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Comparison of legislation of
England, Canada and the United
States with respect to Low-
Rent Housing.

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✓ Comparison of Legislation of
England, Canada and the United States
With Respect to Low-Rent Housing

Volume II

Extra Edition No. 2

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Introductory Comments

The following comparison of the English, Canadian and American low-rent housing legislation is based essentially on the national legislation of the three countries, although, in the case of the United States, some reference is made to state legislation. In general, the Canadian legislation is much less complete and much more limited in scope than that of the other two countries.

It may be well to bear in mind throughout the comparison that the English frame of government is not a federal one like the United States and that the English Parliament has not the same restrictions in regard to the prescribing of the functions, powers and duties of local governments that are present in respect of the United States Congress.

Permanence of Program Contemplated:¹

England

The English legislation is definitely of permanent character.

Canada

The Canadian legislation is of limited scope and effect. Assistance may be given by the Dominion Government only until March 31, 1940, and only to the extent of \$30,000,000 in loans.² The Preamble to the National Housing Act, 1938, refers to the low-rent housing legislation as a "limited experiment."

United States

The United States Housing Act creates the United States Housing Authority as a "body corporate of perpetual duration."³ The USHA may enter into loan and subsidy contracts for projects with a lifetime of 60 years.⁴ There is, however, a limitation on the activities of the USHA in that it may make loans to the extent of \$800,000,000⁵ only, annual subsidies to the extent of \$28,000,000⁶ (annually) only, and capital grants to the extent of \$30,000,000.⁷ State legislation contemplating low-rent housing activities is permanent in its scope.

1 Citations in this Comparison will be to the reports on the English and Canadian housing legislation attached hereto. In respect of the American legislation, the citations except as otherwise indicated will be to the United States Housing Act of 1937 as amended, 50 Stat. 888, as amended by 52 Stat. 820; 42 U. S. C., Sup. IV, 1401.

2 Can. Rep. 8.

3 Sec. 3(a).

4 Secs. 9 and 10.

5 Sec. 20(a).

6 Sec. 10(e).

7 Sec. 11(d).

Agencies Whose Province It Is To Provide Low-rent Housing:

England

The local governmental authority⁸ is responsible for seeing that all the low-rent housing necessary is provided for.⁹ In respect of rural districts, a similar duty is placed upon the county council in addition.¹⁰ In the case of default on the part of the local governmental authority or county council, the Minister of Health may provide the necessary accommodations.¹¹ However, the local authority need not itself do the actual providing. It is sufficient if it sees to it that the necessary accommodations are provided for.¹² It may make loans for housing purposes, purchase land with a view to selling and leasing it to others who will erect housing for the working classes, and it may promote the formation of non-profit or limited-dividend

8 A caveat may be warranted in regard to the term "local authority." In the English legislation, it has reference to the local governmental authority corresponding to our municipal governmental bodies. In the Canadian Act, it includes, in addition to municipalities, societies, associations, corporations (including limited-dividend corporations) and commissions having authority to construct and operate low-rent housing projects. In the United States, a "local housing authority" may be a State, county, municipality or other governmental entity or public body (other than the USHA) authorized to develop or administer low-rent housing projects.

9 Eng. Rep. 3 and 14.

10 Eng. Rep. 3, 14 and 19(a).

11 Eng. Rep. 20.

12 Eng. Rep. 17.

housing associations and give them assistance, financial and otherwise.¹³ These housing associations may in fact complain to the Minister of Health if not assisted by the local authority.¹⁴ The English legislation also gives the power to any railway company, dock and harbor company, and trading and manufacturing company to erect houses for its employees.¹⁵

Canada

The Canadian Act contemplates the development and operation of low-rent housing projects by municipalities and societies, associations, corporations (including limited-dividend housing corporations) and commissions having authority to develop and operate such projects.¹⁶ All limited-dividend housing corporations making use of the low-rent housing legislation must, however, permit the municipality concerned to buy the project at the option of the latter.¹⁷

United States

The agency contemplated by the United States Housing Act is a "public housing agency" which may be a State, county, municipality or other governmental entity or public body, excluding the USHA, authorized to engage in the development or administration of low-rent housing or slum

13 Eng. Rep. 17.

14 Eng. Rep. 20.

15 Eng. Rep. 18.

16 Can. Rep. 8.

17 Can. Rep. 12.

clearance.¹⁸ To a limited extent, the USHA may also operate projects: housing projects initiated by the PWA prior to the passage of the Act may be operated, pending their sale or lease to local authorities, by the USHA.¹⁹ By state legislation, the term "public housing agency" is, as a practical matter, usually limited to city (or county) housing authorities, sometimes a part of the city governmental structure itself, but for the most part a separate political unit, the members of which are appointed by the city authorities. State legislation also often contemplates limited-dividend housing corporations.²⁰

Duty of the Agency to Provide the Low-rent Housing:

England

It is definitely the duty of the local authority to see that all new low-rent housing required is provided for.²¹ In respect of rural districts, the county council has a similar duty.²² If the local authority or county council is remiss in this duty, the Minister of Health can compel them to take the action necessary, or he may perform

18 Secs. 2(11), 9, 10(a) and 11(a).

19 Secs. 3(d) and 12.

20 E.g., New York State Housing Law, L. 1926, c. 823, as amended.

21 Eng. Rep. 14.

22 Eng. Rep. 14 and 19a.

their duties himself and charge all expenses to them.²³

If the local authority does not assist housing associations, such associations may complain to the Minister of Health.²⁴

It is also the duty of the Minister of Health to make contributions to a local authority for new houses provided by it for the working classes if the new houses are rendered necessary by displacement occurring in connection with the elimination of unsafe and insanitary dwellings either individually or in whole areas, and in connection with abatement of overcrowding.²⁵

Canada

There is no duty expressly stated in the legislation on the part of any governmental agency to take advantage of the legislation. Presumably, however, the Minister of Finance, who is commissioned to render the assistance provided for, will grant aid in accordance with the purposes and aims of the legislation.

United
States

There is no obligation on the part of any governmental agency to make use of the provisions of the Federal Act. Here, too, the USHA ought presumably to furnish (as it of course does) the assistance provided for where the objectives of the United States Housing Act would be attained thereby. State legislation, however, sometimes impresses duties on its own agency in regard to the provision of necessary housing.²⁶

23 Eng. Rep. 19a and 20.

24 Eng. Rep. 20.

25 Eng. Rep. 27.

26 E.g., New York State Housing Law, supra.

People To Be Aided by the Low-rent Housing Program:

- England The English legislation is for the purpose of providing necessary accommodations for the working classes, both urban and rural.²⁷
- Canada The Canadian legislation is for families of low income, defined as families with a total income of less than five times the economic rental of the accommodations provided them in the project.²⁸
- United States Those to be aided are families in the lowest income group among those who cannot afford safe and sanitary housing provided for by private enterprise,²⁹ and whose net income at the time of admission does not exceed five times the rental plus utility costs in dwellings to be furnished them, except in the case of families with three or more minor dependents where the ratio may be six to one.³⁰

Manner in Which the Low-rent Housing Accommodations May Be Provided:

- England The necessary housing accommodations may be provided by the local governmental authority by:
1. Erecting new houses

27 Eng. Rep. 2,3, 14.

28 Can. Rep. 11. Economic rental is defined as 9-1/2% per annum of the cost of construction of the housing unit plus that portion of the estimated normal annual taxes of the project attributable to the particular housing unit.

29 Sec. 2(2).

30 Sec. 2(1).

2. Converting any buildings into houses
3. Acquiring suitable houses
4. Altering, enlarging, repairing or improving any houses already acquired³¹

The housing may even take the form of lodging houses.³²

Cottages with gardens of not more than one acre may also be provided. The area of two-story houses must be between 620 and 950 square feet. Apartments or one-story houses must have areas between 550 and 880 square feet.³³

Canada

The legislation contemplates the construction of new buildings which may be single houses or dwellings, duplex or apartment houses.³⁴

United
States

The Act permits either new buildings or the reconstruction, remodeling or repair of existing buildings.³⁵ There is no reference to the type of building that must be constructed.

Slum Clearance Aspects of the Low-rent Housing Legislation:

England

There is an affirmative duty on the part of each local governmental authority to see that all substandard and unsafe dwellings are eliminated, either by repair or

31 Eng. Rep. 15.
 32 Eng. Rep. 15.
 33 Eng. Rep. 16.
 34 Can. Rep. 8.
 35 Soc. 2(5).

demolition, and to see that all overcrowding is abated.³⁶ The powers and duties of the local authority include possible action in respect of whole areas as well as in respect of individual houses.³⁷ The English legislation, moreover, contains very definite provision for the protection of those who might be affected by the slum clearance activities of the local authority and even contemplates payments to occupiers of buildings eliminated to cover expenses of moving and injury to business.³⁸

Canada

Slum clearance is only provided for indirectly: to the extent that new low-rent housing is constructed under the Canadian Act, congestion and overcrowding are abated and less families need live in slum dwellings. It is pertinent to note in this connection that Dominion assistance may be given only to those housing projects in localities where there is shortage, overcrowding and congestion or where the substandard character of existing housing accommodations make a project advisable.³⁹

United States

The USHA may make loans for slum clearance, as well as for low-rent housing, projects.⁴⁰ Where it gives subsidies, whether they be annual or lump sum in form, there

36 Eng. Rep. 2-10.

37 Eng. Rep. 8-10.

38 Eng. Rep. 10-13.

39 Can. Rep. 8.

40 Sec. 9.

must be an elimination, by demolition, effective closing or repair, of unsafe or insanitary dwellings substantially equal in number to the number of dwelling units to be provided in the respective projects.⁴¹ State acts often relate the creation of housing authorities to the presence of slum conditions. Reference may also be made to the usual state and local legislation, unrelated to housing laws, regarding the elimination or repair of unsafe buildings. Health laws also tend to keep homes sanitary.

Function of Low-rent Housing Construction As Aid in Relief of Unemployment:

Canada

The Preamble to the National Housing Act states that one of its purposes is to relieve unemployment.

United States

Section 1 of the United States Housing Act lists alleviation of present and recurring unemployment as one of its two main objectives. The Act also provides at Section 11(e) that where the USHA gives assistance in the form of a lump sum capital grant, which ordinarily must be limited in amount to not more than 25% of the development cost of the project, the President of the United States may allocate to the Authority from any funds available for the relief of unemployment an additional capital

41 Secs. 10(a) and 11 (a).

grant not exceeding 15% of the development cost of the project for payment of labor used in such development. State housing legislation is also frequently based on the necessity for relieving unemployment.

Provisions in Respect of Construction Costs:

England

Construction costs tend to be kept down by the fact that there are limitations in regard to the maximum size⁴² of the dwelling units furnished and by the fact that the national subsidy in the ordinary situation will depend only upon the number of dwelling units in the project.⁴³

Canada

Dominion assistance may not be given unless the project involves construction of a sufficient number of units to assure reasonable economies in construction, unless the organization and management of the housing agency are such as to assure competent administration in construction, and unless adequate care has been exercised to assure economical design of the houses.⁴⁴ Moreover, no loan may be made by the Dominion Government which exceeds an aggregate sum of \$2,700 for each dwelling unit in the case of low-rent housing provided for by a housing

42 Eng. Rep. 16.

43 Eng. Rep. 27.

44 Can. Rep. 11-12.

agency other than a limited-dividend housing corporation, or \$2,400 in the case of housing provided for by a limited-dividend housing corporation.⁴⁵ While there is nothing to prevent the housing agency to borrow still more elsewhere, this provision does tend to keep down construction costs. Finally, the Dominion Government may, by order or regulation, determine what specific items may be included in the cost of construction.

