

PART X

LEGISLATION

LEGISLATION.

In various chapters of this Report the need for additional legislation has been stressed and attention has been drawn to provisions in various Acts which at present are inadequate to enable certain of the recommendations made to be carried out.

The government, semi-government, and municipal control in this metropolis is divided among over 60 separate bodies. Thirty-seven of these are municipalities within 13 miles radius of the central business area which have the local government of the metropolis vested in them. It is this multiplicity of control which makes it so imperative that the development of each municipal unit should be directed in the interests of the metropolis as a whole.

Much has been said in the previous chapters of the lack of co-ordination in various phases of development within each municipality. It is the purpose of this chapter to suggest means of overcoming this disability, as well as the lack of co-ordination between municipalities themselves.

The original Government surveys which defined roads of considerable length, passing through more than one municipal district, have been practically the only co-ordinating factor influencing the growth of the municipalities in the past. The inadequacy of these roads, both in number and width, to meet even present needs is now well known. Nevertheless, all municipalities are still allowing, or are powerless to prevent, the subdivision of their areas in a manner which of ten results in a network of narrow streets wrongly directed, and insufficient in length and width to meet our ever growing transport needs, or to supply the amenities which could be obtained at no greater cost if carried out under wise and broad direction. Such direction cannot be obtained by policies subject to frequent change, or by working to a general scheme which has no force of law, or which is entirely local or does not take into consideration the development of the whole city, of which the municipality is but one unit.

The foregoing chapters present a picture of the developmental errors which have been or are being committed. It is believed that the plans and recommendations submitted will give sufficient guidance to metropolitan growth in the future along lines which will result in the creation of a city reasonably well provided with traffic arteries, transportation and parks systems, and a satisfactory zoning scheme.

The rectification of conditions, which, through lack of this guidance in the past are incapable of meeting our present day needs, will cost appreciable sums of money. It is essential that a town-planning scheme should provide a definite programme, and be the basis of supervision which will ensure that the cost of correcting past mistakes is not added to by progressive development in conflict with the scheme. So as to enable this supervision to be maintained, **a definite scheme of development must be decided upon which will not only overcome present disabilities, but will anticipate future needs. It must include those things to which the city or municipality might reasonably aspire when the ultimate stage of development is reached, or the population in the area embraced has increased to the limits allowed by the scheme.**

NECESSITY FOR A CENTRAL TOWN PLANNING AUTHORITY.

In view of the number of municipalities which would be charged with the preparation and carrying out of town planning schemes, a central authority is necessary to examine the schemes, co-ordinate one scheme with others, and approve of them. Many efforts have been made by the Commission during its term to induce Governments to submit to Parliament the legislation necessary to give effect to town planning schemes. This is imperative, in order that a continuity of the work of this Commission may be secured, and so that developments in conflict with the schemes recommended should be guarded against. The Commission's First Report in 1925 drew the attention of the Government to the urgency for such legislation. In 1927 a Special Report dealing with the development of the area to be served by the Darling to Glen Waverley Railway was published, and it contained the outlines of legislation suitable to guide the development of outer suburban areas.

On the 20th March, 1928, the Commission waited on the Minister of Public Works (Hon. J. P. Jones), and urged the introduction of a Town Planning Bill. It was agreed that the Commission should confer with the Parliamentary Draftsman with reference to the necessary legislation. The interview with the Parliamentary Draftsman took place on the 22nd March, 1928, with the result that the Commission prepared the outlines of a Town Planning Bill which it considered would meet the requirements of this State, and permit the recommendations contained in this Report to be carried out. On 26th April, 1928, the Parliamentary Draftsman again conferred with representatives of the Commission, and he was handed a list of provisions which it was recommended a Town Planning Act should contain, the details of which follow.

OUTLINES OF A TOWN PLANNING ACT FOR VICTORIA.

1. TOWN PLANNING SCHEMES.

See T. P. Act 1925 Eng. sec. 1.
N.Z. Act 1926 sec. 3.
W.A. Act 1928 sec. 6.
Ceylon Housing and Town Improvement Act 1915.

Provision to be made for a town planning scheme to be prepared respecting *any* land with the object of securing proper sanitary conditions, amenity, economy, and convenience, but omitting the part of the English provision limiting schemes to land wholly or partly undeveloped.

2. POWER OF LOCAL AUTHORITIES TO PREPARE OR ADOPT TOWN PLANNING SCHEMES.

Any local authority (i.e., Municipal Council) should have power by resolution to—

- (a) Prepare a town planning scheme under this Act for any land within its municipal district.

NOTE.—Provided that after the passing of the resolution by the Council it shall proceed with the preparation of the scheme within the time specified by regulations.

T.P. Act Eng. 1925 sec. 2, sub-sections 1A, 1B &c.
W.A. Act 1928 sec. 7.
Ceylon H. & T.I. Act 1915 sec. 36.

- (b) Adopt with or without any modifications any town planning scheme prepared by any other authority or by any owners of any land in respect to which the local authority has power to prepare a scheme.

