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CITY PLANNING COMMISSION AS AN AGENCY FOR CITY PLANNING

CITY planning is the application of specialized intelligence to the physical growth and socio-economic development of urban communities. What it does may best be explained by what has happened to cities for lack of it.

I.

The typical American city of the nineteenth century was a creature of chance. The village cow, rather than the engineer or architect, was instrumental in fashioning its streets. It sprawled—its direction circumstanced by the haphazard activity of private, profit-seeking land developers. The class, form and number of buildings which were erected, the nature of the construction materials, the amount of lot space utilized, the length, width and direction of streets, were matters for individual private decision based on considerations of gain and the exigencies of the moment. Little or no attention was paid to the integration of a development with the surrounding neighborhood, to questions of general population trend, appropriate use restrictions, adequate transportation facilities, local schools, fire and safety service centers near enough to be efficient, and the many other requirements of a community essential to the promotion of its general welfare.¹

On the part of the city authorities, public improvements were timed and located in response to public clamor or local political pressures, without the consideration of relative needs or the problem of future financing.²

¹ See CARPENTER AND STAFFORD, *STATE AND LOCAL GOVERNMENT IN THE UNITED STATES* (1936) c. 11; MACDONALD, *AMERICAN CITY GOVERNMENT AND ADMINISTRATION* (1936) pp. 470-492; 1 BRYCE, *THE AMERICAN COMMONWEALTH* (Rev. ed. 1931) c. 51.

² "The consulting city engineer of San Francisco shows that of the \$20,000,000 improvements in sewers, streets, tunnels, etc. under way in 1914, \$16,000,000 or three-fourths, could have been saved had San Francisco planned ahead wisely and comprehensively only a few years ago. Of this great sum a large part went to replace a sewer system which was not planned for any future growth." (Quotation from a statement made at First California Con-

Thus, constitutional debt limits were reached and passed where administrative subterfuge could not overcome them;³ debt service became the major item of the city budget,⁴ and periods of business depression with their resulting loss of tax income brought many a city into bankruptcy.

Early attempts to remedy this haphazard development by either administrative or unofficial planning were ineffective. Administrative officials or heads of departments sometimes sought to present orderly plans of growth within the scope of their respective jurisdictions, but, due to departmental jealousies and ambitions, the political advantage of immediate, temporary reform as against long-time building for future requirements, and by reason of the day-by-day rush of routine problems, there was neither the will nor the time to visualize as a whole and plan the city's needs and further growth.⁵

ference on City Planning, Oct. 14, 1914—published in CHENEY, WHAT CITY PLANNING COMMISSIONS CAN DO [1935] California Conference on City Planning.)

³ KING, PUBLIC FINANCE (1935) at page 548 reports that the per capita gross debt of cities of 30,000 and over increased from \$97.16 in 1913 to \$211.22 in 1930. Taking out all sinking fund assets these city debts averaged \$153.02 per capita in 1930. However, the per capita gross debt of New York City in 1930 was \$432.14 and in Philadelphia \$309.93. He states that where the state constitution fixed the debt limit of cities at a certain percentage of the assessed valuation of real estate (10% in New York State), the favorite method of evasion was to raise artificially the assessed valuation. To the same effect see also BUEHLER, PUBLIC FINANCE (1936) Section on Tax and Debt Limits, p. 145.

In many instances also the state constitution has been amended so as to take the indebtedness for certain types of improvements out of the total city debt in computing the debt limit. See also N. Y. CONSR. (1909) art. VIII, § 10.

⁴ A report of New York City expenditures for 1934, shows that \$147,444,765.40 were expended for interest on and redemption of the city debt out of total disbursements for current expenses and redemption of \$758,926,679.19. For 1935 the payment was \$242,321,386.83 out of total disbursements for current expenses and redemption of \$883,816,735.51. (NEW YORK ADVANCING, published by New York City Administration, 1936.)

