

ENVIRONMENTAL
LAW

BOOK SECTION

THE CONSERVATION OF LOCAL AUTONOMY:

California's Agricultural Land Policies, 1900–1966

REBECCA CONARD

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THE CONSERVATION OF LOCAL AUTONOMY:

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FOREWORD

W. ELLIOT BROWNLEE*

Earlier this year Selma Moidel Smith, the editor-in-chief of *California Legal History*, contacted me to let me know that she wished to publish Professor Rebecca Conard's 1984 Ph.D. dissertation, "The Conservation of Local Autonomy: California's Agricultural Land Policies 1900–1966," in *California Legal History*. Ms. Smith had discovered that I had been the chair of Conard's Ph.D. committee in the Department of History at the University of California, Santa Barbara and asked for my assistance in locating her. I was delighted by the news. The dissertation was superb, and even in 1984 I knew that it should be published.

Let me explain a few things about the dissertation and the career of Rebecca Conard.

She entered the Graduate Program in Public Historical Studies as one of its first Ph.D. candidates. Previously, she had been an English major at California State Polytechnic University, Pomona, received an M.A. in Folklore at the University of California, Los Angeles, taught in the English Department at American River College in Sacramento, and completed a very large oral history project on "Century Farm" families for the State

* Research Professor, Department of History, University of California, Santa Barbara.

Historical Society of Iowa. She arrived at UC Santa Barbara with a strong interest in the problems of farming and land stewardship.

In the Ph.D. program Rebecca built on these interests, working within our Public History program in all of its three tracks: the history of public policy, cultural resource management, and community history. But her emphasis on the public policy track, which encouraged historical research that shed light on contemporary policy issues, seemed to develop logically from her current interests. And, it promised to lead to a dissertation that would contribute equally to a career in professional practice or university research and teaching.

Early on within the public policy track, she took a course on the history of national land-use policy developed by my colleague Otis Graham. His course was stimulating but her emerging interests turned out to be more in the realm of state and local policy. During an early conversation with me regarding a dissertation that would explore some aspect of the history of agricultural land-use policies, I suggested that she think about the role of property taxation and rural zoning. I knew that these policies played significant roles in the economic development of Wisconsin, and I wondered about their importance in California.¹ I learned in that conversation that she had taken an undergraduate course in economic history in which she had become intrigued with Henry George and his single-tax ideas. This was an interest I shared, and I encouraged her to begin her dissertation exploration by studying the California setting of the single-tax movement. She began to read in the nineteenth- and twentieth-century history of state and local taxation and zoning policies, state and local politics, federalism, and economic development. Several years later she had an outstanding dissertation on the origins and enactment of the California Land Conservation Act of 1965 (commonly known as the Williamson Act), the Property Tax Assessment Reform Law of 1966, and the Open Space Conservation Amendment (adopted by California voters in 1966).

Throughout Rebecca's years in the Public History program, she continued to develop expertise not only in the history of public policy but also the full range of topics and approaches that lie within the practice of public history. Clearly, the public policy route was not likely to satisfy all of her intellectual interests within the emerging field of public history.

¹ See, for example, Vernon R. Carstensen, *Farms or Forests: Evolution of a State Land Policy for Northern Wisconsin, 1850-1932* (Madison: University of Wisconsin Press, 1958).

In 1982, two years before completing her dissertation, she joined with another Ph.D. candidate in Public History at UC Santa Barbara in founding PHR Associates, a public-history consulting firm. The combination of talent, place, and timing was ideal. The firm flourished, and Rebecca remained in private practice until 1992. Amid the excitement and demands of her entrepreneurship and pioneering in public history, including the preparation of dozens of highly professional technical reports and history publications for historic preservation projects and historic resource studies, the cost and distractions required to turn the dissertation into a book seemed daunting, and they remained so in the years to come.

Rebecca returned to full-time university life in 1992, becoming assistant professor and director of the Graduate Program in Public History at Wichita State University. At the same time, she cofounded another consulting firm, Tallgrass Historians, headquartered in her native Iowa.² By that time, she had developed a broad-gauged program of work in historic preservation, nature conservation, and community history. She was producing a stream of scholarly publications that included, in 1997, an award-winning book exploring the history of American environmentalism in the context of the history of Iowa's state parks and preserves.³ The following year she moved to the Department of History at Middle Tennessee State University. She directed its public history program until her retirement in 2016. During these years she became established as one of the most prominent international leaders of the public history movement, shaping the ideas that define the field, publishing and lecturing widely, contributing mightily to a variety of professional institutions and organizations, and winning awards. During 2002–03, she served as president of the National Council of Public History, the most important professional organization in the field.

When Selma Smith prompted Rebecca to think about publishing her dissertation, she returned to the topic of land-use planning in California. She made a few revisions, the most important of which was the reworking of the final chapter. It now includes a survey of the legislative and judicial

² To describe Rebecca as a native of Iowa is an oversimplification of a complicated and significant dimension of her life. See Rebecca Conard, "Public History and the Odyssey of a Born-Again Native," *The Annals of Iowa* 67 (Spring 2008): 165–180.

³ Rebecca Conard, *Places of Quiet Beauty: Parks, Preserves, and Environmentalism* (Iowa City: University of Iowa Press, 1997).

adjustments to the Williamson Act since 1965. But no major revisions were necessary because there has been virtually no new scholarship that would bear directly on the core narrative of the dissertation.

Back in 1984, I would not have guessed that this would be so. I assumed that the passage of California's Proposition 13 in 1978, the consideration of similar measures elsewhere, and the growing strength of anti-tax movements would stimulate substantial historical research on the structure and impact of sub-national taxation during the twentieth century. Since 1984, there has been, in fact, a surge in scholarship on the history of taxation in the United States. But the historians and other social scientists doing this work (including myself) have focused by and large on the national level. A few scholars have discussed state and local taxation perceptively and in depth, but most of them have concentrated on earlier periods.⁴ A few others have analyzed the setting and legacy of the adoption of Proposition 13 in California, and at least one study has looked closely at the intersection of state and national politics.⁵ But these scholars begin their analysis in the 1970s, and they have little to say about earlier reform movements or the impact of those movements on the taxation of the vast resources devoted to agriculture in California. As I came to discover first-hand, during the years when I served on the Assessment Appeals Board of Santa Barbara County (a board of equalization), the legislation that Rebecca analyzes enabled the creation of a massive system of classified property taxation that has survived the long-term homogenizing force of Proposition 13 on the assessment process. By 2015, at least 14.8 million acres of California's farmland were enrolled in Williamson Act contracts. This represented approximately 47 percent of California's farmland and about

⁴ The scholars who have focused on state and local taxation in earlier centuries include, for example, historian Robin Einhorn, *American Taxation, American Slavery* (Chicago: University of Chicago Press, 2016) and *Property Rules: Political Economy in Chicago, 1833–1872* (Chicago: University of Chicago Press, 2001), and economist Alan Rabushka, *Taxation in Colonial America* (Princeton and Oxford: Princeton University Press, 2008).

⁵ Leading examples of the scholarship on Proposition 13 include Isaac William Martin, *The Permanent Tax Revolt: How the Property Tax Transformed American Politics* (Stanford: Stanford University Press, 2008) and Arthur O'Sullivan, Terri A. Sexton, and Steven M. Sheffrin, *Property Tax and Tax Revolts: The Legacy of Proposition 13* (Cambridge: Cambridge University Press, 1995). On the subject of the politics of tax federalism, see Michael D. Berkman, *The State Roots of National Politics: Congress and the Tax Agenda, 1978–1986* (Pittsburgh: The University of Pittsburgh Press, 1993).

30 percent of the state's privately owned land.⁶ In other words, huge swaths of California's agricultural land still receive preferential taxation, despite Proposition 13, because of implementation of the Williamson Act.

Rebecca Conard is the first historian to explore the reasons for this outcome and to set this story within the larger history of land-use planning in California. In the process, she develops important insights into American federalism, emphasizing the potential for state-level political movements with roots at the local level to bring about significant fiscal change.

Rebecca's dissertation appears in print at a time that is quite possibly crucial for the future of the Williamson Act, as amended by the Legislature and interpreted by the courts.

On the one hand, economic pressures may significantly weaken the effectiveness of the Williamson Act structure in protecting agricultural and open land. As Rebecca has pointed out in her concluding chapter, the "Great Recession" that began in 2008 essentially ended the state subventions that had provided local governments with incentives to write Williamson Act contracts. Meanwhile, economic pressures for the expansion of the housing stock will diminish the interest of many localities in entering into contracts. For example, the demand for housing by Silicon Valley employees, coupled with the building by the California High-Speed Rail Authority of a bullet train between San Jose and Bakersfield, would encourage the kind of developmental leapfrogging in the Central Valley that the architects of the Williamson Act had hoped to discourage. Arguably, the people of California need to understand both the contributions of the Williamson Act and the economic pressures that now threaten to erode those contributions.

On the other hand, California's state government aspires to assume global leadership in environmental planning and innovation. If this impulse leads the state's political leaders or environmentalists to a wide-ranging discussion of land-use planning, Rebecca Conard's dissertation might well have a much greater impact on public policy than she hoped for in 1984.

Santa Barbara, California

August 31, 2017

⁶ California Department of Conservation, *The California Land Conservation Act of 1965: 2016 Status Report* (Sacramento: California Department of Conservation Division of Land Resource Protection [DLRP], December 2016).

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ACKNOWLEDGMENTS

It is not often that a thirty-some-year-old dissertation catches the attention of an editor, so one can imagine my incredulity when Selma Moidel Smith contacted me a few months ago to express interest in publishing it. Thus, my thanks first to Selma for offering me the opportunity to revive a project I fully intended to see through to publication when it was fresh, and for suggesting that I look at the appellate and Supreme Court case law in updating it for publication now. Special thanks also to W. Elliot Brownlee, who served as my major professor at UC Santa Barbara, and helped Selma track me down. Having directed several dissertations myself in the intervening years, I understand the disappointment he no doubt felt when my publication plans stalled, then fell off the agenda. It was a pleasure to work with Elliot again as I revised portions of the original manuscript.

Several organizations and individuals supported this endeavor many years ago. A dissertation fellowship from the Lincoln Institute of Land Policy in Cambridge, Massachusetts, enabled me to devote the academic year 1982–1983 to research and writing. Additional financial support came from the Sourisseau Academy at San Jose State University and a Humanities

Graduate Student Research Grant from the University of California, Santa Barbara.

Peter Detwiler, then director of the Governor's Office of Planning and Research, Local Government Division, provided me with office space in 1982 while I conducted research in Sacramento. During the same period, the late Joseph A. Janelli, then director of governmental affairs, and Russell Richards, then assistant to the president, California Farm Bureau Federation, arranged my entry into the federation's private archives in Sacramento. Lucas S. Stamos, then director of the Santa Clara County Planning Department, extended a similar courtesy and allowed me unrestricted access to the materials contained in the department's library.

The UCSB Interlibrary Loan Department staff cheerfully and expertly handled continual requests for materials. John Williamson, author of the 1965 California Land Conservation Act, and several other individuals, named in the bibliography, willingly granted interviews or responded to my written queries.

A shortened version of Chapter 1 was published as "Green Gold: 1950s Greenbelt Planning in Santa Clara County, California" in *Environmental Review* 42 (1985): 5–18, and other portions were published as "Suburban Encroachment on the Old North Forty: Effective Ways to Preserve Agricultural Land" in the *American Journal of Economics and Sociology* 42 (1983): 193–208.

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INTRODUCTION

In 1953, after a half-decade of unprecedented urban growth in the San Francisco Bay Area, fruit growers and county planners in Santa Clara County joined forces to implement exclusive agricultural zoning, hoping this device would curb municipal annexations and thereby contain rampant suburban sprawl. Local action touched off a state-level political debate over agricultural land conservation, which culminated in the California Land Conservation Act of 1965, commonly known as the Williamson Act, and the Property Tax Assessment Reform Law of 1966. With this legislation, the state adopted a voluntary-participation land conservation program based on property tax incentives for agricultural landowners and, more important, reinforced a long-standing state policy of allowing local governments to oversee land-use matters.

Post-World War II urban growth precipitated the farmland conservation movement, and the environmentalism of the 1960s and 1970s helped to sustain it. Between 1956 and 1980, nearly all fifty states adopted legislation to conserve a resource once considered to be inexhaustible: farmland. State laws embody diverse strategies for conserving agricultural land: preferential property tax assessment, deferred taxation, property tax credits against income taxes, inheritance tax benefits, agricultural districting, and agricultural zoning. Land banking, development rights purchase or transfer, and conservation easements are also among the strategies, although the amount of farmland that can be conserved with these tools is quite limited.

Tax-relief strategies are by far the most common, although often they are used in conjunction with agricultural districting, agricultural zoning, and/or restrictive contracts. As of 1981, forty-eight states had adopted tax-relief laws as all or part of the effort to conserve farmland.¹ This overwhelming tendency for states to enact tax relief provisions drew criticism from many quarters because such strategies are rarely attractive to agricultural landowners situated on the urban fringe where the potential profit to be realized from eventual land conversion outweighs the short-term tax

¹ Robert E. Coughlin and John C. Keene, senior authors and editors, *National Agricultural Lands Study: The Protection of Farmland* (Washington, D.C.: Government Printing Office, 1981), 56–60.

benefits. In short, what began as a movement to conserve farmland and thereby contain urban growth became, some say, a movement to maintain the status quo in farmland property taxation.² There is a certain amount of truth to such criticism. The negotiations behind the California Land Conservation Act certainly reveal the political clout of assorted agricultural interest groups in a state where agriculture is considered an essential part of the overall economy.

This study explores the political and economic aspects of land use on the local level, then examines the emergence of the Williamson Act within the larger context of twentieth-century state policies and politics affecting privately owned agricultural land. Chapter 1, a case study of agriculture and county planning in Santa Clara County, clarifies the local circumstances precipitating state action. Chapter 2 provides an overview of nineteenth century political conditions and the establishment of home rule in the 1879 Constitution, which placed local governments in control of the general property tax system. From 1900 to 1929 (Chapters 3 and 4), the state, building on the 1879 Constitution, expanded local control over the property tax and extended local government powers to include control over land-use planning. By 1930, California had created the essential foundation on which the Williamson Act would be created.

Federal New Deal programs, World War II, and postwar growth issues prompted the state to establish a succession of state planning agencies. These activities, discussed in Chapter 5, continually reaffirmed California's commitment to strengthening local governments by vesting them with regulatory power over land-use planning matters. In Chapter 6 the focus shifts back to Santa Clara County, where agricultural land conservation advocates managed to push a greenbelt measure through the state legislature. Then, in 1957, the California Farm Bureau Federation (CFBF) lent its full support to preferential taxation for agricultural lands. For the next decade, as detailed in Chapter 7, the CFBF helped steer state legislators toward a land conservation act that fit long-established state policies. The Williamson Act of 1965 and the Property Tax Assessment Reform Law of 1966 placed agricultural land conservation within the purview of local

² See, for instance, John Brigham, "The Politics of Tax Preference" in *Property Tax Preferences for Agricultural Land*, eds. Neal A. Roberts and H. James Brown, 97-117 (Montclair, N.J.: Allenheld, Osmun for the Lincoln Institute of Land Policy, 1980).

governments. The 1966 Open Space Conservation Amendment linked agricultural land conservation with a related effort among environmentalists to preserve open space through enforceable restrictions on land use.

A broader view of the political milieu in which the California Land Conservation Act was conceived enables one to see that this law protected more than farmland and open space: it reaffirmed local control over land-use matters, at least initially. The California experience thus raises interesting questions about intergovernmental relations, and I used American federalism as an analytical framework to argue that the Williamson Act primarily conserved local autonomy in land-use decision making.

Revisiting this study gave me an opportunity to examine how the Williamson Act is holding up a half-century after its passage. On the one hand, the biennial status reports of the California Department of Conservation, which monitors the Williamson Act program, tend to underscore its long-term success at protecting the productivity of nearly half of California's agricultural lands. On the other hand, a review of the legal and legislative history pertaining to the Williamson Act since 1965 reveals a gradual shift in administrative power from the local to the state level, which affirms the validity of analyzing this still-controversial law within the scholarly apparatus of American federalism.

At one point, I considered whether the shift was great enough to require a new title. Was the Williamson Act still conserving local autonomy? The Great Recession that began in 2008 has clouded the picture. Among other things, the recession triggered new changes in public finance, and, as a result, the state no longer subsidizes the property tax relief that counties and cities extend to agricultural landowners under the Williamson Act. This change has the potential to shift administrative power back to local governments, at least to some degree. In short, the power dynamic is still in play. For this reason, I decided the title should stand because it calls attention to the core element that makes the Williamson Act an intriguing piece of legislation.

A word of caution with respect to the review of appellate and state supreme court decisions, as well as legislative actions, that have reshaped the Williamson Act since 1965, which are covered in Chapter 8. I use the term "review" because time and circumstances did not permit a thorough examination of the legislative record and the entire corpus of case law

pertaining to the Williamson Act. Of necessity, I opted for the 30,000-foot perspective; thus, I surely have missed legal decisions and legislative enactments that would add both substance and nuance to the story. Still, the aerial view yields a defensible argument, but I trust that my interpretation will be challenged by new blood in the future.

Rebecca Conard
Iowa City, Iowa
September 11, 2017

Chapter 1

“SLURBANIZING” THE “VALLEY OF THE HEART’S DELIGHT”

“The Valley of the Heart’s Delight” is a quaint tag that community boosters could have hung on any one of many valleys throughout California as they appeared before World War II. The place that bore this particular label, however, was the Santa Clara Valley, located at the southern tip of the San Francisco Bay, and many of its inhabitants considered it aptly named. Orchards stretched across and down the valley, annually enveloping urban pockets in springtime blossoms. In 1921, Roscoe D. Wyatt, manager of the San Jose Chamber of Commerce, produced a film entitled “The Valley of the Heart’s Delight,” with which he intended “to tell the rest of the world about the wonders of the Santa Clara Valley” and promote San Jose “as the future hub of a vast urban and agricultural complex.” Three decades later his dream began to go awry. The label “slurb” is an insult that critics of urban sprawl could have hurled at dozens of conurbations that appeared after World War II, but Karl Belser, the Santa Clara County director of planning, first used it to describe the Santa Clara Valley.¹

¹ Robert C. Fellmuth, *Politics of Land: Ralph Nader’s Study Group Report on Land Use in California* (New York: Grossman Publishers, 1973), 32; Karl Belser, “The Making of Slurban America,” *Cry California* 5, no. 4 (1970): 1–21.

The following story might well have been told about several formerly scenic, rural areas of California: the dairies of Orange County or the San Fernando Valley, the orange and lemon groves of the San Gabriel and Pomona valleys, or the vegetable fields of coastal Santa Cruz County. The Santa Clara Valley story is important, however, because growers and planners in the county took their fight against aggressively expanding cities to the state legislature. The determined local effort to rescue farmland from the clutches of urban developers, more so than anywhere else in the state, provoked a decade-long battle to enact state agricultural land conservation legislation.

During the early 1940s, several cities across the nation struggled with the urban problems accompanying wartime mobilization and production, but no one fully anticipated the postwar urban growth awaiting Los Angeles and San Francisco. California's scenic mountains, fertile valleys, and rock- and kelp-strewn coast have lured settlers ever since the flamboyant Gold Rush era, when the state's population increased an average of 15.2 percent annually for a decade. For the most part, people have come seeking humble amenities rather than the promise of riches: better jobs in a mild climate. Following the abnormal 1850 to 1860 surge, the state's population grew yearly by about two-to-five percent (see Table 1). Natural increase accounted for as much as one-third of this annual growth, but most of California's new inhabitants consistently have been migrants. From 1900 to 1979, migrants, foreign and domestic, accounted, on average, for about three-fourths of each year's population increase.²

² Margaret S. Gordon, *Employment Expansion and Population Growth: The California Experience, 1900–1950* (Berkeley: University of California Press, 1954), 6, found that net migration accounted for 87.1% of the total California population increase in the decade 1900–1910, 83.8% in 1910–1920, 83.6% in 1920–1930, 85.5% in 1930–1940, and 72.2% in 1940–1950. Her figures therefore indicate that natural increase ranged between 12.9% and 27.8% between 1900 and 1950. Data compiled by and published in Robert K. Arnold, et al., *The California Economy, 1947–1980* (Stanford: Stanford Research Institute, 1961), 28, indicate that between 1941 and 1949 natural increase accounted for 23.2% of the new population, and between 1950 and 1959 the corresponding figure was 38.5%. Data compiled by the Bank of America for the Commonwealth Club and published in "Economic Problems of California's Rapid Growth," *Transactions of the Commonwealth Club* 51 (December 1956): 11, indicate that net civilian migration accounted for about 60% to 85% of decade-to-decade population increase from 1860 to 1955.

TABLE 1. CALIFORNIA POPULATION INCREASE

Decade	Average Annual Increase	
	Number	Percent
1850–1859	28,700	15.2
1860–1869	18,100	4.0
1870–1879	30,400	4.5
1880–1889	34,900	3.4
1890–1899	27,200	2.0
1900–1909	89,200	4.8
1910–1919	104,900	3.1
1920–1929	225,000	5.2
1930–1939	123,000	2.0
1940–1949	367,900	4.4
1950–1959	519,000	4.1
1960–1969	399,800	2.5
1970–1979	395,300	2.0

Data to 1959 compiled by Robert K. Arnold, et al. *The California Economy, 1947–1980* (Stanford: Stanford Research Institute, 1960), 25. Data from 1960–1979 from *Census of the United States, 1970, 1980*.

Conventional wisdom holds that the post–World War II immigration was unprecedented. Looking at absolute numbers, this is certainly true. Moreover, the annual rate of population increase during the 1940s and 1950s was substantially higher than that of the 1930s. But the growth rates of the 1940s and 1950s were hardly unprecedented. The state experienced a much greater rate of population growth during the 1920s than during any other decade after 1860. Then the population grew slowly during the 1930s, making the influx of the 1940s and 1950s appear unusually great. In addition, postwar population growth was most concentrated, as it had been in the past, near the state’s major urban areas (see Table 2). Thus, California’s rate of population growth was not unprecedented. The actual number of people moving annually into urban areas, however, exaggerated a settlement pattern that emerged in the 1920s, when scattered outlying communities, especially

TABLE 2. COUNTY POPULATION GROWTH THAT EXCEEDED STATEWIDE GROWTH 1940–1950 AND 1950–1960 (IN COUNTIES WHERE THE 1940 POPULATION WAS 50,000 OR MORE)

Area	Percent of Total Population Increase	
	1940–1950	1950–1960
The State	53.3	48.5
San Francisco Metro Area		
Contra Costa	197.6	—
Marin	61.8	71.5
San Mateo	110.8	88.6
Santa Clara	66.1	121.1
Solano*	113.4	—
Los Angeles Metro Area		
Orange	65.4	225.6
Riverside	61.1	80.1
San Bernardino	74.8	78.8
San Diego Metro Area		
San Diego	92.4	85.5
Other Counties		
Fresno	54.9	81.3
Kern	69.0	—
Monterey	78.7	52.0
Sacramento	62.7	81.4
Santa Barbara	—	72.0
Stanislaus	69.9	69.9
<p>* Solano County had a population of 49,118 in 1940. (—) indicates that growth was less than statewide average. Source: Census of the United States, 1940, 1950, 1960.</p>		

those around Los Angeles, began to acquire the populations that made them suburbs of larger cities.³

During the 1940s, growth was most remarkable in the San Francisco Bay Area, where the population doubled from 517,709 in 1940 to 1,062,245 in 1950.⁴ Three counties experienced the largest increases: Solano and Contra Costa to the east of the city proper, and San Mateo to the south. It was during the 1940s that the Bay Area began to acquire the population that transformed San Francisco from a city into a metropolitan region. During the 1950s, overall state population growth declined, but it continued unabated in the Bay Area as well as in the Los Angeles and San Diego metropolitan areas. To the north, the direction of urban growth shifted to the southern tip of San Francisco Bay in Santa Clara County; in the south, the Los Angeles metropolitan area swelled to fill Orange County and began pushing into San Bernardino and Riverside counties. Population growth in Santa Clara and Orange counties attracted attention because both had well-established identities as prosperous small-farming areas and both quickly lost their predominantly rural character to urban growth during the 1950s. In Santa Clara County, urban dwellers increased by 183.9 percent, while rural dwellers decreased by 61.1 percent. In Orange County, the urban population increased 361.4 percent, while the rural population decreased by 58.4 percent.

Such tremendous urban growth obviously had to affect the land resources in these two counties (see Table 3). In Santa Clara County, farmland decreased by 269,000 acres between 1945 and 1964, an average loss of 17,000 acres per year. The greatest losses were sustained between 1945 and 1950, when an average of 23,000 acres of farmland annually disappeared. In Orange County, although farmland was not converted to urban use as early, the drop in agricultural acreage, when it came, was sudden and nearly as steep. Between 1945 and 1950, the number of acres in Orange County

³ Judith Norvell Jamison, *Coordinated Public Planning in the Los Angeles Region* (Los Angeles: UCLA Bureau of Governmental Research, June 1948) includes a useful table of population growth from 1910 to 1947 that is arrayed by towns and cities as they were incorporated; see Table II, 4–5.

⁴ U.S. Bureau of Census, *Population Census, 1940, 1950*. The 1950 census lists eight counties or parts of counties combined to form the “San Francisco–Oakland urbanized area”: Alameda (part), Contra Costa (part), Marin (part), Napa (part), San Francisco County and City, San Mateo (part), Santa Clara (part), Solano (part).

farmland actually increased, but dropped in the early 1950s from 383,000 to 344,000 acres, a figure that held constant until the late 1950s. Then, between 1959 and 1964, the county lost about 100,000 acres of farmland to nonagricultural uses, an average loss of 20,000 acres per year for five years.

TABLE 3. NUMBER OF FARMS AND ACRES IN FARMLAND, 1945–1964

County	1945	1950	1954	1959	1964
Santa Clara					
Acres	727,000	589,000	590,000	529,000	458,000
Number	5,914	5,282	4,953	3,345	2,631
Orange					
Acres	347,000	383,000	344,000	346,000	243,000
Number	5,621	5,713	4,593	3,352	1,542
Source: U.S. Bureau of the Census, City and County Data Book, 1949, 1952, 1956, 1962, 1967.					

Both counties, moreover, lost well over half of their farms during those two decades. Nowhere else in the state were population growth and its geographic consequences so pronounced as in these two counties, where the dramatic postwar demographic shift set the stage for a major legislative preoccupation of the 1950s and 1960s: agricultural land conservation.

ORCHARDS TO INDUSTRY

Agricultural pockets survive, even if agriculture does not thrive as it once did, in the Bay Area and Los Angeles conurbations. Overall, California is still the nation's top agricultural producer, but in the postwar years, the state's economy became much more diverse. In the process, much of Santa Clara County was sacrificed to new, Cold War-generated industry. A combination of factors attracted industry to the valley after World War II: federal government-sponsored research in electronics, nearby urban markets, abundant and inexpensive land available for large plant operations, and cities and developers willing to underwrite the cost of infrastructures.

During the early 1950s, however, a small group of Santa Clara County growers and county planners watched industrialization and urban growth with a mixture of disbelief and anger, particularly since many of the valley's former caretakers were now among its chief despoilers and often considered protestations as attacks on "progress." To this concerned group, Santa Clara's fallen orchards presaged ruination: bulldozers were fashioning an example of rural California's future. The urgency of the situation prompted planners and growers to act swiftly and with determination. Despite, or perhaps because of, the urgency, they experimented with fresh but promising planning ideas in hopes of balancing urban growth with farmland conservation.

The shopping centers, rows of nearly identical houses, and industrial plants contrasted starkly with the valley's prewar beauty. Orchard growing in the Santa Clara Valley dates from the Spanish and Mexican periods when fruits and vegetables were grown, mostly on mission lands, for local consumption. Commercial orchards, however, came with the Gold Rush, as enterprising migrants took advantage of fertile soils, a temperate climate, and hungry gold-seekers to cultivate a profitable local fresh produce market. By the mid-1860s, growers were actually producing more than the local market could handle, inasmuch as the market area was geographically restricted by mountains to the east.

Commercial agriculture might have subsided with the Gold Rush except that the transcontinental railroad, completed in 1869, allowed growers to exploit eastern markets as well as new markets opening in the West. The port of San Francisco continued to handle a sizable tonnage of grain shipments, which railroad cars now sped to the docks; but after 1869, the port was also in competition with railroads for long-distance shipments. In the 1870s, local entrepreneurs developed the first commercial fruit drying and canning operations; this, combined with newly available rail transportation, further encouraged growers to expand production because they could ship preserved fruit quickly to points east. During the same decade farmers planting vineyards, grain fields, and vegetable crops began to push cattle ranchers toward the foothills; and by 1880 the commercial fruit and vegetable industry had forced out the grain industry as well. From 1870 on, growers worked assiduously to make the valley produce copious quantities of peaches, prune plums, plums, apricots,

cherries, walnuts, grapes, and a multitude of vegetables. By the turn of the twentieth century, nearly 100,000 acres of orchards covered the valley floor, which was neatly parceled into farms ranging from ten to one hundred acres in size.⁵

By 1920, orchard farming was so intensive that irrigators had irreversibly depleted the fresh water artesian basin beneath them, and the valley floor had begun to sink. The fertile soil and temperate climate nevertheless induced growers to remain, and the arrival of canneries encouraged continued expansion. In 1907, Libby, McNeil, and Libby shipped its first seasonal “pack” — four hundred tons of canned apricots and cherries. Later, Del Monte and Sunsweet opened operations in the valley; and in the early 1920s these three food-processing firms established the valley as a major cannery, fully compatible with the fruit, nut, and vegetable crops for which the area was now well known. Local trucking companies supplied fresh produce to a regional market; and two railroads, Southern Pacific and Western Pacific, carried fresh, canned, and later frozen produce throughout the United States. Between 1920 and 1940 this powerful, small-farm produce industry continued to expand, aided by Amadeo Giannini’s financing innovation: the branch bank. Statewide banking operations made it possible for the San Francisco–based Bank of Italy to offset possible losses in one agricultural sector or geographic region with potential profits in other sectors or regions. Diversifying risks allowed the bank to underwrite agricultural expansion without fear of extensive bank losses. Over 200 food-processing firms located in the valley between 1920 and 1940. In that same period, a water conservation program was established. In 1926, the Santa Clara Valley Water Conservation District began to promote and design a system of reservoirs that would store winter flood water to replace diminishing groundwater supplies; and in 1934 voters approved a bond issue that allowed construction to begin on

⁵ Lawrence Kinnard, *History of the Greater San Francisco Bay Region*, v. 2 (New York and West Palm Beach: Lewis Historical Publishing Co., 1966), 330–356; Gerald D. Nash, *State Government and Economic Development: A History of Administrative Policies, 1849–1933* (Berkeley: University of California Institute of Governmental Studies, 1964), 213–224; David W. Salmon, “The Metropolitan Area of Santa Clara County, California” (M.A. thesis, Stanford University, 1946), 37–47.

the first of six reservoirs that would sustain the agriculture fueling the valley's economy.⁶

By 1940, Santa Clara Valley was fully covered with modest-sized farms and small towns arrayed around the urban hub of San Jose. The county was among the most agriculturally productive in the entire United States. Agriculture and related industry accounted for over 90 percent of the county's employment; less than 8 percent of the workforce was employed by nonagricultural manufacturing firms. Nestled between the Santa Cruz Mountains and the Diablo Range, the county enjoyed a Mediterranean climate that made it, as the Chamber of Commerce advertised, the "Valley of the Heart's Delight."⁷

Industrial growth sparked postwar migration to the Bay Area. In Santa Clara County, as well as in the entire nine-county area, industrialization was the result of prewar federal defense planning, postwar industrial decentralization, and, to a lesser extent, Chamber of Commerce promotional efforts. In the 1930s, the federal government undertook the construction of several military installations to form a secondary ring of defense around the existing installations at the mouth of the San Francisco Bay. This secondary ring was located along the perimeter of the bay, and northern Santa Clara County was chosen as one of the sites. Between 1931 and 1933, the federal government spent about \$5 million to build Moffett Field. First known as Sunnyvale Air Station, it was originally intended for use by the Navy as the West Coast base for dirigible transport operations, although the Navy abandoned its plans for a transport fleet after the Akron and the Macon, its first airships, crashed in 1933 and 1935 mishaps.

Bay Area businessmen worked hard to bring this federal project to Santa Clara County. In 1928, the San Jose Chamber of Commerce initiated

⁶ Kinnard, *loc cit.*; *Population Census*, 1910, 1920; U.S. Bureau of the Census, *City and County Data book*, 1949; Jeanette Befame, "Anniversary for Libby, Growth Cited," *San Jose Mercury* [hereinafter cited as *SJM*], August 29, 1957, 21; Carey McWilliams, *California: The Great Exception* (New York: Current Books, Inc., 1949), 230–232; Seonaid McArthur, ed., *Water in the Santa Clara Valley: A History* (San Jose: De Anza College, California History Center, Local History Studies, v. 27, 1981), 21–41.

⁷ Santa Clara County Planning Department [hereinafter cited as SCCo Plan Dept], *Land Use Issues in Santa Clara County*, December 1963, n.p.; not only did the Chamber of Commerce use this slogan in its publications, but the chamber's letterhead bore this motto as well.

a fundraising effort to purchase land for the proposed air station. With assistance from the San Francisco Chamber of Commerce and the City of San Mateo, it eventually raised \$360,000 to secure the land it needed to persuade the Navy to build an installation at the southern tip of the bay. As the depression of the 1930s deepened, few citizens questioned the wisdom of courting a federal construction project which would inject \$5 million into the local economy.⁸

Military installations made the Bay Area attractive to industry, and World War II further demonstrated how military installations stimulated research and development operations. In 1940 the National Advisory Committee on Aeronautics began constructing Ames Research Laboratory near Moffett Field. The federal government, moreover, induced academic scientists into wartime service, and nearby Stanford University joined a handful of elite universities throughout the country in developing sophisticated electronic equipment for national defense purposes. Local industry also profited from the war effort. For example, Food Machinery and Chemical Corporation (FMC), the county's leading manufacturer of agricultural and food-processing machinery, also produced amphibious tanks during the war years. In 1951, FMC shifted its manufacturing emphasis when it procured a multimillion-dollar contract to build tanks for the Army. By 1956, nearly half of FMC's workforce was employed in the company's new ordnance division.⁹

The presence of a military base, defense-oriented research facilities, proximity to urban markets, and abundant land suitable for development made Santa Clara County attractive to new and expanding industries in the postwar years. In 1948, International Business Machines (IBM) established a card-printing plant in San Jose to serve its electronic calculators,

⁸ City of San Jose, *Your Government: The 1940 Municipal Report of San Jose, California* (San Jose, 1940), 32; Bob Crabbe, "Huge Moffett Field 20 Years Old — And Still Growing," *SJM*, April 12, 1953; "Old Timers Turn Back the Valley's Clock," *SJM*, June 13, 1956; Mel Scott, *The San Francisco Bay Area: A Metropolis in Perspective* (Berkeley: University of California Press, 1959), 221.

⁹ City of San Jose, *Your Government: The 1940 Municipal Report* (San Jose, 1940), 32, and *Your City Government, 1941-1942-1943* (San Jose, 1943), 6; "FM&C Plans Additional \$25,000 Expansion," *SJM*, January 31, 1951; "Work Swift on Ordnance Plant Here," *SJM*, April 7, 1951; County of Santa Clara, *1956 Bonds*, February 14, 1956 (voter pamphlet).

introduced in the same year. Also in 1948, Russell and Sigurd Varian, inventors of the klystron tube, founded Varian Associates, which in a few years was manufacturing more than eighty types of microwave tubes plus a variety of other electronic devices for use in the chemical, geophysical, and communications fields.¹⁰ Wartime prosperity, moreover, prompted the San Jose Chamber of Commerce to join the ranks of business organizations that sought to keep the postwar economy from foundering once defense industries shut down. In 1943, the chamber established committees to encourage industrial growth and plan for housing. The following year the chamber persuaded the San Jose City Council and the Santa Clara County Board of Supervisors to budget a total of \$35,000 to launch an ambitious advertising program. In 1950, the chamber boasted that over fifty new industries had entered the valley since 1944; by 1954, another 124 firms had joined them.¹¹

The industrial firms that appeared in the 1940s did not unduly disrupt the county's predominantly rural character. And even though growth was rapid by previous standards, most residents were generally satisfied with the steady integration of industry and agriculture during the 1940s. Their tandem strength was seen as a way to prevent the economic hardships experienced during the 1930s from recurring. Few imagined that industry would impair, let alone replace, agriculture. Industrial Survey Associates (ISA), a San Francisco-based consulting firm, prepared an economic survey for the San Jose Chamber of Commerce in 1948. In its report, the firm predicted that "agriculture w[ould] continue to be a major factor in the local economy" although it expected orchard production "to decline slowly in favor of more truck farming, dairying, and other operations" which would cater to a growing urban market for fresh produce. ISA furthermore predicted, inaccurately, that the population influx had peaked in the 1940s, and that the rate of growth would be much less during the 1950s.¹²

¹⁰ "IBM: Campus-Like Plant," *SJM*, January 19, 1958; "Big Spurt Shown by Varian," *SJM*, January 19, 1958.

¹¹ *SJM*, June 13, 1956; "Growth — A Statistical Picture" in *1956 Bonds*, n.p.; S.A. Miller, "San Jose Chamber of Commerce," in Bertha M. Rice, *The Builders of Our Valley* (San Jose, 1957), 111–112.

¹² Industrial Survey Associates, "San Jose and Santa Clara County: An Economic Survey with Particular Reference to Industrial Growth" (report prepared for the San Jose Chamber of Commerce and presented May 1948), 49–50, 53, 55–56.

The turning point for industrial growth in Santa Clara County came in February, 1953, when Ford Motor Company announced that it would relocate its Richmond, California, assembly plant to a 150-acre site near Milpitas, a small community northeast of San Jose. The plant was estimated to cost more than \$40 million and employ about 4,000 workers. The San Jose Chamber of Commerce quickly claimed to have played a major behind-the-scenes role in persuading Ford to relocate in the valley rather than in one of several other California sites also under consideration. A spokesperson divulged that the chamber had “been aware of the company’s interest in the San Jose area for some time, but since any adverse publicity might have jeopardized the company’s decision to move here, we had to deny all rumors.” The spokesperson further revealed that the chamber’s committee in charge of promoting industrial development had “compiled a mass of statistical material for the company through a third party” without bothering to inquire “for whom [the] information was being prepared.” Such dealings were by now commonplace for the chamber: it had “performed the same service in like circumstances in the past.”¹³

The chamber’s boast no doubt overstates its role inasmuch as Ford deliberately chose a site outside San Jose’s city limits and proximate to service from two railroads. Moreover, Western Pacific, from whom Ford purchased the assembly plant site, announced shortly thereafter that it would construct a 500-car switchyard to handle Ford’s rail traffic. Ford’s decision to enter the valley nevertheless was the cue that other firms had been awaiting. In mid-February, San Jose Steel announced that it had purchased a thirty-acre site about a mile south of the proposed Ford plant, where it planned to relocate its expanding operation. Later in the same month, Monsanto Corporation reported that it would move its western headquarters from Seattle to Santa Clara, where it would join a four-year-old plant which had “undergone almost constant expansion.” The latter news particularly concerned planners and many area residents, alerting them to the very real possibility that industrial growth might bring unwanted air pollution.¹⁴

¹³ “\$50 Million Ford Plant for San Jose,” *SJM*, February 4, 1953; “Ford Confirms Buying Site,” *SJM*, February 17, 1953.

¹⁴ “W.P. Will Build 500-Car Switch Yard to Handle Ford Plant’s Rail Traffic,” *SJM*, February 17, 1953; “S.J. Steel Buys Land Near Ford Plant Site,” *SJM*, February 25, 1953; “Monsanto Will Move West Headquarters to Santa Clara,” *SJM*, March 26, 1953; letter

Heady with success, the San Jose Chamber of Commerce launched another promotional campaign in late February, 1953, sending 2,000 selected industries brochures hailing the theme, “If it’s good enough for Ford, it’s good enough for us.” The *San Jose Mercury* and the *San Jose News* assisted the chamber by supplying, cost-free, reprints of their front-page stories announcing the Ford decision. Some valley residents were equally ecstatic, especially landowners in the Milpitas area, where real estate prices jumped from about \$1,250 per acre to almost \$2,000 per acre. One “working stiff,” as he identified himself in a letter to the editor of the *Mercury*, even went so far as to suggest publicly that Milpitas residents should “get on the ball,” for here was “a chance to change the name of ‘Milpitas’ to ‘Ford’ or ‘Fordson.’”¹⁵

Between 1953 and 1955, agricultural production and employment in Santa Clara County plummeted, while employment in the electronic and durable goods manufacturing industries soared. By 1956, three major industrial firms provided the lion’s share of year-round jobs: Ford Motor Company employed about 3,000, Westinghouse Electric Corporation another 3,000, and Food Machinery and Chemical Corporation topped 2,000.¹⁶ Canning and packing companies continued to provide many seasonal jobs, but their importance waned as more and more orchards vanished, replaced by urban places with sentimentally rural names such as Pruneridge Shopping Center, the San Tomas Orchards housing development, or the Blossom Hill Manor subdivision.

Industrial parks, a development concept simultaneously exploited by Stanford University, city governments, and major landowners — especially Southern Pacific — further encouraged industrial growth in the valley during the 1950s.¹⁷ Stanford University, for example, announced in April 1953

to author from Abraam Krushkhov, AICP, January 27, 1983 (Krushkhov served as a senior planner in the county planning department from 1952–1956, during which time he “participated as a planning staff member in all the discussions with Karl Nipper, the WPRR land agent, regarding the selection of Milpitas as the site for the Ford Motor Company plant.”).

¹⁵ “C of C Steps Up Its Drive for Industry,” *SJM*, February 26, 1953; “Board Okays Industrial Area Survey,” *SJM*, March 5, 1953; letter to the editor, *SJM*, February 9, 1953.

¹⁶ *Land Use Issues in Santa Clara County*, 4; *1956 Bonds*, n.p.