- (c) Include, with the approval of the Minister of Public Works, within any town planning scheme, land without its municipal district.

- (d) Act jointly with any other local authorities in preparing and adopting a scheme.

T.P. Act Eng. 1925 sec. 2, sub-sec. (2).
W.A. Act 1928 sec. 7.
Ceylon H. & T.I. Act 1915 sec. 52 *et seq.*
Various Canadian Acts.

A town planning scheme adopted by a local authority should have approval of the Minister, who may modify, approve conditionally, or refuse a town planning scheme.

Approved town planning schemes to have effect as if enacted under this Act. The Minister should have power to revoke a town planning scheme on the application of the local authority or for any other special circumstances or may revoke a town planning scheme if a subsequent scheme is prepared and approved under this Act.

3. DUTY OF COUNCILS TO PREPARE TOWN PLANNING SCHEMES.

See T.P. Act Eng. 1925 sec. 3 (1).
N.Z. Act 1926 sec. 13 (1).

The Council of every municipality containing or attaining a population of 2,000 or more, should, within three years from the date of the passing of the Act, prepare and submit to the Minister a town planning scheme for the whole of its municipal district. Every town planning scheme prepared by the local authority may contain any or all of the matters referred to in the First Schedule.

4. DEVELOPMENT PENDING PREPARATION OF THE SCHEME.

T.P. Act Eng. 1925 sec. 4.
Ceylon H. & T.I. Act 1915 sec. 58.
N.Z. Act 1926 sec. 34.
Saskatchewan Act 1917 sec. 19.

The Minister should have power by order to allow buildings or development during the time of preparation of a town planning scheme, subject to any restrictions which could be enforced after approval of the scheme.

5. CONTENTS OF TOWN PLANNING SCHEMES.

N.Z. Act sec. 15.
T.P. Act Eng. sec. 5 (1).

Every scheme should, having regard to present and future requirements, make provision for the matters referred to in the First Schedule hereto, with such particularity as the Minister may require and also for the special provisions contained in sub-section (2) of the English Act, section 5, which are as follow:—

“(2) Special provisions shall in addition be inserted in every town planning scheme—

- (a) defining in such manner as may be prescribed by regulations under this Act the area to which the scheme is to apply; and
- (b) defining the authority who are to be responsible for enforcing the observance of the scheme, and for the execution of any works which under the scheme or this Act are to be executed by a local authority (in this Act referred to as the responsible authority); and
- (c) providing for any matters which may be dealt with by general provisions, and otherwise supplementing, excluding, or varying the general provisions, and also for dealing with any special circumstances or contingencies for which adequate provision is not made by the general provisions; and
- (d) providing for the suspension, so far as necessary for the proper carrying out of the scheme, of any statutory enactments, by-laws, regulations, or other provisions, under whatever authority made, which are in operation in the area included in the scheme.”

Where an approved scheme within its municipal district is prepared by a local authority the local authority shall be responsible for the execution of the scheme.

Where a scheme has been prepared by a joint authority representing two or more municipal districts—the responsible authority for carrying out the scheme shall be named in the scheme and may consist of—

Eng. T.P. Act sec. 5 (3).
Ceylon H. & T.I. Act 1915 sec. 36.

- (a) A joint body representative of the local authorities in whose area the scheme operates.
- (b) The several local authorities who may execute the works in their respective municipal districts.
- (c) One local authority acting for and on behalf of another local authority.

Provided that in the event of a Greater Melbourne Council being constituted no other local authority shall, except with the consent of Greater Melbourne Council, prepare or be responsible for enforcing the observance of a town planning scheme within the Greater Melbourne administrative area, or for the execution of any works which, under this Act, are to be executed by a local authority.

6. PROCEDURE REGULATIONS OF THE MINISTER.

Minister to make regulations governing the preparation of town planning schemes and procedure to be adopted with respect to and ensuring—

N.Z. Act 1926, sec. 16.
Eng. T.P. Act 1925 sec. 6.
W.A. Act 1928 sec. 9.

- (a) the contents and preparation of a scheme;
- (b) provisional and final approval of town planning scheme by Minister;
- (c) public notification of the intention to prepare a scheme;
- (d) public notification of provisional original approval of the scheme;
- (e) the bearing of public objections by interested persons to the scheme, and their submission to the Minister; and
- (f) for dealing with the other matters mentioned in the Second Schedule.

7. POWER TO ENFORCE SCHEME.

The responsible authority may at any time after giving notice as provided by the scheme and in accordance with the provisions of an approved scheme, remove, pull down, or alter any building or other work which is such as to contravene the scheme in any case where it appears to the authority that delay in the execution of the work would prejudice the efficient operation of the scheme. The authority to be empowered to recover expenses in connexion with the above. Minister to settle disputes.

T.P. Eng. Act 1925 sec. 7.