⁵ The New York City Charter Revision Commission, which prepared the Charter which went into effect on January 1, 1938, stated in its preliminary report published April 27, 1936, at pages 19, *et seq.*:

"The Board of Estimate is the only authority at present charged with the duty to plan for the orderly development and growth of the city and to provide for the future welfare and needs of its inhabitants and its transient visitors. With its crowded calendars, its many responsibilities focused upon immediate problems of current administration, with the heavy burdens imposed upon many of its members in connection with the offices they hold and without sufficient staff to undertake the important and difficult task of planning for the future development of a city having a population of over seven millions, it has not been able and

Plans formulated unofficially by committees of private citizens, although in some instances expertly prepared and found to be useful,⁶ were for the most part abortive of their purpose. This was due to the lack of sustained interest on the part of the committee members, or their unfamiliarity with the technical problems they sought to solve. But the principal defect in this procedure was its very lack of officialness. As an advisory opinion only, the unofficial plan could be and was ignored. Once it was filed, the committee went out of existence and no one had the responsibility to see that its details were carried forward without material deviation.

II.

To be effective, therefore, city planning requires the creation and maintenance of a small continuous body of expertly trained public officials—a City Planning Commission or City Planning Board,⁷ implemented with the legal power and the

cannot in reason be expected to successfully assume this responsibility. Each department and each borough works for its own objectives and cannot be expected to take other than a partisan view. Nevertheless, the Board of Estimate, as part of its administrative responsibility, must have the final decision in consummating any plan for the development of the City. But the task of planning for the physical development of the city demands a long-range program, preparation of which should be entrusted to a body as independent of political control as possible and so organized that there will be a continuity in its policy and program."

In 1930, by LOCAL LAW No. 16, a Department of City Planning was created in New York City under a single commissioner. It was given little power and was wholly ineffective. The Department was abolished when the law was repealed by LOCAL LAW No. 2, 1933.

⁶ The REGIONAL PLAN OF NEW YORK AND ITS ENVIRONS under the direction of the Russell Sage Foundation, completed in 1929, consisting of ten volumes, is the outstanding example. The New York metropolitan region which the plan covers has an area of about 5,500 square miles. It includes the whole or parts of twelve New York counties, parts of New Jersey and Connecticut and a population of over 9,000,000.

In 1936 Mayor LaGuardia appointed a City Planning Committee which had made many important studies at the time its work was taken over by the permanent, official New York City Planning Commission.

⁷ "In 1907 a city planning commission was created for Hartford, the first in America; three years later the National City Planning Association was founded and held its first annual conference, which finally led to the organization of the City Planning Institute and in 1925, to the publication of a magazine." BEARD, AMERICAN GOVERNMENT AND POLITICS (7th ed. 1935). "By 1935 there were over seven hundred such planning agencies." Merriam, *Planning Agencies in America*, 29 AMER. POL. SCI. REV. (No. 2, 1935).

funds to make a comprehensive civic inventory and a master plan, and further empowered by law to protect the official city map and to guide, if not compel, public officials and private citizens to conform to the master plan.⁸ Some of these terms require clarification.

Since the City Planning Commission assumes office at a time when the city is already partially grown, it must needs survey present conditions before it can postulate modifications or improvements in growth. This civic inventory concerns the assemblage of data with respect to (1) the paths and instruments of traffic, transit and transportation, such as streets, highways, parkways, bridges, waterfronts, airplane landing fields, railways, subways and bus lines; (2) the public utility and sanitary services, including water supply, gas, electricity, telephone, sewerage and garbage disposal and general sanitation; (3) zoning conditions, such as the location of use areas, commercial and industrial conditions and districts, housing, fire limits, building regulations, etc.; (4) educational and recreational facilities; (5) public buildings and civic centers; (6) social and economic conditions prevailing in localities and in various industries, unemployment, family income and standards of living.⁹

With this data, amplified by studies in social and economic trends, the Commission is ready to prepare its Master Plan—embracing a comprehensive vision of the city as presently constituted and a practical prophecy regarding its

⁸ Again from the report of the New York City Charter Revision Commission (note 5, *supra*), p. 20:

"The primary duty of the Planning Commission is to make a master plan which should include not only the streets, bridges, parks, public places and transportation facilities but the coordination of such facilities in a plan which will provide for the city the most convenient means of travel between centers of residence and of work and recreation. The Commission in preparing the plan should consider not only the distribution of the population but its comfort and health and the beauty of the surroundings in which they live. The development of residential areas and the location of such housing projects as are to be undertaken are important parts of intelligent planning. Parks, playgrounds and schools should be placed where the future needs will be greatest, and in relation to means of transportation in order that they may be conveniently accessible to the population they are intended to serve. The same, of course, may be said of other public buildings, such as courts, fire houses, police stations, public health stations and hospitals."