United
States

The USHA may not assist any housing project costing more than \$4,000 for any dwelling unit or more than \$1,000 per room in respect of dwelling facilities, except that in cities in which the population exceeds 500,000, the amounts are \$5,000 and \$1,250, respectively.⁴⁶ Moreover, no assistance may be given to projects that are of elaborate or expensive design or materials or the average construction cost of whose dwelling units is greater than the average construction of dwelling units currently produced by private enterprise in the locality.

⁴⁵ Can. Rep. 8-9.

⁴⁶ Sec. 15(5).

Control of National Government over the Agencies Providing the Low-rent Housing:

England

The Minister of Health has simply from his office alone very definite and complete supervision and control over the activities of the local authorities in regard to all aspects of the housing legislation.⁴⁷ In addition, he may control the local authority or other housing agency in his position as subsidy giver: through being able, for example, to modify the amount of contribution or suspend or discontinue payment thereof in the event the authority or agency is remiss in its obligations.⁴⁸

Canada

The only control that the Dominion Government has is in its role as lender. As such, it may state the conditions under which it will grant the loans. Provision is present also in regard to supervision of management during the period of the loan.⁴⁹ Finally, in the event the housing agency violates its loan contract, the Government may declare the unpaid principal of the loan due forthwith or increase the amount of interest payable on the unpaid balance.⁵⁰

47 Eng. Rep. 13 and 21.

48 Eng. Rep. 30-31.

49 Can. Rep. 12.

50 Can. Rep. 9.

United
States

The control of the USHA is in its role as lender or subsidy giver. In the event the low-rent character of the project is not maintained, there may be acceleration of the maturity date of the loan, increase in rate of interest or reduction or termination of the annual subsidies.⁵¹

Roles of the Various Governmental Bodies:

(a) The National Government

England

The Minister of Health supervises and controls every aspect of the housing program,⁵² both in his capacity as Minister and in his capacity as subsidy giver. He may compel the local authority or county council to provide whatever housing is necessary.⁵³ He may himself provide such housing at the expense of the local authority.⁵⁴ Finally, he acts as a giver of annual subsidies for 40 year periods.⁵⁵

The Public Works Loan Commissioners may make loans to local authorities, to railway companies, dock and harbor companies, manufacturing and trading companies, and housing associations.⁵⁶

Canada

The Dominion Government acts as a lender to governmental or private housing bodies at a low interest rate for the construction of low-rent housing.⁵⁷

⁵¹ Sec. 15.

⁵² Eng. Rep. 3 and 13.

⁵³ Eng. Rep. 20.

⁵⁴ Eng. Rep. 20.

⁵⁵ Eng. Rep. 27.

⁵⁶ Eng. Rep. 18 and 25.

⁵⁷ Can. Rep. 8.

United
States

The Federal Government, through the USHA, acts both as a lender and as a giver of subsidy, either in the form of a lump sum capital grant⁵⁸ or annual contributions for periods not exceeding 60 years.⁵⁹ The United States Housing Act also provides that the President of the United States must approve all contracts for loans, annual contributions and grants.⁶⁰

(b) Intermediate Government

England

The function of the county council is most important in regard to rural districts.⁶¹ It is its duty in respect of such districts to keep in constant touch with their housing needs, and if necessary, to assume the functions of the local governmental authorities in respect of providing whatever housing is necessary. It may make loans to the local authorities to enable them to furnish the housing necessary.⁶² It may also make loans to housing associations and guarantee loans made by them.⁶³ In respect of subsidies, it must make a supplemental contribution wherever the Minister of Health makes contributions larger than the

58 Sec. 11.

59 Sec. 10.

60 Sec. 6(a).

61 Eng. Rep. 14, 19a, 20.

62 Eng. Rep. 25.

63 Eng. Rep. 23.

standard amount in respect of non-agricultural accommodations and in any event in the case of contributions by the Minister of Health for agricultural accommodations.⁶⁴

Canada

The provincial government must in the case of loans made by the Minister of Finance to any agency undertaking housing projects, limited-dividend housing corporations excepted, guarantee payments of interest and principal on such loans.⁶⁵ It may also agree where rents would otherwise be too high to make contributions to low-rent housing projects.⁶⁶

United
States

Under the United States Housing Act, the states themselves may be public housing agencies to which loans and subsidies may be given by the USHA.⁶⁷ They may also be subsidy givers in turn, especially through exempting low-rent housing projects from state taxation. Probably the most important function of the state is to permit the organization of local housing authorities and to grant to them all the rights and powers (such as eminent domain and lending) necessary in order to make a low-rent housing project possible. It may also help low-rent housing by creating state housing boards or similar state agencies to have constant regard for the conditions and needs in respect of housing in the state in general and to cooperate with and supervise the local housing agencies.

64 Eng. Rep. 33.

65 Can. Rep. 10.

66 Can. Rep. 10, 11.

67 Sec. 2(11).

(c) Local Government

England

It is the duty of the local governmental authority either to see that all necessary accommodations for the working classes are provided for or to provide them itself.⁶⁸ It is also its duty to make supplemental annual subsidies to those of the Minister of Health.⁶⁹ It may promote the formation of and act as lender to or guarantor for housing associations.⁷⁰

Canada

The local governmental authority is one of several possible agencies to which Dominion assistance may be given in order to construct housing projects.⁷¹ Whatever the agency constructing the project however, the project must be approved by the municipality before Dominion assistance may be given.⁷² The municipality must also exempt the project from taxation except to the extent of 1% of the cost of construction and land and must also exempt the income of the local authority.⁷³ It may also agree to make periodic contributions to a rent reduction fund in order to prevent rents from being too burdensome for families of low income. In the case of a Dominion loan to a limited-dividend housing corporation, the municipality must agree, in the event such corporation is unable to meet payments on the loan, to

68 Eng. Rep. 14-17.

69 Eng. Rep. 32

70 Eng. Rep. 17-18.

71 Can. Rep. 8.

72 Can. Rep. 8.

73 Can. Rep. 10.

forego taxes upon the corporation in an amount sufficient to permit the corporation to meet such payments.⁷⁴ It may at its option purchase from a limited-dividend housing corporation any project developed by such corporation under a loan from the Minister.⁷⁵

United
States

The local governmental authority, if not itself the public housing agency, appoints the members of the local housing authority. It is also a subsidy giver in that it must contribute 20% of the Federal subsidy in the case it is made annually or 20% of the development cost in the event of a Federal lump sum subsidy.⁷⁶ It is also its function to carry out the requirements of the United States Housing Act in regard to the elimination of substandard dwellings.

The Financing of the Projects:

England

A. Loans

The projects built by the local governmental authority may be financed by the sale of bonds to the general

⁷⁴ Can. Rep. 10.

⁷⁵ Can. Rep. 12.

⁷⁶ Secs. 10(a) and 11(f). Under the Act, the local subsidy may be made by the state or any of its political subdivisions. As a practical matter, the greater part of the local subsidy usually comes from the municipality.

public⁷⁷ or by loans from the county council.⁷⁸ Housing associations may obtain loans from the local governmental authority or county council⁷⁹ or from the Public Works Loan Commissioners, or from private sources in which case the loans may be guaranteed by the local authority under such terms and conditions as the authority may deem fit. Railway companies, dock and harbor companies and manufacturing or trading companies may, in order to furnish accommodations for their employees, obtain loans from the Public Works Loan Commissioners to the extent of two-thirds of the value of the property involved for a period of 40 years and at a rate of interest not less than $3\frac{1}{8}\%$ and in an amount sufficient to enable the loan to be made without loss to the central government.⁸⁰

B. Subsidies

The Minister of Health must make contributions to local authorities for new houses provided for the working classes if such new houses are rendered necessary by displacements occurring in the elimination or prevention of substandard housing conditions or abatement of overcrowding.⁸¹ In respect of non-agricultural housing accommodation

77 Eng. Rep. 24.

78 Eng. Rep. 25.

79 Eng. Rep. 17, 18 and 23.

80 Eng. Rep. 18 and 26.

81 Eng. Rep. 27.

the Minister must make an annual contribution of \$27.50^{81a} for each house for a period of 40 years. This amount may be increased to \$32.50 if necessary because of higher costs; and where the cost of the land is very high, the amount may be increased still further in proportion to the cost of the land.⁸² The same contributions are provided for in case the accommodations are provided by a county council or housing association.⁸³ In the case of agricultural housing accommodations, the Minister must make an annual contribution to the local authority of \$50 per house for a period of 40 years. Again he may raise this amount if necessary, in this instance to \$60 per house per year.⁸⁴ Again if the accommodations are provided by some other agency, the contribution may be made to it.⁸⁵

Contributions by the local authorities are \$13.75 in the case of the \$27.50 or \$32.50 contribution of the Minister for non-agricultural accommodations. The local authority, however, may spread its payments over 60 instead

81a As in the case of the English Report, a pound is regarded in this Comparison as having the value of \$5, and a shilling, 25 cents.

82 Eng. Rep. 28.

83 Eng. Rep. 28.

84 Eng. Rep. 29.

85 Eng. Rep. 29.

of 40 years. In the case of a national subsidy for agricultural accommodations, the local authority must make a contribution of \$5 per house for each year of the national contribution, although again it may spread its payments over a period of 60 instead of 40 years.⁸⁶ In any year in which there is a deficit, the local authority must make what is known as an additional contribution equal to the amount of the deficit.⁸⁷

In the case of a national contribution amounting to \$32.50 for non-agricultural accommodations or \$50 for agricultural accommodations, the county council must make a contribution of \$5 per house per year for a period of 40 years.⁸⁸ If the Minister makes a contribution of more than \$50 for agricultural accommodations, the county council must pay \$5 per house per year plus the sum equal to the excess paid by the Minister over the \$50.

Canada

- A. Loans The Minister of Finance may make loans to local governmental or private housing societies or associations for the construction of housing projects to the extent of 90% of the cost of construction (including cost of land) or 80% in the case of a limited-dividend housing corporation.

86 Eng. Rep. 32.

87 Eng. Rep. 32.

88 Eng. Rep. 33.

These loans⁸⁹ must be secured by a first mortgage and bear interest at 2%, except that in the case of a limited-dividend housing corporation the rate is 1-3/4%. The interest and amortization payments must be 2% of the principal amount semi-annually except in the case of a limited-dividend housing corporation where the amount is 1-7/8 per cent of the principal amount semi-annually.⁹⁰

B. Subsidies

The municipality must agree that all taxes on the project shall not exceed in the aggregate 1% of the cost of construction (including the cost of land) and that no taxes shall be levied on the income of the housing agency.⁹¹ It may also agree to make periodic contributions to a rent reduction fund in order to prevent rents from being too burdensome for families of low income. It must agree in the case of a loan to a limited-dividend housing corporation that if the corporation is unable to meet its payments, the municipality will forego taxes upon the corporation in an amount sufficient to permit the meeting of the payments.⁹²

89 Can. Rep. 8.

90 Can. Rep. 8 and 9.

91 Can. Rep. 10.

92 Can. Rep. 10.

Where necessary in order to achieve low rents, the provincial government may agree to make contributions.⁹³ It must, except in the case of limited-dividend corporations, guarantee any loans made by the Dominion Government to the public housing agencies.

United
States

A. Loans The USHA may loan to a public housing agency an amount not exceeding 90% of the development cost of the project.⁹⁴ The remaining 10% may be met either by capital donations on the part of the city or other local governmental agency or, by the sale of bonds to private investors.⁹⁵ The rate of interest on the USHA loans must be not less than the going Federal rate of interest plus 1/2% (3% or 3-1/4%). Loans may be made for periods not exceeding 60 years.