8. ACQUISITION OF LAND.

The responsible authority should have power to purchase or resume compulsorily any land or land and buildings required for the purpose of carrying out a town planning scheme, provided that such land is incorporated as a portion of the approved scheme, or approved by the Minister; the purchase to be carried out in the manner provided by the Local Government Act. The value of the land, &c., to be as at the date of the passing of the resolution to prepare the scheme.

Eng. T.P. Act 1925 sec. 8.
Ceylon H. & T.I. Act sec. 82 (3).
W.A. Act 1928 sec. 13.

9. LAND TAKEN IN ACCORDANCE WITH APPROVED SCHEME.

In the case of land taken or included in any scheme, the responsible authority in accordance with the scheme should have power—

H. & R. Act 1920 sec. 43.
Burma Act 1920 sec. 42 (which is largely copied from Bombay Act of 1915—see Bombay Act sec. 2 (c), 3-12, 16 (d), 17-20, 23-6, 28, 41-3).
Ceylon H. & T.I. Act 1915 sec. 41.

- (1) To sell or lease the whole or any portion of the land on such terms and subject to such conditions as the Council thinks fit.
- (2) Vary, extinguish, and/or transfer any right, title, or interest in or connected with the alteration or re-arrangement of boundaries of any land included in the scheme, if in the opinion of the authority such variation is necessary.
- (3) Allot a parcel of land to any owner dispossessed of any land included in the scheme.
- (4) Transfer the ownership of a parcel of land from one person to another. A comprehensive clause to meet this is quoted in the First Schedule.

10. COMPENSATION.

The provisions of sections 10, 11, and 12 of the English *Town Planning Act* 1925, with the necessary amendments, are satisfactory in this regard, and should be incorporated.

Eng. T.P. Act 1925 secs. 10-12.
N.Z. T.P. Act 1926 secs. 29, 30.
W.A. Act 1928 sec. 11 &c., &c.

These clauses provide that—

(Section 10.) Persons injured by the making of a town planning scheme shall be entitled to compensation if they make claims within the time limited by the scheme. Persons are not entitled to compensation for buildings or things done in conflict with an approved scheme or after a resolution to prepare a scheme has been passed by the local authority, or after the Minister has ordered a scheme to be prepared, excepting that this provision shall not apply to works done or started before the times mentioned or works permitted by the Minister pending the preparation of the scheme.

Where property is increased in value by the making of a town planning scheme, the authority may recover from any person whose property is so increased in value one-half of the amount of that increase.

If parties fail to agree as to the amounts of compensation payable *by or to* the authority arbitration is resorted to.

Amounts due may be recovered as civil debts.

Persons may claim compensation for an expenditure rendered abortive by the re-location of any town planning scheme with which they had complied.

(Section 11.) No compensation is payable for alleged injuries under the operation of town planning schemes if such operation could have been carried out under existing laws or by-laws.

Property shall not be deemed to be injuriously affected by the zoning provisions of a scheme.

Persons entitled to compensation under this Act shall not also be entitled to compensation for the same matter or thing under any other Act, or to greater compensation than provided under any other Act.

(Section 12.) The responsible authority may, at any time within one month after an award has been made, give notice to the owner of a withdrawal or modification of the parts of the scheme for which compensation is claimed. The variation to be approved by the Minister and repayment made of owner's previous costs. Varied schemes may be subject to further claims.

Time limits to be provided for the enforcement of awards.

It is further considered that the Act should provide for the addition of a clause stating that compensation for the acquisition of land may be paid either in cash or by the allotment of a parcel of land or in such other manner as may be determined by the final scheme. (See First Schedule, clause 19.)

11. POWER OF MINISTER TO REQUIRE PREPARATION OF TOWN PLANNING SCHEME.

Eng. T.P. Act 1925 sec. 13.
W.A. Act 1928 sec. 18.

Section 13 of the English Act should be acceptable, which provides that the Minister, after inquiry, may by order require a local authority to prepare a town planning scheme, submit it for approval, and, after approval, enforce it. The order made by the Minister to be similar in effect as a resolution of the local authority to prepare a scheme.

If the local authority fails to prepare a scheme to the Minister's satisfaction or to enforce it, the Minister may himself act at the expense of the local authority.

12. POWER OF MINISTER IN CASE OF OWNERS' SCHEME.

Eng. T.P. Act 1925 sec. 14.
W.A. Act 1928 sec. 18.

Section 14 of the English Act is chosen for a basis for these powers. It provides that if the local authority fails to adopt a scheme by owners where such scheme should be adopted, the Minister may approve it and cause its enforcement.

If the local authority fails to enforce effectively the observance of a scheme, the Minister may order the local authority to do so, if necessary, by mandamus.

13. POWER OF MINISTER IN CERTAIN CASES TO ORDER MODIFICATION.

Eng. T.P. Act 1925 sec. 15.
W.A. Act 1928 sec. 18.

The English Act is also selected for these necessary powers, wherein section 15 provides that where the Minister refuses to approve a scheme prepared by a local authority, except with modifications, and the municipality unreasonably refuses to adopt the modifications, the Minister may order their adoption and enforce it by mandamus.