¹⁷ Robert W. Travis, “A Study of Industrial Site Development and Site Choice in Santa Clara County, 1950–1959” (mimeographed report, San Jose State University: Real Estate Research Bureau, n.d. but probably early 1960s), especially 13–24. Travis found

that it planned to locate industrial, commercial, and residential developments on 6,000 acres of its vast landholdings. The industrial area was to be situated conveniently adjacent to Southern Pacific lines. The first two occupants in the new Stanford Industrial Park were Varian Associates and Eastman Kodak; later they were joined by Lockheed's research division and many other electronics and nuclear energy research and development firms.¹⁸

Southern Pacific and the City of Sunnyvale cooperated in a similar venture. In the early 1950s, Southern Pacific began trading and buying land to secure contiguous parcels that, by mid-1956, became an industrial park of over 800 acres. During the same time, the City of Sunnyvale annexed parcels in the proposed industrial area, zoned them for industrial use, and used revenue bonds to purchase water and sewer lines. So determined were industrial growth advocates that when, in 1955, the owner of 200 acres in the area presented a request to have the zoning changed from industrial to residential so that he might erect a housing subdivision, the Sunnyvale Chamber of Commerce led a fierce campaign to prevent the change. Sunnyvale's pro-industry faction was rewarded in June 1956, when General Motors acquired title, from Southern Pacific, to nearly 250 acres of land in Sunnyvale's industrial area, where the company sited a new assembly plant. When Lockheed shortly thereafter decided to construct a new guided missile development center in the city's industrial park, growth advocates could hardly contain their joy over the prospects for a land sales boom.¹⁹

By the end of the decade, north Santa Clara County housed many of the leading firms in the research and development as well as the budding micro-electronics industries. In the late 1940s, nearly everyone welcomed industrial growth and corporate expansion, believing they would strengthen the local economy. Because no one foresaw that business and industry would undermine agriculture, no local governmental body was under pressure to establish land-use priorities.

that access to markets and availability of land for construction were the two factors that most influenced firms to locate in Santa Clara County in the 1950s.

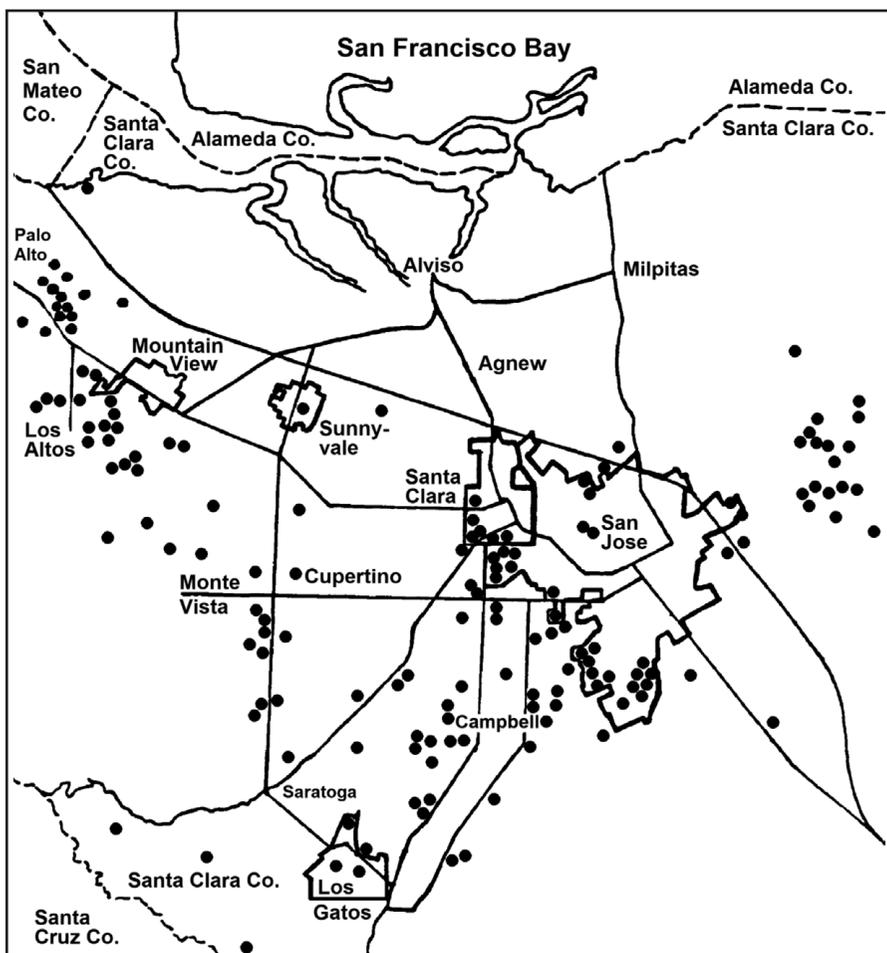
¹⁸ "Planning Firm Retained for Huge Development," *SJM*, April 23, 1953; "Lockheed to Build Big Missile Lab at Stanford," *San Francisco Chronicle*, February 1, 1956.

¹⁹ Glenn Brown, "City-Chamber Planning Nets G.M. Plum," *Daily Palo Alto Times*, March 31, 1956; "Sunnyvale Gets New G.M. Plant; Land Sales Boom," *San Francisco Examiner*, March 31, 1956; "General Motors Completes Sunnyvale Land Purchase," *SJM*, June 23, 1956.

URBAN GROWTH AND MUNICIPAL ANNEXATION RIVALRY

Industrial growth triggered population growth, and a vigorous real estate market emerged. In the nine months between April 1950 and January 1951, about 20,000 new residents settled in the county. Forty-five thousand followed during the next two years, and the stream continued uninterrupted. Huge subdivisions of moderately priced, look-alike houses

NEW HOUSING SUBDIVISIONS IN SANTA CLARA COUNTY



Dots indicate housing subdivisions that appeared in Santa Clara County from April 1950 to April 1951. Based on map designed by Santa Clara County Planning Department and published in the *San Jose Mercury*, April 15, 1951.

arose to accommodate this burgeoning urban population (see map, page 127). In the first three months of 1951, for instance, construction began on thirteen subdivisions ranging in size from 90 to 1,200 homes which, when completed, added nearly 7,000 single family dwellings to the existing housing stock. For the most part, these subdivisions were not sited within existing city boundaries, but hither and yon in unincorporated areas.²⁰

Whereas cities annexed land conservatively during the late 1940s to attract industry, the haphazardly placed subdivisions which housed the new workforce incited a municipal scramble for control over outlying residential areas. The Losse Ranch subdivision is an instructive example of what became commonplace. In March 1951, KAR Construction Company announced that it planned to build 500 single family dwellings “at popular prices for veterans and working men” on the 123-acre ranch, which it had just purchased for \$250,000. The parcel formerly belonged to what once had been among the largest fruit ranches in the valley — 446 acres of apricot, cherry, prune, and peach orchards originally purchased by Henry E. Losse in the 1880s. One-third of the original ranch, divided among Losse’s three children when he died, was sold to developers. KAR Construction ran into some difficulty, however, because the 123-acre ranch was three-quarters of a mile from the nearest city boundary. In order to avoid incurring unwanted costs for providing municipal services to the area, KAR sought to have the ranch annexed to the City of Sunnyvale. California law required that annexed land be contiguous with prevailing city boundaries, but Sunnyvale city officials realized that 500 lots of appreciating property would considerably enhance the city’s tax base. The city therefore agreed to undertake negotiations with the owners along a 200-acre strip of what City Manager H.K. Hunter termed “intervening property,” invoking the Uninhabited Territories Annexation Act to expedite these negotiations. This act, a heretofore little-used 1939 law, allowed cities to annex any contiguous territory in which fewer

²⁰ “County’s Population now 308,900 — Gain of 6.9%,” *SJM*, January 10, 1951; Norman Bowman, “Boom ’52 Promises Even Better for ’53,” *SJM*, January 1, 1953; Jeannette Befame, “Subdivision Homes Mushroom in County,” *SJM*, April 15, 1951.

than twelve registered voters lived if two-thirds of the landowners agreed to the annexation.²¹

Similarly, when San Jose wanted to annex land south of the city for future industrial expansion in late 1952, it also invoked the Uninhabited Territories Annexation Act and drew boundaries around approximately 440 acres in such a way as to exclude over seventy registered voters. It then further divided the land into two proposed annexation parcels, known as Monterey Parks One and Two, so that only six registered voters resided in one and only eight in the other, thus avoiding a vote of the affected residents.²²

Although Sunnyvale gained a justified reputation as an aggressive city, annexation rivalry was particularly keen between the cities of San Jose and Santa Clara. Whereas San Jose annexed land only fourteen times and Santa Clara only three times between their respective dates of incorporation and 1945, the situation began to change in 1946. In that year San Jose annexed four tracts, another five in 1947, seven in 1949, and ten in 1950, for a four-year total of thirty-two annexations. From 1946 through 1950, Santa Clara annexed only four tracts, but in 1951 the city suddenly annexed six tracts, then another nine in 1952, thereby adding over 500 acres to the city in two years. In the same two-year period, San Jose annexed another sixteen parcels totaling over 1,000 acres.²³

Some have attributed the genesis of annexation rivalry to one city official, A.P. Hamann, San Jose city manager, who gained local notoriety for quipping that San Jose would become the “Los Angeles of the North.” Hamann’s flagrant boosterism made him an easy target for the local media, but many city officials willingly, if self-defensively, played annexation one-upmanship. San Jose, however, eventually earned the dubious distinction of being called a “misplanned city,” based on evidence

²¹ “\$5,000,000 Subdivision Deal for Sunnyvale Area Revealed,” *SJM*, March 2, 1951; “300-Acre Area May Be Added to Sunnyvale,” *SJM*, April 7, 1951; *California Statutes and Amendments to the Code* [hereafter cited as *California Statutes*], 1939, Chapter 297.

²² “Four-Hour Hearing Bares Battle Lines” *SJM*, January 24, 1953.

²³ Annexation data compiled by Carlos Robert Cavanagh in “Urban Expansion and Physical Planning in San Jose, California: A Case Study” (M.A. thesis, University of California, Berkeley, 1953), 75–79; see also Keith Kaldenbach, “The ‘Topsy,’ and How They Grew,” *SJM*, February 6, 1955, Magazine section.

that city officials consciously allowed growth “to take place not where inhabitants as a whole wanted it, nor where reason dictated, but rather wherever developers chose.”²⁴

Developers chose to build wherever plentiful land could be purchased inexpensively, and, until mid-1953, there were no legal restrictions on the choice of location. Cities, in turn, vied with one another to annex revenue-producing residential, commercial, or industrial areas. During 1953 hardly a day passed that the local press did not report on the anarchic situation, often describing the fray in militaristic terms by likening proposed annexations to “encircling movements” or “pincers.” In March, 1953, San Jose’s assistant city attorney resigned “because of differences with his superiors over the city’s annexation program,” which included any sort of annexation bid not specifically prohibited by law.²⁵ The city attorney, whose legal acumen repeatedly helped San Jose to prevail in court, admitted that rivalry had led to “a fantastic series of conquests under the guise of annexations.”²⁶

Intercity warfare peaked and then subsided quickly in 1953, after Santa Clara County Assemblyman Bruce F. Allen introduced state legislation to replace the ineffectual County Boundaries Commission with a new annexation commission operating under guidelines designed to restore order to urban growth.²⁷ The Santa Clara County Planning Department and Planning Commission, moreover, began to take an increasingly active interest in annexation bids that threatened valuable orchard land. Cities suddenly realized that their squabbling had attracted outside attention which might have unwanted consequences.

²⁴ Stanford Environmental Law Society, “San Jose: Sprawling City. A Report on Land Use Policies and Practices in San Jose, California” (Stanford: Stanford Law School, March 1971), 16–28.

²⁵ “Rendler Out; Quits Over Annexations,” *SJM*, March 18, 1953. See also “Two Eastside Districts Drop Suit Against San Jose Annexation,” *SJM*, May 28, 1953 and “The Southern Annexations: Four-Hour Hearing Bares Battle Lines,” *SJM*, January 24, 1953.

²⁶ As quoted in Cavanagh, “Urban Expansion and Physical Planning in San Jose,” 40.

²⁷ Wes Peyton, “Strip Annexations Would Be Outlawed by Allen’s Measure,” *SJM*, January 18, 1953. The *Mercury* followed the progress of this and several other annexation bills Allen introduced in 1953, and the one bill that finally passed pertained only to rural school districts which might be included in municipal annexation proposals.

In the 1950s, the county's demographics shifted quickly in favor of urban or urbanizing areas, while the reins of county government remained in the hands of a decreasing rural, farm population. By 1958, three of the five supervisorial districts contained only 24 percent of the county's population. The more densely settled areas of western San Jose, Palo Alto, Mountain View, Los Altos, Los Gatos, Saratoga, Sunnyvale, and Almaden housed three-quarters of the county's residents, who were now represented by a minority of two on the county Board of Supervisors. Anticipating the emerging disproportionate representation on the board, cities banded together in mid-1954 to create the Inter-City Council (ICC) thinking that they "could achieve more if they went to the county government with a unified position," presumably meaning that they could prevent the county from interfering with municipal annexation plans. As a body that had only advisory powers and depended upon voluntary participation, the ICC never served as a "vehicle to answer area problems," as some of its members originally hoped it would. Nevertheless, the council created a forum that allowed city officials to declare a truce which eased intercity annexation rivalry.²⁸

THE RURAL BACKLASH: EXCLUSIVE AGRICULTURAL ZONING

In 1951, county officials declined to become embroiled in annexation issues because to do so would have interfered in municipal politics.²⁹ By 1953, however, aggressive municipal expansion had generated more than intercity rivalry; city officials had angered many local orchard specialists by encouraging so-called leapfrog urban growth and thereby enticing other growers to sell land for urban development. Fruit growers were particularly concerned because orchard crops require a long-term investment: new orchards do not immediately produce commercially profitable quantities.

²⁸ This information is taken from David Robert Armstrong's excellent case study of the Inter-City Council, which was done twelve years after the council's formation; Armstrong, "The Inter-City Council: An Experiment in Intergovernmental Cooperation in Santa Clara County" (M.A. thesis, San Jose State University, 1966), especially 52–53, 73–74, 89, and 94–99.

²⁹ "County, Palo Alto Planners Confer," *SJM*, January 18, 1951.

Escalating rural land values pushed up farm property tax assessments, which threatened to undermine the modest, but relatively stable profit margin on which growers operated.

Growers who did not want to sell their land were not, however, of one mind about how best to protect farmland vis-à-vis urban encroachment. In February, 1953, the Santa Clara County Farm Bureau challenged the County Planning Commission when the latter proposed an interim zoning plan for the unzoned eastern side of the county. The interim zone was intended to give county planning staff time to prepare a master plan with precise zoning recommendations based on a special land-use study the commission had just authorized. Farm Bureau president Wilton A. Stine criticized the need to zone, even on an interim basis, such a large area when “emergency situations” (i.e., conflicts arising from land-use decisions adversely affecting a limited number of agricultural landowners) were localized. He further charged that the proposal was “an attempt on the part of planners to place unwanted restrictions on property.”³⁰

Santa Clara County nonetheless inaugurated the farmland conservation movement in California on April 8, 1951, when the County Planning Commission proposed to amend the zoning ordinance and establish an exclusive agricultural zoning classification. This action came in response to an appeal presented by fifteen pear growers near Agnew, a small community located northeast of Santa Clara City. Planning Commissioner Will Weston was also one of the petitioners. Weston expressed hope that the Farm Bureau would support the proposed amendment, but the group declined to take a position at that time.³¹ The farm group did, however, establish a task force in mid-1954 to study the threat of urban expansion to the county’s agricultural industry as a whole, and the organization later went on record as supporting agricultural land protection. Nevertheless, Raymond C. Benech, one-time president of the Santa Clara County Farm Bureau and a former planning commissioner, claims that the group’s

³⁰ Santa Clara County Planning Commission [hereinafter cited as SCCo Plan Comm], *Minutes*, v. 8, 172, 211; “Farm Bureau Turns Cool Eye on Interim Zoning,” *SJM*, February 19, 1953.

³¹ SCCo Plan Comm, *Minutes*, v. 8, 254–255; “County Plan Board Asks Curb on Farm Land ‘Dwindling,’” *SJM*, June 18, 1953.

support only “meant that the Farm Bureau wanted land to be gobbled up very slowly so that farmers could get a higher price for their orchards.”³²

In the early 1950s, agricultural landowners clearly were divided over the issue of agricultural zoning, but there was no prolonged public debate that would define group interests. Eliciting no formal opposition to the proposed exclusive agricultural zoning amendment other than the cool Farm Bureau response, the Planning Commission formally requested the Board of Supervisors to approve the amendment. The board duly granted its approval. The ordinance created an exclusive agricultural zone classification that prohibited “uses which would destroy the value of certain areas for agricultural purposes.” Appropriate agricultural uses, however, were broadly defined in the ordinance to include nurseries, botanical conservatories, arboreta, riding academies, stables, fur farms, and guest ranches. Technically, therefore, the ordinance could be used to cover many land uses pursued by part-time or avocational farmers. The measure’s broad applicability and implementation based on voluntary inclusion no doubt explain, in part, why the measure was not opposed more vigorously. In April, 1954, the Planning Commission created the county’s first greenbelt: 744 acres of pear orchards near Agnew in the hands of fifteen owners (the same fifteen petitioners) whose orchards ranged in size from twelve to 240 acres.³³

A closer look at the record reveals that a handful of committed individuals actually created the exclusive agricultural zoning ordinance. Will Weston was indisputably the catalyst. As early as 1951 he enlisted the aid of County Planning Director Nestor Barrett and County Zoning Administrator John Haas to create a special zoning district that would protect the pear orchards in the Agnew area from residential subdivisions. When Karl Belser succeeded Nestor Barrett in May 1952, he imbued the nascent idea with a philosophy of planning which was strongly influenced by programs

³² Carroll K. Hurd, “Where Do Farmers Go From Here?,” *SJM*, February 6, 1955, Magazine section; author interview with Raymond C. Benech, July 14, 1982, San Jose (At the time, Benech owned an orchard ranch located on the southern outskirts of San Jose, with apricots and pears as the principal crops. He served as president of the Santa Clara County Farm Bureau from 1959 to 1971, and as a Santa Clara County planning commissioner from 1970–1982.).

³³ SSCo Plan Comm, *Minutes*, v. 9, 47, 55, 85, 85A–B, 86; “Santa Clara ‘Green Belt’ Plan Votes,” *San Francisco Examiner*, April 8, 1954.

of the 1930s National Resources Planning Board and which resembled the original garden city concepts of Ebenezer Howard.³⁴

In 1953, Belser prepared a “sphere of influence” study in which he set forth a plan for “an agricultural greenbelt [that] would divide cities to keep them separate so they could keep their identities.” Belser first “map[ped] out the best soils in the county, and these became the areas he was primarily concerned with.” This map detailed areas best suited for watershed, swampland, mountain open space, orchards and farms, light- and high-density residential, commercial, industrial, and public and semi-public uses. Belser’s ultimate goal was twofold: to “preserve agricultural land” and, at the same time, “lend definition to the urban areas.” City officials, however, were openly critical of his plan, which they quite accurately perceived as the first step toward delimiting annexable areas and thereby controlling urban expansion.³⁵

In late 1953, Belser assigned Abraam Krushkhov, a senior planner in the department, to meet with the Agnew pear growers. Krushkhov’s resulting map outlined the first proposed exclusive agricultural zoning district in the county, formally designated such after the zoning ordinance was adopted in early 1954. Belser’s “sphere of influence” plan and Krushkhov’s exclusive agricultural district planning map set the spirit and procedure for all county planning work that followed.³⁶ Comprehensive planning maps for any particular planning area would block out in a general way the sub-areas best suited for residential, commercial, industrial, and agricultural uses, thus avoiding the political overtones of the 1953 “sphere of influence” study. Then the planning staff would work with agricultural landowners

³⁴ Letter to author from Abraam Krushkhov, December 14, 1982. In his major work, *To-Morrow: A Peaceful path to Real Reform* (1898), Ebenezer Howard proposed that England’s urban blight be remedied by building “new towns” or “garden cities” in the open countryside and then protecting them from cities and from one another by surrounding the “new towns” with agricultural greens.

³⁵ Krushkhov letter, December 14, 1982; author interview with Roy Cameron on July 13, 1982, at Saratoga, California (Cameron came to the Santa Clara County Planning Department as a senior planner in 1954. He moved up to associate planner in 1956 and then to director in 1967 when Karl Belser resigned. Cameron retired from his position and the department in 1979).

³⁶ Krushkhov letter, December 14, 1982.

who wanted zoning protection, and together they would draw up detailed maps for exclusive agricultural district designation.

Without question, exclusive agricultural zoning in Santa Clara County resulted from the collaborative efforts of Will Weston and Karl Belser. Weston, born in Oakland in 1884, lived his entire life in the Bay Area. In 1913, after graduating with a B.A. in economics from the University of California, Berkeley, he purchased his first pear orchard in Santa Clara County. Over the years he expanded his operation until, at one time, he owned and leased about 275 acres, known as Peraleda Ranch, which produced eight varieties of canning and shipping pears. Weston was not only a successful grower; he also was active in community affairs and local politics. He held memberships in several agricultural and grower organizations, both the Santa Clara City and the California State Chambers of Commerce, and the Commonwealth Club of California. An original appointee to the Santa Clara County Planning Commission, he was also a member of the San Francisco Bay Area Council during the late 1940s and early 1950s. His commercial orchard business, situated in a rapidly growing area, allowed him to witness firsthand the urban threat to agriculture; and his civic affiliations, especially with the Commonwealth Club and the San Francisco Bay Area Council, brought him into contact with then-current ideas and debates regarding land-use planning.³⁷ However the seed for agricultural zoning was planted, Weston's familiarity with zoning laws and procedures quickly convinced him that such tools could be used to farmers' advantage. He noted that zoning was used to keep residences from encroaching on industrial areas, and he "couldn't see why agricultural zoning shouldn't keep residences out too." Weston, in due time, proposed the idea to Karl Belser who, in turn, "took it up as a sort of prophet."³⁸

Belser, unlike Weston, had no long-standing personal ties to the area and no apparent interest in agricultural land protection before coming to the Santa Clara County Planning Department in 1951. He graduated from the University of Michigan School of Architecture in 1925 and received

³⁷ Letter to author from Nancy Perrin Weston, daughter of the late Will Weston, November 11, 1982; *National Cyclopedia of American Biography* 57 (1977): 420.

³⁸ Robert Burgess, "Originator of Greenbelting in SC County to Retire," *Daily Palo Alto Times*, May 1, 1959; Ronald Buel, "The Changing Land: Some Farmers Strive to Curb Urbanization, Not Sell to Developers," *Wall Street Journal*, October 13, 1966.

his Master of Architecture degree from the Harvard School of Design in 1927. After a short interval working in Boston as an architect, he accepted a teaching post in 1929 at the newly formed School of Architecture and Engineering at Virginia Polytechnic Institute (VPI), where he remained until 1941. In the mid-1930s, his interest began to drift toward planning, and in 1936 he took a sabbatical from VPI to study planning and the housing movement in Europe at the University of Zurich. He completed his studies by taking an extensive tour through Austria, Germany, the Scandinavian countries, Belgium, Holland, France, and England, visiting several so-called new towns in England. After resigning his position at VPI in 1941, Belser adopted planning as a second career, and throughout the 1940s he held several positions: in 1942, he accepted a position as a planner for the City of Detroit; in 1944, he became a planner for the City of Los Angeles; during 1945, he was a member of the University of Oregon Bureau of Municipal Research; and, in 1946, he went back to teaching at the University of Oregon School of Architecture. In 1951, he took a sabbatical from the University of Oregon to accept a position as senior planner with the Santa Clara Planning Department. When he became department director in 1952, he left his teaching career forever. Belser remained director of the Planning Department until he resigned in December 1966 to become deputy director of a United Nations special housing development project.³⁹

Thus, it appears that Belser's ideas regarding agricultural land protection did not come so much from theory as from an inventive mind enhanced by years of study and experience in both architecture and planning. His ideas were, as a colleague has phrased it, "a spontaneous, creative response to a real-life situation — where we could all see the county and city governments permitting the thoughtless destruction of prime agricultural land on almost a daily basis."⁴⁰

The exclusive agricultural zoning ordinance may have been the brainchild of a few well-placed individuals, but it would have died quietly if other agricultural landowners had not requested zoning protection under its provisions. It may be helpful, therefore, to determine which farmers welcomed and which opposed exclusive agricultural zoning. Statistical evidence indicates that from

³⁹ Letter to author from Wilma Belser, wife of the late Karl Belser, November 27, 1982.

⁴⁰ Krushkhov letter, December 14, 1982.

1948 through 1954, the orchards most likely to be converted to urban uses were those planted in apricots and prunes. Not coincidentally, these crops also generated the lowest income during those seven years. Orchard crops with a higher rate of return, namely pears and cherries, tended to remain in production. Aging pear and cherry orchards also were more likely to be replanted, while older apricot and prune orchards tended to be sold as the end of their bearing lives approached. Farm size also appears to have influenced farmers' decisions to sell, since farms that ranged in size from ten to twenty-nine acres "tended to be displaced first." Thus, smaller-acreage landowners, particularly those who had planted orchards of apricots and prunes, could not generally afford to continue farming once property taxes began to rise.⁴¹

Ray Benech similarly recalls that "the people who sold out the fastest were the real, true farmers," that is to say, "the small farmer who had twenty acres and worked it all himself." Small farmers in Santa Clara County, Benech explains, "sold out for \$1,500 an acre here, and they went up to Yuba City and they bought for \$500 an acre. They got three acres for one, and they ran like hell because their orchards were getting old."⁴²

Census data on Santa Clara County farm size in relation to farm income generally support Benech's perception (see Table 4). There are no relevant data prior to 1954, but the figures for 1954 to 1964 show that the percentage of part-time and low-income-producing commercial farms to the total number of farms (column D) remained fairly constant throughout the decade. If one looks more closely at these figures, however, the decrease in the total number of farms from 4,953, in 1954, to 2,631, in 1964, represents a 46 percent drop, and the decrease in the total number of commercial farms from 3,875 to 1,888 represents a 51 percent drop, while the decrease in the number of low-income-producing commercial farms from 699 to 210 represents a 70 percent drop. Moreover, during the same time, the low-income-producing commercial farms, as a percentage of all commercial farms, fell substantially from 18 percent in 1954 to 8 percent in 1959.⁴³ Clearly, then, farmers struggling to

⁴¹ Jack Lessinger, "The Determination of Land Use in Rural-Urban Transition Areas: A Case Study in Northern Santa Clara Valley, California" (Ph.D. dissertation, University of California, Berkeley, 1956), 168-171, 189, 206-208, 211-221.

⁴² Benech interview.

⁴³ The rise to 11.1 percent in 1964 is likely attributable to a change in the way the Bureau of the Census defined commercial farms in 1964.

make ends meet were abandoning farming in Santa Clara County at a higher rate than others.⁴⁴

TABLE 4. FARM SIZE IN RELATION TO VALUE OF AGRICULTURAL PRODUCTS SOLD SANTA CLARA COUNTY, 1945–1964

(A)		Commercial Farms (B)		(C)	(D)
Year	Total Number	Total Number	Low Income (LI)	Part-time Farms (PT)	LI & PT Farms as a % of (A)
1945	5,914	4,307	—	(1380)	(23.0)
1950	5,282	3,888	—	—	—
1954	2,953	3,875	699	580	25.8
1959	3,354	2,421	197	673	26.0
1964	2,631	1,888	210	490	26.6

(A) A farm has been variously defined by the Bureau of the Census. Generally speaking, however, a farm is defined as land in parcels of three or more acres on which some agricultural operation is performed. The value of farm products must equal or exceed some nominal dollar amount: \$150 in 1950 and 1954, \$250 in 1959 and 1964.

(B) A commercial farm also has been variously defined. The major difference between a farm and a commercial farm is the value of products: in 1945, \$1,000 or more; in 1949, 1954, and 1959, \$1,200 or more; and in 1964, \$2,500 or more. A low-income-producing commercial farm is one on which the value of products is less but constitutes the major source of income, where the operator works fewer than 100 days off the farm.

(C) Part-time farms constituted a new category in 1954. Generally speaking, a part-time farm is defined as one where the operator works 100 days or more off the farm and whose nonfarm income is greater than the value of farm products.

The 1945 figure in parentheses is the number of farms where the operator simply worked off the farm for 100 days or more — a category abandoned after that year. The number of part-time farmers would be fewer than 1,380, but the percentage figure (23.0) suggests that it fairly represents the number of part-time and low-income commercial farms in 1945.

Source: U.S. Bureau of the Census, County and City Data Book, 1949, 1952, 1956, 1962, 1967.

⁴⁴ How many and which of these farmers were selling farmland in Santa Clara County and buying farmland elsewhere is impossible to determine.

Some might view as ideal a lifestyle that meant a job in the city with a home in the country. Economically speaking, however, those living in this manner were living on the margin. Ray Benech might remember them as the “true farmers,” but even he admits, “[y]ou could never make a good living off a small acreage. In the ’thirties and ’forties everybody who had twenty acres or less had another job.” When land values began to climb in the early 1950s, smaller owner-operators therefore began to sell in order to improve their financial status, leaving their counterparts in an even more precarious situation. If their orchards were older, they were forced either to follow their predecessors and sell out at the first good opportunity or divert their aging orchards into crops that would supply a quick return on investment. Berries and flowers filled the gap, for both were in demand by a nearby growing urban market. Statistics of land-use conversion in the county reveal that, in the five years from 1949 to 1954, the number of acres in orchards of all types decreased by 15,561, vineyards by 2,249 acres, and vegetable crops by 7,971 acres. During the same five years, however, the number of acres planted in berries actually increased by 1,304 acres, field crops other than vegetables by 6,930, and nursery stock by 565 acres.⁴⁵

If those people who really wanted to farm were leaving the area, then who stayed behind to fight for agricultural land preservation and why? According to Benech, those farmers most in favor of agricultural zoning in the 1950s were “the larger landholders, the people that were a little more wealthy and could afford to keep their land.” The fact that these people “held out,” however, “didn’t make them more pristine farmers,” as some non-farmer land conservation advocates have portrayed them. “It’s just that they were financially able to hold onto their land, and they could see the value of the land.”⁴⁶

Without question, the greatest number of acres (79,864) placed under exclusive agricultural zoning during the 1950s was in the hands of very large landowners, although most of these larger parcels were zoned for exclusive agricultural use in 1956 or later.⁴⁷ However, almost half of the farm operators who

⁴⁵ Benech interview; George Goodrich Mader, “Planning for Agriculture in Urbanizing Areas: A Case Study of Santa Clara County, California” (M.C.P. thesis, University of California, Berkeley, 1956), 73.

⁴⁶ Benech interview.

⁴⁷ Robert W. Travis, “The Use of Greenbelt Theory in Santa Clara County” (San Jose State University: Real Estate Research Bureau, April 30, 1962), 24.

requested exclusive agricultural zoning from April 1954 to June 1961 owned 100 or fewer acres (see Table 5). Of the 3,856 acres in actual or proposed greenbelts by 1956, two years after the ordinance took effect, 1,756 acres were planted in pear or cherry orchards; only 210 acres were planted in apricot or prune orchards. The other 1,900 acres were, for the most part, devoted to poultry ranching.⁴⁸

TABLE 5. NUMBER AND PERCENT OF ZONING ACTIONS AND ACREAGE ZONED FOR EXCLUSIVE AGRICULTURAL USE BY SIZE OF AREA ZONED PER ACTION, SANTA CLARA COUNTY, APRIL 1950 – JUNE 1961

Number of Acres per Zoning Action	Zoning Actions		Acreage Zoned	
	Number	Percent	Number	Percent
Fewer than 10	26	15.66	148	0.16
10–19	23	13.86	307	0.32
20–49	28	16.87	906	0.95
50–99	16	9.64	1,185	1.24
100–249	31	18.67	4,841	5.06
250–499	13	7.83	4,662	4.87
500–999	8	4.82	4,693	4.91
1000 and over	18	12.65	78,864	82.49
Total	166	100.00	95,606	100.00

Compiled by Robert W. Travis, "The Use of Greenbelt Theory in Santa Clara County," (San Jose State University: Real Estate Research Bureau, April 30, 1962), 24.

Nevertheless, in a county where the average farm was less than 150 acres, and many were much smaller than that, a large farm, in locally relative terms, was not necessarily vast. Will Weston was, according to local criteria, among the larger landholders. In 1945, the average farm size was 123 acres, a figure that held fairly constant until 1959, when the average farm size jumped to 158 acres. The sudden rise corresponds, moreover, to

⁴⁸ Mader, 76.

a decrease in the number of small farms. In 1954 there were 4,953 farms in the county; by 1959, there were only 3,345, a decrease of 1,608 farms. Of those 1,608 farms lost, 583 were farms of ten or fewer acres.⁴⁹ If the county had remained predominantly rural during the 1950s, one would attribute this decrease in numbers and increase in average size to farm consolidation. Given the circumstances, however, the increased average size is more plausibly the result of fewer ten-acre farms to figure into the average.

The evidence suggests that growers, especially pear and cherry growers, who enjoyed a favorable market for their crops in the 1950s, sought to protect their land and agricultural investments. These were, in addition, farmers with land located closer to expanding urban areas. They were, for all intents and purposes, urban landowners. It seems quite natural, then, that they turned to an urban land-use tool, zoning, to protect their investments. In so doing, they were acting no differently from other urban landowners who sought to protect the value of their residential, commercial, or industrial properties with zoning to exclude incompatible land uses. Later, after state legislation upheld the county's exclusive agricultural zoning ordinance, and other state legislation proposed to couple agricultural zoning with preferential tax assessment, owners of much larger farms and ranches situated farther from the urban fringe began to petition the planning commission for inclusion in exclusive agricultural districts. At the outset, however, exclusive agricultural zoning appealed primarily to agricultural landowners with modest but profitable operations, who saw its chief benefit to be a means of preventing municipal growth from engulfing their farms and orchards.

GREEN GOLD: PLANNING FOR AGRICULTURAL LAND PRESERVATION

The chance collaboration between Weston and Belser is remarkable, considering that in 1950 the Santa Clara County Planning Commission was, like most county planning commissions, a moribund institution. Established in 1929, the commission carried a mandate "to make and adopt subject to the provision of law, a master plan for the physical development of

⁴⁹ Bureau of the Census, *City and County Data Book*, 1949, 1952, 1956, 1962, 1967.

the county.”⁵⁰ The master plan, however, did not emerge until the 1950s, and it was developed principally under Karl Belser’s directorship. In the 1930s and 1940s the planning commission did little more than pass broad zoning ordinances, rubberstamp requests for zoning variances, and sponsor an annual barbeque attended by local businessmen and politicians. Will Weston himself once summed up the early days of the planning commission by stating that. “There were days when we’d get through the business in half an hour, and Oscar [Campbell, another commissioner] would get out his movie projector and give us a film show.”⁵¹ The Santa Clara Valley Water Conservation District, also established in 1929, undertook all study and planning for water development and conservation in the county during the 1930s and 1940s. And the San Jose Chamber of Commerce took the lead in planning for industrial development in the 1940s. In fact, when Industrial Survey Associates made its economic survey for the San Jose Chamber of Commerce in the late 1940s, it sought assistance not from the county planning commission or planning department, but from the state planning office.⁵²

A quasi-public committee attempted to inaugurate comprehensive planning in the 1940s, but county planners took no part in their activities. The Citizens’ Planning Council of Greater San Jose was created in 1942 when a local clergyman, Stephen C. Peabody, proposed to the San Jose Coordinating Committee — a five-member group comprising the city manager, the superintendent of schools, the community chest executive, the probation officer, and the chairperson of the city recreation committee — that “a self-survey of the many functions and activities taking place in San Jose” be undertaken so as to “draw a picture of the possible future life of this community, especially its economic outlook.” Peabody’s proposal led the coordinating committee to create an organization for the purpose of carrying out this community self-study. Under the executive directorship of planner Mel Scott and a volunteer lay and professional

⁵⁰ Copy of 1929 ordinance in SCCo Plan Dept, Data and Information: Administration, Boards and Commission.

⁵¹ Burgess, *Daily Palo Alto Times*, May 1, 1959.

⁵² California History Center, *Water in the Santa Clara Valley*, passim; “San Jose and Santa Clara County: An Industrial Survey,” see front cover and letter of transmittal.

staff, the Citizens' Planning Council conducted, from 1943 to mid-1945, studies of family welfare, juvenile delinquency, neighborhood planning, public health and medical care, off-street parking, library services, historic landmarks, community education, race relations, county government, and agriculture. *Foresight*, a bimonthly publication highlighting the council's work, circulated throughout the state as well as the local area.⁵³

As the council's name implied, its research focused on the City of San Jose; however, several studies covered the entire county. This was particularly true of the agriculture study, which "brought together for the first time much valuable information on farm holdings and conservation problems" to form the data base for a countywide soil conservation plan. The agriculture committee report is interesting for two additional reasons: first, the committee, reporting in 1945, foresaw the land-use conversion about to take place in the north county and predicted accurately that "a considerable amount will be subdivided into small residential type holdings." But the committee, like Industrial Survey Associates, inaccurately predicted that residential development would not impair agriculture. The committee even suggested the construction of "a scenic drive through the mountains surrounding the valley . . . and an annual blossom festival" to celebrate the valley's springtime beauty."⁵⁴

During the 1930s and 1940s, county planning officials simply did very little planning. This is not to imply that Santa Clara County was unusual; few county planning commissions actively engaged in planning until the 1950s. While the record is sketchy, it nevertheless suggests a commission and department prepared to follow rather than monitor or challenge city growth, react to rather than plan for urban development. This continued to be the commission's general point of view through the 1950s. Roy Cameron, who joined the department in 1954 and served as its director from 1967 to 1979, states, "The county never at any time wanted to get into the development business. . . . They didn't look upon themselves as a competitor with cities in terms of zoning land." Until the late 1950s, planning commissioners served indefinite terms at the discretion of the Board of

⁵³ Citizens' Planning Council of Greater San Jose, "A Statement of the Origin of the Planning Council of Greater San Jose" (mimeographed report, San Jose, 1946), n.p.

⁵⁴ *Ibid.*, see "Summary Report of the Committee on Agriculture" contained therein, n.p.

Supervisors, which displayed no tendency to appoint new commissioners at regular intervals. As a result, two of the original commissioners, Will Weston and W.W. Curtner, both ranchers, served terms of almost thirty years. Longevity gave them control of the commission, and the commission catered to agricultural interests throughout the 1950s.⁵⁵

It is difficult to ascertain precisely why the commission took such a lackadaisical approach to planning in the 1930s and 1940s, but an excerpt from a letter that Weston wrote to fellow commissioner Oscar Campbell in 1948 provides a clue. In response to a San Francisco Bay Area Council proposal to include Santa Clara County in the San Francisco metropolitan area for 1950 census purposes, Weston responded negatively, writing to Campbell that Santa Clara County was “sufficiently hinterland to have a provincial center.”⁵⁶ He thus voiced a fear common among local government officials: that planning meant, for outlying areas, accommodating the needs and desires of the City of San Francisco. One can only assume that Santa Clara County commissioners considered their local responsibilities to be administrative in nature, implementing state planning law insofar as they were able or inclined to do. Planning was an activity largely centered in urban areas where there was a perceived need to plan for housing, transportation, or sanitation; and county officials felt obliged to remain informed about city, or regional, planning only so that they were not surprised by unanticipated events.

When Karl Belser assumed charge of the Planning Department in 1952, he hired a staff whose achievements gained the department nationwide recognition. William H. Whyte, for instance, considered the department’s efforts to establish exclusive agricultural zoning as well as its plans for a continuous chain of creekside parks to be among the best examples of open space planning in the United States.⁵⁷ Belser, in addition, maintained a constant outreach program, speaking on behalf of regional and state planning at state and national professional meetings, testifying at

⁵⁵ Cameron Interview; SCCo Plan Dept, Data and Information: Boards and Commission—Planning Commission, Memberships, 1930–1964.

⁵⁶ Letter dated April 29, 1948, from Will Weston to Oscar Campbell, SCCo Plan Dept, Improvement and Development: San Francisco Bay Area Council.

⁵⁷ Letter dated January 29, 1968, from William H. Whyte to Roy Cameron, SCCo Plan Dept, Improvement and Development: Conservation, Open Space.

state legislative hearings, and occasionally writing articles on land use and agricultural land preservation in Santa Clara County. In the 1940s, the department produced only one planning study (of county sewage and industrial waste disposal sites), but between 1953 and 1960, the year the county general plan was adopted, Belser and his staff undertook nearly thirty planning studies, surveys, or analyses.⁵⁸

Comprehensive plans that included recommendations for agricultural land protection were based on a philosophy, developed by Belser, which equated the best farmland with natural resources protected by national forests and parks. Fertile agricultural land should be conserved and used wisely to meet future food needs. *Green Gold*, a 1958 departmental publication, most clearly expressed his philosophy. It advocated that the federal government or the individual states create “permanent agricultural reserves” to protect “priceless resource[s]” from “suburban scatteration” which threatened in many areas “to become endless, monotonous megalopolis.”⁵⁹ This philosophy harkened back to the New Deal, when the federal government purchased over eleven million acres of privately owned, marginally productive land and placed its management in the hands of various federal and state agencies. It also echoed the tenets of the 1920s Regional Planning Association of America as well as Howard’s turn-of-the-century garden city concept.

However, the Santa Clara County greenbelt plans developed under Belser’s direction also represented a practicable response to contemporary problems. They reveal that, as far as agricultural land was concerned, county planners were willing to sacrifice northern and western areas to industrialization and urban growth. Planners concentrated their efforts to protect agricultural land in the southern and eastern areas of the county. These were much less densely settled areas where they had some chance of educating the public about the benefits of planning before urban growth

⁵⁸ Information gathered from a lengthy examination of the holdings in the SCCo Plan Dept library, July 1982.

⁵⁹ SCCo Plan Dept, *Green Gold*, 1958, n.p. Krushkhov notes (January 27, 1983) that when he was on the planning staff (1952–1956), “Leland Wilcox (deceased) — a friend of Karl Belser’s from Oregon — wrote nearly every planning report in the office and gave faithful expression to Belser’s philosophy and ideas.”

created chaos and a sensitive political climate that would render comprehensive planning impossible.

In June 1956, the department presented the Eastside Interim General Plan with the hope that its implementation would conserve twenty-three miles of the best agricultural land on the valley floor by dispersing some of the expected population increase to thirty-three square miles of foothill land in the Diablo Range. Since the area was already under an interim zoning ordinance, and because a 1955 land-use study indicated that soil conditions, crop yields, and farmer attitudes made exclusive agricultural zoning feasible for an extensive area, planners had reason to be optimistic. The plan appeared to forestall municipal annexation into the area for several years, but only because San Jose was expanding west and north during the 1950s. When San Jose began, in the 1960s, to seek more land to the east for urban uses, farmers on the Eastside began to sell out.⁶⁰ By the early 1980s, the twenty-three square miles recommended for intensive agricultural use in 1956 had either been developed or was vacant, awaiting development.

