MANITOBA INTERMUNICIPAL COOPERATION IN LAND USE PLANNING: AN HISTORICAL AND COMPARATIVE STUDY

A Thesis submitted to the
Faculty of Graduate Studies
University of Manitoba

In partial fulfillment of the
requirements for the degree of
Master of City Planning

Mark Patrick Boreskie
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INTRODUCTION

1. The Study

With the adoption of a new Planning Act in 1975, Manitoba has joined a trend amongst Canadian provinces,[1] towards more pervasive and widespread cooperation in inter-municipal land use planning. This trend began in the 1950's when Alberta became the first province to substantially overhaul its turn of the century planning legislation by establishing regional planning districts representing groups of municipalities.[2] In the mid-sixties British Columbia followed suit[3] and subsequent modifications in the early seventies[4] put further emphasis on regional planning. Ontario began a program of regional planning and government in 1966 which has proceeded since then under the title of "Design for Development."[5] In 1969 Quebec established new procedures for regional planning and a crown corporation to oversee them.[5] Concurrently, statutory reforms in Nova Scotia significantly altered inter-municipal planning in that province.[6] These are not the sole indications of this trend; rather, they are a few of the more obvious examples with many other changes in planning legislation and administration having occurred.

As was generally true of these other provinces, Manitoba was utilizing long-established and long-outmoded planning legislation when the move to reform took place.

In fact, Manitoba's legislation had remained substantially unaltered since inception of its first Planning Act in 1916.[7] The provisions for intermunicipal cooperation were particularly rudimentary and unattractive. No use of them had ever been made until 1961 when the first legally binding joint-planning document was adopted by two municipalities.[8] Between that year and 1968 only a few such agreements existed. Thereafter, so-called "district planning schemes" were adopted jointly by a number of Manitoba municipalities but the form of cooperation that all these represented was little more extensive than if none had existed--the schemes were, in fact, only commonly agreed upon zoning by-laws. Each council was still responsible, within the municipality it governed, for practical implementation and enforcement of all planning devices.

However, the 1975 Planning Act departs radically from the old procedures. In brief, municipalities or portions thereof comprising an area which would ". . . constitute a logical rational area for planning purposes . . .", as section 13(2) of the Act reads, may form a District and appoint a corporate board which assumes many of the planning powers and duties formerly exercised by the separate councils. The Boards may also be given the substantial power of subdivision approval previously exercised by the province. Each is self-ruling and its enabling power for

individual actions is not derived from prior approval of its constituent councils. Thus quasi-governmental authorities operating midway between provincial and municipal jurisdictions have been created and given life through the centralization of various planning powers and the decentralization of others.

Such a substantial alteration of the statutory and administrative framework of planning in Manitoba warrants commentary on its implementation and its advisability. This study's thesis is that the new form of intermunicipal planning was borne into an environment that had received little preparation for its coming, either through evolution of legislation or administrative practices. Alterations to its contents and the practices by which it is implemented are required if optimal effectiveness is to be achieved. The purpose of the following investigation is to detail the state of this environment, identify the new Act's pitfalls and propose suitable remedial amendments.

In order that the thesis remain methodologically manageable, exhaustive description of all aspects of intermunicipal planning will not be undertaken. For instance, economic development aspects of intermunicipal planning will not be reviewed. This is partly because they have traditionally been dissociated in Manitoba legislation from land use planning *per se*, and also because they constitute a significant field of research on their own. Instead, this comparative study has been limited to joint land use

planning alone, and, in particular, to four basic issues that appear whenever it is attempted. They are:

1) How should joint planning be initiated,
2) How and where should planning unit boundaries be drawn,
3) How should the membership of authorities be composed, and,
4) What duties and powers should they be given.

Methodologically, the Act will be looked at both in an historical and a comparative perspective. The former will consist of reviewing the past history of intermunicipal planning in Manitoba and the latter will consist of comparing the new Act with intermunicipal planning legislation and practices in the two other prairie provinces.

The study is divided into five chapters. Chapter I provides (a) an examination of municipal powers and spatial form as they related to planning when the 1916 Town Planning Act was introduced, and (b) elaboration on a significant social force which affected the form and content of early municipal legislation and subsequent planning legislation. This is achieved by providing synopses of municipal government legislation supplemented by pertinent information from secondary sources.

Chapter 2 provides a review of Manitoba's planning legislation from 1916 to 1975 and the manner in which the legislation was executed. Special attention is given to the provisions for intermunicipal planning. Again, the

research method was primarily review of statutes, in this case The Town Planning Act as amended, The Planning Act as amended, and all regulations under the Acts also as amended. In addition, dead and active files of the Department of Municipal Affairs, Municipal Planning Branch were searched to determine the form and content of schemes and their evolutionary pattern. Information deduced from these primary sources has been supplemented by information from secondary ones and from interviews.

The attention paid to intermunicipal planning in reports by study groups, and the effect that these had on legislation during the period 1916-1975, is explored in Chapter 3. The eight reports included are all those which were, in whole or in part, concerned with such planning and were province-wide in scope or had province-wide ramifications.

Comparison and evaluation of Manitoba's 1975 Planning Act is made in Chapter 4. A short history is given of the process by which the new Act was drafted, comparison of certain aspects of Manitoba's legislation is made with that of Alberta and Saskatchewan, and remedial amendments to Manitoba's legislation are recommended.

With regard to each of the central issues previously mentioned (1. the process of initiation, 2. delineation of boundaries, 3, composition of authority membership, and 4. duties and powers), related current legislation in Alberta and Saskatchewan will be outlined, as will be past

legislation, and the reasons for the evolution will be explained. In light of Manitoba's own past and the experiences of other provinces, our new statutory provisions will then be evaluated.

The decision to use Alberta and Saskatchewan for purposes of comparison was made bearing in mind the differences in laws, political climate, and topography, as well as degree and form of development pressure. However, the broad intermunicipal planning concerns mentioned above are universal and these two jurisdictions appeared to best meet two necessary criteria: first, a form of intermunicipal planning has operated within them for a significant period of time, and, secondly, processes of evolution have been displayed in response to problems. The fact that there is a considerable body of literature relating to these places also contributed to their choice. Inclusion of other jurisdictions such as Nova Scotia, British Columbia or Quebec may have been of benefit but the relative lack of available literature combined with the researcher's inability to visit them precluded their use.

Chapter 5 contains a summary of the study and the full recommended amendments to the Planning Act.

Related Literature

Most theses include a review of literature pertinent to the thesis topic in which various theories and findings from related research are discussed. Based upon knowledge

acquired from this literature a course of further research is then designed and pursued, usually in order to determine whether a given hypothesis applies in a specific and previously unstudied case. This thesis is somewhat different, however, in that the relevant literature, primarily statutes and government reports, is more the object of research than prologue to it and comprises histories of experiences rather than propoundments of theories. Discussion of the information provided by this literature, separate from the main body of the thesis, is thus impossible. Notwithstanding the foregoing, it would be of value to provide a short list of sources regarding regional planning reform which interested persons would find the most topical and comprehensive of all those found in the bibliography.

Unfortunately, discussions of planning legislation per se are not numerous, especially with regard to Manitoba legislation and comparisons of it to that of other provinces. Moreover, research concerned specifically with intermunicipal cooperation in Manitoba appears to be non-existent. Two studies of the general history of planning practices in Manitoba do exist, however, and both incorporate some analysis of legislation. The first of these is a 1953 report commissioned jointly by the School of Architecture of the University of Manitoba and the Central Housing and Mortgage Corporation. Written by G. A. P. Carrothers, and entitled A Study of Present Practices and

Future Prospects of Community Planning in the Province of Manitoba, the report was originally intended to serve as ". . . a manual of community planning procedures and techniques for use in the province."[9] Its scope was broadened, however, so that analysis and recommendations could be included. Part of the report is a summary of the history of planning in Manitoba which has been used as a main source of information for this thesis.

The second study to include pertinent information on planning legislation and practices in this province is a 1974 University of Manitoba M.C.P. thesis by D. A. Hicks, entitled An Evaluation of Provincial Planning Services to Local Governments in Manitoba. For his historical survey, Hicks relied extensively upon Carrother's report but contributes useful information on the post-Carrothers period from 1953 to 1974.

In the case of Alberta, analyses of legislation and practices are fortunately more extensively. The process of reforming Alberta's Planning Act, including those sections pertaining to regional planning, has produced a series of government proposals as well as replies from interested bodies. The province's first attempt at reforming its legislation since the founding of regional planning commissions in the 1950's came in 1974 with publication of a Department of Municipal Affairs' document entitled Towards a New Planning Act for Alberta. This report, more commonly known as the "Red Book," after the color of its

cover, presented proposals for new legislation and invited response. Most regional planning commissions published responses which are still available. Action on new legislation lapsed until 1977 when a proposed Act was drafted--Bill 15--and the same process of replies from regional commissions has been followed. Again, these are available to the public. Two other sources that interested persons may find useful are the publications of the Task Force on Urbanization and the Future, published from the early to the mid-seventies, and those of Rutter Crash Courses Ltd., an enterprise operated by Michael F. Rutter, Edmonton lawyer and professor in the Faculty of Law, University of Alberta. Alberta Planning Law, A Course Handbook, and A Correlated Text of the Planning Act and Bill 15 are two of Rutter's noteworthy papers.

Literature on Saskatchewan's planning legislation, practices and regional planning reforms is not abundant either but several good analyses exist both from government and non-government sources. The Saskatchewan Department of Municipal Affairs sponsored a report by Consultant Group Ltd. in 1974 entitled Municipal and Financial Planning in Saskatchewan. Though short in length, the report gives a good synopsis of planning functions in the province. Two publications of the Department of the Environment provide relevant analysis and data. These are: "Land Use Workshop Summary Report" (1976) and "Wanted! A Land Use Policy for Saskatchewan" (1978). An earlier analysis, "Land Use

Policies in Saskatchewan" (1974) is a useful information source on the role of the Province in planning. The lack of an effective reform movement in Saskatchewan during the recent past is attested to by the fact that R. M. Bryden's Saskatchewan Planning Legislation Study (1968) contains still current criticisms of district planning. Partnership in Planning by J. Perry is a report with recommendations on the role of the province as community planning consultant and gives a good description of past relationships between province and municipalities.

Two general sources applicable to all three provinces that should be mentioned here are Ian M. Rogers' Canadian Law of Planning and Zoning and J. B. Milner's Community Planning: A Casebook on Law and Administration. The latter was excellent when written in 1963 but knowledge of statutory amendments since that date is necessary if it is to be used today. Rogers' book, written in 1973 and updated in 1976, gives a good general summary of each province's planning act.

FOOTNOTES

[1]John Perry, Inventory of Regional Planning Administration in Canada (Toronto: Intergovernmental Committee on Urban and Regional Research, 1974).

[2]Statutes of Alberta 1953, Chapter 113 (Town and Rural Planning Act).

[3]Perry, op. cit., p. 5.

[4]Ibid., p. 9.

[5]Statutes of Quebec 1969, Chapter 16 (Quebec Planning and Development Bureau Act).

[6]Statutes of Nova Scotia, 1969, Chapter 16 (The Planning Act).

[7]Statutes of Manitoba 1916, Chapter (The Town Planning Act).

[8]Town of Carberry and R. M. of North Cypress Planning Scheme, 1961.

[9]G. A. P. Carrothers, "A Study of Present Practices and Future Prospects of Community Planning in the Province of Manitoba," (Winnipeg: University of Manitoba/Central Mortgage and Housing Corporation, 1953), p. i.

CHAPTER 1

DEVELOPMENT OF PROVINCIAL AND MUNICIPAL GOVERNMENT

In the introduction to this thesis it was stated that the objectives of Part One are to review Manitoba's past legislative provisions for intermunicipal planning, and the actions taken in accord with these provisions, in order to picture the state of affairs from which the 1975 legislation proceeds. Such provisions began with The Town Planning Act of 1916. However, an examination of turn-of-the-century municipal powers and spatial form is a prerequisite to understanding the nature of this Act. Review of the province's early municipal development also provides the reader with an awareness of the perspective Manitobans had on the province's development potential--a perspective which affected the form and content of both the early municipal legislation and subsequent planning legislation.

1. Colony to Province

A summary of all the forms of non-native government experienced in the area which is now Manitoba can be made as follows:

1. Hudson's Bay Company administration 1670-1870
   a) Governor of Rupert's Land 1670-1812
   b) Governor and Council of Assiniboia 1812-1870

i) the Selkirk period 1812-1835

ii) the Company period 1835-1870

2. Provisional 1866, 1869-70

   a) Portage la Prairie 1866

   b) Fort Garry 1869-70

3. Province of Manitoba 1870

   a) Lieutenant-Governor with Legislative Council 1870-1871

   b) Legislative Assembly with Lieutenant-Governor and Legislative Council 1871-77

   c) Legislative Assembly with Permier and Lieutenant-Governor 1877.

The Charter granted on May 2, 1670 by Charles II to "The Governor and Company of Adventurers of England trading into Hudson's Bay" created a fur-trading monopoly extending across "all the lands, countries and territories upon the coasts and confines of the seas, straits, bays, rivers, lakes, creeks and sounds . . ."[1] draining into Hudson's Bay--a substantial portion of the North American continent. The significance of the Charter's commercial implications was surpassed, however, by that of its claim to all the aforesaid territories in the name of the English crown and its granting of all legislative and judicial powers within these areas to the Governor and Company:

> . . . and that the said land be from henceforth reckoned and reputed as one of our plantations or colonies in America called "Rupert's Land;" AND FURTHER, we do by these presents for us, our heirs

> and successors, make, create and constitute the said Governor and Company for the time being, and their successors, the true and absolute lords and proprietors of the territory, limits and places aforesaid . . .
>
> . . . AND FURTHER . . . we do for us, our heirs and successors grant to and with the said Governor and Company of Adventurers of England trading in Hudson's Bay, that all lands, islands, territories, plantations, forts, fortifications, factories or colonies, where the said Company's factories and trade are or shall be, within any of the ports or places afore-limited, shall be immediately and from henceforth under the power and command of the said Governor and Company who shall have liberty, full power and authority to appoint and establish Governors and all other officers to govern them . . .3

The Company's jurisdictional claims were the subject of much controversy once the trading monopoly was broken and the conflict was never resolved to the satisfaction of all parties owing to the ambiguity of the Charter's wording and the willingness of the disputants to interpret it to their own advantage. What is clear, however, is that no form of government other than that created by the Company, actually operated in Rupert's Land or Lord Selkirk's grant lands, the District of Assiniboia, until 1870.

The form which government took during the Company's administration was, initially, rule by Governor, then by Governor and Council, the members of this latter body being appointed at large. There was neither representative government nor stratification of governmental responsibilities between local and central levels.

The so-called Provisional governments of Thomas Spence

at Portage la Prairie in 1866 and John Bruce and Louis Riel at Fort Garry in 1869 never achieved legitimacy and were too short-lived to have any bearing on a discussion of provincial/regional stratification of governments.

When the District of Assiniboia and the rest of Rupert's Land was purchased by the Dominion of Canada, the Hudson's Bay Company's two-century reign came to an end. However, for the first few years of the Province of Manitoba's existence, the form of government remained substantially the same, at first because a Legislative Assembly was not immediately operable, then because the elected representatives only slowly acquired proficiency at the task of government. Before a Legislative Assembly could be elected, the machinery of an election had to be created and administered by the Lieutenant-Governor. At the same time other necessary functions had to be carried out. The organization and administration of postal facilities and customs collection agencies, the administration of Crown lands, the negotiation of Indian treaties and the issuance of marriage licences and liquor permits are but a few of the duties required of the Lieutenant-Governor in the absence of any other governmental or civil service structure. The reasons why the Assembly, once created, only slowly assumed the Lieutenant-Governor's functional powers find their root cause in the premature creation of the Province.[4] Its incorporation had come at a time when the population amounted to only a few thousand people and

almost none of these had training or experience in law or government. This was no less true of the early members of the Legislative Assembly than it was of the general populace. Legally unwise or inaccurately drafted bills were common in the first legislatures--some so "wretchedly drawn" that they were described as such in the writings of one Lieutenant-Governor. Consequently, the Queen's representative often exercised his prerogative of reserving bills until suitable amendments had been made. As the population grew so did the ranks of those proficient at law and government. The sophistication of the Assembly thus grew and, in reciprocal fashion, the necessity of a strong Lieutenant-Governor diminished. The process of transferring power from the Lieutenant-Governor to the Legislative Assembly was still lengthy, though, with the last instance of a reserved bill occurring in 1900.

2. The Beginnings of Municipal Government

The Province's first Municipal Act (Ch. 24, 36 Vic.) was assented to on March 8, 1873, during the Third Session of the First Parliament of Manitoba. It permitted Townships or Parishes,[5] singly or jointly, to become incorporated as Municipalities:

> The Lieutenant-Governor in Council by Letters Patent under the Great Seal of the Province and upon the petition of at least two-thirds of the male freeholders or householders being respectively of the full age of twenty-one years and resident in any Township or Parish in which locality there shall be not less

> than thirty male residents as aforesaid shall incorporate such Township or Parish as a Municipality and, provided further that on the joint petition of the requisite number of Freeholders or Householders as aforesaid in each of any two adjacent Townships, such two Townships may be incorporated as one municipality . . .[6]

The Act stipulated voting procedures, composition of Councils, the purpose, means and conditions of municipal taxation and empowered Councils to pass by-laws respecting the following matters:

1. The raising of municipal revenue by taxes upon person and property, and the mode of collecting the same;
2. The expenditure of the municipal revenue;
3. Roads and bridges;
4. The prevention of cruelty to animals;
5. The regulation of slaughterhouses;
6. The prevention or removal of abuses prejudicial to agriculture and not especially provided against by law;
7. The relief of the poor;
8. The condition of streams, water-courses, drains and ferries;
9. Drainage works;
10. The regulation of fences, dykes and ditches;
11. The prevention and removal of nuisances;
12. The prevention of fires;
13. The preservation of the public health;

14. The maintenance of public officers;
15. The providing and regulation of pounds and the prevention of animals running at large;
16. The construction of a municipal hall and other buildings;
17. The encouragement of planting of trees on prairie land and public highways;
18. The taking of a census of the residents in the municipality;
19. The regulation of statute labor which persons within the municipality are liable to perform;
20. The regulation of municipal elections;
21. The enforcement of the by-laws of the municipality by fine and imprisonment;
22. The sale of land in satisfaction of unpaid municipal rates and taxes;
23. The regulation of the meetings of the council and the general conduct of business;
24. The duties of the Clerk, Treasurer, Assessor, Collector and other officers of the municipality, and their fulfillment;
25. Public morals, including the observance of the Sabbath;
26. The establishment and regulation of markets;
27. The imposing of penalties for light weight or short count, or short measurement in anything marketed;

28. Maintaining or assisting in maintaining in due proportion the registry officer in the county according to the provisions of the law in that behalf.[7]

Although a number of townships were expected to take advantage of the legislation, its enactment, like the creation of the province itself, was obviously premature. Discussions regarding incorporation took place in St. Charles Parish in March of 1873, but no action was taken. The Township of Westbourne was incorporated in name in October but failed to hold elections on account of grasshopper infestations and economic depression. Its incorporation remained in limbo. Formal notice of intention to incorporate was given by both High Bluff and Rockwood in 1874, but neither followed through by requesting letters patent. The only incorporation to take place during the first year of the Municipal Act's existence was that undertaken jointly by Springfield and Sunnyside Townships.