⁹ ADAMS, *OUTLINE OF TOWN AND CITY PLANNING* (1935) pp. 213 and 297. See CHENEY, *loc. cit. supra* note 2.

future. To the extent that this prophecy deals with land changes it may be visualized on maps. Other portions of the Plan, dealing with the socio-economic future, must be presented by charts, reports, and statements of policy.

The city map is a topographic record of the city, indicating the exact lines of existing streets and highways and the present location of parks which the city has officially accepted. Additions to this map must necessarily conform to the Master Plan of the Commission and so the Commission is properly the custodian of such map.

In order that a city may create a City Planning Commission with adequate powers to enable it to function successfully, certain legislative procedures must be adopted. The course pursued by New York State is typical.

III.

The laws of New York State pertaining to these procedures consist of two legislative acts, (1) a Zoning Regulation Enabling Act¹⁰ empowering the cities of the state to make zoning regulations; and (2) a Planning Board Enabling Act authorizing cities to create a planning board and delineating the power which may be delegated by the city to such board.¹¹ This legislation is wholly permissive.¹²

The Zoning Regulation Enabling Act, expressly based on the police power of the state to promote the health, safety, morals and general welfare of the community,¹³ delegates to cities the power to regulate and restrict the height and size of buildings, lot coverage, size of open areas, such as courts, density of population,¹⁴ the location and use of buildings and

¹⁰ N. Y. GEN. CITY LAW § 20, subds. 24 and 25, added by Laws of 1917, c. 483 and N. Y. GEN. CITY LAW, art. 5a, added by Laws of 1920, c. 743.

¹¹ N. Y. GEN. CITY LAW, art. 3, added by Laws of 1926, c. 690.

¹² Some of the states have passed mandatory city planning laws. For instance, Massachusetts (GEN. LAWS OF MASS. c. 41, §§ 70, 71 and 72) in 1913 passed a law which provided that "every city and every town having a population of more than ten thousand at the last preceding national census shall, and towns having a population of less than ten thousand may, create a town planning board".

¹³ N. Y. GEN. CITY LAW § 20, subds. 24 and 25, added by Laws of 1917, c. 483.

¹⁴ *Id.* § 24.

land with respect to trade, industry, residences or other purposes.¹⁵ It also empowers the municipality to differentiate its regulations between districts.¹⁶ The zoning regulations which the city is authorized to make must conform to certain standards set up in the Enabling Act¹⁷ and, in addition, a public hearing¹⁸ must be held before such regulations become effective.

The constitutionality of all city ordinances depends primarily upon their reasonableness, and zoning regulations are no exception to the general rule. Since in some cases a strict enforcement of the regulations might prove unreasonably harsh, it is expedient to provide machinery for granting variances, where otherwise "practical difficulty or unnecessary hardship"¹⁹ would arise. The same machinery may also be utilized for the purpose of granting exceptions in proper cases from regulations governing the use of areas.

This is accomplished through an appeal board which is given original jurisdiction to make exceptions and appellate jurisdiction to correct errors of enforcement by the administrative officials and to grant variances.²⁰ As a further constitutional safeguard, the statute grants a right to a judicial review by *certiorari* of the appeal board's decision.²¹

The New York State Planning Board Enabling Act empowers the municipality to create a planning board and to establish an "official map or plan of the city showing the streets, highways and parks theretofore laid out, adopted and established by law."²² The city is further authorized and empowered to make changes or additions to the official map

¹⁵ *Id.* § 25.

¹⁶ *Id.* § 24.

¹⁷ See provisions of N. Y. GEN. CITY LAW (1917) § 20, subds. 24 and 25.