The natural landscape gave planners even greater cause to be optimistic about guiding development and preserving agricultural tracts in the area known locally as South County, which is geographically separated from the North County by a narrowing of the valley floor. County planners consequently spent much time and energy developing a plan that would concentrate commercial, industrial, and residential growth around existing governmental centers. These, in turn, were to be separated and surrounded by wide swaths of agricultural and recreational greenbelts, intended both to maintain a critical mass of land for sustaining the agricultural industry and to lend autonomy and identity to area towns.⁶¹ South County municipal officials initially reacted favorably to the plan, which Clarence S. Stein, a founding member of the Regional Planning Association, praised as both “practical” and “imaginative” because it proposed a

⁶⁰ SCCo Plan Dept, *Eastside Interim General Plan*, June, 1956, n.p.; Robert N. Young, “Feasibility of Conservation of Agricultural Land in the Berryessa Area” (report to Planning Department), October 6, 1955; Cameron interview.

⁶¹ SCCo Plan Dept, *Roadside Towns Become a Greenbelt City: A Preliminary Plan for South Santa Clara County*, 1957; Planning Research Associates in cooperation with the Planning Department, “South Santa Clara County: A Physical and Economic Survey,” December 15, 1957.

“new type” of greenbelt concept: a “constellation” of urban centers “united as part of a regional complex,” integrated into the existing agricultural landscape and economy rather than “separate towns protected by a green surrounding open area.”⁶²

Hoping to avoid the political repercussions of the 1953 “sphere of influence” study, the County Planning Department courted voluntary cooperation from South County residents. To persuade landowners as well as government officials to embrace the “greenbelt city” idea, as it was called, the Planning Department made fifteen presentations of the plan as it evolved. From January through October 1957, Belser and/or his staff appeared before civic organizations, city councils, town hall meetings, and farm groups in an effort to foster understanding of and support for their development guidelines. By November 1957, they achieved some measure of success when the city councils of Gilroy and Morgan Hill approved the preliminary plan. In addition, the Santa Clara County Farm Bureau and “certain agriculturalists in the Gilroy–Morgan Hill area” appeared in support of the preliminary plan at the second public hearing, held in December 1957.⁶³

Downtown business people were happy to support the plan because it would continue to channel commercial development toward established municipal centers. Likewise, civic organizations generally supported the plan because sufficient land was targeted for industrial and residential growth. But residents already settled in the unincorporated areas of the South County quickly dashed planners’ hopes for implementation. At issue was an area proposed for agricultural use, known as the Machado Greenbelt, near the town of Morgan Hill. Several owners of small parcels in the proposed greenbelt requested that their properties be excluded. When the preliminary plan was unveiled in 1957, however, the parcels were shown as included in the greenbelt. This provoked an angry response from twenty-seven property owners who reiterated their earlier protest at the December

⁶² Letter dated October 5, 1957, from Clarence S. Stein, FAIA, to Karl Belser, SCCO Plan Dept, Improvement and Development: Planning, South County Study.

⁶³ Memorandum on “South County Plan—Chronology of Events,” dated December 18, 1957, from Robert N. Young, associate planner, to Karl Belser, and Minutes of December 4, 1957, public hearing, both SCCO Plan Dept, Improvement and Development: Planning, South County General Plan.

1957 public hearing and petitioned the county planning commission to have their properties excluded. The commission ignored their petition and adopted the plan as it appeared in its preliminary form; and the Board of Supervisors voted unanimously to adopt the plan in January 1958.⁶⁴ Outraged, the heretofore informally organized property owners adopted the name “South El Camino Development Association,” and membership grew to thirty-three. A written protest from the association asserted that its members were “entitled to commercial development along South El Camino Real [aka Monterey Highway] just as the El Camino Real enjoyed in North County when it developed.” The association further charged that the town of Morgan Hill had “absolutely no right, or power, to speak for us who live and operate in the unincorporated area,” and it vowed that it would “fight to collect just compensation for any move which deprives us of our rights as taxpayers, citizens, and property owners.”⁶⁵

The confrontation between would-be land speculators and county planners augured the fate of South County greenbelt planning and revealed, moreover, the complex situation that generally thwarted planning for balanced growth. The Santa Clara County Planning Commission and the Board of Supervisors were willing to provide exclusive agricultural zoning for landowners who desired such protection, but the planning commission steadfastly viewed its role in farmland conservation matters as strictly advisory. Therefore, even though Belser and his staff took the initiative to design areawide plans based on an overarching concept of using agricultural preserves to achieve balanced growth and to maintain a diversified local economy, the Planning Department’s official function was only to provide expert advice. Planners’ professional qualifications lent authority to the guidelines the department mapped out; and Belser, acting on personal conviction, also became the chief political advocate for greenbelt planning. Implementation, however, depended completely on cooperation from city officials with considerable support from local citizens. State law

⁶⁴ Minutes of December 4, 1957, public hearing; Petition dated October 21, 1957, to Santa Clara County Planning Commission, both SCCo Plan Dept, Improvement and Development; Planning, South Santa Clara General Plan.

⁶⁵ Petition dated August 9, 1959, from South El Camino Development Association to Santa Clara County Planning Department, SCCo Plan Dept, Improvement and Development; Planning, South Santa Clara County General Plan.

gave county supervisors the authority to frame land-use plans for unincorporated areas, but state law did not correspondingly require municipalities to recognize those plans. It is not surprising, given these circumstances, that the South County plan met the same fate as the Eastside plan. By the mid-1980s, South County open land was almost entirely in the hands of developers or speculators.

The Santa Clara County story might never have echoed in the legislative chambers of the State Capitol if county planners and a handful of growers had relied on citizens' good will to accomplish the task of preserving agricultural land. At the same time the county's exclusive agricultural zoning ordinance was drafted, however, plans were also laid for a state legislative effort. Roy Cameron explains that since "there was no political body that had the ability to control growth then," the only alternative "was to go to the state legislature." During 1954, the Planning Department devoted considerable time and effort to prepare for the State Assembly a report on the status of city and county planning in California. The report spotlighted the problems and proposed solutions for several areas of the state where urban growth had created planning chaos.⁶⁶

Karl Belser also worked with Ken Wilhelm, executive secretary for the Santa Clara Farm Bureau, to devise a legislative plan. Bruce F. Allen recalls that Wilhelm suggested to him that a state law be written to require cities to obtain owner consent to annex land zoned for exclusive agricultural use. Allen introduced, during the 1953 session, a number of bills designed in some way "to curb hostile annexations," but his first bills "were defeated by opposition of the League of California Cities." In 1955, however, he introduced the bill that became known as the Greenbelt Act, one of over sixty annexation-related bills proposed during the legislative session. The original bill would have restricted cities throughout the state from annexing lands zoned for exclusive agricultural use, but amendments made in the Assembly allowed implementation only in those counties that had, as of December 31, 1954, adopted master land-use plans that included an

⁶⁶ Cameron interview; California, Assembly, Interim Committee on Conservation, Planning, and Public Works, *Planning for Growth: A Report on the Status of City and County Planning in California*, January 1955.

exclusive agricultural zone classification. An additional amendment provided the bill would expire in two years.⁶⁷

Although the bill encountered local opposition from the City of San Jose and the *Mercury*, Allen says that he received “unanticipated help from legislators from metropolitan areas” representing constituents who “simply desired the niceties of open space preservation.” This unexpected support from urban areas got the bill through the Assembly, though not unamended; and it easily passed through the rural-dominated Senate. A series of favorable front-page articles in the *San Francisco Examiner*, moreover, aroused public attention and helped to create sufficient popular support for Governor Goodwin Knight to sign the bill. By 1957, the Santa Clara County Farm Bureau was fully behind the Greenbelt Act and lobbied for its extension. Cameron recalls that the 1955 law was “the number one piece of legislation that Karl, Ken Wilhelm, and other members of the Farm Bureau, pushed.”⁶⁸

The 1955 Greenbelt Act marked the point at which agricultural land conservation achieved legislative recognition as an issue of statewide importance; but once the battle for agricultural zoning reached the state level, the fragile planner–farmer coalition, which existed on the county level, fell apart. Those who preferred to define the American Dream as a suburban

⁶⁷ Reference to a “task force” report prepared by Wilhelm and Belser appears in Will Stevens, “Unofficial Figures Indicate Loss of State’s Farming Area to New Housing Subdivisions,” *San Francisco Examiner*, May 23, 1955, reprinted in *Examiner* leaflet entitled *The Big Push*; letter to author from Judge Bruce F. Allen, dated August 19, 1982; *California Statutes*, 1955, Chapter 1712; Governor’s Chaptered Bill File, Chapter 1712, 1955 (California State Archives), indicates that Governor Goodwin J. Knight received letters concerning Allen’s bill (AB 2166) from the State Board of Equalization, the State Department of Public Works, the County Board of Supervisors Association, the League of California Cities, the State Bar of California, the State Chamber of Commerce, Mather Agricultural Council, as well as from assessors, tax collectors, and taxpayer groups. The letters, however, are not in the file, nor does file notation indicate which groups supported and which opposed the bill. The expurgated record can only be offered as evidence that the bill had strong opponents and supporters, as former Assemblyman Allen has stated.

⁶⁸ Stevens, *The Big Push*; Allen letter; copy of resolution dated November 2, 1956, from Wilton Stine, Santa Clara County Farm Bureau, to California Farm Bureau Federation in California, Assembly, Interim Committee Reports, 1955–1957, *State Greenbelt Legislation and the Problem of Urban Encroachment in California Agriculture* 13, no. 14 (May 1957): 45–50; Cameron interview.

tract home or a franchise operation in a strip shopping mall were formidable opponents once they found implicit allies in those who preferred to define a farm in terms of retirement income, or its potential for capital gains. Both contingents flatly rejected the vision of the future — urban centers surrounded by agricultural greens — proffered in the Eastside and South County plans. Many valley residents came to consider the Planning Department's greatest achievement to be the transportation network it designed in the 1950s, a maze of expressways connecting the North County traffic concatenation to the state and intercontinental freeways that criss-cross the county. It is perverse irony that, in the mid-1970s, Marriott's Great America, the Bay Area equivalent of Disneyland, occupied land that Will Weston once planted in pear orchards.

The tenuous Santa Clara County coalition nonetheless led the fight to preserve agricultural land and rural community identities by coupling greenbelt theory with planners' chief tool, zoning. Once the land conservation issue reached Sacramento, they held the "Valley of the Heart's Delight" aloft as an example of what lay ahead for rural California. As Karl Belser stated before an Assembly subcommittee meeting in San Jose in November, 1956: "Our county is but a microcosm of the State."⁶⁹ Santa Clara Valley's name was to be invoked many times during the next decade as state legislators struggled to devise a program of agricultural land conservation that was acceptable to both rural and urban interests.

Ultimately the state-level debate shifted from planning for urban growth balanced against agricultural concerns to issues of property taxation. Closer examination of that shift reveals, however, that the 1955 Greenbelt Act challenged a long-standing but legally vague tradition of home rule in California. From roughly the turn of the twentieth century, a loose home rule principle had shaped a state-local alliance which gave local governments powers and responsibilities that ultimately brought counties and cities into conflict. State-sanctioned land-use regulations in rural areas touched a sensitive political nerve: if agricultural land needed to be conserved (many doubted that it did), who should have control and through what legal channels should controls be manifest?

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⁶⁹ California, Assembly, *State Greenbelt Legislation*, 30.

Chapter 2

THE GENESIS OF HOME RULE IN CALIFORNIA

“Home rule” in its simplest explanation refers to a delegation of authority granted to local governments by a state, either through its constitution or by legislative action. The bundle of powers varies from state to state (and not all states grant home rule), but the range covers all the structural, functional, fiscal, and personnel aspects of government operations. Historically speaking, however, the term “home rule” has no distinct meaning in American governmental theory. The turn-of-the-century political phenomenon known as the home rule movement is associated with other progressive reactions to Gilded Age politics. Broadly conceived, home rule usually entailed passing state constitutional amendments designed to break the political influence wielded by industrial giants and other corporate interests, to rid the halls of city and state governments of corrupt politicians, or to reduce the volume of state legislation pertaining to purely local matters. Particular circumstances in individual states and cities shaped a variety of municipal reform responses which constituted the home rule movement. No specific agenda guided adherents: “To some . . . it was never more than a slogan. To others it was an avenue of escape from the power of some particular political

ring.” For still others, “it offered greater flexibility in local governmental organization.”¹

California is among the forty or so states that are considered to be home rule states. The California State Legislature of the late nineteenth century easily qualified as one of the more corrupt. Much has been written about the political power of the so-called Big Four, but, as George Mowry has noted, “Every Huntington, Crocker, Hopkins, and Stanford had hundreds of purchasable smaller counterparts in editors, jurists, legislators, and city councilmen.”² California’s progressive reformers had plenty to tackle. The constitutional genesis of home rule in California is clear, but the specific circumstances precipitating as well as shaping its reform mode bear closer examination.

Until 1879, the California Legislature set boundaries and granted powers to individual counties and cities by special acts. In 1850, the Legislature created the state’s original twenty-seven counties; but between 1851 and 1874, it passed numerous acts that created more than twenty new counties, some of which were never organized, and shifted countless boundaries. Provisions of the 1879 state Constitution were meant to halt the proliferation of special legislation for local government, although it took an amendment (1893) to accomplish the intent. The new Constitution required the Legislature “to establish a system of county government which was to be uniform throughout the state.” Provisions covering larger cities and combined city-county governments (the latter pertained to San Francisco only), however, specified that such corporate entities could frame municipal charters “consistent with and subject to the Constitution” for their own government. Once approved by the Legislature, charters assumed the force of organic law.³

During the 1890s, a series of lawsuits prompted California courts to begin delimiting, in ad hoc fashion, freeholders’ charter powers that were

¹ John D. McGoldrick, *Law and Practice of Municipal Home Rule, 1916–1933* (1933; New York: AMS Press, 1967), 3.

² George E. Mowry, *The California Progressives* (Berkeley: University of California Press, 1951), 12.

³ *California Constitution*, 1879, article XI; UCLA Bureau of Governmental Research, *County Government in California* (Sacramento: County Supervisors Association, ca. 1951), 3–9. A special act of 1856 merged the San Francisco City and County governments; see Theodore H. Hittell, *History of California*, v. 3 (San Francisco: N.J. Stone and Co., 1898), 650–656.

only implied in the 1879 Constitution. As a result, an 1896 constitutional amendment specified for the first time certain functions constituting municipal affairs. It provided chartered governments with the authority to set the qualifications for, establish terms of office for, and generally regulate local courts and judges, police commissions, election boards, and boards of education.⁴ The courts and the Legislature were further to define the sphere of local government during the twentieth century, and the direction that process took was partly influenced by land and tax problems that remained unresolved during the nineteenth century.

THE GENERAL PROPERTY TAX

Tax provisions written into the 1849 Constitution determined that tax administration would be carried out by local governments even though the revenue would be used to finance the state government. These provisions resulted from negotiations between northern and southern politicians to ensure that Northern California mining districts generated taxes in proportion to Southern California cattle ranching areas. Delegates to the constitutional convention agreed in principle that taxation should be “equal and uniform throughout the state,” and that all property should be taxed “in proportion to its value, to be ascertained as directed by law.” Tax assessment and collection, however, were placed in the hands of city and county governments. The latter provision satisfied southern delegates, who believed it would prevent Northern California political dominance in state fiscal matters. The provision also ensured, however, that political expediency on the local level, not state revenue needs, would ultimately govern the central matters of taxation. The perceived necessity for compromise led convention delegates to ignore the inherent problem: how to achieve equitable taxation statewide while vesting control over assessment and collection with local governments. The 1849 Constitution, furthermore, made no provision for a central body to monitor taxation, and local political interests thwarted

⁴ Howard Lee McBain, *The Law and the Practice of Municipal Home Rule* (New York: Columbia University Press, 1916), 222–252; *California Constitution*, article XI, section 8 1/2.

the state's best efforts to carry out the equal-and-uniform mandate throughout the nineteenth century.⁵

The 1850 General Property Tax Law enacted to implement the constitutional provisions described real and personal property subject to taxation, established procedures for assessment, and introduced a host of tax exemptions. Realty was defined as "all lands within the state, and all buildings or other things erected on or affixed to the same." Personalty was defined to include household items; all water vessels; money and interest; and public stock in turnpikes, bridges, insurance companies, and monied corporations. Despite the inclusive definition of real property and despite the equal-and-uniform constitutional clause, the same law nonetheless exempted considerable property from taxation. The Legislature granted most of these exemptions to educational, charitable, or scientific institutions, and to state and federal lands. Such exemptions were eminently justifiable, but the inherent legal contradiction opened the door to other claims for exemption. Realty and personalty, moreover, were to be assessed at their "true money value" as ascertained, in writing, by owners rather than by impartial assessors. The 1850 law thus compounded problems by allowing property owners, in effect, to determine property value for assessment purposes, although the Legislature did empower county boards of equalization to review assessment figures and raise or lower individual assessments if deemed necessary.⁶

Following enactment of the 1850 General Property Tax Law, various groups pressed for tax exemptions, and eventually the list of tax exempt properties reflected a system that granted preferential treatment arbitrarily. The revenue act of 1861, for instance, exempted property owned and used by the True and Accepted Masons, the Independent Order of Odd Fellows, and the Society of California Pioneers, presumably based on the claim that these were charitable organizations, although the property of other benevolent, fraternal orders was not tax exempt. The exemptions granted to min-

⁵ William C. Fankhauser, *A Financial History of California: Public Revenues, Debts, and Expenditures*, University of California Publications in Economics, 3, no. 2 (Berkeley: University of California Press, 1913): 118–124; Gerald D. Nash, *State Government and Economic Development: A History of Administrative Policies in California, 1849–1933* (Berkeley: University of California Institute of Governmental Studies, 1964), 8–10; John S. Hittell, *The Resources of California*, second edition (San Francisco: A. Roman and Co., 1866), 144.

⁶ *California Statutes*, 1850, 135; Fankhauser, 131–134.

ing claims, however, engendered much criticism. Northern mining counties controlled the Legislature until 1860, and as a result, mining interests succeeded in shifting the burden of property taxation to Southern California counties. Throughout the 1850s, Northern California representatives to the Legislature outnumbered Southern California representatives forty-four to twelve. With their representatives virtually powerless in Sacramento, landowners in Southern California agricultural counties ended up paying twice the taxes of northern mining counties. Mining claims were tax exempt until 1860, when legislators representing both agricultural and commercial interests finally banded together to secure modest amendments requiring that claim improvements be subject to taxation.⁷ Tax exemptions were usually worth the political inconvenience it took to secure them.

Since the Legislature had no mandate to create a central agency to oversee tax assessment procedures, oversight fell to county governments, the boundaries and number of which changed regularly until the mid-1870s. Assessors proceeded to ignore with impunity the constitutional requirement for equal and uniform taxation and simply levied assessments at levels necessary to raise the number of dollars required each year by the state. Between 1850 and 1870, assessment was additionally hampered by unsettled land-grant claims, which left in doubt the actual ownership of many thousands of acres. On the one hand, settlers eager to take advantage of liberal U.S. government land policies often staked their claims near, if not on, lands previously granted to others by the Mexican government, since these tracts covered much of the land most suitable for cultivation in the Sacramento, San Joaquin, and coastal valleys. Land grant claimants, on the other hand, frequently attempted to float their claims over acreage improved by later settlers. Under Mexican procedures, land grant petitioners were required simply to describe with a holographic map the area each desired. Property descriptions contained in land grants, as a result, were imprecise, making it relatively easy for claimants to shift property lines to a certain degree. Three decades of litigation were required to resolve land ownership conflicts. Market values, moreover, were unstable, in part because population was increasing rapidly and in part because the market

⁷ *California Statutes*, 1860, Chapter 369, and 1861, Chapter 301; Robert Glass Cleland, *The Cattle on a Thousand Hills: Southern California, 1850–1870* (San Marino: Huntington Library, 1941), 163–164, 346–349.

was new. Uncertain land ownership and erratic property values therefore created an atmosphere of general and constant confusion that easily led to corruption among tax assessors and collectors, whose only legal responsibility was to raise a given amount of tax revenue each year. The resulting inequities generated mounting criticism throughout the 1860s.⁸

The favoritism shown railroad companies generated additional dissatisfaction with state tax policies. County assessors, some charged, consistently undervalued railroad lands. In addition, the state sanctioned subsidies for railroad construction. An act of 1859 allowed counties to issue bonds to purchase stock in or grant direct subsidies to railroads. Twenty-four such bonds were issued during the next two decades, totaling more than \$4.5 million; over one-half of the issues were for direct subsidies. Then, in 1864, the Legislature imposed a special tax of eight cents per 100 dollars of taxable property to subsidize construction of the Central Pacific Railroad from Sacramento to the Nevada state line, this in addition to federal government subsidies. In 1865, the state attorney general sought to have the act declared unconstitutional on the grounds that it violated a provision prohibiting the state from loaning its credit to individuals or corporations. The court, however, upheld the law in *People v. Pacheco* (27 Cal. 176), a move that touched off a campaign against state subsidies to railroads.⁹

The spreading land cartel also aroused a host of anxieties among some segments of the populace. Land ownership concentration has often been cited as the chief obstacle to economic development in California during the first decades of statehood, although some historians have advanced arguments that partially revise the image of large landholders as greedy

⁸ W.W. Robinson, *Land in California* (Berkeley: University of California Press, 1948) contains a full account of the land ownership problems that came with statehood. See also Paul W. Gates, "Pre-Henry George Land Warfare in California," *California Historical Society Quarterly* 46 (June 1967): 121-148; Hittell, *Resources*, 453-461; Hittell, *History of California*, v. 3 (San Francisco: N.J. Stone and Co., 1898) also contains a lively account of squatters' riots in Sacramento as well as accounts of Californians who were defrauded of their land grants by unscrupulous lenders and attorneys; see especially 666-690; Arthur Nichols Young, *The Single Tax Movement in the United States* (Princeton: Princeton University Press, 1916), 31-34; and Frank Adams, "The Historical Background of California Agriculture" in Claude Burton Hutchison, ed., *California Agriculture* (Berkeley: University of California Press, 1946), 25, 27.

⁹ Cleland, 387, 410; Fankhauser, 207-211.

speculators. Robert Cleland, for instance, maintains that a chronic lack of capital and usurious interest rates prevented land subdivision and hindered settlement in the southern counties. Arthur N. Young, in contrast, argues that federal government indifference and procrastination, more than landowner greed, prevented a quick resolution of land grant claims, thereby fostering the climate of hostility which kept claimants and settlers in litigious warfare for nearly thirty years. Paul Gates nevertheless estimates that during the 1860s about eight million acres of public land passed into private ownership, enough land for 50,000 farms of 160 acres each. Only 7,008 new farms were established during this decade, however, and of that number, only 2,848 were homesteads. Fully one-half of these eight million acres ended up in the hands of but forty-one individuals and firms, many of whom acquired title to hundreds of thousands of acres each through the use of dummy entrymen and by speculating in land warrants and land scrip. By 1870, regardless of who or what should be held accountable for nineteenth-century land concentration, land monopolization gave people reasonable cause for alarm.¹⁰

Among other problems, large landholdings were often underassessed for tax purposes. Settlers charged that county assessors routinely succumbed to the political and economic influence of large landholders and either omitted from assessment rolls or undervalued vast tracts of land, charges which the first State Board of Equalization later substantiated. Assessors, of course, justified higher assessments on settlers' smaller acreages by noting easily observable improvements in the forms of buildings, livestock, implements, or crops (although growing crops were declared tax exempt by 1854 and 1861 revenue laws). Settlers were not, however, without blame. All too frequently they staked claims that did not respect land-grant

¹⁰ See Cleland, 213–217, and Young, 31–34; Paul W. Gates, “Public Land Disposal in California,” *Agricultural History* 49 (1975): 158–178. Figures compiled by Ezra S. Carr, *The Patrons of Husbandry on the Pacific Coast* (San Francisco: A.L. Bancroft and Co., 1875), 301–303, show that, as of the early 1870s, forty-one individuals or firms controlled about four million acres. Twelve of the forty-one landowners controlled at least two million acres. Two of the largest landowners were James F. Houghton, ex–state surveyor, who eventually acquired title to an estimated 200,000–300,000 acres, and Edward Fitzgerald Beale, ex–U.S. surveyor general, whose acquisition of four Mexican land grants totally 270,000 (which became Tejon Ranch) aroused great suspicion among those critical of state and federal land policies.

boundaries. Settler-made improvements, however, were taxable to the legal owner. Land-grant claimants were therefore obligated to pay taxes on such improvements until the land commission or the courts determined legal ownership, a process that could and often did take years to resolve.¹¹

CALIFORNIA LAND POLICY

Uncountable instances of land-grant floating, bogus-grant fraud, land-scrip speculation, and swampland swindling kept the courts busy. They aroused the ire of San Francisco journalist Henry George, who turned his attention to studying the potential long-term economic and social consequences of state politics. In *Our Land and Land Policy*, first published in pamphlet form in 1871, George denounced opportunists who subverted federal and state land policies, sometimes in collusion with government officials to obtain, by deceit or outright fraud, vast tracts of the state's best lands. Immense railroad grants also bothered George, who observed that railroad company owners had found a variety of ways to bankroll the land and get their railways constructed with capital from elsewhere. Retarded land settlement and economic development were the least of the evils resulting from such conditions. Far worse, George believed, were the social consequences of a landed aristocracy supported by a degraded working class. California agriculture already was beginning to resemble the southern plantation system, with grain ranchers employing mostly seasonal laborers who earned meager wages. Other large landholders refused to subdivide and lived exclusively off the rental income generated by tenants. Railroads often withheld their land from market until settler-improved homesteads began to increase the market value of surrounding land. For George, the bitter irony was that government encouraged land monopolization "while prating of the equal rights of the citizen and of the brotherhood of man."¹²

George perceived a host of evils springing from the chaos generated by the land situation. To vent the full force of his wrath against those he believed responsible for this chaos — the federal and state governments,

¹¹ Cleland, 162–163, 166–167; Hittell, *Resources*, 459; *California Statutes* 1854, Chapter 63, and 1861, Chapter 301.

¹² Henry George, *Our Land and Land Policy*, v. 1 of *The Complete Works of Henry George* (1871; New York: Doubleday Page and Co., 1904), especially 36–74, 94–97.

railroad companies, and a handful of large landowners — he idealized settlers as uniformly honest, hardworking individuals (implicitly Anglo-European) seeking only to own a modest farm with which they might raise their standard of living and provide better opportunities for their children. They came West, in other words, seeking the American Dream, which government land policies first offered, then denied them. This uncritical image of settlers contributed to the solution George posed. Public land, he argued, should be given, not sold, in limited quantities to bona fide settlers only. Industrious settlers would develop the land and the economy, thus creating a demand for internal improvements and public institutions, such as agricultural colleges. The state, in turn, could easily finance the cost of physical improvements and public buildings by taxing the value of the land only. Although George was not ready to articulate fully the single tax proposal he espoused in *Progress and Poverty* (1879), he nonetheless argued in *Our Land and Land Policy* that a tax on improvements was a tax on labor and production, an unfair penalty that could only retard land improvement and economic development. The tax penalty should fall on those who allowed land to sit idle. Orderly economic and physical development would proceed naturally if the state would abolish all taxes except one, a tax on the source of all other wealth: land.¹³

Our Land and Land Policy stands as a compelling description of California land policies and politics during the 1860s. In another era, it might have summoned forth a host of zealous reformers. However, no groundswell for reform immediately followed its publication, and the pamphlet sold scarcely 1,000 copies.¹⁴ Those eventually most receptive to George's ideas were those who stood to benefit most: propertyless urban workers who would be freed of the burden of taxation. During the 1870s, they became his chief audience. Nevertheless, a few farmers were attracted to his ideas, especially those who belonged to the California Grange, which worked to change the state's tax system during the 1870s. Other farmers who might have embraced George's proposal balked, however, at the idea of paying taxes while those who did not own land paid none.

¹³ George, 98–124.

¹⁴ See Charles Albrow Barker, *Henry George* (New York: Oxford University Press, 1955), 146, 148.

AGRARIAN REFORM POLITICS

While George was working out his single tax theory in hopes of seeing it used as an instrument of tax reform that would eliminate a complex set of land problems, public attention focused much more narrowly on tax assessment problems. By the late 1860s, widespread tax assessment abuses were so notorious that they could no longer be ignored. Governor H.H. Haight thus persuaded the Legislature to establish the first Board of Equalization in 1870. The board immediately launched a vigorous investigation of county assessment practices. It found that realty was assessed at rates which varied from 33 to 80 percent of full cash value and, further, that “no general rule governed the Assessors in the valuation of either real or personal property.” “Marked inequality,” in the board’s estimation, resulted from “failure . . . to assess land at its full value,” from “assessing large tracts at a much less rate per acre than small ones,” and from “permitting considerable amounts of land to escape assessment altogether.”¹⁵

Those individuals who benefited most from the state’s loose land distribution system, however, worked through the courts to eliminate the Board of Equalization. They succeeded in 1874, when the California Supreme Court, in *Houghton et al. v. Austin* ruled that the board, in ascertaining amounts to be collected and fixing tax rates, was acting in a legislative capacity and was, hence, unconstitutional. The board continued to exist as an advisory agency, but its power to effect change dissipated after 1874.¹⁶

The 1870s were economically and politically turbulent years, and farmers as well as urban laborers increasingly expressed dissatisfaction with the tax system. Wild speculation in mining stock from 1872 to 1875 sent the market soaring. Then, in one month, February 1875, the market collapsed, and the business economy immediately entered a decline, thus signaling California’s belated entry into the national depression initiated by the Panic of 1873. In August 1875, the Bank of California, then the largest monetary institution on the West Coast, closed its doors. Other businesses failed, and unemployment ran high. Severe drought in the winter of 1876–1877 adversely affected the agricultural economy as well.¹⁷

¹⁵ *California Statutes*, 1870, Chapter 489; and State Board of Equalization, *Report for the Years 1872 and 1873* (Sacramento, 1873), 4–7.

¹⁶ Fankhauser, 238–241.

¹⁷ Fankhauser, 228–229, 256–257; Nash, 163.

TABLE 6. STATE PROPERTY TAX VALUES, RATES, AND RECEIPTS, 1860–1900

Year	Valuation of Property (millions rounded)	State Property Tax Rate	State Portion Property Tax Receipts	State Railroad Property Tax Receipts	Total State Property Tax Receipts
1860	\$ 148,194	0.600	\$ 668,801	*	\$ 668,801
61	147,812	0.600	727,880	*	727,880
62	160,369	0.770	686,564	*	686,564
63	174,105	0.920	878,131	*	878,131
64	180,485	1.250	1,261,938	*	1,261,938
65	183,509	1.150	1,641,831	*	1,641,831
66	200,764	1.130	1,608,078	*	1,608,078
67	212,205	1.130	1,807,694	*	1,807,694
68	237,483	1.000	1,925,239	*	1,925,239
69	260,564	0.970	1,933,222	*	1,933,222
1870	277,538	0.865	2,081,168	*	2,081,168
71	267,868	0.865	1,994,853	*	1,994,853
72	637,233	0.500	2,023,775	*	2,023,775
73	527,200	0.500	2,350,911	*	2,350,911
74	607,232	0.649	2,677,073	*	2,677,073
75	618,083	0.605	3,243,581	*	3,243,581
76	595,073	0.735	2,985,352	*	2,985,352
77	586,953	0.630	3,948,032	*	3,948,032
78	584,578	0.550	3,318,387	*	3,318,387
79	**	**	3,006,474	*	3,006,474
1880	666,183	0.640	3,131,734	*	3,131,734
81	659,522	0.655	3,636,008	*	3,636,008
82	607,462	0.596	3,685,367	*	3,685,367
83	764,764	0.497	3,305,507	*	3,305,507
84	821,079	0.452	3,527,349	\$ 20,206	3,547,555
85	859,512	0.544	3,271,719	16,546	3,547,555
86	816,447	0.560	4,222,198	439,165	4,661,263
87	955,456	0.608	4,064,938	63,421	4,001,516
88	1,107,106	0.504	5,134,103	23,990	5,168,093
89	1,115,014	0.722	5,038,424	218,028	5,256,453

Year	Valuation of Property (millions rounded)	State Property Tax Rate	State Portion Property Tax Receipts	State Railroad Property Tax Receipts	Total State Property Tax Receipts
1890	1,099,773	0.580	7,211,414	292,606	7,504,020
91	1,241,231	0.446	5,793,887	232,934	6,026,821
92	1,275,833	0.434	4,950,096	183,814	5,133,911
93	1,211,572	0.576	4,965,259	187,295	5,152,555
94	1,204,977	0.493	6,568,701	482,550	7,051,252
95	1,132,713	0.685	5,687,388	1,282,325	6,969,713
96	1,263,799	0.429	7,310,749	1,245,751	8,556,500
97	1,087,456	0.510	5,180,781	650,683	5,831,464
98	1,129,474	0.488	5,292,604	758,394	6,050,998
99	1,194,678	0.601	5,150,651	717,864	5,868,515
1900	1,218,228	0.498	6,797,033	846,082	7,643,115
*figures not separated from total					
**no figures available					
Source: Fankhauser, <i>A Financial History of California</i> (Berkeley: University of California Press, 1913), 195, 247, 252, 292, 298, 334, 344.					

Property tax receipts, the principal source of state revenue, increased from \$2,677,073 in 1874 to \$3,243,581 in 1875, then decreased to \$2,985,352 in 1876 (see Table 6). Although taxation was a major issue of the 1875 political campaign, pre-election promises were largely ignored by elected officials from both major parties. Thus, despite an unstable economy, the Legislature increased the property tax rate for the 1876–77 fiscal year; as a result, 1877 property tax receipts rose nearly one million dollars, to \$3,948,032. Tax delinquencies, however, remained high from 1872 through 1876. Delinquent state taxes on real property jumped from \$126,006 in fiscal year 1871–72 to \$270,700 in 1872–73, a jump partly explained as a reaction to State Board of Equalization adjustments. Tax delinquencies on real property dropped during the next two years, but never down to the 1871–72 level: from 1874 to the end of the decade, they fluctuated between about \$192,000 and \$221,000.¹⁸

The Central Pacific Railroad monopoly on market transportation precipitated action among farmers. Disgruntled grain growers in the

¹⁸ Fankhauser, 247–252.

Sacramento area began organizing ad hoc farmers' clubs in 1871; and, in 1872, eleven such clubs banded together as the California Farmers' Union. Their plans to establish marketing cooperatives coincided with the chief objective of the Patrons of Husbandry (Grange), a larger and more powerful nationwide association; hence, the Farmers' Union agreed to dissolve into the Patrons of Husbandry, and the California State Grange was organized in 1873. Between early 1871 and autumn of 1874, 231 subordinate granges were organized with a total membership of 14,910 individual farmers, concentrated in the Northern California counties of Napa, Sonoma, Santa Clara, Sacramento, San Joaquin, Santa Cruz, Sutter, and El Dorado — the state's principal agricultural areas at the time. Los Angeles was the only Southern California county with a substantial membership. In the beginning grain farmers dominated the membership and dictated policies; the earliest activities were those carried over from the Farmers' Union. The California State Grange sponsored marketing agreements and cooperative business ventures designed to force the price of wheat higher as well as reduce production and marketing costs. When these ventures failed, membership dropped significantly; by 1876, membership reached a mere 7,660.¹⁹

Political reform activities, however, fired the enthusiasm of a dwindling membership. Their major goal during the early and mid-1870s was

¹⁹ Carr, 75–86; California State Grange, *Proceedings of Annual Sessions* (first through tenth annual sessions bound together; S.F.: various printers), 1873, 1874, 1875, passim. The Grange was not as strong in California and the West as it was elsewhere in the United States during the nineteenth century. Nevertheless, at its peak, 1874–1875, State Grange members may have accounted for as many as one-fourth of the state's farmers. According to 1870 U.S. census data, California had 27,929 people engaged in agricultural occupations excluding laborers, overseers and stockherders. California Grange *Proceedings* show membership, including men and women, as follows: 1873, 3,168; 1874, 14,910; 1875, 15,193; 1876, 7,660; 1877, 6,761; 1878, 5,467; 1879, 3,262; 1880, 1,276.

Robert L. Tontz, in "Memberships of General Farmers' Organizations, United States, 1874–1960," *Agricultural History* 38 (1964): 154, compiled membership figures from National Grange official records that show lower California membership numbers, perhaps because the national headquarters counted only paid, family memberships. His figures show 7,488 family members in 1875, declining to 5,245 in 1876, and 1,120 in 1877, up to 2,053 in 1880, then down to 1,380 in 1890. If one accepts a conservative 1875 figure of 7,488 and considers that the number of farmers in the state increased to at least 30,000 by 1875, one arrives at a reasonable estimate of Grange strength.

the reduction of railroad fares and freight charges, a goal the Grange shared with the Peoples' Independent Party. Central Pacific's control over the carrying trade also prompted organization of the Peoples' Party, an alliance formed in 1872 to promote agricultural and industrial interests. Both groups pressed for the establishment of maximum rates and other restrictive legislation. Their efforts influenced the Legislature to appoint a railroad commission in 1876, but it was given no authority to determine rates.²⁰

By 1876, Grange efforts to gain some control over market prices and railroad rates had ceased, and membership had declined considerably. Constantly rising property taxes, however, gave the remaining members new cause for concern. In addition, the state's business economy was in recession; crop failures during the next season sent the agricultural economy into decline. California Grange political activities during the late 1870s correspondingly began to focus on equalizing property tax assessments and lowering mortgage interest rates. The list of reform demands drafted at the 1878 annual convention for the 1879 Constitutional Convention included "equal taxation of all farming lands of equal producing capacity, when similarly situated," tax exemption guarantees for growing crops and improvements to land, a graduated income tax, and limitations on state and local government spending and taxing powers. State Granges throughout the country demanded tax reforms during the 1870s, but few were able to translate demands into legislative or constitutional changes. Political corruption tied to nagging land problems may have contributed to the eventual success of the agrarian tax reform movement in California. More important to success, however, was the Grange's willingness to join forces with the Workingmen's Party, Denis Kearny's short-lived but powerful organization of unemployed urban workers. Together, the Grange and the Workingmen's Party wielded influence far beyond the strength of their numbers, enough to convene and control a constitutional convention.²¹

²⁰ Solon J. Buck, *The Granger Movement, 1870–1880* (Cambridge: Harvard University Press, 1913), 197–198.

²¹ California State Grange, *Proceedings, 1877–78*, especially 21–23, 26–27, 43–44, 46, and 1878–79, especially 27–28. See also Clarke A. Chambers, *California Farm Organizations* (Berkeley: University of California Press, 1952), 10–11; Fankhauser, 255–58; Hittell, *Resources*, 422–423; and Buck, 105.

When the convention opened in September 1878, the Grange and the Workingmen's Party immediately formed a majority bloc. Their objectives centered almost exclusively on taxation. It is not surprising, therefore, that the revenue and taxation provisions of the 1879 Constitution differed markedly from those adopted thirty years earlier. First, the delegates rejected the notion that taxation should be equal and uniform. The new Constitution provided that taxation apply uniformly within each class of subjects. The 1879 Constitution also called for both state and county boards of equalization, with the state board empowered to increase or lower the entire assessment rolls of individual counties and, in addition, order counties to raise or lower individual assessments. A third provision of the new Constitution addressed farmland taxation specifically. It required that land and improvements be assessed separately and that both cultivated and uncultivated lands of the same quality and similarly situated be valued accordingly and assessed at the same rate. These provisions were meant to prevent further tax assessment abuses, but Grange and Workingmen delegates also hoped these tax provisions would help to break up large landholdings and induce owners to improve their farm properties. Separate assessment of land and improvements dates to as early as 1852 in scattered California localities, but the farmer-labor coalition added provisions they perceived would penalize land speculators and break up large monopolies.²² These provisions, it would seem, were the result not only of "a generation of land agitation," as one tax historian has phrased it,²³ but of nearly a decade of George's advocacy for using the tax system to break up monopolies and redistribute wealth.²⁴

The new Constitution coincided, in fact, with the appearance of *Progress and Poverty*, Henry George's classic treatise on the single tax, in which he argued for the abolition of all taxes except a tax on the site value of land. Although the constitutional provisions regarding taxation did not represent an attempt to establish the system George advocated in *Progress and Poverty*, it seems highly likely that his earlier writings influenced the

²² Fankhauser, 258–273.

²³ Young, 63–64.

²⁴ A conclusion shared by Paul W. Gates; see "California Land Policy and Its Historical Content: The Henry George Era" in *Four Persistent Issues* (Berkeley: University of California Institute of Governmental Studies, 1978), 22.

farmer–labor coalition responsible for the new tax provisions. *Our Land and Land Policy* launched George into a journalistic phase which brought his ideas to the attention of Workingmen’s Party leaders, who offered him a nomination to the 1878 convention. George declined, however, ostensibly to work on the manuscript for *Progress and Poverty*. Nonetheless, it is safe to conclude that at least some Workingmen’s Party delegates to the convention were familiar with George’s ideas regarding the connections between land monopoly and a multitude of economic problems. As for Grange delegates, the resolutions they carried to the convention suggest that they, too, were influenced by George’s ideas of using the tax system to break up large landholdings. While it is true that the national organization generally disapproved of the single tax movement after 1879, the California Grange members operated under no such restraints during the convention. More telling, however, is an account of the State Grange origins written by Ezra S. Carr, University of California professor of agriculture in the 1870s and a prominent State Grange member. In his 1875 chronicle, Carr displays a thorough understanding of the material Henry George presented in *Our Land and Land Policy*, and he shared George’s disgust for the developing land monopoly. Presumably, he also imparted this knowledge, and his opinions, to other Grange leaders.²⁵

THE ILLUSION OF CHANGE

Despite the Georgist stamp, the new constitutional tax provisions were not braced by single tax or any other economic theory. They were measures designed principally to relieve farmers and laborers of taxes they perceived as unjust. Nevertheless, in ad hoc fashion, the farmer–labor coalition laid the groundwork for a classified property tax system, based on the strategy of including or excluding certain factors in the assessment of various types of property to effect more equitable taxation overall.