After two years theAct was replaced by one that left the powers of councils substantially the same but made amendments to procedural matters and permitted the incorporation of more than two adjacent townships, parishes or electoral divisions under one name. This Act, Ch. 31, 38 Vic. (1875) was also entitled "An Act Respecting Municipalities." Simultaneous to its passage came that of "An Act Respecting County Municipalities," Ch. 41, 38 Vic. (1875). Whereas the Municipal Act concerned itself only

with the incorporation of townships and parishes the County Municipality Act was intended to foster the incorporation of larger units. Section (1) of the Act stated that:

> The inhabitants of every judicial county in the Province shall upon the petition of the majority of resident electors of the county to the Lieutenant-Governor in Council be a corporation or body politic under the name of "The Corporation of the County of (inserting the name of the county), ". . . and the boundaries of any such judicial county shall be the municipal boundaries of any such county municipality . . ."[8]

The judicial counties referred to were those delineated by the County Assessment Act of 1871. In actual fact they were the four provincial electoral districts subsequently named as counties for the purpose of assessing judicial costs such as the construction and upkeep of courthouses, gaols and land registry offices. The judicial counties were given the names Lisgar, Selkirk, Provencher and Marquette, the last one being divided into East and West Marquette soon thereafter. "County municipalities" which were to be formed out of these judicial counties did not constitute a governmental level superior to that of the "municipalities." They operated in parallel and had the same powers, the only differences being the spatial unit seeking incorporation: judicial county versus township.

Like their 1873 predecessor, both the 1875 acts proved themselves to be untenable by virtue of their prematurity. The meagre citizenry of the young province, already forced by mandatory legislation to contribute to the funding of

judicial system, maintained their disregard for the permissive municipal legislation despite its new application on a county as well as township basis. The burden of additional levies spread amongst relatively few people was still seen as too unattractive. In 1877 a further attempt at cajoling communities into municipal organization also bore little fruit--the counties were subdivided and each subdivision was permitted to incorporate as a county municipality upon petition when it contained two thousand ratepayers[9] but the unattractiveness obviously remained--by the next re-writing of municipal legislation in 1880 very few areas had followed the lead of Sunnyside-Springfield. Historical sources disagree on the exact number of municipalities incorporated by that date, but from a reading of Sec . 84-86 of S.M. 1880, Ch. 1 (43 Vic.), five appear to have been in existence by February 14, 1880--Westbourne, Portage la Prairie, Kildonan, Rockwood and Sunnyside-Springfield.

3. Mandatory Municipal Government

a) The first two years

In February of 1880 municipal organization became mandatory for the first time:

> From and after the passing of the Act the Province of Manitoba shall be divided into municipalities in accordance with the provisions of this Act, and the inhabitants of each municipality respectively as hereinafter described and their successors shall be and are hereby declared to be a body politic and

> corporate under the name of the municipality of (inserting the name of the municipality).[10]

The portion of the province not previously subdivided into municipalities now became so, with the number of incorporations consequently totalling twenty-six. The Act stipulated that within three months of its passing, the Lieutenant-Governor was to appoint returning officers and proclaim a date for the first election of municipal councillors. The powers that they would then exercise were substantially the same as those in the 1873 Act with the addition of several pertaining to the financing of railroads. As well as repealing and replacing the standing Municipal Act, this newest version repealed the County Municipality Act of 1875 and 1877.[11]

Probably the prime influence behind mandatory municipal organization was the coming of the railway. John Norquay's provincial government was beginning to stress a policy of requiring local participation in the financing of improvements that were of a local nature[12] and railways were regarded as a local improvement. The foreseen province-wide railway network with its need for extensive financing thus acted as a catalyst for the inception of universal local government. Incorporated into the resultant mandatory legislation were provisions for municipalities to guarantee the debentures of railroad companies and to provide other financial assistance considered advisable:

> XLVII. The Council of every municipality may pass by-laws:
> . . . (2) For endorsing or guaranteeing the payment of any debenture to be issued by the company for money by them borrowed, and for assessing and levying, from time to time, upon the whole rateable property of the municipality, a sufficient sum to discharge the debt or engagement so contracted; . . .
>
> XLVIII. Any municipality which may be interested in securing the construction of a railway . . . may aid by subscription for shares or assist such company by loaning, or guaranteeing, or giving money by way of bonus or other means to the company, or issuing municipal bonds to or in aid of the company; and otherwise in such manner and to such extent as such municipalities shall think expedient . . .[13]

Although the use of the word "may" at the beginning of section XLVII meant that the legislation was permissive, local funding was necessary if railway construction was to be reasonably widespread within the province.

On July 1, 1881 the Province of Manitoba was expanded by an Act of the Parliament of Canada[14] in accordance with the mandate given it by the British North America Act. On the same date a new Municipal Act, passed May 25, came into force. It was for all intents and purposes the same as its predecessor. The only significant difference was the alteration of a few of the municipal boundaries within the old confines of the province resulting in an increase in the number of corporations from twenty-six to thirty-one.[15] Simultaneously, another Act passed May 25, dividing the new area of the province into municipalities came into force.[16] Altogether there were now forty-five corporations.

b) County Councils and Judicial Boards--
short-lived experiment in co-operation

A year later on May 30, 1882, an important alteration to the structure of local government was introduced, figuratively by the side door. A short piece of legislation entitled "An Act to Provide for the Alteration or opening up of Roads and the Establishment of Ferries in the Province of Manitoba"[17] was passed, permitting the survey and acquisition of new road allowances, and, surprisingly, considering its potential significance, permitting the establishment of inter-municipal councils under certain conditions:

> VIII. In any case where a municipality does not open up a great highway, or a section of road of importance to the general public or to another municipality, through their municipality, and the work shall appear to be especially required to enable traffic to pass through such municipality, a county council consisting of the wardens of each municipality in such county, with the mayors of incorporated cities and towns shall determine: (1) As to the necessity of such road; and if decided that the road is necessary, (2) to proceed to open up the same as provided in this Act for the guidance of a municipal council; and (3) to determine what proportion of the expense shall be borne by each or any municipality in the county, and award the indemnification to parties whose lands have been taken, and do all things necessary to open up such a road; and on approval of the Lieutenant-Governor in Council, as required by this Act, the award and rates levied on the respective municipalities shall be considered legal and binding . . .[18]

The establishment of ferries, whether their location

was disputed or not, was also to be referred to a county council by interested municipalities.[19] In 1883 county government became general as part of S.M. 1883 Ch. 1 (46 & 47 Vic.), "An Act to amend and consolidate the Acts relating to the Division of the Province of Manitoba into Counties and Municipalities and Judicial Districts, and for the government of the same." The Act was written in three parts: Part 1 to be cited as "The Municipalities Act, 1883," Part 2 to be cited as "The Judicial Districts Act, 1883," and Part 3 to be cited as "The Administration of Justice Act, 1883." Under Part 1, the province was divided into twenty-six counties consisting of two to seven municipalities and incorporated towns.[20] The reeve or mayor of each corporation sat on the county council, headed by a chairman elected from their midst and known as the "warden." Expanding slightly on the previous year's legislation, the county councils were now empowered to

> . . . adjust, adjudicate and determine all questions affecting the whole or any portion of their respective counties relating to the construction of roads and the purchase, expropriation or payment for lands required for the same; the establishment of ferries, the prosecution of drainage works or of public works of any character which affect the interest of more than one municipality; the making of all necessary provision for the procuring of a site, when indicated by the Lieutenant-Governor in Council, for the erection of the county court-house, jail, registry office, and other necessary buildings.[21]

Part 2 of the Act stipulated that the province would

remain divided into three judicial districts as described on page 1 of the appendix. The "court house boards" of the old judicial districts became the "judicial district boards" for the newly described districts. The warden of each county and the mayor of each incorporated town within the district became a board member. It was their duty to take ultimate responsibility for the operating expenses of all the county courthouses in the district and to present before each county council, from time to time, an estimate of the sums required for these purposes. Part 3 referred only to the financial and administrative procedures of the courts and has little bearing here.

In what was beginning to form an annual overhaul of municipal legislation, the 1883 Act was significantly altered in 1884. The county council system, which had had little time to become established, was abolished and the duties of the councils regarding joint public works were transferred to the judicial district boards. The county boundaries remained but they now had strictly judicial rather than judicial and governmental significance.

Few county councils had managed to establish themselves before the system's abolition--Council of the County of Selkirk had begun operations under the permissive 1882 legislation, and those of the counties of Brancon, Portage la Prairie, Lisgar, Souris, Westbourne, Birtle and Norfolk were the only ones to get off the ground subsequent to the 1883 Act.[22] The reasons for their small number and quick

demise are, unfortunately, not well detailed, but needless expense, duplication of officials, a threat to democracy and the immature state of the province's development were the most common ones cited by the press, opposition M.L.A.'s and the twenty-nine municipalities that formally petitioned for repeal of the system in early 1884.[23] The last of these reasons, immature development, was probably the most cogent. Murray Donnelly noted that:

> In many instances the proposed county seat was not even connected by road with some of its outlying municipalities. In addition a large number of the municipalities that were grouped into counties were completely incapable of giving the senior body any financial support.[24]

It is safe to assume that another force operating to the detriment of county councils was the reluctance of ratepayers to fund public works projects thirty or forty miles away. At a time when every community was in need of even basic public services, the payment of taxes for improvements that were not local must have seemed unjust to the average ratepayer.

c) The Municipal Commissions

The assumption of county council duties by the judicial boards met with no better fate--the boards passed out of existence two years later in 1886. On April 2 of that year, a Commission appointed in August of 1885 made its report[25] and submitted a draft of yet another Municipal Act. In a radical departure from previous legislation the new

bill amalgamated all existing laws pertaining to the incorporation and government of towns, cities and rural municipalities, abolished the judicial district boards and instituted the provincial office of "The Municipal Commissioner" in place of the boards. It was exceptional also in that the laws pertaining to the administration of justice no longer were included in the municipal legislation. They had been removed and amalgamated separately in 1885 within an Act entitled "The Administration of Justice Act, 1885." The draft bill passed through the legislature substantially unaltered and was assented to on May 28, 1886.

Although municipal boundaries received a few minor adjustments under the 1886 Act, the most fundamental changes it brought were the introduction of the office of Municipal Commissioner--the progenitor of today's Department of Municipal Affairs--and the elimination of third-tier government in the province. Replacement of judicial district boards (which had constituted a third-tier like their county council predecessors) by the Municipal Commissioner was made on the grounds that a single body could do the work of the three boards more economically. However, the role of inter-municipal public works coordinator which the boards had played was completely disregarded in the Commission report. The proposed Municipal Commissioner was viewed solely as a collector and disburser for the funding of the judicial system.

Intermunicipal governmental structures did not enter the picture in the report and neither were they provided for in the subsequent legislation. Thus ended a premature experiment, one that at a later date may have proven effective in countering wasteful rural development but was resigned to limbo because of its inopportune introduction.

Municipal legislation in Manitoba has changed little since 1886--the province has been expanded, municipal boundaries altered, councils' administrative procedures modified and their responsibilities broadened in scope if not kind--yet the manner in which municipalities relate to each other and to the provincial government has remained essentially unaltered. For that reason further elaboration on the general history of municipal legislation would be redundant.

4. Conclusion

The foregoing review of early local organization in Manitoba has sought to sketch the development of municipal powers and spatial form up to the time when municipalities began statutory land use planning. It has also provided evidence within the municipal legislation of the trait of marked optimism with which so much of North American social, commercial and political life was imbued during the late nineteenth and early twentieth centuries. It was a period of great expectations--commerce was booming, land was plentiful, and the means of extracting its riches newly at

hand in the form of the railways. In Manitoba the blessings appeared particularly bountiful. Winnipeg was to be the "Chicago of the North" and the countryside was eulogized as a source of limitless abundance, commerce and accommodation.

However, the province's pace of development did not match the wishful thinking--nor the oft-times wishful legislation, particularly where municipal statutes were concerned. Procedures for local government organization had been introduced in expectation of local enthusiasm as well as the fostering of local improvements. Their implementation, though, was sporadic and half-hearted because much of the province was virtually uninhabited. Then, when local government had not developed beyond an elementary stage, a form of three-tier government was introduced. Again, it was with the intention of facilitating local works but it was also merely to conform to the practices of eastern provinces, ignoring a staggering difference in extent of development. Its quick demise left no doubt about its prematurity.

In short, there were recurring incidences of prematurity and naivete in the Municipal Acts during this period. They naturally found echoes in related statutes, not the least of which was The Town Planning Act when it appeared in 1916. Unfortunately, the limitations thus placed on the latter Act were maintained long after the Municipal Act had evolved into effective form, and long

after the general social "geist" of the turn-of-the-century period had evolved in nature. Evidence of The Town Planning Act's retarded development, as well as consequent effects, will be discussed in the following two chapters.

FOOTNOTES

1. E. H. Oliver, The Canadian Northwest - Its Early Development and Legislative Records, 2 vols. (Ottawa: Government Printing Bureau, 1914), p. 136.

2. Ibid., p. 144.

3. Ibid., p. 150.

4. M. S. Donnelly, The Government of Manitoba (Toronto: University of Toronto Press, 1963), pp. 108-111.

5. Townships and Parishes were defined in the Act by reference to the Domonion Land Surveys maps on which townships were 6 mile by 6 mile units and parishes were groupings of river lots where they had been laid out under the Quebec river lot survey system. There were 19 such parishes in Manitoba.

6. S.M. 1873, ch. 24, 36 Vic., sec. 1.

7. Ibid., sec. 5.

8. S.M. 1875, Ch. 41, 38 Vic., sec. 1.

9. S.M. 1877, Ch. 3, 40 Vic. and S.M. 1877, Ch. 6, 40 Vic.

10. S.M. 1880, Ch. 1. 43 Vic., sec. 1.

11. Ibid., sec. 97.

12. Manitoba Free Press, February 7, 1880, p. 5.

13. S.M. 1880, Ch. 1, 43 Vic., sec. 47.

14. S.C. 1881, Ch. 14, 44 Vic.

15. S.M. 1881, Ch. 3, 44 Vic., sec

16. S.M. 1881, Ch. 13, 44 Vic.

17. S.M. 1881, Ch. 3, 45 Vic.

18. S.M. 1882, Ch. 3, 45 Vic., sec. 8.

19. Ibid., sec. 9.

20. Legislation permitting the incorporation of towns first appeared in 1879.

21. S.M. 1883, Ch. 1, 46 & 47 Vic., Part 1, sec. 423.

22. Alfred Thomas Phillips, Development of Municipal Institutions in Manitoba to 1886 (M.A. Thesis, University of Manitoba, 1948), pp. 211-212.

23. Phillips, loc. cit.

24. Donnelly, op. cit., p. 136.

25. Journals of the Legislative Assembly, August 19, 1885.

CHAPTER 2

PLANNING LEGISLATION 1916-1975

Chapter 2 is concerned with examination of the (Town) Planning Acts' provisions for intermunicipal planning between 1916 and 1975 as well as the actions taken in accord with these provisions. An understanding of the possibilities for such planning can be best acquired if the legislation is understood in its entirety. Thus the whole of Manitoba's first planning statute is examined as are all the subsequent amendments and re-writings. At the same time, comment on the evolving legislation's administration is included.

1. Prelude

The writing of Manitoba's first specific land-use planning legislation, The Town Planning Act of 1916, was preceded by local development of citizen groups and civic committees interested in fostering town planning. In 1910 the province's first informal group was organized in Winnipeg for the purpose of discussing the objectives and principles of planning.[1] During the same year the Winnipeg Industrial Bureau appointed a Town Planning Committee with similar intentions. The publicity received by these two groups figured largely in Winnipeg City Council's appointment of an official City Planning Commission in 1911.[2]

Along with members of City Council, the Commission included representatives from adjacent "urban" municipalities, local interest groups (architects, builders, real estate people, the trades and labor council, the Board of Trade, the Industrial Bureau, the university, the provincial board of health, the parks board and the electric company), and the province's Municipal Commissioner.[3]

With the assistance of the Industrial Bureau's Town Planning Committee, the Commission organized and hosted the first Canadian Housing and Town Planning Congress in 1913. Several internationally renowned town planners were featured. Amongst these were F. L. Olmstead, the famous landscape architect, commonly known for the design of New York City's Central Park, but also the designer of the Town of Tuxedo's original 1910 layout; Ray Unwin, the British planner partially responsible for the planning of Letchworth, Ebenezer Howard's garden city, and his compatriot Thomas Adams, who was to become known as the father of Canadian town planning.

The broad scope of concerns to which the Commission addressed itself during its first year was revealed in its year-end report. Recommendations were made in favour of higher standards of construction, more efficient health inspection and improvement of the transportation system. The creation of a Greater Winnipeg Planning Commission was also recommended in order to formalize the existing loose cooperation between the Winnipeg-area municipalities. This

latter recommendation was followed in 1914.

Interest in town planning was beginning to appear in rural centres throughout the province, but the Winnipeg-area municipalities were mainly responsible for stimulating the Province to adopt planning legislation. Assisted by Thomas Adams, the Greater Winnipeg Town Planning Commission revised a model planning act that had been drafted in 1914 by the Canadian Commission of Conservation (based primarily on British legislation) and presented it to the legislature in February, 1915. During its passage through the house, the draft sparked little debate and went virtually unmentioned in the press. Concern over planning processes was obviously not a great issue in the province. Assent was given to the bill, officially titled "An Act Relating to Planning and Regulating the Use and Development of Land for Building Purposes,"[5] on March 10, 1916.

2. The Town Planning Act 1916

The sections of the 1916 Act were not classified by headings, but an outline of its contents may be made as follows. Only the most significant sections will be discussed thereafter.

