, are such as, though not thus expressed, are involved in what has been expressed.”

*See Reed, Municipal Government in the United States (1934), 31–48, Chap. III.
ordinary method. Thus, in the absence of any particular provision to the contrary, a municipality may obtain the title to property by purchase, dedication, gift, devise or bequest, the act of incorporation, grant from the state, redemption from a sheriff's sale, prescription, condemnation proceedings in a proper case where the power has been conferred by statute, or in any other way in which title to property is acquired. However, if the charter prescribes a particular mode of acquiring land, then the municipality must follow the dictates of the charter.

In acquiring lands by purchase, cities are restricted in a number of ways. The fact that money may be expended only for public purposes is one check or limitation upon the acquisition of lands by the city. There are other restrictions, but unless they are express or clearly implied, then cities may acquire and hold lands within their territorial limits by any of the methods enumerated above. In certain instances, the land owned does not have to be used for public purposes. The city may usually put its property to any use the municipal authorities may deem necessary. For example, if the municipality receives land as an outright gift it may leave the property undeveloped, may rent or lease it, or put it to such uses as the municipal authorities think best.

Since the city may acquire, and hold lands within its territorial boundaries in any of the ways mentioned, may it acquire property beyond its boundaries in the same way? There have been many cases decided by the courts involving this question. If the municipal charter permits, or the state constitution or the legislative authority expressly grants the power to the city, then there can be no doubt but that the city may acquire lands outside of its boundaries. In certain instances, the power has

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12 See 3 McQuillin 723–725, Sec. 1220.
13 See 3 McQuillin, Secs. 1220–1230.
14 Id. 708–709, Sec. 1210. Also see the cases cited in the text and notes by Anderson, loc. cit. supra note 1.
15 This would naturally follow from the express grant of power by the state. See Anderson, loc. cit. supra note 1, at 481, who says, "A municipal boundary is, in fact, not a limit of ownership but of jurisdiction, and if we remember to think of the corporation as a 'bundle of jurisdictions' we shall see that a city may actually have several boundaries for different purposes." See also 3 McQuillin 408–409, Sec. 1210, who says, "Notwithstanding earlier rulings to the contrary, including dicta, likely influenced to some extent by an esteemed author.
been exercised as a matter of necessity. Some cities have become so thickly populated or certain needs have become so pressing that the cities have found it necessary to acquire lands beyond the city limits for public purposes. For example, New York City obtains its water supply from reservoirs more than a hundred miles from the city boundaries. In this, and similar cases, the legislature has expressly granted the city the right to purchase lands beyond its limits in order to supply the inhabitants with water.\textsuperscript{17} The rights over property acquired under such circumstances are the same as if the reservoirs and pipe lines were entirely within the city limits. There are other needs which have resulted in states expressly giving to cities the right of acquiring property beyond their municipal limits; such as need for park space, needs for obtaining gravel and stone for street construction, etc.\textsuperscript{18}

It is easy for courts to decide cases when the power is expressly granted to the city to acquire property beyond the territorial boundaries. It is a more difficult question if the city charter or the laws of the state are silent on the subject. In one case it was held that the power to go outside of the city limits for a water supply was implied from the provisions of the charter empowering the city to establish a system of waterworks.\textsuperscript{19} The Tennessee supreme court reached a similar conclusion when a city acquired lands outside of its municipal boundaries for a reservoir.\textsuperscript{20} There are not many such cases, for the state legislature usually grants this power to cities. It would seem reasonable to hold that, in the absence of express grants of power, the city may acquire property beyond its limits for a water supply if such is necessary. Thus, in so holding, the Georgia and Tennessee courts reached a sound conclusion.

\textsuperscript{17}See Anderson, \textit{loc. cit. supra} note 1, 480-482.
\textsuperscript{18}Id. 480-496.
\textsuperscript{19}Hall v. Mayor & Council of Calhoun, 140 Ga. 611, 79 S. E. 533 (1913).
\textsuperscript{20}Newman v. Ashe, 9 Baxt. (Tenn.) 330 (1876).
Cities have on occasion found it necessary to purchase lands beyond the city limits for gravel pits and quarries. The question presented to the courts in such cases has been whether, in the absence of express grants of power, the cities may purchase such property. There has been a diversity of opinion among the courts in answering this question. The Virginia supreme court has held that the right could not be implied from the provisions of a city charter, and thus that the city did not have the power to purchase land beyond its limits for a gravel pit. The Wisconsin and Massachusetts courts have held that cities have the implied power to purchase and hold lands for the purpose of securing gravel for use on the streets of the city. This would seem to be a reasonable conclusion.