²⁵ Barker, 251, 259–261; D. Sven Nordin, *Rich Harvest: A History of the Grange, 1867–1900* (Jackson: University Press of Mississippi, 1974), 211; and Carr, especially Chapter 18, 290–303, “Aids and Obstacles to Agriculture on the Pacific Coast,” in which he discussed California land monopoly, citing information taken from *Our Land and Land Policy*.

For a variety of reasons, however, no classified tax system developed in the years immediately following, and the constitutional provisions had no impact on large landholdings. Conflict between corporations, especially railroads, and the Legislature over assessment seriously hampered the Board of Equalization's effectiveness. In 1880, the California Supreme Court, in *Wells Fargo v. State Board of Equalization* (56 Cal. 194, 198), interdicted the state board from altering individual assessments on county property tax rolls. The board protested to the Legislature, but the Legislature deferred to the court. Thus, the board was powerless to implement the constitutional provision requiring equal valuation of cultivated and uncultivated lands. The board nevertheless pursued with vigor its power to raise or lower entire assessment rolls; and between 1881 and 1892, it issued well over sixty orders to counties to raise their assessments by as little as five or as much as thirty percent.²⁶

Railroads fought new laws under the 1879 Constitution on several grounds. They claimed exemption from state taxation because railroad corporations held federal franchises; they argued that new laws were null and void because they lacked uniformity; they charged that the state board had no constitutional power to make assessments or levy taxes; and they issued a host of minor legal complaints. Through litigation, railroads managed to avoid paying substantive taxes for several years. Although the state did not start keeping separate figures for revenues derived from railroad property (assessed by the State Board of Equalization) and all other property (assessed by counties) until 1884, figures from that year forward suggest that railroads paid taxes only when no legal loophole could be contrived to escape (see Table 6).²⁷

Such developments might have sustained the political energies of those dissatisfied with property taxation if the precipitating circumstances of the 1870s had continued, but they did not. The Workingmen's Party, its strength chiefly derived from the immediate demands of unemployed workers, collapsed as quickly as it arose once the business economy regained strength. More important, however, Grange membership continued to decline as

²⁶ See Simeon E. Leland, *The Classified Property Tax in the United States* (Boston and New York: Houghton Mifflin Co., 1928), 52–64, for a discussion of the various techniques which have been used to achieve a classified property tax; Fankhauser, 286–289.

²⁷ Fankhauser, 298–310.

agriculture entered a period of rapid growth and change. From 1870 to 1900, extensive land use gave way to intensive land use and a specialized agricultural industry. Vineyards, fruit and nut orchards, hops and sugar beet fields, and pastures for dairy operations replaced cattle ranges and vast grain fields. The change resulted from improved transportation, the introduction of irrigation in the 1860s, the growth of financial institutions able to mobilize and reallocate capital to develop land resources, population growth that expanded markets, and state policies that promoted agricultural research and encouraged immigration. Foreign and domestic population growth increased the number of farmers from about 48,000 in 1870 to over 145,000 by 1900. Foreign immigration also brought a cheap labor source; without Asian or East Indian laborers, intensive agriculture could not have succeeded as it did. Between 1860 and 1900 the number of farm laborers in California increased from about 15,000 to almost 72,000. These combined factors stand behind the phenomenal increase in improved farmland acreage. In 1849, fewer than 33,000 acres were improved, and few people thought that agriculture could be developed in California's semi-arid climate. By 1889, improved farmland reached a peak of twelve million acres. During the 1880s, consequently, farmers tended to form organizations based on crop specialty as a means to share information concerning the latest farming methods and plant varieties best suited to the state's climates. Until the 1910s, the Grange was the only general farm organization of note in the state, and its dwindling membership was concentrated in a few Northern California counties. Farmers' interests now lay chiefly in agricultural development, not in political action.²⁸

The taxation provisions of the 1879 Constitution, as they were implemented by law, did not produce the reforms that the Grange and the Workingmen's Party had sought. The state, through the Board of Equalization, had slightly more control over the taxation of railroads and other corporations; and farmers secured separate assessment of real and personal property. Neither change proved to be wholly satisfactory, but relative economic prosperity through the early 1890s dissipated political unrest. In the end, constitutional underpinnings introduced in 1849 for land and tax policies

²⁸ Chambers, 12–13; Nash, 139–158; Paul S. Taylor and Tom Vasey, "Historical Background of California Farm Labor," *Rural Sociology* 1 (1936): 281–295.

remained substantially unchanged. The general property tax system remained under the quasi-official control of local governments. Equalization remained more a hope than a promise. Most land claims had been settled, but large landholdings remained a source of irritation to those who saw their potential for developing California's agricultural economy. These conditions set the stage for a prolonged reform movement in the early twentieth century which had long-term implications for rural land-use policies.

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Chapter 3

FROM HOME RULE TO LOCAL AUTONOMY: REJECTING REGIONAL PLANNING

As previously noted, “home rule” is a slippery concept of political theory. A precise definition is impossible, for the term had various meanings when it was in current use during the era of progressive politics. In more recent years, the term has been employed almost generically to mean “local autonomy.” The change is important. California politics surrounding land planning and property taxation from about 1900 to 1929 illuminate some of the issues and goals bound up in home rule and allow one to glimpse the synchronous distillation–dilation process by which home rule has come to mean local autonomy.

In 1911, California voters approved a constitutional amendment which extended to counties the authority to frame charter governments consistent with the state Constitution. Between 1911 and 1950, ten counties adopted charter governments which the Legislature approved: Los Angeles, San Bernardino, Butte, Tehama, Alameda, Fresno, Sacramento, San Diego, San Mateo, and Santa Clara. Non-charter counties remain governed by state general law. In large part, the differences between charter and non-charter county governments are structural, concerning such things as the number of supervisors or the range of public offices. However, considerable legal debate developed between 1911 and 1950 over whether a charter was a grant

or a limitation of power, that is, whether a charter granted a county powers not reserved wholly for the state, or whether a charter limited any county's powers to those expressed in its charter. During this period, some key state legislative debates also focused on what powers the state would reserve and what powers the state would extend to local governments.¹ Debates in two areas, planning and taxation, are especially important because, by 1930, the outcome of those debates transformed selective home rule into catholic local autonomy and established the policy framework for later land conservation issues.

RURAL LAND PLANNING: PRELUDE

In 1926, Thomas Adams, director and principal designer of the New York Regional Plan, forecast that “interspersed between the closely developed areas” of the regional communities of the future there would be “areas zoned and permanently reserved for agricultural purposes.” Adams, who was projecting his vision of the future New York metropolitan area at the time, advocated that agricultural reserves should “lie between the transportation and power corridors and [urban] focal points” to “maintain an efficient and economical balance of development.”² A respected and influential planner, Adams derived his ideas about regional planning from the same source as did many of his colleagues: Englishman Ebenezer Howard.

¹ *California Constitution*, article XI; Jane Gladfelder, *California's Emerging Counties* (Sacramento, County Supervisors Association of California, 1968), 8–10; Joseph D. McGoldrick, *Law and Practice of Municipal Home Rule, 1916–1933* (1933; New York: AMS Press, 1967), 49–54. California was the first state to adopt county home rule.

² Thomas Adams, “Forecast: The Regional Community of the Future,” TS dated September 9, 1926 (8, 10), sent to S.F. Regional Plan Association by Russell Van Nest Black (Records of the Regional Plan Association of San Francisco Bay Counties [hereinafter cited as RPA Records], Ctn. 1, Bancroft Library). Adams, a surveyor by training, was the first secretary of the International Garden City and Town Planning Association, manager of Letchworth, and the first president of the British Town Planning Institute. During the course of the ten years it took to complete the New York Regional Plan (1921–1931), Adams was to depart from Howard's basic garden city concept; and when the ten-volume plan was finally completed, Lewis Mumford criticized Adams for planning for continuous geographic expansion of the city. See Daniel Schaffer, *Garden Cities for America: The Radburn Experience* (Philadelphia: Temple University Press, 1982), 74–77.

In his inspirational work, *To-Morrow: A Peaceful Path to Real Reform* (1898), Howard proposed integrating urban and rural areas into constellations of “garden cities.” His ultimate concern was to remedy urban blight, but the ideas he advanced argued for more than decentralizing industry and fanning the urban population out into amorphous suburban conglomerations. Howard observed that urban congestion and industrial pollution were accompanied in rural areas by declining populations, economies, and social opportunities. Both urban and rural conditions, he argued, could be improved if new towns of limited population were established in rural areas and if industry, commerce, and agriculture were integrated to provide a diversified economic base for the entire town–country region. Municipalities, according to Howard’s plan, would own the urban and rural lands within their confines and lease land to their inhabitants, thus capturing the unearned increment so as to preclude land speculation on the one hand and, on the other, provide ample income for municipal improvements and services. A constellation of garden cities would fall under the jurisdiction of a regional administrative unit that could imbue garden city principles with the force of law.

Howard’s utopian quest was to create town–country regions that would foster in their denizens nothing less than health, prosperity, mental acuity, and civic pride. He envisioned urban and rural England as one day interconnected by a network of garden cities; but the experimental communities established according to his principles, Letchworth and Welwyn, remained isolated examples. And as imperfect physical embodiments of Howard’s still-maturing ideas, the two communities inspired critics to define the limits, rather than fathom the possibilities, of his garden city concept, which was destined never to be adopted in its entirety.³

During the 1920s, American city planners embraced the garden city concept in theory, but only a handful of individuals at the core of the Regional Planning Association of America — notably Lewis Mumford,

³ Ebenezer Howard, *Garden Cities of To-Morrow* (London: Faber and Faber, Ltd., 1945). This edition, with a preface by F.J. Osborn and an essay by Lewis Mumford, follows the 1902 edition published under the same title, but includes selected passages from the 1898 original publication, *To-Morrow: A Peaceful Path to Real Reform*. See also Schaffer’s discussion of Howard’s influence in both England and the United States, Chapters 1 and 2, *Garden Cities for America*.

Benton MacKaye, Henry Wright, Sr., and Clarence Stein — ever tried to implement Howard’s concept without entirely sacrificing its essential principles: community ownership of land, greenbelts to foster balanced urban–rural spatial growth, and balanced urban–rural economic growth. These principles, however, mandated a radically different economic approach to land development. In practice, most planners treated open spaces surrounding urban areas either as protective buffers or as sources of new land for expanding cities, not as integral parts of a larger regional community and economy. For example, planning consultant Harland Bartholomew wrote, in a 1925 statement concerning regional planning for the San Francisco Bay Area, that “little attention is ever given to the preservation and full utilization of agricultural areas within or adjacent to metropolitan districts or regions.” Rhetoric notwithstanding, Bartholomew’s ultimate concern was the city; and he therefore argued that zoning be used to prevent “undue withdrawal of land best suited for agricultural purposes in advance of its need for actual urban uses.”⁴

Rural planning in the United States, moreover, developed separate from city and regional planning; and rural land-use planning evolved out of concerns quite apart from those of city and regional planners. In California, especially, rural land-use planners focused, until the 1950s, on issues that had little bearing on land use. In the 1910s, for instance, rural planners in California sought not only to break up large landholdings and to stem the trend of rural-to-urban migration, but also to replace so-called “alien,” particularly Asian, farmers with men and women of Anglo-European extraction. Racially motivated fears, for instance, generated popular support for the state’s 1913 Alien Land Law. Many Californians felt that Japanese immigrant farmers, in particular, were advancing too rapidly up the economic ladder, and there was anxiety that Asians might gain an even greater foothold if large tracts of land suitable for agriculture were opened to settlement.

⁴ Harland Bartholomew, “The San Francisco Bay Region: A Statement Concerning the Nature and Importance of a Plan for Future Growth,” TS submitted to the Regional Plan Association, September 1925, 7, 20 (RPA Records, Ctn. 1). Bartholomew studied civil engineering at Rutgers from 1907–1909 (honorary degree, C.E., Rutgers, 1920). By the mid-1920s he had helped to design plans for about forty American cities, including Washington, D.C.’s 1920 zoning ordinance.

ELWOOD MEAD AND THE LAND SETTLEMENT BOARD

Planners surely played a part in the slow evolution of a state policy regarding California's agricultural lands, but their role is difficult to ascertain with precision because their ideas led them to take widely diverging paths. The state's earliest efforts to direct agricultural land use were for the express purpose of rural development, not land conservation. In 1910, the Commonwealth Club of California, an august body of the state's business, professional, and civic leaders which served as an unofficial advisory body to the Legislature from the turn of the century through the 1920s, took up discussion of natural resources conservation and state aid to agriculture. Its discussions led to the Land Settlement Act of 1917, a state-funded program to promote small-farm land use and development.

When the Commonwealth Club turned its attention to the broad topic of conservation in 1910, a committee was assigned to study and make recommendations concerning legislation for agricultural land. Although the committee considered soil tillage, cultivation, irrigation, drainage, and fertilization to be important, its principal focus was farm size, which then averaged about 320 acres in California. Farms over 160 acres were, the committee held, the major contributors to wasted soil fertility because large farms, they assumed, were inherently subject to "ignorant and ruthless mismanagement." California's agricultural lands could best be conserved, the committee argued, by subdividing large landholdings and by fostering, through education, intensive farming using the most up-to-date scientific techniques. "The small farm well tilled," the committee judged, "is decidedly the factor of first importance in maintaining the soil's productive power."⁵

Proposed legislative measures resulting from the Commonwealth Club's study of natural resources conservation as well as the investigations of the State Conservation Commission, a fact-finding body established in 1911, did not, however, include agricultural lands. Water and, to a lesser

⁵ "Conservation," *Transactions of the Commonwealth Club* [hereinafter cited as *Transactions*] 7, no. 2 (1912): 131-146. The members of the committee were Charles B. Lipman, professor of soils, and Leroy Anderson, professor of agricultural practice, both at the University of California, Berkeley, and Frank Adams, an irrigations investigator for the U.S. government.

degree, forest and mineral development became the foci of a long-term, heated debate. Public utility companies opposed virtually every conservation bill proposed in the Legislature up until 1920. When the state finally established a Department of Natural Resources in 1927, the purview was limited to the state's forest reserves, minerals, and fish and game: it lacked jurisdiction over land and water policies. The Commonwealth Club's discussion nevertheless indicates that at least some Californians believed that privately owned agricultural lands, particularly those held in large tracts, should be subject to regulatory land-use policies.⁶

Although political debate over water and mineral rights ultimately overshadowed natural resources conservation issues, agricultural land-use planning meantime emerged under the guise of a brief but important state-directed effort to rechannel development of California's agricultural industry and rural society. Large landholdings, the legacy of a disreputable nineteenth-century land administration system, still concerned a great number of citizens. During the early twentieth century, muckraking journalists exposed land settlement schemes promoted by landowners whose motives were ethically questionable. Civic and political leaders caught up in the reform fervor of the decade thus determined to break up the remaining large tracts, such as the Miller and Lux cattle empire and the Southern Pacific Land Company.⁷

In 1911, when the Commonwealth Club discussed state aid to agriculture, Edward Berwick, a retired farmer from Pacific Grove, requested information on Australia's land settlement program from Elwood Mead, who was then deeply involved in the Australian experiment. Earlier, in 1907, Mead had accepted a position as chairman of the State Rivers and

⁶ Ibid.; Frank Hichborn, *Story of the California Legislature* (San Francisco, 1911), 137–173; Hichborn, *Story* (1913), 156–168; California Conservation Commission, *Report of the Conservation Commission*, January 1, 1913; California Department of Natural Resources, "Utilization of Natural Resources During California's First Century" (mimeographed report), January 1950.

⁷ See, for example, a series of articles by Bailey Millard published in early 1916 in the *San Francisco Examiner*, especially those of February 20, 1916, "Big Land Holders Keep City Dweller from the Farm He Dreams About: Henry Miller, According to Modest Estimate, Owns at Least 22,717 Square Miles of this Earth," and February 27, 1916, "One-Seventh of State a Government Gift to Railroads; Private Owners Tie Up Empire of California's Forests."

Water Supply Commission in Victoria, Australia. During the next eight years, he supervised thirty-two irrigation projects which were part of a massive, government-financed program whereby the state purchased land, built irrigation systems, planted crops, constructed roads, platted towns, and built homes for prospective colonists. New settlers continued to receive government aid in the forms of long-term government loans; expert farm advice; government-owned nurseries, dairies, warehouses, and slaughterhouses; and government-supported marketing cooperatives. Berwick introduced this concept of government aid to agriculture before the club in 1911. At that time, however, most members preferred instead to see the state monitor farm loan companies and rely on expanded education and university research in agriculture to transform farming into a more efficient, business-like enterprise. Theoretically, farmers would then protect their investments in land by practicing intensive farming and soil conservation. Their goal was to foster the growth of a large class of small-scale, independent farmer-businessmen, managing consistently profitable operations that, in turn, would allow rural communities to support a full complement of social and civic organizations: in short, to replicate the city in the countryside.⁸

Farm market prices remained relatively stable between 1910 and 1915, but land prices advanced steadily. In 1910, the average price for improved land was \$117 per acre; for unimproved land, \$58 per acre. By 1916, the average prices were estimated, at a minimum, to have doubled, although widespread variation existed throughout the state. Many believed California farmland to be overpriced, and prices were higher than those prevailing elsewhere in the country. Rising land prices precipitated concern over whether mortgage adjustments and state-supported agricultural research would be sufficient to keep the small-farm sector healthy. This economic climate helped to create popular support for the state to rescue the independent, small-landholding (Anglo-European) farmer from the market-land price squeeze.⁹

⁸ "State Aid to Agriculture," *Transactions* 6, no. 7 (1911): 407–513.

⁹ *Population Census, 1910*; H.J. Stover, "Annual Index Numbers of Farm Prices, Farm Crop Production, Farm Wages, Estimated Value Per Acre of Farm Real Estate, and Farm Real Estate Taxes, California, 1910–1935," University of California Giannini

Mead's eight years as an integral part of the Australian enterprise convinced him that a similar program could, in California and other western states, "help to break up large holdings," and "increase the rural population" to mitigate effects of a declining rural population nationwide. His secondary mission was, however, to "protect rural civilization from the impending menace of alien ownership." Mead believed that high land prices were driving farmers' sons and daughters to the cities; and he especially feared the combined evils of alien land ownership, non-resident land ownership, and tenant farming: these, he believed, were "politically dangerous and socially undesirable."¹⁰ He was in step with many of his middle-class peers who subscribed to reform causes during the Progressive Era — those who deplored, on the one hand, the economically destructive excesses of monopolistic corporations and, on the other, the supposed threat of social unrest posed by un-Americanized immigrants.¹¹

The remedy, for Mead, was to strengthen the ranks of independent, Anglo-American landowning farmers. His goals were all-encompassing: to replace migrant and alien farmworkers with the once-common but now-vanishing hired man, restore prosperity to small farm operations, rebuild the prestige once attached to farming, and reinvigorate rural institutions and society. All this was necessary "to promote national efficiency, maintain the balance between city and country life, and avert political and social unrest."¹² Mead, as another historian has observed, "dreamed of combining social reclamation with land reclamation."¹³ He was confident that government planning could do what private land settlement efforts had not: "stop the drift of white people away from the land and bring back to the country districts the hopeful independent spirit that marked the early life of this State."¹⁴

Foundation of Agricultural Economics, Report #50, August 1936; "The Land Settlement Bill of 1917," *Transactions* 12, no. 1 (1917): 7–23.

¹⁰ Elwood Mead, *Helping Men Own Farms* (New York: Macmillan Co., 1920), 213, and comments in "Land Settlement in California," *Transactions* 11, no. 9 (1916): 397–407.

¹¹ George E. Mowry, *The California Progressives* (Berkeley: University of California Press, 1951), 91–102.

¹² Mead, *Transactions* (1916), 397–407.

¹³ Paul K. Conkin, "The Vision of Elwood Mead," *Agricultural History* 34 (1960): 88–90.

¹⁴ Mead, *Helping Men Own Farms*, 29–38, 134.

During a trip to California in 1914, Mead took the opportunity to present his ideas to governor Hiram W. Johnson, who helped him to secure the backing of the Commonwealth Club. The club appointed a committee to study government-sponsored land settlement in Australia, Denmark, and Germany. Finding these programs to be meritorious, the club requested that the state undertake its own investigation. In 1915, the Legislature acted positively on the request and created the State Commission on Colonization and Rural Credits. Mead, returned from Australia that year, was appointed its chairman. Other members of the commission included Mead's good friend David P. Barrows, president of the University of California; Chester H. Rowell, editor of the *Fresno Republican*; Mortimer Fleishacker, a San Francisco manufacturer; and Harris Weinstock, a San Francisco merchant. All the commissioners were prominent members of the Commonwealth Club. Weinstock, in addition, had visited Australia sometime between 1907 and 1910, during which time he observed firsthand the government's land settlement program.¹⁵

The commission held several public hearings, studied over thirty privately developed farm colonies throughout the state, and amassed statistics on farm operating costs, farm tenantry, and the racial composition of farm tenants in California. In the end, however, the commission's recommendations were based not so much on its investigation as on an assumption that the state's rural areas were suffering from "arrested development." They blamed this intolerable condition on "high prices of land, high interest rates, and [the] short terms of payment" extended to prospective settlers. The commission recommended that federal and state legislation be enacted to enable the federal government to "construct and operate irrigation systems" and the state to "direct the subdivision, sale and settlement of the land, inaugurating a system of financial aid and practical advice to the settlers." It further recommended that "the whole development be planned in advance . . . including the provisions of homes for farm laborers, farm units of varying sizes, and plans for towns, roads, and schools."¹⁶

¹⁵ Conkin, 90; "The Land Settlement Bill," *Transactions* 10, no. 5 (1915): 83; Gerald D. Nash, *State Government and Economic Development* (Berkeley: University of California Institute of Governmental Studies, 1964), 344–345.

¹⁶ California Commission on Land Colonization and Rural Credits, *Report of the Commission on Land Colonization and Rural Credits*, November 19, 1916 (Sacramento,

The commission's parent organization, the Commonwealth Club, vigorously debated its report. Several speakers prepared statements in opposition, including two attorneys, the general manager of the Sacramento Valley Development Association, and a realtor. Their arguments against the report and the bill centered on two points. First, they argued against subsidizing some farmers at the expense of taxpayers and other farmers, the latter of whom might suffer the effects of lower market prices because of increased competition. Second, they argued that state-directed land settlement designed, in part, to break up a few large landholdings would absorb the initiative, not to mention jeopardize the profits, of reputable private land colonizers.¹⁷

The opposition did not, however, prevail. The Legislature passed the land settlement bill in order "to improve the general economic and social conditions of agricultural settlers within the state."¹⁸ Governor Johnson once again appointed Mead as chairman of the Land Settlement Board created under the act's auspices. The board received an initial appropriation of \$260,000 in 1918, and an additional \$1 million in 1919. These sums enabled the board to establish two experimental colonies: one of 6,239 acres near Durham, in Butte County, and one of 8,400 acres near Delhi, in Merced County. Durham, launched in 1918, was a colony of 110 farms, ranging in size from nine to three hundred acres, and thirty farm laborers' allotments of about two acres each. It promised to be successful beyond all expectations, a circumstance that propelled Mead into a position with the U.S. Reclamation Service. But Delhi, begun a year later and planned entirely for World War I veterans, was barely under way when the farm recession of the 1920s began: declining farm receipts hindered colonists' ability to repay their shares of the state's costs. Thus, in 1928 the state opted to withdraw after it became clear that the program would probably never be self-supporting. By 1930, colony lands had passed into private ownership.¹⁹

Mead's vision of American society was narrowly idealistic, and it excluded those who were not of Anglo-European descent. Yet his Jeffersonian agrarianism was attractive to many who believed that a long-standing

1916), especially 7, 119–120.

¹⁷ *Transactions* 11, no. 8 (1916): 416–428; *Transactions* 12, no. 1 (1917): 12–51.

¹⁸ *California Statutes*, 1917 (Extra Session, 1916), Chapter 755.

¹⁹ Conkin, 90–92; Nash, 345–356; Mead, *Helping Men Own Farms*, 106–139.

American institution of small farms and independent farmers was degenerating, in California at least, into a system of large landholdings with absentee owners who entrusted husbandry to immigrants considered to be unassimilable. In his new post with the Reclamation Service, Mead worked with Franklin K. Lane, secretary of the interior, to promote a federal land settlement program based on his experiences in Australia and California. His ideas, moreover, influenced New Deal land-use planning programs as well as state land colonization projects in Arizona, Washington, Minnesota, and South Dakota. Californians, however, displayed waning enthusiasm for government-sponsored land settlement and rural land planning.

REGIONAL PLANNING AND THE STATE PLANNING ACT, 1921–1929

In 1927, when California was about to withdraw from its first foray into state-directed agricultural land development, the Legislature passed the State Planning Act. Despite the act's name, it did not really provide for state planning. Instead, it empowered the governor to designate regional planning areas and commissions if existing city or county planning commissions requested them. Any regional planning commission thus established was authorized by the act to prepare and adopt a physical development plan that might include proposals for streets, parks, open spaces, public buildings, utilities, and "the general location of forests, agriculture and open development areas for the purposes of conservation, food and water supply . . . or the protection of future urban development."²⁰

Whereas during the 1910s Mead and the Land Settlement Board promoted rural development without thought of regional planning, the state now adopted a policy of regional planning that looked upon agricultural areas as chiefly valuable for urban food supplies and as urban buffer zones. By the mid-1920s, the difficulties encountered by the Land Settlement

²⁰ *California Statutes*, 1927 (Extra Session, 1926), Chapter 874 [repealed *Statutes*, 1915, Chapter 428, and *Statutes*, 1917, Chapter 735]; see especially Sections 26–28, which pertain to regional planning; William Spangle and Associates, Inc., "The Planning Law of California: An Analysis," preliminary technical report prepared as a component of the California State Development Plan Program, August 1965, 19, 24; Mel Scott, *The San Francisco Bay Area: A Metropolis in Perspective* (Berkeley: University of California Press, 1959), 199.

Board led those concerned with regional planning to look askance at rural land-use planning and development. Rapidly expanding cities, moreover, seemed to demand immediate attention. Thus, the Commonwealth Club, which once supported the land settlement experiment, now lent its support and prestige to the regional planning movement.

Regional planning is, in some ways, a misleading term for a body of assorted ideas which had been gaining wider acceptance since 1921 in California's two metropolitan areas, Los Angeles and San Francisco. Orderly metropolitan growth was the true goal of those individuals, representing a wide variety of professions and business interests, who sat on the planning commissions in these cities. City planning emerged as a professional field only in the late 1920s: Harvard University established the first American university program in 1929. Architects, landscape architects, and engineers were the principal planners of the 1920s. Aesthetic and technical concerns shaped their planning ideas. Few planners considered the social or economic aspects of their work, although the Regional Planning Association of America was a notable exception.²¹ American city and regional planning, in addition, originated on the East Coast, and West Coast planning commissions were in touch with emerging ideas chiefly through the consultants they hired. So if regional planning seems, in retrospect, to overestimate their undertakings, it is because they were groping, at the time, for a means to direct long-term urban growth; and the young regional planning movement offered them their best guidance.

Most Californians who advocated for regional planning in the 1920s simply had no clear idea of what they meant by it, but their planning impulse clearly had an urban focus. Thus, G. Gordon Whitnall, director of the City Planning Commission of Los Angeles and guiding force behind the Los Angeles Regional Planning Commission, established in 1922, admitted that he was "at a loss to know how to approach this broad subject of regional planning" in a speech before the Commonwealth Club in 1923. He noted, however, that the regional planning movement was a necessary reaction to burgeoning metropolitan centers — namely New York, Chicago, Boston, Los Angeles, and San Francisco — which, "in the normal process

²¹ Eugenie Ladner Birch, "Advancing the Art and Science of Planning: Planners and Their Organizations, 1909–1980," *Journal of the American Planning Association* 46, no. 1 (January 1980): 22–49.

of expansion” had “assumed such proportions as to encroach physically upon the domain of their neighbors.” Encroachment most often took the noxious forms of sanitation problems and traffic congestion, and regional plans were designed principally to alleviate these situations.²²

Urban community interdependency became the theme of 1920s’ regional planning advocates. For example, Hugh R. Pomeroy, secretary of the Los Angeles Regional Planning Commission, asserted in a presentation before the 1924 National Conference on City Planning that “Regional Planning is based upon the conception of . . . inter-community interest, or metropolitan unity.” Regional planning in California and elsewhere was an extension of city planning, although its adherents no longer succumbed to the old “city beautiful” illusions of the previous two decades. Regional plans developed for both the Los Angeles and San Francisco Bay areas reflected this urban bias. Activities of the Los Angeles regional planning body included standardizing subdivision regulations throughout the county; designing a system of major highway arteries; organizing various local governmental agencies, the Auto Club, and chambers of commerce to study rapid transit; educating the public to the benefits of zoning; gathering information necessary to undertake the creation of a park and recreation system; and working with the county surveyor to devise a regional sanitation program. Similarly, the nine-county San Francisco regional planning association’s list of objectives was dominated by projects to remedy urban problems: unifying port and harbor development plans, coordinating several highway systems, connecting regional centers with a rapid-transit system, acquiring and developing recreational areas, and removing the sewage and waste polluting the bay.²³

Both Los Angeles and San Francisco attempted to cope with the very real and menacing problems generated by masses of people living in large areas undefined by local governmental boundaries. Yet, salutary as their

²² “Regional Planning,” *Transactions* 18, no. 8 (1923): 255–256.

²³ Hugh R. Pomeroy, “Regional Planning in Practice,” 16-page TS of paper presented before the Sixteenth National Conference on City Planning, Los Angeles, April 7–10, 1924 (RPA Records, Ctn. 1); Russell Van Nest Black, “A Regional Plan for the San Francisco Bay Counties,” *American City Magazine* 33 (July 1925): 22–23. See also Frederick W. Dohrmann, Jr., “Statement of Purpose of the Regional Plan Association of the San Francisco Bay Counties,” February 10, 1925, and Harland Bartholomew, “The San Francisco Bay Region,” September 1925 report (RPA Records, Ctns. 1, 5).

metropolitan goals were, both planning bodies generally treated agricultural areas adjacent to their cities merely as reserves for future urban expansion. In considering the future of the Los Angeles metropolitan area, the Regional Planning Commission deplored the county's lack of proper zoning authority to control the development of residential, commercial, and industrial areas that steadily chewed away at "the retreating frontier of agriculture."²⁴ A minor objective of the San Francisco group was to secure "regional zoning for the determination of the areas best suited to homebuilding, to industry, and to agriculture." Its major concern was to curb "extensive land speculation" in "large areas of extremely fertile and productive agricultural land" so that these areas would not "be withdrawn from agricultural use and be subdivided into town lots many years before there was any justification for such withdrawal." The San Francisco association advocated regional zoning as a means to segregate and reserve agricultural land "within easy reach of all cities" because "the further afield [agriculture] is driven the greater the cost of living becomes in the cities on account of the long haul required to the city markets."²⁵

As activities progressed, however, Bay Area planners focused their energies on solving traffic and sanitation problems. Agricultural land-use planning, even for the narrowly conceived goals of preventing premature urban development and preserving local produce markets, dropped from the agenda. This shift in perspective occurred, in part, because the magnitude of urban physical problems often required city officials, planners, and engineers to divide as well as narrow their foci. The shift also resulted from a growing awareness that planning for areas outside metropolitan governmental boundaries simply was not feasible.

Both the Los Angeles and San Francisco regional planning bodies evolved from semiofficial organizations. In Los Angeles, an ad hoc group of officials from the county, from various cities, and from special districts, plus private citizens, met voluntarily in several planning conferences

²⁴ Pomeroy, "Regional Planning in Practice," 10.

²⁵ Bartholomew, 7; Guy Wilfred Hayler (planning engineer for the RPA), "The San Francisco Bay Region of the Future: What the Great Regional Plan Means," reprinted from *Daily Commercial News* in its *Annual* (San Francisco, 1926); "Report of Chief Technical Work Prepared for Regional Plan, January–November, 1926" (RPA Records, Ctns. 1, 5).

during 1921 and 1922. At their request, the county Board of Supervisors established, by ordinance in December 1922, the Los Angeles Regional Planning Commission under the authority of its home rule charter. Since the Regional Planning Commission's authority came from the county Board of Supervisors, whose jurisdiction did not extend beyond county boundaries, the commission was, in effect, a county planning commission.²⁶

In the Bay Area, regional planning evolved from the activities of the Commonwealth Club. Its City Planning Section, reactivated in 1922, proposed the creation of a planning body that would include government officials and private citizens from the nine counties fronting the San Francisco Bay. To launch the plan, the club sponsored a regional planning conference in April 1924. The conference duly resolved to create a regional association, and a conference committee handled the details of organizing a formal body and raising the necessary funds to finance its initial activities. From January 1925 until April 1928 the Regional Plan Association of the San Francisco Bay Counties labored, unsuccessfully, to secure an equal commitment to regional planning from each of the nine counties. Various factors thwarted the association throughout its tenuous three-year existence: competition between San Francisco City and Oakland for port dominance in the bay, and a common fear expressed by outlying cities that any plan ultimately would give San Francisco City control of the region's development. When all sources of financial support dried up, the association disbanded.²⁷

The San Francisco and Los Angeles planning commissions nonetheless stimulated interest in regional and county planning among two other politically influential groups: the California Real Estate Association and the League of California Cities. In March 1927, the two organizations co-sponsored the Second Annual California City Plan Conference in Oakland, where Los Angeles and San Francisco regional planning concerns were much discussed.²⁸ The Real Estate Association and the league also

²⁶ Judith Norvell Jamison, *Coordinated Public Planning in the Los Angeles Region*, Studies in Local Government, no. 9 (Los Angeles: University of California Bureau of Governmental Research, June 1948), 130.

²⁷ *Transactions* 18, no. 8 (1923): 252–253; Scott, 185–201.

²⁸ "Official Invitation to the Second Annual California City Plan Conference" (RPA Records, Ctn. 5). Hugh Pomeroy, secretary of the Los Angeles Regional Plan-

worked in concert with the Commonwealth Club to support adoption of the 1927 State Planning Act. The Legislature, however, passed the act with reservations, anticipating that the law would create “new problems of city and county procedure,” and would raise “many new legal questions.”²⁹

The 1927 law, as some anticipated, was repealed two years later because it permitted, rather than mandated, non-charter counties to establish planning commissions and was therefore in violation of the state Constitution, which required county governments to be uniform. In addition, the 1927 act defined “region” in general terms that allowed existing planning commissions to determine regional boundaries and designated the governor as the sole referee to judge whether boundaries so established were justified on demographic, geographic, or economic grounds. A new planning act superseded the old in 1929. This act empowered counties to establish planning commissions and set forth procedures for adopting county zoning ordinances. It also redefined regions more or less as special districts, whereby voters could petition county boards of supervisors with jurisdiction over territory lying within the boundaries of any proposed regional planning district in order to initiate district formation. The state, by virtue of the act, disclaimed any authority over regional planning and vested this power entirely in country governments.³⁰

The Planning Act of 1929 marks the end of one era and the beginning of another. It was the legislative fruit harvested from almost two decades of policy experimentation. During those two decades, the state embarked on an ambitious rural land settlement program that was, to some, a disappointing failure. Regional planning efforts, urban in orientation, were hardly more successful. Bay Area counties would not submit to a regional supergovernment, and regional planning in Los Angeles amounted to

ning Commission, detailed “What Regional Planning Has Accomplished in Los Angeles County”; Frederick Dohrmann, Jr., president of the San Francisco Bay Counties Regional Plan Association, outlined “A Regional Plan for California’s Metropolitan Areas”; and Stephen Child, consultant in city planning, explained “The Regional Planning Organization of the Ruhr Adapted to the Bay Region.”

²⁹ Ralph B. Wertheimer, “Constitutionality of Rural Zoning,” *California Law Review* 26 (January 1938): 178.

³⁰ Wertheimer, fn. 12; *California Statutes*, 1927, Chapter 874, Section 26; *California Statutes*, 1929 (Extra Session, 1928), Chapter 838, especially Sections 15–16 concerning regional planning; Scott, 199; Spangle and Associates, 24.

county planning. Thus, regional planning in California consisted of little more than rhetoric, and rural planning lacked meaningful scope because it neglected cities.

RURAL LAND PLANNING: A POSTSCRIPT

The form of regional planning emerging in Los Angeles and San Francisco during the 1920s reflected a nationwide trend to extend so-called engineered city planning, with its emphasis on physical infrastructures, to the hinterland. But engineered planning competed with another approach, one which Roy Lubove has called “regionalism.” The latter, quite distinct from the more technically oriented regional planning, is associated with the New York–based Regional Planning Association of America (RPAA).

Lewis Mumford, Benton MacKaye, Clarence Stein, and Charles Harris Whitaker, principal luminaries of the RPAA, were not only attracted to Ebenezer Howard’s concept of interlocked rural and urban economies, land uses, and societies, but they also were attracted to Patrick Geddes and his concept of geotechnics, or applied geography. Regionalism, which grew within the loosely structured RPAA, also influenced New Deal projects carried out under the aegis of the Resettlement Administration and the National Resources Planning Board.³¹ Karl Belser, who may or may not have been inspired by the forebears of regionalism, Howard and Geddes, was no doubt introduced, as a student at Harvard, to the ideas of those who were associated with the RPAA; and he definitely was influenced by New Deal land planning projects. It is a slender, but important, tie that binds California’s progressive land settlement experiments to Belser’s post–World War II greenbelt plans.

Benton MacKaye, more so than any other RPAA member, nurtured the ideas he shared with his colleagues into a philosophy of regionalism. A graduate of Harvard (1901, M.A. 1905), MacKaye entered his chosen career of forestry under the esteemed Gifford Pinchot. At Harvard, he was

³¹ Roy Lubove, *Community Planning in the 1920s* (Pittsburgh: University of Pittsburgh Press, 1963), 107; see also Carl Sussman, ed., *Planning the Fourth Migration: The Neglected Vision of the Regional Planning Association of America* (Cambridge: M.I.T. Press, 1976) for a thorough discussion of the social reform philosophy and goals of the RPAA.

influenced by the writings of Thoreau, Powell, and Marsh; and during his many years with the U.S. Forest Service, MacKaye further explored the philosophical terrain of conservationism. He first articulated his own ideas in a 1919 report written for the U.S. Department of Labor, "Employment and Natural Resources." In autumn 1915, Assistant Secretary of Labor Louis Post (a single tax advocate) enlisted MacKaye's assistance with the department's "investigation of land as an opportunity for workers."³² MacKaye was impressed by Elwood Mead's achievements at Durham, and he likewise drew inspiration from the inclusive goals of Australia's land colonization program. However, whereas Mead felt that the Australian system could be implemented in the United States through a government-administered financial credit program, MacKaye firmly believed that land colonization undertaken to enhance the general welfare necessitated a different approach to land economics.

The Department of Labor hoped, with its investigation, to give form and direction to the diffuse "back to the land" movement of the time. Labor congestion and underemployment in the agricultural economic sector, which accompanied the rural-to-urban demographic shift, inspired some reformers to search for a quick way to transfer factory workers from crowded urban areas onto idle or undeveloped rural lands. MacKaye, however, eschewed temporary expedients to stabilize the labor imbalance and sought instead to devise a plan for creating permanent employment opportunities along with population decentralization: to achieve, in his words, "true access to land . . . through industrial processes."³³

MacKaye's ideal self-sustaining region encompassed agricultural-industrial communities of limited size utilizing, but not exploiting, the combined productive potential of available land, forest, mineral, and water resources. His report to the Department of Labor, however, focused more narrowly on the practical means by which agricultural and timber areas could be developed profitably for large numbers of people according to sustained-yield conservationist principles. With regard to agricultural

³² From the preface by Secretary of Labor W.B. Wilson to Benton MacKaye, *Employment and Natural Resources* (Washington, D.C.: U.S. Government Printing Office, 1919), 3; see also MacKaye, *From Geography to Geotechnics* (Urbana: University of Illinois Press, 1968), 35.

³³ MacKaye, *Employment and Natural Resources*, 13.

development, MacKaye considered the garden city concept to be a useful model for joining the rural farm to the city market through a more efficient use of suburban land. But he was keenly interested in the Australian land colonization experiment, particularly because Elwood Mead's first California colony, Durham, then showed so much potential for long-term success, both economically and politically. MacKaye recommended that the federal government establish a national land development board, which would include the secretaries of labor, agriculture, and interior, for the purpose of devising a program similar to Australia's. Arguing that "natural resources are also national resources," he advocated empowering this proposed board to secure (or expropriate, if necessary) requisite land, secure financing to underwrite initial development costs, and make cooperative agreements with states.³⁴

In large part, MacKaye advocated land colonization as a way for the federal government to atone for its former profligacy: the various homestead acts. Land classification and town planning were mandatory first steps to any colonization program, but MacKaye further argued that "the fee-simple title to all lands reserved or purchased by the federal government or by any state should be held permanently by the government or state." Although he avoided single-tax rhetoric in his report, MacKaye nevertheless asserted that "extra values given to land in the vicinity of settlement areas due to improvements made on such areas at state or government expense should be . . . taken to see that these values go where they belong — to the settler and worker in the equivalent of fair wages, to the legitimate investor in a fair return, to the local community in sufficient taxes, but not to the speculator in unearned profits."³⁵

In 1923, the same year that MacKaye joined Mumford, Stein, and Whitaker to found the RPAA, he also met Patrick Geddes for the first time. Geddes, a biologist whose intellect roamed across many fields, including geography, economics, and history, is chiefly remembered for his espousal of geotechnics. He greatly influenced MacKaye, and his geotechnic ideas became part of the philosophy of regionalism that MacKaye fully articulated in his major written work, *The New Exploration*. In this book, he

³⁴ Ibid., 28–29, 102–112.

³⁵ Ibid., 30.

defined three “elemental” environments: primeval, rural, and urban. All three, he postulated, symbiotically sustain modern society and, therefore, must be developed as well as maintained in balanced proportions to create an “indigenous” environment, or regional community, which is necessary to serve equally man’s physical, cultural, and psychic needs. Development of the urban environment to the neglect, or at the expense, of the rural and primeval results, MacKaye concluded, in a struggle between metropolitan environments and a reluctantly dying indigenous host. “Will the framework which the genius of man has woven,” MacKaye asked, “become a terrestrial lacework for the integration of his own terrestrial powers, or will it become a tangled net in which he will be strangled?”³⁶

Although MacKaye did not disdain technological progress, the “collective haphazardness” of metropolitan growth resulted in more than slums of poverty; it resulted in “slum[s] of commerce” as well. He believed that two major technological advances, electric power transmission and motorized transportation, made orderly decentralized population expansion and economic development entirely feasible.³⁷ MacKaye’s philosophy of regionalism did not, however, permeate his practical applications to the degree one might expect. As urban areas began to assume the cancerous metropolitan proportions that so worried him, MacKaye concerned himself more and more with preserving the primeval. The Appalachian Trail, which he designed, remains as his great tangible achievement. Nevertheless, during the 1930s, he lent his expertise to the Tennessee Valley Authority, and the National Resources Planning Board’s regional planning studies, which incorporated land-use analysis and classification, bore the stamp of his influence.³⁸

³⁶ Lewis Mumford, *Sketches from Life: The Early Years* (Boston: Beacon Press, 1982), 333–338; MacKaye, *Geography to Geotechnics*, 21–24; MacKaye, *The New Exploration* (1928; rpt. Urbana: University of Illinois Press, 1962), Chapter 5, “The Indigenous and the Metropolitan.”