1.	enabling power	sec. 1
2.	definitions	sec. 2
3.	application for scheme by authority	sec. 3
4.	partial scheme	sec. 4
5.	adoption of scheme	sec. 5-7

6.	definition of responsible authority	sec. 8-9
7.	insertion of special provisions	sec. 10-14
8.	regulations to be made by minister	sec. 15
9.	agreement with owner for improvements	sec. 16
10.	powers of responsible authority	sec. 17
11.	compensation: betterment	sec. 18-20
12.	provision for replanning after subdivision	sec. 21
13.	minister to force adoption and enforcement of scheme	sec. 22
14.	subdivision plans to have regard for Schedule A	sec. 23
15.	administration	sec. 24-26
16.	schedules.	

The advocates of the Town Planning Act were attempting to foster processes which would assist in the ordering of a multitude of environmental concerns--everything from public health programs to building setbacks--and the enabling section of the Act seemingly gave reign to them all:

> 1. A town planning scheme may be prepared . . . with the general object of securing suitable provision for traffic, proper sanitary conditions, amenity and convenience in connection with the laying out of streets and use of land and of any neighboring lands for building or other purposes.

Such a scheme could be prepared by or under the direction of a municipal council upon authorization of the Minister (Municipal Commissioner) and it came into effect upon his written order. This marked the first expansion of the Municipal Commissioner's responsibilities which had

previously been strictly financial.

The Act was rather ambiguous when it came to co-operation between municipalities in preparing schemes. Section 3 of the Act stated that:

> 3. Any local authority may make application to the Minister for authority to prepare a town planning scheme and the Minister may authorize a local authority to prepare a scheme with reference to any land within or in the neighborhood of the area over which it has municipal control . . . (author's underscoring).

The term "neighborhood" was not defined but implicit was permission for a municipality to create and enforce a scheme affecting land within another municipality. Formal cooperation between municipalities to construct a joint scheme did not appear to be authorized here. However, Sections 8 and 9, in which possible responsible authorities[6] were described, obviously implied that joint schemes were actually permissible:

> 8. The authority to be responsible for the carrying out of a town planning scheme, herein referred to as the "responsible authority" may be either
> a) the local authority applying for approval of the scheme
> b) where land included in a town planning scheme is in the area of more than one local authority or in the area of a local authority by whom the scheme was not prepared, the responsible authority may be one of those authorities or for certain purposes of the scheme it may be one local authority and for certain purposes another local authority, or,
> c) a body constituted specially for the purpose of the scheme as hereinafter provided and all necessary provision may be made by the scheme for

> constituting such body and giving it the necessary powers and duties.
>
> 9. For the purpose of preparing a town planning scheme and carrying the same into effect, a local authority, or the local authorities, where more than one is interested, may singly or jointly appoint a commission . . . (and) the commission thus appointed shall become the responsible authority for carrying the scheme into effect . . . (author's underscoring).

In fact, investigation of Department of Municipal Affairs' files reveals that no joint planning schemes between municipalities were created under The Town Planning Act.

The exact duties and powers of the responsible authority were not specified except where removal or alteration of contravening works was necessary. All others were left to be specified and conferred by the individual schemes.[7] In cases where the Minister felt a municipality was remiss in not adopting a town planning scheme or in failing to enforce an already adopted one, or had unreasonably refused to consent to ministerial modification of a scheme, the Act authorized him to hold a public enquiry concerning the matter. If, after the enquiry, the Minister still considered the municipality to be remiss, he could pursue compliance with his recommendations by order of mandamus.

Specific procedures for the form of the schemes and the process of approval were not included in the main body of the Act. Instead, the Minister was empowered under Section 15 to issue regulations describing these procedures

and dealing with a list of matters found in Schedule C.

3. Amendments 1917-1960

The first amendments to the 1916 Act were made in 1923[8] after several schemes had appeared.
None of the amendments was very significant, most of them dealing with very minor changes in wording. Changes to the Act the next year were somewhat more substantial.[9] The definition of the word "Minister" was broadened to include any member of the Executive Council and the duties of the Minister and municipal councils with respect to subdivision approval were elaborated upon. Schedule A was also amended by deleting all instances of quantitative precriptions; for example, street width minimums and building setbacks where they had been given in feet. These prescriptions now appeared in the Regulation which was first issued in this year.[10]

In 1925 the Act was amended once again.[11] "Local authority" was redefined as either the council of any municipality, or, in unorganized territory (which had been previously ignored), the Municipal Commissioner. In these unorganized territories any joint commission was to consist of three members rather than five to ten as in organized municipalities. The next two amendments were in 1929 when section 23 dealing with the process of subdivision approval was completely withdrawn and 1940 when two changes with little bearing here were made.

The Regulation which had been in force since 1924 was revised in 1947[12] in order to eliminate unnecessary instances of near repetition and to reduce the length of time that scheme approval required. This was accomplished by reducing the number of times that public reaction to the proposed scheme was permitted. Under the 1924 Regulation there had been two and possibly three instances when public input was to be accommodated; first, the responsible authority was to hear and resolve objections at the time of ministerial approval to prepare a scheme; second, when a proposed scheme was drafted the responsible authority was to consider objections prior to submission to the Minister for approval and the latter was then to accept objections for a two week period after submission and third, if the Minister deemed modifications necessary, these were required to be available to the public for scrutiny and possible objection, again, first to the responsible authority, then to the Minister for the two week period after resubmission.

The 1947 Regulation eliminated the first and third instances, accommodating public review and objection only when a proposed scheme was ready to be submitted to the Minister. At this time the local authority was to consider objections during a six week period prior to the stated date of submission, transmit all written objections to the Minister at the time of submission and he was then to receive objections for a two week period prior to his

approval or modification of the scheme. If changes were required, the public was no longer provided with a formal opportunity to make objections to them. The necessity for town planning schemes to include a detailed plan of existing land-uses was also withdrawn by the 1947 revision of regulations.

In 1948 ministerial responsibility for the Act's administration was transferred from the Municipal Commissioner to the Minister of Labour;[13] when the Department of Municipal Affairs Act[14] repealed and replaced the Municipal Commissioner Act in 1953 this responsibility reverted back to the Minister of Municipal Affairs.[15] The last amendments before 1960 came in 1952 when three non-substantial revisions to Regulation 37/47 were made.[16]

By 1960 then, the Act had received statutory amendment four times and the original 1924 Regulation had been altered twice. None of these amendments constituted substantial change in the character of Manitoba land use planning. The procedure for acquiring authority to plan, the nature of the planning authorities, and the form of planning they undertook, all remained the same. The only significant alteration of the Act had been the 1929 removal of procedures affecting subdivision approval, but this had not affected the form of responsible authorities or of planning schemes. The revised Town Planning Act in force in 1960, R.S.M. 1954 c. 267, with its attendant Regulation was essentially the same piece of legislation as that introduced

in 1916.

4. Execution of the Act 1916-1960

Section 1 of the Town Planning Act, which gave wide ranging planning powers to local authorities maintained its original form throughout the period 1916-1960. Its seeming liberality, however, was never reflected in the actual planning schemes produced by Manitoba municipalities. Their form was limited to that of a zoning and building regulation tool. The restricted character of the schemes precluded mention of land use policies, capital works planning or public services planning which, along with development controls, now generally constitute municipal planning. The clause headings of one of the earliest schemes makes their limited form obvious:

1. The area
2. Administration
3. Use District Classifications
4. Use District Regulations
5. Space About Buildings: General Provisions
6. Space About Buildings: Building Lines
7. Space About Buildings: Side Building Lines
8. General Arrangement of Buildings
9. General and Administrative.17

Restriction of the schemes to zoning and regulatory concerns was due to Schedule A of the Act, "Matters to be Dealt with in Town Planning Schemes." It referred only to building setbacks and sideyards, street widths, reservation of land for thoroughfares, zoning and the avoidance of nuisance situations. Mention of anything resembling land use policies, capital works, and public services planning

did not appear in the Schedule. The Regulation when it was finally issued also, and necessarily, was written in accordance with the stipulations of Schedule A where the contents of schemes were concerned.

The reason why Manitoba town planning was characterized as the locational regulation of buildings may be traced to four general influences frequently elaborated upon in urban and prairie histories. The first of these was the City Beautiful movement and its underlying premise that social change could be achieved by manipulation of the built environment. "The character of the (subdivision) plan has a very great influence upon the character of the people who become occupants of the land and indirectly upon the social status and well being of the whole community."[18] Elimination of unsightly congestion and the provision of vistas were thus two of the things it was hoped town planning would accomplish not only in larger centers like Winnipeg but in many of the smaller rural ones as well.

The second influence was the determination to make settlements more efficient, safe and healthy, through ordering building placement and street location in suitable fashion. It was hoped that wise planning of Manitoba's urban centres would preclude the future need for costly correction of inefficient streets and waterworks lines as was the current experience in many North American cities. As far as safety and health were concerned, regulation of setbacks and side-yards was intended to eliminate

disastrous fires which had devastated many prairie centres by 1916 and reduce congestion which was held to be common with pestilence.

The third influence was the need to bring order to the vast expanse of subdivided but unoccupied land that most towns and villages included. Here again reference must be made to the period's social trait of naive optimism. Large tracts of land had been subdivided by speculators during the boom periods of the late nineteenth and early twentieth centuries. These subdivisions were sought and approved (under the Real Property Act), obviously with expectation of their imminent sale and occupancy. However, most settlements were not destined to achieve anything but a slight approximation of the size dreamed of by the speculators. Indeed, dozens of Manitoba communities, from village to city, have still after an additional sixty years of development failed to expand sufficiently to fill the original subdivided area. The prematurity of this rampant subdivision was recognized at the time of the first Town Planning Act but the post-1916 attempts to begin proper planning were ironically inappropriate. Many councils adopted town planning schemes encompassing their large unoccupied areas, on the assumption that development would come eventually, despite its tardiness, and zoning of these areas would at least ensure harmony and efficiency. Instead, many of the schemes constituted "over-zoning" which led to inefficient development and then to wasteful

expenditure of time and money involved in the legal process of re-zoning.

The fourth influence contributing to the schemes' limited characterization of town planning was a lack of concern for policy formation pertaining to general development and the undertaking of capital works. The formulation of policies as part of the planning process did not receive the emphasis it does today, and planning for capital works projects appears to have been outside the purview of the schemes. Schedule B of the 1916 Act stated that matters such as parks, tramways, and sewer and water works, amongst others, were to be dealt with by general provisions prescribed by the Minister.

The restricted nature of the schemes found its complement in the approach with which administration of the Act was undertaken--obviously, the task was not viewed as particularly onerous. From 1916 to 1920 administration was carried out by one of the staff members of the Provincial Good Roads Board on a part-time basis.[19] The duties at this time appear to have been more nominal than actual since schemes did not begin to appear until 1920, the year a full-time Comptroller was appointed. In 1925 the position reverted to part-time status when the incumbent left the government service and his duties were assumed by the Chief Engineer of the Department of Public Works. This gentleman became Deputy Minister of Public Works in 1940 and his planning responsibilities were transferred to the Director

of Surveys who maintained them, still on a part-time basis, until 1960.

5. 1960 Amendments and the Introduction of Related Legislation

The Town Planning Act received its first amendment since 1940 when statutory responsibility for it was again transferred, this time to the Minister of Industry and Commerce. Two additional changes were made in order to take into account the redefined Municipal Board which had been split off from the Public Utility Board in 1959.[20] These amendments named and constituted the Municipal Board as the appeal body for objectors to planning schemes and gave it power to make binding decisions. Previously the Minister heard and considered objections himself as detailed in the Regulation.

The new role that the Municipal Board played in Manitoba planning was a substantial change but its significance was not as great as the introduction of two pieces of legislation that altered execution of the Town Planning Act from 1960 onward. These were "An Act to Establish the Metropolitan Corporation of Greater Winnipeg and to Provide for the Exercise by the Corporation of Certain Powers and Authority,"[21] and second, "An Act Respecting the Provision of Planning Services to Municipalities and Agencies of the Government."[22] They were known as the Metropolitan Winnipeg Act and The Planning Service Act respectively.

The Metropolitan Winnipeg Act terminated the application of The Town Planning Act within the metropolitan area and additional zone:

> 78 (2) Without restricting the generality of subsection (1) but subject to section 82, on the coming into force of this part, The Town Planning Act and every other Act and by-law, whether general or special, relating to the matters to which The Town Planning Act or this Part applies and every town planning scheme, regulation, order to plan relating to those matters ceases to apply within the Metropolitan area and the additional zone, and to the corporation and area municipalities.

Subsection (1) of section 78 expressly granted to the metropolitan corporation full responsibility for, and jurisdiction over, the planning and development of the metro area and additional zone. Section 82 provided that any town planning scheme in force at the time would continue so until the Corporation directed that it should cease to have effect.

The Planning Service Act empowered the Minister of Industry and Commerce to appoint and fund a technical planning staff and to make agreements with any municipality to assist it in the following matters:

> 1. (a) The preparation and revision of comprehensive plans for the improvement and development of the municipality based upon studies of physical, social, economic, and other conditions . . .
>
> (b) Determining the most desirable plan of land use in the municipality, including the designation of area (for various land uses) . . .
>
> (c) Determining the most desirable plan of traffic circulation for the municipality . . .

> (d) The preparation of town planning schemes under the Town Planning Act . . .
> (e) The preparation of special reports and recommendations on individual zoning, subdivision, street, traffic and public works
> (f) The preparation of draft by-laws and regulations as may be required to implement any of the plans, programs, schemes or other matters . . .
>
> 2. . . .determining the need for, and location of, public and private works and facilities, including utilities, flood control works, water reservoirs, pollution control facilities, civil defense installations, water supply, sewerage, paving, lighting and other works, and, in conjunction therewith, in preparing a capital works program in collaboration with officials of the municipality.

The Minister could also, upon request, supply assistance to other senior government departments:

> 9. (1) The Minister may, upon request, provide technical planning assistance to a branch or a department of the executive government of the province, to a government agency, to the Government of Canada, or to any person, and, upon such a request, may cause to be prepared regional planning studies and recommendations with respect to areas or districts outside the metropolitan planning area.

The Act was actually introduced to reconstitute a service that was already being provided. In 1949 The Metropolitan Planning Act[23] had authorized the creation of a joint planning commission for the Winnipeg-area municipalities.[24] Unlike responsible authorities created under The Town Planning Act, the Metropolitan Commission was empowered to initiate its own technical planning

service. The source of its funding was not mentioned in the Act but, in fact, it came from C.M.H.C. and the provincial treasury as well as the operating budgets of the member municipalities. Since the technical service's costs were being partially absorbed by senior governments, the Commission reciprocated by providing technical assistance to municipalities throughout the province when requested. The amount of outside work that the Commission staff undertook had grown during the 1950's to the point where a separate section, known as the Provincial Planning Service, had been formed within it. The purpose of The Planning Service Act of 1960 was to simplify matters and ultimately save money by transferring this provincial section to the Regional Redevelopment Branch of the Department of Industry and Commerce.

6. Execution of the Acts 1960-64

Introduction of these two pieces of legislation caused two major shifts in the character of Manitoba planning. Prior to 1960 The Town Planning Act had been primarily an urban planning statute. Most of the schemes passed under it had pertained to the Winnipeg area municipalities (see Table 1, page 50), largely because of their nature as described on pages 39 to 41, and the percentage of total planning schemes that these comprised had been increasing yearly. The exclusion of Greater Winnipeg from its jurisdiction meant that the Act assumed *de facto* a rural

orientation. Also, the inception of a technical service for corporations outside Greater Winnipeg assisted in heightening general awareness of both the need for rural planning and its possibilities. Between the years 1960 and 1964 forty schemes were adopted by rural municipalities and local government districts for strictly rural areas--almost as many as had been adopted by the two prior to 1960.

The creation of the Community Development Section within the Regional Development Branch of Industry and Commerce also caused a second shift--one towards increasing influence by the province over land use. Before 1960 municipalities had resorted to their own devices for the drafting of schemes, or utilized the Metropolitan Planning Commission's services, and provincial government input occurred only at the time of Ministerial approval. With the government's absorption of the technical service available to municipalities it became possible for the province to exert influence over schemes throughout the process of their development. The planning philosophy pursued by the government agency since 1960 has been partially an amalgam of the personal philosophies of its staff, but the influence of reigning Cabinets has always been present.[25]

7. The Planning Act 1964

Four years after the introduction of The Planning Services Act, it was repealed and replaced along with the

Town Planning Act by "An Act Respecting the Provision of Planning Services to Municipalities and Agencies of the Government and the Prepration of Planning Schemes for Regulating the Use and Development of Lands and Buildings."[26] "The Planning Act" as it was known ("town planning" having become anachronistic) was primarily an amalgamation of the two previous acts. Most of their clauses were reproduced but in new order according to the following subdivisions:

Part 1 - The Planning Service
Part 2 - Provision for Planning Assistance to a Department or Agency of Government
Part 3 - Provision for Planning Assistance to a Municipality
Part 4 - Planning Schemes
- Provisions in Scheme
- Initial Planning Scheme
- Amending Planning Scheme
Part 5 - Adoption and Approval of Planning Scheme
Part 6 - Responsible Authority Advisory Planning Commission and Enforcement of Scheme
- Enforcement of Scheme
- Offences and Penalties
- Regulations
- General
Schedule A - Matters Which Shall be Dealt with in Planning Schemes
Schedule B - Matters Which May be Dealt With in Planning Schemes Where no Provision is Required for the Expenditure of Public Funds
Schedule C - Matters Which May be Dealt with by General Provisions in Planning Schemes Subject to Provisions as to the Manner in which the Funds Required are to be Raised
Schedule D - (untitled - Procedural matters for which regulations may be issued).

Some parts of The Planning Act were original, however. The Minister of Municipal Affairs was now named as responsible minister--the planning service function had

been transferred in 1963 from Industry and Commerce to the Department of Municipal Affairs and a new branch had been created within it called the Municipal Planning Branch. Its senior administrator was named Director of Planning in the new Act and effectively assumed the duties of the abolished position of Comptroller of Town Planning.

In a substantial departure from The Town Planning Act the new legislation no longer required that ministerial approval always be sought before a scheme could be prepared. Subsequently this condition only applied to "initial planning schemes" which were defined as the first schemes prepared by a municipality. Also for the first time, joint schemes were expressly permitted if they were initial ones:

> 17. (3) A request to the minister for authority to prepare an initial planning scheme with reference to any land within or in the neighborhood of the area over which a local authority has municipal control may be made by
> (a) a local authority; or
> (b) a local authority jointly with one or more neighboring local authorities; or
> (c) a responsible authority established under this Act
> (d) an advisory planning commission established under this Act; or
> (e) any owner of land to be affected by the scheme.

The Act was still silent when it came to expressly permitting joint schemes of a non-initial variety but joint responsible authorities were provided for in Section 24, a verbatim copy of the old sections 8 and 9 previously quoted

herein.

