

## *Chapter 7*

# PREFERENTIAL TAXATION AND THE CONSERVATION OF LOCAL AUTONOMY

Land-use planners embraced zoning as an effective means to preserve agricultural land and control urban growth, but agriculturalists generally disliked the idea. Many farmers viewed any move toward state land-use regulation as a threat to their private property rights and the value of their farm assets. Although some Farm Bureau members embraced zoning, the California Farm Bureau Federation endorsed the idea only when it was coupled with tax relief measures. The federation, in addition, worked to ensure that Farm Bureau members were seated on or monitored local planning commissions wherever agricultural zoning was adopted.

## CFBF AND TAX POLITICS: 1927–WORLD WAR II

Because the California Farm Bureau Federation represented a sizable percentage of landowners in the state, it is not surprising that it followed tax policy closely. In 1927, the CFBF established a Tax Research Department, later called just the Research Department, to counter the influence of the newly incorporated (1926) California Taxpayers' Association (CTA), which first appeared in 1916 as the Taxpayers Association of California (TAC). The CTA ostensibly represented homeowners seeking to reduce public expenditures

and thereby reduce property taxes. However, the Taxpayers Association of California had gained some notoriety as the political arm of public utility, railroad, and other large corporations which influenced legislation protecting their interests. In 1921, the TAC dissolved, but its principal supporters allegedly reorganized under various other names: the Tax Investigation and Economy League, the Better America Federation, the People's Economy League, the Greater California League, the California State Irrigation Association, and the California Development Association. Through these organizations, a handful of powerful corporations, most notably Southern Pacific Railroad, Santa Fe Railroad, Southern California Edison, and Pacific Gas and Electric, worked chiefly to defeat legislative proposals, which, among other things, would have raised their property taxes.<sup>1</sup>

Rightly perceiving that agricultural interests were not represented and possibly were jeopardized by the CTA, the CFBF formed its own research and political action arm to “devote its energies to determining how in fairness to all groups, tax levies may be most fairly and justly levied against the property of the people.”<sup>2</sup> Von T. Ellsworth, an agricultural economist, became the department's first and most influential director, a post he held until 1961. During his thirty-four years with the CFBF, he and his staff researched state tax problems and tax-related issues affecting California's corporate and unincorporated agricultural industry.

The full range of the Research Department's activities is beyond the scope of this study, but after 1935 the range expanded to include legislative advocacy for all agricultural industry-related issues, including labor relations, voluntary health insurance, pest control, livestock and produce inspection and grading, water and soil conservation, and agricultural research in relation to extension work. Tax issues nonetheless commanded the department's attention each year, and research now focused more specifically on equalizing intracounty property tax assessments rather than on securing broader changes in the tax system. From the department's inception,

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<sup>1</sup> Franklin Hichborn, *Camouflage Organizations* (Santa Clara: privately printed, 1926).

<sup>2</sup> California Farm Bureau Federation [CFBF], *Minutes and Reports* [hereafter cited as CFBF, *Minutes*], v. 8, Resolutions Adopted by 8th Annual Meeting, November 17–19, 1926 (N.B.: The bound volumes of CFBF *Minutes* housed in the federation's headquarters in Sacramento contain overlapping pagination schemes. Consult the table of contents found at the front of each volume.).

Ellsworth stressed that only farmer involvement at the county level would make its work truly effective; and by 1930, thirty-two county farm bureaus had established tax committees. They primarily monitored county budgets to keep local expenditures and property taxes as low as possible. Local oversight work became routine during the 1930s, but more serious taxation problems occasionally beckoned attention. In 1930, for instance, the Research Department surveyed agricultural property taxes in the Los Angeles area after the California Real Estate Association, the Association of Building Owners, and the Association of California Title Companies agreed to cosponsor state legislation designed to establish a maximum county tax upon urban or subdivision property. Agricultural property owners in the Los Angeles area organized in concert because property values rose wherever the city was expanding; and a coalition of realtors, building owners, and title companies was, in effect, forcing farmers to bear the burden of paying for urban services in county-governed areas.<sup>3</sup>

The Great Depression slowed urban growth, and the tax limitation effort subsequently waned in Los Angeles. During the 1930s, tax delinquencies loomed as the larger problem. As government expenditures at all levels increased, it became necessary to increase revenue as well as broaden the tax base. The earlier property tax problems did not vanish, however. They reappeared when the building pace resumed in the late 1930s. In 1937, citrus growers in Los Angeles County requested assistance from the Research Department when they were informed that the assessed value of their properties would increase between 15 and 25 percent. After some investigation, the Research Department persuasively argued that the increase was unwarranted, and the county rescinded the increase.<sup>4</sup>

In 1937, the Research Department also prepared a major report on county assessment rates at the request of a State Assembly interim committee appointed in 1935 to study assessment and appraisal methods and practices.<sup>5</sup> The CFBF report contained a county-by-county tabulation of assessment rates for properties situated inside and outside municipal boundaries in the years 1926, 1928, 1930, 1932, and 1934. The tabulation showed

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<sup>3</sup> CFBF, *Minutes*, v. 12, Annual Report cited above.

<sup>4</sup> CFBF, *Minutes*, v. 19, Annual Report of Research Department and Report on 1937 State Legislation, 19th Annual Meeting, November 16–18, 1937.

<sup>5</sup> Assessment *rate* is the ratio of assessed value to estimated market value.

that both rural and municipal assessment rates were uneven, sometimes markedly so, from county to county, but no pattern of consistent underassessment of either urban or rural properties unfolded. Intercounty assessment rates, however, fluctuated widely between 1926 and 1934, revealing that property was assessed at anywhere from 25 to 70 percent of its market value depending upon the county in which it was situated and the year in which it was assessed. Based on these findings, the CFBF recommended “greater centralized control over county assessors . . . [and] penal[ties] for according preferential treatment to certain forms of property.” Real estate interests argued for changing the law to require assessment on the basis of rental value rather than market value; and tax assessors argued for codifying existing tax laws and professionalizing tax administration.<sup>6</sup>

Post-World War II population growth and industrial development created major public finance problems, which ultimately embroiled the CFBF in intercounty property tax issues. Rapid growth translated into greater sales tax and personal income tax receipts, which mainly benefited the state. Cities and counties, however, were strapped to meet increasing expenditures for police and fire protection, and the sanitation, transportation, and recreation services required by the influx of people. Concern over mounting county and city finance problems prompted the Legislature to undertake, in 1945, a thorough study of state and local taxation. Property tax assessment and administration turned out to be a problem of major significance statewide. During the 1930s, assessed valuations dropped considerably, causing a corresponding drop in property tax receipts for cities and counties. Public finance also became more complex after 1933 changes in the state tax code rescinded the separation-of-sources principle that had governed tax administration as all levels of government struggled to cope with the economic crisis. Under the so-called Riley-Stewart Plan, the state returned public utility property to local property tax rolls, which helped to offset the loss of revenue resulting from decreased valuations. But property tax exemptions, particularly veterans’ exemptions, which increased dramatically after World War II, effectively nullified the broadened property tax base. In addition, the state retained the option of reimposing a state ad valorem general property tax on top of

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<sup>6</sup> California, *Journal of the Assembly*, 52nd Session (May 18, 1937), 3092–3113 (quote, 3102).

local property taxes. As a result, assessors tended to hold assessed valuations low to protect the tax base for local revenue. Cities and counties thus raised tax rates to squeeze more revenue from property. Cities also resorted to other taxes, especially municipal sales and business license taxes, to generate more income. Counties, in contrast, became more reliant on shared revenue sources, such as the motor vehicle fuel tax; subventions, especially for aid to the elderly; and state and federal grants. Between 1930 and the early 1940s, the structure of public finance changed dramatically.<sup>7</sup>

There was, moreover, little uniformity among property tax assessment rates, procedures, and practices at the county level, despite State Board of Equalization attempts between 1935 and 1938. Lack of uniformity presented the state with particular problems during the 1940s when pressure mounted for the state to reduce taxes or to return some of its burgeoning surplus to financially strained local governments. Veterans' property tax exemptions were a chief target. As veterans' tax exempt claims and dollar amounts rose, local units called upon the state to reimburse them for loss of property tax revenues. Disparate county assessment practices, however, precluded any rational system of redistribution.<sup>8</sup> Veterans' exemptions were only part of the problem. School finance, which depended on multiple revenue streams, and public utility property, the value of which was assessed by the State Board of Equalization but was subject to taxation at the prevailing rates in situ, complicated tax administration. As of 1944, the state contained 4,809 separate taxing districts whose boundaries overlapped to the extent that the state board had to keep track of over 8,000 tax code areas.<sup>9</sup> The paperwork was staggering. Clearly, the time for standardization was at hand.