³⁷ MacKaye, *The New Exploration*, 160–165.

³⁸ See, for example, MacKaye, “Tennessee — Seed of a National Plan” (1933) rpt. in *Geography to Geotechnics*, 132–148. Even when the NRPB was directed to shift its focus to postwar urban planning (1941–1943), its studies and coordinated planning projects retained a regional cast; see Philip J. Funigiello, “City Planning in World War II: The Experience of the National Resources Planning Board,” *Social Science Quarterly* 53 (June 1972): 91–194.

Two other RPAA members, Clarence Stein and Henry Wright, applied their architectural and planning skills toward demonstrating a viable alternative to that pursued by Thomas Adams and the Regional Plan Association of New York, which the RPAA criticized as planning for metropolitan expansion, not for regional development. Stein and Wright sought to work out the physical design as well as the economic problems involved in adapting Howard's garden city concept to American aesthetics and institutions. Their most notable success, Radburn (1928–1933), inspired the greenbelt towns of the Resettlement Administration and other New Deal housing projects. But Stein was the first to admit that Radburn failed to meet Howard's ideal because they "sacrificed" an "essential element": the greenbelt. "We did not fully realize," Stein later wrote, "that our main interest after our Sunnyside experience [Sunnyside Gardens, NYC, 1921–1928] had been transformed to a more pressing need, that of a town in which people could live peacefully with the automobile — or rather in spite of it."³⁹

Economic considerations led Stein and Wright to compromise the greenbelt element at Radburn and elsewhere. In Chatham Village (Pa., 1929–32, 1935) the greenbelt became a park strip "insulat[ing the] community from neighborhood depreciation and external annoyance"; at Phipps Garden Apartments (NYC, 1930, 1935), interior garden courtyards; and at Hillside Homes (NY 1932–35), an enclosed commons. Radburn nonetheless stimulated Rexford Tugwell to strive for Howard's garden city ideal with Resettlement Administration community projects. Greenbelt, Maryland, did not achieve his goal, but economically productive agricultural greenbelts were retained and more successfully integrated into the resettlement towns of Greendale, Wisconsin, and Greenhills, Ohio.⁴⁰

The shift from productive rural greenbelts to park-like buffers protecting residential areas from noisome and dangerous motor traffic was a shift of important magnitude. The Radburn idea was incorporated into American new town planning, an approach bearing little resemblance to its progenitor, the garden city. Nevertheless, the Radburn idea is evident

³⁹ Clarence S. Stein, *Toward New Towns for America* (1950; Cambridge: M.I.T. Press, 1966), 38–39.

⁴⁰ *Ibid.*, 85 ff., 122–132. See Joseph L. Arnold, *The New Deal in the Suburbs* (Columbus: Ohio State University Press, 1971), 14–19, for a discussion of the RPAA's influence on Resettlement Administration programs.

in the programmed open spaces and the circulation patterns that separate pedestrian and auto traffic in large-scale planned urban residential developments. New towns, however, such as Foster City in the Bay Area, or Baldwin Hills Village in the Los Angeles metropolitan area, are recognized for what they are: planned, rather than piecemeal, suburban development.⁴¹ Stein, who was the consulting architect for Baldwin Hills Village, played an active role in the transformation; but unlike others who used the Radburn idea, Stein never lost track of the garden city ideal or the philosophy of regionalism. When he later praised the Santa Clara South County plan for its concept of urban centers “united as part of a regional complex” by agricultural greenbelts, he understood the tremendous obstacles confronting Karl Belser.⁴²

The ideas associated with the RPAA represent, in large part, the type of planning that Americans have rejected. Yet, the people-oriented goals they tied to resource conservation and city planning remain attractive. During the 1920s, the RPAA represented an exciting new intellectual current, and it is inconceivable that Karl Belser escaped its grasp when he studied at Harvard. Ironically, for him, the occurrence of these expansive planning concepts coincided with California’s decision to give local governments complete authority over planning.

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⁴¹ Stein documents this shift better than anyone else. See also Eugenie Ladner Birch, “Radburn and the American Planning Movement,” *Journal of the American Planning Association* 46 (October 1980): 424–438. Birch argues convincingly that although Radburn “has acted as a permanent reference for generations of planners . . . as an applied pattern, it has failed to be a determining force.”

⁴² Letter dated October 5, 1957, from Stein to Karl Belser (SCCo Plan Dept, Improvement and Development: Planning, South County Study).

Chapter 4

FROM HOME RULE TO LOCAL AUTONOMY: PUBLIC FINANCE REFORM

In the broader picture of state politics, planning and resource conservation were issues that concerned relatively few people between 1900 and 1930. These matters were seriously debated among the state's civic, business, and professional leaders as well as in the Legislature, but the level of discussion prevailing among them did not carry over to the press. Tax issues were an altogether different matter. They commanded widespread attention.

In 1910, voters opted to separate the sources of state and local revenue, a major change which resulted not so much from populist agitation or progressive reform campaigns, but from a steadily growing gap between state revenues and expenditures. By the turn of the century, industrial development, agricultural expansion, and population growth mandated considerable extensions of government services. Industrial development, in addition, placed an increasing proportion of wealth in forms such as credits and securities, which escaped state taxation. Throughout the 1890s, the State Board of Equalization, the Legislature, the County Assessors' Convention, and the California Grange either requested or initiated investigations of the revenue laws, but no major changes resulted until 1910.¹

¹ Mansel G. Blackford, *The Politics of Business in California, 1890-1920* (Columbus: Ohio State University Press, 1977), 146-148; William C. Fankhauser, *A Financial*

Dissatisfaction continued to mount after 1900, spurred on in large part by complaints from Los Angeles, San Francisco, and Oakland that each city carried more than its share of the state's tax burden. Carl Plehn, professor of finance at the University of California, Berkeley, urged Governor Pardee and the Legislature to consider tax reform by separating the sources of state and local revenue, reserving the general property tax for local governments. Plehn was one of several economists who actively sought to lend expertise toward solving the problems of public finance in the early twentieth century, and he adhered closely to the ideas of Edwin R. A. Seligman, who engineered the separation of sources plan adopted by New York State in 1903. Plehn also enlisted the support of the Commonwealth Club in 1904, and from then until 1910, this group remained the principal civic body investigating the state's tax system.²

In 1905, the Legislature, in addition, created a special Commission on Revenue and Taxation. Plehn was appointed secretary of the commission, and he is the acknowledged principal author of both its preliminary (August 1906) and final (December 1906) reports. The commission's investigation revealed that the general property tax had devolved into a tax on real estate, since only 15–18 percent of the state's general property tax revenues came from taxes levied on personal property. This meant that the burden of property taxation fell most heavily on agriculture, and the commission estimated that farm owners paid in taxes the equivalent of 10 percent of their net income. The commission further noted that intangibles, such as money, credits, and franchises, escaped taxation altogether. Moreover, state banks and savings banks were taxed while national banks were not. To compound matters, the commission concluded that equalization was impossible under the prevailing statutes and case law, which placed tax assessment under the control of local governments.³

Based on these findings, the commission proposed tax reform patterned on plans adopted earlier by Pennsylvania, New York, Connecticut,

History of California, University of California Publications in Economics 3, no. 2 (1913): 368–369; Mabel Newcomer, *Separation of State and Local Revenues*, Columbia University Studies 72, no. 2 (1917): 178–179.

² Blackford, 148–149; Fankhauser, 369.

³ California Commission on Revenue and Taxation [hereinafter cited as Comm Rev and Tax], *Report*, December 1906, especially 3–4, 9–13.

Ohio, and Minnesota. Acting on Plehn's advice, the commission advocated abandoning the general property tax to local governments and establishing newly defined property taxes that would tap corporate wealth. Revenue generated from the latter, as well as from some established special taxes, such as poll and inheritance taxes, would go to the state. The commission admitted that its recommendations were conservative: it addressed strictly the revenue-raising function of taxation and did not attempt to ascertain in any depth the larger economic or political consequences of the new system proposed.

The California separation of sources plan introduced the concept of classified property taxation by categorizing various forms of tangible and intangible property and recommending that each form be taxed at a different (and perhaps fixed) rate. The goal was not so much to achieve overall taxation equality as it was to tax "each class . . . in the manner best adapted to reach its full tax-paying ability."⁴ Three major new taxes were proposed: a tax on the gross receipts of railroads, street railways, utilities, and express companies; a tax on the capital, surplus, and undivided profits of banks; and a tax on all types of franchises. These, the commission asserted, were to be construed as taxes upon the "classes of property sometimes called 'corporate' to distinguish them from the 'private or individual' industries and properties."⁵

Charles Bullock traced the roots of states' tax and revenue problems to the 1860s, when the average general property tax rate in the United States rose from 78 cents per \$100 to \$1.98 per \$100. Between 1870 and 1902 the average rate moved upward only slightly, to \$2.05, but most of it was now levied on real estate. Bullock concluded that "it was mainly the progressive increase of tax rates after 1860 which caused the disintegration of the general property tax."⁶ Thus, if one looks at the national picture, by 1900 not

⁴ Carl Plehn, "Tax Reform in California" in *State and Local Taxation: Fifth Annual Conference, Addresses and Proceedings, September 1911* (Columbus: National Tax Association, 1912), 118; remarks by Plehn in Commonwealth Club of California, "The Proposed Taxation Amendments to the State Constitution," *Transactions* 3, no. 4 (1908): 146.

⁵ Comm Rev and Tax, *Report*, December 1906, especially 77.

⁶ Charles J. Bullock, "A Classified Property Tax" in *State and Local Taxation: Third International Conference, Addresses and Proceedings, September 1909* (Columbus: International Tax Association, 1910), 95–98.

only were various forms of corporate industrial wealth escaping taxation, but personalty (easily concealed) was yielding far less tax revenue, and real estate (in the guise of the general property tax) had reached its tax bearing limit. The tax rates prevailing in California from 1860 to 1900 did not entirely follow the national trend, however (see Table 6, Chapter 2). After sizable increases during the 1860s, the rate fluctuated between \$0.429 and \$0.865 (per \$100 of assessed value) from 1870 to 1900. Overall, the general property tax rate in California was much lower than elsewhere in the nation during the late nineteenth century. But the Plehn Commission nonetheless found that real property still bore the heaviest tax burden.

Other economists, like Plehn, worked closely with public officials during the early twentieth century, searching for politically feasible solutions to public finance problems. Few of these economists seriously entertained ideas of abolishing the general property tax, even though they might publicly criticize it as ill-conceived and impossible to administer equitably, as several decades of unsuccessful attempts to equalize assessments and centralize administration had proved. Rather, mainstream public finance economists generally opted for solutions which did not radically alter the fundamental principles of existing tax systems. Classified property taxation, that is, “ad valorem taxation of property by its segregation into groups or types and the application to these various classes of different effective rates,”⁷ was attractive because it offered a means to make the property tax more flexible and yield more revenue.

California’s 1879 Constitution permitted state income taxation, but Plehn and his colleagues simply dismissed this alternative as “unAmerican.” Instead, the commission chose the separation of sources plan, which necessitated another constitutional amendment to release the state from its obligation to depend on the general property tax as a source of revenue. The separation of sources alternative, moreover, required the commission to specify new forms, or “classes,” of property and to suggest a rate of taxation for each. For taxation purposes, the commission considered foremost the intangible aspect of corporate property and thus proposed a gross

⁷ Simeon E. Leland, *The Classified Property Tax in the United States* (Boston and New York: Houghton Mifflin Co., 1928), 12–41; see especially 40–41 for Leland’s synthesis of early attempts to define the essence of classification.

earnings tax on property used in the operations conducted by companies.⁸ The gross earnings tax thus replaced the general property tax on corporations' operative property.

It is nonetheless debatable whether the 1905–1910 Tax Commission thought of its proposal as a blueprint for classified taxation inasmuch as its overriding concern was to generate more revenue for the state. It was more concerned with taxing corporate property at rates which would yield sufficient revenue without causing corporate interests to rebel. Extending the ad valorem principle was a desirable but secondary goal. Plehn's comments in regard to the 1906 reports generally suggest that he, at least, considered the proposal as one advocating an extension of special taxes to newly specified forms of property, forms referred to as "classes."

The 1906 report and the proposed constitutional amendment, which the Legislature approved for the 1908 ballot, generated considerable controversy, and the debate left many fears unallayed. The commission aroused suspicion when it submitted the August 1906 preliminary report to every corporate or other group interest that might face higher taxes. In a series of hearings that followed, all those affected, with the exception of the Pullman Company, appeared to comment and, in some cases, to recommend changes.⁹ Despite a negative response from Pullman, business interests generally favored the plan and were willing to accept increased taxes "in return for greater stability and predictability in their relations with government," but they also succeeded in keeping their tax rates at the minimum prescribed by the commission.¹⁰

The Taxation Section of the Commonwealth Club strongly objected to the special consideration the commission accorded corporations and questioned whether any plan so acceptable to corporate leaders would, or could, achieve the results the commission predicted. And, despite the much-vaunted separation of sources on which the plan was based, the Taxation Section noted that the state reserved the right to impose a general ad valorem property tax if necessary; thus, the plan would not establish a true separation. It also objected to a provision that would repeal the state's

⁸ *Comm Rev and Tax, Report*, December 1906, 18–19, 50.

⁹ *Ibid.*, 5–6.

¹⁰ Blackford, 149–153, which includes a succinct discussion of corporate reactions to the commission's recommendations.

existing constitutional right to impose an income tax, even though the commission's supposed concern was to boost state revenues. Finally, the Taxation Section report criticized changes the Legislature made, presumably under pressure from corporations. When the proposed constitutional amendment appeared out of the Legislature, rates of taxation were fixed at the lowest levels that (or in some cases, lower than) the commission recommended (see note 11); and the Board of Equalization was to be elected by district, rather than at-large, as the commission recommended. The latter circumstance, many felt, would make it easier for corporate interests to influence board members. After lengthy discussion of the proposed amendment, club members voted so narrowly in favor of supporting it that hardly anyone considered the vote to be an endorsement.¹¹

¹¹ *Transactions* (1908), 110–112, 115, 117–119. Quoting from the report at 111–122:

[1] In every case the Legislature, in fixing percentages to be charged against corporations, either took the minimum suggested by the Commission or reduced even that; for instance:

On railroads the Commission recommended not less than 4 nor more than 5 percent; the Legislature fixed it at 4 percent.

On sleeping-car and similar companies the Commission recommended not less than 4 percent nor more than 5 percent; the Legislature fixed it at 3 percent.

On express companies the Commission recommended 3 percent; the Legislature cut it to 2 percent.

On gas or electric companies the Commission recommended not less than 4 percent nor more than 5 percent; the Legislature fixed it at 4 percent.

On insurance companies the Commission recommended 2 percent; the Legislature reduced it to 1½ percent, and added a rider deducting from that all county and municipal taxes paid by such companies on real estate owned by them in the State. This, it is understood, was inserted to accommodate [sic] one particular insurance company.

[2] The Commission recommended that the tax on banks should be 1 percent upon the full cash value of the shares of capital stock, and that the value of each share should never be taken to be less than the amount paid in thereon, together with its pro rata of the accumulated surplus and undivided profits.

The Legislature makes it 1 percent upon the value (not the full cash value) and provides that such value shall be taken to be the amount paid in thereon, together with its pro rata of the accumulated surplus and undivided profits — omitting the words “never taken at less than.”

[3] The Commission recommended that the percentages and amounts fixed as above should be and remain in force for six years from the adoption of this amendment, and thereafter may be changed by the Legislature at intervals of not less than six years.

Agriculturalists and small-town newspaper editors, in contrast, generally favored the 1908 proposed amendment since its supporters claimed that the new system would reduce farmers' taxes. The State Grange, which formed a permanent committee in 1903 to study taxation and to which the commission also submitted a copy of its August 1906 preliminary report, endorsed the measure. E.J. Wickson, editor of the state's leading farm paper, *Pacific Rural Press*, urged farmers to vote for the amendment, although his motives included a desire to see defeated those urban groups who had branded the proposed amendment as a "selfish rural issue."¹²

The urban group to which Wickson referred was a group of Southern California city assessors, who feared they would lose their jobs if the amendment passed. They waged a vigorous campaign which resulted in a generally negative Southern California vote that helped to defeat the 1908 amendment. Joining them in opposing the measure were San Francisco city officials, who feared that the amendment, if passed, would force the city into heavy bonded indebtedness to finance rebuilding in the wake of the 1906 earthquake and fire. Widespread property destruction temporarily lowered property tax revenues.¹³ The League of California Cities also opposed the measure on the grounds that separation of sources was an "experimental" system. The league was convinced that the plan would not eliminate underassessment practices (only relieve the state from its consequences) and that corporations would merely shift higher taxes onto consumers.¹⁴

Undaunted by defeat, the Revenue and Tax Commission took up the matter once again and submitted a slightly modified proposed amendment to the Legislature, which approved it for inclusion on the 1910 ballot. Business and agricultural supporters lined up much as they had two years earlier, but this time no bitter opposition came from Los Angeles or San Francisco city officials. By 1910, San Franciscans had substantially rebuilt

The Legislature omitted this, forever imbedding in the Constitution the low rates embodied in the amendment as now proposed until they can be changed by amendment of the Constitution.

¹² Blackford, 153–154; *Pacific Rural Press* [hereinafter cited as *PRP*], October 31, 1908; *Comm Rev and Tax, Report*, 1910, 49–50.

¹³ Blackford, 155; Carl Plehn, "Tax Reform in California," 120, 123; *Comm Rev and Tax, Report*, 1910, 50.

¹⁴ *Pacific Municipalities*, 19, no. 3 (October 1908): 37–38.

their city. In Southern California, city assessors now directed their ire toward the State Board of Equalization, which had raised overall assessments in several Southern California counties in 1909. Thus, Southern California assessors decided to support the amendment in the hope that it might rid them of the state board. The Commonwealth Club's Taxation Section raised the same objections it leveled at the 1908 proposal. In the end, however, the club gave the measure a lukewarm endorsement, reasoning that, although imperfect, it would improve the present system. Unopposed by any well-organized interest groups, the 1910 measure received voter approval.¹⁵

Between 1906 and 1911, California and twenty-eight other states established special or permanent commissions for the purpose of revising tax systems. Many states adopted separation-of-sources plans in one form or another, although, generally speaking, there was little discussion of the conditions or limitations under which these systems should be adopted.¹⁶ In California the proposed amendments submitted to voters generated considerable debate, especially in 1908, but surprisingly little discussion was directed toward the ad valorem principle of taxation that the proposal altered. During the Commonwealth Club debate over the 1910 proposition, only two members objected to the plan: one because it "abandon[ed] the scheme of providing public revenue by taxing all property in proportion to its value," even though the commission had not "demonstrated [the principle] to be fundamentally unsound," and the other because it involved "much more than the mere separation of the sources of State taxes. It involve[d] the substitution of a gross income tax on certain corporations in place of the . . . ad valorem tax . . . applicable to all property of every sort."¹⁷

No group stepped forth to offer radical suggestions for tax reform, as one might have expected during these years. Perhaps this is because, as George Mowry has suggested, civic leaders in California — editors, attorneys, small businessmen, real estate developers — did not perceive large

¹⁵ Blackford, 156–157; Plehn, "Tax Reform in California," 121–123; "Constitutional Amendments of 1910," *Transactions* 5, no. 6 (1910): 337–338; *PRP*, October 22, 1920, 327, 329.

¹⁶ Edwin R.A. Seligman, "Recent Reports on State and Local Taxation," *American Economic Review* 1 (1911): 272–295.

¹⁷ *Transactions* (1910), 341, 369.

corporations as a direct threat to their economic interests during what were generally prosperous years in California. In addition, large corporate interests were not as extensive in California as elsewhere, especially in the East. Much of the oil industry, for instance, remained in the hands of independent producers until about 1915. The state's banking industry, moreover, did not begin to stabilize until about 1900, a condition which hampered capital accumulation for large-scale manufacturing or other operations. California progressives therefore never sought the wholesale demise of large business corporations, but they did insist that corporations pay their fair share of taxes.¹⁸

Nor does the movement to separate the sources of state and local revenue appear to have been "primarily an effort to abolish the general property tax."¹⁹ The financial need to tap new sources of wealth led those concerned with public finance matters to seek special taxes on newly defined classes, or categories, of property. And the seemingly insurmountable problems of equalization, which centered on local assessment practices, led them likewise to abandon general property taxation officially to the fate of local governmental control, where, unofficially, control had always been.

THE SINGLE TAX CAMPAIGN

The framers of the separation of sources plan intentionally unburdened the state of general property tax assessment problems, which, of course, did not disappear. If anything, they worsened. Thus, the controversy surrounding the separation of sources plan continued long after its adoption in 1910, and the next twelve years brought forth a host of more radical proposals for property tax reform. Those advocating a single tax on land values enjoyed their most influential period in California history during these twelve years, and it is no exaggeration to say that every serious proposal for tax reform bore the stamp of Henry George's ideas.

Between 1912 and 1922, single tax organizations placed before California voters six constitutional amendment propositions that, had any of them passed, would have established land value taxation as the basis of local taxation. Moreover, a new tax commission, appointed in 1915 and

¹⁸ Mowry, 92; see Blackford on oil and banking interests.

¹⁹ Newcomer, 177.

reporting in 1917, recommended a graduated land value tax. Finally, a special Commission of Immigration and Housing, established in 1913, recommended land value taxation as a means to break up large landholdings in order to encourage settlement and provide greater economic opportunities for settlers.

In 1929, another tax commission estimated that whereas real estate had been assessed at about 60 percent of its full market value at the time of separation, by 1928 the average assessment rate was down to 41.63 percent.²⁰ To justify relieving the state “from the friction accompanying . . . equalization,” the 1905–1910 commission asserted that equalization should be a matter of “home rule.”²¹ Home rule was, no doubt, a term chosen for its voter appeal, but home rule, or local option, was also applied to a single-tax legislative strategy devised by Henry George and Thomas Shearman in New York during the mid-1880s.²² After 1910, home rule became the rallying cry for California’s single-tax advocates, who sought to remove property taxation from any central control or supervision whatsoever as a means to allow local governments to experiment with land-value taxation. They believed that such experiments would prove single tax theory to be sound and that competitive successes would force localities to fall in line by adopting land-value taxation.

Between 1890 and 1902, single-taxers used the home rule strategy in attempts (ultimately unsuccessful) to change the tax systems in Washington, Colorado, Rhode Island, and Oregon. It is thus curious that no single-tax campaign for home rule surfaced in California until 1910. Its absence is due in part to at least two factors. The national single tax movement waned at the turn of the century, following Henry George’s death in 1897.²³ In addition, the tax reform movement in California, and elsewhere, during the early-twentieth century was heavily influenced — even directed — by economists with academic credentials, not by taxpayer special interest

²⁰ California Tax Commission, *Report* (1929), 158, Table II-10.

²¹ Comm Rev and Tax, *Report*, December 1906, 11; Marvel M. Stockwell, *Studies in California State Taxation, 1910–1935* (Berkeley: University of California Press, 1939), 31.

²² Charles J. Bullock, “Local Option in Taxation” in *State and Local Taxation* (Columbus, 1912), 31; Arthur Nichols Young, *The Single Tax Movement in the United States* (Princeton: Princeton University Press, 1916), 230.

²³ Young, 139–162.

groups. In California, moreover, close ties between the tax commission and corporations probably would have blocked the effectiveness of any group advocating more radical reform.

In 1909, however, Joseph Fels established a fund for the purpose of reviving the single tax movement, and the Fels Fund supported the California single tax campaign from its inception through 1915.²⁴ The campaign began in 1911, when J. Stitt Wilson, mayor of Berkeley and an outspoken advocate of the single tax, convinced the League of California Cities to support home rule in taxation. He argued that home rule would lead to the adoption of the single tax that, in turn, would force the breakup of extensive landholdings since the tax would make large “undeveloped” parcels of land expensive to hold. More farmers on the land would aid the development of agriculture in California, which, so his argument ran, would boost the state’s economy.²⁵

Activities following Wilson’s speech led to the formation of the Home Rule in Taxation League, to which the Fels Fund gave financial support. The Home Rule League circulated initiative petitions throughout the state to place a home rule in taxation constitutional amendment proposition on the November 1912 ballot, and again on the 1914 ballot. The 1912 proposition was written in a general manner to allow local option in property taxation. The 1914 measure represented a slightly different tactic to achieve the same end; it proposed authorizing cities or counties to *exempt* several classes of property from taxation.²⁶

Neither the 1912 nor the 1914 ballot propositions garnered enough support to pass, although in each case about 41 percent of the voters favored them.²⁷ Compared to later single tax campaigns, the 1912 and 1914

²⁴ *Joseph Fels Fund Bulletin* [hereinafter cite as *JFFB*] 1, no. 11 (November 1913): 4; *JFFB* 4, no. 12 (December 1916): 1; Young, *The Single Tax Movement*, Chapter 8, “Still Agitating the Land Question.” See also Arthur Power Dudden, *Joseph Fels and the Single-Tax Movement* (Philadelphia: Temple University Press, 1971).

²⁵ *Pacific Municipalities* 25, no. 4 (November 1911): 137–145; League of California Cities, *Proceedings, 14th Annual Conference, 1911* (League of California Cities, 1911), 152–177.

²⁶ *Pacific Municipalities* 27, no. 1 (January 1913): 20–35, v. 27, no. 2 (February 1913): 63–67, and v. 27, no. 11 (November 1913): 648; *JFFB* 4, no. 12 (December 1916): 2; California, Secretary of State, *Ballot Arguments*, 1912, 1914.

²⁷ California, Secretary of State, *Statement of the Vote*, 1912, 1914.

campaigns sparked relatively little public debate, but it is nonetheless possible to identify at least some of the supporters and opponents. The League of California Cities, of course, supported both measures. Voting records show, moreover, that overwhelming support for the 1912 measure came from San Francisco County, but after then San Francisco support gradually waned. The Commonwealth Club, whose membership was drawn largely from the San Francisco area, gave only lukewarm support to the 1914 measure, presumably because those participating in the prolonged debate were strongly divided on the merits of the single tax.²⁸

Waning enthusiasm in San Francisco is probably attributable to the Anti-Single Tax League, organized in late 1912 specifically to fight the home rule amendment. Single tax advocates alleged that the organization was a front for the Southern Pacific Railroad.²⁹ While Southern Pacific may have contributed to its support and direction, the Anti-Single Tax League leadership suggests that the group attracted broad support from the business and financial communities. The original executive committee included three bank presidents; two representatives from the Tax Association of California (allegedly controlled by utility and railroad corporations); one insurance company president; the president of the Fresno Chamber of Commerce; Thomas Bard, ex-U.S. senator and large landholder in Ventura County; a representative of the State Grange; Carl Plehn; and A.B. Nye, the state controller. It was a conservative, politically well-connected group, and it sought sustaining contributions from among its members' many contacts.³⁰

Although the State Grange lent official support to the Anti-Single Tax League, individual farmers were attracted to the land value tax. E.J. Wickson, editor of the *Pacific Rural Press*, advised subscribers to vote "no" on the 1914 measure, claiming that because a land-value tax could not be shifted, farmers would bear an additional tax burden that would ultimately benefit urban capitalists, who could erect rental-lucrative multistory commercial

²⁸ *Statement of the Vote, 1912–1922; Transactions* 9, no. 4 (1914): see especially 288.

²⁹ *JFFB* 1, no. 6 (June 1913): 4; and v. 1, no. 9 (September 1913): 2.

³⁰ Thomas Bard Papers, Box 20A (Huntington Library); *Fresno Morning Republican*, October 10, 1912; see Franklin Hichborn, *Camouflage Organizations* (Santa Clara: privately printed, 1926) for a brief, muckraking account of the Tax Association of California.

buildings tax-free. Two farmers independently rebutted his editorial, however, pointing out that farmers who improved the land raised the value not only of their own land, but the value of nearby unimproved land as well. Yet speculators holding unimproved lands reaped the benefits both through lower property taxes and higher selling prices.³¹ Farmers as well as businesspeople in the Modesto area likewise supported the home rule amendment based on their early experience with land value taxation for irrigation districts.³² Despite such instances of farmer support for home rule and land value taxation, the voting record shows that rural counties voted two-to-one overall against both the 1912 and 1914 measures.³³ Since land values were rising rapidly during this period, the rural vote suggests that most farm owner-operators rejected the proposals because land value taxation would also mitigate their potential capital gains if and when farmland was sold.

In 1916, a new organization, the Los Angeles Single Tax League, took over the campaign. Dissension among single-taxers surfaced after the Joseph Fels Fund Commission and the Single Tax Conference held a joint meeting in San Francisco in 1915. The 1912 and 1914 California campaigns were the subjects of considerable discussion largely because philosophical purists objected to the Home Rule League's willingness to bend strict single tax principles to achieve a political end. Convention delegates finally resolved that "single taxers should . . . propose nothing less than constitutional amendments for the full measure of [a] state-wide single tax."³⁴ Shortly thereafter the Los Angeles Single Tax League was formed, and that organization drafted the 1916 ballot proposition, known as the land taxation amendment. Had it passed, which it did not, the land taxation amendment would have required public revenues to be raised by taxing land according to its unimproved value, although it would have permitted income and inheritance taxation for welfare purposes.³⁵

³¹ *PRP*, April 11, 1914, 442–443, and May 9, 1914, 546–547.

³² See *Transactions* (1914), 299.

³³ *Statement of the Vote*, 1912, 1914.

³⁴ *JFFB* 3, no. 8 (August 1915): 1, and v. 3, no. 9 (September 1915): 2.

³⁵ *JFFB* 4, no. 2 (February 1916): 1; *San Francisco Chronicle*, September 16, 1916; *Ballot Arguments*, 1916, 38–42.

An unmasked land value taxation proposition on the 1916 ballot provoked far more controversy than had the previous home rule propositions. The strongest opposition appears to have come from M.H. de Young, editor of the *San Francisco Chronicle*, who waged a one-man war against the single-taxers from 1916 until the ballot initiative movement finally ceased in 1922. De Young labeled single tax advocates as “atrociously dishonest” and “queer.” He called them “financial cranks” and, later, “socialists” espousing “pure Russian Bolshevism.” He repeatedly charged that single-taxers wanted to confiscate all land values with the result that the state would become the sole landlord.³⁶ De Young’s editorials aroused further public opposition, especially from the San Francisco and Oakland Real Estate Boards.³⁷

Single-taxers, for their part, claimed support for the 1916 land taxation amendment initiative from the State Federation of Labor, from some chambers of commerce, and from some agriculturalists. The Farmers’ Union appears to have supported the measure, as did a few Grange officials, although the State Grange as an organization did not support the proposal. With scattered support, at best, the ballot initiative garnered only 31 percent of voter support, suffering its worst defeat in the prosperous farming counties of Santa Clara and Orange, where the vote was four-to-one against the measure.³⁸

Land value taxation propositions appeared on the 1918, 1920, and 1922 ballots, but drew proportionately less of the vote each time.³⁹ Internal dissension, in addition to strong external opposition, appears to have contributed to the ultimate demise of the single tax campaign. In 1923, the Los Angeles Single Tax League retrospectively blamed defeat on “extremists, theorists, and doctrinaires,” meaning Easterners who imposed their ideas on the California campaign.⁴⁰ Although there is little evidence to suggest that a home rule amendment ultimately would have succeeded, discarding

³⁶ See, for example, his editorials in the *Chronicle*: August 16, 1916; October 13, 1916; October 24, 1916; July 1, 1917; January 10, 1919, September 11, 1920; and September 19, 1920.

³⁷ *San Francisco Examiner*, August 15, 1916, and October 8, 1916.

³⁸ *JFFB* 4, no. 9 (September 1916): 3; Bailey Millard, “Legislature to Consider State Land,” *Examiner*, June 18, 1916; *Statement of the Vote*, 1916.

³⁹ *Statement of the Vote*, 1918, 1920, 1922.

⁴⁰ *Tax Facts* 1, no. 10 (February 1922): 37–38.

the home rule strategy proved to be a fatal tactical error. Many erstwhile and would-be supporters were certainly lost once the measure appeared on the ballot as a land value taxation rather than as a home rule amendment. The striking reality, however, is that the campaign continued for six more years, surviving even the post-World War I Red Scare, when one would have expected any land value taxation proposal to meet a resounding defeat at the polls. But the 1920 initiative, oddly enough, received a larger affirmative vote than the 1918 initiative, although the overall margin of loss was greater.⁴¹

One is thus forced to ask what kept the single tax issue alive through six consecutive elections. The most obvious answer is that the 1910 separation of sources plan did not result in improved property tax administration at the local level. In addition, there was considerable popular support for breaking up large landholdings. Another possible reason the single tax initiatives enjoyed such a long tenure was that members of two state commissions found land value taxation arguments convincing, or at least useful for other reforms, and they kept single tax ideas before legislators while the single tax organizations kept propositions before the voters.

LAND REFORM THROUGH TAXATION

The State Tax Commission appointed in 1915 to investigate the shortcomings of the separation of sources system recommended, among other things, a graduated unearned increment tax to replace the real estate tax. As for agricultural lands in particular, the commission recommended that experts study California farm lands and classify them according to their inherent qualities and suitability for various crops.⁴² It further argued that agricultural land should, at the beginning, be assessed at full value, but that taxes on future increases in land values should fall heavier on unimproved or undeveloped lands. Despairing that “there seems to be no

⁴¹ *Statement of the Vote*, 1918.

⁴² California State Tax Commission, *Report*, 1917, 124. The idea of classifying agricultural lands was not new. The assessment commission of the National Tax Association (NTA) made a similar recommendation in 1911, but the goals of the two bodies differed greatly inasmuch as the NTA was urging more “scientific” assessment practices in an apparent attempt to mollify critics of the property tax; see *State and Local Taxation* (1912), 345–359.

other effective way of remedying or controlling the abuses which grow up through large land holdings,” the commission concluded that the graduated land tax “would at least bring about closer equity in the taxation of small and large land holdings.”⁴³ No legislation, however, came out of the commission’s recommendations, which also included complete separation of state and local revenues, centralized control of assessment, and adoption of a state income tax.

As part of the commission’s 1915 effort to determine public sentiment for a graduated unearned increment tax, it sent out questionnaires, of which over 600 were returned, to attorneys, bankers, educators, farmers and fruit growers, industrialists and manufacturers, merchants, newspapermen, physicians, public officials, and real estate/insurance brokers. Responses to two of the eleven questions are particularly revealing. To the first question, “Do you favor the gradual reduction of taxation upon buildings, trees, and vines and the assumption of that tax burden by the land?,” 355 responded “yes” and 215 responded “no.” Attorneys, newspapermen, physicians, public officials, and farmers and fruit growers generally seemed in favor of the idea; bankers seemed most opposed to it. To the second question, “Do you believe that land held for speculation should be taxed heavier than land used for home, agricultural or business purposes?,” respondents were evenly divided (285 to 285). Newspapermen responded strongly in the affirmative. Bankers and real estate/insurance brokers were firmly opposed, while farmers and fruit growers, as well as attorneys, were split. From the aggregate responses to all eleven questions, the commission could ascertain solid support for the increment tax only among newspapermen.⁴⁴

The second commission to be influenced by single tax ideas was the Commission on Immigration and Housing (CIH), established in 1913 at the urging of Governor Hiram Johnson and directed to study situations likely to arise with the opening of the Panama Canal.⁴⁵ The CIH, under the leadership of Simon Lubin, undertook several investigations in the 1910s, one of which was an exhaustive study of large landholdings in eight Southern California counties. Its purpose was to determine the effect that

⁴³ Tax Commission, *Report*, 1917, 128; see also *JFFB* 4, no. 7 (July 1916): 1–2.

⁴⁴ Tax Commission, *Report*, 1917, 156–161.

⁴⁵ Simon J. Lubin Papers, letters pertaining to the temporary commission, established in 1912, contained in Box 4 (Bancroft Library).

these landholdings had on the state's agricultural development and the corresponding economic welfare of California residents. In its 1919 report, the CIH charged that several hundred thousand acres of land, potentially tillable without irrigation, were in the hands of speculators who either offered parcels for sale at prices far beyond their productive values or were withholding land from sale until population pressures forced the market up to meet their speculative projections. To encourage owners to divest their holdings and make potential farmland accessible to buyers of limited means, the CIH favored a graduated land tax based on unimproved land values, rather than based on acreage, as the 1915–1917 tax commission had recommended. Equally important, the CIH urged the Legislature to declare a land policy designed specifically to increase the number of farmers. The commission further called upon the Legislature to coordinate all state agencies concerned with rural land and water issues.⁴⁶

The CIH recommendations were based, as were Mead's land settlement projects, then underway, on a vision of California agriculture dominated by small farming units, although the racist motives inherent in the land settlement experiments were absent. This was so because Simon Lubin's ideas permeated the 1919 large landholdings report. Lubin was the son of David Lubin, principal founder of the International Institute of Agriculture in Rome, and cofounder, with his brother-in-law Harris Weinstock, of the highly successful Weinstock Lubin department store — to which Simon fell heir. Before the younger Lubin took over the affairs of the company in 1906, however, he attended Harvard, graduating in 1903, and then spent three years as a settlement worker in Boston's South End House. The East Coast experience instilled in him a deeper understanding of complex immigration problems. Lubin had little time for those who advocated immigration restriction to solve mounting social and economic problems in urban areas. He was more than willing to leave immigrant protection,

⁴⁶ California Commission of Immigration and Housing, *A Report on Large Landholdings in Southern California, With Recommendations* (Sacramento, 1919); see especially 29–38. Although the various state agencies concerned with agricultural matters were organized under a new state Department of Agriculture in 1919, the reorganization was not the result of the Immigration and Housing Commission's recommendations. Moreover, land and water issues were placed outside the new department's purview, where such matters remain today; see Nash, *State Government and Economic Development*, Chapter 15, "Fostering Commercialized Agriculture."

education, and Americanization activities to others. For him the crux of the so-called immigrant problem was population distribution and gainful employment. From Lubin's perspective, the state's agricultural industry, designed to exploit rather than advance the immigrant laboring class, would greatly impede accommodating the immigrant influx anticipated when the canal opened. As Lubin pondered the vexing question of how to move immigrants into agriculture as farm owner-operators rather than as seasonal laborers, he was gradually attracted to single tax ideas and even carried on a brief correspondence with Joseph Fels.⁴⁷ The graduated land value tax the CIH eventually proposed offered the state a vehicle for stimulating the land market and creating land ownership opportunities for new immigrants.

The Commission of Immigration and Housing intended to follow its report with legislative proposals, but hostility from newly elected Governor Friend W. Richardson led the commission into controversy over a variety of matters that centered on one particular commission member, Paul Scharrenberg, secretary of the California State Federation of Labor and a strong supporter of Lubin's ideas. Lubin later wrote that "the time did not seem propitious" for introducing legislation. Continuing controversy, moreover, as well as threats of budget cuts or outright abolition, finally provoked Lubin to resign in 1923, after Richardson removed Scharrenberg from the commission, which thereafter became inactive.⁴⁸

LOCAL AUTONOMY IN PROPERTY TAXATION

The idea that agricultural lands could be classified for property taxation purposes slowly emerged from state tax and land policy debates between 1906 and 1920. This idea was tied to the separation of sources plan adopted in 1910, which supplanted the principle of uniform general property taxation with a hodgepodge of new taxes designed to tap corporate wealth. The new system undermined the fundamental precept of equity upon which uniform taxation rested and opened the door for a variety of special interest groups to influence the taxation of individual classes of property. From there it was but a short step to suggest that agricultural lands be classified

⁴⁷ Simon Lubin Papers, Box 4, letter of January 17, 1914, from Lubin to Joseph Fels.

⁴⁸ Simon Lubin Papers, Box 5, Folder 23.

so that real estate taxation might be used, in the interest of social equality, to effect indirectly a redistribution of land. Later, of course, advocates of differential taxation wanted land classification in order to prevent agricultural land from being parcelized and redistributed, so to speak, into residential subdivisions. But until 1920, some reform-minded Californians waged determined campaigns to break up large landholdings out of the belief that large landholders impeded not only the economic development of the state, but the social wellbeing of its inhabitants, or preferred inhabitants, as well.

Until 1920, many Californians believed that the state should formulate a rural land, and water, policy which would foster the growth of an agricultural industry based on small, highly diversified units. But whereas Elwood Mead successfully influenced legislation to experiment with state land settlement toward that end, single tax advocates never achieved such success. Their failure may be attributed to several factors. First, the long campaign to obtain some form of land value taxation, while never without considerable support, gradually polarized voters, which meant that any legislative proposal for tax reform based on single tax theory would be divisive and thus politically unwise. Second, and perhaps most important, farm groups were not among those calling for a state rural lands policy. Such calls came from elsewhere and they came at a time, moreover, when the agricultural economy enjoyed an overall prosperity that lasted into the 1920s.⁴⁹ The voting record reveals, moreover, that farmers were divided when it came to deciding whether land value taxation would ultimately benefit their personal interests.

Thus, by the early 1920s, a form of home rule that single-taxers had not envisioned was firmly entrenched in the state's property tax system. Unable to deal effectively with the problems of equalizing property tax assessment, the state abandoned the general property tax, as well as its problems, to local officials. The best efforts of single-taxers and sympathetic tax reform advocates failed to convince either a majority of voters or the Legislature to use the new locally controlled general property tax system to instigate a long-term land reform program, for which, in theory, there

⁴⁹ H. J. Stover, "Annual Index Numbers of Farm Prices . . . and Farm Real Estate Taxes, California, 1910-1935," Report #50, University of California Giannini Foundation of Agricultural Economics, 1936.

was considerable support. Between 1910 and 1920 the only changes that took place may be summed up briefly: the state defined some new classes of property from which it could derive revenue, and local governments inherited the revenue potential as well as the problems of the old general property tax system, problems that were destined to remain unsolved. In 1929, the state's policy of entrusting general property taxation to local control was joined by a similar state policy of entrusting planning matters to local control. Thus, by 1930, the framework for future land conservation policy matters had been set.

