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The Political Economy of Farmland Tax Relief: An Historical Perspective

by

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The Political Economy of Farmland Tax Relief: An Historical Perspective

Farmers and rural interests lost control of many state legislatures after the U.S. Supreme Court decision which required one-man-one-vote representation in both houses of state legislatures (Rosenbaum, pp. 14-15). Yet the past two decades have witnessed the enactment of farmland property tax relief laws in virtually all states, including urban dominated states such as California, Maryland, Michigan, New Jersey, New York and others (Barlowe; Hady and Sibold)[1/]. These laws evolved from simple preferential tax laws (such as Maryland in 1956) to highly complex programs (such as New York in 1971 or Wisconsin in 1977) designed to shift the incentives faced by private citizens and elected officials in making land development decision. Agricultural and resource economists and planners have devoted much effort to analyzing the impact of these laws. A series of studies outlined the effects of the laws in California (Gustafson and Wallace; Hansen and Schwartz), Maryland (House), New Jersey (Koch, Morrilland Hausawann), New York (Bills) and others. Excellent summaries of the various legislative approaches and the general consequences of each have been reported in (Barlowe, Ashland, Bachman; Conklin and Lesher; Hady; Keene, et al.). Yet in spite of this attention, and in spite of the recognition that the economic effects of such legislation vary with the type of law enacted, there is little knowledge of the origin of the various state laws and the reasons for the evaluation of state law toward more complex combinations of tax and land use policy.

The purpose of this paper is to further the understanding of what might be termed the political economy of farmland tax relief. Previous

research has shown that the effects of farmland tax relief programs depend on the type of law--the question addressed here is "What explains differences in the type of legislation enacted?" The general hypothesis is that state farmland tax relief programs can be viewed historically as slowly evolving, based on the requirement (in most states) for significant urban support to enact legislation, and increasing awareness of the effects of the earliest use value assessment programs. There are two important pitfalls in constructing and analyzing such a hypothesis. First, it is extremely dangerous to infer purposful action to a legislative body, in the sense of actions designed to maximize some objective function (Allison). Each individual legislator undoubtedly had his/her own set of reasons for voting for farmland tax relief laws, so it is very dangerous to infer that a particular law was enacted simply to "lower farm taxes" or to "save open space." In this paper, no attempt will be made to ascertain the "objective" of any state legislature in enacting farmland tax relief laws. Rather, considerable insight into the evolution of farmland tax relief policy can be gained by conceptualizing a legislature as composed of a rural group primarily interested in tax reductions and an urban group primarily interested in land use patterns or policy. In the votes of urban legislators for passage of farmland tax relief legislation by appealing to its potential as a land use policy tool. A second major constraint in conducting the analysis is that the legislative policies of farmland tax relief programs is seldom recorded. The analysis here will rely only on the very sketchy written or published observations of those involved in the legislative process. This will limit any potential bias of the author or reader in assigning an "objective" to legislative action, will allow other researchers to duplicate or refute the analysis, and

may in some small way encourage those who participate in the policy arena to record their observations in a more systematic manner.

Overview

There is ample evidence that farmland tax relief laws have greatly changed since the earliest efforts in the late 1950s. The early laws (e.g., Maryland, 1956) simply required that farmland be assessed for tax purposes at its value in agricultural use, rather than at its market value which reflects the value in other potential uses such as residential development (Barlowe, Ahl and Bachman)[2/]. The tax relief granted speculators by use-value assessment led to changes in some of these state laws, requiring that all or part of the property tax reduction be repaid upon development of the land. Many states which later enacted farmland tax relief laws added roll back tax requirements to their laws, resulting in "deferred" tax relief systems (Hady, 1970)[3/]. These deferred tax systems did not preserve farmland or stop sprawl, and more strict requirements were added to later laws in California and other states, requiring that the owner formally agree not to develop his land in exchange for use-value assessment. Although these programs reduced the benefits to speculators, there was little effect on urban development. New York and Wisconsin recently adopted more complex programs combining innovative land use policies and tax relief. A final note to the evolution of farmland tax relief policies is the tendency of both researchers and practioners to abandon such policies as an attempt to influence rural land use patterns, and to attempt to establish direct compensation-oriented programs such as transfer of development rights (TDR) or purchase of development rights (PDR).