In 1947, The Senate Interim Committee on State and Local Taxation recommended that the Legislature extend State Board of Equalization

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<sup>7</sup> California Senate, Interim Committee on State and Local Taxation, *Report, Part I: Summary of Findings and Recommendations* (Sacramento, 1947), 10–17, and *Part II: State and Local Government Finance in California* (Sacramento, 1947), 179–196, 373–384.

<sup>8</sup> *Ibid.*, *Part II*, 349–351; California, State Board of Equalization [hereafter cited as SBE], *Annual Report, 1948–49* (Sacramento, 1950), 5–6; see also CFBF, *Minutes*, v. 28, Ellsworth's summary of comments he presented to the Senate Interim Committee on October 15, 1946, in *Annual Report of Research Department and Report of 1946 Legislation*, 28th Annual Meeting, October 26, 1946, and *Minutes*, v. 30, *Annual Report of Research Department*, 30th Annual Meeting, November 15, 1948.

<sup>9</sup> SBE, *Biennial Report, 1943–1944* (Sacramento, 1945), 24.

powers. Heretofore the board had authority only to equalize assessments by raising or lowering the entire assessment roll of any county. The committee recommended authorizing the board to raise or lower assessment within counties among various classes of property. The Legislature complied with this recommendation, and in the same year, the board was ordered to begin a study of county assessments for equalization purposes. When Von T. Ellsworth reported on this legislation at the 1947 annual CFBF meeting, he cautioned Farm Bureau members “to be watchful to assure application of fair principles in the administration of this new law.” Modifying legislation in 1949 also required the Board of Equalization to adjust public utility property assessment rates with local rates.<sup>10</sup>

The State Board of Equalization as well as the Senate thus began careful study of the state’s property tax system. The Senate Committee on State and Local Taxation subsequently discovered that from 1940 to 1949 county assessment rates ranged from 14.8 to 50.9 percent, figures based on the selling prices of 752 properties in thirty-two counties. The median rate was about 25 percent; however, a wide discrepancy existed between the assessment rates of rural and urban properties. In 1946, rural property was assessed at an average of 13.5 percent of its appraised value, while the comparable figure for urban property was 32.8 percent. The Board of Equalization made similar discoveries. Its preliminary study revealed, moreover, that the board was assessing public utility property at a higher rate than counties generally assessed farms. Equalization orders would, without doubt, require higher assessment of farm property.<sup>11</sup>

## THE PREFERENTIAL TAX MOVEMENT

The California Farm Bureau’s reaction to the Board of Equalization’s preliminary findings was swift and strong. At the 1950 annual meeting, the

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<sup>10</sup> Senate, Interim Committee Report, *Part II*, 87–97, 389–394; CFBF, *Minutes*, v. 29, Annual Report of Research Dept. and Report of 1947 Legislation, 29th Annual Meeting, October 14, 1947; *California Statutes*, 1947, Chapters 663 and 1523; *Statutes*, 1949, Chapter 1466.

<sup>11</sup> Senate, Interim Committee on State and Local Taxations, *Report, Part III: State and Local Taxes in California; a Comparative Analysis* (April 1951), 505–506; Steven P. Arena, *History of the California State Board of Equalization; The First One Hundred Years, 1879–1979* (Sacramento: SBE, 1980), 72.

membership adopted a resolution reiterating a commitment to the “uniform assessment of all taxable property within any taxing governmental unit,” but demanding that “tax rates [be] adjusted downward as assessed valuations . . . increased.” The resolution placed Ellsworth in an awkward position. Having spent more than twenty years trying to establish credibility as a professional economist in the political arena, he was unwilling to undermine his reputation and the tenuous support of other interest groups by presenting such a patently political demand before the Legislature. His dilemma impelled him “to bring the matter directly and forcefully” to the attention of the CFBF Board of Directors. He asked the board to consider its position with care, arguing that a policy favoring those farmers with underassessed property would ultimately split the membership. Ellsworth’s blunt honesty produced a change of heart. At the next annual meeting, the membership adopted an alternative resolution. The demand for lower tax rates disappeared, and in its place, the Research Department was directed to continue studying “the various aspects of the assessment problem.”<sup>12</sup>

The Research Department thus urged county units to monitor closely the budget proposals of their respective county governments. Expenditures of particular concern to Farm Bureau members were those proposed for sanitation facilities and other urban services required by increasing populations in unincorporated county areas. As early as 1948 Santa Clara County and Orange County Farm Bureaus sought Research Department assistance to argue for financing such improvements through general obligation bonds and user fees rather than increased property taxes. After 1948, the CFBF continually pressed the Legislature to pass laws requiring urban fringe property owners to pay taxes and fees according to the benefits they derived from county-provided services.<sup>13</sup>

Meanwhile, Ellsworth, apparently still under pressure to seek preferential tax treatment for farmers, devised a compromise plan. In May 1954, he outlined for CFBF officers a short-term variable rate method to achieve

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<sup>12</sup> CFBF, *Minutes*, v. 31, Resolutions Adopted at 31st Annual Meeting, October 3, 1950; *Minutes*, v. 32, Supplement D, Final Report on 1951 Regular Session Legislation, August 22, 1951; *Minutes*, v. 33, Supplement E-3, Tax Section Minutes, November 14, 1951.

<sup>13</sup> CFBF, *Minutes*, Annual Reports and Tax Section Minutes cited above in vols. 30, 32, and 33; *Minutes*, v. 34, Supplement C-4, Report on Tax Section, November 11, 1951; *Minutes*, v. 35, Supplement E-5, Minutes of the Tax Section, November 19, 1953.

equalization over a period of years. By using this method, he explained, counties with low assessment rates would not be forced to increase them. Instead, downward adjustments would apply to state-assessed properties, namely public utilities, and commensurate adjustments would be made in state apportionment formulae for schools to offset possible reduced local property tax revenue. The variable-rate method, he cautioned, would not keep rates on underassessed farm properties down forever, but it would give local Farm Bureau tax committees more time to influence fiscal frugality among county governments and thereby forestall the full impact of equalization.<sup>14</sup> Ellsworth's plan was designed to hold together the CFBF's broad membership, but it had little appeal for legislators.

From 1948 through 1953, the State Board of Equalization, through its Division of Assessment Standards, surveyed the assessment practices of every county in California. Results were published in separate county reports which detailed then-current procedures and outlined recommended procedural changes plus personnel, equipment, and budget requirements necessary to bring practices up to a minimum standard. By 1950, the board could report that over one-half of the county assessors were in the process of acquiring or updating maps and building records to undertake reappraisals, and possibly reassessments. County supervisors, however, were often slow to grant budget increases so that assessors could carry out their new state-imposed responsibilities thoroughly and quickly.<sup>15</sup>

Although there was scattered resistance, there was no widespread, organized local opposition to upgrading the tools and procedures used by county assessors, and most taxpayers understood that housecleaning was long overdue. In reality, county assessment offices and practices were antiquated. Assessors' reports revealed that property in some counties had never been completely appraised; most assessors' maps were wholly outdated; few counties had any system for identifying taxable properties other than the descriptions recorded on deeds; and many counties had

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<sup>14</sup> CFBF, *Minutes*, v. 35, Supplement K, Reports of the Research Department to Mid-Year Meeting, House of Delegates, May 25, 1954; California Senate, Interim Committee on State and Local Taxation, *Report, Part II: The Taxation of Personal Property in California*, January 1955, 58, which carries the only excerpt from Ellsworth's testimony.