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Chapter 5

THE TENACITY OF PAROCHIALISM: STATE PLANNING, 1929–1959

The desire to reform California's rural society dissipated after Elwood Mead left the Land Settlement Board and Simon Lubin resigned from the Commission on Immigration and Housing. State, regional, and county planning efforts of the 1930s and 1940s were recurrent and intertwining responses to New Deal legislation and World War II demands. Although California suffered severe tax problems during the 1930s, tax and land issues rarely meshed in policy discussions at the state level as they had in the 1870s and 1910s. Large landholdings were by now accepted as an integral part of California's agricultural industry. Also, the agricultural sector no longer needed further development; rather, farmers needed to be rescued from economic distress and farmland from physical exhaustion. More people competing for a livelihood on the land hardly seemed the appropriate solution, and calls for the breakup of land monopolies were thus stilled. Yet land-use planning was discussed often during this thirty-year period.

THE COUNTIES

Soil conservation was the principal agricultural land issue of the 1930s, but those concerned with soil conservation were content to propose

mechanical solutions for treating immediate environmental problems: terracing, contour plowing, or grassland waterways to slow or reverse the adverse physical effects of soil erosion. In response to the federal Soil Conservation Act of 1935, California, like most states, passed corresponding legislation. The Soil Conservation District Act of 1938 left district formation to the discretion of agricultural landowners, who were authorized to petition county boards of supervisors to initiate proceedings. The state, through a Soil Conservation Committee serving “without compensation, at the pleasure of the Governor,” would provide districts only with limited advice and technical assistance.¹ The Soil Conservation District Act thus endorsed the technical approach to agricultural land-use problems and upheld agricultural land-use planning as a function of local governments.

Other planning developments likewise elaborated the home rule principle. The 1929 Planning Act required all counties to establish planning commissions and required each commission to develop and adopt a “comprehensive, long-term, general plan” for physical development. But the Legislature did not clearly define what a general plan should encompass. Instead, it permitted such plans to include conservation, land use, recreation, and transportation-related elements. Nor did the Legislature lay down specific procedures and criteria for implementing and administering county general plans. Between 1929 and 1937 only twenty-seven counties complied with the law and established planning commissions. Lacking clear definition of planning functions and procedures, counties were slow to develop land-use (and other) plans and even slower to adopt implementing zoning ordinances.²

Major amendments to the Planning Act in 1937 both broadened the definition of a general (or master) plan specifically to include land use, conservation, and transportation elements and delineated criteria for land-use

¹ *California Statutes*, 1938 (Extra Session), Chapter 7.

² California Office of the Director of Planning and Research, *California Reports on Planning* (Sacramento, February 1948), 19–20. See also Mel Scott, *The San Francisco Bay Area* (Berkeley: University of California Press, 1959), 199; William Spangle and Associates, Inc., “The Planning Law of California: An Analysis,” Report to California State Development Plan Program (Sacramento, 1965), 20–21. Before 1929, two local-level planning commissions were established in California: Los Angeles County formed its regional planning commission in 1925; San Francisco City and County formed a city planning commission in 1917.

and conservation plan elements. Under the 1937 amendments, county land-use plans were to be “an inventory and classification of natural land types and of existing land cover and uses, and comprehensive plans for the most desirable utilization of land.” Conservation plans were to guide “development and utilization of natural resources,” which included water, forests, soils, rivers, harbors, wild life, and minerals. In addition, conservation plans were to include “reclamation of land and waters” as well as “prevention, control and correction of the erosion of soils.” The legislative rhetoric fairly mimics the technical approach to soil conservation espoused by Hugh Bennett, chief of the U.S. Soil Conservation Service, who stressed utilizing each acre of agricultural land according to its physical capabilities.³ One can only conclude that the Legislature was responding to federal efforts to encourage agricultural land-use planning through voluntary, local-level soil conservation programs.

The 1937 Planning Act amendments, however, also gave county planning commissions and boards of supervisors a clear mandate for rural zoning. Cities and counties in California derive their power to zone from article XI, section 11, of the state Constitution, which reserves for local governmental units the right to control or supervise the property within their jurisdictions, but the 1917 Zoning Act set forth ordinance-implementing procedures for incorporated cities only. In 1925, Los Angeles County adopted a comprehensive zoning ordinance (the first county in the United States to do so) under the provisions of its home rule charter, which allowed the county to act independently. The 1937 amendments thus set forth, for the first time, procedures for adopting county zoning ordinances. These amendments, plus the 1938 Soil Conservation District Act, gave all county governments ample authority and adequate procedures to inaugurate

³ *California Statutes*, 1937, Chapter 665, especially Section 4. In his introduction to *Elements of Soil Conservation* (New York: McGraw-Hill, 1947), Bennett wrote: “Economic stability grows from good soil used intelligently. Wise use of productive land means protecting the land from impoverishing influences while under cultivation or grazing so as to keep it permanently productive. . . . To do this, many farmers need the technical assistance of soil conservationists.” For a short, but excellent introduction to Bennett’s tireless efforts in the field of soil conservation, see Peter Farb, “Hugh Bennett: Messiah of the Soil,” *American Forests* 66 (January 1960): 39–42.

locally controlled land-use planning for rural areas.⁴ Both complemented the policy framework set up by the 1929 Planning Act and established agricultural land-use planning as a county government function.

County planning commissions, however, tended to adopt zoning ordinances slowly, at best, and these were comprehensive only in the sense that they were loosely worded and, therefore, could be construed as all-encompassing. Santa Clara County, for example, adopted an “A-1,” or agricultural use, classification in the mid-1940s, but the ordinance, as written, permitted almost any land use. Farmer opposition, according to one source, prevented the Planning Commission and the Board of Supervisors from imposing a more restrictive zone. Between 1937 and 1947, when the State Conservation and Planning Act superseded the State Planning Act, twenty-four more counties established planning commissions, for a combined total of fifty-one of the state’s fifty-eight counties. Six counties had yet to comply with the law nearly twenty years after its adoption (San Francisco County is excluded since the city and county boundaries are contiguous). Of these fifty-one counties, only fifteen had adopted land-use plans, only one had adopted a conservation plan (Fresno County), and only twenty-six had adopted zoning ordinances.⁵

If county governments generally disregarded their responsibility to oversee rural land use during the 1930s and 1940s, the state compounded this neglect by failing to delegate clear lines of authority to local units. When the Legislature finally set up procedures for rural zoning in 1937, it followed the Planning Act amendments with the 1939 Uninhabited Territories Annexation Act, which gave cities priority over land-use decisions affecting rural-urban fringe areas. The future importance of the 1939 law was not immediately apparent, at least to county officials, but it eventually blocked county planning commissions and boards of supervisors from using the powers granted to them in 1937 when they were groping for legal

⁴ *California Statutes*, 1937, Chapter 665, Section 6.3: Ralph B. Wertheimer, “Constitutionality of Rural Zoning,” *California Law Review* 26 (January 1938): 179–180; Spangle, 21–22.

⁵ *California Reports on Planning*, 19–20; for brief information on farmers’ role in the 1940s “A-1” ordinance, see George Goodrich Mader, “Planning for Agriculture in Urbanizing Areas: A Case Study of Santa Clara County, California” (M.C.P. thesis, University of California, Berkeley, 1956), 34.

measures to control urban sprawl in the post–World War II era. In any event, by 1947 the newly established State Office of the Director of Planning and Research concluded that California suffered from “land-use lethargy” — that “zoning ordinances [had] been enacted in nearly every case only after the need for zoning became an absolute necessity, not to the planning commission but to property owners wanting to protect their land values” and to government officials attempting to correct “past mistakes.”⁶

THE STATE PLANNING BOARD, 1934–1943

While counties were slow to assume land-use planning responsibilities throughout the 1930s and 1940s, the federal government seemed all too eager to impose planning programs upon states during the New Deal. The threat of federal dominance led California to assert its governmental priority in planning policy beginning in the late 1930s. Between September 1933 and December 1934, forty-two states established state planning boards at the request of the Roosevelt Administration via the U.S. Administrator of Public Works, Harold L. Ickes. These boards were necessary to help coordinate federal public works programs. The National Planning Board (attached to the Public Works Administration), the Civil Works Administration (CWA), the Federal Emergency Relief Administration (FERA), and later the Works Progress Administration (WPA), which superseded the CWA and FERA, funded much of the work carried out by state boards. As a result, state planning programs during the 1930s came to be known derogatorily as “research for relief’s sake,” revealing the stepchild status which state legislators and state government bureaucrats attached to these boards.⁷

⁶ *California Reports on Planning*, 4. Observations by Richard S. Whitehead, member of the State Planning Board staff from 1937 to 1941 and Santa Barbara County planning director from then to 1969, corroborate the findings published in the 1948 report. According to Whitehead, Santa Barbara County commercial farmers consistently blocked the county’s attempts to establish an agricultural zone. It was not until after the Williamson Act passed in 1965 that the same farmers applied pressure for agricultural zoning so they could qualify for lower property taxes (interview with author, September 8, 1982).

⁷ National Resources Committee [superseded the National Planning Board], *The Future of State Planning* (Washington, D.C., March 1938), 3; Dorothy C. Tompkins,

In California, Governor James Rolph (Republican) appointed an eleven-member State Planning Board in January 1934. The National Planning Board assigned L. Deming Tilton to the board as a planning consultant in June 1934.⁸ Tilton began work on planning projects in October 1934 with the aid of about fifty FERA workers. In June 1935, the Legislature granted statutory authorization to the State Planning Board, establishing it as an agency under the Department of Finance, but the act carried no appropriation. The board was composed of five private citizens plus the directors of the state departments of finance, natural resources, and public works and had authority only “to cooperate” with organizations or other governmental units and agencies that might be “interested” in developing “the natural and economic resources of the State.”⁹

Governor Rolph died in office shortly after he appointed the State Planning Board, and while his successor, Frank Merriam,¹⁰ made no attempt to dismantle the board, neither he nor the Legislature made any attempt to use it, even in its limited advisory capacity. By late 1936, the planning staff still had no permanent quarters and Tilton had little or no formal access to other state departments, which would have permitted him to coordinate agency planning activities. The State Planning Board relied entirely on federal funds to carry out its research until Democrat Culbert L. Olson was elected governor in 1937. Then, in 1938, the Legislature allocated the board a modest \$12,500, increased the amount gradually to \$20,970 in 1941, but decreased it to \$16,000 in 1942, the year Olson left office.¹¹

Tilton, the guiding force behind the State Planning Board, took the agency’s research and fact-finding responsibilities seriously, even if

Recent Trends in State Planning and Development (Berkeley: University of California Bureau of Public Administration, 1949), 1-2.

⁸ Tilton received some of his early planning experience under Harland Bartholomew, in whose St. Louis office Tilton worked for a time, according to Richard S. Whitehead (September 8, 1982).

⁹ *California Statutes, 1935* (Extra Session, 1934), Chapter 331; National Resources Board, *State Planning: Review of Activities and Progress* (Washington, D.C., 1935), 21.

¹⁰ Lt. Governor Frank Merriam became governor in June 1934 and was reelected in November 1934, defeating Democratic candidate Upton Sinclair.

¹¹ National Resources Committee, *State Planning: Programs and Accomplishments* (Washington, D.C., December 1936), 4, 100; National Resources Planning Board, *State Planning* (Washington, D.C., June 1942), vii.

Governor Merriam and the Legislature did not. With respect to land-use planning, he directed the planning staff in a major study of tax delinquent lands, part of a National Planning Board–initiated program to identify privately owned land of sub-marginal productive capabilities so that the federal government could purchase such lands to bring them under better management. Tilton’s investigation revealed that, during 1936–37, the state held, as a “conservative estimate,” tax deeds to at least 2,500,000 acres of land. Not all of this land was rural and/or agricultural land; large areas were abandoned, cut-over forest lands, and vast tracts were lands that had been granted to Southern Pacific. Much of this land was considered suitable for private agricultural development subject to water availability.¹²

The investigation prompted the State Planning Board to make several recommendations to Governor Merriam concerning tax assessment and administration. In addition, the board used the study to design a plan, also presented to the governor, to “classify” all tax delinquent land deeded to the state in order “to determine its best ultimate use and ownership.” Under the plan, federal, state, and local agencies would cooperate in classifying land. Upon completing that process, the state would turn over to counties or cities the deeds to land determined to be “suited for private ownership.” Deed restrictions, where necessary, would attempt to “prevent irrigation districts from over-capitalizing and including more land than they c[ould] supply with water” or might require the new owner to “conserve and stabilize water supplies and extend soil conservation practices for the protection and perpetuation of existing agricultural areas.”¹³

The State Planning Board’s study and plan for rehabilitation of tax delinquent lands did not result in any legislative action,¹⁴ but it did provoke some interest from the Commonwealth Club, which studied the broad

¹² See Otis L. Graham, Jr., *Toward a Planned Society* (New York: Oxford University Press, 1976), 37–39, for information on the National Planning Board; Richard S. Whitehead (September 8, 1982) supplied information on Tilton’s role in the State Planning Board.

¹³ California State Planning Board, “Tax Delinquent Land in California: A Review of the Problem and a Plan for its Solution,” TS report, December 1938.

¹⁴ Article 2, Section 17 of the State Lands Commission Act (*California Statutes*, 1938 [Extra Session], Chapter 5) gave the commission authority to “classify any or all state land for its different, possible uses,” but Article 3, Section 31 of the same act stipulated that none of its provisions applied to “lands acquired by the state on sale thereof

topic of land-use planning throughout 1937 and 1938. When the club's Agriculture Section reported in 1938, it stated boldly that "programs for land classification, for land zoning, for government purchase of land and for the removal of the people from whole communities startle us." Clearly, this was not the Commonwealth Club of 1914–15 that prodded the state to embark on the land settlement experiments at Durham and Delhi. Rather, the Agriculture Section's report suggests that state-level attempts to stall federal land planning programs reflected a widespread unwillingness among business, agriculture, and civic leaders to oblige federal intrusion. The 1938 report as a whole, however, reflects confusion rather than a cohesive set of recommendations. The Agriculture Section actually seemed unable to reach any consensus regarding land-use planning. Instead, it cautiously recommended that the state give "careful study" and "careful consideration" to "all major new agricultural development ventures," to "past experiments in agricultural development," such as the Land Settlement Board experiments, and to "the nature and operation of planning agencies while they are still in the process of development." And despite its assertion that members were "startled" by land classification, zoning, and government purchase proposals, the section nonetheless supported the State Planning Board's plan for tax delinquent lands. The Agriculture Section also recommended that the state amend the 1937 Soil Conservation District Act to authorize "reasonable land use regulations" that would curtail "serious damage by soil erosion."¹⁵

By the 1930s, the Commonwealth Club had ceased to be the Legislature's principal citizen advisory body, but the club still maintained its tradition of studying and discussing major policy issues. The club also retained close ties with state legislators and government officials. Although its reports and recommendations no longer influenced legislation to the degree they once had, these reports still reflected policy issues seriously discussed among state leaders. The cautious tone of the 1938 land-use planning report indicates a climate of opinion favoring limited land-use regulations for agricultural land. It also reveals significant hostility toward dictating land-use planning policies to local units, especially if

for delinquent taxes." Several amendments were made to the State Lands Commission Act in 1939, but they did not expand its authority over tax delinquent lands.

¹⁵ "Land-Use Planning," *Transactions* 33, no. 5 (1938): 191–231, especially 201–205.

such policies accommodated national land planning goals. World War II soon intervened, however, and the State Planning Board turned its attention to studies for defense, housing, and industrial planning. As war-time exigencies demanded more of the board's time and energy, land-use planning disappeared from the agenda.

THE RECONSTRUCTION AND REEMPLOYMENT COMMISSION, 1943–1947

A state government bureaucracy dominated by agencies was not in keeping with the policymaking style that Republican Earl Warren brought to the governor's office when he succeeded to that post in 1943. Warren preferred instead to appoint citizen advisory groups to recommend legislation. This gave at least the appearance of state government responding to actual public needs and desires. Upon taking office, Warren's primary concern was to plan for peacetime recovery. Early in the year he sponsored two bills: one abolishing the State Planning Board and replacing it with a Reconstruction and Reemployment Commission (RRC), and the other establishing a \$33 million postwar employment reserve fund that was to be used to construct needed state institutions. Both bills easily and quickly passed the Legislature.¹⁶

The Legislature supplanted research-oriented planning with what might be called a public relations approach to planning when it passed the Reconstruction and Reemployment Act in 1943. The RRC's first annual report made it clear that the commission considered planning to be a function of state government only insofar as planning would allow the state to promote and coordinate industrial economic development through private enterprise.¹⁷ Unlike the State Planning Board, which functioned with a professionally trained director and staff, the RRC consisted entirely of state officials who, in turn, sat as the chairpersons for citizen advisory

¹⁶ Richard B. Harvey, *Earl Warren: Governor of California* (New York: Exposition Press, 1969), especially "The Citizen Advisory Bodies," 70–80; Lloyd Ray Henderson, "Earl Warren and California Politics" (Ph.D. dissertation, University of California, Berkeley, 1965), 158–159; *California Statutes*, 1943 (Extra Sessions, 1941–1943), Chapter 631.

¹⁷ California, Reconstruction and Reemployment Commission, *Report and Recommendations for the Period Ending December 31, 1944* (Sacramento, January 1945), especially 1–2.

committees. Warren appointed a businessman, Alexander R. Heron, as the executive director. Heron was qualified for the position by virtue of his previous government service experience as Director of Finance under Governor C.C. Young (1926–30), and as labor relations advisor for the federal War Production Board, but the only planner in the entire organization was Van Buren Stanbery, who served as chief of technical staff. Professional planners held no decision-making power in the new planning agency.¹⁸

Also unlike the State Planning Board, which had no resources to distribute, the RRC had millions of dollars to disburse to local governments on a fifty-fifty matching basis to stimulate local planning and help local governments acquire sites for public works and other improvements that would benefit the state as a whole. The League of California Cities acted as the agent through which the commission offered economic consultation to cities and counties applying for state funds. The RRC also boasted of “close cooperation” between it and the California Chamber of Commerce, the California State Federation of Labor, the state-level Congress of Industrial Organizations, the Pacific Advertising Association, the All-Year Club of Southern California (which promoted tourism), and the State Association of County Supervisors.¹⁹ With the state Reconstruction and Reemployment Act, California offered local governments, for the first time, the carrot of state funds to encourage local-level planning. It also established a bureaucratic structure that restrained the influence of professional planners and allowed local governments and citizen interest groups to shape state planning policies.

A major portion of the commission’s work consisted of making legislative recommendations generated by the citizen advisory committees. In effect, the RRC served as an official clearinghouse, sifting through the legislative requests of special interest groups. This resulted in a confusing array of legislative proposals submitted during the 1945 session, covering

¹⁸ *Ibid.*, organizational information on pp. ii–iv. Heron left his position as director of operations for the War Department’s Manpower Board in Washington, D.C., to accept the appointment as director of the Reconstruction and Reemployment Commission; see Henderson, 159–160.

¹⁹ Reconstruction and Reemployment Commission, *Report* (Sacramento, 1945), 6; Judith Norvell Jamison, *Coordinated Public Planning in the Los Angeles Region* (University of California, Los Angeles: Bureau of Governmental Research, Studies in Local Government, no. 9, June 1948), 130.

problems as disparate as providing medical care for children with cerebral palsy, organizing airport districts, securing unemployment insurance, and disposing of temporary war housing. Orderly land-use conversion to accommodate the war-induced population surge — people almost everyone expected to remain in California — did not figure among the concerns or legislative recommendations of the commission.²⁰

Economic planning dominated RRC activities from August 1943 to its dissolution in 1947. The commission responded to the needs as well as the whims of city councils, county boards of supervisors, chambers of commerce, industry, and labor unions. “Grass roots” planning is what the commission proudly called its efforts and accomplishments, which were considerable, but overall coordination was noticeably lacking. Through the myriad activities of the RRC, the state fully implemented the policy framework established by the 1929 Planning Act. By pumping millions of dollars to the local level to finance projects the RRC deemed worthy of public funding, the state accomplished three things. First, it kept intact the home rule principle of planning. Second, it encouraged local units to think of planning narrowly — in terms of civic projects and public works development. Third, and perhaps most important, it interrupted the federal–local level planning partnership that several New Deal programs had fostered. Nowhere was the latter accomplishment more apparent than in regional planning developments.

THE RRC AND REGIONAL PLANNING

Ironically, the economic development–oriented RRC, under Heron’s leadership, succeeded in reviving regional planning in California, a feat no doubt more attributable to the commission’s strong programmatic ties with local governments and special interest groups than to any philosophical commitment shared by commission members. The 1937 amendments to the State Planning Act included a mandate to the State Planning

²⁰ Reconstruction and Reemployment Commission, *Report* (1945), 81–116, and *Report and Recommendations for the Year Ending December 31, 1945* (Sacramento, January 1946), 25–44, and *Third Report to the Government and the Legislature* (Sacramento, January 1947), which recapitulates much of the information contained in the first two reports.

Board to divide the state into regional planning districts, defined as areas delineated by “natural physiograph[y]” and as “having mutual social and commercial interests.”²¹ The rhetoric might suggest that the Legislature intended to reverse the 1929 framework that left planning in the hands of local governments. In reality, however, the state was not so much concerned with planning as it was threatened by loss of power in the federal system.

Local events preceded state action. In 1935, planner Hugh Pomeroy, who had worked on the Los Angeles Regional Plan during the 1920s, was appointed to the state’s WPA advisory committee to coordinate professional and technical projects. He appreciated the assistance that regional planning bodies within states could provide to the WPA as it carried out its field surveys and research projects. More to the point, he realized that the WPA could stimulate regional planning, through the proverbial back door, by assigning federal workers to organized regional planning bodies. Pomeroy proceeded to experiment in the San Francisco Bay Area, where he succeeded in persuading Bay Area government officials to revive the spirit of the old Regional Plan Association, but the effort was short-lived. In September 1935, the San Francisco Metropolitan Area Planning Commission was organized, but with only counties represented. This, plus necessary reliance upon voluntary participation, made negotiations with the WPA difficult, and at times impossible.²²

Following Pomeroy’s unsuccessful attempt, the Commonwealth Club initiated, in 1939, another discussion of regional planning, this time in response to federal defense preparations. Military installations were suddenly rising all over the Bay Area without benefit of coordination on the state or regional levels. The club’s City Planning Section, under the direction of San Mateo County Planning Engineer Ronald L. Campbell, recommended the establishment of a provisional regional planning association, but the club took no further action toward that end.²³ By 1940, regional planning in the Bay Area appeared to have stalled.

The situation in the Los Angeles area was equally arrested. During the depression years of the 1930s the metropolitan planning network in Los Angeles County crumbled as more and more city planning commissions

²¹ *California Statutes*, 1937, Chapter 665, Section 2.2.

²² Scott, 231–232.

²³ “Regional Planning,” *Transactions* v. 37, no. 5 (1942): 167–196.

suspended activities. In response, the Los Angeles County Board of Supervisors curtailed the advance planning functions of the Regional Planning Commission. Nevertheless, federal relief and public works programs gave the commission new, and potentially more powerful, coordinative functions. City officials balked, however, when the Board of Supervisors tried to have the county designated as the official governmental unit to coordinate all public works in the area, mediating between the federal government and the cities and special districts encompassed by the county. Pressure from cities that wanted to negotiate directly with the federal government forced the county to abandon its effort.²⁴

During the 1930s, people of diverse persuasions could agree, in principle, that regional planning was socially beneficial. In practice, however, cities, and, to a lesser degree, counties sought chiefly to protect their powers and economies. By the late 1930s, state government powers were under siege. New Deal relief funds and public works projects had stimulated closer ties between Washington and local governments. Now federal funds for national defense threatened to strengthen those ties. State-directed regional planning provided a means by which the California Legislature could restore the state's position in the federal system. It is doubtful that Governor Olson and the Legislature deliberately sought, in 1937, to transform the State Planning Board from an unwelcome federal presence into a tentacle of the state police power. However, the amendments to the State Planning Act, which clarified county planning authority and procedures and which initiated statewide regional planning, are evidence that the state was attempting to reassert its dominance over local governments and yet reaffirm its 1929 commitment to local-level planning. Thus, county planning powers were immeasurably strengthened at the same time the state embarked on its first serious regional planning effort.

Counties might have changed the course of events if, during the 1930s, they had chosen to assert their legislated mandate in planning. Indeed, some professional planners hoped that counties would take the lead in land-use planning to counter an emerging trend in cities, many of which had distilled planning principles to zoning selectively in response to vocal commercial, industrial, or residential interests that sought to protect

²⁴ Jamison, 136–137.

their property rights. Such hopefuls stressed that planning's fundamental aim should be to secure "the most economically productive utilization of land."²⁵ Planner Hugh Pomeroy and others even anticipated that county supervisors and planning commissions would instigate so-called functional analyses to classify land for its potential and best uses (i.e., industrial, residential, agricultural, forest, mineral development, recreation) and to zone land according to such classifications well in advance of development. Even so, planners foresaw that countywide zoning probably could not be used "to regulate rural land uses in general" and thus advocated that any "major land use plan should leave undisturbed the traditional freedom of the open country except as scenic areas or traffic thoroughfares are involved or as nuisances may be concerned."²⁶ Those who saw the promise of county planning in the 1910s also had to admit that rural politics presented a major obstacle. In 1931, L. Deming Tilton, then director of planning in Santa Barbara County, noted, for instance, that the "county has never been especially hospitable to advanced ideas or to progressive policies" and that "county officials often shun the idea of assuming the legitimate responsibilities of government."²⁷

Thus, if the years 1937 and 1938 might have been a turning point, laissez-faire sentiments prevailing among county dwellers in general precluded county governments from assuming a leading role in land-use planning. One must also view this potential turning point in relation to California politics of the 1930s. Nominally Republican-dominated since the Progressive Era, state and local politics took on a partisan flavor during the 1930s, partly in response to the success of New Deal programs and partly in response to Upton Sinclair's controversial End Poverty in California (EPIC) campaign. When Democrat Culbert Olson assumed the governorship, California liberals inherited a long-awaited opportunity to reinstall a progressive spirit into state politics. Olson, however, never

²⁵ Albert G. Hinman, "The Economic Importance of Real Estate Classification," *Annals of the American Academy of Political and Social Science* [hereinafter cited as *Annals AAPSS*] 154 (March 1930): 15.

²⁶ Hugh R. Pomeroy, "County Zoning Under the California Planning Act," *Annals AAPSS* 155, pt. 2 (May 1931): 56–58.

²⁷ L. Deming Tilton, "Regulating Land Uses in the County," *Annals AAPSS* 155, pt. 2 (May 1931): 127–128.

enjoyed or cultivated solid support from the Legislature. Between 1937 and 1943, Democrats controlled the Assembly, while Republicans maintained control of the Senate. Olson, moreover, was a controversial figure, and his administration did not escape justifiable charges of favoritism and corruption. In 1942, the Republican candidate, Earl Warren, had no difficulty defeating the incumbent.²⁸

During Olson's administration, the State Planning Board received its first state funding and state recognition as a legitimate agency. Director Tilton nonetheless sensed the pitfalls of partisan politics. He and the board realized from the beginning that they would encounter tremendous local opposition, thereby jeopardizing the board's already tenuous existence if it carried out the 1937 mandate to divide the state into regional planning districts. Therefore, other than simply conferring new legal status on the Los Angeles Regional Planning Commission in 1939, the board took no action until 1941.²⁹

Proliferating defense installations in the Bay Area finally stimulated the State Planning Board to act more decisively. There, two aborted regional planning attempts signified some receptivity to the board's mandate. In March, 1941, the board held a hearing in San Francisco to take the first step toward creating a third Bay Area organization. Despite Tilton's claim that the board "didn't want to impose upon any group of communities a regional machinery if they didn't want it," the language of the 1937 statute directed the State Planning Board to design regional plans. The law also directed proposed regional planning bodies to implement those plans. When Bay Area cities and counties fully realized the board's intent, most reacted with indignation. The board retreated. Tilton restated its position in a December 1941 communication to Bay Area planning commissions. This time the board requested counties and cities to band together in a regional planning body that would be voluntary, temporary, and advisory.

²⁸ For a discussion of California partisan politics in the 1930s, see Michael Paul Rogin and John L. Shover, *Political Change in California: Critical Elections and Social Movements, 1890–1966* (Westport, Ct.: Greenwood Publishing Co., 1970), especially "The Resurgence of the Democratic Party in California," 112–152. For a sympathetic account of Governor Olson, see Robert E. Burke, *Olson's New Deal for California* (Berkeley: University of California Press, 1953).

²⁹ Jamison, 31, 38.

Reconsidered responses from Bay Area counties and cities were lukewarm at best.³⁰

Even wartime demands for intergovernmental cooperation could not persuade local leaders to moderate territorialism. Speaking in formal opposition to Bay Area regional planning before the Commonwealth Club in 1942, Fred S. Newsom, business manager of the *Richmond Independent*, stated that it was pure “illusion” to think that smaller governmental units could “follow this trend to centralization without penalty.” Regional planning, even advisory, as Newsom saw it, was but another step toward totalitarianism. It “would wipe out the individuality in cities . . . and counties . . . and states, to make them all of a pattern under a central government which begins by suggestion and ends by mastery.”³¹ The State Planning Board dropped the matter.

As the war progressed, however, local government officials and members of local chambers of commerce began to fear that regional cooperative measures would be necessary to avert a possible postwar economic depression. Thus, when the Legislature replaced the State Planning Board with the Reconstruction and Reemployment Commission in 1943, Heron succeeded where Tilton had failed: he cajoled the nine Bay Area counties into organizing a regional planning commission by allowing them to do so on their own terms.³²

In October 1943, the Bay Area Regional Development Council was organized. (“Development” was soon deleted from the official name.) Despite the council’s initial promise “to work for the progressive execution of a comprehensive, long-term general plan for the physical development of the region,” it was an organization dominated by Bay Area businessmen, not professional planners. The council really served as a clearinghouse for coordinating the planning projects of public and private agencies in the Bay Area. It acted, in addition, as a project advisory committee for the

³⁰ California State Planning Board, “Hearing on the Establishment of a San Francisco Bay Regional Planning District,” March 28, 1941, TS report; L. Deming Tilton, “A Regional Planning Organization for the San Francisco Bay Area,” TS of outline accompanying letter dated December 10, 1941, from Tilton to Oliver F. Campbell, chairman, Santa Clara County Planning Commission (SCCo Plan Dept: Improvement and Development: Regional Planning, San Francisco Bay Area Commission); Scott, 246–248.

³¹ “Regional Planning,” *Transactions* (1942), 187–190.

³² Scott, 261–263.

RRC. Although the council gave lip service to agriculture as one of the “four cornerstones of the area’s economy,” it had in mind no specific planning activities beyond preparing an areawide map of existing land uses, integrating the nine-county street and highway systems, and proposing a master airport plan.³³

As an example of the close ties that existed between the Bay Area Regional Council and Bay Area businessmen, the council and local chambers of commerce cosponsored a series of “Bay Area Days” in 1948. The first such event, staged in San Jose on May 21, paid tribute to industrial growth in Santa Clara County with an “inspection trip” to some of the new and/or expanding companies, such as International Business Machines and Food Machinery and Chemical Corporation. Luncheon speakers “placed emphasis on the need for Bay Area-wide planning and action” which might contribute “to the location of new industries and provision of increased employment.”³⁴ In 1947, regional planning, conceived and nurtured as metropolitan planning and development, remained confined to the Los Angeles and San Francisco areas. It was, moreover, the antithesis of regional planning as envisioned by those sympathetic to New Deal ideas. Nonetheless, it was entirely in keeping with state policy.

AGRICULTURE AND REGIONAL PLANNING

Agricultural land-use planning received no serious consideration as a necessary part of regional planning in either San Francisco or Los Angeles until the mid-1940s, when both urban areas suddenly started to spread out over larger geographic territories. Decentralization, as the new trend was

³³ Bay Area Regional Development Council, “Draft Proposed Constitution,” October 16, 1943, and “Amended Proposed Constitution,” January 15, 1944, and “Minutes” of January 14, 1944, meeting (SCCo Plan Dept: Improvement and Development: Regional Planning, S.F. Bay Area Council); Reconstruction and Reemployment Commission, *Report* (1945), 75–76 and *Report* (1946), 18–19; “Policy and Program: The San Francisco Bay Area Council,” n.d., and text of talk by Nestor Barrett on April 14, 1948, before the S.F. Bay Area Council, and “The San Francisco Bay Area Council” in *California Reports on Planning*, 31.

³⁴ “Press Release” issued for release on May 21, 1948, by S.F. Bay Area Council (SCCo Plan Dept: Improvement and Development: Regional Planning, S.F. Bay Area Council).

called, resulted from several factors in addition to accelerating population growth. One was the atomic bomb which many believed “imposed a dramatically new necessity for dispersion of those industries which are strategic and essential to the national defense.”³⁵ Expanding industries and corporations began, at the urging of chambers of commerce, to consider favorably the lower land acquisition and labor costs that smaller, regional centers offered. Improving transportation networks, in addition, made semi-rural living entirely feasible for people who wanted to retain their city jobs.

From mid-1946 to early-1948 the Commonwealth Club studied this new urban phenomenon. “Planned decentralization” was the course of action recommended by the club’s City Planning Section in a report vigorously debated by the membership. Despite reservations, members nevertheless supported, in principle, the planning and creation of “small ‘satellite’ cities limited in population by law to, say 35,000 to 50,000 inhabitants, set apart by permanent ‘greenbelts’ of farm or woodland areas.” The idea came straight from Ebenezer Howard and was carried to the club by Howard’s one-time protégé, F.J. Osborn of the British Planning Authority, who spoke on “Green Belt Cities” before the City Planning Section in November 1947. There is little indication that club members, however, seriously considered the greenbelt idea as anything more than an aesthetic means of establishing urban buffer zones, much the same as American city planners of the 1920s conceived of “garden cities.” Opponents of the greenbelt proposal maintained, moreover, that the state subsidies and tax benefits advocated to encourage planned decentralization were unconstitutional. They further warned that neither land developers nor business and industry leaders would ever submit to state-guided urban development.³⁶

Opponents of planned decentralization had little to fear. Legislators, who generally favored continuing the state’s role in planning, disagreed fundamentally over whether the governor’s office or the Legislature should control the planning agency. In 1947, despite acrimonious debate, the Legislature passed the Conservation and Planning Act, a sweeping piece of legislation which superseded the 1929 Planning Act, consolidated scattered

³⁵ “Decentralization of People and Industry,” *Transactions* 43, no. 1 (1948): 1-141.

³⁶ *Ibid.*

statutes and codes relating to planning, and created four new state agencies to carry out state-level planning. One of the four new agencies, the Office of the Director of Planning and Research (ODPR), replaced the Reconstruction and Reemployment Commission. ODPR was established under the governor's office, and the director was to be responsible for correlating the planning activities of all other state departments and agencies.³⁷

Legislators opposed to the Conservation and Planning Act denounced it as a vehicle for political patronage and balked at the \$116,000 appropriation the bill carried. They managed to delay passage until the last day of the legislative session, waiting until an alternate measure, which would have created a less powerful planning board with a smaller appropriation of only \$50,000, failed to pass. But in 1948, as the postwar economy stabilized, thereby undermining one of the supposed needs for state planning and research, political opponents succeeded in persuading the Legislature to eliminate ODPR funding.³⁸ In its short one-year existence, the office, under an acting director, A. Earl Washburn, nonetheless managed to research the status of city and county planning throughout the state, the first time any state agency had undertaken to assess how local governments were implementing the various state laws pertaining to planning.

As California's two major metropolitan areas stood poised to receive a postwar population influx beyond the fantasies of even the most enthusiastic chamber of commerce boosters, the state still clung to the home rule planning policy established in 1929. At the time, however, few observers sensed any real threat of chaos. Carey McWilliams, often critical of state government and politics, displayed an uncharacteristic lack of insight into the consequences of urban decentralization by calling it "planning by indirection." He apologized for "the giant adolescent," which "has been outgrowing its governmental clothes, now, for a hundred years," by merely

³⁷ *California Statutes*, 1947, Chapters 807 and 1408 respectively set forth the provisions of the act and created the Office of Director of Planning and Research; Chapters 868 and 869 amended the act to give city and county planning commissions a mandate for urban planning as distinguished from either city or county planning.

³⁸ *Sacramento Bee*, June 12, 1947; June 13, 1947; June 14, 1947; June 23, 1947; Thomas William Cohen, "The California Office of Planning and Research: Past Efforts; Future Possibilities" (M.C.P. thesis, University of California, Riverside, 1977), 3. See also *California Reports on Planning*, the one report to issue from the Office of the Director of Planning and Research.

noting that “the nature of the state’s population growth creates special resistances to large-scale planning.” McWilliams was optimistic that urban decentralization, “a natural and, from many points of view, a highly desirable dispersion of population,” would, somehow, solve the state’s physical planning problems.³⁹

It is more correct, however, to note that the troubled years of the Great Depression and World War II shattered the already fragmented planning visions obtained in the early decades of the twentieth century. If regional and rural planners were following different paths then, they had at least in those earlier years been able to mingle with government officials and businessmen as peers. By the early 1940s, civic and business leaders looked upon planners as technical assistants, at best, and, at worst, as bureaucratic obstructionists. Between 1929 and 1948, state policymakers reacted to events largely outside their control, events that generated economic, more than physical, growth problems. In the combined wake of depression and war, planning for economic recovery through industrial growth received increasing attention, and businessmen assumed greater authority in planning matters. Whatever cooperative spirit had once existed among planners, government officials, and business leaders disappeared in the troubled decades of the 1930s and 1940s.

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³⁹ Carey McWilliams, *California: The Great Exception* (New York: Current Books, Inc., 1949), 17–24.

Chapter 6

GIRDING URBAN SPRAWL WITH A SLENDER GREEN BELT

During the 1950s rapid population growth demonstrated that urban and rural land uses could no longer be treated as separate, unrelated phenomena. Terms such as “rurban,” “scatteration,” and, even more unwieldily, “metrural,” entered the popular lexicon, bespeaking an element of general confusion about how to define outward-creeping, problem-generating areas on the urban periphery. The word “fringe” took on new meaning to describe city boundaries which were ragged with suburban development.

Unprecedented, aggressive municipal annexation touched off an urban-versus-rural feud in California, confined, for the most part, to the San Francisco and Los Angeles metropolitan areas. Santa Clara County was the primary locus. There, municipal annexation to accommodate the unabated stream of westward bound migrants to the Bay Area in the post-war years escalated to intercity rivalry over territorial expansion. As cities snatched orchards and fields, farmers located on the ever-changing fringe retaliated by demanding greater zoning protection, which thus brought two state laws into conflict: the 1939 Uninhabited Territories Annexation Act and the 1937 Planning Act amendments which had given counties authority to establish rural zoning.

ANNEXATION ISSUES AND THE GREENBELT ACT OF 1955

Municipal land grabbing, under the guise of a rightful exercise of eminent domain, was the principal urban fringe land-use issue during the early 1950s. Local political controversies raged over municipal annexation; special purpose district organization, functions, and financing; and the fiscal as well as service responsibilities of overlapping local governmental units. In 1951, the State Legislature authorized the Assembly Committee on Municipal and County Government to study local governmental relations and municipal annexation problems in urbanizing, unincorporated areas. The Assembly defended such study as necessary since local governmental relations “had been made more difficult and complex by reason of the great growth in population of California and particularly growth in population and development in the unincorporated areas of the county.”¹ After holding hearings in five counties — Sacramento, Napa, Kern, Alameda, and Los Angeles — the Assembly committee recommended in 1951 that the state encourage voluntary joint city–county planning. It also recommended “a comprehensive program to zone all areas of the State according to their present or intended uses.”²

Meanwhile, during the 1953 legislative session, at least fifty-six Assembly bills would have amended, expanded, or reformed in some way the state laws governing city annexation powers.³ In an attempt to dispel the cloud of confusion arising from committee considerations over this assortment of bills, the Assembly resolved to hold an additional series of public hearings during the next interim period. The Committee on Municipal and County Government was again assigned to the task, and it held the

¹ California, *Journal of the Assembly*, v. 4, 1951 Regular Session, House Resolution No. 230, 6496.

² California Assembly, Interim Committee on Municipal and County Government, *Fringe Area Problems in the State of California* (Sacramento, March 27, 1953), 5.

³ California Legislature, *Final Calendar of Legislative Business* [hereafter cited as *Final Calendar*], 1953. No annexation-related bills were introduced in the Senate during the 1953 session. Fifty-six legislative proposals in 1953 compared to nine annexation-related bills introduced during the 1951 regular session; all were introduced in the Senate that year. The dramatic increase in the number of bills from 1951 to 1953 underscores the perceived severity of annexation problems in 1953.

first hearing in San Jose in November 1953 at the invitation of Santa Clara County government officials.

The Interim Committee, which considered its mission to be purely fact-finding, did not anticipate the emotional intensity enveloping annexation issues. Karl Belser, called upon to summarize the county view of annexation problems, noted that county land-use planning was often a futile exercise because “land use deals ha[d] completely subverted the planning and zoning regulations of the district.” Parcels annexed in self-descriptive “strips,” “fingers,” and “hooks” had rough-hewed Santa Clara County’s neat pattern of trim orchards which formerly stretched solidly across the landscape in variegated green and brown blocks. As a result, smaller communities undertook “incorporation in self-defense,” said Belser, a trend which only made the county’s job more difficult. The ultimate frustration, for him, was that both wildly expanding and self-defensively incorporating cities were using techniques “provided by [California] law,” which had been, he charged, “stressed and strained to the point of yield to accomplish the expedient purpose of the city.” California law, he concluded, rendered “overall planning on an area basis . . . practically impossible.”⁴

San Jose City Manager A.P. Hamann leveled the counterattack. He defended annexation, no matter how obtained, as “the only way cities or fringe areas can at the present time protect themselves from the evils [unsanitary sewerage and inadequate or non-existent fire and police protection] arising from the haphazard and unplanned growth and development.” Hamann admitted that, “as the laws are now written there is considerable confusion and doubt as to what they mean.” But his pro-city, pro-growth bias led him to complain that “there is no proceeding in which annexation opponents cannot find some technical ground upon which to contest the validity of an annexation.” San Jose and other expanding cities had, as a result, been subjected “to great cost and expense in defending their proceedings in court,” action which “delay[ed] and hinder[ed] the planning and orderly growth and development of the fringe areas.”⁵

⁴ *Journal of the Assembly*, v. 2, 1953 Regular Session, House Resolution No. 125, 3320; Assembly, Interim Committee on Municipal and County Government, *Proceedings, Meeting of the Subcommittee on Annexation and Related Problems, San Jose, November 20, 1953* (Sacramento, 1953), 16–17.