B. Subsidies

The USHA may either make a single lump sum subsidy known as a capital grant to the extent of 25% of the development cost of the project,⁹⁶ plus an additional 15% from funds available for the relief of unemployment for the

93 Can. Rep. 10, 11.

94 Sec. 9.

95 The local housing authority may of course sell any amount over 10% of its bonds to the private investor.

96 Sec. 11(b).

payment of labor used in the development,⁹⁷ or the USHA may make an annual subsidy for a period not exceeding 60 years in an amount not exceeding the going Federal rate of interest plus 1% upon the development cost of the project.⁹⁸ The rate of annual contribution may be determined in accordance with factors best suited to be applied to the particular project involved. Thus they may be based upon development cost or administration cost or the number of dwelling units or number of persons housed or any other appropriate factor.⁹⁹ In the event of the above mentioned Federal subsidies, the state or its political subdivisions must contribute 20% of the development cost in the case of capital grant,¹⁰⁰ and 20% of the Federal subsidy in the case it is made in the form of annual contributions.¹⁰¹ State legislation usually provides that the property of a local housing authority is exempt from taxation, subject to the possibility of payments in lieu of taxes which, however, represent only a small percentage of the amount of normal taxes.

97 Sec. 11(e).

98 Sec. 10(b).

99 Sec. 10(b).

100 Sec. 11(f).

101 Sec. 10(a).

Provisions Tending To Keep Subsidies As Low As Possible:

England

The English legislation provides that at the end of every three years the Minister of Health must examine the amount of operating expenses that have already been incurred in respect of projects already open to occupancy and the amount of expenses likely to be incurred in the ensuing three years and may, on the basis of such examination and in respect of houses not yet built, either terminate his obligation or alter the amount or period of his contribution.¹⁰² The legislation also provides that the surplus present at the end of every fifth year is to be divided into two parts and to be paid to the Minister and the General Rate Fund of the local authority in proportion to the amount of contributions made by them respectively.¹⁰³

United States

The United States Housing Act specifically provides that a subsidy whether in the form of a capital grant or annual contributions must be strictly limited to the amount necessary in order to assure a low-rent character for the housing project involved.¹⁰⁴ The USHA may also make no annual contributions in an amount exceeding the going Federal rate of interest plus 1% (3-1/2% or 3-1/4%) upon the development cost of the project, and no capital grant in an

102 Eng. Rep. 31.

103 Eng. Rep. 36.

104 Secs. 10(b), 11(a).

amount beyond 25% of the development cost.¹⁰⁵ The USHA, furthermore, is not limited to any single factor in determining the appropriate amount of annual contributions but may determine it in accordance with factors most appropriate in any specific case.¹⁰⁶ Moreover, at the end of the first 10 years and every 5 years thereafter, the USHA must re-examine the status of a project to which it is making annual contributions and determine whether they should be modified.¹⁰⁷

Sources of Funds for Financing Development and Administration Costs of Projects:

England

The financing of the development cost of any housing by local authorities may be done by the issuance of bonds or by loans from the county councils, in either case to be repaid from the income of the housing (including governmental contributions).¹⁰⁸ In the case of housing furnished by private housing associations, loans may be made from the local authority or county council, Public Works Loan Commissioners, or from other sources and guaranteed by the

105 Secs. 10(b), 11(b).

106 Sec. 10(b).

107 Sec. 10(c).

108 Eng. Rep. 24 and 25.

local authority or county council.¹⁰⁹ In respect of administrative costs of the housing, they are met out of the income of the projects and from governmental contributions. The contributions made by the Minister of Health are met out of the Exchequer,¹¹⁰ and the contributions made by the local authorities are met out of their General Rate Funds.¹¹¹

Canada

The development costs of the projects are met out of loans from the Dominion Government out of its Consolidated Revenue Fund.¹¹² These loans are repaid ultimately from the income of the project and, in the case of default, by the provincial government.¹¹³ Operating costs are met from the income of the projects and possibly also from contributions by the provincial and local governments.¹¹⁴

United
States

The development cost of a project may be financed by the issuance of bonds by the local housing authority of which 90% may be sold to the USHA or by a USHA capital grant plus a bond issue.¹¹⁵ The money loaned by the USHA is obtained by the issuance and sale of bonds at a rate at least $1/2\%$ lower than the interest charged by the USHA in its

109 Eng. Rep. 23, 25, 26.

110 Eng. Rep. 26

111 Eng. Rep. 32.

112 Can. Rep. 2, 8.

113 Can. Rep. 10.

114 Can. Rep. 10.

115 Sec. 9.

loans, so that the USHA makes a profit of at least 1/2% on all loans it makes.^{115a} Capital grants are met out of annual appropriations. Operating expenses and debt-service requirements of a project are met out of its income plus the Federal annual contributions which in turn are met out of annual appropriations.¹¹⁶ The local contributions invariably take the form of tax exemption.

Provisions Regarding Bonds Issued To Finance the Development Cost of the Projects:

England

The bonds issued by the local authorities are secured upon all the rates, property and revenues of the authority and by the contributions made by the central government.^{116a} They may bear interest at whatever rate the local authority may determine, may be issued in denominations of \$25, \$50, \$250, \$500 and multiples of \$500, and may be issued for periods of not less than 5 years. They are exempt from certain stamp duties. Any local authority issuing bonds may engage in further borrowing for the purpose of redeeming such bonds. The local authority must keep an account (Housing Equalisation Account) in order to assure that debt-service on the bonds is properly met.¹¹⁷

115a Secs. 20(a) and 9.

116 Secs. 10(d) and 11(d).

116a Eng. Rep. 24.

117 Eng. Rep. 37.

United
States

Most of the specific provisions in respect of bonds are in the state legislation. The bonds are special obligations of the local housing authority, payable from the revenues of the authority and the Federal annual contributions. They are in no way whatever an obligation of the municipality.^{117a} The state acts usually contain provisions necessary and conducive to making the bonds attractive to the private investor. The legislation invariably exempts the bonds from state taxation and provides for security through trust indentures or similar documents. The United States Housing Act itself provides that the bonds are exempt from Federal taxation¹¹⁸ and that the USHA annual contributions must be pledged to the payment of principal and interest of the bonds, subject, however, to their prior use to the payment of interest and principal as same mature on bonds purchased by the USHA.¹¹⁹

117a That is, where the local housing authority is not the municipality itself. In case it is the municipality, it is in no way a general obligation. The bonds are payable only from the income from the project and from the governmental contributions.

118 Sec. 5(e).

119 Sec. 10(f).

Provisions Encouraging Private Participation in the Financing of the
Low-rent Housing Projects:

England

The local authority may finance the project by selling its bonds to private investors at whatever rate of interest it determines.¹²⁰ The bonds are secured upon all the rates, property and revenue of the local governmental authority and on the contributions made by the central government. They are exempt from certain stamp duties. Moreover, the presence of the Housing Equalisation Account tends to insure the proper meeting of debt-service requirements, encouraging private investment thereby.¹²¹

United
States

Private investment is encouraged by the fact that the bonds are exempt both from Federal and state taxation.¹²² It is further encouraged by the fact that the Federal annual contributions must be pledged to debt-service on the bonds, and that the faith of the United States is solemnly pledged to the payment of such contributions.¹²³ Moreover, the fact that the USHA may not purchase bonds bearing rate of interest less than the going Federal rate of interest plus 1/2% means that the bonds may well be sold to private investors at a

120 Eng. Rep. 24.

121 Eng. Rep. 37.

122 Sec. 5(e).

123 Secs. 10(e), 10(f).

lower rate of interest. The state acts invariably contain provisions permitting the local housing authorities to insert in the trust indenture securing the bonds provisions which make the bonds attractive.

Management of the Projects:

England The local authority or agency constructing the project manages it.¹²⁴ The local authority is subject to the supervision of the Minister of Health in respect thereof. It may, however, establish a Housing Management Commission to manage its projects.¹²⁵

Canada The management is in the agency providing the project. The Act provides that no Dominion loan may be made unless the organization and management of the agency are such as to insure competent and independent administration.¹²⁶ The Minister, moreover, exercises supervision in his role as lender.¹²⁷

United States The United States Housing Act contemplates a decentralized program and accordingly the management of the projects is under the local housing authorities. The USHA may exercise some control, however, because of its role as lender and subsidy giver. As such, it may require that the money loaned or contributed be devoted to the attainment of the objectives of the United States Housing Act.

124 Eng. Rep. 34.

125 Eng. Rep. 35.

126 Can. Rep. 11 (footnote).

127 Can. Rep. 12.

Tenant Selection:

England

The housing accommodations are for the working classes.¹²⁸ Reasonable preference must be given to persons who are occupying insanitary or overcrowded houses, having large families, or living under unsatisfactory housing conditions.¹²⁹

Canada

The housing must be for families of low income, defined as families having total income less than five times the economic rental of the housing units provided for them.¹³⁰

United States

USHA-aided projects must be for families of low income, defined as families in the lowest income group among those who cannot afford safe and sanitary housing furnished by private enterprise.¹³¹ Families may not be admitted to a project who have an income more than five times the rental of the project plus the cost of utilities, except that in the case of families with three or more dependents, the ratio may be six to one.¹³²

Assurances That Projects Are for Low Income Families and at No Higher Cost to Them Than Necessary:

England

The control of the Minister over the local authority is conducive to this end. Furthermore, the Minister may

128 Eng. Rep. 3 and 14.

129 Eng. Rep. 34.

130 Can. Rep. 11.

131 Sec. 2(2).

132 Sec. 2(1).

reduce the amount of contribution or suspend or discontinue payment in the case the local authority violates any of the conditions subject to which it is entitled to receive the contribution or in case the local authority has failed to discharge any of the duties imposed upon it by virtue of the housing legislation.¹³³ This of course tends to insure proper management. If there is any surplus, it is returned to the Minister and to the local authority in proportion to the amount of contributions made by each respectively. Since the contributions made by the Minister are at least double those made by the local authority, this means that the greater portion of the surplus goes to the Minister, thus reducing any incentive on the part of the local authority to have a surplus.

Canada

The Act provides that the housing must be only for families of low income whose total income is less than five times the economic rental of the housing unit. It also requires that any surplus earnings must be paid to the Minister, which reduces or eliminates any incentive to charge higher rents than are necessary.¹³⁴ The Canadian Act also provides that in the event the low-rent character

133 Eng. Rep. 30.

134 Can. Rep. 12.

of the project is not maintained or in the event a third party acquires the project, the Minister may declare the unpaid principal of the loan due forthwith or increase the amount of interest payable.¹³⁵

United
States

The United States Housing Act requires that the project must be within the financial reach and devoted to families of the lowest income group among those who cannot afford decent, safe and sanitary dwelling furnished by private enterprise and that the family income at the time of admission may not exceed five times the rental plus utility costs of the dwellings to be furnished them, except that in the case of a family of three or more dependents, the ratio is six to one.¹³⁶ The Act also provides that at the end of the first 10 years and every 5 years thereafter, the USHA must have the right to re-examine the status of the project and modify the amount of annual contributions if appropriate.¹³⁷ It also provides that the USHA may reserve the right to increase the amount of interest on its loan or declare the unpaid principal due forthwith and must reserve the right to decrease or terminate its annual contributions in the case

135 Can. Rep. 9.

136 Secs. 2(1), (2).

137 Sec. 10(c).

of a substantial breach by the local authority of its obligation to maintain the low-rent character of the project.¹³⁸ Similar provisions are present in the case the project is acquired by a third party. State acts also usually require that projects must not be operated for profit, that they must be leased to families of low income, and at no higher rates than are necessary to meet expenses.

Rents:

England

The fixing of rents is largely at the discretion of the local authority, subject to its giving due consideration to the rents ordinarily payable by persons of the working classes in the locality.¹³⁹ The authority may grant such rebates to particular tenants as it deems appropriate, subject to whatever terms and conditions it deems fit. It must review rents from time to time and make such changes of rents generally or of particular rents or rebates as circumstances may require. In respect of utility costs, water and gas companies are permitted to furnish water and gas either without charge or on such favorable terms as they desire.¹⁴⁰

138 Sec. 15.

139 Eng. Rep. 34.

140 Eng. Rep. 35.

Canada

The annual rental charged, excluding water and heating costs, must not be more than one-fifth of the estimated total income of the family, except that the rentals must be enough so that the project will not have a deficit. 141 Low rentals are encouraged by provisions that the projects must be so designed and so constructed so as to insure economies in construction and management. 142

United States

The United States Housing Act requires that the projects must be within the financial reach of families of low income. 143 The rights given the USHA in respect of acceleration of maturity dates on the loans made by it, increase as to interest on such loans and reduction or termination of annual contributions in the event of a substantial breach of the obligation of the local authority to maintain the low-rent character of the project also tends to low rentals. The state acts usually provide that rents must be at the lowest possible rate consistent with providing decent, safe and sanitary dwellings or accommodations without profit. They also provide that the projects may not be a source of revenue to the city or county in which they are situated.