The contents of new Schedules B, C and D were exact duplicates of the former schedules A, B and C, but the new Schedule A was original. It reiterated prescriptions found in the Regulation by listing twelve types of information that had to appear in schemes:

1. Name of the scheme
2. Area affected by the scheme
3. Authority to be responsible for the carrying out of the scheme
4. The powers, duties and responsibilities of the responsible authority under the scheme
5. The Advisory Planning Commission
6. The powers, duties and responsibilities of the Advisory Planning Commission under the scheme
7. General provisions of the scheme
8. Special provisions of the scheme
9. Provisions for enforcement of the scheme
10. Provision for adjustment and amendment of the scheme
11. Appointment of a building inspector
12. Provision for the issuance of building permits.

A new Regulation was issued to accompany the new Act.[27] Its predecessor had been divided into three parts, "Application for Authority to Prepare a Scheme," "Preparation and Adoption of a Scheme," and "Approval of a Scheme by the Minister," and ended with a color chart for the plans.

This chart was dropped in the 1964 revision and the regulation was divided as follows:

- Interpretation
- Application for Authority to Prepare an Initial Planning Scheme
- Preparation and Adoption of an Initial Planning Scheme
- Preparation and Adoption of an Amending Planning Scheme
- Adoption and Approval of a Planning Scheme.

Application for authority to prepare an initial planning scheme followed much the same procedure as all applications had under the previous Regulation. However, the required procedure for actual preparation and adoption of such a scheme were now more extensive. Description of existing development in the area of a proposed scheme had been relaxed in the 1947 revision but was re-emphasized in 1964--a lengthy list of required information was added. More detail on the type and extent of proposed land use res rictions also had to be provided.

8. Amendments 1965-67

In 1965 a policy of allowing variations of schemes was adopted by the Province and the municipalities. Part 5 of The Planning Act was consequently amended to include a list of permissible variance types (e.g. yard dimension requirements, parking, space requirements, non-conforming

uses), and description of the application, approval and appeal procedures.

A single amendment in 1967 repealed and replaced Section 3 of Schedule B in order to give local authorities increased power to reserve transportation rights of way.

9. Amendments 1968 - District Planning Areas

The first instance in Manitoba's planning legislation of express permission to undertake joint planning on a regular basis came with amendment of Section 24 in 1968. The following subsection was added:

> (4) Notwithstanding any other provision of this Act, or any other Act of the Legislature, two or more municipalities, or one or more municipalities and one or more local government districts, may enter into agreements for the purpose of establishing and defining a planning area to be known as a district planning area incorporating two or more municipalities or parts thereof, or one or more municipalities or parts thereof and one or more local government districts or parts thereof.

Of all the amendments to The (Town) Planning Act, this one had the most direct effect on joint planning. The results of its implementation are examined in the next subsection.

10. Execution of the Act 1964-1975

The 1964 Planning Act did not alter the form of planning schemes--they remained generally the same as they had always been. However, the number of schemes adopted by municipalities began to rise dramatically, primarily in response to the economic boom of the mid-sixties. The

following table shows the magnitude of this increase:

TABLE X

Number of Schemes Adopted by

Type of Corporations

	1928-61*	1961-64**	1964-75***
Greater Winnipeg+	377 (68%)	-	-
Rural ++	51 (9%)	40 (23%)	280 (23%)
Rural centre+++	130 (23%)	140 (77%)	777 (65%)
Joint	-	-	144 (12%)
Total	558 (100%)	180 (100%)	1201 (100%)

*beginning with the first extant recording, ending with approval of the last scheme initiated by Greater Winnipeg municipalities under The Town Planning Act.

**Ending with approval of the last scheme initiated under The Town Planning Act.

***Ending with approval of the last scheme initiated under the 1964 version of The Planning Act.

+Excluding East and West St. Paul.

++Includes Rural Municipalities and Local Government Districts.

+++Includes cities, towns, villages and unincorporated communities if named in scheme title.

Source: Municipal Planning Branch files.

However, the appearance of joint schemes during the 1974-75 period is of greater significance here than the general increase in schemes. The first came in 1961 when the Town of Carberry and the R. M. of North Cypress adopted a joint scheme and was followed in 1964 by the Town and R. M. of Swan River. These were the only two cases of joint

schemes or commissions in the history of either The Town Planning Act or The Planning Act prior to the 1968 amendment. Thereafter a total of 24 planning districts were eventually formed and 143 schemes were adopted with most of the action occurring during the period 1970-72.[29] By 1975, 54 of Manitoba's 185 municipal corporations were included within planning districts. However, the actual extent of cooperation was minimal because of both the scope and location of the districts and the Act's provisions for enforcement. The legislation contained no criteria against which the potential effectiveness of a proposed district could be measured; the sole criterion was willingness to cooperate. No statutory provision, therefore, existed to mitigate against the eventual trend of district formation, which was to small units located in areas of little development pressure. Eighteen of the 24 districts consisted of a single community and its surrounding R. M. or L.G.D. Only six included more than a pair of corporations. Out of the province's dozen most rapidly developing municipalities fewer than one-half took part in districts.[30] The Winnipeg urban-fringe municipalities have historically experienced the most development in the province, but only one, the R. M. of Rockwood, formed part of a district. Because of the nature of the districts' form, most joint commissions were infrequently called upon to exercise their function. When opportunity did arise, the extent of joint involvement was further minimized by

the requirement of individual enforcement of the commonly adopted planning schemes. The joint commissions were only advisory bodies and all binding power (as well as final decisions) remained in the hands of the individual councils.

11. Conclusion

This chapter's review of legislation and practices reveals that intermunicipal planning in Manitoba prior to 1975 never developed past its most rudimentary stage. The Town Planning Act and The Planning Act remained substantially unaltered throughout the period 1916-1975 and provisions for intermunicipal planning followed suit. In the Introduction four central issues associated with such planning were introduced. These were: (1) How should joint efforts be initiated, (2) how and where should planning unit boundaries be drawn, (3) how should the membership of authorities be composed, and (4) what duties and powers should they be given. It has been shown that as far as the initiation of intermunicipal planning was concerned the legislation permitted two methods: A municipality could seek the Minister's permission to prepare and administer a scheme covering the fringe areas outside its boundaries, or a group of municipalities could appoint a joint commission and individually adopt a joint scheme. The first method was never utilized because municipalities were too afraid of ill-will that would likely be engendered by such "empire building." Enforcement

of the second method was described in the legislation in sufficiently ambiguous and unattractive terms that it was utilized only twice prior to 1960 when clarification was made. Subsequently, interest in initiating cooperative efforts began to spread and 24 planning districts were formed by 1974.

The effectiveness of these districts was severely limited, however, by the nature of the advisory commissions' memberships and their lack of legal powers. The commissions were composed largely of non-elected citizens in accordance with a general Canadian practice that lasted until recently. Their powers were negligible since their function was strictly advisory. They were not given corporate status (primarily because they were not elected officials) and the adoption and enforcement of joint schemes always remained the prerogative of individual municipal councils. The resultant "cooperation" was then more a case of planning through public relations than through joint mandate.

More extensive provisions for cooperation would not likely have changed matters significantly either, unless substantial improvements in the available planning tools were also made. Schemes had never been well suited to long-range planning because of their zoning control character and they became less suited as development pressure (and conflicts) increased in the province.

In short, the four central issues of intermunicipal

planning had been barely addressed by 1975 and there was little for the 1975 reforms to build upon. By the same token, however, the new Act's writers did not have to worry a great deal about flying in the face of immutable traditions of jurisdictional rights and processes. In a way, the virtual tabula rasa situation that existed may have been an advantage.

In the next chapter the reasons for this elementary statutory tradition will become more clear as the history of studies which affected, or could have affected, inter-municipal planning are reviewed.

FOOTNOTES

1. Carrothers, op. cit., p. 12.

2. D. A. Hicks, An Evaluation of Provincial Planning Services to Local Governments in Manitoba (Unpublished M.C.P. Thesis, University of Manitoba, 1974), p. 95.

3. Ibid., p. 95.

4. Ibid., p. 97.

5. S.M. 1916, Ch. 114, 6 Geo. V.

6. The Act differentiated between the terms "local authority" and "responsible authority"--the former meant the municipal council which prepared and adopted the scheme and the latter referred to the body responsible for its enforcement which was not necessarily Council. In fact, the common pattern of the day and for many years thereafter was to appoint citizen boards as responsible authorities under planning legislation. The rationale was that enforcement of land use proscriptions should not be a "politicized" affair and should be accomplished by a body that need not worry about the effects its decision might have on its longevity.

7. S.M. 1916, Ch. 114, 6 Geo. V, sec. 2.3.

8. S.M. 1923, Ch. 50.

9. S.M. 1924, Ch. 68.

10. Carrothers states in his report that the first Regulation appeared in 1921 but makes no mention of sources of this information. Obtaining a copy of the Regulation was impossible--regulations under Manitoba statutes were not filed in a registry or published in the Gazette until 1945, and those previously revoked can only be found as Orders-in-Council in the files of the Office of the Executive Council, listed by their respective Order-in-Council numbers. The number being unknown in this case, staff of the office of the Executive Council searched through all the Orders from 1921 at the request of the researcher but found none referring to the Regulation mentioned by Carrothers. As a result, they dispute its existence. The earliest Regulation under The Town Planning Act that could be traced was from 1924 and can be found in the 1945 Manitoba Gazette listed as Regulation #27 of that

latter year. This seeming oddity is due to the fact that when registration of regulations began, those in force were given a 1945 number regardless of their actual date of issuance. Thus Manitoba Regulation 27/45 under The Town Planning Act was actually issued June 26, 1924 as is stated in its contents above the Municipal Commissioner's signature.

11. S.M. 1925, Ch. 62.

12. Manitoba Regulation 37/47, Manitoba Gazette 1947.

13. Carrothers, op. cit., p. 14.

14. S.M. 1953, Ch. 37.

15. R.S.M. 1954, Ch. 267.

16. Manitoba Regulation 29/52, Manitoba Gazette 1952.

17. Cranberry Portage Town Planning Scheme 1929, approved December 23, 1929, revoked 1956. According to Carrothers, the first scheme adopted in rural Manitoba was the Village of Altona in 1920 when a plan of subdivision was approved as a partial town planning scheme. Carrothers does not mention whether any were adopted by the Winnipeg-area municipalities prior to this date. A search for the earliest in the Municipal Planning Branch's dead file storage proved fruitless. When the Branch moved to new quarters in the Woodsworth Building in 1976, its dead files were transferred to storage in the basement of the vacated Land Titles Building. They were placed in disarray by the movers and within months many had been destroyed by water leakage from steam pipes. The earliest that could be found by the researcher before the task was abandoned was a 1928 town planning scheme for Cranberry Portage.

18. W. F. Burditt, "Civic Efficiency and Social Welfare in Planning of Land," in Urban and Rural Development, Report of the Conference held at Winnipeg, May 28-30, 1917 (Commission of Conservation), p. 75.

19. Carrothers, op. cit., p. 13.

20. The Municipal Board Act, S.M. 1959, c. 41, s. 111 (1) repealed The Municipal and Public Utilities Board Act R.S.M. 1954, c. 175. The Public Utility Board was now also separately constituted under its own Act, that being S.M. 1959, c. 51.

21. S.M. 1960, ch. 40.

22. S.M. 1960, Ch. 49.

23. S.M. 1949, Ch. 40.

24. These were defined in the Act as: The cities of Winnipeg and St. Boniface, the Towns of Tuxedo and Transcona, the Village of Brooklands, and the Rural Municipalities of Assiniboia, Charleswood, Fort Garry, St. James, St. Vital, East Kildonan, Old Kildonan, North Kildonan and West Kildonan. Participation in the Commission was at the pleasure of the individual municipalities.

25. For more information on the provincial agency's philosophy see Hick's thesis.

26. S.M. 1964, Ch. 39.

27. Manitoba Regulation 36/64, Manitoba Regulations 1964.

28. S.M. 1968, Ch. 47.

29. Joint Planning Districts Formed after 1968 (from M.P.B. files)

District	Name	Municipalities
1	Gimli-Winnipeg Beach P.D.	Town of Gimli, R.M. of Gimli, Town of Winnipeg Beach
2	Rockwood-Teulon P.D.	R.M. of Rockwood, Village of Teulon
3	Roblin P.D.	R.M. of Shellmouth, R. M. of Shell River, Town of Roblin
4	Pelican-Rock Lake P.D.	
5	Lac du Bonnet P.D.	R.M. of Lac du Bonnet, Village of Lac du Bonnet
6	Wallace P.D.	R M. of Wallace, Town of Virden
7	Minnedosa P.D.	Town of Minnedosa, R.M. of Odanah
8	The Pas P.D.	Town of The Pas, L.G.D. of Consul
9	Rural Portage la Prairie P.D.	R.M. of North Norfolk, R.M. of South Norfolk, R.M. of Grey, Village of MacGregor, Village of Treherne
10	Cypress P.D.	R.M. of North Cypress, R.M. of South Cypress, Town of Carberry, Village of Glenboro

29. (continued)

District	Name	Municipalities
11	Arborg-Bifrost P.D.	Village of Arborg, R.M. of Bifrost
12	R.M. of Morris, Town of Morris P.D.	R.M. of Morris, Town of Morris
13	Hanover-Niverville P.D.	R.M. of Hanover, Village of Niverville
14	Alexander-Powerview P.D.	L.G.D. of Alexander, Village of Powerview
15	Neepawa-Langford P.D.	Town of Neepawa, R.M. of Langford
16	Melita P.D.	Town of Melita, R.M. of Arthur
17	Wabowden P.D.	Area of the unincorporated community of Wabowden
18	Dauphin P.D.	R.M. of Dauphin, Town of Dauphin
19	Boissevain P.D.	Town of Boissevain, R.M. of Morton
20	Morden P.D.	R.M. of Stanley, Town of Morden
21	Altona P.D.	Town of Altona, R.M. of Rhineland
22	Souris P.D.	Town of Souris, R.M. of Glenwood
23	Portage la Prairie	City of Portage la Prairie, R.M. of Portage la Prairie
24	Grand Valley P.D.	R.M. of Cornwallis, R.M. of Elton, R.M. of Whitehead.

30. Development Pressure Index for Municipalities

Prior to January 1, 1976 severance of land by metes and bounds was permissible in Manitoba. This meant that no municipal or provincial regulation was involved in 50% to 75% of all severances annually. Therefore, no reliable records of the rate of subdivision for development purposes could be kept. However, the Manitoba municipalities with the greatest annual development pressure have historically been much the same and these can be determined from the subdivision statistics now being kept by the Municipal Planning Branch. The 12 listed below had the highest development indices in 1976 and, for the most part (with the possible exception of the Town of Morris), may be taken as having been the top twelve during the period 1964-1975 when joint planning districts existed.

30. (continued)

The figures show all 1976 subdivisions of agricultural land for development purposes and are based upon statistics in Working Paper on Loss of Manitoba's Agricultural Resource by Non-Farm Subdivisions in 1976 (Municipal Planning Branch, 1977).

Municipality	Number of Lots	Acreage Subdivided	Development index (acres x lots)	Average Lot Size (acres ÷ lots)
Hanover	124	800	99,200	6.45 acres
St. Andrews	275	214	58,850	.79
Springfield	93	613	57,009	6.59
Cornwallis	86	406	34,916	4.72
Rockwood	77	447	34,419	5.81
St. Clements	70	330	23,100	4.71
Morris (T)	252	83	20,916	.33
Tache	61	321	19,581	5.26
Woodlands	98	199	19,502	2.03
Portage la Prairie (R.M.)	36	341	12,276	9.47
Selkirk (T)	435	25	10,875	.05
Ste. Anne	29	323	9,367	11.14

Of the above, those which had participated in a planning district prior to 1975 are:

1. Hanover (Hanover-Niverville Planning District)
2. Cornwallis (Grand Valley Planning District)
3. Rockwood-Teulon Planning District)
4. Morris (R.M. of Morris, Town of Morris Planning District)
5. Portage la Prairie (Rural Portage la Prairie Planning District and Portage la Prairie Planning District).

CHAPTER 3

REPORTS AND STUDIES ON PLANNING REFORM AND REGIONAL PLANNING 1916-1975

Description of the state of statutory intermunicipal planning prior to 1975 would not be complete without a review of reports published during the period concerned in whole or in part with Manitoba's land use planning. They provide another history of the attention paid to inter-municipal planning and assist in tracing the Planning Act's evolution (or lack thereof). Seven pertinent reports were written between 1916 and 1975--the first in 1944 and the last in the early-to-middle seventies. Six were policy proposal documents but only three dealt exclusively with land use planning. The other three were concerned with the nexus of municipal-provincial government relationships in general, partially including those affecting land use. One report was a compilation of demographic and economic statistics. In this chapter each report will be summarized and its bearing on developing thought and legislation outlined.

1. Post-War Reconstruction Committee of the Government of Manitoba - Town and Community Post War Planning 1944

The first published report on town planning in Manitoba appeared in 1944 under the auspices of the Post-War Reconstruction Committee, a government commission

established to make recommendations concerning post-war economic growth. A town planning sub-committee headed by Eric Thrift, later to be Director of the Metropolitan Planning Commission, undertook redevelopment studies of four sample towns in rural Manitoba: Morden, Killarney, Russell, and Minnedosa. The object of each study was to maximize amenity by (a) improving the physical services provided for homes and places of work, (b) facilitating greater safety and convenience in travelling, and (c) enhancing property values over existing standards. The actual end-product of the studies was a set of plans for re-plotting and rezoning as well as accommodating new traffic routes on the towns' peripheries.

These plans departed radically from existing conditions. The accompanying report stated that because technological progress was accelerating, town planning must be long-term and the proposals were not as extreme as they might initially appear. The sub-committee was obviously mistaken--none of its proposals were followed. Replotting was too touchy politically and would have entailed a legal nightmare; the spaghetti-like freeways that the plans included appear incredible with the benefit of hindsight. However, the demographic revolution caused by the rural-urban shift had not yet begun; continuance of the previous generation's optimistic view of rural Manitoba's development potential was natural. Demographic and economic ramifications aside, the committee does not appear to have

considered the complexity of intermunicipal agreements that would be necessary if such plans for fringe areas were to become reality. No mention of cooperation was made at all. In short, its effect appears to have been non-existent.

2. Manitoba Provincial-Municipal Committee Report 1953

On May 8, 1951 a committee was appointed to study and make recommendations on the financial and administrative relations between the provincial government and the municipalities and other local government bodies. In its 184 page report, submitted to the Legislative Assembly in February of 1953, the committee dealt with, among other things, the organization of local government, assessment, provincial subsidies for public works, education, and welfare, delivery of government services, and the complexities of government services in the Greater Winnipeg area.