A number of cities have found it necessary to purchase lands beyond the city limits for sewerage drains. In such cases the courts have generally held that the city has the implied power to purchase the land for this purpose when the city charter or the legislature has not expressly granted the power. It has been held that municipalities may aid in the building of roads outside the city limits if they lead to the city, and may assist in the construction of bridges and other such works when it is for the public interest of the municipality. In this last group of cases, however, the courts upholding the power of the city are in a minority; they have more liberally construed the implied powers of a municipal corporation than have the majority of the courts. Thus it would seem that the holding that cities may aid in building roads, and bridges, and that they may operate ferries outside of the city limits, are exceptional cases.

Municipalities have, on occasion, acquired parks located outside the city limits. When the legislature, by statute, has per-

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22 Schneider v. City of Menasha, 118 Wis. 298, 95 N. W. 94 (1903); City of Somerville v. City of Waltham, 170 Mass. 160, 48 N. E. 1092 (1898).
24 McCalle v. Mayor & Aldermen of Chattanooga, 3 Head (Tenn.) 318 (1859). See People ex rel. Murphy v. Kelly, 76 N. Y. 475 (1879).
25 In Nashville v. Vaughn, 158 Tenn. 498, 14 S. W. (2d) 716 (1929), the court interpreted a statute which authorized the acquisition of property "near" the city, for park purposes. It held that property adjoining a park five miles from the city could be acquired.
mitted such acquisition there is, of course, no question. However, if the power is not granted, is it implied? Could the city acquire land for parks when there is sufficient land for this purpose within the city limits? There is an interesting Mississippi case, *Lester v. City of Jackson*, which is in point. According to the facts Mrs. Ellen L. Moore, by her will, devised her late residence to her father, and to her brother-in-law, James T. Lester, for life, with remainder to the city of Jackson for a public park. After the death of the testatrix, the sister and wife of the plaintiff died childless and intestate. The husband, the plaintiff in the case, was entitled to take by inheritance whatever estate his wife inherited from Mrs. Moore. Mrs. Moore’s will contained no residuary clause, and she died intestate as to the reversion in fee unless the devise to the city of Jackson was valid. The land in question was a plot of some thirty-five acres, just outside of the city limits. The plaintiff maintained that the city had no right to take the land because its charter did not expressly confer upon it the power to acquire land outside the city’s boundaries. The court held that the city might acquire the property for park purposes. In reaching its conclusion it reasoned that the park would be for a public purpose; that is, “to be enjoyed by the same persons, and for the same uses, whether located within or without the city limits.” The court added by way of dictum that “the city may not have the same power of police over the park without the limits that it would over one within them, but the laws of the state would be in full operation there, and the right of the town, as owner, would be protected by them as are the property rights of natural persons.” The court’s reasoning was quite logical, but suppose that Mrs. Moore had left the property to the city of Jackson with no mention of her purpose in leaving it. Would the court have held that the city could acquire the property under those circumstances? In the principal case the court took into consideration the fact that the park was for a public purpose, and its holding was partially based upon the fact. It is difficult to say just what the court would have held if Mrs. Moore had not specified that the land

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[27] 69 Miss. 887, 890, 11 So. 114 (1892).
was to be left for use as a park. It would seem from the implication that the Mississippi supreme court would have held that it was not within the power of the city to receive the land for other than public purposes.

It is submitted that since the city may receive land within its territorial limits by bequest it may receive lands in the same manner situated outside of the city limits. The only difference the writer can see is that in the latter case the city would possess the land as might any private individual or corporation. In other words, the municipality would have "only those rights and powers which spring from ownership."28 There seems to be little difference between the right to receive lands by bequest and the power to receive extraterritorial property in trust for charitable and other uses. The power to acquire property in trust for charitable purposes has been upheld in "cases where the property lay outside of the state."29

Thus, the courts have held that municipalities may acquire land outside of the municipal boundaries for a public purpose—even though the power was not expressly given by the city charter. It is generally held that the power is impliedly granted by the expressed provisions of the charter or state law. It is here submitted that the municipality may acquire property outside of its municipal boundaries by bequest, gifts, etc., whether the bequest or gift is made for a public purpose or not and that such power would likewise be implied from the provisions of the charter.

Since a city has the implied power to hold property outside of its territorial limits the query arises whether it may acquire such property by eminent domain proceedings. Also may it tax beyond its territorial limits, and municipal boundaries? "If it be once conceded that water supplies, parks, and similar facilities are for public purposes, and even for municipal purposes

28 Note this wording of the court, Lester v. Jackson, 69 Miss. 887, 890, 11 So. 114. See Silverman v. Chattanooga, 165 Tenn. 642, 57 S. W. (2d) 552 (1933), in which the court held that airport property may be acquired for municipal purposes even though the land is situated outside the corporate boundaries, and that the municipality may exercise over the same the usual powers which are incident to ownership.
although located outside of city limits, then there can be little objection to the use of condemnation proceedings in the furtherance of the public purpose." Some courts have held that cities may in certain instances tax beyond their territorial boundaries, but Professor Anderson points out that "the preponderance of judicial opinion is undoubtedly against the power of the city to tax real estate beyond its boundaries." However, it has been held that leases may be taxed where found. As for the police power of the city, it is generally limited to the municipal areas. In regulating the inspection of milk, municipalities have been able to set up standards which dairies outside of the city have been forced to obey. Thus, a city may condemn land outside of its limits which is to be used for a public purpose, but generally it is restricted in its police and taxing power over this land.