<sup>15</sup> SBE, *Annual Report 1948-49*, 6-7 and *Annual Report 1949-50* (Sacramento, ca. 1950), 7-8.



no building permit ordinance, meaning that improvements could only be ascertained by visual inspection. Some evidence suggests, moreover, that farm property was usually the last class to be reappraised, assuming that a county even required regular reappraisal.<sup>16</sup>

In August 1954, the State Board of Equalization finally acted, ordering fourteen counties to raise their locally assessed values so as to bring the assessment level of each of the state's fifty-eight counties to between 20 and 30 percent of market value. Twelve of the fourteen counties were predominantly rural in character: Butte, Del Norte, Humboldt, Imperial, Marin, Mariposa, Mendocino, San Bernardino, San Luis Obispo, Sonoma, Stanislaus, and Tulare. The other two, Alameda and Contra Costa, experienced rapid development during the 1940s. Although none of the counties was pleased with the order, only Tulare County refused to comply. When *People v. Tulare County* (45 A.C. 341) came to trial in December 1954, the court ruled in favor of the county on technical grounds. The State Board of Equalization chose not to appeal the court's decision.<sup>17</sup>

The board's quiet retreat might have prompted other counties to file suits, but that did not happen. A 1964 study by economist Bruce T. McKim revealed, surprisingly, that assessment valuation protests to county boards of equalization actually decreased from 1956 through 1961, even though property tax levies had increased since 1946 more rapidly in California than in any other state. Closer scrutiny of assessment valuation protest data, however, led McKim to conclude that the decrease masked serious flaws in the appeal process. Specifically, while county boards appeared to be increasingly sympathetic to taxpayer protests, those who owned high-value property stood a much greater chance of prevailing before a board than did others.<sup>18</sup> This finding suggests that small-farm owners had little reason to perceive county boards of equalization as reliable allies. Rather than waste time and money seeking tax reductions via the direct appeal route, they chose political action as their method of protest.

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<sup>16</sup> California, SBE, *Papers Presented at 1952 Conference, County Assessors of California and State Board of Equalization* (Sacramento, 1952), 59–68, and *Papers Presented at 1953 Conference* (Sacramento, 1953), 65–90.

<sup>17</sup> SBE, *Annual Report 1954–55*; 5–6; Arena, *History*, 72.

<sup>18</sup> Assembly, Interim Committee on Revenue and Taxation, *Taxation of Property in California; A Major Tax Study, Part 5* (Sacramento, December 1964), 286, 302–305, 310, 314.

In November 1954, Ellsworth spoke before the State Association of County Assessors to ask that assessors “go rather slowly in adjusting assessments to a higher use value.” He also hinted that the CFBF was then considering two legislative advocacy positions. One position called for “all property [to] be zoned” and then “evaluated or assessed for tax purposes based upon its earning power in its existing zoning classification.” The second recalled the shift from corporate property taxation to corporate gross receipts taxes. This stance called for property tax assessment based simply upon “current earning power in [a property’s] existing use.”<sup>19</sup>

Ellsworth’s remarks suggest that the CFBF might have pushed for a gross receipts tax to replace the property tax on agricultural land. But the CFBF ultimately came out in support of differential property taxation. In 1956, the CFBF membership resolved to seek legislation requiring farmland taxation solely on the basis of agricultural productivity; and, in 1957, the federation sponsored a bill, introduced by Senator George Miller, Jr. (Contra Costa), calling for preferential assessment of farmland. After amendments were added, the measure called for special assessment of land zoned for exclusive agricultural or recreational use with “no reasonable probability of the removal or modification of the zoning restriction within the near future.”<sup>20</sup>

The Miller Act unanimously passed both houses, but the vote is slightly misleading. The attorney general warned that the bill would be declared unconstitutional on the basis that even though “the California Constitution authorize[d] the Legislature to create various classes of personal property, there is no . . . constitutional authorization for special classification of real property which must, therefore, be assessed in proportion to its value.”<sup>21</sup>

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<sup>19</sup> Von T. Ellsworth, “A Farmer Looks at Taxes” in SBE, *Papers Presented at 1954 Conference* (Sacramento, 1954), 193–203; Ellsworth’s own summary of his comments before the conference, as published in the *California Farm Bureau Monthly* (January 1955), 18, contains reference only to the suggestion that property assessment be “based on current earning power in its existing use.” He made no mention of agricultural zoning.

<sup>20</sup> CFBF, *Resolutions Adopted at the 38th Annual Meeting*, November 15, 1956 (pamphlet distributed to membership); CFBF, *Minutes*, v. 36, Annual Report of the Research Department and Legislative Actions, 36th Annual Meeting (1955); *CFB Monthly* (May 1961): 11; *California Statutes*, 1957, Chapter 2049.

<sup>21</sup> Memorandum from Ernest P. Goodman, deputy attorney general, to Governor Goodwin Knight, Governor’s Chaptered Bill File, Chapter 2049 (1957). Ronald B. Welch

The California Supreme Court had just reaffirmed this principle in *De Luz Homes, Inc. v. County of San Diego* (1955) by ruling that the term “full cash value” meant market value.<sup>22</sup> Thus, extremely doubtful constitutionality gave legislators an opportunity to support a popular cause knowing that the law would never be implemented.<sup>23</sup> The scenario evolved just so: Governor Goodwin Knight signed the bill, and the attorney general duly ruled the Miller Act unconstitutional.

Still, even if some legislators had voted conservatively as strict constitutionalists, the bill probably had enough support to pass. In 1955, Assemblymen Francis Lindsay and Bruce F. Allen independently introduced legislation proposing use-value assessment for agricultural lands, although neither bill ever got out of committee hearings. The constituency behind Lindsay’s bill is unknown, but Allen intended his bill to bolster the 1955 Greenbelt Act. Santa Clara County farmers who pressed for exclusive agricultural zoning naively expected County Assessor Hayden Pitman to recognize zoning classification as a legitimate criterion in determining assessed valuation. But Pitman was one of the few county assessors who actively supported intercounty equalization. He refused to consider exclusive agricultural zoning as a determinant of value, arguing that any type of zoning reflected political pressure brought to bear by special interests who were responding to market forces. Thus, the market, not zoning, determined value. Pitman did not stand alone: the County Assessors’ Association and the State Board of Equalization also took this position. The

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of the SBE was one of those who disagreed with the attorney general. Welch believed that only the words “within the near future” (in the Miller Act) violated the Constitution. Article 13, section 1 required that real property be assessed in proportion to its value. Although “value” had been *defined* as “full cash” or “market” value since 1922 (in accordance with a California appellate court ruling in *Wild Goose Country Club v. Butte County*), in practice, property tax appraisals were sporadic and assessment rates varied so widely as to render “in proportion to” virtually meaningless.

<sup>22</sup> *De Luz Homes, Inc. v. County of San Diego*, 45 Cal.2d 546 (1955).

<sup>23</sup> Race D. Davies, “Preserving Agricultural and Open-Space Lands: Legislative Policymaking in California,” Environmental Quality Series, no. 10 (Davis: University of California Institute of Governmental Affairs, June 1972), 23, 63; Rita M. Mize, “Interest Group Opinion and California Land Use Legislation,” Environmental Quality Series, no. 13 (Davis: University of California Institute of Governmental Affairs, December 1972), 10.

CFBF emerged as their counterforce and lobbied on behalf of both Allen's and Lindsay's bills.<sup>24</sup>

Provisions of the 1955 Greenbelt Act left it to expire in two years, which put agricultural zoning lobbyists back in Sacramento in 1957 to push for an extension. In the meantime, Maryland passed (1956) the first state law requiring preferential taxation of farmland. Negotiations between zoning and preferential taxation forces in California were thus virtually inevitable. Zoning advocates wanted legislation that would also provide tax breaks for agricultural landowners. The CFBF, for its part, was suspicious of, but not yet hardened against, zoning. As a result, the two interest groups merged forces, and both the second Greenbelt Act and the Miller Act easily passed the Assembly and the Senate. Despite the attorney general's ruling on the Miller Act, the legislative course had been set, and the next several years witnessed the triumph of preferential taxation over zoning and agricultural land-use planning.