The topic of land use planning arose only twice in this portentious report. Included within an appendix entitled "Report of the Exploratory Sub-Committee on the Organization of Local Government Services Outside of the Greater Winnipeg Area," was a short paragraph under the heading "Town Planning." It recommended the formation of a provincial planning authority which would assist municipalities outside Greater Winnipeg "in their desire to properly plan their communities and to bring about some control over fringe development adjoining the limits of

towns and urban municipalities."[1] Such a service came to fruition in 1960 (as previously noted) two years after D. L. Campbell's government was defeated and the Conservatives were returned to power.

The second mention of planning concerns came in Part 11, Chapter 9, "Memorandum of Recommendations by the Municipal Members of the Committee: Provincial Administrative Organization re Municipal Matters." Inter alia this section advocated separation of the Municipal Board being "the hearing of appeals against decisions of the proposed provincial director of planning."[2] This recommendation too was eventually implemented in 1959.

At the end of the published report was Premier D. L. Campbell's statement of his government's response to the Committee's findings. No mention of land use planning concerns was included; thus it is of little wonder that it took six or seven years and a government change before the Committee's work was partially implemented through legislative amendment.

3. Planning in Manitoba: A Study of Present Practices and Future Prospects of Community Planning in the Province of Manitoba 1954 (Carrothers Report)

In 1951, the School of Architecture of the University of Manitoba, the provincial government and the Central Mortgage and Housing Corporation agreed to sponsor preparation of a "manual of community planning procedures

and techniques for use in the province."[3] As research on the project progressed, its scope was broadened in order to include analysis of the suitability of Manitoba's existing planning institutions and a forecasting of its future planning needs.[4] The 140 page report of the project included discussion of the basic rationale and means of land use planning, an historical review of Manitoba planning, description of its statutory form and actual operation, and a defence of sixteen recommendations for the future.

The proposals that Carrothers made were both perceptive and visionary given the conduct of events during the last 25 years. A number of them were eventually incorporated into Manitoba planning, and of those disregarded, several are still widely believed to be necessary.

Carrothers' first suggestion was to eliminate the instances of overlapping or conflicting legislation affecting planning and to broaden the scope of The Town Planning Act in general. Specific proposals for the improvement of planning tools then followed. Noting that too little observance was lent to planning schemes and that they were often inappropriate in content, Carrothers stated that they should be based on careful surveys and be applied only when the objectives for an area were clearly established. After adoption, observance should be rigid and binding and, though the scheme should allow amendment, it should be done with sufficient discrimination to guard

their purpose. He also felt that regulatory controls were improperly utilized. Zoning, building regulations, sanitary regulations and utility controls were frequently circumvented and seldom applied to a common end. Carrothers advocated placing administration of these in the hands of the local planning agency and requiring hearings when adjustments to them were requested. With regard to subdivision control Carrothers found that no single statute or documentary source set forth procedures, responsibilities and requirements. Subdivision could be accomplished by several means, some statutory, some semi-official and some the result of less formal agreements between parties concerned. Carrothers recommended that administrative and regulatory functions be transferred from the Municipal and Public Utilities Board to the provincial planning agency and that, since subdivision was such an important planning tool, final approval be kept in the hands of this agency. Municipal judgement, however, was to precede provincial and, if negative, the application was to go no further. Appeal to the proposed Municipal Board was recommended.

A formal means of setting objectives for schemes, regulatory controls and subdivision approvals was not included in the Manitoba planning legislation, a deficiency which prompted Carrothers to recommend provision for the use of master plans. Such documents would not commit a government to undertake any project but would prevent undertakings contrary to the plan. Carrothers also

advocated the use of long-range capital development programming to complement master plans. Through their use municipalities could assign priority to infrastructure projects, ensure that future rights-of-way were reserved, and facilitate redevelopment and housing schemes. In order to provide adequate temporary control of development activities while master plans and capital development programs were being written, it was proposed that a system of interim development control be provided.

In addition to assessing the effectiveness of various planning tools, Carrothers analyzed the manner in which functional and spatial planning authority was delegated. With respect to the former, he advocated creation of a provincial authority, more effective administration at the local level, and clarification of responsibilities between various agents at senior and local levels. Six functions which should be the responsibility of the Province were listed:

1. Positive planning programs with respect to development activity at the provincial level
2. Co-ordination of all land use planning activities of all government departments
3. Protection of the integrity of local legislation and planning operations through supervision
4. Education and promotion of planning
5. Provision of a technical assistance service
6. Research to support the above.[5]

In order to support these responsibilities, Carrothers recommended establishment of a recognizable agency such as a separate department or branch, appointment of a full-time provincial officer with a technical staff, and creation of a Provincial Planning Board to co-ordinate government action and give advice to the provincial officer. At the local level Carrothers proposed that advisory commissions be empowered to hire technical staff and that technical co-ordinating boards be utilized. These would consist of key administrative personnel, a local planning officer and the head of the elected council. Their function would be to give general direction to the activities of the local planning agency.

All of the above recommendations concerning function made by Carrothers are noteworthy here because of their telling description of planning in Manitoba during the mid-1950's. However, the most noteworthy are the ones with respect to spatial assignment of authority; Carrothers called for intermunicipal or "district" planning authorities in order to achieve comprehensive planning. He recommended that two or more municipalities be permitted to establish joint authority over both regulatory functions and positive programs of planning and development. Carrothers was also willing to concede "extended" planning control to certain municipalities. If an organized central community was not bordered by an urban or suburban community existing as an individual entity, Carrothers recommended that it be

permitted to apply all instruments of planning within a certain distance beyond its borders. The exact dimension of these additional areas was to be stipulated by separate ministerial orders in each case. Planning districts would also be eligible for granting of control over additional zones if approval of the Minister and the proposed Provincial Planning Board was given. Carrothers noted that extraterritorial planning control already appeared to be granted by the Act (Section 8, as previously noted), but pointed out that this concession applied only to schemes and not to any of the other instruments of planning. As a result, there was little reason to adopt an extra-territorial scheme and no municipality had done so.

Despite the seeming persuasiveness of Carrothers' arguments, almost none of his recommendations were followed until the 1975 reforms were made. The government of Premier D. L. Campbell did not see land use planning concerns as being high priority issues as had already been made apparent in the Provincial-Municipal Report of 1953.

4. Report of the Municipal Enquiry Commission in Manitoba (Fisher Report) 1963

At the 1959 annual meetings of both The Union of Manitoba Municipalities (U.M.M.) and The Manitoba Urban Association (M.U.A.), resolutions were passed requesting the executive committees of both organizations to appoint a joint commission with the following terms of reference:

> To study and report at as early a date as possible on the whole question of Municipal and/or Hospital District and other intermunicipal district area boundaries, together with municipal responsibility in the total pattern of government . . .[6]

The commission addressed itself primarily to fiscal matters and the delivery of government services, but one of the 32 recommendations made in its 1963 report had potential bearing on land use planning. Recommendation No. 8 stated that:

> Regional municipal units or inter-municipal areas should be established composed of a number of rural municipalities and the incorporated urban units within the included rurals, with legislative jurisdiction limited to dealing with inter-rural and inter-urban-rural problems. The council of the region should be composed of the heads of the councils of municipal units, both rural and urban, within the region and its boundaries should be co-terminous with the outer boundaries of the rural municipal units within the region. The jurisdiction of the regional council should be clearly defined and the residue of local authority should remain with the local municipal units.[7]

A list of subjects was provided that might be considered as matters over which the proposed regional councils should have jurisdiction:

a) Overall town planning as affecting land use

b) Approval of plans of subdivision and plans of survey after approval by local council

c) Industrial development

d) Intermunicipal major enterprises, such as parks,

libraries, community halls, rinks and recreational facilities

e) Applications for the extension of the boundaries of urban units within the region

f) Fire and rescue protection

g) Such other powers as are delegated by local councils to the region.[8]

Control of fringe and ribbon development was recognized by the commission as being increasingly necessary but experience has shown that voluntary cooperation between councils was rare. Contentious briefs presented at hearings by Dauphin and Brandon-area municipalities further emphasized the need for mandatory regional units in the collective opinion of the commissioners.

Fisher's recommendations were similar to those of Carrothers but, again, saw no meaningful implementation until the 1975 Act.

5. Report of the Manitoba Royal Commission on Local Government Organization and Finance, 1964 (Michener Report)

Publication of the U.M.M./M.U.A. report prompted the provincial government to appoint that same month a royal commission on local government under The Honourable Roland Michener. In general, its purpose was to conduct an enquiry into the forms of local government in Manitoba, the areas of their jurisdiction, their powers, functions and

responsibilities and their revenue sources.[9]

The Michener Commission, like the Fisher Committee arrived at the conclusion that more formal intermunicipal cooperation was required throughout the province. It, too, advocated the formation of intermunicipal regions which would (a) bring spatial uniformity to the jurisdictions of locally administered provincial services such as hospital administration, public health, welfare and economic development, and (b) maximize the mutual benefits to be derived from municipalities cooperating on provision of local services and works.[10] Eleven regions[11] were suggested, each having a regional council, a regional administrative officer charged with coordinating administration of all related provincial services, and a building and facilities in a major centre to house the services and council. Representation on the councils was to include all municipal corporations, singly or in groups where there were many, as well as the regional administrative officer as a non-voting liaison between the council and the province. Jurisdiction over intermunicipal services by the councils was to include, but not necessarily be limited to, public works, utilities, drainage projects, fire and police protection, recreational facilities, libraries, elderly persons' housing, planning of land use and economic development.[12]

According to one of the Michener Commission members interviewed, the only criteria used in grouping the

the municipalities were to achieve similar populations and assessment bases. The statistics of the period do not attest to the Commission's success if these were the factors taken into account. No study had been undertaken to determine the best criteria, thus leaving the impression that the ultimate choice and their application appear to have been hasty. Moreover, the efficacy of the power which the Michener Commission was willing to grant regional councils was questionable--one of the Commission's recommendations stated that a council could act with regard to the above matters only upon petition by one or more constituent municipalities:

> Recommendation 12.
>
> Inter-municipal Proceedings in Regional Councils. The regional council would be charged with the responsibility and duty of considering applications which may be made to the regional council by any one or more of its constituent municipalities for the provision of intermunicipal services or the undertaking of intermunicipal works or projects which will benefit or affect any two or more of the regional municipalities and is within their jurisdiction and competence. (Author's underscoring.)[13]

Notwithstanding their general lack of inceptionary power, the regional councils would have complete jurisdiction over an intermunicipal project once an application had been made:

> If after hearing the applicant and the municipalities affected by the application the regional council is unable to effect a voluntary agreement among them, the regional council shall have power to formulate a plan for the proposed

> service, work or project (or part thereof) designating the municipality or municipalities to carry out the plan and apportioning the costs. Upon receiving notice of the plan and cost, any municipality upon notice to the other municipalities concerned and to the regional council, may appeal to the Municipal Board to reject, modify or approve the plan which the Board shall have power to do.[14]

Virtually none of the Commission's recommendations concerning rationalization were actually implemented. To some extent the districts or various provincial departments were gradually consolidated and an effort to decentralize some services from Winnipeg was made, but the formation of regions, regional councils and regional administrative officers never came to pass. The response of government department heads to the recommendations had been almost unanimously negative. Disputes between regional administrative officers and the upper echelons were feared as was the general decentralization of power. In the opinion of one of the Commission members, the cynicism of Premier Duff Roblin also contributed substantially to the government's negative attitude. Roblin appeared to have lost interest in the reform study he had initiated, was irked by criticism the commission made of Metro, and was generally cynical about any possible changes. The Commission report was shelved. With both the Fisher and Michener reports agreeing substantially, it would seem that reaction by the municipalities to provincial heel-dragging would have occurred. Yet there was none; according to the

previously mentioned Michener Commission member, the strong stand of Fisher's report had given a false impression of the attitudes of municipal councils. They were actually marked by indifference to the recommendations made by Fisher and subsequently, Michener. In short, provincial cynicism and municipal indifference combined to guarantee that no alteration occurred to planning legislation and practices as a result of the two reports.

6. Regional Analysis Program, Southern Manitoba, 1972-75 (R.A.P.)

As a rule the reports studied in this section are all policy documents and not analyses of descriptive data. Circumstance rather than design dictates this rule because prior to 1972 no significant statistical analyses affecting regional planning had been produced in Manitoba. The exception to the rule is the R.A.P. report, phases of which were published from 1972 to 1975. The program was established by the Planning and Priorities Committee of Cabinet in 1971 to provide governments and people with as complete a description as possible of the social-demographic and economic characteristics of Southern Manitoba municipalities, local government districts and Indian reserves. Conducted by the Department of Industry and Commerce, the program's results were published in two parts:

Regional Analysis Program Southern Manitoba, Part 1A Descriptive Data (1972) (557 pp.)

Regional Analysis Program Southern Manitoba, Part 1B Descriptive Maps (1972)

Regional Analysis Program Southern Manitoba, Part 2 Working Papers

1. General Economic Characteristics
2. Analysis of Community Functions and Relationships (1974) (89 pp.)
3. Analysis of Community Services and Facilities (1974)
4. Analysis of Population Change 1951-1971 (1974).

Working papers No. 5, "Analysis of Settlement Structure," and No. 6, "Environmental Capability," were written in 1975 and 1976 but never published owing to an end of program funding. The information in Part 1A was updated and republished in 1975.

The potential bearing that this program had on regional planning in Manitoba was substantial because for the first time extensive analysis of community functions and relationships was undertaken. A concerted effort by the government to coordinate economic and land use planning by region appeared to be imminent. All communities above a population of 50 were described as having regional, market, or local influence, and their respective hinterlands were delineated based upon a variety of indicators. These included the diversity and level of services offered, locational attributes, infrastructural development, electrical energy consumption, population size and change,

as well as telephone calling patterns, highway traffic movement, a shopping preference survey and consultation with regional development corporations.

The actual use that was to be made of this delineation of regions was never described in more than vague terms by the provincial government. The following statements must serve as explanation:

> Local committees will be encouraged to study the material and put it to use in establishing priorities for their future development, and communicating these to their regional development corporations and the government . . . The final phase will be to incorporate local suggestions and priorities in the development of policy and programs to effect the changes required in the region.[15]

> The information in the reports can provide a basis on which knowledgeable decisions can be made to provide a "stay-option" for the people in Southern Manitoba.[16]

It is no surprise then that the R.A.P. program never amounted to a concerted effort by the government to co-ordinate economic and land use planning by regions. It was felt that an Ontario-style Design for Development program was unwarranted in Manitoba and designation of "growth centers" as identified by R.A.P. would have meant risking political suicide. Hope of the program providing a new order (and new legislation) soon faded into oblivion. Nevertheless, the data it compiled has proven invaluable as resource material for government departments and communities in a wide variety of disparate studies and enterprises.

The findings may also have been used covertly for government policy and decision making.

7. Winnipeg Region Study 1973-1975

During the same period that the Department of Industry and Commerce was engaged in the Regional Analysis Program, the Department of Municipal Affairs was working on a research project known as the Winnipeg Region Study. In the summer of 1971 the Municipal Planning Branch had requested ministerial approval of a research project on the development pressures in the municipalities surrounding the City of Winnipeg. Rural residential development was expanding at a rapid rate, causing detrimental impact on the environment, escalation of land prices and more frequent conflicts over land use. The Branch felt that policy guidelines on issues such as preservation of agricultural land, utilization of public infrastructure, water pollution, and efficiency of the area's transportation network had become necessary.[17] Approval of the project was granted in October of 1971 and an interdepartmental steering committee was formed.

The research program was designed to present information on the factors affecting "supply" and "demand" for land on the urban fringe. This area was defined as Winnipeg's theoretical commuter shed--a one-half hour (or approximately 30 mile) radius from the city's centre. On the supply side, the study was essentially a physical survey

of the land base. Private consultants and government departments compiled data on soils, ground water conditions, waste disposal practices, recreation capability, wildlife habitat and mineral resources. On the demand side, a special study group within the Municipal Planning Branch gathered information on demographic patterns and the cost-benefit aspects of rural non-farm development, prepared maps showing change in land use over a 25 year period, and conducted a survey on life-style preferences of farm and non-farm residents.

In February 1974 when most of the research had been compiled, Councillors and Advisory Planning Commission members from all the municipalities in the study area were invited to a two-day seminar in Winnipeg. There information was presented and explained to the participants and a liaison committee was set up at their request. This committee consisted of one councillor from each of the 30 affected municipalities. Eventually known as the Winnipeg Regional Municipalities Committee (W.R.M.C.), it met with the study group during the fall and winter of 1974-75. In April, 1975 the W.R.M.A. presented the government with a series of resolutions outlining land use policies based on the research at hand. In summary, they emphasized preservation of the region's resource base and rural character, as well as strengthening its existing urban roles. To achieve these ends they deemed it advisable to establish formal cooperation through planning districts.

The final policy recommendations that the study group itself made duplicated those of the W.R.M.C. with only four exceptions. The group's recommendations were included in their final report, Winnipeg Region Study: Land Use Policy Proposals, which was submitted to the Minister in late 1975. The history of these policy proposals subsequent to enactment of the new Planning Act on January 1, 1976, will appear in Ch. 4.

The Winnipeg Region Study was remarkable for a number of reasons. It was the first extensive planning study to be conducted in the province based upon the premise that a certain group of municipalities rather than a single one constituted a cohesive, rational planning unit. Following this premise a formal (though non-statutory, non-corporate and temporary) intermunicipal land use committee had been established, which represented a much greater area than had an intermunicipal authority established under the 1968 amendment to the Planning Act. Moreover, this committee had recommended the establishment of corporate inter-municipal planning boards within the region.

The study was therefore a close prototype to district planning as it would be conducted under the 1975 Act. Of the seven studies examined here, it had by far the closest links with legislative reform.

8. Conclusion

The general content of the reports reviewed in this

chapter and the reception that most of them received from lawmakers and administrators, show that interest in legislative reforms was never widespread. The first study of Manitoba's planning needs, the Post-War Reconstruction Committee Report, came 28 years after the inception of the Town Planning Act. Despite the intermunicipal implications of its proposals, it failed to address any of the four primary issues inherent in joint planning--initiation, boundary delineation, membership, and powers and duties. Evident in that report was a pre-rural-urban shift optimistic view of the province's development potential, and the suitability of the Town Planning Act. The report stated that no changes were necessary--the existing statute was excellent. Later in the 1950's, Carrothers' critical report appeared which did address the four issues. The theoretical recommendations made remained general, however, and were never tested by application--a provincial administration that took minimal interest in land use planning was in power. In the 1960's the Roblin government initiated a study, Michener's, that had the potential to address problems of intermunicipal planning but a number of its most important recommendations were made without the benefit of sufficient consideration and, considered or not, the report was shelved, again, due to disinterest. The two reports that came the closest to dealing with intermunicipal planning appeared in the 1970's. The Regional Analysis Program delineated functional regions within the

province based upon considerable study and the Winnipeg Region Study was conducted upon the expressed assumption that the selected region formed a logical planning unit.