141 Can. Rep. 11.

142 Can. Rep. 11, 12.

143 Sec. 2(1).

Type of Accommodations To Be Furnished Tenants:

England

No house containing two bedrooms can be regarded as providing accommodations for more than four persons, or of three bedrooms for more than five persons, or four bedrooms for more than seven persons. ¹⁴⁴ Each new house must contain a bath. The legislation also provides that facilities may be provided for recreational purposes, for shops and for any other purpose in connection with the tenants of the dwellings. ¹⁴⁵ It also provides that the local authority may provide furniture and furnishings for the tenants. ¹⁴⁶

United States

The United States Housing Act requires that the housing must be decent, safe and sanitary. ¹⁴⁷ The state acts frequently provide that accommodations must be leased so that there is no overcrowding, and that the accommodations provided for must be safe and sanitary. The United States Housing Act also has provision permitting the USHA to require the maintenance of open spaces or playgrounds in connection with the projects assisted by it. ¹⁴⁸

¹⁴⁴ Eng. Rep. 35.

¹⁴⁵ Eng. Rep. 15.

¹⁴⁶ Eng. Rep. 34.

¹⁴⁷ Sec. 2(1),

¹⁴⁸ Sec. 15 (4).

Accounts:

England

The local authority must keep three accounts: (1) a Housing Revenue Account, including all income, whatever the source, and all expenditures in connection with the low-rent housing, (2) a Housing Repairs Account for the purpose of equalizing the annual charge in respect of repairs and maintenance, and (3) a Housing Equalisation Account for the purpose of equalizing income from governmental contributions over the period during which debt-service requirements will have to be met.¹⁴⁹ Any moneys in these three various accounts not for the time being required for the purposes to which they ultimately will be applied must be invested temporarily in appropriate securities.

Canada

The housing agency must keep accounts in a form satisfactory to the Minister of Finance and subject to his inspection at any time.¹⁵⁰

Labor:

England

The English legislation is definitely tied up with labor in that it is almost entirely devoted to the elimination and prevention of substandard housing conditions

149 Eng. Rep. 35-37.

150 Can. Rep. 12.

and for the provision of new housing for members of the working classes.¹⁵¹ The legislation also provides that there must be a fair wages clause in all construction contracts.¹⁵²

Canada

The preamble of the Canadian Act refers to relief of unemployment as one of its objectives.

United
States

One of the basic purposes of the United States Housing Act is the relief of unemployment.¹⁵³ The maximum in capital grants may be increased from 25% to 40% out of funds available for the relief of unemployment.¹⁵⁴ Labor standards are protected by provisions requiring prevailing wage rates both during construction and administration to be paid. The "kick-back" statute is made to apply to any project assisted by the USHA, and any contractor engaged in any such project must make a monthly report to the Secretary of Labor as to the number of persons employed on the project, the aggregate amount of salaries and the total man-hours worked.¹⁵⁵

Apportionment of Benefits of National Legislation:

Canada

The total amount of Dominion loans made in any area or municipality may not exceed that proportion of the total amount that may be loaned by the Dominion Government

151 Eng. Rep. 2, 3 and 14.

152 Eng. Rep. 16.

153 Sec. 1.

154 Sec. 11(e).

155 Sec. 16.

which the population of the area of municipality bears to the total urban population of Canada.¹⁵⁶

United
States

No more than 10% of the funds provided for by the United States Housing Act either in the form of loan or subsidy may be expended within any one state.¹⁵⁷

156 Can. Rep. 9

157 Sec. 21(d).

REPORT ON HOUSING LAWS

OF

ENGLAND

Introductory Statement:

The English legislation on housing has essentially developed by a process of accretion: it consists of numerous statutes passed at various times from 1851¹ on and consolidated at irregular intervals, with whatever extensions or amendments were deemed necessary or desirable, into what are known as the Principal Acts. Such consolidations have taken place in 1890,² 1925³ and 1936. The provisions of the present Principal Act, the Housing Act, 1936,⁴ while constituting the basic English statute on housing, are consequently by no means of such recent origin as the date of the Act indicates;⁵ they simply represent the restatement of the then existing legislation in regard to housing.⁶ Whatever changes were made were of a minor character. In 1938, the present Principal Act was amended in respect of governmental subsidies by the Housing (Financial Provisions) Act, 1938, 1 & 2 Geo. 6, c. 16.

1 Common Lodging Houses Act, 14 & 15 Vict., c. 28; Labouring Classes Lodging Houses Act, 14 & 15 Vict., c. 34.

2 Housing of the Working Classes Act, 1890, 53 & 54 Vict., c. 70.

3 Housing Act, 1925, 15 Geo. 5, c. 14 - 13 Statutes 1001.

4 26 Geo. 5 & 1 Edw. 8, c. 51 - 29 Statutes 565.

5 Accordingly, citations in this report will include reference not only to the appropriate section in the Housing Act, 1936, but will also indicate the year of enactment of the statute on which the section is based.

6 The Housing Act, 1936 does not actually include every statutory provision dealing with housing in effect at the consolidation. As a whole, however, the statutes omitted do not warrant citation or treatment in this report either because they are not of sufficient importance or because they are still in force only to the extent that action already begun under them may be continued, the payment of certain subsidies for example. These statutes are set out in full in Hill, The Complete Law of Housing, 3rd ed., London, 1938.

Scope and Program of the English Housing Legislation:

The Housing Acts, 1936 and 1938, have as their concern the housing conditions of the "working classes," a term not defined in the Act nor in any of the previous statutes. This has been deliberate: it has been felt unwise to delimit the term in any way.^{6a} It clearly includes, however, both urban and rural workers and it has been held judicially that it includes such employees as chauffeurs of private individuals.⁷

Whatever the meaning of "working classes," the legislative concern with their housing conditions has manifested itself in a program having two important objectives:

1. The elimination and prevention of unsafe and insanitary conditions in houses devoted to the working classes by whomsoever owned and whether due to the physical features of the buildings, or simply to the overcrowding thereof, or to the conditions of the neighborhoods in which they are located.

2. Provision for rehousing of the working classes wherever necessary.

The all important agency upon which responsibility for the accomplishment of both of these objectives has been placed is the "local authority";

6a Hill, supra, 57-58.

7 White v. St. Marylebone B. C., [1915] 3 K. B. 249.

that is, the body performing the functions of local government.⁸ This responsibility however, is not accompanied by anything approaching a comparable degree of independence of action. On the contrary, the local authority is subject to the close supervision and control of the English Minister of Health⁹ in respect of nearly every feature of both phases of the housing program. The local authority is also subject, although to a much lesser extent, to the supervision of the county council, that is, the council for the administrative county in which the authority is located. In some instances the county council may even perform the functions of the local authority. In general, the role of the council is most important in regard to rural districts.

Provisions Regarding Existing Houses Occupied by the Working Classes:

This aspect of the English housing program itself warrants subdivision: (1) concern with individual houses unfit for human habitation, and (2) concern with whole areas made up of such houses.

⁸ Stated more specifically, it is the council of the borough, urban district or rural district, as the case may be (Sec. 1). The Act contains a special definition for London. Special reference to London is also present in respect of other provisions of the Act, but these do not warrant specific treatment in this report and hence will be disregarded.

⁹ Hereinafter referred to as "the Minister."

In respect of individual houses, the methods adopted for insuring that they are fit to live in are several:

1. Every house let or,¹⁰ in respect of agricultural workers,¹¹ included as part of remuneration, for \$130¹² per year or less (except for London for which the maximum is \$200) and for not more than a 3 years term is let subject to the implied and unwaivable condition that it is "in all respects reasonably fit for human habitation" and will be maintained in such condition by the landlord during the tenancy. Any breach of this condition gives the tenant both the right to abandon the tenancy and to sue the landlord for damages.

2. It is the duty of the local authority to inspect the houses in its district from time to time in order to ascertain whether any of them are unfit for human habitation.¹³ This has a preventive effect in that it increases the interest of the landlord in keeping his houses maintained properly.

3. The local authority may make, subject to the confirming order of the Minister, whatever by-laws are desirable in order to make houses occupied or suitable for occupation by the working classes safe and sanitary.¹⁴ It is the duty of the authority to make such by-laws as

10 Sec. 2 (1885, with amendments).

11 Sec. 3 (1920, with amendments).

12 In this report a pound is regarded as having the value of \$5, and a shilling, 25 cents.

13 Sec. 5 (1890, with amendments).

14 Sec. 6 (1851, with amendments). Model by-laws have been prepared by the Minister. Ministry of Health Model By-laws, Series XIII (1935).

the Minister may prescribe. If the owner of a building does not comply with such by-laws, the authority can itself execute whatever works, install whatever facilities, or take whatever action may be necessary under them and recover from the owner the expenses entailed in doing so.¹⁵

4. It is the duty of the local authority to require of the owner (or person having control) appropriate repairs of any house occupied or suitable for occupancy by the working classes "in any respect unfit for human habitation" if it is capable of being rendered fit at a reasonable cost.¹⁶ If the owner does not make the necessary repairs, the authority may make them itself and recover expenses incurred.¹⁷ Pending payment, the amount due the authority becomes a lien on the premises. If the landlord appeals to the courts and it is found that the order of repair was improper because the house cannot be repaired at a reasonable expense, the authority has the right to back up its original decision by buying the house or acquiring it by condemnation.¹⁸ In the latter case, it becomes its duty to repair the house. If the owner does repair the house in accordance with the order issued, he is entitled to a "charging order" upon the house, that is, a lien having precedence over all other charges and mortgages, with minor exceptions.¹⁹ It essentially

15 Sec. 7 (1925, with amendments).

16 Sec. 9 (1935).

17 Sec. 10 (1930).

18 Sec. 16 (1930).

19 Secs. 20 and 21 (1925).

represents a mortgage on the house to be paid off as an annuity of 6 per centum per annum of the amount expended for a period of 30 years, except that it may be redeemed at any time by any person interested in the premises.

5. If the building is unfit for human habitation and not capable of being rendered fit at a reasonable expense, the local authority must order the building demolished, except that it may at its option allow the owner either to make repairs if he is willing to assume the expense involved or to agree not to let the house to any one until it is fit for human habitation.²⁰ If the demolition order is not obeyed, the local authority here, too, is to demolish the house itself and recover back its expenses.²¹ If it is only part of a house that is unfit for human habitation, the local authority must issue an order closing that part of the house until it is fit for human habitation.²² The Act provides for fines for using any part of the building so closed.²³

6. The local authority may order the demolition of any "obstructive building," that is, one which, by reason only of its contact with, or proximity to, other buildings, is dangerous or injurious to health.²⁴ Again, if the building is not demolished by the owner, the

20 Sec. 11 (1930, as amended).

21 Sec. 13 (1930, as amended).

22 Sec. 12 (1925, as amended).

23 Sec. 14 (1930).

24 Sec. 54 (1935).

authority is to do so itself and charge the expenses to him.²⁵ However, whether the building is demolished with or without the consent of the owner, he is entitled to compensation for loss incurred by the demolition.