The historical evolution of farmland tax relief laws will be the focus of this paper. The first section will review the factors which lead to the early preferential tax laws, especially the case of Maryland. The second section will discuss the second-generation laws, the deferred tax programs, focusing on the New Jersey case. The following section will review the contract or "agreement" laws, emphasizing the case of California. In the fourth section the New York and Wisconsin laws will be discussed, the final section contains a brief review of other programs designed to influence farmland use through a combinantion of incentives and regulations.

Preferential Tax Laws

The impetus for farmland tax relief came from the post World War II suburbanization in both smaller cities and the major metropolitan areas (Barlowe, p. 3). High rates of household formation, increasing family income, faster transportation systems and the pent-up housing demands from the Depression and the war lead to an unprecedented growth in demand for rural land for urban uses (Clawson, pp. 34-41). Investors anticipating land conversion, and developers seeking the lower taxes and "country atmosphere" for their projects greatly expanded the demand for farmland and increased farmland prices. Larger and larger areas of farmland came to be viewed as "transition" zones for urban development, a process which accelerated with every additional subdivision constructed (Barlowe, p. 15). Rapid increases in farmland values, combined with increased public service costs for local government led to increased farm property taxes. As a percentage of net income, farm property taxes increased from 4.2% in 1945 to over 16% in 1968 (Barlowe, p. 15). These

conditions set the stage for the political battles to obtain property tax relief for farmland owners. The first result was preferential taxation.

In Maryland, suburbanization trends were concentrated in the rural areas around Baltimore and Washington, D.C. In 1951-52, the Maryland State Grange and Farm Bureau began to lobby for tax relief in the form of lower property assessments in order to prevent "premature" conversion of farmland (Ishee, p. 24). A 1955 use-value assessment bill passed the legislature, but was vetoed by the governor, who cited possible benefits to speculators as a primary reason for the veto (Ishee, p. 24). The veto was overridden by the legislature. A series of court cases and maneuvering produced a revision of the law, and the 1959-60 version stated as its purpose: "...that farming be fostered and encouraged in order to maintain a readily available source of food and dairy products close to the metropolitan areas of the state, to encourage the preservation of open space as an amenity necessary to human welfare and happiness, and to prevent the forced conversion of such open space to more intensive uses...." (Maryland Laws of 1960, Chapter 57, in Ishee, p. 26) These rationale clearly reflect the urban interests (or hopes) in farmland tax relief. The argument that high property taxes produce "forced conversion" deserves further discussion. According to this argument, urban growth results in rapid increases in farm property values and assessments, thus increasing farmland's share of the property tax levy.[4/] At the same time, local tax levies are increasing due to higher service expenditures brought about by urbanization, and the result is sharply higher property taxes for farm owners.[5/] Net farm family income declines, ceteris paribus, creating an "income squeeze" which forces (or is an incentive for) the owner to sell the land, realize the capital

gain and move to a more rural location to farm.[6/] According to the argument, the most likely buyer is an investor (speculator) or developer, and the sale results in further increases in land values, assessments, property taxes and other pressures on remaining farm owners to sell or conert their land to more developed uses. This "vicious circle" is begun by urban sprawl and leads to more sprawl in an ever-widening area around the city.[7/] This argument, when used as a justification for preferential taxation, is essentially urban-oriented, portraying the use value tax as a policy instrument to implement land use planning objectives. In theory, the use-value tax breaks the link between increased land value and increased assessment, and therefore, removes the incentives causing sprawl. Several states enacted preferential tax laws similar to Maryland's including Florida (1959), Nevada (1961), Indiana (1961), Connecticut (1963), Iowa (1967), Colorado (1967) and South Dakota (1967) (Barlowe, p. 5).[8/] The results of the preferential tax laws are predictable: Farmland owners pay lower taxes, land speculators benefit and there is little effect on open space or farmland preservation. In Maryland in 1965, use-value assessment lowered farm taxes between $.60 and $15.20 per acre, with the greatest reduction in the more urbanized counties (House, 1967). In 1957, in Montgomery County (near Washington, D.C.), the reduction in farmland assessments averaged 24% (House, 1961). Although farmers enjoyed lower taxes, the laws had little effect on land use patterns. A summary of several Maryland studies noted that the results "...suggest (but do not prove) that the reduction of taxes on farmland has had little effect on its use (Hady, 1970)."