¹⁸ The Zoning Act does not itself call for a public hearing before zoning regulations become effective, but this is provided for as to all city local laws by N. Y. GEN. CITY LAW, art. 5a which provides for public hearing when amendment, additions or change of the zoning regulations and districts is contemplated.

As to New York City, the new Charter vests jurisdiction in the City Planning Commission to make changes, additions or deletions in zoning regulations, after a public hearing, subject to certain checks by the Board of Estimate and by property owners affected. N. Y. C. CHARTER, effective Jan. 1, 1938, c. 8, § 200.

¹⁹ N. Y. GEN. CITY LAW (1920) art. 5a, § 81, subd. 4.

²⁰ *Ibid.*

²¹ *Id.* § 82.

²² N. Y. GEN. CITY LAW (1926) art. 3, § 26.

or plan so as to lay out new streets, highways or parks or to widen or close existing streets, highways or parks. No specific provision is made for the "master plan" heretofore discussed, but the Planning Board is given sufficient power to create one.²³ What detailed local planning procedures may be effected by cities within the terms of the State Enabling Act is illustrated by the new New York City Charter,²⁴ and it is those procedures which will be hereafter described.

Under the New York City Charter, a Planning Commission is created of seven persons, consisting of the Chief Engineer of the Board of Estimate and six members appointed by the Mayor for eight-year overlapping terms.²⁵ The Planning Commission is empowered, after public hearing, to prepare and modify from time to time a Master Plan with such features "as will provide for the improvement of the city and its future growth and development and afford adequate facilities for the housing, transportation, distribution, comfort, convenience, health and welfare of its population."²⁶

The charter expressly draws the distinction, which has been heretofore pointed out, between the Master Plan and the Official City Map, namely, that the former envisions the future, while the latter describes the past and present layout of streets, highways, parks, etc.²⁷

The Commission is made custodian of the Official City Map.²⁸ The ultimate power to modify or change the map, however, is vested in the elective Board of Estimate, except that modifications or additions not approved by the Commis-

²³ N. Y. GEN. CITY LAW (1926) art. 3, § 31.

²⁴ By Chapter 867 of Laws of 1934, the New York State Legislature enacted a law empowering the Mayor of New York City to appoint a Commission to prepare a new charter for New York City which was to become effective if and when it was adopted by the people of the city by referendum. The charter was adopted by the people at the general election held November 3, 1936, and went into effect on Jan. 1, 1938. (Certain provisions not material to this discussion went into effect immediately on adoption.) The planning provisions of the Charter are therefore not derived from the NEW YORK STATE ENABLING ACT, but are typical of what has been and could be enacted by other cities of the state under that Act.

²⁵ NEW YORK CITY CHARTER (1938) c. 8, § 192.

²⁶ *Id.* § 197.

²⁷ *Id.* §§ 197-199.

²⁸ *Id.* § 198, subd. b.

sion may be authorized by the Board of Estimate only by a three-fourths vote.²⁹

By making the Master Plan and the Official City Map an integral part of the municipal law, the preservation of the Plan from violation by public officials is assured. There remains, however, the necessity of protecting its integrity from infringement on the part of private land-owners.

IV.

The realization of the Master Plan of streets and highways would be seriously frustrated if private land-owners could, without restriction, erect expensive buildings in the bed of mapped streets, or lay out streets in their subdivisions of undeveloped property which did not conform to the Plan.³⁰ Since such restriction may, in the interest of public welfare, involve an interference with the rights of private property, recourse must be had either to the power of condemnation or to the general police power. Condemnation by the city in advance of use of structures lying in the bed of a planned street not only entails great expense, but may prove without benefit to the city if it should thereafter be deemed desirable to make changes in the Plan. On the other hand, restriction by way of direct prohibition, without compensation, against the erection of buildings by private owners on their own land, merely because of the possibility that the city will use the land for street purposes, has, with the exception of one state jurisdiction,³¹ been condemned by the courts as a violation of the constitutional prohibition against the taking of property without due process.³²

²⁹ *Id.* § 199.