7. Overcrowding of a dwelling house is made an offence, and any occupier or landlord causing or permitting overcrowding is subject to a fine.²⁶ It is also an offence punishable by fine for a landlord not to report overcrowding of which he is aware to the local authority.²⁷

In respect of whole areas that present substandard housing conditions, the action to be taken by the local authority is as follows:

1. If it is an area in which all the buildings therein should be demolished either because they are unfit for human habitation on account of disrepair or sanitary defects or because they are dangerous or injurious to the health of the inhabitants of the area by reason of their bad arrangement or the narrowness or bad arrangement of the streets, it is the duty of the local authority to define and clear the area, excluding, however, any "islands" consisting of a building or buildings not unfit for human habitation or dangerous or injurious to health.²⁸ The

25 Sec. 55 (1935).

26 Sec. 59 (1935).

27 Soc. 64 (1935). The presence of overcrowding is made dependent upon sleeping arrangements (Sec. 58).

28 Sec. 25 (1930).

area, referred to in the Act as a "clearance area," may be cleared either by requiring the owners to demolish the buildings (at the risk of the local authority entering upon the land and doing so) or by purchase or condemnation of the property by the local authority which then arranges for the necessary demolition.²⁹ However, accommodations must be present for workers to be displaced by the demolition before the displacement actually occurs.³⁰ Once a clearance order has become operative, all building on, and development of, land in the area is subject to whatever restrictions and conditions the local authority thinks fit.³¹ The authority may, moreover, buy or condemn land surrounded by or adjoining the clearance area if such land is necessary for the proper development of the area.³² If the owners of property in the area do clear it of the buildings but fail to re-develop the property properly, the local authority may buy or condemn the land.³³

2. If the local authority for an urban area finds that any area in its district has 50 or more working class houses of which one-third are overcrowded, or unfit for human habitation and not capable of being rendered so fit at a reasonable expense, or so arranged as to be congested, and that the interests of the working classes require that the

29 Secs. 26 and 29.

30 Sec. 25.

31 Sec. 26.

32 Sec. 27.

33 Sec. 32

area be re-developed, it is the duty of the local authority to see that the area is re-developed.³⁴ The authority has to prepare a development plan and submit it to the Minister.³⁵ It need not re-develop the area itself, but may allow others to do so in accordance with the re-development plan. If it is to re-develop the area itself, it may buy or condemn land in the area and may buy land outside the area necessary to accommodate those displaced by such purchase or condemnation.³⁶

In respect of condemnation necessitated for either clearing or re-developing an area, the local authority need only pay for the land alone, except where buildings are ordered demolished because of their bad arrangement in relation to other buildings or because of the bad arrangement of the streets.³⁷

Protection against Arbitrary or Improper Action by the

Authority:

The Principal Act makes very definite provision for the protection of those who might be adversely affected by any action contemplated or taken by the local authority under the Act.

34 Sec. 34 (1935).

35 Sec. 35.

36 Sec. 36.

37 Sec. 40.

In respect of owners of buildings, definite provision is made for appeal against any order or plan of the local authority either to the courts or the Minister or both.³⁸ Provision is present for notice of the action contemplated to whoever has any interest in the property against which any order or plan of the authority is directed.³⁹ It is required, in regard to buildings against which clearance or condemnation orders are issued, that the owners be furnished with statements why the buildings are deemed unfit.⁴⁰ The Minister may order payment to any owner adversely affected by any order or plan for reasonable expenses incurred in opposing the order or the approval of the plan.⁴¹ If a house is condemned as unfit for human habitation or ordered demolished because of sanitary defects, but notwithstanding such defects has been well maintained, the Minister may order payments by the authority to the owner of a certain portion of the expenses incurred in maintaining the house for the preceding five years.⁴² The owner of a house occupied or suitable for occupancy by the working classes may even protect himself from loss of the house at some possible future date by submitting a plan for improvement of the house to the local authority for its opinion whether after the consummation of the

38 e.g. Secs. 15 and 41.

39 e.g. Secs. 7, 9, 10, 11 and 19.

40 Sec. 41

41 Sec. 43 (1925, as amended).

42 Sec. 42 (1935).

repairs and changes involved in such plan (together with any other works the local authority might suggest) the house will be fit for human habitation for at least the ensuing five years.⁴³ If the local authority is of the opinion that the house would be so fit, it must so inform the owner, stating what other added improvements (not included in the owner's plans) it deems necessary. If the owner carries out the recommendations of the authority, the latter then issues a certificate that for the next five years (or any other period not exceeding ten years) it considers that the house, assuming reasonable care and maintenance, will be fit for human habitation. In that event, no action can be taken under the Act to compel the house to be demolished or closed. Similarly, owners of land can themselves prepare a re-development plan, and if it is satisfactory, and properly carried out, no action can be taken in relation to such property by the authority.⁴⁴

The Act also makes appropriate provision for the occupiers of any buildings who are affected by any action taken or required by the local authority. Aside from provisions in regard to the providing of housing accommodations for those displaced by action taken under the Act,⁴⁵ the Act states that the local authority may, in respect of occupiers displaced

⁴³ Sec. 51 (1935).

⁴⁴ Sec. 50 (1935).

⁴⁵ e.g. Secs. 25, 36 and 45.

by a demolition or closing order, pay to such persons a reasonable amount to cover the expenses of moving, and if the occupier is carrying on a trade or business in the building, the local authority may make a payment for whatever loss is incurred as a result of the moving.⁴⁶ If the occupier is displaced because of clearance of an area or from a building unfit for human habitation in the re-development of an area, the same allowances may be made.⁴⁷ If because of a clearance order the population of an area is decreased in a manner which damages a retail shop in the locality, the local authority may make a reasonable allowance toward the owner of the shop for the damage done.⁴⁸

Also conducive to the prevention of arbitrary or undesirable action by the local authority is the fact, already alluded to, that any action of any consequence that is to be taken by the local authority has to be approved by the Minister. The Act is especially careful to require approval by the Minister in the event the authority contemplates resort to the power of eminent domain.⁴⁹ In connection with re-development of an area, even purchase of the property must be approved by the Minister.⁵⁰ Any plans for clearance or re-development of an area must be first submitted to the Minister and any orders in connection therewith approved by him.⁵¹ Local by-laws dealing with working class houses are subject to the confirmation of the Minister.⁵² In general, the authority must do as the Minister directs.

46 Sec. 18 (1930).
 47 Sec. 44 (1930, as amended.)
 48 Sec. 44.
 49 e.g. Secs. 16, 29.
 50 Sec. 36.
 51 Secs. 26, 31, 34, 35, 36.
 52 Sec. 6.

Rehousing:

As the Housing Act, 1936 recognizes, a necessary concomitant to a program requiring the demolition or closing of houses unfit for human habitation and not capable of being rendered so fit at a reasonable expense, requiring the clearing and re-development of whole areas, and requiring the abatement of overcrowded conditions in buildings which are otherwise safe and sanitary, is a well defined government-aided rehousing program. Accordingly, it is the constant duty of every local authority to consider the need for housing accommodations in its district for the working classes and submit to the Minister proposals for the provision of new houses for them,⁵³ distinguishing houses necessary because of displacement resulting from action taken under the Act and summarized supra. In respect of rural districts, it is the duty of the county council also to have constant regard for the need of housing accommodations in such districts in the county and to exercise a constant supervision over the councils for such districts in this respect.⁵⁴ It may agree to assist such local councils even to the extent of exercising their powers under the Act.⁵⁵

53 Secs. 45, 57 and 71 (1930 and 1935).

54 Sec. 88 (1930).

55 Sec. 89 (1930).

The local authority may provide the necessary housing accommodations itself by:

- (1) Erecting new houses
- (2) Converting any buildings into houses
- (3) Acquiring suitable houses
- (4) Altering, enlarging, repairing or improving

any houses that it has acquired.⁵⁶

It may acquire whatever land (or land plus buildings) is necessary, either by agreement or condemnation.⁵⁷ It may supply the needs of its district by building in another district.⁵⁸ It may acquire land even though it is not to be immediately used for housing accommodations, except that if the land is acquired by condemnation, it must intend to use the land within ten years.⁵⁹ It may use whatever lands it already owns for housing purposes, except that for land appropriated to educational uses, the consent of the Board of Education is necessary.⁶⁰

It may provide for lodging houses as well as private ones.⁶¹ It may provide cottages with gardens of not more than one acre. It may provide buildings for recreational purposes and even for shops and for any other purpose in connection with the people for whom the accommodations

56 Secs. 72, 74 (1925, as amended).

57 Sec. 73 (1925, as amended).
In the case of condemnation, the approval of the Minister is necessary.

58 Secs. 72 and 81. See also Sec. 91.

59 Sec. 74.

60 Sec. 76 (1925).

61 Sec. 72.

are being provided.⁶² If any by-laws in respect of buildings or streets interfere with the housing plan, the Act provides for relaxation of such by-laws.⁶³

The Act provides, however, that any two-story house must be within 620 and 950 square feet in area and any structurally separate flat or one-story house within 550 and 880 square feet.⁶⁴ It also provides that in respect of any construction, there must be a fair wages clause in the construction contract.⁶⁵ In every house constructed, there must be a fixed bath in every bathroom.⁶⁵ In taking any action under the Act, the local authority must have regard for the beauty of the landscape or countryside and other amenities of the locality and the desirability of preserving existing works of architectural, historic or artistic interest.⁶⁶ It may not condemn property devoted to park, garden or other pleasure ground purposes, or land belonging to public utilities or local authorities.⁶⁷

62 Sec. 80 (1925, as amended).

See also Sec. 73.

63 Secs. 138-141 (1925).

64 Sec. 136.

A flat is defined as a separate and self-contained set of premises constructed for use as a dwelling and forming part of a building from some other part of which it is divided horizontally (Sec. 188(1)).

65 Sec. 72.

66 Sec. 142 (1930).

67 Sec. 75 (1925, as amended).

The local authority, however, need not itself provide the necessary housing; it is sufficient if it makes proper arrangements therefor. The local authority may, in fact, acquire land with the view of selling or leasing it to some one else who will erect the necessary accommodations⁶⁸ or it may sell or lease houses it already has subject to the condition that the buildings will be devoted to the working classes.⁶⁹ It may make loans to private owners to assist them in reconstructing, enlarging or improving their houses.⁷⁰ It may advance money to persons or groups to construct, alter, repair or acquire houses, or it may guarantee the repayment of loans made by building societies to any of its members for the purpose of building or acquiring houses.⁷¹ It may promote the formation and extension of housing associations⁷² and make arrangements for such an association to provide any housing accommodations that the local authority is empowered to provide, and to alter, enlarge, repair or improve houses or buildings which the authority has acquired with a view to the provision

68 Sec. 73 (1925, as amended).

69 Sec. 79 (1925, as amended).

70 Sec. 90 (1919).

71 Sec. 91 (1925, as amended). The same power is given county councils.

72 A housing association is defined as a society, body of trustees or a company among whose objects or powers are the constructing, improving or managing or facilitating or encouraging construction or improvement of, houses for the working classes, and which does not trade for profit or whose constitution or rules prohibit the issue of any capital with interest or dividend exceeding the rate for the time being prescribed by the Treasury (Sec. 188(1)).

or the improvement of housing accommodations for the working classes.⁷³ It may make grants or loans to the association, subscribe for shares thereto, guarantee the payment of principal and interest on any money borrowed by the association on such terms and conditions as to rate of interest, repayment and security as it thinks fit.⁷⁴ The Act also relieves, though in a less direct manner, the local authority of the burden of furnishing the necessary accommodations by providing that any railway company, dock and harbor company, or any trading and manufacturing company has the power to erect houses for its employees⁷⁵ and that the Public Works Loan Commissioners⁷⁶ may lend money to any of these companies for such purposes, or to any association established for the purpose of constructing or improving houses for the working classes or to any person owning an estate of at least fifty years in any land.⁷⁷ The Act also helps relieve the local authority by providing that any body corporate holding land may sell or let such land for new housing for the working classes at such price or for such rent as can best be reasonably obtained under the circumstances, notwithstanding that a higher price or rent might be obtained if the land were sold or leased for another purpose.