The effect of the law on speculators caught the attention of the non-farm public and state legislators. As many had predicted, simple use-

value tax laws produced substantial benefits for speculators, by lowered the holding cost of land investments. The evidence on is quite sketchy, partly because of the difficulty in defining the term "speculator." A 1962 USDA study of eight rural Maryland counties indicated that 71% of farmland buyers were not farmers. (Murray, et al.) These buyers may have purchased the land for investment, recreation, or both, but the results indicate that a substantial part of the farmland tax reduction may have been enjoyed by nonfarm owners. In Maryland, several "complaints of abuse" lead to a study of the program in 1963, and a legislative committee recommended a five-year rollback tax payable upon conversion (Ishee, p. 27). Legislation to add a rollback tax to the Maryland law was defeated by farm groups (1966) and by developers and railroad companies (1967) (Ishee, pp. 27-28). But the effort was a harbinger of a new generation of farmland property tax relief laws.

Deferred Tax Laws

Maryland finally amended its preferential tax law in 1969, adding a rollback tax and thereby creating a tax deferral law. The Maryland three-year rollback provided partial tax deferral for the three years immediately preceding conversion, and pure tax reduction for any additional years the property was assessed at its use value. But long before the Maryland amendment, several other states had adopted deferred tax laws.

New Jersey was the first state to enact a deferred tax law, 1964, although the idea for the New Jersey rollback seems to have come from an earlier referendum proposal which was defeated in California in 1962 (Wagenseil, p. 168; Kolesar and Scholl, p. 14). The New Jersey law and experience with deferred taxation are typical of many other states

(Barlowe, p. 5). The New Jersey law allows owners of agricultural land to apply annually for use-value assessment. If the land use changes, a rollback tax is levied. The rollback tax is the difference between the tax under use-value assessment and the amount which would have been paid had the property been assessed at its market value, for the year of declassification and the two preceding years (Barlowe, p. 6). Although the rollback period varies from 3 to 10 years, many other states followed the outlines of the New Jersey law, including: Texas (1966), Minnesota (1967), Rhode Island (1969), Utah (1969), Illinois (1970), Kentucky (1970), Montana (1972), North Carolina (1973), Ohio (1974) and others. There is little recorded evidence on the rationale for enactment in those states, except for New Jersey.

In the early 1960s, the New Jersey Farm Bureau led a political coalition of farm organizations which succeeded in enactment of a preferential tax law for farmland (Kolesar and Scholl, p. 3). The law was overturned by the state supreme court, and a 1964 constitutional amendment referendum question was whether to adopt a use-value assessment program with a three-year rollback tax and voluntary entry and exit by the landowner (Kolesar and Scholl, p. 3).

The rollback tax was added to reduce the benefits to land speculators: "The issue of land speculation was exceedingly slippery and most difficult to come to grips with.... This issue was decisive in getting agreement that a tax rollback was both reasonable and essential from the public point of view." (Garrison, p. 40) A coalition of farm, conservation and planning interests was formed to campaign for the amendment, and it was decided that "...the thrust of the campaign would be largely directed to the urban and suburban voters using the slogan, 'Save Open Space in

New Jersey,' since the amendment would assist in keeping tax paying green acres in New Jersey." (Garrison, p. 40) Every county had a local "S.O.S. Organization," and the referendum was approved by 71% of the voters in a state in which 88.6% of the residents were urban in 1960. (U.S. Census)