³⁰ For a discussion of this question see BASSETT, WILLIAMS, BETTMAN & WHITTEN, *MODEL LAWS FOR PLANNING CITIES, COUNTIES AND STATES* (1935). Also remarks by Edward M. Bassett after address on "Master Planning Under Recent Legislation" by Richard D. Moot, published in "Planning Problems of Town, City and Region", 20th National Conference on City Planning, 1928, pp. 85, 92, *et seq.*

³¹ *Re Forbes St.*, 70 Pa. 125 (1871); *Bush v. McKeesport*, 166 Pa. 57, 30 Atl. 1023 (1895).

³² *In re Furman's St.*, 17 Wend. (N. Y. 1836); *Forster v. Scott*, 136 N. Y. 577, 32 N. E. 976 (1893); *Matter of City of New York*, 226 N. Y. 128, 123 N. E. 177 (1919); *Edwards v. Bruerton*, 184 Mass. 529, 6 N. E. 328 (1904); *Moale v. Baltimore*, 5 Md. 314 (1854); *State v. Carrogan*, 36 N. J. L. 52 (1872).

In order to remove this constitutional objection, the New York State statute sets up two methods of procedure—one aimed at blocking the private land-owner from putting up a building on his land in the bed of a mapped street;³³ the other aimed at preventing the land developer from laying out streets and highways in his plan of subdivision, which are not in conformity with the streets and highways of the Master Plan.³⁴

Under the first procedural device, when a land-owner makes application for the usual building permit, the statute provides that if his proposed building is to be located in the bed of a mapped street, the administrative official having jurisdiction shall in the first instance deny the permit but, if the land within such mapped street or highway is not yielding a fair return of its value to the owner, he may apply for a permit to an appellate board which is authorized in a specific case to grant the permit, provided the building is such as will "as little as practicable increase the cost of opening such street or highway, or tend to cause a change of" the Official Map or Plan.³⁵ The appellate board may grant such exception, however, only after a public hearing at which parties interested and others may be heard. Should the owner be aggrieved by the decision of the board, he is given a further statutory review in the courts by *certiorari*.³⁶

The constitutional validity of the statute affording this method was challenged in the case of *Headley v. City of Rochester*, 272 N. Y. 197, 5 N. E. (2d) 198. In that case the City of Rochester, through its city council, under the power granted to it by the state statute, passed an ordinance adding to its official map by widening two streets on which the plaintiff's property abutted, thereby including in the bed of the streets affected a portion of plaintiff's undeveloped property.

The plaintiff brought an action to declare the city ordinance, and the section of the statute under which it was

³³ N. Y. GEN. CITY LAW (1926) art. 3, § 35.

³⁴ *Id.* §§ 32, 33, 34.

³⁵ *Id.* § 35. See also BASSETT, WILLIAMS, BETTMAN & WHITTEN, MODEL LAWS FOR PLANNING CITIES, COUNTIES AND STATES (1935).

³⁶ *Id.* § 35.

passed, void and unconstitutional on the ground that "so long as the section remains in force the effect of the ordinance adopted by the city is to restrict the use to which the plaintiff may put his land in the bed of the street and, to that extent, constitutes a taking of his property, and that, since the city is not required to pay any compensation to him unless or until at some time in the indefinite future it may choose to take title to the land, the effect of the ordinance is to deprive him of his property without due process of law."³⁷

The court, in effect, decided that the statute, and the ordinance enacted under it, were in and of themselves not unconstitutional. The court pointed out that in the ten years in which the statute had been in force, no owner had claimed that the statute had "actually interfered with his enjoyment of the land," or had "prevented him from obtaining a permit to improve the land in a manner which he deemed desirable."³⁸ Since the statute, of itself, constituted no lien, encumbrance, or restraint on alienation, and since the plaintiff made no complaint that he had applied for a permit and been unreasonably refused, the court denied the relief sought on the well established doctrine that "to complain of a ruling one must be made the victim of it. One cannot invoke to defeat a law, an apprehension of what might be done under it and, which if done, might not receive judicial approval."³⁹

Although the court said:

"Whether the state may impose conditions for the issuance of permits in order to protect the integrity of the plan of a city where it appears that such conditions interfere with a reasonable use to which the land would otherwise be put or diminishes the value of the land should not now be decided,"⁴⁰

it is hard to conceive of a situation in which administrative action under the statute could be enjoined on the ground of

³⁷ 272 N. Y. 197, 202, 5 N. E. (2d) 198 (1936).