73 Sec. 94 (1935), as amended by Sec. 8 of Housing Act, 1938.

74 Sec. 93 (1925, as amended).

75 Sec. 98 (1925). See also Sec. 92.

76 The Public Works Loan Board was created in 1817 for the purpose of advancing money to local authorities for public works. Clarke, The Law of Housing and Planning, London (1937) 2.

77 Sec. 92 (1925, as amended).

Pertinent also in this connection is the Small Dwellings Acquisition Act, 1899 (62 & 63 Vict., c. 44) under which a local authority or county council may loan money to any one residing or intending to reside in a house, the market value of which does not exceed \$4,000, for the purpose of enabling him to acquire ownership of, or to construct, such house. The loan may be for not more than 90 per centum of the value of the house. It may not be for a term exceeding 30 years, and must be secured by a mortgage. Repayment must be in periodic installments at periods not exceeding one-half year. The borrower may at any time pay off all the principal, or any part thereof in multiples of \$50. The interest rate is determined by the Minister, with the approval of the Treasury, and different rates may be fixed for different purposes and different cases. During the period of the loan, the house must be kept in sanitary condition and in good repair, must be insured against fire and must be occupied by the owner.⁷⁸

⁷⁸ Sec. 100 (1925). Other aids to the local authority may also be mentioned. Private trusts to furnish houses for the working classes are encouraged in that they may sell, lease, or turn the management of such houses over to the local authority and in that they may be given legal assistance in regard to their property by the Attorney General (Sec. 99 (1925)). Then there are statutory provisions giving county councils and mental hospitals boards the power to provide houses for their employees (Secs. 97 and 120 (1925)), and local authorities the power to provide houses for officers and servants employed in hospitals of the authorities. (Public Health Act, 1925, S. 65, and Public Health Act, 1936, S. 183).

But if the local authority does not make, or arrange for, the provision of necessary housing accommodations, there are provisions in the Act to take care of such a situation. Mention has already been made that county councils are required to keep in constant touch with the housing accommodations of the working classes in the rural districts and to compel, or take over, the provision of such accommodations if necessary.⁷⁹ If the county council does nothing, the Minister himself may purchase land and erect houses thereon at the expense of the rural council.⁸⁰ In the event of a default of an urban local authority, in regard to the exercise of any of its powers under the Act, the Minister may direct it to take action or order the county council to do so, or he may take the necessary action himself.⁸¹ Any expenses incurred by the Minister in taking over powers of the local authority must be repaid by the authority.⁸² The Minister may also vest in any local authority any property, debts or liabilities acquired or incurred in his exercise of powers in behalf of the local authority.

In respect of any local authority, if a housing association wishes to build houses for the working classes, and the authority is unwilling to acquire land to sell or lease it to the association, the county

⁷⁹ Secs. 88, 89 and 169.

⁸⁰ Sec. 89

⁸¹ Secs. 171, 173 (1930).

⁸² Sec. 173.

council may exercise all the powers of the authority in respect of the acquisition and disposal of land.⁸³ Or if the local authority refuses to make arrangements with a housing association for the furnishing of housing accommodations by the association for the working classes, the latter may submit the matter to the Minister who may require the local authority to furnish him with a report why it has refused.⁸⁴ There is also a very broadly put provision in the Act that if the local authority has "failed to discharge any of the duties imposed upon them by virtue of the Housing Acts" the Minister may reduce the amount of contribution payable to the authority (and to be set forth infra), or suspend or discontinue the payment of any such contribution as he thinks just.⁸⁵ Moreover, if it appears to the Minister that the density of population in any district or any other reason makes it advisable to look into the question of applying any provision of the Housing Act to the area, the Minister may require the local authority to make a report on the matter to him.⁸⁶

83 Sec. 93.

84 Sec. 94.

85 Sec. 113 (1935).

86 Sec. 179 (1925).

Financial Provisions:Loans

The statutory provisions regarding loans center about two agencies, (1) the local authority, and (2) the central government.

The local authority may both lend and borrow for the purposes of housing. Its lending powers are as follows:

1. It may lend to private owners of houses for purposes of reconstruction, enlargement or improvement.⁸⁷ The whole cost of the works may be so lent, except that the amount of the loan may not exceed one-half of the value of the property (which is to be mortgaged to the local authority) unless additional security is given to secure any amount greater than such maximum.

2. The local authority (or county council) may advance money to persons or bodies of persons for constructing, altering, repairing or acquiring houses, whether or not such houses are within the district of the authority or council.⁸⁸ The superficial area of houses concerned must be not less than 620 square feet in the case of a two-story house and not less than 550 square feet in the case of a flat or one-story house, except that, if special circumstances require, the minimums may be reduced to 570 and 500 square feet, respectively. The loan, repayable in instalments, must

⁸⁷ Sec. 90 (1919).

⁸⁸ Sec. 91 (1925, as amended).

be secured by a mortgage and must not exceed 90 per centum of the value of the interest of the mortgagor. No advance may be made for a house the value of which exceeds \$4,000, except that if the house consists of separate and self-contained flats, the limitation refers to each particular flat.

3. The local authority (or county council) may guarantee the repayment to a building society of any advances with interest thereon made by the society to any of its members for the purpose of enabling them to build or acquire houses, again whether such houses are within or without the district of the council.⁸⁹ The same general limitations present in respect of direct advances by the local authority are applicable here.

4. The local authority (or county council) may make loans to housing associations, guarantee the payment of the principal and interest on any money borrowed by such an association on such terms and conditions as to rate of interest and repayment and on such security as the local authority thinks fit.⁹⁰

5. A local authority carrying on housing operations outside its own area may make advances to the authority for such area in connection with such operations.⁹¹

89 Sec. 91.

90 Sec. 93 (1925, as amended).

91 Sec. 125 (1925, as amended).

The local authority may borrow for:

1. Executing the repairs and works on privately owned houses where the owners thereof do not comply with the orders of the local authority;
2. Any of its duties in respect of clearance areas and re-development purposes;
3. Compliance with its duties in respect of abatement of overcrowding; and
4. Carrying out its duties in respect of rehousing.

It may borrow in connection with operations carried out outside its own area.⁹³

It may borrow by the following methods:

1. By the issuance of bonds.⁹⁴ Such bonds are secured upon all the rates, property and revenues of the local authority⁹⁵ and by the contributions made by the central government for housing.⁹⁶ They may bear interest at whatever rate the local authority may determine, may be issued in denominations of \$25, \$50, \$250, \$500 and multiples of \$500, and may be issued for periods of not less than five years. They are exempt from certain stamp duties and must be accepted by the authority at their nominal

⁹² Sec. 118 (1925, as amended).

⁹³ Sec. 121 (1925)

⁹⁴ Sec. 122 (1925)

⁹⁵ Ninth Schedule of Housing Act, 1936.

⁹⁶ As to this, see Housing Consolidated Regulations, 1925, No. 866. Hill, supra, p. 460.

value in payment of the purchase price of any house erected by or in behalf of any local authority in pursuance of its operations under the Housing Act. Two or more local authorities may issue joint bonds secured upon their joint rates, properties and revenues. If bonds are issued, further borrowing may be carried on for the purpose of redeeming them.⁹⁷

2. By borrowing from the Public Works Loan Commissioners for the purpose of making the advances referred to supra to private persons for constructing, altering, repairing or acquiring houses, and for fulfilling guarantees made to building societies.⁹⁸ Such loans are to be made at the minimum rate allowed at the time for loans out of the Local Loans Fund and for a period not to exceed 80 years. The period of the loan may not be a factor in determining the rate of interest.

3. By borrowing from its county council for purposes of the Act under whatever conditions the Minister may impose.⁹⁹

In respect of the central government, its loans are made by the Public Works Loan Commissioners. They may be made, as above mentioned, to local authorities, to railway companies, dock and harbor companies, manufacturing or trading companies, to housing associations, to any associations established for the purpose of constructing or improving, or encouraging the construction or improvement of, the houses of working classes, and to any person owning land in fee simple or for a term of at least 50 years.¹⁰⁰

⁹⁷ Sec. 122.

⁹⁸ Sec. 123 (1925, as amended).

⁹⁹ Sec. 124 (1925).

¹⁰⁰ Secs. 92 and 123.

The loans (excepting those made to the local authorities¹⁰¹) must be secured by a mortgage on the land and houses, must be repaid within 40 years, and may not be for more than two-thirds of the value of the property, except that if additional collateral, other than the property involved, is furnished, the loan may be for three-fourths of the value of the property.¹⁰² In the case of a housing association, the loan may be for 50 years, on an estate for a term of years not less than 10 years in excess of the period of the loan, and if the loan is guaranteed by the local authority, the loan may be to the extent of nine-tenths of the value of the property.

The loans (those to local authorities still excepted) must bear interest at a rate not less than three and one-eighth per centum per annum and must be sufficient to enable the loan to be made without loss to the central government.

Contributions

a. Exchequer Contributions:

The basic provisions in respect of subsidies are contained in the Housing (Financial Provisions) Act, 1938. Separate provisions are present in respect of agricultural and non-agricultural housing accommodations.

¹⁰¹ See supra.

¹⁰² Sec. 92.

In regard to non-agricultural housing accommodations, the Housing Act, 1938 provides that the Minister must undertake to make contributions to a local authority for new houses provided by the authority for the working classes, if such new houses are rendered necessary:

(1) By displacements occurring in connection with action taken by the local authority for the demolition of insanitary houses, the closing of parts of buildings, or for dealing with clearance areas;

(2) By displacements occurring in the carrying out of a re-development plan;

(3) For abatement of overcrowding.¹⁰³

The contribution is to be made annually for a period of 40 years and is to be in an amount equal to \$27.50 for each house.

If the houses are in a district in which the rents are substantially less than the general average in England, and if the amount of expenditure necessitated in connection with the houses would put an undue burden on the district if the contribution were limited to \$27.50, the annual contribution may be \$32.50. If the housing accommodations consist of a block of flats¹⁰⁴ erected on a site the cost of which as developed¹⁰⁵

¹⁰³ Housing Act, 1938, Sec. 1.

¹⁰⁴ "Block of flats" is defined as a building which contains two or more flats and which consists of three or more stories exclusive of any story constructed for use for purposes other than those of a dwelling (Sec. 188 (1)).

¹⁰⁵ "As developed" includes expenses necessary to make the site available for the provision of the flats, including street and sewer construction. It does not include the cost of the buildings. See Schedule to Housing Act, 1938.

exceeds \$7,500 per acre, the contribution per flat is to be in accordance with the following table:¹⁰⁶

Where the cost per acre
is between:

\$7,501 and \$20,000	\$55
\$20,001 and \$25,000	\$60
\$25,001 and \$30,000	\$65
\$30,001 and \$40,000	\$70
\$40,001 and \$50,000	\$75
\$50,001 and \$60,000	\$85
Above \$60,000	\$5 for each additional \$10,000 or part of \$10,000

If the housing accommodations are provided by a county council, it is entitled to the contributions set forth above.¹⁰⁷ In the event they are provided by a housing association, the contribution is paid to the local authority which turns the money over to the association.¹⁰⁸

In respect of agricultural housing accommodations, the Minister must make an annual contribution of \$50 per house for a period of 40 years.¹⁰⁹ Again, a higher contribution is possible:

106 Schedule to Housing Act, 1938.
 107 Secs. 89 and 172 (Housing Act, 1936).
 108 Sec. 94 (Housing Act, 1936).
 109 Sec. 2 (Housing Act, 1938).

If without an additional contribution the housing accommodations would put an undue burden on the district by reason of exceptionally high cost in providing the accommodation and by reason of the amount of rents it will be possible as a practical matter to charge, the Minister may pay an amount up to \$60 per year. If the council for the district feels that the accommodations could be more conveniently provided for by some person other than the council, the Minister may make his contribution to the council which in turn makes an annual grant to such other person of the amount paid it by the Minister. This contribution is subject to certain maximums being followed in respect of the setting of the rents and to the proper maintenance of the houses.