Although a few individual farmers and some taxpayer groups questioned the motives of those who sought to wed agricultural zoning and use-value assessment,<sup>25</sup> the CFBF now lent its unqualified support to the

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<sup>24</sup> Davies, 24; SBE, *Property Tax Assessment, Santa Clara County* (Sacramento, 1951), especially 33–39, 41. See also an unpublished address given by Welch before the Sacramento Mother Lode Supervisors' Association meeting on June 4, 1964, "Agricultural Zoning and Assessment of Farm Land" in which he reviewed the shortcomings of the 1957 Miller Act as perceived by assessors (located in California State Library, Government Publications). Pitman was a member of the Executive Committee of the County Assessors of California Association (CACA) during the early 1950s. He also served as the chairman for a joint SBE/CACA committee that drafted the 1956 Monterey Agreement, the purpose of which was to revise equalization procedures and techniques that many county assessors found objectionable in order that intercounty equalization could proceed; see SBE, *Papers Presented at 1956 Conference* (Sacramento, 1956), 1–11. Even when the Miller Act passed, but before it was ruled unconstitutional, Pitman announced that he would not ignore proximate urban development when assessing farmland, regardless of zoning, a position generally supported by the CACA (see *San Francisco Examiner*, September 15, 1957, Peninsula Section).

<sup>25</sup> A rice grower, for example, attending a discussion on agricultural zoning and preferential taxation sponsored by the Commonwealth Club, charged that farmers who favored such legislation were simply seeking a "tax dodge" (*Transactions* 52 (1958): 82–83); the president of the Stanislaus County Taxpayers' Association questioned whether agricultural zoning would give county assessors unwarranted power to determine land-use planning policies (Assembly, Interim Committee on Conservation, Planning,

idea. Robert Hanley, replacing Von T. Ellsworth as the CFBF's legislative representative, stated before a meeting of citrus growers that the "Farm Bureau has for many years supported the theory that land should be assessed on the basis of current use rather than potential use."<sup>26</sup> Hanley thereby revealed how selective the federation's collective memory was once it found a policy that had wide appeal among its many members. Advocating preferential tax treatment for land zoned agricultural use allowed the CFBF to serve without contradiction those farmers who wanted to remain in farming and those who wanted to sell to developers.

Although the Miller Act failed the constitutional test, two years later a legislative measure designed to establish use-value assessment for nonprofit golf courses quietly passed both houses of the Legislature. Assemblyman Alan Pattee of Monterey County introduced ACA 29 during the 1959 session; and after the measure passed the Legislature, California voters approved the referendum in 1960. Considering that Pattee was a member of the Assembly Committee on Agriculture and that, during the 1959 session, he also introduced an unsuccessful bill (AB 1860) proposing preferential assessment for agricultural land, the golf course tax amendment may have been designed, in part, to test voter sentiment for use-value assessment.<sup>27</sup>

Encouraged by the success of the golf course amendment, advocates of preferential assessment for agricultural land launched a major legislative effort. Three such measures were introduced during the 1961 session,

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and Public Works, *Proceedings, Fresno, January 24, 1958*, 119). These are only two of many remarks delivered at public hearings on the issue; they are cited not because they are typical but because they are intelligible. All too frequently those who appeared to testify at public hearings simply wanted to vent their feelings, usually hostile, without stating clearly their objections.

<sup>26</sup> As reported in *CFB Monthly* (November 1957): 2.

<sup>27</sup> Legislature, *Final Calendar*, 1959 Regular Session; California Constitution, article XIII, section 2.6, adopted November 8, 1960, read:

In assessing real property consisting of one parcel of ten acres or more and used exclusively for nonprofit golf course purposes for at least two successive years prior to the assessment, the assessor shall consider no factors other than those relative to such use. He may, however, take into consideration the existence of any mines, minerals, and quarries in the property, including but not limited to oil, gas, and other hydrocarbon substances.

Section 2.6 was repealed in 1974 and replaced in the same year with section 10, an almost identical provision.

but only Assemblyman Paul Lunardi's ACA 4 passed both houses to find a spot on the November 1962 ballot as Proposition 4. The measure was designed to amend the state Constitution to allow use-value assessment of agricultural land only if the property had been in agricultural use for two years prior to the new assessment and if the owner would agree to keep the land in agricultural use for a minimum of five years.<sup>28</sup> Lunardi's bill marked the first time that the restrictive covenant, rather than agricultural zoning, was advanced as the control mechanism that might make preferential assessment acceptable to a majority of voters.

Inasmuch as Paul Lunardi replaced Francis Lindsay as the Sixth District assemblyman in 1958 and both were leaders in bringing preferential assessment before the Legislature, it is reasonable to assume that both were responding to constituents' demands. The Sixth District, therefore, requires some discussion. In terms of geographical area, it is vast, covering ten counties during the late 1950s, eleven during the early 1960s: Alpine, Amador, Calaveras, El Dorado, Inyo, Mariposa, Mono, Nevada, Placer, and Tuolumne (Lunardi also represented Yuba County). None of these counties was experiencing rapid urban growth. All were sparsely populated, and the majority of real property was assessed as rural. Yet none of these counties was a major agricultural county, and agricultural pursuits were largely confined to stock ranching and fruit growing. Thus, one would characterize the Sixth District as rural, but not heavily agricultural. It is therefore puzzling why Sixth District constituents sought preferential taxation on agricultural land.

Data compiled by the State Board of Equalization suggest that the preferential tax movement, at its inception, was a rural-based effort to hold the line on property tax increases. Several Sixth District counties were exceptionally slow to comply with intercounty equalization efforts. When the State Board of Equalization began issuing equalization orders in 1955, the statewide assessment ratio for all types of property was 22.1 percent and rural property average assessment ratios were generally lower. In 1962, the overall statewide ratio was still 22.1 percent; the overall rural property assessment ratio only 20.8 percent.<sup>29</sup> Disaggregated calculations for 1960–62

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<sup>28</sup> Legislature, *Final Calendar*, 1961 Regular Session.

<sup>29</sup> Senate Fact Finding Committee on Revenue and Taxation, *Report of the Committee, Part 9: Property Taxes and Other Local Revenue Sources*, (Sacramento, March 1965), 39.

rural property assessment ratios indicate, furthermore, that assessors in twenty counties were making little attempt to equalize rural assessments with those on other types of property in their own counties. Seven of these twenty counties lay in the Sixth Assembly District.<sup>30</sup> The data thus suggest that the preferential tax movement gained initial strength among rural property owners in sparsely populated Sierra Nevada counties. Agriculturalists in these counties most likely were stock raisers or fruit growers. Urban real estate market forces were not increasing assessed valuations on their property, but State Board of Equalization efforts were or soon would. The board's efforts, moreover, came at a time when exemptions were seriously eroding local tax bases. Veterans' property tax exemptions, for instance, which accounted for the largest dollar loss, rose almost 62 percent from 1954 to 1962. Church exemptions increased by almost 189 percent, educational institution exemptions rose 199 percent, and welfare exemptions increased 325 percent.<sup>31</sup>

Proposition 4 proved to be controversial. Many tax assessors opposed the referendum, and State Board of Equalization member Richard Nevins even coauthored the negative argument in the voter pamphlet. Among other things, Nevins argued that preferential assessment of agricultural lands would encourage "tax-sheltered" land speculation and ultimately force higher tax assessment on private homeowners, business, and industry.<sup>32</sup> But Nevins' board

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<sup>30</sup> Ibid., 48, 107; SBE calculations appearing on these pages are coefficients of dispersion, which show to what extent individual assessments vary from the average. A zero coefficient of dispersion indicates absolute uniformity of assessments among all types of property on the secured role. High coefficients of dispersion indicate increasingly less uniform assessments. These calculations are not entirely reliable inasmuch as they are based on a stratified sampling of assessments. Nevertheless, the State Board of Equalization generally considered a coefficient of dispersion figure of 50 or above to indicate assessment problems due to internal practices rather than external market forces. The 20 counties with coefficients of dispersion at 50 or greater were, in ascending order, Butte, Riverside, Alpine, Del Norte, Tuolumne, Siskiyou, Amador, El Dorado, Yuba, Lake, Solano, Sierra, Nevada, Kings, Inyo, Imperial, Santa Barbara, Fresno, Madera, and San Bernardino.

<sup>31</sup> Ibid., calculated from figures which appear on p. 63. Between 1954 and 1962 veterans' exemptions increased from \$48,786,000 to \$75,738,000, church exemptions from \$6,786,000 to \$19,481,000, college exemptions from \$3,253,000 to \$9,728,000, and welfare exemptions from \$5,823,000 to \$24,761,000.