14. DETERMINATION OF MATTERS IN DISPUTE BY MINISTER AS ARBITRATOR.

Eng. T.P. Act 1926 sec. 17.
W.A. Act 1928 secs. 10, 25.

The Minister should have power to settle matters in dispute as arbitrator similar to those in section 17 of the English Act, and incorporating the provisions of the Victorian Arbitration Act of 1915. Section 17 of the English Act provides that the Minister, at his option, may arbitrate in accordance with a defined procedure in all cases where he is called upon by this Act or any schemes prepared in accordance with it.

15. INVESTIGATIONS.

Eng. T.P. Act 1926 sec. 18.

The Minister should have power to cause investigations to be made regarding certain schemes, and to examine witnesses in the terms of the *Evidence Act* 1915, and to charge the cost of same to the scheme being investigated.

16. BORROWING POWERS.

Local Government Act 1915 sec.
34.
W.A. Act 1928 sec. 16.

To enable the carrying out of town planning schemes municipalities should be empowered to borrow money over and above the amounts authorized by the Local Government Act, and the Act should provide that loans may be extended in certain cases for periods up to 60 years by the provision of smaller sinking funds.

17. CONTRIBUTIONS BY PUBLIC AUTHORITIES.

It should be possible for the scheme to provide for the payment of contributions to the cost of the scheme by public authorities not under the jurisdiction of local authorities.

18. APPOINTMENTS.

For the purpose of assisting the Minister to examine town planning schemes there should be appointed under the direct control of the Minister—

- (a) a Board of three Town Planning Experts; or, alternatively
- (b) an experienced Town Planner.

N.Z. T.P. Act 1926 p. 5 (1).
S. Aust. T.P. Act 1920 sec. 6.
W.A. Act 1928 secs. 3, 4.
Ceylon H. & T.I. Act 1915 sec. 30.

NOTE.—In England the Minister of Health has expert officers attached to his Department to examine schemes and prepare regulations, &c.

19. ESTATE DEVELOPMENT.

With the object of obtaining better planning and the co-ordination of all subdivisions and schemes, it should be compulsory for all plans of subdivision of land to be submitted to the Town Planning Board or Town Planner for approval before being sealed by the municipality under the terms of the Local Government Act. The Town Planning Board or Town Planners should have power to refuse to approve a plan or subdivision if, in addition to the reasons contained in the Local Government Act—

S. Aust. T.P. Act 1920.
N.Z. T.P. Act 1926 sec. 32.

- (i) It conflicts with an approved town planning scheme for the area, or is so designed as to render impracticable or unnecessarily delay the accomplishment of any portion of the scheme.
- (ii) Any road or street is less than 50 feet wide.
- (iii) The land therein comprised is intersected or bounded or partly bounded by a railway line, and there is no provision made for a road, street, or public reserve on the side or sides of the railway line adjacent to such land.
- (iv) The site, or orientation of any building which could be erected on such land, would be undesirable.
- (v) Provision is not made for the dedication of a road or reserve on the side or sides of any existing river, creek, watercourse, or foreshore which is adjacent to or passes through any land included in the plan of subdivision.
- (vi) Provision is not made for any drainage reserves or drainage easements which may be necessary to enable the allotments or parcels of land and any new roads, streets, or rights-of-way to be sufficiently drained into a public drain, existing road, street, or stream into which the drainage from such land may lawfully be discharged, or if any of the land included in the subdivision is subject to inundation.
- (vii) Provision is not made for any easement required by any public authority for a public utility such as water, sewerage, gas, electricity, &c.
- (viii) The grade of any street is unnecessarily steep.
- (ix) The length of new street is in excess of that necessary to permit of an economical subdivision of land.
- (x) Any street is not connected at each end with a street not less than 50 feet wide, or any right-of-way does not at each end join a street not less than 50 feet wide.
- (xi) Any section is more than 600 feet in length without a cross street.
- (xii) The streets cannot be economically continued through adjoining areas.
- (xiii) The position, direction, or alignment of any street should be varied to give more direct or convenient connexion with other adjoining streets.
- (xiv) The intersections of any streets are not so treated that the traffic in the centre of one street shall have at least a clear view of the traffic in all streets at least 60 feet before reaching the intersection of the centre lines of any streets.

Provision to be made for the payment of fees for examination of plans, &c.

S. Aust. T.P. Act 1920 sec. 8.
W.A. Act 1928 sec. 28.

FIRST SCHEDULE.

SCHEDULE OF MATTERS WHICH MAY BE INCLUDED IN TOWN PLANNING SCHEMES AND TO BE DEALT WITH BY GENERAL PROVISIONS PRESCRIBED BY THE MINISTER UNDER SECTION 5.

See Eng. Act 1925 First Schedule.
W.A. Act 1928 First Schedule.
N.Z. T.P. Act 1926.