If there is any national housing association, the Minister may recognize it and make grants to it in his discretion.¹¹⁰

Finally, the Minister may agree to contribute to a local authority one-half of any losses it sustains as a result of its guarantee of repayment to a building society of advances made by the society to its members, provided that the guarantee extends only to the principal of and interest on the amount by which the sum advanced by the society exceeds the sum it would normally have advanced without the guarantee and provided further that the liability of the local authority is not greater than two-thirds of

¹¹⁰ Sec. 96 (Housing Act, 1936). Such an association has been recognized by the Minister. Hill, supra, p. 224.

such principal and interest.¹¹¹ The Minister, in this connection, may also set whatever conditions he desires regarding the number and type of houses to be built or acquired, their size, and the number of houses per acre. He may require further that each house be provided with a fixed bath.

Payment of the annual contributions made by the Minister are subject to the following conditions:

1. If the local authority sells any of the houses or lands for which a contribution is being made, the Minister may reduce the contributions accordingly.¹¹²

2. If the local authority has failed to discharge any of the duties imposed upon it by virtue of the Housing Acts or failed to observe any conditions subject to which it is entitled to receive the contribution, the Minister may reduce the amount of contribution or suspend or discontinue payment as he thinks just.¹¹³

3. If the contribution is being made to a housing association and the association defaults in any of the terms between it and the local authority, the Minister (and the local authority in its turn) may reduce, suspend or discontinue the contributions.¹¹⁴

111 Sec. 110 (Housing Act, 1936).

112 Sec. 86 (Housing Act, 1936).

113 Sec. 113 (Housing Act, 1936).

114 Sec. 94 (Housing Act, 1936).

4. If in respect of houses furnished by persons other than the local authority for agricultural workers, the houses are not used for such workers, or the proper rents are not charged or the houses not properly maintained in any year, the Minister need not pay the contribution for such year.¹¹⁵ On the other hand, if such houses become vested in the local authority because of any default by such other person, the Minister may continue making contributions to the local authority.¹¹⁶

5. The Minister must examine every three years the amount of operating expenses that have already been incurred by local authorities and the amount of expenses likely to be incurred in the ensuing three years and may, on the basis of such examination and in respect of houses not yet built, either terminate his obligation or alter the amount of contribution or the period for which it is to be payable.¹¹⁷

6. The Minister's contribution to a local authority is subject to a contribution by the local authority out of its General Rate Fund.¹¹⁸

Local Contributions

The contributions made by the local authority are generally determined by the amount of contribution made by the Minister and are to

115 Sec. 3 (Housing Act, 1938).

116 Sec. 9 (Housing Act, 1938).

117 Sec. 109 (Housing Act, 1936) as amended by Sec. 5 (Housing Act, 1938).

118 Sec. 6 (Housing Act, 1938).

be made out of the General Rate Fund. In respect of the normal contribution of \$27.50 per house for non-agricultural housing accommodations, the local authority must make a contribution to the extent of one-half of such contribution (\$13.75), except that it may spread its payments over 60, instead of 40, years.¹¹⁹ It may not spread its contribution over a lesser period than 40 years. If the Minister makes an annual contribution of \$32.50, the local contribution is still \$13.75 per house for each year of the Minister's contribution, but again the local authority may spread its payments over 60, rather than 40, years.

In respect of Exchequer contributions for agricultural accommodations, the local authority must make a contribution of \$5.00 per house for each year of the contribution. But here too the authority may spread its payments over 60, instead of 40, years.

Finally, in any year in which there is a deficit, the local authority must make what is known as an "additional contribution" equal to the amount of the deficit.¹²⁰

The Housing Act, 1938 also provides that the county council must also make in respect of Exchequer contributions amounting to \$32.50 for urban districts, or \$50 for rural districts, a contribution of \$5.00 a year to the local council for the same period of 40 years.¹²¹ If the

119 Sec. 6 (Housing Act, 1938).
 120 Sec. 129 and Eighth Schedule (Housing Act, 1936).
 121 Sec. 7 (Housing Act, 1938).

Minister makes a contribution of more than \$50 for agricultural accommodations, the county council must pay an annual contribution of \$5.00 plus a sum equal to the excess paid by the Minister over the \$50. The Act provides, however, that if the Minister reduces, discontinues or suspends his contribution, the county council may make proportionate reductions, suspensions or discontinuances in its contribution.¹²²

The Housing Act, 1936 further provides that the local authority may make a contribution to private persons of the following sort: If a house is converted into two or more flats and the taxable value of the house after such conversion becomes greater, the local authority may, for a period not exceeding 20 years, refund to the person paying the taxes the increase in taxes resulting.¹²³ Reference may finally be made to the general provision that a local authority may make grants to a housing association.¹²⁴

Management and Operation of the New Housing Accommodations:

The general management, regulation and control of houses provided by the local authority is placed by the Act in such authority whether or not the houses are situate in the district of the authority.¹²⁵ The authority may make whatever by-laws it deems appropriate in this connection.¹²⁶

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- 122 Sec. 7 (Housing Act, 1936), Sec. 115 (Housing Act, 1936).
 123 Sec. 91 (Housing Act, 1936).
 124 Sec. 93 (Housing Act, 1936).
 125 Sec. 83 (1925, as amended).
 126 Sec. 84 (1925). Certain by-laws must be made in respect of lodging houses.

It may provide furniture and furnishings for the tenants.¹²⁷ It must give reasonable preference in the selection of its tenants to persons who are occupying insanitary or overcrowded houses, having large families, or are living under unsatisfactory housing conditions.¹²⁸ The local authority may fix whatever rents it considers appropriate in its reasonable discretion,¹²⁹ although, in doing so, it must take into consideration the rents ordinarily payable by persons of the working classes in the locality.¹³⁰ It may grant to any tenants such rebates from rent, subject to such terms and conditions, as it thinks fit.¹³¹ From time to time it must review rents and make such changes either of rents generally or particular rents and rebates as circumstances may require. No tenant may assign or sublet the premises let to him without the consent of the authority, and such consent cannot be given unless the assignee or sublessee is to pay only a reasonable amount for the assignment or sublease. In connection with rents, it may be noted that the Principal Act provides that any water or gas company may furnish water or gas for the houses either without charge or on such favorable terms as they think fit.¹³²

127 Sec. 72 (1925, as amended).

128 Sec. 85 (1935).

129 Sec. 83 (1925, as amended).

130 Sec. 85 (1935).

131 Sec. 85.

132 Sec. 101 (1925).

The local authority, however, need not itself manage the houses it builds. It may, with the Minister's approval, establish a Housing Management Commission¹³³ for this purpose.¹³⁴ Once such a commission is established, it would appear from the language of the Act that the local authority cannot revoke the power transferred unless it reserves such a power in the original transfer.

But whether the authority or the Commission manages the houses, no house containing two bedrooms can be regarded as providing accommodations for more than four persons, a house of three bedrooms for more than five persons, or a house of four bedrooms for more than seven persons.¹³⁵

Finally, it is incumbent upon the local authority to keep certain accounts, the most important of which is the Housing Revenue Account, which includes all the income (including contributions) and expenditures of the authority.¹³⁶ Any surplus in the Account at the end of any year is carried forward to the Account for the succeeding year, except that the local authority may return to its General Rate Fund Account any additional contributions it may have made during the four last preceding years.¹³⁷ Every fifth year, the authority may transfer the surplus¹³⁸

133 Sec. 87 (1935).

134 And for this purpose only. It may not establish such a commission for the erection of the buildings or for carrying out its duties in respect of clearance or re-development.

135 Sec. 137 (1930).

136 Secs. 128 and 129 (1935).

The Account is under the supervision of the Minister (Sec. 129).

137 Sec. 130 (1935).

138 That is, the surplus remaining after the return of the additional contributions.

at such time to the Housing Repairs Account mentioned infra or still carry it forward to the Housing Revenue Account for the succeeding year.¹³⁹ Any surplus still remaining is to be divided into two parts and to be paid to the Minister and to the General Rate Fund Account of the authority in proportion to the amount of the contributions made by the Minister and the local authority, respectively, (additional contributions by the local authority excepted in such computation) within the preceding five years.

The local authority must also maintain a Housing Repairs Account for the purpose of equalizing the annual charge in respect of repairs and maintenance, and in each year credit to such Account from the Revenue Account the amount necessary (not to be less than 15 per centum of the annual rents) including whatever amount is necessary to meet any deficit in the Account at the end of the last preceding fiscal year.¹⁴⁰ If the moneys in the account appear more than sufficient for its purposes or are no longer necessary, the Minister may give such directions for the reduction or closing of the Account as he thinks appropriate.

The authority must also keep a Housing Equalisation Account for the purpose of equalizing income from contributions whether from the central or local governments over the period during which loan charges required to be debited to the Housing Revenue Account will be payable.¹⁴¹ Again, if the Account proves unnecessary at any time, the Minister may relieve the local authority of the duty of maintaining it.

Any moneys standing in either the Housing Repairs Account or the Housing Equalisation Account and not for the time being required for

¹³⁹ Sec. 130.

¹⁴⁰ Sec. 131 (1935).

¹⁴¹ Sec. 132 (1935).

the purposes to which they ultimately will be applied may be used by the local authority for the purpose of any statutory borrowing power possessed by it, and so far as not so used, must be invested temporarily in statutory securities (other than securities created by the authority).. Any income from the investment must be credited to the account from which the money was taken.¹⁴²

¹⁴² Sec. 133 (1935).

REPORT ON HOUSING LAWS

OF

CANADA

Introductory Statement:

The Canadian law on housing is of recent origin: it consists of two comparatively short statutes, the Home Improvement Loans Guarantee Act, 1937,¹ and the National Housing Act, 1938² (which repealed³ and supplanted the Dominion Housing Act, 1935,⁴ itself therefore a statute of recent passage).⁵

Scope and Program of Canadian Legislation on Housing:

The Home Improvement Loans Guarantee Act has to do only with privately owned housing. The National Housing Act has as its concern both private and low-rent housing. In respect of both acts, the chief emphasis would seem to be on government assistance in the form of loans. In respect of both acts, there is no duty or obligation placed upon any governmental agency - national, provincial, or municipal - to make use of their provisions. The legislation, moreover, indicates no preference as to the agency it desires to provide (or help provide) whatever housing is undertaken, or to take advantage of whatever assistance is offered by the

1 1 Geo. VI, c. 11. Citations to this Act will be: Sec. _____ (1937).
 2 2 Geo. VI, c. 49. Citations to this Act will be: Sec. _____ (1938).

3 Sec. 10 (1938).

4 25 & 26 Geo. V, c. 58.

5 Mention may be made, however, of the fact that at the close of the World War, the Dominion made loans to provincial governments, for the purpose of assisting the construction of houses, chiefly for returned soldiers. F. W. Nicolls, Housing in Canada, in Housing Yearbook, 1938, National Association of Housing Officials, 236.

Dominion Government⁶ under the acts: the same attention and emphasis is given to housing societies, associations and corporations, as to governmental bodies.