<sup>32</sup> California Secretary of State, *Ballot Arguments*, General Election, November 6, 1962, 9–11.

colleague, George R. Reilly, disagreed. Reilly argued that “if the increase in value of farm lands can be slowed down or stayed for a reasonable period of time” with a policy of preferential taxation buttressed by a “vigorous” policy of agricultural zoning, then a farmer might “continue his agricultural pursuits” and “support the governmental services required by the urban community.”<sup>33</sup> Another State Board of Equalization official, Ronald B. Welch, found it impossible to predict the voter outcome. On the one hand, he noted that public sentiment seemed to favor replacing the traditional ad valorem property tax system with a classified system based on use-value assessment. On the other hand, Proposition 4 would create an assessment system requiring land to be appraised at both market value and use value, a system that would be unwieldy and extremely difficult to administer.<sup>34</sup>

Proposition 4 proponents presented a united front and ran a strong campaign. Paul Lunardi picked up eighteen (bipartisan) coauthors for his bill, and he also helped to direct the voter campaign. In July 1961, he and two other assemblymen formed the “ACA-4” committee. Six months later, after the committee attracted interest from the state’s major farm organizations, it dissolved into “Californians for Proposition 4.” Lunardi was elected chairperson of the steering committee, which included Gordon Van Vleck, president of the Cattlemen’s Association; Louis A. Tozzoni, CFBF president; Blain [J.B.] Quinn, master of the California State Grange; and Keith Mets, president of the Council of California Growers. Californians for Proposition 4 spent almost \$120,000 on its campaign. The Cattlemen’s Association contributed more than \$17,000 of this total; the CFBF contributed nearly \$11,000; and identifiable donors of \$1,000 or more included the Irvine Company, Imperial Valley Farmers Association, Inc., Sunkist Growers, an ad-hoc organization called the Agricultural Council of California, Bailey Farms Company, Diamond Walnut Growers, Inc., and Fruit Growers’ Supply Company.<sup>35</sup> Farm interest groups and corporate agriculture clearly had decided to support preferential taxation.

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<sup>33</sup> As reported in *CFB Monthly* (November 1962): 5.

<sup>34</sup> See typescript of address entitled, “Preferential Taxation of Farm Property,” delivered at a symposium on Proposition 4 sponsored by the University of California, Los Angeles, Graduate School of Business, June 8, 1962, Papers of Ronald Welch, California State Board of Equalization, Sacramento.

<sup>35</sup> Davies, 26–27.



Despite proponents' well-organized and reasonably well-financed campaign, the referendum failed, but only by a slim margin: 2,384,064 to 2,147,761.<sup>36</sup> During the post-mortem, several reasons were advanced to explain its defeat: voter belief that farmers would receive an unwarranted subsidy, that larger landholders would realize greater benefits, and that the measure would encourage speculators to go even farther into the hinterland in search of inexpensive, developable land.<sup>37</sup> Californians for Proposition 4 also attributed defeat to an underfinanced campaign. Though they failed to marshal a majority of votes in 1962, the vote was close enough to mobilize the losers for a second attempt.

## PLANNERS RETREAT

The 1957 legislative session marked the first and last time that agricultural zoning and preferential tax advocates joined forces. With passage of the 1959 Open Space Act, "open space" became a catchword among planners seeking a politically feasible agricultural land preservation strategy. In a March 1960 speech before the State Board of Agriculture, Karl Belser congratulated Farr on having authored the most farsighted proposal that he had seen laid before the Legislature. Belser noted that although the Open Space Act did "not seem to have the broad application to agricultural land," it did "open the door" for land conservation policies that applied to "functional open space," by which he meant agricultural land, watersheds, and flood plains.<sup>38</sup>

In June 1960, Elton R. Andrews, planning officer for the State Office of Planning, also spoke before the Board of Agriculture and presented it with a similarly reasoned argument for state agricultural land-use planning. He pointed out that the Legislature had directed the SOP to produce a general plan that included recommendations for conserving lands valuable to the

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<sup>36</sup> California Secretary of State, *Statement of the Vote*, General Election, November 6, 1962, 29. A majority of voters in 38 counties voted for Proposition 4; these counties included eight of the 11 counties in the Sixth Assembly District and 17 of the 20 counties where assessment practices could be deemed questionable.

<sup>37</sup> As summarized in Mize, 15–17.

<sup>38</sup> "The Encroachment of Urban Development into Agricultural Areas," TS copy of address delivered to member of the California State Board of Agriculture, Sacramento, March 21, 1960 (Records of the Board of Agriculture, 1960).

state for their actual or potential agricultural, forestry, mining, recreation, fish, and wildlife uses. Andrews therefore asked the board to consider agricultural land conservation as a “segment of the larger land use problem of conserving land for a variety of ‘open’ or low-intensity uses,” in hopes of winning the board’s support for the State Development Plan concept. He was optimistic that if the state agencies which had an interest in agriculture and land use could “identify the place of agriculture in the open space pattern,” then the state could find a suitable agricultural land preservation policy. As Andrews freely admitted, his notion of a suitable policy might “be attacked as politically unrealistic,” but his convictions nonetheless led him to assert that “either strict state zoning or some method of acquiring control of development rights,” were the only policy options that would be effective.<sup>39</sup>

Although Senator Farr introduced legislation in 1961 that would have expanded the Open Space Act to authorize state purchase of property easements, his effort failed.<sup>40</sup> Moreover, while the SOP was busy trying to find funds to proceed with the state development plan, organized farm groups successfully blocked a state government reorganization attempt that would have facilitated state land-use planning. In February 1961, Governor Edmund (Pat) Brown announced his intent to reorganize the state government bureaucracy under eight agencies, the directors of which would form a cabinet to formulate policy for the executive branch. The “agency plan” was to take effect on October 1, 1961, with William E. Warne, director of the Department of Water Resources and former director of the Department of Agriculture, as the new director of the most controversial proposed agency, the Resources Agency. Under Brown’s reorganization plan, five departments were to be subsumed under the Resources Agency: the departments of Agriculture, Conservation, Water Resources, Fish and Game, and Parks and Recreation.<sup>41</sup>

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<sup>39</sup> “The Place of Agricultural Lands in the Comprehensive Open Space Program,” TS copy of speech delivered to the California Board of Agriculture, Sacramento, June 20, 1960 (Records of the Board of Agricultural, Urban Sprawl Subject File, 1960).

<sup>40</sup> Davies, 73–74.

<sup>41</sup> “Statement of Governor Edmund G. Brown on Reorganization of State Government,” transmitted to the California Legislature, Monday, February 13, 1964, Papers of Governor Edmund G. Brown, California State Archives; California Resources Agency, *The Story of the Resources Agency of California; Organized for Conservation, Economy, Efficiency* (Sacramento: November 1961), 3–7.

No sooner had Brown's proposal been introduced to the Legislature than the CFBF, the California State Grange, the California Council of Agriculture, the Cattlemen's Association, a score of smaller agricultural interests, and the State Chamber of Commerce showered letters of protest upon the Board of Agriculture. In similarly worded messages, each of these organizations demanded that the board do everything in its power to see that the Department of Agriculture remain an independent state agency. In the Senate, the CFBF used its influence before the Governmental Efficiency Committee, to which the bill was assigned for consideration. During the final hearing, the Senate committee acquiesced and amended the bill to remove the department from the proposed Resources Agency.<sup>42</sup> In an address delivered before the Governor's Conference on the Agency Plan, held in Sacramento on November 16, 1961, Brown noted that one of the objections to his plan was that it overlooked "legislative intent, particularly with respect to the Department of Agriculture." He assured those assembled that the department would "remain independent" of the Resources Agency.<sup>43</sup>

Without the Department of Agriculture securely linked to the Resources Agency, it was impossible for the director to develop legislative policies that included agricultural land resources. Moreover, when the State Office of Planning took a wait-and-see attitude toward agricultural

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<sup>42</sup> Letters to the Board of Agriculture from 18 organizations, each of which vehemently protested the governor's proposal. The wording of these letters is similar enough to indicate that the protest was centrally directed, although the responsible organization is, of course, unidentified. Records of the Board of Agriculture, 1961-1962, California State Archives; *CFB Monthly* (August 1961), 19.