It is ironic that out of these seven reports the one that went the farthest in recommending planning regions, Michener's, was one of the most deficient when it came to substantiation, and the two that provided the most substantive information on regional relationships, R.A.P. and the Winnipeg Region Study, had no mandate to make recommendations on regional planning. Prior to the 1975 Act, then, intermunicipal planning had received very little attention in Manitoba and explication of its major problems had never been approached in anything but a cursory fashion. Consequently, municipal planning had never become a widespread public issue and was debated only amongst a relatively small cognoscenti.

FOOTNOTES

1. Manitoba Provincial-Municipal Committee Report and Memorandum of Recommendations and the Statement of Government Policy with Respect to Provincial-Municipal Relations (Winnipeg: Queen's Printer, 1953).

2. Ibid., p. 51.

3. Carrothers, op. cit. (preface).

4. Ibid.

5. Ibid., p. 5.

6. Report of the Municipal Enquiry Commission in Manitoba (Union of Manitoba Municipalities/Manitoba Urban Association, 1963), p. 5.

7. Ibid., p. 28.

8. Ibid., p. 29.

9. Report of the Royal Commission on Local Government Organization and Finance (Winnipeg: Queen's Printer, 1964), p. XVII.

10. Ibid., pp. 40-41.

11. Composition of the eleven regions may be found below. Surprisingly, considering the potential impact of its suggestions, the Commission supplied no criteria in its report for the boundary formation. On being interviewed, one of the commissioners stated that they were drawn on the basis of suitable population and assessment. Appendix 2 shows considerable disparity in population and assessment between regions, which still makes the Commission's criteria appear rather weak.

Proposed Composition of Regions: Proposed regional centres underlined.

Region One	No. of Reps. on Council
Edward RM Arthur RM Melita T	2
Branda RM Winchester RM Deloraine T Napinka V Waskada V	2

11. (continued)

Region One	No. of Reps. on Council
Albert RM Cameron RM Hartney T	2
Archie RM Wallace RM Woodsworth RM Elkhorn V	2
Pipestone RM Sifton RM Oak Lake T	2
Virden T	1

Total Population: 23,054
Total Assessment: $32,546,000

Region Two	No. of Reps. on Council
Glenwood RM Whitehead RM Daly RM	1
Cornwallis RM Elton RM Oakland RM Wawanesa V	1
Morton RM Whitewater RM Boissevain T	1
Riverside RM Roblin RM Turtle Mountain RM Cartwright V	1
Argyle RM South Cypress RM Strathcona RM Victoria RM Glenboro RM	1
Brandon C	2
Killarney T	1
Rivers T	1
Souris T	1

Total Population: 63,052
Total Assessment: $83,064,000

11. (continued)

Region Three	No. of Reps. on Council
Louise RM Pembina RM Crystal City V Manitou V Pilot Mound V	1
Roland RM Stanley RM Thompson RM	1
Lorne RM South Norfolk RM Notre Dame de Lourdes V Somerset V Treherne V	1
Rhineland RM Gretna V Plum Coulee V	1
Morris RM Morris T	1
Dufferin RM Gray RM MacDonald RM St. Claude V	1
Carter RM St. Francois Xavier RM	1
Altona T	1
Carman T	1
Morden T	1
Winkler T	1

Total Population: 57,142
Total Assessment: $85,627,000

Region 4	No. of Reps. on Council
Franklin RM Montcalm RM Emerson T Stuartburn LGD	2
De Salaberry RM Hanover RM La Broquerie RM St. Pierre	3

11. (continued)

Region 4 (continued)	No. of Reps. on Council
Ritchot RM Ste. Anne RM Tache RM Ste. Anne V	2
Springfield RM	1
Steinbach T	1

Total population: 39,885
Total Assessment: $40,289,000

Region 5	No. of Reps. on Coun il
Lac du Bonnet RM Whitemouth RM Great Falls V Lac du Bonnet V Powerview V	1
Brokenhead RM St. Clements RM Garson V	1
St. Andrews RM Winnipeg Beach T Dunnottar V	1
Rockwood RM Stonewall T Teulon V	1
Rosser RM St. Laurent RM Woodlands RM	1
Coldwell RM Eriksdale RM Siglunes RM Armstrong LGD	1
Bifrost RM Gimli RM Arborg V Riverton V	1
Beausejour T	1
Gimli T	1
Selkirk T	1

Total Population: 60,520
Total Assessment: $65,021,000.

11. (continued)

Region 6	No. of Reps. on Council
North Cypress RM North Norfolk RM Carberry T MacGregor V	2
Portage la Prairie RM	1
Glenella RM Langford RM Lansdowne RM Rosedale RM	2
Lakeview RM Westbourne RM Gladstone T Alonsa LGD	2
Portage la Prairie C	2
Neepawa T	1

Total Population: 42,498
Total Assessment: $54,199,000.

Region 7	No. of Reps. on Council
Birtle RM Ellice RM Miniota RM Birtle RM Foxwarren V St. Lazare V	2
Blanchard RM Hamiota RM Shoal Lake RM Strathclair RM Hamiota V Shoal Lake V Park LGD	2
Clanwilliam RM Harrison RM Minto RM Odanah RM Saskatchewan RM Rapid City RM Erickson V	2

(continued)

11. (continued)

Region 7 (continued)	No. of Reps. on Council
Rossburn RM Russell RM Silver Creek RM Russell T Binscarth V Rossburn V	2
Minnedosa T	1

Total Population: 29,656
Total Assessment: $38,282,000

Region 8	No. of Reps. on Council
Boulton RM Hillsburg RM Shellmouth RM Shell River RM Roblin T Park LGD	3
Ethelbert RM Gilbert Plains RM Grandview RM Grandview T Ethelbert V Gilbert Plains V Mountain LGD	3
Dauphin RM Mossy River RM Winnipegosis V	1
Lawrence RM McCreary RM Ochre River RM Ste. Rose RM McCreary V Ste. Rose V Alonsa LGD	3
Dauphin T	1

Total Population: 39,607
Total Assessment: $38,963,000.

11. (continued)

Region 9	No. of Reps. on Council
Swan River RM Benito V Bowsman V	3
Minitonas RM Minitonas V Mountain LGD	3
Swan River T	1

Total Population: 12,744
Total Assessment: $13,663,000

Region 10

Northern Manitoba

Region 11

Greater Winnipeg.

12. Report of the Royal Commission, op. cit., p. 43.

13. Ibid., p. 41.

14. Ibid., p. 42.

15. Regional Analysis Program Southern Manitoba Part 1A (Queen's Printer, Winnipeg, 1972).

16. Analysis of Community Functions and Relationships - Regional Analysis Program Southern Manitoba, Part 2, Working Paper No. 2 (Winnipeg: Queen's Printer, 1974), p. ii.

17. Winnipeg Region Study, Land Use Policy Proposals (Winnipeg: Queen's Printer, 1975), p. 5.

CHAPTER 4

COMPARATIVE ANALYSIS OF DISTRICT PLANNING

1. Introduction

The preceding chapters have outlined the history of intermunicipal planning in Manitoba prior to the 1975 Act and in so doing have revealed its embryonic character. The new act brought into this environment a quasi-governmental authority operating midway between provincial and municipal jurisdictions--the district board--which was given life through the centralization of various planning powers and the decentralization of others. It was incumbent upon the province's legislators to take into account the existing planning environment when tailoring the new district planning provisions. The purpose of this chapter is to review these provisions, evaluate the dangers inherent in them, and recommend remedial amendments to the Act or alterations to its present implementation.

More specifically, this analysis is centered upon the four basic issues that must be resolved regardless of where intermunicipal planning occurs: (1) The method whereby joint planning is initiated, (2) the area to be delineated by boundaries, (3) the composition of authority membership, and (4) the duties and powers of the authority. The analysis incorporates comparison of the new act with its predecessors and with the intermunicipal planning

provisions of the other two prairie provinces. For the sake of simplicity the recommended amendments are written out in full in Chapter 5 and only discussed in theory in this chapter.

The chapter is structured in four sections: First, introduction; second, the drafting of the new Act; third, discussion of the four issues; and fourth, a summary and conclusion.

2. Drafting the New Act

Reform of Manitoba's Planning Act began under the Schreyer administration when a planner was hired by the Municipal Planning Branch in 1970 with the specific duty of writing a new Act. The writing was postponed almost immediately, however, when the planner in question was transferred by the undermanned Branch to its Brandon field office in order to temporarily fill a vacant post. For various reasons this temporary arrangement lasted until 1974 when the planner was finally retransferred to the main office and resumed his original task.

In early 1975 the Minister of Municipal Affairs and the Provincial Director of Planning began a series of speeches to various interested groups on the progressing reforms. The government's reasons for rewriting the Act were stated along with the objectives of the proposed changes. In most of the speeches the perceived faults of the old Act were classified as having municipal or

provincial bearing. On the municipal level it was criticized *inter alia* for:

> a) Being more of a Planning Service Act than a Planning Act, that is, the section that emphasized aspects of Planning was to be found under matters in which the Planning Service may assist a municipality rather than under contents of planning schemes;
> b) Failing to distinguish between tools for establishing land use policies (development plans) and land use controls (zoning) and failing to indicate the importance of establishing land use policies;
> c) Containing procedures that are cumbersome and do not allow for increased responsibility at the local level;
> d) Failing to provide adequate guidelines for subdivision approval and failing to control conveyances by metes and bounds;
> (e) Failing to emphasize the necessity for planning on a district basis and failing to provide for responsibility on a district basis.[1]

On what was termed the provincial level, the old Act was criticized for:

> (a) Giving direction to service agreements rather than planning itself;
> (b) Providing no real means of co-ordinating a variety of provincial land use interests;
> (c) Failing to provide a means of establishing provincial land use policies within which local planning could take place;
> (d) Failing to establish the circumstances and means by which the province might act in a specified area requiring specific provincial input;
> (e) Placing the Municipal Board in the contradictory position of subdivision approving authority and Appeal Board.[2]

By late winter of 1975 a draft copy of a new act had been drawn up by the previously mentioned planner in

consultation with the Minister's office, the Municipal Planning Branch staff, and various municipal officials. By the planner's statement no instructions had been given to incorporate set government policies other than to avoid imposition of district planning as had been done in Alberta. The planner had relied upon his own experience and knowledge of other Canadian acts as well as the implicit policies constituted by the Branch's objections to the old Act.

When the Branch was satisfied with a final copy it was forwarded to the Minister for discussion by caucus. It remained in Cabinet hands for almost two months before being placed on the House order paper as Bill 44. First reading came on May 15 and second reading five days later on May 20. Debate in second reading took place on eight occasions between May 30 and June 12 with the Opposition's objections centred around two main points. Both the Conservatives and Liberals felt that the new Act would centralize rather than decentralize control with unjustifiable new powers being given to the Cabinet.[3] It was also felt that insufficient opportunity was being provided for study and suggestions by the municipalities--most council members were farmers too busy at the time with seeding to read the copies of Bill 44 sent to them.[4] Nevertheless, it was put to the vote on June 13 and the bill received approval by a 28-17 margin thus passing to the Standing Committee on Municipal Affairs for review.

The committee reported its amendments June 18, there was a short debate, the last vote was taken, and the Bill was approved.

3. Discussion of the Four Central Issues

1. Initiation

Under the new Planning Act a process of initiating a planning district has been established whereas previously the Act only referred to the actual declaration of a district. The new provisions are a significant advancement over the old since opportunities for careful deliberation and public input have been at least theoretically assured and not merely presumed to have occurred. During the process of initiation responsibility is placed upon the Municipal Board to see that this deliberation and input come about. However, this responsibility is described only in very general terms and the Municipal Board has failed to accomplish the actual intent of the Act. To date, nine planning districts have been established but in none has public input truly been sought or defended. Formal hearings have been held and little advertising has been done--a process unlikely to produce public involvement.

In the case of special planning areas, no direct public input is provided for. Consultation between the Minister and affected councils is required prior to designation and only indirect public participation through councillors may occur. An advisory committee of municipal councillors may be established at the Minister's discretion

but all development control remains in the hands of the Minister for as long as Cabinet chooses. To date, the provisions regarding special planning areas have not been utilized.

Chapter 3 of this thesis (Reports and Studies on Planning Reform and Regional Planning 1916-1975) showed that rural land use planning in general and intermunicipal in particular received negligible public discussion in the past and have always been very abstruse topics. With the failure of the Municipal Board to ensure that such discussion now takes place where planning districts are proposed, new governmental forms have been created largely unbeknownst to the public. The implication for the future is widespread rejection of the district planning concept once it has been started--rejection not so much because people are against cooperation or against planning but because they feel "a fast one" has been pulled on them. Complete alienation of the public from the process of establishing special planning areas is likely to cause even greater risks of rejection for this form of intermunicipal planning.

A backlash has already begun in one of the initial planning districts, the MSTW District (Town of Morden, R. M. of Stanley, R. M. of Thompson, Town of Winkler) where a campaign is underway to have the R. M. of Stanley withdraw from the joint agreement.[5] This campaign began a year and a half after the District was established when reports

written as background material for the district development plan began to be disseminated, when the district building permit system became widely known and, generally, when the District actually acquired a public profile. In the Cypress Planning District, rejection has been negligible to date but at public meetings held to discuss information from background studies for its development plan, some of the most frequently asked questions were on the nature of planning districts, whether one was warranted and whether local control over development was not being lost.[6]

Both the Alberta Planning Act 1977 and the Saskatchewan Planning Act 1973 (am.) provide for district (known in Alberta as "regional") planning and special area planning. District cooperation has been provided for in Saskatchewan planning legislation since 1928 and has always been at the instigation of the municipalities which then must seek ministerial approval. Special area planning in Saskatchewan was introduced in 1973 and is solely at the Minister's discretion to initiate. Provisions regarding discussion and public input prior to the establishment of either form of intermunicipal planning have not been a part of the Saskatchewan legislation. Rejection has been minimal but this is not likely a result of good preparation. Rather it is largely because the district commissions are strictly advisory and their powers are limited in comparison with Manitoba boards.

The Alberta planning legislation originally had the

same ambiguous wording respecting joint planning as Manitoba had prior to 1968. Both provinces had used the same model legislation when adopting their first planning statutes. Alberta rewrote their act in 1929, however, and in the process clarified the provisions for intermunicipal cooperation (S.A. 1929, c. 49, sec. 18(1)). They were permissive but Ministerial approval was required. In 1953 a new actor, the Provincial Planning Advisory Board, was introduced and required to make a recommendation to the Minister regarding any proposed joint planning (S.A. 1953, c. 113, sec. 10) but initiative still remained with the municipalities. This was changed in 1963 when the Lieutenant-Governor in Council was given power to establish a planning region without prior application by affected municipalities (S.A. 1963, c. 43, sec. 9). Reference was made for the first time to a consultative process prior to declaration: The Board was to advise the Cabinet, ". . . after making such inquiries and holding such hearings as it considers sufficient. . ." The possibility of application by municipalities was removed from the Act in 1969, leaving it solely in the hands of the Cabinet (S.A. 1969, c. 86, sec. 9). The reference to consultation that had been introduced in 1963 was also removed.

None of the prairie provinces thus have lent particularly great weight to requiring effective discussion programs prior to the establishment of intermunicipal planning. This analysis is primarily a comparison of

legislation but on this particular point it is important to make a theoretical reference. In Planning in Rural Environments, William R. Lassey has argued persuasively that a discussion program is substantially more advantageous to regional planning than outright coercion or imposed cooperation. Adapting the work of sociologist Herbert C. Kelman, Lassey has made the following association between change strategies, influence processes, and public reaction:

Basic Strategies	Principle Influence Processes	Probable Public Reactions
Information-Education	Mass Media communication Meetings Speeches Preparation and publication of written and audio-visual presentations	Identification Increased knowledge Conformity behavior
Active Learning	Citizen and leader involvement Intensive, experience-based learning Interpersonal communication	Internalization Changes values Changed behavior
Force or coercion	Law, rules, ordinances Police action Economic sanction	Compliance Resentment Dissonance

Internalization is the most desirable reaction according to Lassey. In his words it involves:

> . . . the acceptance and support of planning goals on their intrinsic merit because the goals conform to changed (or existing) value and action inclinations or preferences of the individual or his

> or her reference group. This level of acceptance can be considered the most desirable and probably the most permanent. It would require minimum policing of planning implementation since there is little basis for failure to conform to any rules or regulations arising from efforts to achieve goals. Individuals would tend to accept the norms established to achieve the defined ends.8

Lassey goes on to state that if planning is new to a community or region, information/education strategies are a necessary precursor to active learning.

The Planning Act currently charges the Director of Planning (in practice, the staff of the Municipal Planning Branch) with responsibility for implementing programs of public planning education (Section 2(2)). However, the Branch has acted as subdivision approving authority under the act since its adoption and has therefore been placed in the position of functioning as regulator, consultant and educator. The time requirements of the first two functions have virtually precluded the latter. Furthermore, the Branch's regulatory function has caused the development of a negative attitude towards it by much of the public. Given the Branch's current organization, any increased attention paid to education would be hampered by skepticism.

The most logical course of action in strengthening the emphasis on public discussion prior to district formation, then, is to separate the Municipal Planning Branch into regulatory and educative wings and to re-emphasize discussion in the Act itself. Only a small group within the

Branch would be necessary to disseminate information required to educate the public in planning issues and interrelationships between communities. The group would serve on a province-wide basis rather than a regional one as the Branch is now organized. In this manner the group would have a province-wide perspective on issues and could relate experiences from throughout Manitoba. Its prime audience should be community groups that have a publicly accepted and supported profile such as the 4-H organization, Chambers of Commerce, National Farmers' Union, historical societies, etc. Dissemination of information and views through these bodies would reduce the skepticism with which they may be greeted if presented directly to the public by "big government." The other actor in the establishment of planning districts, the Municipal Board, is ill-suited to the role of active educator. Its role is to act as an impartial judge of a proposed district's efficaciousness. If it was given the education role now theoretically assumed by the Director of Planning, it would be placed in the questionable position of judging its own effectiveness. The Act itself could be amended by adding procedures that municipalities must employ to publicly present the implications of joint planning (see Sec. 14 (2.1) of the recommended amendments in Chapter 5).