All costs and expenses to the Government of the program involved in both acts are met out of its Consolidated Revenue Fund.⁷

Provisions in Respect of Private Housing:

Loans

The Minister of Finance may join with a lending institution or a "local authority" (defined for this purpose as any province, municipality, society, association, corporation or commission having authority to undertake a housing scheme) to make loans to assist in the construction of houses according to sound standards approved by the Minister.⁸ The share of the Minister, however, may not exceed 25% of the total loan⁹ which in turn may be between 70% and 80% of the value of the house and land, except that in the case of a single family dwelling to be occupied by the owner and not over \$2,500 in value, the amount may be between 50% and 90%.¹⁰ The period of the loan, the terms of payment, and the amount of interest

6 Hereinafter referred to as the Government.

7 Sec. 7 (1937); Secs. 6, 13(1), 19, 22 and 26 (1938)

8 Secs. 4(1), (2); 2(d), (f) and 8(1) (ii) (1938).

9 Sec. 4 (2) (c) (1938).

10 Sec. 4(2) (b) (1938). Sec. 6 provides that the Minister may make advances and pay losses, salaries and other necessary expenses to the amount of \$20,000,000 less the advances made under the Dominion Housing Act, 1935.

and other charges to the borrower are either subject to the approval, or the determination, of the Minister.¹¹ The loan must be secured by a first mortgage on the property,¹² and the construction subject to supervision by either of the joint lenders.¹³ In order to facilitate the making of these joint loans, it is provided that any lending institution subject to the jurisdiction of Parliament may, notwithstanding any restriction on its power to lend money contained in any other statute or law, enter into the above mentioned joint loans.¹⁴ It is also provided that:

. . . any loss sustained . . . shall be borne by His Majesty and the lending institution or local authority in such proportions as are fixed by the terms of the contract; ¹⁵

Guarantees

1. Repairs: The Government may guarantee lending institutions against losses which they may sustain as the result of loans (or purchases of obligations representing loans) made for the purpose of financing repairs, alterations and additions to rural or urban homes.¹⁶ While the amount of loans that may be so guaranteed may equal \$50,000,000 the total liability of the Government in respect of the guarantees may not exceed

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- 11 Sec. 4 (2) (c), (d), (e) (1938).
 - 12 Sec. 4 (2) (e) (1938).
 - 13 Sec. 4 (2) (a) (1938).
 - 14 Sec. 5 (1938).
 - 15 Sec. 4 (2) (f) (1938).
 - 16 Secs. 2 and 3 (1937).

\$7,500,000,¹⁷ and the liability of the Government to any particular lending institution may not exceed 15% of the aggregate amount of home improvement loans made by such institution.¹⁸

The loans guaranteed must not exceed \$2,000 per house in the case of a single family dwelling, or \$1,000, plus \$1,000 for each family unit, in the case of a multiple family dwelling.¹⁹ The Government guarantee must be the only security taken by the lending institution.²⁰ The loans may be made only to property owners²¹ (which, however, may be extended by Administrative ruling to include vendees, long-term lessees, and any other persons having rights approximating ownership).²² They may not be for more than three years if the loan is \$1,000 or less, or five years in any event;²³ They are to be repaid in periodic installments. The interest rate must not exceed what is equivalent to a 3-1/4% rate on a one year loan repayable in equal monthly installments.²⁴ And there may be no service, insurance or other additional charges of any kind.²⁵ However, in the event of actual or impending default by a borrower, statutory provision is present to

¹⁷ Sec. 5 (1937).

¹⁸ Sec. 4 (1937).

¹⁹ Sec. 6(a) (1937).

²⁰ Sec. 6(f) (1937).

²¹ Sec. 6(b) (1937).

²² Sec. 8(f) (i) (1937).

²³ Sec. 6(c) (1937).

²⁴ Sec. 6(d) (1937).

²⁵ Sec. 6(e) (1937).

permit the lending institution, with the approval of the borrower, to alter or revise any of the terms of the loan agreement without being bound to the above mentioned conditions to which the making of the loan was subject.²⁶ On the other hand, the Government may, in the event of default, prescribe the procedure to be followed by the lending institution and the rate of interest to be charged the overdue balances.²⁷

2. Construction: In regard to joint loans made in small and remote communities "and in certain districts of other communities" for single family dwellings of not more than \$4,000 in value or for multiple family dwellings of a value not greater than \$600 per habitable room, the Minister may agree to pay the losses sustained by the lending institution or "local authority" in respect of its share of the loan, provided that the maximum amount of liability the Minister may assume is 20% of the share of the lending institution or "local authority" in the case of an 80% total loan, and 25%, in the case of a 90% total loan.²⁸

Subsidies

1. In respect of the above mentioned joint loans in small or remote communities, the Minister may agree to pay a subsidy to the lending institution of not more than \$20 plus an allowance for necessary traveling expenses, for every loan of not more than \$4,000.²⁹

26 Secs. 6(e), (f) and 8(b) (1937).

27 Sec. 8(b) (1937).

28 Sec. 4(2) (g) (1938).

29 Sec. 4(2) (h) (1938).

2. The Minister may, to the extent set forth in the following table, pay, in respect of houses the construction of which is begun between June 1, 1938 and December 31, 1940 for persons who will own and occupy them, and the cost of construction of which is not more than \$4,000, the increase in general real estate taxes resulting from the construction of such houses:

100% of the increase for the first year

50% for the second year

25%, for the third year.³⁰

These payments are subject to the condition that if the municipality concerned owns lots suitable for residential purposes, it must agree to sell a reasonable number of them, at no more than \$50 each, to persons who agree to begin construction of homes for which the subsidy may be paid within one year, except that if the municipality has no power to sell the lots at \$50, it must sell them at no more than the lowest price at which it may do so.³¹

Finally, in regard to private housing may be mentioned the fact that provision is made for the conducting of competitions by the Minister for low cost housing plans and for the sale or distribution of such plans.³²

³⁰ Secs. 21(d), 22, and 23(b), (c) (1938).

³¹ Sec. 23(a) (1938).

³² Sec. 3(d) (1938). Competitions have in fact been carried on by the Minister. Nicolls, supra, 244.

Low-Rent HousingRole of Dominion Government:

The Canadian legislation provides only for loans on the part of the Dominion Government:- the Minister, provided that he is furnished with evidence satisfactory to him of the need of a low-rent housing project in a municipality or metropolitan area by reason of the shortage, overcrowding, congestion or the substandard character of existing housing accommodations in the municipality or metropolitan area,³³ and provided that the project has been approved by the municipality in which it is to be built,³⁴ may, until March 31, 1940³⁵ and to the extent of \$30,000,000,³⁶ make loans to any municipality, society, association, corporation or commission (including a limited-dividend housing corporation)³⁷ having authority to construct, hold and manage houses built as a low-rent housing project for the construction of low-rent projects. The loans may not exceed 90% of the cost of construction or an average sum of \$2,700 per family housing unit.³⁸ They must be secured by a first mortgage³⁹ and bear interest at 2% annually.⁴⁰ Payment of interest and amortization must be made by semi-annual payments of 2% of the principal amount semi-annually.⁴⁰ In the case of

33 Sec. 14(c) (1938).

34 Sec. 14(a) (1938).

35 Sec. 18(2) (1938). The Preamble to the National Housing Act, 1938, refers to "a limited experiment in low-rental housing". But see footnote 43.

36 Sec. 13(1) (1938).

37 Secs. 12(g) and 13(1) (1938).

38 Sec. 13(2) (1938).

39 Sec. 13(2) (1938).

40 Sec. 13(3) (1938).

a limited-dividend housing corporation, however, the loan must not exceed 80% of the cost of construction or an average sum of \$2,400 per housing unit, and must bear an annual interest of 1-3/4%, and the debt-service payments must be 1-7/8% of the principal amount semi-annually.⁴¹

In the event the low-rent character of the project is not maintained, or the contract of the housing agency with the Minister is otherwise violated, or in the event a third party acquires the project, the Minister may declare the unpaid principal of the loan due forthwith, or increase the interest payable on the unpaid balance to a rate of at least 1% above the average rate of interest payable on securities of the Government of Canada then outstanding.⁴²

The total loans made in any metropolitan area or municipality may not exceed that proportion of \$30,000,000 that the population of the area or municipality bears to the total urban population of Canada.⁴³

41 Sec. 13(2), (3) (1938).

42 Sec. 15 (g) (1938).

43 Sec. 18(1) (1938). Mention may also be made at this point of the fact that, while it would seem from the provisions summarized *supra* in respect of joint loans were intended for private housing only, there is, as a matter of fact, no wording in the provisions dealing with such loans which would prevent them from being made for the purpose of low-rent housing projects. Theoretically, this could mean that loans may be made for low-rent housing projects even at less than 1-3/8% and for a period beyond March 31, 1940. Insofar as the interest rate is concerned, however, it is hardly to be expected that any lending institution would enter into a joint loan at such a low rate of interest. But it would seem possible for the Minister of Finance and a provincial government or municipality to make a joint loan at a fair interest rate for the purposes of a housing project.

Role of Provincial and Local Governments:

The above mentioned Dominion loans may be made only if the municipality or other appropriate authority agrees that taxes of all kinds levied in respect of the property shall not exceed 1% of the cost of construction and land and that no taxes will be levied on the income of the housing agency.⁴⁴

The appropriate provincial government must also agree to pay to the Minister any part of the semi-annual interest and principal payment not paid by the agency to which the loan is made, except that in the case of a limited-dividend housing corporation, the municipality must agree, that, if before the loan has been repaid, the net earnings of the corporation are insufficient to pay the semi-annual payments, the municipality will forego all taxes payable at the time or thereafter to an extent which will enable the corporation to make the semi-annual payments.⁴⁵

If the cost of the site or of construction or any other factor would result in rents burdensome for families receiving low incomes, the Minister may approve any agreement entered into by the municipality or provincial government with the agency providing the housing project in which the municipality or provincial government undertakes to make periodic contributions to a rent reduction fund to be used toward a reduction in rentals.⁴⁶

44 Sec. 14(a) (1938).

45 Sec. 14(b) (1938).

46 Sec. 17 (1938).

Management and Operation of the New Housing Accommodations:

The family housing units must be leased to "families of low income," whose total family income is less than five times the economic rental⁴⁷ of the family housing unit, unless there is no demand for such units from families with such incomes.⁴⁸ The annual rental, excluding charges for water and heating, must not be more than one-fifth of the estimated total income of the family occupying the unit, provided, however, that the rental of each unit must be such as to provide an aggregate amount, which together with all other income (including governmental contributions) will be sufficient to pay all the charges on the project, and in the case of a limited-dividend housing corporation, a dividend not in excess of 5% of its paid-up capital.⁴⁹

47 This is defined as 9-1/2% per annum of the cost of construction of the family housing unit plus an amount sufficient to pay that portion of the estimated normal annual taxes on the completed project attributable to the particular housing unit. Sec. 12(b) (1938).

48 Sec. 15(a) (1938).

49 Sec. 15(b). As a safeguard that the rentals determined on this basis will not be too high, it is provided that no loan may be made unless the project involves construction of a sufficient number of housing units to assure reasonable economies in construction and management, unless the organization and management of the housing agency are such as to assure competent administration in the planning, construction and operation of the project, unless adequate care has been exercised to assure economical and suitable design of the houses, and sound construction of a type as will assure minimum practical expenditures for repairs and maintenance during the term of the loan, and unless the terms of acquisition of the land upon which the houses are to be constructed are satisfactory to the Minister. Sec. 14(e)-(h) (1938).

The organization owning the project must maintain books, records and accounts in a form satisfactory to the Minister, permit the inspection of such books, records and accounts at any time, and make an annual report to the Minister.⁵⁰ It must agree to provide efficient management, keep the houses in a satisfactory state of repairs, and permit representatives of the Minister to inspect the houses at any time.⁵¹ It must also agree to collect rentals promptly, and to pay semi-annually, an amount equal to $1\frac{7}{8}\%$ or 2% , as the case may be, of the principal amount of the loan, together with any surplus earnings not required to pay the other carrying charges of the project.⁵² In the case of a limited-dividend corporation, it must give an option to the municipality to buy the project at a price equal to the paid-up capital of the corporation, plus the amount of any unpaid dividends, provided, that the option may not be exercised unless the provincial government has agreed to pay to the Minister any part of the semi-annual debt service payments not met thereafter.⁵³

50 Sec. 15(c) (1938).

51 Sec. 15(d) (1938).

52 Sec. 15(e) (1938).

53 Sec. 15(f) (1938).