1. Streets, roads, and other ways, and stopping up or diversion of existing highways.
2. Buildings, structures, and erections.
3. Open spaces, private and public.
4. The preservation of objects of historical interest or natural beauty.
5. Sewerage, drainage, and sewage disposal.
6. Lighting.
7. Water supply.
8. Ancillary or consequential works.
9. Extinction or variation of private rights-of-way and other easements.
10. Dealing with or disposal of land acquired by the responsible authority or by a local authority.
11. Power of entry and inspection.
12. Power of the responsible authority to remove, alter, or demolish any obstructive work.
13. Power of the responsible authority to make agreements with owners, and of owners to make agreements with one another.
14. Power of the responsible authority or a local authority to accept any money or property for the furtherance of the objects of any town planning scheme and provision for regulating the administration of any such money or property.
15. Application with the necessary modifications and adaptations of statutory enactments.
16. Carrying out and supplementing the provisions of this Act for enforcing scheme.
17. Limitation of time for operation of scheme.
18. Co-operation of the responsible authority with the owners of land included in the scheme or other persons interested.
19. Charging on the inheritance of any land the value of which is increased by the operation of a town planning scheme the sum required to be paid in respect of that increase, and for that purpose applying, with the necessary adaptations, the provisions of any enactments dealing with charges for improvements of land, provided that payment of that sum together with interest thereon shall be arranged for in the manner prescribed by sections 533 and 534 of the *Local Government Act* 1915 over a period of not less than fifteen years.

Ceylon H. & T.I. Act 1915 sec.
41 &c.
Rangoon Act 1920 sec. 42.
British Columbia Act 1928.
Manitoba Act 1916 sec. 21.
F.M.S. Act 1923 sec. 42 &c., &c.

The provisions of clause 29 of the First Schedule of the South Australian Town Planning Bill of 1919-20, as set out hereunder, and where not covered by the above items, should be incorporated:—

“(29) The replanning, redistribution, and reconstruction of the scheme area, or any part thereof, including any provisions necessary for—

- (a) the rectification or alteration of any existing subdivision, resubdivision, or other land, including the pooling of the lands of several owners (or any lands, allotments, roads, streets, or rights-of-way abutting on or adjacent thereto);
- (b) the provision of new allotments, parcels of land or reserves, and the redivision of such lands among, and vesting such lands in, such owners and the responsible authority or any other authority;
- (c) providing and making new roads, streets, rights-of-way, or building lines;
- (d) adjusting and altering the boundaries of any such lands, or such roads, streets, rights-of-way, or reserves;
- (e) effecting such exchanges of lands or such closing of existing roads, streets, or rights-of-way, or such cancellation of existing subdivisions, easements, covenants, or other rights as may be necessary or convenient for the purposes of the scheme;
- (f) adjustments of rights between such owners or other persons interested in such lands, roads, streets, or rights-of-way;
- (g) the vesting of such lands, roads, streets, rights-of-way, or reserves subject or not subject to any rights or trusts;

- (h) the dealing with or disposal of lands acquired by or vested in any Council or public body, including streets, roads, or rights-of-way which are to be closed or diverted in accordance with the provisions of the scheme ;
- (i) the deposit and registration of plans, cancellation of titles, and the issue of new titles in lieu thereof—

and any other provisions necessary for giving effect to the purposes aforesaid.

SECOND SCHEDULE.

MATTERS TO BE DEALT WITH BY REGULATIONS OF THE MINISTER.

Eng. T.P. Act 1925 Second
Schedule.

1. Procedure anterior to the preparation of adoption of scheme :—
 - (a) Preparation and deposit of plans.
 - (b) Publication of notices.
2. Procedure during, on, and after the preparation of adoption and before the approval of the scheme :—
 - (a) Submission to the Minister of the proposed scheme, with plans and estimates.
 - (b) Notice of submission of proposed scheme to the Minister.
 - (c) Hearing of objections and representations by persons affected, including persons representing architectural or archaeological societies or otherwise interested in the amenity of the proposed scheme.
 - (d) Publication of notice of intention to approve scheme and the lodging of objections thereto.
3. Procedure after the approval of the scheme :—
 - (a) Notice to be given of approval of scheme.
 - (b) Inquiries and reports as to the beginning and the progress and completion of works, and other action under the scheme.
4. Duty, at any stage, of the local authority to publish or deposit for inspection any scheme or proposed scheme, and the plans relating thereto, and to give information to persons affected with reference to any such scheme or proposed scheme.
5. The details to be specified in plans, including, wherever the circumstances so require, the restrictions on the number of buildings which may be erected on each acre, and the height and character of those buildings.
6. Payment of fees.

ACTION TAKEN BY GOVERNMENTS.

On the 21st July, 1928, the Department of Public Works forwarded a copy of the first Draft of a Town Planning Bill for the Commission's confidential perusal and comment. Generally speaking, the Bill was acceptable to the Commission as a basis, but there were certain clauses included and others excluded which it was desired should be reconsidered. Negotiations were then conducted with the Minister and the Parliamentary Draftsman, and a revised Bill was prepared, which, owing to a change of Government, was not submitted to Parliament. The incoming Government then passed a short Act extending the Commission's term (which would have expired at the end of that year), to enable it to complete its Final Report and carry on until the Government created a permanent Town Planning Authority.