<sup>43</sup> Mimeographed copy of the governor's address in Records of the Department of Conservation: Administration, General Correspondence, 1961, California State Archives. There is reason to believe that Governor Brown was trying to achieve centralized state resource planning via this reorganization effort. William Warne, the person chosen to head the Resources Agency, was concerned enough about urban fringe agricultural land problems to compile a file of pertinent materials while he was director of the Department of Agriculture. The file includes scattered correspondence indicating that Warne had spoken with others about the need to preserve "open areas near metropolitan concentrations" as well as a copy of *Green Gold*, published by the Santa Clara County Planning Department, and a preliminary report from the State Office of Planning recommending that the state undertake "regulation of land use of the acquisition of development rights" in order to preserve agricultural land resources" (see Records of the Department of Agriculture: Administration, Correspondence of Director William E. Warne, Urban Sprawl, 1960, California State Archives).

land preservation in 1964, planners finally realized that the Legislature would not adopt centralized land-use planning to conserve California's agricultural lands. The full meaning of home rule was now clear. By 1964, the outlook for state land-use planning was bleak, but not, however, politically hopeless. As the decade turned, planners discovered political allies among those who supported a new conservation movement. Their combined strength would indirectly influence passage of John Williamson's land conservation bill in 1965 and the companion tax act of 1966.

### THE CALIFORNIA LAND CONSERVATION ACT

In 1963, the Legislature proved it was ready to deal seriously with the preferential tax issue when the Assembly directed its Committee on Agriculture and Committee on Revenue and Taxation to conduct joint interim hearings on agricultural land use in relation to taxation, zoning, and urbanization. This marked the first time that two committees were conjoined to study agricultural land issues. The Assembly Committee on Agriculture had heretofore examined urbanization and farmland property taxation as only two of many problems facing California's agricultural industry. During the 1959 legislative session, the committee held eleven interim session hearings to investigate the problems facing small-farm operators in particular. After conducting lengthy discussions on vertical integration, cooperatives, collective bargaining, labor, chemicals and environmental health, water and power, urban growth, and taxation, the committee devised its so-called "Survival Program for California Agriculture." The eleven-point program was, in essence, a list of recommended legislation, and in last place was "legislation . . . to prevent the loss of our best farmland to sprawling cities and the spreading net of freeways."<sup>44</sup>

John Williamson, who eventually secured passage of the 1965 California Land Conservation Act (CLCA), sat as vice chairman of the Committee on Agriculture, becoming chairman in 1963. It was his first committee assignment upon coming to the Assembly in 1959; and at that time the

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<sup>44</sup> House Resolutions No. 324 and 410, Assembly Concurrent Resolution No. 65, *Final Calendar*, 1963 Regular Session; Assembly, Interim Committee Reports, *Vertical Integration, Family Farm, Agricultural Chemicals Greenbelting, Other*, 17, no. 9 (1959–1961), 7, 9–10.

committee concerned itself with problems specifically plaguing small-farm owners and operators. Williamson, although not a farmer, represented a rural district, Kern County, and he was, in his words, “pressed into being interested in the problem of agricultural land taxation.” He found, however, that “there still was not great concern among people over the plight of the poor farmer.” He and his colleagues tended to see themselves as responding to farmers “in areas where really good land was, which was around the San Francisco Bay in Santa Clara County.”<sup>45</sup> Since the late nineteenth century, the farming industry in Santa Clara County had been, of course, widely noted for its small-scale, high-yield orchard operations. Even as late as 1959, Santa Clara County farms averaged 158 acres; only four counties in California had lower average-sized farms.<sup>46</sup> Thus, without ignoring California’s burgeoning large-scale corporate agriculture sector, Williamson, as well as others, perceived small farm operations as the mainstay of the state’s agricultural industry. Indeed, they wanted to keep it that way.

When the Assembly committees on Agriculture and Revenue and Taxation held their first joint interim hearing, members listened to several agriculturalists promote variations on the preferential tax assessment theme. Representatives from the California Farm Bureau Federation, the California State Grange, the Agricultural Council of California, and the California Forest Protective Association (an association of commercial foresters), as well as the managing editor of the *California Farmer* and the director of the State Department of Agriculture appeared to support some form of use-value assessment. Their presentations opened with a standard litany of individual cases where owners of farmland in the path of urban growth were subjected to ever-increasing property tax bills which soon exceeded the farm’s net per-acre income, proof positive that the ad valorem tax system was outmoded. In response to committee questions, farmers acknowledged that they could not expect the Legislature to grant tax relief without also accepting recovery provisions so that government could recoup lost revenue when the land was converted to another use. Farmers also understood that recovery provisions would require assessors to record dual assessments on farm property, market value and use value, which would impose additional

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<sup>45</sup> Author interview with John Williamson, April 28, 1982, Davis, California.

<sup>46</sup> U.S. Bureau of the Census, *County and City Data Book*, 1959, 50.

administrative costs to be paid from reduced tax revenues. But, they argued, the present ad valorem principle was, in effect, pushing some bona fide farmers off the land. Farmers further admitted that some greedy individuals might misuse preferential or deferred taxation to evade property taxation. But, argued State Grange Master J.B. Quinn, without some form of use-value assessment, California stood to lose a “sound rural economy . . . [characterized] by efficient, independent farm families.”<sup>47</sup>

Although use-value assessment supporters held a clear majority among those testifying at the hearing, John Keith, chief deputy assessor of Los Angeles County, made a forceful, final effort to forestall what seemed almost inevitable. Boldly asserting the creed of all private property rights defenders, that “land and freedom are interlocked and inseparable,” Keith argued that “special privileges and exemption from the ad valorem tax on land tend to destroy the foundations of a free market in land, freedom of economic action, and thus our free society.”<sup>48</sup> In a curious way, those who argued for preferential taxation and Keith, with his impassioned plea to uphold ad valorem tax principles, were seeking the same goal: to keep agricultural land in the hands of as many owners as possible. The two sides exposed the fundamental dilemma facing legislators: how to fashion a policy to protect smaller, independent farmers from the undesirable consequences of urban growth without undermining private property rights.

While the two committees were conducting their joint study in 1964, the Assembly Committee on Revenue and Taxation simultaneously studied the state’s entire tax system with an eye toward major reforms. The Senate, meantime, launched its own comprehensive study of the state’s tax system to ascertain the need for tax reform. These investigative efforts included special inquiries into assessment patterns and property taxation in relation to land use.<sup>49</sup>

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<sup>47</sup> Assembly, Interim Committee on Agriculture and Interim Committee on Revenue and Taxation, *Proceedings, Joint Meeting, Fresno, January 30, 1964*; statements by Quinn, 58–59, statements by Elmer Melschau, San Luis Obispo County Farm Bureau, 76, 80.

<sup>48</sup> *Ibid.*, Appendix C, 15.

<sup>49</sup> See Senate, Fact Finding Committee on Revenue and Taxation report cited above; see also David R. Doerr and Raymond R. Sullivan, “Property Taxation and Land Use” in California, Assembly Interim Committee on Revenue and Taxation, *Taxation of Property in California; A Major Tax Study*, Part 5 (Sacramento, December 1964), 203–228.

In addition, shortly after Williamson was appointed chairman of the Committee on Agriculture in 1963, he put together an “industry advisory committee” with the aid of William Geyer, consultant to the Committee on Agriculture. Those asked to sit on the advisory committee represented several agricultural groups, tax assessors, and agricultural economists. John Kovakovich, a Kern County grower and a friend of Williamson’s, served as the Advisory Committee chairman. Other members included Don Collins, director of the CFBF Research Department; J. Herbert Snyder, professor of agricultural economics at the University of California, Davis; William Staiger, representing the Agricultural Council of California; Elmer W. Braun, an economic advisor with the State Department of Agriculture; Ronald Welch, executive secretary of the State Board of Equalization; “a couple of farmers from over around Calistoga”; an assessor; and a member of the County Supervisors’ Association.<sup>50</sup> The advisory committee represented, to a large degree, people who supported preferential taxation. Collins, Snyder, and Staiger had previously spoken in support of preferential taxation before legislative committee hearings. Ronald Welch was the only identifiable opponent of preferential taxation.