⁵ *Proceedings*, 21–22.

There were, in reality, several laws that gave overlapping planning authority to cities and counties. In addition to the 1939 Uninhabited Territories Annexation Act, which allowed cities to override county land-use plans and zoning ordinances, other state laws authorized the organization of special districts to meet community services in unincorporated areas without authorizing such special districts to levy charges to pay for some of these services. Another statute established 500 residents as the minimum required for municipal incorporation, thereby encouraging city formation in communities that would not likely be wealthy enough to provide adequate municipal services. Moreover, cities too often seemed willing to provide water supply and sanitation services, under contract, to unincorporated areas, thereby further discouraging counties or small, outlying communities themselves from assuming the responsibility of providing municipal services.⁶

The Assembly continued its study of urban fringe problems throughout the rest of 1953 and most of 1954, appointing two citizen advisory committees to help formulate legislative recommendations.⁷ The 1955 Greenbelt Act followed four years of study and intense debate over municipal annexation. Assembly Bill 2166, introduced by Santa Clara County Assemblyman Bruce F. Allen, was one of over sixty annexation-related bills proposed during the 1955 regular legislative session. The original bill would have restricted cities throughout the state from annexing lands zoned for exclusive agricultural use, but amendments made in the Assembly reduced implementation to only those counties that had, as of December 31, 1954, adopted master land-use plans including an exclusive agricultural zone classification. The amendment rendered the bill applicable only in Santa Clara County, which was the only county that could meet all the legal criteria.⁸ Allen introduced the bill at the behest of Santa Clara County farmers

⁶ *Ibid.*, 6–7.

⁷ Karl Belser chaired the Northern California committee; Robert M. McCurdy, city manager of Pasadena, chaired the Southern California committee; Assembly, Interim Committee on Municipal and County Government, *Proceedings, Meeting of the Subcommittee on Annexation and Related Problems, Los Angeles, October 21, 1953* (Sacramento, 1953), 5, 52.

⁸ *Final Calendar*, 1955 Regular Session; Race Davies, “Preserving Agricultural and Open-Space Lands: Legislative Policymaking in California” (Davis: University of California Institute of Governmental Affairs, Environmental Quality Series, no. 10, June

and county government officials, and he could therefore afford to trade statewide for limited application and still serve his constituency without losing valuable support among his colleagues. When the bill was signed into law on July 6, 1955, moreover, it was to have effect for only two years.⁹

The 1955 Greenbelt Act authorized little more than a limited and localized experiment to restrict municipal annexation through the use of exclusive agricultural zoning, but it gave the Legislature more time to evaluate the strategy. In November 1956, the Assembly Interim Committee on Conservation, Planning, and Public Works heard testimony at a hearing held in San Jose since Santa Clara was the only county to invoke the law. Landowners as well as municipal and county government officials were invited to the hearing, which the committee hoped would help the Legislature determine whether agricultural zoning was a reasonable means to foster orderly land use change on urban fringes. Much of the discussion revealed continuing battles between city and city, and cities and the county. One farmer testified that he learned only from reading the legal notice in the local newspaper that fifteen acres of his cherry orchards had been annexed to the City of Sunnyvale. The spokesman for a group of fifty farmers near Cupertino further observed that farmers, like others, often behaved

1972), 64, 66; Rita M. Mize, "Interest Group Opinion and California Land Use Legislation" (Davis: University of California Institute for Governmental Affairs, Environmental Quality Series, no. 13, December 1972), 7. Los Angeles and Orange Counties also had amended their master land-use plans to include an agricultural land-use zone; see *California Reports on Planning*, 19, and Winston Crouch, Jack Goldsmith, Robert N. Giordano, *Agricultural Cities: Paradoxes in Politics of a Metropolis* (Los Angeles: UCLA Department of Political Science, 1964), 11–12. These were not, however "exclusive" agricultural zones; and since neither county chose the agricultural zoning route to control urban sprawl, it remains unknown whether the 1955 Greenbelt Act might have given such zoning laws greater force in Los Angeles and Orange counties during the 1950s.

⁹ *California Statutes*, 1955, Chapter 1712; Governor's Chaptered Bill File, Chapter 1712 (1955) (California State Archives), indicates that Governor Goodwin J. Knight received letters concerning AB 2166 from the State Board of Equalization, the State Department of Public Works, the County Board of Supervisors Association, the League of California Cities, the State Bar of California, the State Chamber of Commerce, and Mather Agricultural Council, as well as from assessors, tax collectors, and taxpayer groups. The letters, however, are not in the file; and the notation does not indicate which groups supported and which opposed the bill. This curious gap in the public record can only be offered as evidence that the bill was vociferously opposed, as former assemblyman, later judge, Brice F. Allen stated.

unpredictably in the midst of a chaotic situation. In 1955, these fifty farmers therefore signed an unusual pact whereby each agreed not to subdivide his land for four years.¹⁰

Municipal government representatives again defended their annexation policies and pointed the finger of blame at the county. While Sunnyvale's city manager admitted that his city's annexation policy had been "aggressive," he nonetheless charged that agricultural zoning had not been implemented as part of the county's master plan, which, incidentally, was not officially adopted until 1960, almost four years after the hearing. Another city representative announced that he and other city officials perceived exclusive agricultural zoning to be "more an annexation barrier than . . . a preserver of prime agricultural land." This, of course, was true: Santa Clara County used agricultural zoning to control the spread of urban development. But to cities, zoning was acceptable only so long as it served to separate commercial, industrial, and residential land uses within city limits. It was not acceptable when it interfered with a city's legal privilege to extend its boundaries to capture land attractive for industrial growth, necessary for airport expansion, or desirable for revenue-producing commercial and residential areas. Local tension over municipal annexation still ran high, and the Interim Committee concluded that a state agency was needed to "umpire conflicts between county and city land use plans."¹¹

Municipal annexation also inflamed politics in the farming areas of southeastern Los Angeles and northern Orange counties. Farmers in Southern California, however, chose to fight their battle entirely on the local level. Both counties had an agricultural land-use zone ordinance similar to Santa Clara County's, but farmers chose instead to incorporate farming communities as sixth-class cities (minimum required population, 500) zoned primarily for agriculture. The action began in mid-1955 after the city of Buena Park sought to annex, under the provisions of the 1939 statute, a strip of land upon which were located two dairies and two hog ranches. The owners of these properties managed to stall the effort with a lawsuit, but realized that their move only gave them a temporary reprieve.

¹⁰ Assembly, *Interim Committee Reports* 13, no. 14 (1955, 1957), "State Greenbelt Legislation and the Problem of Urban Encroachment on California Agriculture," 34, 56.

¹¹ *Ibid.*, 34–35.

Working through the local Farm Bureau, Orange County farmers successfully launched, in May of 1955, an incorporation drive that culminated in October, when Dairyland was officially designated a city, initially comprising “650 people, 13,000 cows, and 60,000 chickens.” In August, 1955, dairy and poultry farmers in southeastern Los Angeles County initiated a similar incorporation movement, which, after several months of controversy over whose land should be included, left the existing City of Artesia boxed in on three sides by the new City of Dairy Valley, incorporated in April 1956. The third agricultural city, Dairy City, later renamed Cypress, also came into existence in 1956 after agricultural landowners located south of Dairyland gathered forces in October 1955 and followed the lead of their compatriots to the north.¹²

A California Farm Bureau spokesman noted with pride that these three cities were, for all intents and purposes, Farm Bureau cities, since the mayors, members of the city councils, and practically all the residents belonged to that organization. He furthermore predicted that “cow towns,” as he called them, were the answer to the state’s urban encroachment problems.¹³ While these events may have helped to sustain the State Legislature’s attention on municipal annexation problems, incorporating farms into agricultural cities did not, in the long run, prove any more effective than invoking the Greenbelt Act. Landowners on the urban fringes in Southern California, too, assumed the dual identity of farmer and land speculator. It was inevitable that some would sell, initiating the process that unraveled these loosely woven agricultural cities.

The Commonwealth Club, still an arena for vigorous debate in the 1950s, declared that “annexation of farm lands by competing cities for long-range future growth ha[d] developed into intercity warfare.” In May 1955, the Agriculture Section began a two-year study of agricultural zoning. This group comprised more than 100 representatives of farm organizations, government bodies, businesses, and university-based agricultural specialists; and, from 1955 to 1957, it heard thirty speakers address every possible aspect of agricultural zoning. Agricultural economists, soil scientists, planners, tax assessors, state engineers, legislators, local government

¹² *California Farm Bureau Monthly* [hereinafter cited as *CFB Monthly*] (September 1955): 9; Crouch, et al., *Agricultural Cities*, 17–19, 50–53.

¹³ *CFB Monthly* (August 1956): 9–10.

officials, farmers, and developers were invited to appear before the group. Despite exhaustive study, however, the Agricultural Section did not reach a clear consensus. Although a slim, but solid, majority endorsed agricultural zoning, a vocal minority criticized it as “a device to avoid urban planning by substituting agricultural land freezing,” as a sure means of “walking into the trap of the policy state,” and as a legal strategy that made it “comfortable for an obstructionist to prevent the growth and development of our city.”¹⁴

The furor over agricultural zoning and municipal annexation reached its peak during the 1957 legislative session, when nearly forty annexation-related bills were introduced. Senator John A. Murdy (Orange County), Assemblyman Bruce Allen, and Senator George Miller (Contra Costa County) introduced bills that would have extended and expanded the Greenbelt Law. Only Allen’s bill passed into law after it was reduced to a simple extension of the 1955 act. It once again made the Greenbelt Law applicable only in counties where exclusive agricultural zoning had been adopted prior to December 31, 1954.¹⁵

From 1959 to 1965, municipal annexation and agricultural zoning received continued, but dwindling, legislative attention. During the 1959 regular session, for example, only slightly more than twenty municipal annexation bills were introduced in both houses. As the confusion subsided, the interest group positions became clearer. In 1961, Senator Robert Lagomarsino (Ventura County) revived the attempt to expand the Greenbelt Law to any county with a master plan that included an exclusive agricultural zone classification, regardless of adoption date. His measure was sponsored by the CFBF on the recommendation of the Ventura County Farm Bureau. The bill failed, but in 1965, Lagomarsino succeeded in obtaining a statewide Greenbelt Act. Again, the CFBF sponsored the bill. To secure its passage, however, Lagomarsino and the CFBF agreed to amendments that rendered the bill’s provisions nearly harmless to any city wishing to annex agricultural land. In 1959, the Legislature upheld cities’ power to annex land under the 1939 Uninhabited Territories Act. Now, encountering stiff opposition from the League of California Cities, the Ventura

¹⁴ “Is Agricultural Zoning Necessary in California?” *Transactions* 52, no. 5 (March 1958): 69–86.

¹⁵ Legislature, *Final Calendar*, 1957 Regular Session; Davies, 66–67.

County senator agreed to amend the bill by inserting a provision giving cities a three-mile limit within which they could annex land zoned for agricultural use. Although the County Supervisors Association, the CFBF, and the Agricultural Council of California supported the amended bill, the 1965 Greenbelt Act left untouched the problematic urban fringe.¹⁶

In retrospect, it is easier to see what was not so perceptible at the time: that the rural (agricultural zoning) versus urban (municipal annexation) battle waged in the State Legislature from 1951 to 1965 originated in 1917, when the Legislature gave counties a mandate to adopt rural zoning. Although the state intended to encourage county level land-use and conservation planning, it gave farmers, who controlled county governments, a weapon they later used against rapidly expanding cities. Then, when the Legislature passed the Uninhabited Territories Annexation Act in 1939, it gave cities a procedural expedient that some city officials later used to carve up the countryside in their rush to stake claims for future expansion. Once cities appreciated the muscle of the 1939 act, they guarded their power jealously. Given the strength of the organizations representing rural and urban interests in Sacramento, the California Farm Bureau Federation and the League of California Cities, the rift was bound to end in a stalemate.

STATE LAND-USE PLANNING AND LAND CONSERVATION: RECAPITULATION

In 1953, Karl Belser addressed a special meeting of Bay Area planners and civic officials who were gathered to discuss industrial growth in the San Jose area. Belser, while serving on Detroit's planning staff during World War II, had witnessed the political, economic, and social chaos attending the sudden location of armaments factories in that city. Thus, when Ford Motor Company announced its plans for a huge assembly plant near Milpitas, Belser foresaw a similar situation developing in Santa Clara County. He nonetheless optimistically depicted the county as "one of the few remaining areas left in California" where planners could develop a "new pattern" for orderly growth which would preserve a healthy, integrated economic base built upon strong industrial and agricultural sectors. The "problem," he concluded, "[wa]s to

¹⁶ Legislature, *Final Calendar*, 1959, 1961, and 1965 regular sessions.

find a way to develop that planning.”¹⁷ Belser, a relative newcomer to planning in California in 1953, did not realize how difficult it might be to coordinate city, county, and state planning activities. The postwar population explosion also created a greater need for professionally trained planners, who were emerging from the planning schools that began to appear in abundance in the late 1940s and early 1950s. Cities and counties clearly needed professional expertise to plan for future transportation, school, sanitation, and recreation needs. Urban versus rural political conflict, however, exacerbated the problems of planners who, moreover, had no real agency support within the state government. Impending chaos on the local level led these professionals to rejuvenate a long-standing effort to create a central state planning agency; but they and their supporters were never able to reverse the fragmented nature of planning laid down as state policy in 1929. From 1948, when the Office of Planning and Research lost its funding, to 1951, the state had no active, general planning agency. Then, in 1951 the Legislature rejected a bill that would have empowered the State Planning and Conservation Board to investigate state resource needs and recommend appropriate legislation to the governor and the Legislature. It passed instead a weaker bill that authorized the board to “cooperate with any interested persons or organizations in devising means to develop the natural and economic resources of the state.” The measure carried no allocation, but it did authorize the board to accept federal or state grants to carry out its planning functions, such as they were.¹⁸ Under these provisions a state agency could once again engage in planning if it could find willing partners among other state agencies or local planning bodies and if it could secure federal or state grants to fund those activities. Like the old State Planning Board (1934–43), the Planning and Conservation Board had the power only to react to or facilitate the planning activities of other governmental bodies. But this time no federal funds were immediately forthcoming and no federal agencies funneled down planning suggestions.

The Legislature maintained the status quo on the issue of state planning during the mid-1950s while the Assembly Committee on Conservation, Planning, and Public Works studied the failures of past state planning

¹⁷ *San Jose Mercury*, June 5, 1953.

¹⁸ Legislature, *Final Calendar*, 1951 Regular Session; *California Statutes*, 1951, Chapter 334 (SB 1091). See also *Statutes*, 1951, Chapter 1545 (SB 1085), which continued the State Planning and Conservation Board.

efforts. Interim hearings conducted in 1955, 1956, and 1957 resulted in several committee reports, the most important of which, with regard to agricultural land use, was the 1957 report, *State Greenbelt Legislation and the Problem of Urban Encroachment on California Agriculture*. After three years of study, however, the committee could only recommend that the Legislature continue the Greenbelt Act and, in addition, establish a “state agricultural lands commission” to “conduct a two-year investigation of the impact of urbanization on California agriculture.”¹⁹

The agricultural lands commission never materialized; but in January, 1958, the Assembly Committee on Conservation, Planning, and Public Works held another interim hearing to study the need and public desire for centralized state planning, especially as such planning might affect the use and disposition of agricultural lands statewide. The committee also asked the legislative counsel to prepare a summary of state planning activities. The counsel’s research staff found that of about thirty-five state agencies then engaged in physical planning of some sort, only the Planning and Conservation Board had a general planning mandate. And the board did nothing more than set policy for the Department of Finance, which functioned as a clearinghouse for county and city planning agencies seeking federal planning grants. The Planning and Conservation Board, via the Department of Finance, could be considered a central planning agency only insofar as it was the body that determined how federal planning grants would be disbursed.²⁰ So-called state planning in 1958 was therefore, not much different from state planning in 1951 or 1947 or 1929. Parochial planning was the only planning in California; any coordination among state, regional, or local planning agencies was purely voluntary.

That being the status of state planning in 1958, the Assembly Interim Committee solicited public opinion concerning the need for and the desired responsibilities of a centralized planning agency, particularly as such an agency would guide land-use planning. The hearing witnessed professional planners and the League of California Cities express mutual support for a central, research-oriented, advisory planning body. Both groups agreed that a state agency should coordinate state projects, make broad

¹⁹ Assembly, *State Greenbelt Legislation*, 11.

²⁰ Assembly, Interim Committee on Conservation, Planning, and Public Works, *Proceedings, Fresno, January 24, 1958*, 1-3, 5-7.

projections that would serve as a guide, and disseminate information to local planning agencies. In other words, they envisioned the ideal state planning agency as one with broad supervisory, but no regulatory, powers.²¹

Farmers and farm organization representatives, on the other hand, clearly considered planning to be the province of local governments. Some felt that, at best, a state agency should perform a limited advisory function. In other words, this group favored maintaining the status quo in state planning, which is to say no direct state involvement. The hearing revealed two things. First, a new generation of professional planners was drifting closer to its predecessors' old ally, the League of California Cities — a drift that would eventually reaffirm planning's urban bias. Second, some of the farmers who forced the issue of agricultural land preservation upon the State Legislature had second thoughts about the wisdom of their actions once they confronted the urban bias and centrist goals of state planning advocates. For instance, Roy A. Nunn, president of the Tulare County Farm Bureau, firmly stated that the 4,100 Farm Bureau families he represented "in no way endorse . . . State planning at this time."²²

Objections from rural areas notwithstanding, in 1959, Senator Fred Farr (Monterey County) introduced and secured passage of a bill that replaced the State Conservation and Planning Board with a new State Office of Planning (SOP). According to Farr, the bill emerged from the Assembly Committee on Conservation, Planning, and Public Works (which conducted the January 1958 hearing in Fresno). The committee drafted the bill "in collaboration with the League of California Cities and the County Supervisors Association, the Departments of Public Works, Water Resources, and Natural Resources, all of whom strongly supported the bill before the Legislature." Farm support was conspicuously missing, but Farr nonetheless claimed that the bill encountered "virtually no opposition during the session."²³ The new statute authorized the State Office of Planning to develop a comprehensive general plan for the development of the state, but it did not give the office any regulatory power. Despite fears that

²¹ *Ibid.*, especially 96, 102, 154.

²² *Ibid.*, 59.

²³ *California Statutes*, 1959, Chapter 1641 (SB 597); Governor's Chaptered Bill File, Chapter 1641 (1959), letter dated June 23, 1959, from Senator Fred Farr to Governor Edmund G. Brown plus miscellaneous letters.

the new planning agency (which later became the State Office of Planning and Research, or OPR) would centralize administration and regulation of planning at all levels, the office was once again tucked away in the Department of Finance and given only advisory functions. And once again, the Legislature refused to allocate funds. It was not until 1962, with the aid of federal funds, secured under the provisions of Section 701 of the 1954 Housing Act, that the SOP undertook investigations designed to provide the necessary data from which a general state plan could be developed.²⁴

With a \$375,000 federal grant, the SOP began what it titled the State Development Plan, a four-year project that was to be completed by March 1966, after which time the director of finance and the governor were to make policy recommendations to the Legislature. Between mid-1962 and mid-1964, an agricultural study team amassed data on the trends and characteristics of California agriculture with respect to population, employment, farm size and number, farm income, value and volume of farm production, and land availability. Its findings, presented in 1964, led the SOP to “refute the hypothesis that California agriculture [wa]s imperiled by an imminent shortage of prime land. The position [that agriculture was imperiled] is tenable only if one assumes that the advancement of agricultural technology will not continue.”²⁵ Such conclusions surely dashed the hopes of those, like Karl Belser, who looked to the creation of a state planning agency to help implement a program for conserving agricultural land. It was clear that the SOP would respond to the need for state land-use planning only when the agricultural sector as a whole was threatened by the loss of arable land.

Senator Farr also authored the 1959 Open Space Act (aka Scenic Easement Act). Modeled after an easement bill that William H. Whyte co-authored for the Pennsylvania State Legislature, Farr and State Planner William Lipman drafted a bill that, in its original form, would have given

²⁴ Thomas Cohen, “The California Office of Planning and Research: Past Efforts; Future Possibilities” (M.C.P. thesis, University of California, Riverside, 1977), 4–6; Frederick G. Styles, “A Progress Report on Regional Planning in California” in J. Herbert Snyder, ed., *The Role of the County in Regional Planning: Proceedings, Third Annual Institute on Regional Planning* (Davis: University of California, University Extension, 1964), 37–38.

²⁵ California, Department of Finance, State Office of Planning, *California Agriculture* (May 1964), especially p. 40.

the state the authority to acquire easements on properties which, for public interest reasons, were desirable as open space. Amendments, however, removed this provision from the bill. As passed by the Legislature, the Open Space Act enabled cities and counties, but not the state, to acquire temporary or permanent development rights to real property by gift, legal agreement, or expenditure of public funds to preserve “open spaces and areas.” Open space was defined in the bill as land that had “significant scenic or esthetic values, which areas and spaces if preserved and maintained in their present open state would constitute important physical, social, esthetic or economic assets to existing or impending urban or metropolitan development.”²⁶

Thirty years of discussion, experimentation, and legislation had not appreciably changed state policy regarding planning, especially for rural, agricultural areas. State planning laws had been consolidated, and, as of 1959, there seemed to be general agreement that a state agency was necessary to coordinate various forms of planning being carried out at municipal, county, and regional levels. This policy was designed, in part, to keep the federal government from usurping state powers, but the basic premise embodied in the 1929 Planning Act remained unchanged. The 1937 Planning Act amendments, the 1955 Greenbelt Act, the 1959 act creating a second State Office of Planning, and the 1959 Open Space Act reaffirmed the state’s commitment to vesting local units with regulatory power over planning and conservation matters.

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²⁶ William H. Whyte, *The Last Landscape* (Garden City, N.Y.: Doubleday and Co., 1968), 84–85; *California Statutes*, 199, Chapter 1658.

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.¹

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.”² 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,

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

² 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.³

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.⁴

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.⁵ 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

³ CFBF, *Minutes*, v. 12, Annual Report cited above.

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

⁵ 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.⁶

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

⁶ 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.⁷

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.⁸ 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.⁹ 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

⁷ 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.

⁸ *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.

⁹ 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.¹⁰

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.¹¹

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

¹⁰ 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.

¹¹ 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.”¹²

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.¹³

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

¹² 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.

¹³ 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.¹⁴ 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.¹⁵

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

¹⁴ 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.

¹⁵ 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.¹⁶

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.¹⁷

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.¹⁸ 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.

¹⁶ 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.

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

¹⁸ 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.”¹⁹

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.”²⁰

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.”²¹

¹⁹ 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.

²⁰ 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.

²¹ 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.²² Thus, extremely doubtful constitutionality gave legislators an opportunity to support a popular cause knowing that the law would never be implemented.²³ 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

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.

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

²³ 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.²⁴

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,²⁵ the CFBF now lent its unqualified support to the

²⁴ 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).

²⁵ 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."²⁶ 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.²⁷

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,

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.

²⁶ As reported in *CFB Monthly* (November 1957): 2.

²⁷ 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.²⁸ 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.²⁹ Disaggregated calculations for 1960–62

²⁸ Legislature, *Final Calendar*, 1961 Regular Session.

²⁹ 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.³⁰ 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.³¹

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.³² But Nevins' board

³⁰ *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.

³¹ *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.

³² 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.”³³ 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.³⁴

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.³⁵ Farm interest groups and corporate agriculture clearly had decided to support preferential taxation.

³³ As reported in *CFB Monthly* (November 1962): 5.

³⁴ 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.

³⁵ 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 2,147,761.³⁶ 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.³⁷ 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.³⁸

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

³⁶ 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.

³⁷ As summarized in Mize, 15–17.

³⁸ "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.³⁹

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.⁴⁰ 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.⁴¹

³⁹ “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).

⁴⁰ Davies, 73–74.

⁴¹ “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.⁴² 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.⁴³

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

⁴² 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.

⁴³ 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."⁴⁴

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

⁴⁴ 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.”⁴⁵ 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.⁴⁶ 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

⁴⁵ Author interview with John Williamson, April 28, 1982, Davis, California.

⁴⁶ 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.”⁴⁷

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.”⁴⁸ 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.⁴⁹

⁴⁷ 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.

⁴⁸ *Ibid.*, Appendix C, 15.

⁴⁹ 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.⁵⁰ 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

⁵⁰ 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."⁵¹

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).⁵²

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.⁵³ 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.⁵⁴

⁵¹ 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.

⁵² 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.

⁵³ Williamson interview.

⁵⁴ *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.⁵⁵ 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,"⁵⁶

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

⁵⁵ Ibid.

⁵⁶ 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.⁵⁷

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.⁵⁸ 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.⁵⁹ 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

⁵⁷ Williamson interview; *California Statutes*, 1955, Chapter 1443.

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

⁵⁹ Williamson interview.

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

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.⁶¹

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

⁶⁰ *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.

⁶¹ 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.⁶² 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.”⁶³ 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.⁶⁴ 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 4.⁶⁵

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 3.⁶⁶ The California Land Conservation Act, the Property Tax Assessment Reform Act, and the Open

⁶² Davies, 32, 94; *California Statutes*, 1966, Chapter 104.

⁶³ *CFB Monthly* (November 1966): 8.

⁶⁴ Davies, 33.

⁶⁵ *Ibid.*, 96–97.

⁶⁶ *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.⁶⁷

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

⁶⁷ 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.⁶⁸ 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

⁶⁸ 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.⁶⁹ 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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⁶⁹ Davies, 21–22; *California Statutes*, 1965, Chapter 1443.

Chapter 8

THE MUTABILITY OF FEDERALISM: RESHAPING THE CONTOURS OF THE WILLIAMSON ACT

The California experience suggests that we have, at best, an imperfect understanding of American federalism, both in theory and practice, when it comes to understanding the power that resides in local governments. State and local interaction in land-use matters presents an intriguing arena in which to explore the dynamics of federalism. In part, this is because the federal government has remarkably little control over private land use, and, in part, because California's history as a state is fraught with land controversies. In this respect, the history of politics and policies in relation to agricultural land development and conservation in California helps to illuminate the shadowy third corner in the triad of federalism.

Land reform was a major political issue in California during the nineteenth century. Henry George observed how swiftly a corrupt land administration system allowed public lands to pass easily into the hands of a relatively small number of people. These conditions impelled him to advocate for using the tax system as a vehicle to implement a redistributive land policy, one that would serve the general welfare rather than private, and sometimes monopolistic, interests. George's ideas influenced those who framed the 1879 Constitution, which gave the state the necessary power to adopt a classified system of property taxation. An 1896 amendment to the

Constitution granted cities the right to form charter governments which, once approved by the state Legislature, gave cities greater power over vaguely defined municipal affairs. Thus, when progressive ideas began to reshape thinking about governmental responsibilities, the California Constitution provided some hint of the pattern these ideas would embroider on the governmental system.

In 1911, California extended home rule to county governments. Since the turn of the twentieth century, the courts have determined many of the functions that constitute a rightful exercise of local power under home rule. The voters and the Legislature, however, determined that two specific powers should be reserved for all local governments. One was the power to levy and administer local property taxes to finance governmental operations directly, with minimal interference from the state. The other was the right to adopt planning policies and procedures to govern local land use. These two actions broadened the scope of home rule.

The 1911 home rule amendment, coupled with the 1910 tax amendment gave tax reform advocates the incentive to propose a series of single tax measures tied, in part, to long-standing agitation for breaking up the remaining large landholdings in the state. They were unsuccessful, but the Progressive-Era political climate spawned two state initiatives that further demonstrate a radical level of dissatisfaction with California's land policies. The Commission on Immigration and Housing, under Simon Lubin's direction, urged the state to adopt a graduated land-value tax to break up large landholdings, the first serious proposal for the state to use the property tax system to stimulate economic development that would promote the general welfare. Through the Land Settlement Board, under the direction of Elwood Mead, the state experimented with the idea of framing a land policy based on planning for agricultural development and land conservation. The goal was to promote prosperity in the small farm sector of the agricultural industry in the belief that small farm owners-operators were better stewards of the land and, hence, better citizens.

In the end, neither of these two flirtations led to a state land policy. By the early 1920s, voters had rejected the idea of using the property tax system to effect land reform, and state political leaders tended to be more conservative in thought. Although serious problems continued to plague the entire tax system, the state paid little attention to local property tax

reform until the late 1940s. The 1929 Planning Act, moreover, officially delegated land-use planning powers to local governments. Thus, by 1930, local governments in California held important powers with respect to land policies, and post-1930 legislation cemented local autonomy over land-use matters. This legislation also encouraged provincialism and territoriality among local governments. The 1937 Planning Act amendments gave county governments authority over rural land use. But the 1939 Uninhabited Territories Act gave cities the authority to ignore any land-use planning counties might have attempted under the 1937 act. Moreover, when the federal government endeavored to stimulate state and regional planning as an extension of proposed national planning, California complied in form but not in substance. Then, during the 1940s, the state transformed so-called state planning into a program designed to promote industrial development through private enterprise. California thus precluded the federal government from taking any substantive role in land-use planning during the 1930s and 1940s.

Post-World War II population and related urban growth brought matters to a head. When local government autonomy developed into urban-versus-rural fighting over annexation issues, cities and counties turned to the state looking for resolution. Despite hope in some quarters that the State Office of Planning might take on functions worthy of its name, the Legislature, after ten years of debate, settled instead on an agricultural land conservation solution entirely in accord with the state's strong tradition of home rule.

GRAPPLING WITH THE CONCEPT OF AMERICAN FEDERALISM

Until the turn of the twentieth century, the concept of dual federalism satisfactorily described the basic architecture of government in the United States, i.e., through the U.S. Constitution, The People vested different powers in two separate centers, the national government and the states, with each level of government duty-bound to maintain the limits of authority granted unto it. States had the authority to delegate powers to local governments. That skeletal concept has long been considered wholly inadequate to describe the reality of federalism. Scholars as well as political leaders

have advanced more complex concepts of American federalism to account for observed or intended changes in its practical operation.¹

The 1960s was a particularly rich period of discussion and debate, in large part because the role of the federal government in domestic affairs expanded dramatically during the Kennedy and Johnson presidential administrations. Morton Grodzins offered a rather benign theory of *cooperative federalism*, metaphorically described as a “marble cake” in which the three planes of government share functions in a disorderly fashion. In this concept, the process, even though its complexity gives the appearance of chaos, actually renders the system more stable and keeps governments at all levels more responsive to the people. Grant-in-aid programs and the ever-increasing number of career professionals, i.e., functional bureaucrats, who administer them, were cited as the major forces stimulating greater intergovernmental collaboration. Grodzins also asserted that collaboration has been the normal state of intergovernmental relations since the nation’s founding, and posited a steady, centralizing tendency in federalism.² The centralizing trend, i.e., power intermittently tightening at the top, was generally accepted, although other aspects of cooperative federalism were challenged or rejected.³

Nelson Rockefeller introduced the idea of “creative federalism,” which became synonymous with President Lyndon Johnson’s Great Society

¹ See, for instance, Richard H. Leach, *American Federalism* (New York: W.W. Norton & Co., 1970), 10–14; W. Brooke Graves, *American Intergovernmental Relations* (New York: Charles Scribner’s Sons, 1964), 112–126, 932–953; Daniel J. Elazar, *The American Partnership* (Chicago: University of Chicago Press, 1962), 11–21.

² Morton Grodzins, *The American System*, ed. Daniel J. Elazar (Chicago: Rand McNally and Company, 1966), especially 60–88. Daniel Elazar acknowledged more conflict on the playing field and modified the notion of a steady, centralizing momentum; see Elazar, “Federal–State Collaboration in the Nineteenth-Century United States” in Elazar, ed., *Cooperation and Conflict* (Itasca, IL: F.E. Peacock Publishers, 1969), 83–108, and Elazar, “The Shaping of Intergovernmental Relations in the Twentieth Century,” in Elazar, ed., *Cooperation and Conflict*, 135–142.

³ Harry Scheiber, for instance, pointed out that Grodzins failed to “consider the basic issue of power as it was distributed relatively among levels of government.” See Harry N. Scheiber, “The Condition of American Federalism: An Historian’s View,” A Study Submitted by the Subcommittee on Intergovernmental Relations to the Committee on Government Operations, United States Senate, October 15, 1966, published in Frank Smallwood, ed., *The New Federalism* (Hanover, N.H.: Public Affairs Center, Dartmouth College, 1967), 19–55.

initiatives.⁴ Impatient with states that seemed unwilling to or incapable of responding adequately to problems of civil rights, poverty, and urban decay, Johnson's solution was to channel categorical grants-in-aid through the states to cities and community organizations to alleviate what were considered foremost to be urban problems. Increased federal spending in the 1960s to solve what largely were considered local problems reflected a notion that all socio-economic problems are national concerns. Local administration of federal categorical grants generally strengthened city governments as well as quasi-governmental civic agencies created to administer federally funded programs.⁵ As Harry Scheiber has observed, creative federalism was a deliberate strategy to strengthen the tripartite architecture of federalism by making cities a more active third partner, although the more enduring characteristic was continued centralization of governmental power.⁶

The Johnson Administration's categorical grants programs increased the number of functional bureaucrats at all levels government, lending credence to what Terry Sanford characterized as "picket fence federalism."⁷ His metaphor aptly conveys the nature of competition between program professionals, who often display little or no allegiance to any level of government, and elected government officials, whose public responsibilities are tied to local or state governmental powers and functions. Thus, although the "pickets" of grant programs are officially attached to the three "rails" of government, they have often been administered in ignorance, isolation, or defiance of local and state politics. The tremendous increase in the number of federal grant programs since World War II prompted the suggestion that all those administrative officials who make

⁴ Nelson A. Rockefeller, *The Future of Federalism* (Cambridge: Harvard University Press, 1962).

⁵ Roscoe Martin, *The Cities and the Federal System* (New York: Atherton Press, 1965), 72–75, 109–115, 171–175.

⁶ Harry N. Scheiber, "Redesigning the Architecture of Federalism — An American Tradition: Modern Devolution Policies in Perspective," *Yale Law and Policy Review/Yale Journal of Regulation* [Symposium Issue] 13 (1996): 269–275.

⁷ Terry Sanford, *Storm Over the States* (New York: McGraw–Hill Book Co., 1967), 80; see also Deil S. Wright, "Revenue Sharing and Structural Features of American Federalism," *Annals AAPSS* 419 (May 1975): 109–111.

the day-to-day decisions represent a fourth partner in the American governmental system.⁸

After taking office in 1969, Richard Nixon proposed that Washington replace the “welfare state” with “a new partnership . . . in which we entrust the states and localities with a larger share of the Nation’s responsibilities.”⁹ Under the slogan of New Federalism, the Nixon Administration sought to centralize income security and natural resources programs, and, through general revenue sharing and “block” grants, decentralize human resources services (manpower training, education, law enforcement) and community development programs. Fiscal measures proved initially to be a powerful tool for accomplishing decentralization goals inasmuch as the block grant distribution process favored traditional governmental units. Thus, federal revenues flowed to states, counties, and municipalities, strengthening both state and local governments.¹⁰

States and local units, however, exercised more discretion over how block grants and shared revenues were spent than many Congressional leaders ever intended. When powerful interest groups began to complain of discrimination in the way funds were distributed, the federal government responded by imposing restrictive rules on spending. Community development, manpower training (CETA), mass transit, and general revenue sharing programs were subject to the greatest increases in federal control, leading Donald Kettl to conclude that “if there had been any doubt about whether the federal, state, or local government was the major partner in the union, the new [Nixon Administration] programs stifled it.”¹¹

Since the 1930s, presidents have demonstrated a growing political awareness of how the federal system can be manipulated, chiefly through fiscal means, to achieve economic or social goals that are considered to be

⁸ Samuel P. Hays, “Political Choice in Regulatory Administration” in Thomas K. McCraw, ed., *Regulation in Perspective* (Cambridge: Harvard University Press, 1981), 124–154.

⁹ Richard M. Nixon, “State of the Union Address,” January 21, 1971, *Congressional Record*, v. 117, 165–169.

¹⁰ Richard P. Nathan, “The New Federalism Versus the Emerging New Structuralism,” *Publius* 5, no. 3 (Summer 1975): 111–125; Wright, 111–119.

¹¹ Donald F. Kettl, *The Regulation of American Federalism* (Baton Rouge: Louisiana State University, 1983), 33–41.

for the good of the nation.¹² The terms “creative,” “picket fence,” and “new” not only describe models that challenge the relatively benign concept of cooperative federalism but also expose the degree of chaos and conflict the federal system can accommodate.

Successive presidents have sought to gain greater control over intergovernmental relations, or, alternatively, check the centralizing trend. President Eisenhower determined to decentralize the federal system during the 1950s, and three different bodies worked toward that end: the second Hoover Commission on Executive Organization, the Kestenbaum Commission on Intergovernmental Relations, and the Joint Federal–State Action Commission. None was successful. During the 1960s and 1970s several more bodies emerged to cope with the increasing complexity of intergovernmental ties. Congress established a permanent Advisory Commission on Intergovernmental Relations in 1959. Voluntary state- and regional-level Councils of Government (COGs), which began forming during the 1950s, increased rapidly in number during the 1960s. The Nixon Administration experimented with several new agencies and organizations, beginning with the short-lived Office of Intergovernmental Relations, established in the Executive Office in 1969; followed by the White House Domestic Council, established in 1970; and ten Federal Regional Councils. An informal New Coalition of governors, state legislators, county officials, and mayors began to take shape in 1973. Offices of intergovernmental relations appeared in most federal agencies during the 1970s. In 1981, President Reagan established two more advisory boards independent of the Advisory Commission on Intergovernmental Relations: a cabinet-level Task Force, under Vice President George Bush, and a forty-member Presidential Federalism Advisory Commission, under the direction of Senator Paul Laxalt of Nevada.¹³

¹² Deil S. Wright argues that fiscal federalism spawned yet another phase of modern intergovernmental relations. He calls this the “calculative” phase, a term with multiple inferences. See “Intergovernmental Relations in the 1980s: A New Phase of IGR” in Richard H. Leach, ed., *Intergovernmental Relations in the 1980s*, Annals of Public Administration, no. 4 (New York: Marcel Dekker, Inc., 1983), 21–30.

¹³ Grodzins, 307–316; “The Intergovernmental and Territorial Dimension of National Policy: Discussion Paper,” Intergovernmental Task Force Advisory Committee on National Growth Policy Processes, August 23, 1976, 16–27; Charles W. Harris, “COGs, A Regional Response to Metro–Urban Problems,” *Growth and Change* 6 (July 1975): 9–15; George S. Blair, “Changing Federal–Local Relations” in Leach (1983), 41.

By the late 1970s at least a few observers wondered whether the system manipulations perpetrated by the Johnson and Nixon administrations had “intergovernmentalized” American federalism to the point of impending malfunction. David Walker, for instance, noted that “an eagerness to legislate high moral principles, on the one hand, and an abiding capacity to tolerate a wide gap between these principles and actual practice, on the other,” had produced enormous “tension between the centralizing and noncentralizing forces inherent in the system.” In his estimation, the system had been “marbleized” to the extent that “clear lines of accountability” were “nearly obliterated.”¹⁴ Scheiber counters that there was a marked dualism to Nixon’s New Federalism. In some respects, the legislative record either left the New Deal–Great Society legacy largely intact or, as in environmental policy, extended the arc of centralization. But Nixon’s New Federalism also set the stage for another round of New Federalism under President Reagan, which focused on deregulation, reducing the volume of administrative rules governing federal programs, and reorganizing the federal bureaucracy. Reaganism also spawned the neoconservative movement that increasingly came to influence the Republican agenda.¹⁵

Scholars of federalism, however it is conceptualized, have amply demonstrated its mutability in response to political, ideological, and judicial forces that pertain to intergovernmental relations at the national and state levels. From this perspective, local governments tend to be characterized more or less as pawns on the chessboard of federal and state players. For the most part, the power of local governments in intergovernmental relations is widely ignored.

THE STATE–LOCAL DIMENSION IN CALIFORNIA

Most students of American federalism agree that “in the early 1930s, the depression all but submerged the states.”¹⁶ There is less agreement on the

¹⁴ David B. Walker, “A New Intergovernmental System in 1977,” *Publius* 8 (Winter 1978): 112–115.

¹⁵ Scheiber, “Redesigning the Architecture of Federalism,” 290–296.

¹⁶ Sanford, 20. James Patterson is a notable exception. His study of federal activity in the areas of work relief, social welfare, labor, and regional planning, shows the degree

degree to which states have recouped power stripped from them during the New Deal and World War II years. Common wisdom nonetheless links state weaknesses and failures with the centralizing trend evident in the federal system during the twentieth century. The litany of weaknesses is lengthy. Excessively detailed constitutions reflected outdated, conservative, even agrarian values, and hampered states from taking decisive action to address urban problems. State legislatures were characterized by malapportioned representation until *Baker v. Carr* (1962), which tended to reinforce a provincial mindset among state officials. Until about 1940, state administrative systems generally were organized inefficiently. And throughout the twentieth century, states were reluctant to expand revenue sources to the degree necessary to carry out substantive new programs or services.¹⁷

As a result, according to this view, states generally were incapable, by design or default, of responding to the needs of American society as it shifted from predominantly rural to predominantly urban. Between roughly 1900 and 1930, states failed to exercise their proper responsibilities in the federal system, thus setting the stage for the forfeiture of power that followed. The Great Depression merely gave the federal government the opportunity to accomplish the inevitable. If states could not or would not respond to urban and metropolitan problems, then the federal government should. Few scholars point out the historic role that states played as policy experimenters in the first half of the twentieth century.¹⁸

Johnson's Great Society and Nixon's New Federalism sought to strengthen the federal system, although in different ways, and the states may have benefited appreciably. Harry Scheiber points to the 1970s as a decade of

to which states forced the Roosevelt Administration to modify policies as they were implemented. Rather than usurp power during the 1930s, he argues, the federal government roused many states from their torpor, and, as a result, states generally maintained a high degree of autonomy throughout the 1930s; see James T. Patterson, *The New Deal and the States* (Princeton: Princeton University Press, 1969), especially 24–25, 207.