On 5th February, 1929, the Minister of Public Works (Hon. A. E. Chandler) promised that a Town Planning Bill would be submitted to Parliament early in the coming session, and further inquiries in July of this year elicited the reply from the Secretary of Public Works that the Bill was in course of preparation and would be submitted to Parliament as early as practicable. In February, 1929, the Public Works Department invited an expression of opinion from the Commission upon the form of central authority as set up by the Western Australian Act. The Commission replied on 19th February to the effect that it favored the principle of appointing an experienced town planner as Chairman, with whom would be associated, a Town Planning Board of three members selected by reason of their special technical and business qualifications. A further revised Town Planning Bill was prepared, but it was not forwarded to the Commission for comment, nor was it submitted to Parliament before the dissolution on 1st November, 1929.

It is much regretted that, although the foregoing outlines of a Town Planning Bill were supplied by this Commission, and draft Bills were prepared by two Governments, the legislation was not submitted to Parliament, the more so as it is believed that the majority of Members of Parliament are aware of the necessity for such legislation, and are anxious to give it favorable consideration.

STATEMENT OF TOWN PLANNING LEGISLATION.

The extent to which Victoria is neglected in the matter of legislation providing for executive powers in relation to town planning, can best be illustrated by the following list of Town Planning Acts which are in operation in different parts of the world.

Australia—

South Australia	..	<i>Town Planning and Development Act 1920 and Regulations thereunder.</i>
New South Wales	..	<i>Local Government Act 1919—Part XII.</i>
Queensland	..	<i>Greater Brisbane Act 1924—Ordinances thereunder.</i>
Western Australia	..	<i>Town Planning and Development Act 1928.</i>

New Zealand—

..	<i>Town Planning Act 1926.</i>
..	<i>Town Planning Amendment Act 1929.</i>

Great Britain—

England and Wales	..	<i>Housing and Town Planning Acts 1909, 1919 and 1925 (superseding earlier Acts).</i>
Scotland	..	<i>Housing and Town Planning Acts 1909, 1919 and 1925 (superseding earlier Acts). The British Ministry of Health Model Clauses and ordinances issued thereunder.</i>

Canada—

Alberta	..	<i>Town Planning Act 1913. Town Planning and Preservation of Natural Beauty Act 1928.</i>
British Columbia	..	<i>Town Planning Act 1925, 1927 and 1928.</i>
Manitoba	..	<i>Town Planning Act 1916.</i>
New Brunswick	..	<i>Town Planning Act 1927, replacing 1912 Act.</i>
Nova Scotia	..	<i>Town Planning Act 1912, 1915 and 1919.</i>
Ontario	..	<i>Local Improvements Act 1928, replacing 1914 Act. Town Planning Act 1917, 1918 and 1920. Municipal Act 1921.</i>
Prince Edward Island	..	<i>Town Planning and Development Act 1918.</i>
Quebec	..	<i>Town Planning Charter—details not available.</i>
Saskatchewan	..	<i>Town Planning Act 1928, replacing Acts of 1917 and 1920.</i>

India—

Madras	..	<i>Town Improvement Act 1920.</i>
Calcutta	..	<i>Improvement Act 1911.</i>
Bombay	..	<i>The City of Bombay Improvement Act 1898 and amendments 1921. The Bombay Town Planning Act 1915 and amendments 1924. City of Bombay Municipal and Improvement (Amendment Act 1920).</i>
Punjab	..	<i>Punjab Town Improvement Act 1922.</i>
United Provinces	..	<i>United Provinces Town Improvement Act 1919.</i>
Straits Settlements	..	<i>The Singapore Improvement Ordinance 1927.</i>
Federated Malay States	..	<i>The Town Planning Enactment 1923.</i>
Burma	..	<i>Rangoon Development Trust Act 1920 and amendments 1922, 1924.</i>
Ceylon	..	<i>The Housing and Town Improvement Ordinance No. 19 of 1915.</i>
Kenya Colony	..	<i>Town Planning Ordinance 1919 and amending Ordinance 1927 for East Africa Protectorate.</i>