2. Area to be Included

The previous Manitoba Planning Act did not include any

criteria to be used in determining whether the spatial area of a planning district lent itself to joint planning. Cooperation between urban municipalities and their surrounding rural counterparts was envisioned by the Act's authors and administrators but groupings of a more regional nature were not anticipated to the same degree.[9] The new Planning Act charges the Municipal Board with recommending to the Minister the area to be included within a Planning District and it lists general criteria with which it should accord:

> 13 (2) The area included in a district shall be described in the order of the Lieutenant Governor in Council establishing the district and, insofar as is practicable, shall comprise such lands as would constitute a logical, rational area for planning purposes based on, but not limited to such considerations as topographic features, the extent of existing and probable urban development, the existence of important agricultural, resource, conservational, recreational, or other urban or rural concerns, the existence or desirability of uniform social and economic interests and values and the existence of planning concerns common to the municipalities or communities concerned, and such other factors as the Lieutenant Governor in Council may deem necessary to consider.

The sections of the Act concerned with special planning areas on the other hand do not directly state the criteria with which boundaries should accord. Section 12(2) only states that the areas shall be ones having ". . . special provincial or regional significance."

Prior to discussing the manner in which section 13(2)

has been implemented, it is interesting to note that the same area determination criteria were included in the 1957 Saskatchewan Planning Act. They have remained unaltered in the 1973 Act and appear there as section 84(a). In practice, the prime criterion used in establishing Saskatchewan's 16 districts has been that they display "urban centredness." The boundaries of districts correspond to municipal boundaries, thus maintaining a political/jurisdictional bias over a physical or functional one.

R. M. Bryden, a Saskatoon law professor, was commissioned in 1965 to make recommendations on a new planning act. In his report, Saskatchewan Planning Legislation Study (1968) he stated that the primary problem with the province's district planning at that time was irreconcilability between district boundaries and other administrative boundaries for various government functions.[10] Bryden described the results succinctly: "The existing system, while providing in theory for district planning, results in fact in only district regulation and planning, if any, is done at the municipal level."[11] The new Act which appeared in 1973 did not alter the existing provisions for district planning--Bryden's report aroused fears of centralism much like those created by the Michener report in Manitoba.[12]

No criteria for area determination are mentioned in the current Alberta Planning Act nor were any listed in its predecessor acts. They have only stated that the

Lieutenant Governor in Council would establish the area considered appropriate and that a body known as the Alberta Planning Board (previously the Provincial Planning Board) may be consulted in the matter. The configuration of the first six planning regions formed in the 1950's and the additional two regions added in the '60's and '70's are evidence that here again a political/jurisdictional bias was exercised as opposed to a physical or functional one. A consideration was that they have a general urban-centred orientation but the prime criteria was that they include a large assessment base.[13] The cost sharing formula adopted by the provincial government required the planning regions to fund 40% of their expenses; these were relatively substantial because the regional commissions were given subdivision approval authority as well as long range planning authority.

The Alberta Land Use Forum, a commission established in 1973 to investigate the future of Alberta's rural land use, reported that the regional boundaries have been a source of displeasure in some cases:

> They represent administrative convenience . . . rather than groups of municipalities exhibiting some form of homogeneity. In discussion with the Regional Planning Commission and from public hearings, the feeling was evident that the Commissions could function more efficiently if the membership felt a sense of regional identity.[14]

Since the appearance of the report, one Commission, Calgary, has been split in two--Calgary and Palliser--in an attempt

to gain this regional identity.

In Manitoba's case, the practical application of its joint planning legislation has resulted in nine planning districts being established to date. Their size and location reveals the leeway that the area criteria provide. The smallest, Brokenhead, consists of a single small rural municipality and the single town and village contained within it--a total of 280 square miles. The largest, Cypress, is composed of two rural municipalities, a town and a village and contains 864 square miles. On the basis of population the smallest is Western Interlake with 4480 residents and the largest is Selkirk and District with a population of 22,400. Assessment bases vary from $6 million on the part of Western Interlake to $45 million on the part of Selkirk.

The existence of such variance does not in itself imply that one or more of the planning districts fail to constitute a rational planning area. Limits of social and administrative function as well as geographical continuity are the measures of rationality[15] and the application of these may mean that districts vary considerably in size. On the basis of these criteria, though, the rationality of Manitoba's districts appear questionable. As described in Chapter 3, functional relationships of the province's communities have been documented and mapped by the Rural Regional Analysis Program. The boundaries of existing districts do not generally conform to these relationships.

Neither do their boundaries circumscribe discrete physical areas unaffected by a nexus of geographical and ecological relationships with other areas.

The potential result is that only portions of physical and social systems may be planned, as has been the experience in Saskatchewan. The unplanned portions may easily disrupt the controls and intended developments of the planned areas. An urban community near the edge of a planning district (for example, Glenboro) could suffer nuisance from a development locating just outside the district in a municipality that has no or only limited land use controls. Unplanned and poorly conceived developments in a municipality adjacent to a recreation area could spoil that area and negate the planned efforts of a nearby district. Transportation planning within a district could be frustrated by developments outside it but still within a common service area.

None of the prairie provinces, then, have had marked success in the delineating of intermunicipal planning units. The radically different characteristics of physical, political and economic systems mitigate against the achievement of ideal planning areas regardless of the jurisdiction in question. However, the degree to which a district approximates the ideal state may vary and it is the responsibility of the concerned parties to ensure that the approximation is pursued as far as possible. In Manitoba's case this responsibility does not appear to have

been fully exercised. It is not a question of the Act failing to provide criteria, nor is it essentially a failure of the Municipal Board to apply these criteria in the manner intended by the Act. Rather, application of the Act has been thwarted by a failure to promote common familiarity with the physical, social and economic systems operating within the province, with the relationship of these to political and legal constructs and with the processes by which the systems may be planned. In other words, the historical circumstance of planning in Manitoba, that is, its lack of public attention in the past, has resulted in the area of planning districts being determined by a less than judicious application of criteria. As already cited, the Province and municipalities have lent minimal regard to familiarizing the public with land use planning ideas and processes. Such familiarization would prompt not only more informed discussion on the pros and cons of cooperation but would foster a better understanding of municipalities' relationships as well. The end result would be an increased likelihood of systems being planned in their entirety rather than being disjointed by municipal insularity. The method is not altering the act but by ensuring that the educative process advocated in the previous section includes dissemination of information respecting the interrelationships of municipalities and their meaning for land use planning.

3. Composition of the Authority's Membership

The manner in which membership of Manitoba's district Boards has been arranged under the new Planning Act is similar to that of the previous act when the joint commissions were strictly advisory in function. Representation on a commission was described in general terms in the joint planning schemes and in accordance with section 27(2) which stated that they were to consist of not fewer than five or more than fifteen members. No mention was made in the Act of the division of membership between participating municipalities, this being implicitly left to the planning scheme to stipulate. Both councillors and citizens were eligible to sit on the commissions with the tenure often varying according to which status a given member had. Citizen members normally had lengthier tenure in theory because of the traditional practice of assigning councillor's duties annually at each inaugural meeting. In practice, however, councillors usually retain the same duty for several years in order to maintain continuity and their actual tenure on the old commissions was little different than that of the citizen members.

The new Planning Act also provides considerable leeway in the membership composition of the new District Boards; section 19(1) states that:

> 19 (1) The number of members of the Board of a planning district shall be determined by the Lieutenant Governor in Council and shall be composed of
> a) one or more members of the council

> of each municipality or the advisory council of each local government district nominated by the council of the municipality or advisory council of the local government district; and
> b) at the request of the board of the district, a person employed by the government and designated by the Minister, where a substantial part of the land in the district is Crown land.

The possibility of membership being weighted in favor of a single municipality exists and could be applied, for instance, in the cast of a district containing a municipality substantially larger than its partners. To date no such weighting has occurred. In all nine districts the membership has been equally divided. One district, Cypress, has utilized section 19(1)(b) quoted above and added a government representative. Restricting membership to elected officials (excepting government representatives) is the most significant alteration to membership in the new Act.

Saskatchewan's district planning commissions may consist of three to nine members appointed by the concerned councils and the Minister (R.S.S. 1978, c. P-13, s. 85). In the case of districts having a population in excess of 50,000, additional members may be appointed but the commission may not exceed fifteen members. Citizen members must always be a majority on the commission--a retention of the old theory that planning should be as untainted by politics as possible. Tenure on the commissions is three years.

Alberta's commissions include, on the average, some thirty municipalities and Local Improvement Districts. Under an equal representation policy the resultant commissions would be too large for effective decision making. In an attempt to resolve this, not all participating municipalities are allowed a voting representative on the commission. They may send a representative to a commission meeting if an item affecting it is to be dealt with and he may vote as if he were a regular member (section 22). A representative may also be sent to the annual general meeting and theinitial meeting of a commission. Originally all municipalities included within a region were represented equally but the size of the mandatory regions created in 1963 necessitated alterations. Although the present method does reduce the commission to a manageable size, it also results in relative dissociation on the part of some members. Their sense of involvement and their understanding of issues elsewhere within the planning area are unlikely to be maximized and have been part of the dissatisfaction associated with regional boundaries.[16]

Compared with the former Manitoba act and the alternatives presented by Saskatchewan and Alberta legislation, the membership provisions of the new Planning Act are, if taken at face value, reasonably suited to a situation wherein preparation for district planning has been minimal. The status quo has been retained in that equal

representation by all included municipalities is permitted and has been followed. Potential fears of external control as experienced in Alberta have been reduced. Appointment of citizen members is no longer permitted but this accords with the wishes of the municipalities,[17] follows a general Canadian trend and is unlikely to cause concern amongst the public. The provisions regarding tenure are also unlikely to cause concern.

Nevertheless, a basic aspect of Board composition creates a serious impediment to acceptance. The equal representation afforded all municipalities reduces loss of local control in a relative manner (relative to a system establishing weighted Boards) but not in an absolute manner. Only a minority of Board members are ever responsible to, and recallable by, the electorate of a given participating municipality. Essentially, decision-making power is vested in an external unaccountable group whenever a district is created. The new act restricts membership to elected officials on the premise that direct accountability is in order, yet when decision making power is taken into account, the electorate are effectively disenfranchised. Under the former act when Boards were strictly advisory and had negligible legal powers, such an onerous implication did not arise.

Yielding of accountability is in fact the only way that an intermunicipal corporate body can operate and is justifiable if done consciously and knowledgeably. In the

present case, however, it has been neither. As previously discussed, the electorate is generally unaware of the implications associated with district formation until it is a fait accompli. A direct decision on formation by the affected electorate is warranted as it was, for instance, when Manitoba's school districts were regionalized. By making district planning subject to a referendum, the yielding of accountability would be justified and a pre-decision education/communication program would be given greater impetus. Means by which this recommendation could be incorporated into The Planning Act may be found in Sec. 14 (7) of the recommended amendments in Chapter 5.

4. Duties and Powers of District Boards

The advisory duties of Manitoba's pre-1976 joint planning commissions were not listed in the Act but could be found in the planning schemes establishing them. Typical of these was the Pelican-Rock Lake District Planning Scheme (1970) which assigned the following duties to the commission:

> Before final action shall be taken by the Responsible Authority or any department acting under the authority of Council on any planning matter such as but not limited to the following: the location and design of any public buildings, park, parkway, boulevard, street, lane, playground, public grounds, housing scheme or other similar development, or any change thereto, such question shall be submitted to the Commission for investigation and report.
>
> The Commission shall be assigned the

> responsibility of surveying and analysing the social, physical and general economic conditions of the community and, upon analysis of same, recommend to the Responsible Authority from time to time, a long range development plan for the community and the draft legislation required to be approved by the Responsible Authority in order to implement the various features of said development plan.[18]

The only commission responsibility that carried with it binding power was its function as variation board for the district (R.S.M. 1970, c. P80, s.25(a-4).

The duties and powers of the province's new district boards have been substantially increased and are stipulated under section 24 of the Act. Responsibilities include:

a) preparation, adoption, administration and enforcement of a district development plan;

b) administration and enforcement of the member municipalities' zoning by-laws, planning schemes, building by-laws and minimum standards of maintenance and occupancy by-laws;

c) approval of the subdivision of land (if delegated by the Minister);

d) advising the Minister on planning matters;

e) performance of other duties vested in it by the Minister or member councils.

In addition, section 62 charges the boards with the responsibility of zoning appeals board. By way of fulfilling these responsibilities the Boards may:

a) adopt by-laws;

b) hold property, expend funds, employ staff and generally exercise the powers of a corporation;

c) enter into agreements for the purpose of development of land or the development and maintenance of housing, transportation, utility or recreation facilities.

In comparison, Saskatchewan's district commissions are advisory and non-corporate. As a result, their responsibilities are conditional upon the direction of the member councils and their implementive powers are few. The only initiative that they may display is provided for in section 19(1) which states:

> 19 (1) The commission shall investigate and study land use, population, transportation, utilities, services, municipal finances and any other matter or thing within or outside the municipality that, in the opinion of the commission, is related to the physical, social or economic circumstances of the municipality and affects or may affect the development of the municipality.

The same section goes on to state that the commission may perform such other duties as may be referred to it by the councils and these may include:

a) preparing a district development plan, zoning by-law or any other scheme or by-law under the Act, suitable for adoption by the councils;

b) preparing amendments to the above;

c) making recommendations on the financing of public works;

d) holding public meetings and publishing information in order to obtain public participation.

In pursuing these responsibilities, the commissions may employ consultants and staff and may appoint sub-committees. Particpating councils may also establish a "district planning board" in addition to a district planning commission and delegate to them authority to administer the joint zoning by-law or implement the district development plan. The board consists of three members, none of whom need be a commission member.

Alberta's long-standing regional planning commission has recently been granted corporate status (S.A. 1977, c. 89, s. 21(3)) but their duties and powers remain in essentially the same form as has obtained since 1953. They are charged with:

a) preparing and adopting a regional plan;

b) advising on planning matters, and

c) promoting public participation in planning matters.

Other duties which may be delegated to them at the discretion of individual municipalities are:

a) preparation of statutory plans or land use by-laws, and

b) commenting on annexations or matters undertaken by the Local Authorities Board.

As with their duties, the powers granted commissions under the current Act have been little altered with the

exception of incorporation. They are:

a) employment of staff or consultants,

b) expenditure of funds granted by member councils or the province, and

c) subdivision approval authority.

In light of the alternatives presented by the Alberta, Saskatchewan and former Manitoba legislation, the duties and powers now imparted to district boards are reasonably well suited to functioning in an environment where little preparation for district planning has occurred. The major changes on the Manitoba scene have been to incorporate the boards, require them to prepare, adopt and enforce development plans and delegate subdivision approval authority formerly reserved to the Minister.

Though incorporation of the boards may be seen as a loss of local control it does in fact provide for increased responsiveness. A Board's responsibility to the public for its actions is not only safeguarded by the municipal election process but by the right to sue as well. Incorporation provided this right which does not obtain in the case of a non-corporate advisory body.[19] To the extent that the public has more full recourse to remedial action, the responsibility and responsiveness of Boards should be increased.

Adoption and enforcement of district development plans by the boards is a shift away from local control in comparison with the province's previous legislation but one

that has been tempered by leaving preparation and adoption of zoning by-laws in the hands of the member councils. At the request of the municipalities the responsibilities were separated as they are in Alberta. The result appears effective; long term planning and coordination has been vested in the joint board and application of the common policies and principles remain with the member councils. This application may necessarily vary from municipality to municipality particularly in the case of districts including both rural and urban members. Zoning's purposes and application are radically different in the two and the advantages of amalgamation into a single by-law are negligible. Also, as pointed out by Bryden, land use regulation (which implies control of property values) ". . . can, in general, only be effectively and acceptably carried out by a government directly responsible to the owners of the property regulated."[20] Complete separation of the planning and regulatory functions, though, often results in less than optimal monitoring by the planning body of its policies and programs. The Manitoba compromise has been to retain preparation, adoption and amendment of zoning by-laws at the council level and place the administration of zoning in the hands of the district board. In this manner local autonomy is preserved, the board is apprised of all zoning variances and rezonings, and may consequently better judge the effectiveness of its plan. It also becomes a better informed zoning appeal body, and

office administration is most economical.

Had Manitoba's municipalities once been responsible for subdivision approval authority, its potential assumption by district boards would likely have been seen by the public as a threatening loss of autonomy. Historically, Manitoba had an approval system only for larger subdivisions prior to the 1975 Act. The common method of creating smaller subdivisions was through description by metes and bounds. The method was facetiously known as "leaps and bounds" because it was the most frequently used method of subdivision and required no approval process, only acceptance by the Land Titles Office. When the 1975 Act declared that all subdivisions must be approved by the Province, the move was seen by much of the public as a usurpation of a natural right and an unnecessary influence by big government. Ironically, the prospect of approval authority being delegated from the Minister to district boards is viewed as a positive step favoring local control. Councils themselves generally find it to be a satisfactory compromise. Though local control is desired, most do not want it to be too local. Many councillors believe they would find it difficult to rule on their neighbors' or friends' land aspirations and would rather leave the responsibility to a more impartial body.

By requiring the district board to adopt a development plan before they may be granted approval authority, Manitoba has avoided one of the major pitfalls of the

Alberta system. There the regional commissions were charged with approval authority upon establishment--a responsibility that detracted both in terms of time and money from their ability to prepare regional plans.[21] As a result, Alberta has spent most of the time since regional planning began with the cart before the horse--implementation before the plan.

4. Summary and Conclusions

In summary, Manitoba's new district planning legislation requires alterations to aspects of its contents and implementation if optimal effectiveness is to be achieved. As far as the first issue studied here--initiation--is concerned, insufficient tailoring to the province's land use planning climate appears to have been done. As in Saskatchewan and Alberta, negligible public discussion has occurred prior to the establishment of districts. The result has been that a poor strategy to induce change, coercion, is being relied upon to achieve acceptance. This may have greater implications for Manitoba because of the more extensive power granted to Manitoba's intermunicipal boards in comparison with Saskatchewan, and the shorter history of intermunicipal cooperation in comparison with Alberta. A backlash has already begun in one Manitoba district because of the fait accompli nature of initiation. The recommendation of this chapter has been to strengthen the emphasis on public discussion prior to District

FIGURE 1

SUMMARY COMPARISON OF MANITOBA,

SASKATCHEWAN AND ALBERTA PLANNING ACTS

	Manitoba	Saskatchewan	Alberta
Initiation			
- initiation by municipalities	Yes	Yes	No
- public discussion	Yes	No	No
- public decision	No	No	No
Area to be included			
- listing of criteria	Yes	Yes	No
Membership			
- citizen membership	No	Yes	No
- one member, one vote	Yes	Yes	No
- possible inclusion of government member			
Powers and Duties			
- corporate status	Yes	No	Yes
- staff	Yes	Yes	Yes
- preparation of development plan	Yes	Yes	Yes
- preparation of zoning by-law	No	Yes	No
- adoption of zoning by-law	No	No	No
- administration and enforcement of zoning by-law	Yes	No	No
- subdivision approval authority	Yes	No	Yes

formation, separate the province's Municipal Planning Branch into regulatory and educative wings and, lastly, re-emphasize discussion in the Act itself. A possible form that this last recommendation could take appears as Section 14 (2.1) in Chapter 5.