¹⁷ Sanford, 17–38; Martin 47–82. By 1980, state administrations were more efficiently organized, state legislatures more representative of populations, and state budgets based on sounder fiscal arrangements; see Advisory Commission on Intergovernmental Relations (ACIR), *State and Local Roles in the Federal System* (Washington, D.C.: U.S. Government Printing Office, 1982), Chapter 3, and David B. Walker, "A Perspective on Intergovernmental Relations" in Leach (1983), 7–9; *Baker*, 369 U.S. 186.

¹⁸ In addition to Patterson, see Sanford at 53–67.

“renaissance” for the states. He argues that tax reform and economic growth gave states the means to modernize governmental structures, and that administering new federal-aid initiatives of the Johnson and Nixon administrations also served to reinforce a trend that was already underway.¹⁹

This certainly was true of California, which experienced phenomenal population and economic growth in the post-World War II era. The modernization of California’s state government began with Governor Edmund (Pat) Brown (1959–1967). His legacy includes the massive California State Water Project, which boosted agriculture in the Central Valley and funneled water to Los Angeles; creation of the 1960 Master Plan for Higher Education along with an expansion of the state’s college and university systems; and various political reforms including creation of the Constitutional Revision Commission in 1962, which began the process of revising the state’s Constitution.²⁰ As this study has shown, postwar population growth prompted local governments and ultimately the state to seek a measure of control over rampant urban sprawl. Passage of the 1965 Williamson Act thus stands as another significant legislative achievement in California’s path of modernization under Pat Brown. Importantly, the Williamson Act placed implementation in the hands of local governments.

The role of local governments in the federal system is the least understood, and the literature tends to treat home rule as an arcane legal facet of federalism.²¹ This is understandable to a point because, legally, local units are creatures of the states.²² But, during the late nineteenth century and continuing steadily until the mid-1920s, many states sought “to reproduce on the state–local level some form of the constitutional federal–state division of power.”²³ Some observers of intergovernmental relations have acknowledged that the home rule movement changed American federalism, but there is little agreement as to the significance of that change. One

¹⁹ Scheiber, “Redesigning the Architecture of Federalism,” 285.

²⁰ See Ethan Rarick, *California Rising: The Life and Times of Pat Brown* (Berkeley: University of California Press, 2006).

²¹ I am speaking here of the broader home rule movement, not the narrowly conceived California movement to enact single tax amendments under the guise of home rule.

²² See Daniel R. Mandelker, et al., *State and Local Government in a Federal System*, Eighth Edition (Durham: Carolina Academic Press, 2010), 75–142.

²³ George C.S. Benson, *The New Centralization* (New York: Farrar and Rinehart, Inc., 1941), 117.

opinion holds that whatever significance the movement once had has been lost in the massive governmental bureaucracy encasing fiscal federalism, which has rendered local governments nearly powerless to govern many areas of American life.²⁴

Charles Abrams, however, argues that home rule proved to be the nemesis of New Deal public housing and town planning programs. Lower courts repeatedly challenged the federal government's power under the general welfare clause to undertake community building projects. The Roosevelt administration, moreover, opted not to appeal lower court rulings for fear that any negative high court ruling would undermine other New Deal social programs. To keep public housing and community planning programs from total failure, New Dealers retreated from the idea of direct federal control. The New Deal, according to Abrams, actually set the precedent for subsequent decentralized federal public housing programs with the 1937 Wagner-Steagall Act, which established a program "with the federal government now posited as the financier and subsidizer and the local housing authorities as the acquirers of land and the actual builders and managers."²⁵

Similarly, the New Deal effort to establish state and sub-state regional planning, as well as the great experiment to establish multistate regional planning with the Tennessee Valley Authority, are silent testimony to the strength of state and local governments. The Roosevelt administration, in the end, enjoyed greater success with the Soil Conservation Service, which had only narrow resource conservation goals and which allowed local units to control implementation. The federal government provided technical support as well as financial assistance, but participation was strictly voluntary and subject to the commitment demonstrated by local soil conservation districts.²⁶

The states have played a considerable role in keeping the system non-centralized in certain policy areas. Abrams, on the one hand, considers the

²⁴ John G. Grumm and Russell D. Murphy, "Dillon's Rule Reconsidered," *Annals AAPSS* 416 (November 1974): 120-132.

²⁵ Charles Abrams, *The City is the Frontier* (New York: Harper and Row, 1965), 211-212, 238-249.

²⁶ See Douglas Helms, *Readings in the History of the Soil Conservation Service*, Historical Notes Number 1 (Washington, D.C.: U.S. Department of Agriculture, Economics and Social Sciences Division, 1992).

states as antagonizers who have displayed a willful disregard for the general welfare: “under the cloak of home rule and local autonomy, the state has passed down much of its own sovereign responsibilities to a myriad of local (mostly suburban) governments, each of which is concerned with its own welfare to the exclusion of its neighbor’s.”²⁷ Terry Sanford, on the other hand, agrees that states must take the blame for creating “municipal havoc,” but not because they ceded too much power to local governments. From his point of view, as one-time governor of North Carolina, the states were “slow to cede to the cities adequate powers to tax, zone surrounding areas, regulate housing, provide or require mass transportation, and acquire open space.”²⁸ Perhaps Joseph McGoldrick came the closest to capturing its essence when he wrote, in 1933, “The municipal home rule movement has never been aimed against the current tendencies toward centralizing and uniformity. It ignores them.”²⁹ In retrospect, the home rule movement assumed greater import than its adherents ever anticipated. Their initial concerns were narrow, often limited to freeing cities and states from organized corruption. State legislatures, moreover, often spent too much time deciding strictly local matters, some of them no more significant than determining the operating budget for some city’s fire department.

But home rule grew in ectopia. Between 1875 and 1924, sixteen states constitutionally granted home rule powers to municipal governments. The movement languished during the 1930s, then resumed during the 1960s. By 1980, most states allowed municipal home rule, and forty-three states allowed county home rule.³⁰ Legislators who framed earlier home rule

²⁷ Abrams, 211; for a similar view, see Lyle E. Schaller, “Home Rule — A Critical Appraisal,” *Political Science Quarterly* 76 (September 1961): 402–415.

²⁸ Sanford, 24.

²⁹ Joseph D. McGoldrick, *Law and Practice of Municipal Home Rule, 1916–1930* (1933; New York: AMS Press, Inc., 1967), 300.

³⁰ For good discussions of the home rule movement, see, in addition to McGoldrick, Frank J. Goodnow, *Municipal Home Rule: A Study in Administration* (New York: Macmillan and Co., 1895), Howard Lee McBain, *The Law and The Practice of Municipal Home Rule* (New York: Columbia University Press, 1916), and Lane W. Lancaster, *Government in Rural America*, second edition (New York: D. Van Nostrand Co., 1952), 309–310, and Benson, 116–123. For information on the number of states which have adopted home rule provisions, see National Municipal League, *Digest of County Manager Charters and Laws*, tenth edition (New York: National Municipal League, 1967); and ACIR, *State and Local Roles*, 156.

constitutional provisions, however, “never faced the problem of determining what matters [could] be best handled by local authority and what require[d] state action.”³¹ In short, home rule constituted a grant of power, but that power was, at best, vaguely conceived and described. As a practical result, local governments had the power to experiment with new forms of organization and administration, but courts often decided what constituted a legitimate exercise of local power. Case law surrounding home rule thus developed more-or-less independently in each state where city and/or county home rule is allowed. To be sure, not all cities or counties opt for a charter government if the choice is offered, but the existence of that constitutional privilege in many states spawned the *custom* of home rule, which “has played an important role in maintaining and developing the principle of decentralization.”³²

California courts determined that the municipal affairs of charter cities include the election and pay of municipal officials; the provision of water supplies and facilities, sewer facilities, fire protection, streets, parking, libraries, and public hospitals; the establishment of revenue bond procedures; and the right to impose business and other miscellaneous taxes.³³ These responsibilities constitute the sort of responsibilities for which municipalities logically should have authority. But the California Legislature also granted all city and county governments authority over two, more substantive, areas. The 1910 tax amendment not only mandated that the property tax would be reserved as the principal source of revenue for local government operations but, as implemented, gave local governments almost complete control over property tax administration until the early 1950s. The 1929 Planning Act, as amended in 1937, gave both city and county governments a mandate to assume authority over private land use. Most important, these home rule powers evolved outside a theoretical framework of American federalism, which accords local governments a fairly narrow sphere of power in the governmental system. The net effect of this legislation, however, was that, in California, it expanded home rule over local affairs for some local governments into local autonomy over private land use for all local governments.

³¹ McGoldrick, 3, 310–312.

³² Benson, 117.

³³ League of California Cities, 1965 report, 2.

Those who subscribe to the “quiet revolution in land-use controls” believe that federal and state legislation, beginning with the 1969 National Environmental Protection Act, represented a significant step toward centralizing control over land use and development.³⁴ Indeed, the environmental impact review process required for public, and some private, development projects; federal and state pollution control laws; and federal and state laws protecting environmentally sensitive areas such as wetlands, prairies, and coastlines, have helped to slow the pace of development. Environmental review processes also have helped to reshape the way in which American society collectively thinks about land development. The general public no longer considers it axiomatic that outlying shopping centers, sprawling suburban residential tracts, and vast industrial parks represent progress. But the “quiet revolution” is, to a very large degree, dependent on the actions of local governments and the courts.

As of the mid-1980s, the hope for a centralizing trend in land-use controls rested largely on developments in a handful of states. Hawaii, Oregon, Vermont, Florida, Wyoming, and Maine had enacted regulatory land development laws that attempted, in one fashion or another, to establish land policies framed in terms of state welfare and, in some cases, to forge links between fragmented local, state, and federal jurisdictions as well as goals. But none of these states enacted anything approaching a comprehensive land policy.³⁵ The California Land Conservation Act was, furthermore, emulated far more widely than state-level attempts to establish regulatory land-use controls. The CLCA, and all land conservation programs based on tax-relief incentives, represent what has been called the “unofficial system of land use control” which is more powerful than any official regulatory system so far devised.³⁶

The unofficial system of land conservation evolved with little historical connection to the older conservation movement, with its emphasis on efficient use and sustained yield, and it developed independently of the post-World War II environmental movement, which had a decided survivalistic

³⁴ See Don Hagan and Dean Misczynski, “The Quiet Federalization of Land Use Controls,” *Real Estate Appraiser* (September–October 1974): 5–9.

³⁵ *Ibid.*, passim.

³⁶ Norman Williams, “The Three Systems of Land Use Control,” *Rutgers Law Review* 25 (1970): 80–82.

thrust with its emphasis on environmental protection and human-scale technologies. Although environmentalists and planners endorsed tax incentives for land conservation, they had little to do with devising such programs. Yet land conservation became an item on environmentalists' political agenda.

There is considerable evidence, Samuel Hays argues, that "environmental values have expanded steadily [since World War II] in American society."³⁷ David Vogel concurs, observing that the "level of public consciousness about environmental, consumer, and occupational hazards" since the mid-1960s, "appears to be of a different order of magnitude" than that which prevailed during either the Progressive Era or the New Deal.³⁸ Grassroots activism surely has presented a formidable political challenge to all levels of government as well as to large-scale managerial systems in the private sector. Many environmental battles have been fought on the federal level; many more have been fought on the local and state levels. In a conclusion that echoes the view of Harry Scheiber, Hays posits that the "enhancement of state power and authority over local government was a major legacy of the environmental controversies of the 1960's and 1970's."³⁹

RESHAPING THE LEGAL CONTOURS OF THE WILLIAMSON ACT

If this is so, it is worth considering how this strengthening happened. Again, the Williamson Act is instructive, and it points to more than battles over what we think of as environmental controversies. A review of the legal

³⁷ Samuel P. Hays, "From Conservation to Environment: Environmental Politics in the United States Since World War II," *Environmental Review* 6, no. 2 (1982): 14–41.

³⁸ David Vogel, "The 'New' Social Regulation" in McGraw, *Regulation in Perspective*, 160.

³⁹ Samuel P. Hays, "The Political Structure of the Environmental Movement Since World War II," *Journal of Social History* 14 (Summer 1981): 729. Speaking more generally, Catherine H. Lovell notes that increases in federal grant-in-aid programs, in the conditions of aid, and in regulatory interventions (crosscutting regulations) have been accompanied by "increasingly active participation by state and local officials in political processes and in negotiations about the programs that affect them." She favors "working toward reforms in our system which empower the lowest levels of government, yet developing systems of articulated variety as needed to pursue broader policy objectives." See "Some Thoughts on Hyperintergovernmentalization" in Leach (1983), 95.

and legislative history pertaining to the Williamson Act since 1965 reveals a complex process that has incrementally shifted bits of power from the local to the state level. This final section attempts to fathom that process and its meaning by examining legal cases that percolated up to the appellate and supreme court levels along with significant amendments passed by the state Legislature. In some cases, court decisions directly influenced legislative action. This 30,000-foot view necessarily ignores scores of lower court rulings and minor legislative amendments, but it does enable one to discern an evolutionary process that transformed a purported state land-use policy from rhetoric to reality. It also enables one to discern the wrinkles of federalism in practice at the local and state levels.

Statewide coordination and oversight of the Williamson Act program rests with the California Department of Conservation, while local governments administer the program and retain discretionary power to establish more stringent program rules. Participation in the Williamson Act program also is voluntary, and, as of 2016, fifty-two of California's fifty-eight counties were participating.⁴⁰ Under the act's provisions, participating local governments must first establish agricultural preserves, within the boundaries of which landowners may take advantage of preferential property tax assessment based on the land's actual use for agriculture (using a capitalization of income formula) instead of the land's potential market value. To receive preferential assessment, a landowner must enter into a contract with the appropriate county or city and agree to maintain the land in agricultural use or related open space for a minimum of ten years. Contracts self-renew annually unless and until the landowner or the local government gives notice of non-renewal. In this event, a ten-year phase out period begins, during which time the use restrictions remain in place but the tax advantage is gradually withdrawn. In 1998, the Legislature added new provisions to the Williamson Act enabling landowners to receive even greater preferential tax advantages by placing land in a Farmland Security Zone and entering into twenty-year contracts.⁴¹

⁴⁰ *2016 California Land Conservation Act Status Report* (California Department of Conservation, Division of Land Resource Protection, December 2016), 1. Status reports, published every two years, hereafter are cited as *CLCA Status Report* with the relevant year.

⁴¹ *California Government Code*, Section 51296 et seq.

After the Williamson Act went into effect, land enrollments were steady and reached a total of approximately six million acres in 1970. Enrollments jumped a bit after passage of the Open Space Subvention Act in 1971, which authorized the state to partially reimburse local governments through subventions for lost property tax revenue from agricultural land under contract.⁴² The figures then climbed steadily throughout the 1970s, reaching a plateau of roughly sixteen million acres in 1980. This figure represents about half of the state's agricultural land. Since then, the total acreage under contract has fluctuated from year to year as some contracts expire and other lands are placed under contract, but sixteen million acres was a stable approximate figure until 2009, when the state suspended, then eliminated, subvention payments because of revenue shortfalls produced by the Great Recession that began in 2008.⁴³ For the period 2010–2016, the total acreage figures are less reliable because several counties stopped reporting enrollment data on a regular basis. Nonetheless, the estimated statewide average enrollment figure from 1990 to 2015 held at nearly sixteen million acres.⁴⁴ Importantly, when subvention payments were ended, the state Legislature modified the basic program structure by reducing the minimum rolling contract period from ten to nine years for the regular Williamson Act program, and from twenty to eighteen years for land in the Farm Security Zone program.⁴⁵ This change appears to have mitigated the loss of subvention payments, at least in the short term.⁴⁶

The Williamson Act is constantly challenged in court, although relatively few cases reach the higher courts. Likewise, in every session the state

⁴² *California Government Code*, Section 16141 et seq.

⁴³ *California Statutes*, 2008, Chapter 751 (AB 1389) suspended subvention funding as part of overall cuts to the state budget; *California Statutes*, 2009, Chapter 1 (AB X-4) made the suspension permanent.

⁴⁴ 1990–91 *CLCA Status Report*, 17–18; table entitled “Land Conservation (Williamson) Act Enrollment, 1990–2015,” California Department of Conservation website, under Current and Historic Data About Land Conservation (Williamson) Act Status, www.conservation.ca.gov/dlrp/lca/stats_reports/Pages/index.aspx.

⁴⁵ *California Statutes*, 2010, Chapter 722 (SB863) created an option for participating jurisdictions to recapture a portion of foregone tax revenue by decreasing the contract length by one year; *California Statutes*, 2011, Chapter 90 (AB 1265) renewed that option until January 2016; *California Statutes*, 2014, Chapter 322 (SB 1353) made the option permanent.

⁴⁶ 2014 *CLCA Status Report*, 2.

Legislature considers bills to amend the law in minor as well as major ways. Overall, litigation has served to strengthen the act and, in general, make local administration more consistent from county to county and with the state policy goals articulated in the original legislation.

Early court cases upheld the discretionary power of local governments. In *Kelsey v. Colwell* (1973), the first case to reach the appellate court level, the Fifth District Court of Appeal upheld the discretionary intent of the law with respect to county participation. Horace Kelsey and other agricultural landowners had sought to compel the Merced County Planning Director, Hal F. Colwell, to establish an agricultural preserve and implement the Williamson Act. The court ruled that the permissive language of the law — i.e., that any county or city *may establish* agricultural preserves — was intentional, and that local governments were not mandated to implement the provisions of the Williamson Act. The appellate court also noted that in 1970 and again in 1971, the state Legislature had rejected proposed amendments that would have substituted the word “shall” for “may” in two pertinent sections of the law.⁴⁷

In the 1980s, however, higher courts began to define the limits of local discretionary power inscribed in the legislation. In 1981, the California Supreme Court ruled, in *Sierra Club v. City of Hayward*, that local governments must take the “public interest” into account in considering landowner requests for Williamson Act contract cancellations. The Sierra Club and others filed suit after the City of Hayward granted landowners Charles and Helen Soda a partial contract cancellation to develop a residential subdivision on a 93-acre portion of their cattle ranch, situated in the foothills on the eastern edge of the City of Hayward. The cancellation allowed the landowners to escape the property tax consequences that would have ensued had they given notice of nonrenewal and gone through the ten-year phase out period. Trial proceedings exposed lax planning on the part of the city, including the dismissal of alternative development sites identified in a pertinent environmental review document, but the Supreme Court’s ruling called particular attention to a section of the Williamson Act that addressed the term “public interest” in relation to contract cancellation provisions. Acknowledging that “public interest” is an imprecise term, the

⁴⁷ *Kelsey v. Colwell*, 30 Cal. App. 3d 590 (1973).

court went on to point out that the Legislature had anticipated disputes over its meaning and thus provided reasonably clear guidance for determining “which ‘public’ and what ‘interests’ [were] to be considered” in making contract cancellation decisions. Specifically, the court emphasized that the Legislature justified the need for the Williamson Act “in part by a concern for ‘the agricultural economy of the state . . . [and] for the assurance of adequate, healthful and nutritious food for future residents of this state and nation.’” This led the court to stipulate that “any decision to cancel land preservation contracts must therefore analyze the interest of the public as a whole in the value of the land for open space and agricultural use.” In a split decision, the majority opinion held that the city had not considered the interests of the public as a whole and not followed either the spirit or letter of the law, which was written to assure that contracts met the constitutional requirement of an “enforceable restriction” so that landowners could not escape their contractual obligations whenever an opportunity for more profitable land use came along.⁴⁸

Sierra Club v. City of Hayward touched off a new round of legislative and judicial action. The 1981 Robinson Act affirmed the restrictive language of the Williamson Act but authorized a one-year “window” to “correct inconsistent applications” of the contract cancellation provisions, during which time landowners could ask for cancellation under relaxed criteria. The California Farm Bureau Federation, League of California Cities, California Association of Realtors, County Supervisors Association, California Building Industry Association, and California Council for Environmental and Economic Balance vigorously supported passage of the Robinson Act. Under the window provision, requests for contract cancellations had to meet only two criteria: that urban development was contiguous to a parcel under Williamson Act contract and that a proposed alternative use was consistent with the applicable general plan. In 1983, the Legislature passed another amendment to require that notices of cancellation be given to the Department of Conservation.⁴⁹

⁴⁸ *Sierra Club v. City of Hayward*, 28 Cal.3d 840 (1981).

⁴⁹ Dale Will, “The Land Conservation Act at the 32 Year Mark: Enforcement, Reform, and Innovation,” *San Joaquin Agricultural Law Review* 9, no. 1 (1999): 28–9; “Historical Background” section of *Honey Springs Homeowners Assn v. Board of Supervisors*, 157 Cal. App. 3d 1122 (1984); *California Statutes*, 1981, Chap. 1095; *California*

A highly controversial lawsuit involving so-called window cancellations quickly followed. After the San Diego County Board of Supervisors cancelled three Williamson Act contracts to allow the development of a clustered community of 389 high-end homes with an eight-acre commercial district and a seventeen-acre artificial lake, Honey Springs Homeowners Association, Inc. and the Sierra Club sued, charging that the Board of Supervisors, by cancelling the contracts, was promoting discontinuous patterns of urban development. Of note here, the proposed development was located eight miles southeast of the “urban limit line” for the San Diego metropolitan area in the county’s general plan, but the supervisors approved the cancellations because the development project was categorized as “rural” — as allowed under the general plan — and the land itself was properly categorized as rural. Thus, the supervisors held that the proposed alternative use, i.e., a clustered residential-commercial development, was consistent with the general plan and with the relaxed cancellation criteria in effect during the one-year window of the Robinson Act amendments.⁵⁰ Although the California Office of Planning and Research called the proposed project “leap-frog urban development,” a term long used by planners, San Diego County, through its general plan, was allowing the same effect under the disingenuous category of “rural” development.

Because the proposed project was consistent with the county’s general plan, the appellate court addressed a narrower legal question: whether the Honey Springs project, “defined as rural development under [a] general plan enacted to control county developmental growth patterns . . . necessarily could not create a discontinuous pattern of urban development as that term is used in the Williamson Act, an enactment involving different far-reaching statewide concerns.”⁵¹ In a lengthy opinion, the appellate court held that the proposed development could only be construed as “urban.” Although the residential density was quite low, approximately five

Statutes, 1983, Chap. 864. See also Dan Walters, “Punching Holes in the Williamson Act,” *California Journal* 14 (December 1983): 459–461 and Ann Foley Scheuring, “The Rising Power of the Farm Lobby,” *California Journal* 13 (November 1982): 411–413.

⁵⁰ “Factual and Procedural Background,” section of *Honey Springs Homeowners Assn. v. Board of Supervisors*, 157 Cal. App. 3d 1122 (1984).

⁵¹ “The Legal Controversy” section of *Honey Springs Homeowners Assn. v. Board of Supervisors*.

acres per home site, and the development would include abundant dedicated open space, the proposed development also called for “approximately 15 miles of roads, a fire station, equestrian facilities . . . and a commercial service center approved without limitation as to the size or number of commercial buildings.” Additionally, the project would require “importing water through a 12-mile main, with attendant pumping facilities and storage tanks, and a sewage treatment plant with the capacity to process .12 million gallons per day.” In addition to placing a burden on existing public services and school districts, the court called attention to the adverse environmental effects of excavation for 389 home sites and fifteen miles of roadways, the visual impact of a sewage plant to be constructed along Honey Springs Road, the likelihood of runoff causing downstream erosion, the traffic and pollution impacts of an estimated 2,700 daily automobile trips, and unintended impacts on wildlife.⁵²

Two years later, in *Lewis v. City of Hayward* (1986), the First District Court of Appeal buttressed the *Honey Springs* decision by ruling that “the window provisions must be construed narrowly and against cancellation in accordance with the objectives of the Williamson Act” to meet the constitutional requirement for enforceable contract restrictions.⁵³ These two cases sent a strong signal to counties and cities that the higher courts stood ready to make local governments uphold the Williamson Act to stem the tide of leap-frog residential subdivisions.

Two other cases in the 1980s involved assessment actions. Under the 1971 Open Space Subvention Act, which provided partial replacement of tax revenues to local governments, the secretary of the Resources Agency was given authority to review local agency decisions to waive or reduce contract cancellation fees. In *Dorcich v. Johnson* (1980), a landowner in Santa Clara County challenged this provision, arguing that with the 1971 amendment, the Legislature intended to give local agencies the authority to make unfettered decisions regarding the local tax base. The First District Court of Appeal disagreed, holding that “the state has a direct financial interest in the cancellation fees” and, further, that the Legislature intended

⁵² “The Honey Springs Project is ‘Urban’ Development” section of *Honey Springs Homeowners Assn. v. Board of Supervisors*.

⁵³ *Lewis v. City of Hayward*, 177 Cal. App. 3d 103 (1986); Will, “The Land Conservation Act at the 32 Year Mark,” 24.

for the secretary to act on behalf of the state to “insure that the statewide purpose of conserving agricultural land is fulfilled.”⁵⁴

Another lawsuit addressed the effect of Proposition 13 on tax assessment of agricultural land removed from the Williamson Act program. Passage of Proposition 13 in 1978 altered the state Constitution to allow differential property taxation for the purpose of protecting a class of existing property owners from the tax consequences of an upward spiraling real estate market. The lawsuit in question stemmed from actions taken by the City of Stockton in 1977, when it annexed four parcels (approximately 120 acres) under Williamson Act contracts and rezoned the land for residential use. Under the provisions of Proposition 13, the tax assessor reassessed the land at its earlier fair market value, which resulted in a substantial property tax increase. The landowner appealed to the Board of Equalization, claiming that under the rollback provision of Proposition 13, the assessor should have used the use value in effect when the land was placed under contract. The Board of Equalization granted the landowner’s appeal, in response to which the tax assessor sought redress from the appellate court. The Third District Court of Appeal reversed the board’s decision, holding that even though Proposition 13 intentionally altered the principle of equitability in property taxation, there was “nothing in the background of Proposition 13 either pro or con” to suggest that “such disparity was intended to result from artificially depressed assessments pursuant to Williamson Act contracts no longer in existence.”⁵⁵

From the very beginning, annexation actions plagued effective administration of Williamson Act contracts covering land on the urban fringe. Very few complaints reached the higher courts, but the Legislature attempted to address these issues in the 1990s.⁵⁶ When the law was passed in

⁵⁴ *Dorcich v. Johnson*, 110 Cal. App. 3d 487 (1980).

⁵⁵ *Shellenberger v. Board of Equalization*, 147 Cal. App. 3d (1983). Passage of Proposition 13 in 1978 had raised concerns that it would greatly limit the tax relief available to agricultural landowners under the Williamson Act, and the number of enrolled acres would drop precipitously, but the effect turned out to be negligible.

⁵⁶ One exception is an unpublished case, *Irval W. Carter et al., v. City of Porterville*, Nos. F016777, F017555, and F018190, Court of Appeal, Fifth District, August 19, 1993. In this case, which turned on other legal issues, the appellate court incidentally held that a Williamson Act contract remained in effect even though the City of Porterville had filed a blanket protest when the contract was executed.

1965, Assemblyman Williamson had deflected an eleventh-hour attempt to insert a provision giving cities the right to block the enrollment of agricultural lands within three miles of their incorporated borders. However, a 1968 amendment permitted cities to protest the execution of Williamson Act contracts within *one mile* of their borders. Filing a protest enabled a city, if it decided to annex enrolled land, to terminate Williamson Act contracts.⁵⁷ In 1990, the Legislature then repealed the 1968 amendment because cities were interpreting the provision with excessive liberality, and landowners on the urban fringe were reaping tax windfalls.⁵⁸ This was allowed to happen when a city or county cancelled a Williamson Act contract but did not require the landowner to pay property taxes retroactively based on market-value assessment. Despite the repeal, according to Dale Will, former staff counsel for the Department of Conservation, cities continued, at least through the 1990s, to annex lands in the Williamson Act program and allow development without going through proper contract termination procedures. The reason for this state of affairs, in Will's opinion, was that city planning departments, unlike county planning departments, were generally unaware of Williamson Act requirements and often failed to check for the possible existence of contracts. As a result, the Legislature passed further amendments in 1998 to establish administrative procedures for proper handling of Williamson Act contracts when cities annexed land.⁵⁹

The matter of determining "compatible use," largely undefined in the Williamson Act, was the object of both litigation and legislation in the 1990s.⁶⁰ During the 1980s, the Department of Conservation reportedly was "besieged with review of 'compatible use' proposals including race tracks, hotels, country clubs, large scale mining, and concrete plants." The department thus initiated legislation to establish limits on what constituted

⁵⁷ *California Statutes*, 1968, Chapter 413, Section 2.

⁵⁸ *California Statutes*, 1998, Chapter 841 (AB 2764); Will, "The Land Conservation Act at the 32 Year Mark," 11–12.

⁵⁹ Will, "The Land Conservation Act at the 32 Year Mark," 13–14.

⁶⁰ *California Government Code*, Section 51238, simply specified that the "erection, construction, alteration, or maintenance of gas, electric, water, communication, or agricultural laborer housing facilities" were deemed "compatible uses" and that land so used could not be excluded from agricultural preserves.

compatibility. Bills introduced in 1991 and 1992 failed.⁶¹ In the meantime, the Stanislaus Audubon Society filed suit against Stanislaus County after the Board of Supervisors approved a huge recreational complex proposed for development on 600 acres of the 2,500-acre Willms Ranch, much of which was under Williamson Act contract. The proposed project included a twenty-seven-hole golf course, four tennis courts, a swimming pool and cabana, a clubhouse with meeting facilities, proshop, and a restaurant, and a maintenance facility. Although the county planning department initially had determined that the project would have significant environmental effects and the Department of Conservation had determined that the project was inconsistent with Williamson Act requirements, both the planning department and ultimately the Board of Supervisors approved the project, and a full environmental assessment was never conducted.⁶²

After Stanislaus County denied an appeal by the Stanislaus Audubon Society, the Audubon Society took its grievance to the Fifth District Court of Appeal. The appellate court considered two related matters: whether the county had failed to meet its obligations under the California Environmental Quality Act (CEQA) and whether the development project was compatible with the Williamson Act. After finding ample evidence that the county had knowingly circumvented the preparation of an environmental impact report, the court reversed the county's decision "pending certification of a legally sufficient EIR." Because the weight of evidence concerning the county's breach of law under CEQA was so great, the court held that it was not necessary to consider the question of compatible use under the Williamson Act.⁶³

The appellate court's decision not to consider compatible use in *Stanislaus Audubon Society v. County of Stanislaus* prompted the Department of Conservation to initiate another bill, AB 2663, which passed the Legislature in 1994. AB 2663 amended the Williamson Act to stipulate, in the negative, that compatible uses cannot harm soil fertility, obstruct or displace potential agricultural operations, or induce non-agricultural development of surrounding enrolled lands.⁶⁴

⁶¹ Will, "The Land Conservation Act at the 32 Year Mark," 15.

⁶² *Stanislaus Audubon Society, Inc. v. County of Stanislaus et al. and Willms Ranch*, 33 Cal. App. 4th 144 (1995).

⁶³ *Ibid.*

⁶⁴ Will, 16–18; *California Statutes*, 1994, Chapter 1251.

Another 1990s case involving the Stanislaus County tax assessor led to new legislation significantly enhancing the intent of the Williamson Act. In 1993, the Diablo Grande Limited Partnership submitted an application to Stanislaus County requesting cancellation of Williamson Act contracts covering approximately 5,000 acres of grazing land to develop a luxury town site which included a destination resort complex, a winery, 2,000 homes, and associated commercial uses. After the Board of Supervisors approved the cancellation, the tax assessor calculated the cancellation fee on the value on the land's use value for dry-land farming rather than its fair market value, a clear violation of statutory law. The California Resources Agency first brought suit in the Stanislaus County Superior Court seeking to force the county to follow the law. When the Superior Court dismissed the case on technical grounds and also ruled that the Resources Agency did not have standing to sue, the agency took its case to the Fifth District Court of Appeal, which affirmed its standing to bring suit on behalf of the State of California. Stanislaus County surely recognized that it had overstepped its discretionary powers under the Williamson Act because, before the case went to trial, the county and Diablo Grande settled out of court. Under the terms of settlement, Diablo Grande agreed to place 3,500 acres under a permanent conservation easement to be administered by the West Stanislaus Resource Conservation District.⁶⁵

The Diablo Grande settlement, along with passage of the Agricultural Lands Stewardship Program Act (ALSP) in 1994, emboldened the Resources Agency to seek another amendment to the Williamson Act. SB 1240, which passed in 1997, stipulated that lands enrolled in the Williamson Act program and that qualified for contract cancellation could be removed if comparable lands were placed under a permanent conservation easement.⁶⁶ A year later, the Legislature passed SB 1182, which authorized local governments to create farmland security zones (FSZ) within which agricultural landowners with existing Williamson Act contracts could convert them to twenty-year

⁶⁵ *People ex rel. Department of Conservation v. David Triplett and Diablo Grande Limited Partnership*, 55 Cal. Rptr. 2d 620, 625 (Ct. App. 1996); Will, 30–31.

⁶⁶ Will, 31–33; *California Statutes*, 1997, Chapter 485. Since 2009, conservation easements have been monitored by the California Farmland Conservancy Program, separate from the Williamson Act Program but still within the Department of Conservation, Division of Land Resource Protection.

contracts. Landowners with twenty-year contracts, in return, receive greater preferential tax treatment. Sometimes called the Super Williamson Act, SB 1182 also included restrictions designed to prohibit local governments and special districts from annexing enrolled lands in farmland security zones.⁶⁷ As of 2015, a total of 866,355 acres of land were under FSZ contracts. Another 60,493 acres were protected by conservation or open space easements. These combined figures, less than one million acres, represent approximately six percent of all land enrolled in the Williamson Act program.⁶⁸

More recently, appellate courts have heard cases revealing the sometimes difficult choices that must be made in determining which land uses are in the best public interest. *Friends of East Willets Valley v. County of Mendocino* (2002) raised several legal issues, including whether the county acted improperly in cancelling a Williamson Act contract to allow the Sherwood Valley Rancheria (a Pomo Indian tribe) to construct badly needed low-income housing on a small, upland portion of a 160-acre parcel. In return for contract cancellation, Sherwood Valley Rancheria signed a covenant with the county agreeing to comply with the terms of the former Williamson Act contract covering agricultural use on fifty-three acres of prime bottomland until September 30, 2007, when the contract would have expired. The First District Court of Appeal, in reversing a trial court, ruled that the county had “made the necessary findings and its findings were supported by substantial evidence” in reaching its decision that another public concern, i.e., public housing, outweighed public interest as expressed in the Williamson Act and contract cancellation was therefore justified.⁶⁹

In *County of Colusa v. California Wildlife Conservation Board* (2006), the Third District Court of Appeal observed that “there may be environmental costs to an environmentally beneficial project.” In this case, Colusa County challenged the legality of actions taken by the California Department of Fish and Game, through the California Wildlife Conservation Board (CWCB),

⁶⁷ Will, 33–34; *California Statutes*, 1998, Chapter 353. As of January 1, 2000, non-contracted land may go directly into an FSZ contract.

⁶⁸ 2014 *CLCA Status Report*, 2–3; 2016 *CLCA Status Report*, 16–17. It is not clear how many acres of farmland, total, were converted from Williamson Act contracts to conservation or open space easements, which are now monitored by the California Farmland Conservancy Program; see note 66.

⁶⁹ *Friends of East Willits Valley v. County of Mendocino (Sherwood Valley Rancheria)*, 123 Cal. Rptr. 2d 708 (2002).

when the state agency purchased a conservation easement on 225 acres of prime agricultural land owned by Leroy Traynham. He had previously entered into a Super Williamson Act contract with Colusa County, which required that land use be restricted to the “production of food and fiber for commercial purposes and uses compatible thereto” for a period of twenty years. Conversely, CWCB’s conservation easement, which was for creating a managed wildlife habitat, expressly prohibited the cultivation of agricultural crops for commercial purposes. Colusa County charged that the CWCB had violated procedures required under both CEQA and the Williamson Act. Before the case was fully adjudicated, however, the landowner and the CWCB negotiated a settlement with the county whereby the CWCB conservation easement was amended to allow livestock grazing on the property, which brought the proposed new use into compliance with the compatible use provision of the Williamson Act.⁷⁰

In a case that augered well for the solar energy industry, *Save Panoche Valley v. San Benito County*, the Sixth District Court of Appeal ruled that the public benefit of a proposed solar farm outweighed the public benefit of livestock grazing land. After San Benito County approved cancellation of Williamson Act contracts on approximately 7,000 acres of grazing land for a solar farm, the Santa Clara Valley Audubon Society and the Santa Clara Sierra Club (as “Save Panoche Valley”) sued the county, challenging the adequacy of its findings under both the Williamson Act and CEQA. In this instance, the appellate court determined that the county had followed legally required review protocols and the findings of such — which resulted in scaling back the project scope to satisfy environmental concerns and creating agricultural conservation easements around the project site — amply justified the county’s decision.⁷¹ Corresponding legislation, which took effect in 2013, now allows counties to cancel a Williamson Act contract on land that is contaminated or otherwise environmentally compromised and replace it with a solar-use easement.⁷² As of 2016, approximately twenty-five solar-use cancellation petitions had been submitted statewide,

⁷⁰ *County of Colusa v. California Wildlife Conservation Board, et al.*, 145 Cal. App. 4th 637 (2006).

⁷¹ *Save Panoche Valley, et al. v. San Benito County*, 217 Cal. App. 4th 503 (2013).

⁷² *California Statutes*, 2011, Chapter 596 (SB 618).

although only three projects had been completed.⁷³ The good news is that California has an abundance of agricultural and open-space lands available for siting solar farms. The not-so-good news is that solar-production companies want level sites, which often means prime agricultural land.

Although this review of higher court decisions covers only a fraction of the court cases pertaining to the Williamson Act, it is sufficient to conclude that fifty years of litigation and related legislative amendments have allowed the principle of home rule to stand but significantly constrained the power of local governments to weaken state policy. As the Department of Conservation's biennial status reports have stated since 2012, "a three-way relationship between private landowners, local governments, and the State is central to the success of the Program."⁷⁴ This was not the case in 1965 when the Legislature passed the Williamson Act. At that time, the role of the state was limited to statewide coordination and minimal oversight. Now the Department of Conservation speaks of the Williamson Act program as a "partnership" to administer what has become a complex set of statutes and regulations.

Over the decades, the state's role has changed considerably. Importantly, passage of the 1971 Open Space Subvention Act gave the state a financial stake in administering the Williamson Act program. Up until 2009, when the state suspended, then abandoned, subvention payments, the total cumulative value of subventions to counties and cities participating in the Williamson Act program was more than \$863 million, averaging at \$1.48 per acre per year.⁷⁵ Additionally, the 1970 California Environmental Quality Act and other environmental laws and regulations have required tremendous growth in the state bureaucracy for administrative purposes. The Division of Land Resource Protection of the Department of Conservation, which has administrative responsibility for the Williamson Act program, also administers other programs to conserve farmland and open space, including the Agricultural Land Mitigation Program, the Sustainable Agricultural Lands Conservation Program, and the California Farmland Conservancy Program. The effect, over time, has been to re-cast the

⁷³ 2016 CLCA Status Report, 8.

⁷⁴ 2012 CLCA Status Report, 3; 2014 CLCA Status Report, 5.

⁷⁵ 2016 CLCA Status Report, 8.

purposes of the Williamson Act more broadly to include the preservation of open space.⁷⁶

The courts also have helped to strengthen the state's role by serving as watchdogs for the broader public interest. In this respect, it should be noted that two environmental groups, the Sierra Club and the Audubon Society, have played important roles in litigation that has helped to reshape the contours of the Williamson Act. *Sierra Club v. City of Hayward* led to a brief period when contract cancellation restrictions were loosened, but, more importantly, it upheld the constitutional requirement of an enforceable restriction in Williamson Act contracts to justify preferential tax treatment. The *Honey Springs* and *Lewis v. City of Hayward* decisions added bricks to this wall; they also sent a strong message to local governments about complying with the intent of the Williamson Act when it came to formulating and administering their own general plans. The *Diablo Grande* settlement provided a model for establishing conservation easements and led to legislation authorizing Super Williamson Act contracts in farm security zones. In the aggregate, litigation and legislative amendments have substantially increased the state's oversight responsibility.

Still, the long-term viability of this three-way partnership may rely, at least in part, on the power of the purse. Following the suspension of subvention payments, Imperial County gave notice of nonrenewal for all Williamson Act contracts in its jurisdiction. When these contracts expire, approximately 138,500 acres will leave the program. Imperial County is not one of the state's leading agricultural producers, and so far no other county has announced wholesale withdrawal from the program, but there are other signs that the loss of subvention funding has driven a wedge in the supposed partnership. After the state pulled subvention funding, a number of counties either stopped reporting data to the Department of Conservation for the required biennial reports or began reporting data inconsistently. As of 2015, the number of non-reporting counties stood at ten, nearly one-fifth of participating counties with a combined estimate of 1.3 million acres under Williamson Act contract.⁷⁷ While this does not mean these counties plan to drop out of the program, which after all is voluntary, it does signal a

⁷⁶ See California Department of Conservation website at http://www.conservation.ca.gov/dlrp/lca/basic_contract_provisions/Pages/wa_overview.aspx.

⁷⁷ 2016 CLCA Status Report, 8.

push-back of sorts at the local level. Without the carrot of subvention payments, a sizeable number of counties apparently are protesting the loss of subvention funds or are disinclined to comply with program requirements that now seem burdensome in some way, or both.

To be clear, the Williamson Act program seems to be working as well as it ever has to conserve agricultural land despite the loss of subvention funds to counties and cities. Eleven counties have taken advantage of the option to reduce the length of contracts by one year, indicating that there is still reasonably strong support for agricultural land conservation at the local level and that local governments will work around the loss of property tax revenues from lands under Williamson Act contracts. What has changed is the state's financial stake in the program, and without this the relative power of the Department of Conservation to monitor the program effectively has been diminished. The power balance has once again shifted a bit, and local governments have started to flex their muscles.

In the larger picture, the current status of the Williamson Act program points once again to the significance of local governments in the federal system and underscores the mutability of federalism. It also points to the importance of the judicial system in the dynamics of intergovernmental relations. Over the past five decades, the courts have played a significant role by interpreting the law in ways that have strengthened the intent of the Williamson Act and elevated its standing as state policy. California seems to be reaching a crossroads in terms of how vigorously its agricultural land conservation policy will be implemented in the future, but surely the courts will continue to play a role in forging the path forward.

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