³⁸ *Id.* at 203.

³⁹ *Id.* at 204, citing *Lehon v. City of Atlanta*, 242 U. S. 53, 56, 37 Sup. Ct. 70, 72 (1916).

⁴⁰ 272 N. Y. 197, 209, 5 N. E. (2d) 198 (1936).

unreasonableness, in view of the safeguard of a court review by *certiorari* specifically provided for in the statute.⁴¹

Under the second device, when a land developer presents for filing or recording his plat of a subdivision of land, showing a new street or highway, he must obtain the approval of the Planning Board which has been empowered to approve plats, before his subdivision plat will be recorded and stamped "approved."⁴² Further provision is made that streets, highways and parks in new subdivisions shall not become a part of the official map or plan of the city until the plat containing them has been approved in the foregoing manner. The Planning Commission is also given the power to require the plat to show, in proper cases, a park or parks suitably located for playground or other recreational purposes, and to show other features, enumerated in the statute, which will inure to the health, safety, convenience and general welfare of the community.⁴³

To the foregoing procedure, the new New York City Charter adds the further provisions that "no street, avenue, highway or public place, the layout of which has not been approved * * * shall be deemed to have been accepted by the City as a street, avenue, highway or public place, unless such street, avenue, highway or public place shall lie within the lines of a street, avenue, highway or public place shown upon the city map."⁴⁴

⁴¹ N. Y. GEN. CITY LAW (1926) art. 3, § 35.

⁴² *Id.* § 32; N. Y. C. CHARTER (1938) c. 8, § 202.

⁴³ N. Y. GEN. CITY LAW (1926) art. 3, § 32. An interesting corollary of the provision requiring subdivision plats to show a park or parks, etc., arose in the case of *Crane-Berkley Corp. v. Lavis*, 238 App. Div. 124, 263 N. Y. Supp. 556 (2d Dept. 1933). In that case the Scarsdale Village Planning Commission, pursuant to the provision of § 179-1—of the NEW YORK VILLAGE LAW (which is identical with the section of the GENERAL CITY LAW discussed in the text), approved the filing of a plat containing a park area. The developer, evidently as an inducement to the sale of lots, covenanted as to the park area in its deeds to individual lot purchasers. The parks had not, however, been formally dedicated to the Village of Scarsdale or accepted by it for park purposes. When the Village of Scarsdale attempted to assess such area for tax purposes as property owned by the developer, the developer resisted the assessment. The court upheld its position on the ground that the filing of the map, plus the covenants in the deeds to individual grantees, estopped the developer from ever devoting such areas to private use and therefore such areas had no assessable value.

⁴⁴ Last sentence of § 202, NEW YORK CITY CHARTER (1938) (note 42, *supra*).

The private land developer is thus placed in this dilemma: Unless he conforms his layout of streets and avenues to the Official City Map or Plan, his streets will never be accepted by the municipality. Since another section of the state statute provides that "no public sewer or other municipal street utility or improvement shall be constructed in any street or highway until such street or highway is duly placed on the official map or plan,"⁴⁵ the result will be that neither public sewers, grading, paving, lighting or any other municipal service will be furnished by the city with respect to such unapproved streets and, lacking these advantages, the developer will probably be unable to sell the lots abutting thereon.

In this procedure, as in the method first described, the reasonableness of the Planning Board's action is guaranteed by providing that a public hearing shall be held by the Planning Board before its decision of approval or disapproval is made and by providing that the decision of the Board, when made, is reviewable by the courts on *certiorari*.⁴⁶

The well established right of a city to impose reasonable conditions to its acceptance of new streets and highways is another factor in favor of the constitutionality of this procedure.⁴⁷

V.

That part of the Master Plan concerned with future public improvements which are necessary or desirable, would be impossible of orderly fulfilment unless the Planning Commission were given some control of city financing, involving particularly the budgeting of outlay for long-time capital investments.⁴⁸

⁴⁵ N. Y. GEN. CITY LAW (1926) art. 3, § 36.