<i>United States</i> ..	..	Town Planning legislation is most extensive throughout the States of America. It takes the form of zoning ordinances in the main but in many States there are also powers to control land subdivisions, and to provide for the acquisition of land for the widening, opening and diversion, &c., of streets and for other city improvements. The setting up of Town Planning Commissions with executive power is proceeding rapidly and very many cities have separate Commissions quite independently of the State enactments. These enactments are so numerous as to prevent more than this passing mention.
<i>Italy</i> ..	..	Main Act passed in 1865 and amendments every few years from 1868 to 1925. Milan Decree of 1913.
<i>Germany—</i>		
Prussia ..	..	The <i>Street and Building Line Act</i> 1875. <i>Replanning Act</i> 1902. Act to prevent disfiguration 1907. The <i>Housing Act</i> 1918. "Lex Adickes" of 1902—Redistribution of estates. A new Town Planning Bill has been prepared but is still under consideration.
Baden ..	..	The <i>Baden Act</i> 1908—Redistribution of estates.
Saxony ..	..	The <i>Saxon Building Law</i> 1900.
Ruhr ..	..	The Law of 5th May, 1920, established a Regional Planning Federation for the Rhenish-Westphalian Coal Mining Area.
<i>France</i> ..	..	Town Planning Act of 1919. Amended in 1924.
<i>Holland</i> ..	..	<i>Housing and Town Planning Act</i> 1901 and 1921.
<i>Sweden</i> ..	..	Building Order of 8th May, 1904. Town Planning and Lay-out of Plots Act of 31st August, 1907, as amended by Formation of Real Estates in Towns Act of 12th May 1917. It is understood that revised laws are now in force.
<i>Norway</i> ..	..	Public Works Act of 22nd February 1924.
<i>Finland</i> ..	..	Town Planning and Building Act of 1854 (18th March). The Improvement District Act of 1898 (June). The Rural Districts Act of 1920 (13th February). Proposals for a new Town Planning Act and a general building Act were made in 1924 and may have since become law.
<i>Switzerland</i> ..	..	<i>Cantonal Building Law for Places of an Urban Character</i> 1893 (23rd April) for Zurich.
<i>Belgium</i> ..	..	Dealt with by the Communes under their general powers.
<i>Greece</i> ..	..	The Salonika Town Planning Act.
<i>Japan</i> ..	..	The Town Planning Law and Building Law of 1919. The reconstruction of Tokyo and Yokohama is being carried out on town planning lines in accordance with an Imperial Edict of 12th September, 1923.
<i>Palestine—</i>		
Jerusalem ..	..	Government of Palestine. Town Planning Ordinance (February) 1921.
<i>Czecho-Slovakia</i> ..	..	A comprehensive law is being drafted. State Commission for Planning Greater Prague 20th February, 1920.
<i>Spain</i> ..	..	Town Planning Act of 1875, 1895, Housing Act of 1921, and various other Acts.

DESCRIPTION OF LEGISLATION RECOMMENDED.

The outlines of the legislation recommended for enactment for Victoria are based on systematic study of the legislation in other countries as well as of the existing Victorian legislation and local conditions. It would be particularly suitable for dealing with the many and varied developmental matters which are awaiting attention in this State. Many machinery clauses would be incorporated in the Act as outlined, but its purpose, briefly stated, is to ensure that local authorities with a population within their municipal areas of 2,000 or more shall prepare town planning schemes which will constitute a definite programme of development along modern lines. A central expert authority would supervise and generally administer the Act. The locally prepared scheme, which may contain any of the matters referred to in the first schedule, would be open for inspection and objection by interested persons. Objections would be considered by the local authority and transmitted to the central authority, who may order amendment or approve of it without amendment, or reject the scheme entirely. The approved scheme becomes the definite goal towards which all subsequent development, both subdivisional and constructional, is directed, and it would have the force of law. Any modification of an approved scheme can only be obtained by the submission of a new scheme which in turn must also be approved. In accordance with the approved scheme the municipality would have power to resume land, prevent development contrary to the scheme, and carry out the whole of the approved works and undertakings, and would be liable to pay compensation to persons injuriously affected, and to claim certain contributions from those whose properties have been shown to have benefited. It is essential that the Town Planning Act should give full and clear-cut powers to the local authorities to carry out necessary improvements, subject always to the provision of compensation to owners who may be affected, and other necessary safeguards.

Much of the benefit to be derived from the passing of town planning legislation would be gained from its operation in areas as yet unbuilt upon.

RE-ALLOCATION OF RESUMED LANDS.

Although large areas which could be benefited by the operation of a town planning scheme are unbuilt on, many of them have been subdivided into building allotments, and the land has been sold to hundreds of private purchasers at prices which would not permit their resumption and resale at similar figures.

Many extremely valuable main road reserves through subdivided lands could be created at small cost to the municipalities if the powers shown as Clause No. 9 in the legislation outlined were provided.

The operation of these powers would permit a municipality to allot to a former owner another area of land in or about the same location in return for the one re-arranged under the scheme. The owner of the original allotment would, however, have the right to dispute the value of the exchanged allotment, and, in the event of disagreement, to go to arbitration. It has been proved that in most cases where new roads have been planned through existing subdivisions, only a slight reduction in the number of allotments takes place, thereby allowing practically all former owners to be satisfied by other allotments. Compensation would be paid to owners who could not be given land of equal value to that resumed.

The raising of loans which would only be required for the short period during which the work was being carried out, would be obviated by the procedure outlined.

It is believed that these clauses would provide a ready means of carrying out many proposals with considerable satisfaction to the municipalities and the owners in the affected areas, which otherwise would entail considerable delay and appreciably increased cost.