If a municipal corporation has the power to acquire, own and hold land outside of its territorial boundaries, may it acquire, and hold such property when it lies within the boundaries of another municipality? If the city charter or the legislature specifically grants this right then there is no questioning that it has the power. There are a number of instances where cities have been expressly given the power to own and hold land in another municipality. Professor Anderson points out that the reservoir and filtration plant of the city of Minneapolis lie in an adjoining county within the incorporated city of Columbia Heights. Land held by municipalities within the territorial limits of another city is usually held under expressed

20 Commins v. City of Seymour, 79 Ind. 491, 41 Am. Rep. 618 (1881) (Drainage ditch); Matter of Mayor, Etc. of New York, 99 N. Y. 569, 2 N. E. 542 (1885) (Park); Matter of Department of Public Parks, 53 Hun. (N. Y.) 280, 6 N. Y. Supp. 750 (1880) (Park); Walker v. Cincinnati, 21 Ohio St. 14 (1871) (Railroad); State ex rel. v. Port of Astoria, 79 Or. 1, 154 Pac. 399 (1916) (Port purposes), cited by Anderson, loc. cit. supra note 1, at 564, n. 75.

21 Id. at 569, n. 92, Anderson cites Wells v. City of Westen, 22 Mo. 384 (1856).

22 Johnson v. Harrison Naval Stores Co., 108 Miss. 627, 67 So. 147 (1914) (A tax placed by the city of Biloxi on the investment in a business conducted from Biloxi).

23 City of St. Paul v. Peck, 87 Minn. 497, 81 N. W. 389 (1900); State v. Elofson, 86 Minn. 103, 90 N. W. 309 (1902); Walton v. City of Toledo, 3 Ohio C. C. (N. S. O. 295, aff'd in 69 Ohio St. 548, 70 N. E. 1134). See other cases cited by Anderson, loc. cit. supra note 1, at 575, n. 117.

24 Id. at 479.
grants of power from the legislature. One can easily understand how the water supply system of large cities might transcend the territorial limits of several municipalities. The maintenance of sewerage drains, and the municipal ownership of railways and light plants have resulted in one municipality owning and holding lands within the limits of other municipalities. However, the acquisition and possession is usually based upon express grants of power, as it is more difficult to imply from the charter that a city has this power.

One may ask whether an interpretation which would permit a city to have such extraterritorial rights through implication can ever be justified. The writer believes that it can not, unless the implication is plain or unless the case is one in which it would be unreasonable to deny this power to the municipality. It is conceded that if a city needs the property for a reasonably necessary purpose, it may generally, by implication, exercise such extraterritorial rights.

Suppose in the case of *Lester v. City of Jackson* that the land left to the city of Jackson had been in another municipality, would the holding of the Mississippi supreme court have been the same? Since it is generally held that a municipality may receive gifts or bequests, it is believed that the court would have held that the city might acquire the property, but only in the capacity of a private owner. The fact that the gift of land was located in another municipality would not materially matter. However, the city might be limited in its use of the property and would be obliged to submit to any regulations levied upon private owners. Moreover, it is reasonable to believe that the city would be under an obligation to sell the property if it could reasonably do so. There is one constitutional question which might be involved—would the city be permitted to spend any money on the property? Since such expenditure would be for a private purpose, it would seem to be an unconstitutional use of the taxpayer's money. Probably the only solution would be for the city to sell the property.

There is an interesting Massachusetts case concerning extra-

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36 *69 Miss. 837, 11 So. 114 (1892).*
territorial rights of one municipality in another. According to the facts one city, in order to obtain gravel for the construction and repair of its streets, purchased land which was located within the limits of another city. It seems from the statement of facts that the land was purchased about 1876. From 1877 to 1891, including both of the years named, the plaintiff city, which had purchased the land allowed it to be used for pasturage, and received compensation therefor. The city in which the property was located levied a tax on the land for the year 1893. During that year the property was used by the defendant city "entirely for public purposes." The supreme court of Massachusetts held that there was "nothing in our statutes to prevent a city from acquiring by purchase land in another city or town for municipal purposes, if it is necessary or expedient for the interests of its inhabitants to do so . . . such property when appropriated to public uses is exempt from taxation." The court in its opinion inferred that the land would have been subjected to the tax if it had not been used for a public purpose. If the city had purchased the land for private use, one wonders if the holding would have been the same. The court did not infer that the plaintiff city exceeded its power in renting the property from 1877 to 1891. If anything, it inferred that the city might hold property extraterritorially in the capacity of a private owner, but that in such a case the local tax would apply just as for privately owned property.