⁴⁶ N. Y. GEN. CITY LAW (1926) art. 3, § 38.

⁴⁷ Tooke, *Methods of Protecting the City Plan in Outlying Districts* (1926) 15 GEO. L. J. 127.

⁴⁸ "The efficient life of the thing constructed by the proceeds of municipal bonds should measure their term, that efficiency being measured by adequacy of service to the community and city planning is indispensable to determine that length of efficient life of a municipally constituted thing.

"How shall we equitably provide payment for things needed now in a measure, which will hereafter be needed in the same or a greater, or conceivably

For example, under the New York City Charter the Planning Commission is given power to prepare (after receiving reports of the needs of departmental heads and after public hearings) a capital budget for the ensuing year and a capital outlay program for the following five-year period for the construction and maintenance of permanent public improvements.⁴⁹ The ultimate power to authorize these projects rests with the elective officials of the city, but they may not add to or modify the recommendations of the Commission except by a three-fourths vote.⁵⁰

Wherever city planning commissions have been created by municipalities throughout the United States, budgeted long-term programs have necessarily followed.⁵¹ It is said that such budgeted plans demonstrate the feasibility of a comprehensive system of public improvement executed "without any increase in the tax rate or the assessed valuation per capita and with an almost complete liquidation of existing debt by the end of the (budget) period."⁵²

VI.

During the past decade, expert city planners have concluded that a city planning commission cannot reach its maximum efficiency if limited by the artificial political boundaries of the city maintained by state law. To secure the greatest possible benefit, the planning authority must be able

a smaller measure. This question will find an answer to some degree in a differentiation among the things constructed by the proceeds of municipal bonds." Crawford, *Certain Aspects of City Financing and City Planning* (1914) 3 NAT. MUN. REV. 474.

⁴⁹ N. Y. C. CHARTER (1938) c. 9, §§ 211-224.

⁵⁰ *Id.* § 221.

⁵¹ The first comprehensive city plan and budgeted program for a long period of years was that for East Orange, New Jersey, which was prepared by the City Planning Commission in 1921 (but never adopted). The first general program for public improvements to be adopted at the polls was that of St. Louis where on February 9, 1923, a total ten-year bond issue program covering twenty-one separate projects and totalling \$87,372,500 was adopted. Other budgeted long-term plans have been formulated for Kansas City and Toledo (1925), Dayton, Ohio, and Cincinnati (1921), Detroit (1925), Trenton, N. J. (1927), White Plains, N. Y. (1928), Bronxville, N. Y. (1928), Rye, N. Y. (1929), Mount Kisco, N. Y. (1929). FORD, CAN A CITY PLAN SERVE TO REDUCE TAXES OR DEBT? published in "Planning Problems of Town, City and Region," *loc. cit. supra* note 30.

⁵² "CAN A CITY PLAN, etc." (*op. cit. supra* note 51, at 219).

to exercise a directional control over the metropolitan area or region.⁵³

Cheap suburban transportation and the widespread use of the automobile have destroyed the isolation of the city from its environs. Thousands of men and women have found it practicable and desirable to live outside the political limits of the city in which they work. This has resulted in the mushroom growth of "satellite communities" and a rapid spread of urban population over a wide area surrounding the city. This flux of population has given rise to acute regional problems involving, among other things, water supply, sewerage, health and police regulations, education, transportation, housing, institutional care of the poor and sick, and recreational facilities, including park systems. For example, the presence of uncontrolled criminal elements in a suburb seriously affects the police problems of the city, and vice versa; epidemics may arise in the communities immediately adjacent to the city which are brought into the city proper by the daily commuters; and if the city authorities desire to eliminate slum conditions by the erection of low-cost houses for indigent city groups, it often finds city lots too expensive for such use, necessitating the erection of homes on the cheaper land beyond the city limits.