Legislation providing for the re-allocation of land among former owners has been successfully applied by British Columbia and other British Countries and Dependencies, and would be particularly helpful if embodied in the Victorian Act. No part of the powers asked for is more urgently needed. It would permit the ready replanning of many undesirable areas which should be corrected prior to the commencement of extensive building operations.

The legislation advocated in the foregoing pages is particularly suitable for application to Melbourne. If enacted, it would reduce to a minimum future expenditure on corrective measures found to be necessary as a result of unregulated growth.

The plans and recommendations included in this Report should form a basis on which the town planning schemes of the individual municipalities could be based. It would be the duty of the Town Planning Authority to direct the individual schemes of the municipalities in such a way as to ensure a satisfactory, comprehensive, and co-ordinated plan.

SCHEMES AFFECTING MORE THAN ONE MUNICIPALITY.

Many of the metropolitan proposals outlined in this Report, if embodied in town planning schemes and made the financial responsibility of individual municipalities, would prove an unjust burden on them. Expensive street widening schemes will have to be carried out in the near future, and they will benefit the whole metropolis. Schemes in one municipality may frequently be of greater benefit to other areas. It would obviously be inequitable to suggest that the municipality within whose boundary the particular work occurs, should be charged with the total cost of the scheme. Not only would such procedure prove too great a burden on isolated municipalities, but it would have the effect of preventing the inclusion of other necessary metropolitan improvements in their town planning schemes on account of their inability to pay the whole cost of such works. Works of this class are dealt with in Part III., wherein the creation of a central metropolitan constructing authority is recommended which could either carry them out or finance the municipalities to execute them.

It will take many years to complete the majority of these joint schemes, whilst others should not be given effect until the conditions warrant it. In the interim the town planning schemes will operate to prevent the expenditure on these works being increased, and in many cases will decrease their ultimate cost.

REGIONAL AND JOINT SCHEMES.

The outlines of the Town Planning Bill as drafted by this Commission make provision for the preparation of schemes covering large areas. Generally, such schemes would be more in the nature of skeleton proposals, mutually agreed upon by the various constituent local authorities, and would serve as a guide to the preparation of the individual schemes by the respective municipalities.

The plans prepared by the Commission provide a scheme for 257 square miles of metropolitan territory. Before each individual local authority sets about the preparation of a town planning scheme for its own particular area, or for a part thereof, it should be able to refer to a regional plan which defines the essential provisions of communications, zoning, large parks, public utilities, and services, &c. The work of the State Town Planning Board, in co-ordinating the individual schemes, would be extremely difficult unless a regional scheme were first prepared.

Certain groups of municipalities having common interests will, no doubt, agree to prepare joint schemes covering their several municipal areas or of parts of them, and the Bill outlined makes provision for such procedure.

The Commission has conferred at least once with nearly all of the local authorities in the area of planning adopted, and practically all of them have been ready to accept as a basis of future development the general plans and recommendations of this Commission. It is therefore reasonable to presume that they will utilize this Report in the preparation of their individual and more detailed schemes.

The necessity for the preparation of joint and regional schemes has been fully realized by those administering the Town Planning Act in New Zealand, where the preparation of individual schemes by local authorities failed to co-ordinate with each other by reason of the absence of a general programme for the whole area. Amended legislation to provide additional powers is now incorporated in the *Town Planning Amendment Act 1929*.

LOCAL GOVERNMENT ACT.

During the term of the Commission, and in the absence of a Town Planning Act, it was suggested that the Local Government Act be strengthened by the addition of new and the alteration of existing sections which would give municipalities greater control over matters connected with town planning. It was never intended that such amendments should overcome the necessity for a Town Planning Act. On the contrary, it is believed that a Town Planning

Act, on the lines of that drafted by this Commission, will empower councils to overcome many of the municipal problems for which the Local Government Act fails to provide a remedy. It is considered that this Act cannot be satisfactorily amended to supply the necessary powers and define the procedure to enable the carrying out of town planning schemes.

Nevertheless, the powers have been improved by the passage of the 1927 Amending Act, which had the support of this Commission. The various Local Government Bills introduced, but not passed, during recent years, contain some clauses which have the support of the Commission, and it is hoped that a further amending Bill will shortly be passed by Parliament.

OTHER LEGISLATION.

In various parts of this Report recommendations have been made which will involve new legislation, irrespective of the powers asked for in connection with a Town Planning Act. As this Chapter is not intended to review legislation other than the essential provisions of a Town Planning Act, no mention in detail will be made of the other enactments desired. These include the creation of a single transport authority, the extension of the terms of Crown Lands leases, additional powers regarding the acquisition of land by the Railway Department and the Railway Construction Trusts, an amendment to the Metropolitan Drainage and Rivers Act to extend the powers of the Melbourne and Metropolitan Board of Works in its control of the River Yarra banks to include the area between Queen's and Batman Bridges, &c. The recommendations made in those parts of the Report dealing with these and other matters indicate the legislation considered necessary.

PART XI

CONCLUSION