Williamson recalled that he and Geyer were initially “somewhat impressed with the idea of the acquisition of conservation easements,” although no outspoken advocate for conservation easements sat on the committee. The record substantiates Williamson’s claim. Early drafts of the bill that ultimately became the Land Conservation Act embodied transfer of development rights concepts. These proposals, primarily authored by Geyer, would have allowed farmers to transfer to counties the development rights on their land in return for just compensation from the county. Only prime agricultural lands (Class I and II soils as rated by the Soil Conservation Service) in an agricultural preserve were to be eligible, although prime “livestock acreage” was to be excluded “in an effort to avoid problems presented by ‘gentlemen farmer’ types of operations.” There was

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<sup>50</sup> Williamson interview; memorandum marked February 1965 from Clyde Blackmon to Jim Pardue, consultant to the Committee on Natural Resources and Conservation (Assembly Interim Committee on Natural Resources and Conservation, Working Papers, 1962–1964, California State Archives); see also Governor’s Chaptered Bill File, Chapter 1443 (1965), letter dated July 9, 1965, from John Williamson to Governor Edmund G. Brown.

hope among conservationists, at this point, that if Geyer's program proved to be workable for agricultural lands "it may have other applications in areas such as the conservation of open space, preventing reclamation of tidelands, etc."<sup>51</sup>

Williamson's advisory committee also considered agricultural zoning and concluded that "the laws the Legislature had adopted were pretty much useless because zoning just wasn't that permanent a restriction upon the use of the land." Agricultural preserves, i.e., aggregate minimum acreages of prime land, were seen as a means to circumvent the inherent weaknesses of zoning laws. Geyer also gathered information for the committee on the land conservation laws adopted by other states: Maryland (1956, 1957, 1960), Florida (1959), New Jersey (1960, 1963), Hawaii (1961), Oregon (1961), Connecticut (1963), and Indiana (1963).<sup>52</sup>

The bill that eventually emerged from the advisory committee was a hybrid of the development rights purchase approach and the preferential taxation approach. Instead of outright development rights purchase, which the committee rejected as prohibitively expensive, or unadulterated preferential tax assessment, which was bound to fail the test of constitutionality, the committee struck upon the idea of offering tax subsidies to farmers who would sign restrictive land-use contracts.<sup>53</sup> After this idea was agreed upon in principle, "the job then was to write the law in such a way that it would not be so burdensome that no landowner would put his land under the contract, but would still be meaningful enough that there would be a conservation aspect to it." To achieve this balance the committee decided that a ten-year, annually self-renewing contract would set a time limit neither too fleeting for most conservationists nor too permanent for most landowners.<sup>54</sup>

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<sup>51</sup> Williamson interview; memorandum dated December 1, 1964, from William Geyer, to members of the Advisory Committee, Assembly Interim Committee on Natural Resources and Conservation, Working Papers, 1962-1964.

<sup>52</sup> William H. Geyer and Peter Hanauer, "Preserving Agricultural Lands in Areas of Urban Growth: A Look at the Record," unpublished report prepared for the Assembly Interim Committee on Agriculture and the Advisory Committee on Agricultural Land Problems, May 20, 1964 (revised February 1, 1965). N.B.: where more than one date appears after a state, it indicates that additional legislation amended constitutional provisions requiring ad valorem property tax assessment.

<sup>53</sup> Williamson interview.

<sup>54</sup> *Ibid.*



These concepts defined the bill that John Williamson introduced as AB 2117 during the 1965 legislative session. Although the advisory committee redrafted the proposal several times before Williamson introduced it in the Assembly, the bill suffered many more amendments before it passed through both houses. The Cattlemen's Association succeeded in obtaining "the most basic and substantial amendment" in Williamson's view: It had been his and the committee's intent to ensure that only prime agricultural land would be eligible for the restrictive contract-tax subsidy arrangement. But Williamson had to settle for extending this provision "to include all agricultural land as it might be defined by the county board of supervisors" in order to secure support from this powerful group.<sup>55</sup> The amendment, in effect, eroded state control over the proposed program by allowing county governments, still catering to rural interests, to determine which agricultural landowners could participate.

Conservationists, according to Williamson, "were interested and supportive" of AB 2117, but "their objectives went so far beyond it that it just didn't seem to be all that important" to them. In contrast, there "was always opposition from farmers and landowners who thought they shouldn't have to make any kind of concession at all in order to get [lower tax] assessments." In any event, these two groups were seen as the extremists, "just philosophers, really." Williamson and the advisory committee were interested in crafting a bill that "would see the light of day, legislatively,"<sup>56</sup>

The formidable opponent was the League of California Cities, which "never did like the bill." On the last day of the session, Williamson personally shepherded the bill from the Senate Committee on Finance to the Senate floor for a vote, then on to the Assembly for a concurrence vote on the Senate amendments. As Williamson tells the story, he was about to enter the Finance Committee hearing when league Executive Director Richard Carpenter informed him in person that it would withdraw support

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<sup>55</sup> Ibid.

<sup>56</sup> Ibid. In an interview of January 13, 1982, Tom Willoughby, senior consultant to the Assembly Energy and Natural Resources Committee, also noted that the Sierra Club, the state's primary environmental political interest group in the early 1960s, was not concerned with agricultural land conservation. The Williamson Act, according to Willoughby, was designed to respond to the "myth" of the committed farmer on the urban fringe, a perception set before the Legislature, especially by the California Farm Bureau and the Cattlemen's Association.

unless Williamson amended the bill once more to exclude from contract eligibility all land within three miles of city boundaries. Angry that the league would attempt a last-minute sabotage, yet realizing their support was critical, Williamson reluctantly agreed to introduce legislation for that purpose during the next session. As luck would have it, he was defeated during the next election and thereby released from this onerous task once the CLCA became law.<sup>57</sup>

Williamson also introduced a companion bill, AB 3128, sponsored by the CFBF. This measure to amend the revenue and tax code required assessors to assume that land zoned for exclusive agricultural use and under contract, as provided by the CLCA, would remain in agricultural use indefinitely. It also passed both houses and received the governor's signature, even though the Office of Legislative Counsel doubted the bill's constitutionality.<sup>58</sup> Since AB 3128 was not a constitutional amendment, it had to be tested in the courts. Preliminary events were not encouraging. The owners of Greenbelt Ranch in Marin County signed the first Williamson Act contract, but the county assessor decided to base the new assessment on the assumption that the owners would give a notice of nonrenewal the following year.<sup>59</sup> Constitutional provisions governing property taxation still presented a stumbling block.

## THE TRIUMPH OF PREFERENTIAL TAXATION

In 1966 two measures were enacted that firmly anchored preferential taxation to the CLCA. Assemblyman Nicholas Petris introduced AB 80, later known as the Property Tax Assessment Reform Law, during the 1966 First Extraordinary Session. The measure was drafted in reaction to disclosures of bribery in 1965, after which several assessors, assessors' assistants, and taxpayers were indicted on criminal charges. The law revised state codes governing property tax assessment procedures and standards. It also upheld the 1965 companion act to the CLCA by

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<sup>57</sup> Williamson interview; *California Statutes*, 1955, Chapter 1443.

<sup>58</sup> Governor's Chaptered Bill File, Chapter 2012 (1965); *California Statutes*, 1965, Chapter 2012; *CFB Monthly* (August 1965): 12.

<sup>59</sup> Williamson interview.

directing assessors “to recognize the effect of enforceable restrictions on the use of land” when valuing land for property taxation.<sup>60</sup>

The second measure was the heretofore elusive amendment that extended classified taxation to agricultural land. Senator Farr, author of the 1959 Open Space Act, coauthored the measure with Assemblyman John Knox (Contra Costa). Not coincidentally, Knox represented a district where a grassroots conservation effort to “save San Francisco Bay” from industrial, commercial, and residential overdevelopment had gained considerable momentum.<sup>61</sup>

Farr introduced SCA 4, the Open Space Conservation Amendment, during the 1966 First Extraordinary Session. The measure would allow the Legislature to “define open space lands and provide that when such lands are subject to enforceable restrictions, as specified by the Legislature . . . [they] shall be valued for assessment purposes on such basis as the Legislature shall determine to be consistent with such restriction and use.” Although agricultural land was not mentioned specifically in the bill, legislators tacitly understood this to be the bill’s chief target. Such was not the case when Farr introduced the bill, however. Only after SCA 4 encountered committee opposition in the Assembly, did Farr seek Williamson’s help to keep it alive. Williamson’s committee consultant, William Geyer, and CFBF’s legislative advocate, Don Collins, helped Farr rewrite the bill which

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<sup>60</sup> *California Statutes*, 1966, Chapter 147; Arena, *History*, 75–76. Assessor scandals precipitated legislative action, but assessment treatment continued to vary from group to group despite 1950s’ equalization efforts. The latter circumstance also prompted Petris to call for tax study and reform, according to Joseph A. Janelli, director of Governmental Affairs for the CFBF, in an interview of January 21, 1982.