The Planning Commission has a growing role to play in the solution of these problems. The powers of a city to deal extra-territorially with some of these situations has been studied and in many states these powers have been extended.⁵⁴

An obvious solution would be by political annexation of the land adjacent to the city by means of state legislation. This, however, gives rise to many difficulties. Some of them, briefly stated, are: the disproportionate expense involved in

⁵³ " * * * as a matter of economic and social reality, a metropolitan area should consist of that region within which a large portion of the population moves to and from the central city daily for work, trade, amusement or other purposes. It is this internal mobility of its people which gives the metropolitan area its unity, making it in fact 'the city' in everything but the strictly legal sense." REED, MUNICIPAL GOVERNMENT IN THE UNITED STATES (1934) pp. 349-384. Mr. Reed discusses at length in chapters 22 and 23, pp. 349-384 of this work the problems of planning the metropolitan area and their solution.

⁵⁴ Anderson, *Extraterritorial Powers of Cities* (1926) 10 MINN. L. REV. 475.

extending city service, such as light, sewerage, etc., to farm or forest areas immediately adjacent to the city, where the city desires to annex a more settled community just beyond such areas; the reluctance or inability on the part of the inhabitants of the areas to be annexed to pay their proportionate share of city expenses; and the traditional reluctance of local communities to lose their identity as well as the antagonism engendered by local politicians who see their political advantages endangered.⁵⁵

The trend, therefore, is toward an extension of governmental power over the metropolitan area by some type of district commission whose members are either appointed by the central authority, such as the state legislature, or executive, or appointed by the common councils of the political units contained within the area; or elected by the people in these political subdivisions of the region on some basis of representation such as population or the assessed valuation of the real property involved.⁵⁶

Such a district commission may well be empowered to act as a comprehensive planning commission, although to date, with few exceptions, such commissions have been limited in their powers and scope to the solution of special phases of the regional problem, such as water supply, sewerage, police, etc. Perhaps the complete job of regional planning can be fulfilled only by the creation of a super-municipality or "federated city" having governmental control of the metropolitan area, with a regional planning commission related to it on a basis similar to that now existing between the city and its Planning Commission.

⁵⁵ REED, *MUNICIPAL GOVERNMENT IN THE UNITED STATES* (1934) points out that metropolitan Boston includes forty-nine cities and towns and portions of at least five counties. Metropolitan New York covers parts of three states, all or part of twenty-two counties and more than four hundred cities, villages and other minor units. Chicago and Philadelphia run over into three states; the metropolitan area of Pittsburgh contains more than a hundred and twenty cities, boroughs and townships.

⁵⁶ The Los Angeles Metropolitan Water District is composed of fifteen cities to bring water from the Colorado River, 252 miles away. The governing body of this district is a Commission consisting of five directors from Los Angeles and one from each of the other cities. The voting strength of each city is based on its assessed valuation—one vote for each \$10,000,000. REED, *op. cit. supra* note 53, at 365.

VII.

City Planning assumes its optimum significance in its relation to the social and economic welfare of the urban community. Cities are fundamentally the expression of the human need for cooperation in coping with modern life.⁵⁷ The human being is primarily concerned with a fit place to live in and to work in and with a fair chance of improving his living and working standards. The city environment which frustrates these aims is failing in its essential function. Yet it is in the cities that we find the most aggravated phases of unemployment, sub-standard income groups, sweatshops, slum housing and social disease.⁵⁸

It is beyond the projected limits of this article to discuss at length the relation of the City Planning Commission to these problems. It is sufficient to point out that a socially aware City Planning Commission can do much to mitigate the worst of these conditions while it builds the plan for the ideal metropolis of the future.

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⁵⁷ In 1800, 210,873 Americans, four per cent of all the inhabitants of the United States, lived in the six cities of more than 8,000 population. The census of 1930 showed 1,208 cities with 60,333,452 inhabitants or 49.1 per cent of the whole. REED, *op. cit. supra* note 53, at 5.

⁵⁸ See IHLDER, *THE CITY PLAN AND LIVING AND WORKING CONDITIONS*, Nat. Conference on City Planning (1921); *Industrial Diversification* (1930) 45 *QUART. JOUR. OF ECO.*; Haber, *Economic and Social Factors in City Planning* (pub. by the Nat. Conference on City Planning (1935)); Loucks, *Municipal Planning to Prevent Unemployment* (1932) *AM. LAB. LEG. REV.* 89.