It is conceded that when the power is expressly given, municipalities may hold and own land for a public purpose when it is located in the territorial limits of another city. Yet, suppose that the property is no longer needed for a public purpose, is the owning municipality within its rights if it continues to hold the property? For example, suppose a municipality owns a gravel pit located in another city and the gravel supply is exhausted. There being no other public purpose for which the city might use the land, would it be obliged to sell the property?


Id. at 161. In the Town of North Haven v. the Borough of Wellingford, 95 Conn. 544, 111 Atl. 904 (1920), the court held that an electric light plant owned and maintained under the legislative authority, by a municipality for its own use, and the use of its inhabitants for pay, is exempt from taxation though located in an adjoining town.
It seems reasonable that such would be the action of the municipal authorities. Certainly a municipality is limited in the use of land within its own territorial limits and it surely seems by implication, if not expressly, that the charter provisions would still more limit its power over lands held outside of its territorial limits. It is thus submitted that the court in *Lester v. City of Jackson* would have permitted the city to receive the property if it had been located in another municipality, but the city would have been obliged to sell the property.

If the land owned by the city is within another state, then under its charter the city would hold such property in the same manner as though the land was in the same state. However, the state in which the property is located has the sole right of determining what recognition will be given to the right of ownership. It is believed that the state in which the property is located will determine through its courts the status of the property. Professor Anderson cites a number of such cases upholding the right of a city in another state to own land within the state.

Before reaching our conclusions as to the extraterritorial rights of cities there is one case which deserves notice. Through a forfeited penal bond a city in Mississippi acquired a lot located in another municipality about 100 miles distant. No action by the legislative power of the city was necessary other than the acceptance of the property. The case presents the interesting question, could the city own and hold the land? We noticed in *Lester v. City of Jackson* that a city has the implied power to acquire land by bequest. In another case it was held that "to secure a debt due by a defaulter" land may be taken by a municipality. In other cases it has been held that cities may accept gifts without any intention to use them for municipal purposes. In some exceptional cases cities undoubtedly

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*39* 69 Miss. 887, 11 So. 114 (1892).
*40* Note the comment made by Anderson, *loc. cit. supra* note 1, at 496.
*43* 69 Miss. 887, 11 So. 114 (1892).
*45* See Hemingway, *loc. cit. supra* note 26, at 362, who cites New Shoreham v. Ball, 14 R. I. 566 (1884). Hemingway says, "This seems to indicate that where the municipality is passive there is no limit
have the implied power to purchase land in another municipality.\textsuperscript{46} It would appear that lands acquired by gift or bequest should be disposed of within a reasonable time if they are located in another city. Certainly it seems to be a reasonable conclusion that a city would be going beyond its powers to continue to hold property outside of its municipal limits if it is not for a public purpose. In the principal case mentioned above it would seem that the city might acquire the land on the forfeited penal bond, but that it would be obliged to sell it as soon as possible. Land held under such circumstances is subject to all the obligations and duties placed upon private owners.

In conclusion, we find from our study that the courts have held, in a large number of cases, that municipalities have the implied power of purchasing and holding property situated beyond their territorial limits. There is good argument for this holding, especially if the possession of the property by the city is necessary for some public or municipal purpose. If the land is in the nature of a gift, bequest, or derived from a forfeited penal bond; the city may acquire title to it, even if it is located in another municipality. However, it is reasonable to infer that unless it is to be used for a public purpose or is suited for such use at some future time, the city is under an obligation to sell the property. Of course, it may be difficult to prove that the land could not at some future time be put to a public use. In case of gifts, bequests, or lands secured through a forfeited bond, it is doubted if the owning municipality has any more rights over the property than has a private individual. As for land acquired through purchase it is believed that a city has no implied power to purchase land within another municipality unless it is a reasonable certainty that the land is absolutely necessary for municipal purposes.

If cities were endowed with certain inherent powers one might safely reach the conclusion that cities have all the rights of acquiring, owning and holding land that are possessed by a private corporation. However, it is almost universally agreed that municipalities have only those powers granted by the state.

\textsuperscript{46} See 3 McQuillin, Sec. 1210.
Thus, when a municipality is not given express powers to own property beyond its city limits, the court decides the case according to the facts presented and ascertains whether the city might by implication acquire extraterritorial property. As was mentioned above, in most cases the courts have held that cities have the implied power to accept gifts, regardless of the situs of the property. Whether they can continue to hold the land depends upon whether it might be used for some public purpose. The power to purchase land located in another municipality is usually more limited. Apparently there must be some public need which makes it necessary for the city to purchase the land.