<sup>61</sup> See Rice Odell, *The Saving of San Francisco Bay: A Report on Citizen Action and Regional Planning* (Washington, D.C.: The Conservation Foundation, 1972). Catherine Kerr, wife of Clark Kerr, then president of the University of California, was the primary instigator. She and two other “faculty wives” began their efforts in 1960. By 1963, they had enlisted the active support of Assemblyman Nicholas Petris (Oakland); and by 1964, State Senator Eugene McAteer (San Francisco) had joined the force. Petris and McAteer cosponsored the 1965 legislation which established the San Francisco Bay Conservation and Development Commission. The Sierra Club was a major supporter of the effort, which marked the first time the club had ever given attention to an urban environmental cause. The movement also had overwhelming popular support. At its peak in 1965, the Save San Francisco Bay Association had 18,000 members.

finally passed both houses.<sup>62</sup> An uneasy conservationist–agriculturalist alliance echoed the tenuous farmer–planner coalition of 1957.

Once passed by the Legislature, SCA 4 appeared as Proposition 3 on the November 1966 ballot. Farm Bureau members were urged to support the measure to make the Williamson Act a “two-way bargain” between “the farmer” and “the public.”<sup>63</sup> Just who were “the farmers” and “the public?” The list of Proposition 3 supporters speaks for itself. In addition to the CFBF, support came from the Kern County Land Company, the Irvine Company, Tejon Ranch, Buena Vista Farms, the California Canners and Growers, Southern Pacific, the Santa Fe Railway Company, Crown–Zellerbach, the Sierra Club, the State Soil Conservation Commission, the Conservation Law Society of America, the California Labor Federation/AFL–CIO, the League of California Cities, and the California State Chamber of Commerce.<sup>64</sup> This unlikely assortment suggests that some supporters either misunderstood the bill’s intent or were willing to grant concessions in hopes of future political gains. In any event, urban voters decided the outcome. Whereas Proposition 4, almost identical in intent, had failed in 1962, Proposition 3, worded in less direct language and promoted as open space conservation, garnered sufficient urban support to pass by a margin of about 600,000. Critical support came from the counties of San Francisco, Contra Costa, Alameda, and Marin, where “yes” votes for Proposition 3 were considerably higher than the “yes” votes recorded in these counties for Proposition 4.<sup>65</sup>

Under the authority granted to it by Proposition 3, the Legislature immediately bestowed special assessment upon agricultural lands under Williamson contracts. Soon thereafter, other interest groups, from the outdoor advertising industry to the rock, sand, and gravel industry, began to press for preferential property tax treatment. The Legislature quickly responded by establishing a special joint committee to determine which land uses qualified as “open space” under Proposition 3.<sup>66</sup> The California Land Conservation Act, the Property Tax Assessment Reform Act, and the Open

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<sup>62</sup> Davies, 32, 94; *California Statutes*, 1966, Chapter 104.

<sup>63</sup> *CFB Monthly* (November 1966): 8.

<sup>64</sup> Davies, 33.

<sup>65</sup> *Ibid.*, 96–97.

<sup>66</sup> *Ibid.*, 98–100.

Space Conservation Amendment thus gave the Legislature the legal tools to create a more extensive system of classified property taxation. It was, however, a system in which the state bowed to the tradition of local autonomy over land-use decision making and vested implementing control with county governments.

## THE POLITICS OF CONSERVATION

The drive for preferential taxation that began in remote rural counties thus became California's land conservation strategy with the help of urban-based conservationists recently drawn to the cause of preserving "open space." Under the stipulations of the Conservation Amendment, "open space" meant whatever interest groups pressed legislators into defining as open space. But the California Farm Bureau Federation no longer spoke for the most powerful agricultural interests. During the late 1950s, the CFBF successfully promoted preferential assessment before the Legislature as the answer to a host of farm problems only to be overshadowed by an array of powerful corporate interests and newborn conservationists in the 1960s. Major legislative concessions had been made to the Cattlemen's Association, which promoted the interests of large landowners almost exclusively, in order to pass the CLCA. It was a crucial concession. One needs only to peruse the statistics compiled in 1971 by the Center for Study of Responsive Law to see why the Cattlemen's Association insisted that non-prime land be included in the Williamson Act in return for their support. As of 1970, 5,391,564 acres of land were covered by Williamson Act contracts; 3,821,494 acres, over 70 percent of the total, were classified as non-prime. The list of major tax beneficiaries then included Southern Pacific, Tejon Land Company, Kern County Land Company, Buena Vista Farms, three lumber companies, two oil companies, and a host of large landowners which included the Van Vleck family. As for solving the problems of smaller farm owners, between 1964 and 1969 the average farm size in California jumped from 458 acres to 627 acres.<sup>67</sup>

Conservationists, considered by most legislators to be an extremist, and therefore a politically unimportant group, suddenly gained strength

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<sup>67</sup> Robert C. Fellmuth, *The Politics of Land* (New York: Grossman Publishers, 1973), Appendix 2A [571–584, which are unnumbered in this section].

in the mid-1960s as the result of a single issue that had great voter appeal in a major metropolitan area: saving the San Francisco Bay from industrial polluters and corporate developers. Legislators representing agricultural interests were quick to capitalize on the conservationists' popular cause. Poorly organized conservationist groups, for their part, had few bargaining chips. Thus, to advance legislation that would sustain an energetic constituency, conservation leaders were willing to negotiate with agricultural interests. Legislators, of course, knew the full import of Proposition 3, but it is doubtful that Bay Area voters who helped to pass the measure looked beyond the shores of their treasured bay.

What happened to agricultural zoning? Contrary to what one might expect, legislative proposals for exclusive agricultural zoning continued to appear. But by 1965, agricultural zoning had proved to be no threat to urban development and expansion; the bold planning attempts in Santa Clara County had been ineffectual. By the mid-1960s, Karl Belser had become one of the most outspoken advocates for conservation easements and development rights acquisition as the only truly effective means of preserving agricultural land.<sup>68</sup> It is a sad commentary on the political process that by then, Belser, who helped to launch the agricultural land preservation movement, was pigeonholed as an extremist. While John Williamson and William Geyer sought initially to base agricultural land preservation legislation on conservation easements, they also failed to include its chief spokesman on the advisory committee.

In 1965, State Senator Robert Lagomarsino introduced the bill that finally extended exclusive agricultural zoning to all counties. Whereas Williamson had parried with the League of California Cities to exclude an amendment that would prohibit contracts on land located within three miles of municipal boundaries, Lagomarsino made no move to prevent an

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<sup>68</sup> Speaking before Williamson's Committee on Agriculture in mid-1964, Belser minced no words when he pointed out that the "ten years of study" devoted to agricultural land preservation had produced "very little" to "indicate any serious desire to activate a program oriented toward protecting for oncoming generations the limited amounts of truly valuable, high producing agricultural land in California." He urged the committee to take "strong action" and propose legislation for conservation easements or development rights acquisition. Assembly, Interim Committee on Agriculture, unpublished proceedings of seminar held on July 2, 1964, at San Jose, located in the California State Library.

identical three-mile exclusion amendment from being attached to his zoning bill.<sup>69</sup> The League finally succeeded in nullifying agricultural zoning near urban areas.

Consensus politics brought California into the forefront of those states enacting measures to preserve agricultural land and open space; observers hailed the restrictive covenant as a major advance. For some years, the CLCA was popularly perceived as sound environmental legislation, despite disclosures revealing the major tax beneficiaries to be large landowners and corporations whose chief interests were nonagricultural. Apologists freely acknowledged the act's shortcomings, but were quick to point out that its tax provisions enabled hundreds of small farmers to stay in business a little longer. So they did, but the degree to which the CLCA slowed urban growth is debatable. Moreover, the provisions of the act that defined qualifying agricultural land unquestionably helped large landowners, with property far removed from the possibility of urban development, to benefit.

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<sup>69</sup> Davies, 21–22; *California Statutes*, 1965, Chapter 1443.