The second issue studied here--the method by which district boundaries are determined--has also suffered from the low level of preparation existing when the new inter-municipal planning legislation was adopted. This chapter's discussion has shown that all three prairie provinces have had problems with delineating "rational" intermunicipal planning units. This has been largely because the radically different characteristics of physical, political, and economic systems mitigate against the achievement of ideal planning areas. However, the disregard that has been lent to both the characteristics of geographical and ecological zones and the functional relationships of Manitoba communities has resulted in intermunicipal planning units that fail to approximate "ideal" units to the fullest possible extent. The recommendation of this chapter has not been to legislate a set of criteria that will guarantee optimal success. To do so would be unrealistic. Rather, it has been to ensure that the educative process advocated with respect to initiation include dissemination of inform-ation respecting the interrelationships of municipalities and their meaning for land use planning. Greater common familiarity with the physical, social and economic systems

operating within Manitoba will contribute to the judicious application of boundary criteria.

This chapter has also stated that the provisions of the new Planning Act regarding membership of joint planning bodies are, if taken at face value, reasonably suited to a situation wherein preparation for district planning has been minimal. In comparison with former Manitoba legislation, the status quo has been retained in that member municipalities have equal representation. Potential fears of external control as experienced in Alberta have been reduced. Appointment of citizen members is no longer permitted in accordance with municipal wishes. The discussion of this third study aspect has concluded, however, that the electorate of any given municipality are effectively disenfranchised from control over their Board since only a minority of a Board's members are elected by them. This yielding of accountability is justified if undertaken consciously and knowledgeably. The general electorate's lack of awareness of District formation and its implications, however, is the reason behind this chapter's recommendation to implement referenda where planning districts are proposed (Section 14 (7) of the following recommended amendments).

Lastly, this chapter has concluded that the duties and powers per se conferred upon Manitoba's new District Boards are reasonably well suited to functioning in an environment where little preparation has occurred--despite the foregoing

problems with initiation, boundary delineation and membership. As discussed in the chapter, optimism on this point is justified by the Legislature's decision to incorporate Boards (and in so doing provide the public with redress through power to sue), to separate zoning and long-range planning between member municipality and Board respectively, to grant Boards rather than municipalities the right of subdivision approval, and to require adoption of development plans before granting such approval authority.

If the powers and duties of the Boards are to be exercised as well as they ought, the deficiencies apparent in three of the four issues most central to intermunicipal planning--initiation, boundary delineation and membership--must be redressed. The history of cooperation on inter-municipal land use planning in Manitoba bears witness to this need. Manitoba's landuse pressures were not great enough in the past to make planning (and land use restriction) a popular cause. As a result, Manitoba was operating under long outmoded planning legislation when the 1975 reforms were made--legislation that had been conceived when turn-of-the-century laissez-faire optimism was rampant. A concomitant result has been that Manitobans are not familiar with land use planning methods, particularly those instituted in 1975.

FOOTNOTES

[1]Speech by J. Whiting, Director of Planning, Municipal Planning Branch, Manitoba Department of Municipal Affairs, at Municipal Services Branch seminar for new councillors, Gimli, Manitoba, January 13, 1975, p. 1, in "A Selection of Speeches on the Planning Act 1975-77" (unpublished Municipal Planning Branch collection).

[2]Ibid., p. 3.

[3]Debates and Proceedings, Legislative Assembly of Manitoba, Vol. VXXII #104, May 30, 1975, p. 3264.

[4]Debates and Proceedings, Legislative Assembly of Manitoba, Vol, VXXII, No. 114, June 5, 1975, p. 3528.

[5]Pembina Times.

[6]Minutes of Cypress Planning District Public Meetings in Carberry News-Express, June-July, 1979.

[7]William R. Lassey, Planning in Rural Environments (New York: McGraw-Hill Book Company, 1977), p. 132.

[8]Ibid., p. 132.

[9]Speech by the Hon. Howard Pawley, Minister for Municipal Affairs at the Manitoba Urban Association Annual Meeting, February 12, 1975, pp. 2-4, in "A Selection of Speeches," op. cit.

[10]R. M. Bryden, Saskatchewan Planning Legislation Study (Regina: Department of Municipal Affairs, 1968), p. 4.

[11]Ibid., p. 4.

[12]Speech by W. R. McNeil, Senior Planner, Saskatchewan Department of Municipal Affairs at Community Planning Association Seminar, "District Planning on the Prairies," Regina, November 28, 1978.

[13]Speech by Jack Thomas, Assistant Deputy Minister, Alberta Department of Municipal Affairs at Community Planning Association Seminar, op. cit.

[14]Dr. V. A. Wood, J. E. Davis and R. W. Brown, Alberta Land Use Forum Report and Recommendations, ND, 1976, p. 61.

[15]Lassey, op. cit., pp. 78-82.

[16]Wood et al, op. cit., p. 61.

[17]Resolution No. 1, "Report of the Winnipeg Region Municipalities Committee" (Winnipeg: Manitoba Department of Municipal Affairs, April, 1975).

[18]Pelican-Rock Lake District Planning Scheme 1979, Section 5.

[19]The actual practical possibility of suing depends upon whether or not district boards acquire assets out of which a judgement could be realized.

[20]Bryden, op. cit., p. 7.

[21]D. L. Makale, "A Look at Alberta-Regional Planning," in Toward a Unified Approach: Regional Government (Winnipeg: Community Planning Association of Canada, Manitoba Division, 1974), p. 17.

CHAPTER 5

SUMMARY AND RECOMMENDATIONS

As stated in the Introduction, the purpose of this study has been to assess the provision for municipal planning contained in the 1975 Planning Act and offer recommendations to resolve or mitigate any deficiencies found within them. In so doing, four issues that are central to the establishment of intermunicipal planning have been identified:

1. The process of initiation;
2. delineaton of boundaries;
3. composition of authority membership, and
4. granting of duties and powers.

The manner in which these four issues are addressed in the 1975 Act has been related to the history of planning in Manitoba in order to determine the relative level of preparation that preceded the new legislation. The treatment of the four in Manitoba has also been related to intermunicipal planning in the other two prairie provinces in order to assess the problems and successes of comparable jurisdictions.

Summary of the Act's Pitfalls

Employment of this method through the first three

chapters has shown that Manitoba's Planning Act, and specifically, its provisions for intermunicipal planning, inherited a legacy of naive optimism from the Municipal Act. Prior to 1975, the Planning Act never evolved beyond its most rudimentary stage, the planning practices authorized by it became more ineffectual as development increased, and the four issues central to intermunicipal planning were barely addressed in the legislation. The dearth of studies on intermunicipal planning between 1916 and the 1970's andthe general ineffectiveness of those that did appear, reveal that interest in reform was negligible until the present decade, when development pressure demanded it.

The 1975 Act was a radical alteration of planning in Manitoba and the general lack of preparation for its advent has led to several major pitfalls as outlined in Chapter 4. These may be expected to continue until conscious remedial action is taken. Briefly, they are:

- rejection of district planning by the public after its establishment due to a lack of public consultation
- ineffectiveness due to portions of physical and social systems not being included within Districts
- lack of accountability of the Board to any one electorate.

These pitfalls are apparent in Alberta and Saskatchewan as well. Negligible public discussion has occurred prior to the establishment of intermunicipal units in these

provinces; there have been problems with delineating rational planning units; particular problems with composition of membership have occurred because Alberta's regional units are so large and Saskatchewan's are only advisory; and, difficulties pertaining to jurisdiction have appeared, primarily in Saskatchewan, again because of the Boards' advisory status.

Summary of Remedial Strategies and Amendments

Remedial measures that Manitoba could take to alleviate or mitigate these pitfalls have been outlined in Chapter 4. Administratively, they consist of (a) separating the Province's municipal planning agency, the Municipal Planning Branch, into regulatory and educative wings in order to give greater emphasis to public education and discussion (see Chapter 4, page 12); (b) ensuring that the educative process stresses dissemination of information regarding the interrelationships of communities (see Chapter 4, p.105); and (c) fostering this process through accepted community groups such as Chambers of Commerce, 4-H, and Farmers' Union (see Chapter 4, p.105). Legislatively, a series of remedial amendments are also proposed. Their embodiment in the Planning Act would appear as follows (amendments are fully in capitals and referenced to the page on which theoretical discussion is found in Chapter 4):

PART III

DISTRICT PLANNING

Establishment of district and boards authorized.

13 (1) There may be established, as herein provided, planning districts, and in respect of each district, a planning board having the powers and duties set out in this Act.

Area to be included in a district.

13 (2) The area included in a district shall be described in the order of the Lieutenant Governor in Council establishing the district and, in so far as is practicable, shall comprise such lands as would constitute a logical, rational area for planning purposes based on, but not limited to such considerations as topographic features, the extent of existing and probably urban development, the existence of important agricultural, resource, conservational, recreational, or other urban or rural concerns, the existence or desirability of uniform social and economic interests and values and the existence of planning concerns common to the municipalities or communities concerned, and such other factors as the Lieutenant Governor in Council may deem necessary to consider.

Application to establish district.

14 (1) An application to establish a planning district may be initiated by
(a) the minister; or
(b) a municipality; or
(c) more than one municipality jointly.

Submission to minister for recommendation.

14 (2) An application referred to in subsection (1) shall be submitted to the minister who shall refer the application to the Municipal Board.

Councils to hold public meetings.

14 (2.1) Upon application to the Minister to establish a planning district, councils of the affected municipalities shall, after giving notice, hold a public meeting in each affected incorporated centre and each unincorporated

NEW

centre of 50persons or more for the purpose of discussing the proposed district. In the case of an application initiated by the Minister, such meetings shall be held at the direction of the said Minister.

Consultation with Municipalities and Municipal Board Hearing.

14 (3) Upon receipt of an application under subsection (2), the Municipal Board shall NEW

(a) consult with the councils of the affected municipalities; and
(b) subsequent to the public meetings referred to in subsection 14 (2.1) and after giving notice, hold public hearings to consider submissions from any person affected by the application.

Form of Notice.

14 (4) The notice of any public hearing referred to in subsection (3) shall be given

(a) by publishing a copy thereof, at least once a week for two successive weeks in a newspaper circulating in the area affected, the first of such notices to be published at least 21 days before the date fixed for the public hearing referred to in clause (3)(b); and
(b) by sending a copy thereof to each municipality within and adjacent to the area affected.

Government may be heard.

14 (5) The minister may authorize any person to appear before The Municipal Board in any hearing held under subsection (3), to make representations for and on behalf of the government.

Municipal Board to recommend area.

14 (6) After consultation with the affected municipalities and the completion of hearings held pursuant to subsection (3), the Municipal Board shall recommend the area to be included in the planning district and shall advise the minister accordingly.

Proposal to be submitted to resident electors.

14 (7) Following the recommendation of the area NEW

to be included in a planning district by the Municipal Board, the Minister shall except in the case of a single municipality district submit the proposal to a vote of the resident electors in the proposed district and may establish a planning district if a majority of electors who vote on the proposal vote in favor thereof.

Order respecting submission of proposal to resident electors.

14 (8) Before a proposal for the establishment of a division is submitted to a vote of the resident electors in the proposed division, the minister, by his written order, NEW

(a) shall approve the form of the proposal, which shall set forth
    (i) the boundaries of the proposed district which may be those recommended by the Municipal Board or such other area as he considers advisable;
    (ii) the number of board members to be appointed from each municipality;
    (iii) the name of the proposed district;
(b) shall fix the date on which the proposal shall be submitted to the vote of the resident electors;
(c) shall appoint a returning officer to take the vote on the proposal;
(d) subject as herein provided may make regulations with respect to the taking of the vote on the proposal prescribing
    (i) the manner in which the votes are to be taken and all the proceedings in connection therewith, including the holding of, and proceedings at, the advance poll;
    (ii) the form of the ballot to be used and any other forms required;
    (iii) generally the duties of the returning officer; and
    (iv) the fees or other remuneration to be paid to the returning officer and any other election officers and the maximum amount of the expenses that may be incurred by the returning officer with respect to the various proceedings required in taking the vote, or the methods in which those maximum amounts shall be fixed.

Action of the minister thereon.

14 (9) Upon the making of an order under subsection (8) approving a proposal, the minister shall NEW

(a) cause the proposal as approved to be published in one issue of The Manitoba Gazette; and
(b) furnish to the returning officer when appointed a copy of the proposal and such other information and material as he may require from the minister in order to discharge his duties.

Publication of proposal.

14 (10) The returning officer shall cause the proposal to be published NEW

(a) by publication thereof, at least once in each week during the two weeks immediately before the week in which the vote thereon is taken, in each newspaper published in the proposed district, or, if no newspaper is published therein, in a newspaper having a general circulation therein; and
(b) by posting up a copy thereof in the office of the clerk of each municipality wholly or partly included in the proposed district and in any other place at or in which the proposal should, in the opinion of the returning officer, be posted in order to secure due publicity therefor.

Furnishing of electors' list.

14 (11) The clerk of each municipality of which the whole or any part is included in the proposed district shall, on request by the returning officer, make available to him a copy of the latest revised electors' list for the municipality or for all that part thereof that is so included; and the returning officer shall make therefrom such further copies as he may require. NEW

Electors' list for part of a municipality.

14 (12) Where, under this Part, a returning officer is required to submit a proposal that provides for the inclusion of part of a municipality in a district to a vote of the NEW

resident electors of that part of the municipality, the clerk of the municipality, forthwith on request by the returning officer, shall prepare and certify and furnish to the returning officer a list of the resident electors in that part of the municipality.

List of resident electors.

14 (13) From the information furnished to him or otherwise obtained by him, the returning officer shall make a list of the resident electors in the proposed district. NEW

Persons entitled to vote.

14 (14) A person is entitled to vote on the proposal if he is a resident of an affected municipality and NEW

(a) if his name appears on the latest revised list of resident electors prepared by the returning officer;
(b) although his name is not on the municipal list of electors, if he is of the full age of eighteen years, is a British subject and is otherwise qualified to have his name placed on the municipal list of electors, and if he is vouchsafed for in the manner provided in the Municipal Act; or
(c) in the case of a person resident in a local government district, if he satisfied the deputy returning officer that he is entitled to have his name placed on the list of resident electors and takes an oath or affirmation in the form provided in the regulations with respect thereto.

Taking of vote.

14 (15) On the date fixed as hereinbefore provided, the returning officer shall, as herein provided, submit the proposal to a vote by ballot of the resident electors in the proposed district. NEW

Manner of voting.

14 (16) Except as herein or in the regulations otherwise provided, the vote shall be taken, in so far as practicable, in the manner provided in The Local Authorities Elections Act for the taking of a vote on a money by-law; and, except as aforesaid, that Act applies, in so far as NEW

practicable, to a vote taken under subsection (15) and to proceedings subsequent to the closing of the polls.

Establishment of polls and appointment of D.R.O.'s.

14 (17) The returning officer shall, as provided in the regulations, establish such polling subdivisions and polling places, and appoint such deputy returning officers and election clerks, as may be required. NEW

Count by D.R.O.

14 (18) Forthwith on the expiration of the time fixed for the voting, each deputy returning officer shall close the poll and, in the presence of such interested persons as may be present, open the ballot box and proceed to count the votes. NEW

Certificate as to result by D.R.O., and final declaration by R.O.

14 (19) On completion of the count the deputy returning officer shall certify the result of the vote and return the certificate together with the ballot box and the ballots, to the returning officer, who shall act with respect thereto as a returning officer is required to do under The Local Authorities Act with respect to a vote taken on a money by-law. NEW

Notification to minister.

14 (20) On declaring the result of the vote, the returning officer shall send to the Minister by registered mail a written notice of the result.

Vote respecting alteration.

14 (21) The minister shall not alter the boundaries of a planning district by adding territory thereto unless NEW

(a) the board of the district has, by resolution, approved the addition; and
(b) a proposal respecting the addition has been submitted to, and approved by a favourable vote of, the resident electors of the territory to be added to the division, in the manner herein provided for the taking of a vote with respect to the establishment of a district.

Procedure for taking vote.

14 (22) Where a vote is taken as provided in subsection (3), the returning officer of the district shall prepare the list of the resident electors in the territory to be added to the district; and sections 14 (8) to 14 (20), mutatis mutandis, apply to the taking of the vote.

Lands in additional zone.

14 (23) Subject to section 96, where any part of the area included in a planning district is within the additional zone, as described under subsection 4 (2) of The City of Winnipeg Act, the jurisdiction of the City of Winnipeg over that area shall cease and this Act shall apply on, from and after the date of establishment of the planning district; but every by-law, order or plan in force on the effective date of the establishment of the planning district continues in force within that part of the municipality until the board of a district or the council of a municipality as the case may be, amends, repeals or replaces the by-law, order or plan, in accordance with the provisions of this Act.

Order in Council establishing district.

15 (1) An Order in Council establishing a planning district shall, subject to subsection 13 (2), set out

(a) the boundaries of the district;
(b) the name of the district;
(c) the name of the board of the district;
(d) subject to section 19, the number of members of the district board;
(e) prescribe the proportions in which funds, if any, are to be contributed to the district board by the municipalities in the district and by the government to meet the expenses of the board;
(f) such other matters as are necessary to carry into effect the purposes and intent of this Act.

Conclusion

The trend to increased cooperation in land use planning that Manitoba municipalities have followed since

inception of the 1975 Act hopefully will not be reversed. The future of District Planning is dependent upon being seen as effective and fair, not only by the public within present Districts but by the public and politicians of potential ones as well. Manitobans were not well prepared for the changes that the 1975 Act brought and what was hoped to be an evolution may actually be seen as an attempted revolution. The rugged individualism of prairie dwellers is legendary and no more prominent than when they feel dictated to. It would be most unfortunate if the benefits of intermunicipal cooperation--new perspectives and the ability to learn from the suggestions, failures, and successes of one's neighbors--were stifled for wont of proper understanding. In many ways the Act has taken into account the province's ill-preparedness for District Planning, yet the accounting is not complete. Until it is, the concept will remain in jeopardy.

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