Some of New Jersey's urban voters were soon to be disappointed with the results of the program. Predictably, farmland taxes declined under the deferred tax law. In 1972, farmland property taxes were reduced by an average of about $50 per acre, a 66% reduction (Kolesar and Scholl, p. 12). The tax shift was concentrated in a relatively few municipalities located on the rural-suburban fringe (Kolesar and Scholl, p. 12). Residents of large urban centers were effected very little, due to the paucity of farmland in those areas, but tax rates on the rural-suburban fringe increased as much as 60%, depending on the extent of development influence on farmland prices and the amount of farmland relative to other types of property in the area (Kolesar and Scholl, pp. 14-23). The effect of the program on land speculators was the most noteworthy result. A detailed examination of land ownership records in over 100 municipalities identified "...speculators and developers as owners of a minimum of one-tenth of the land under farmland assessment...." (Kolesar and Scholl, p. 31) The authors argue that this is a conservative estimate since only the most obvious speculative owners were identified, including only real estate or investment firms, land developers, or individuals connected with developers. The authors concluded: "The inescapable evidence is that land speculation under the Farmland Assessment Act is rampant...." (Kolesar and Scholl, p. 25) These results are generally supported by evidence that between 1966 and 1970, about two-

thirds of all farmland buyers were not farmers and only 10% were full-time farmers (Nagle and Derr). Other evidence (1972) indicates that only 9% of the applications for use-value assessment involved more than 150 acres, and about 13% involved parcels of less than 10 acres (Barlowe, p. 19). Thus, it appears that substantial tax benefits are directed to nonfarm owners of farm real estate under the New Jersey program.

The effect on open space and farmland preservation, the cornerstone of urban support, is difficult to assess. However, all available evidence indicates that the program has had very little effect. In a 1967 study, 60% of the participants interviewed indicated that the program had not affected their decision on the use or sale of their land (Koch). Approximately 25% of the participants had received an offer to sell their property; of these 43% would have sold had the price been higher, while 57% preferred to remain in farming at least for a few years (Koch).[9/] Most researchers have concluded that: "If agriculture is to remain a substantial user of land in areas subject to urbanization, a farmland assessment program will not, alone, accomplish this objective." (Garrison, p. 47)

In conclusion, the New Jersey law, like other deferred tax laws, has reduced farmland property taxes but continues to provide substantial benefits to speculators and has little effect on land use. The next step in the evolution of use-value assessment laws was stronger provisions to ensure that participating lands remain in agricultural or open space use, and to restrict the benefits to speculators. The first, and most important, of this new generation of laws appeared in California.

Voluntary Restriction--Deferred Tax Laws

Those who developed the concepts for the California legislation were well aware of the difficulty in employing the use value tax to attain land use objectives. A state legislative consultant writes: "I would characterize the California open space legislation as an attempt to create a reliable land-use program. We have tried to create a program which assures the continued open space use of land without wasting tax relief on developers or speculators." (Collin, p. 55) The history of use-value assessment in California clearly illustrates the importance of the urban interests. The first state action was the 1957 adoption of Section 402.5 of the Revenue and Taxation Code, which called for farmland assessments to reflect the existence of agricultural zoning, provided that the land was not likely to be rezoned. (Stanford Environmental Law Society, p. 5) However, because of the ease and the history of rezoning farmland for development, most assessors ignored these provisions and continued to assess farmland at its market value. (Wagenseil, p. 167) A simple use-value assessment law was not possible because of state constitutional provisions requiring uniformity of assessment among different classes of property. (Wagenseil, pp. 167-168) Farmers turned their efforts to the process of amending the state constitution to allow use-value assessment, and the result was Proposition 4 on the November, 1962 ballot. The Proposition called for a local-option use-value assessment of farmland and a sever-year rollback tax payable upon conversion. (Wagenseil, p. 168) The proposed amendment was defeated (about 53% NO votes). The major reason for failure seemed to be the opposition of urban and environmental interests who feared that, in the absence of any land use planning requirements or controls, the use-value assessment

program would not preserve agriclutural land or guide urban growth. (Williamson, pp. 12-13; Stanford Environmental Law Society, pp. 6-8)

After the defeat of the use value tax referendum, a committee was formed to develop the outline of a legislative proposal for farmland property tax relief. The result of this effort was the passage in 1965 of the California Land Conservation Act (CLCA), also called the Williamson Act after its chief proponent. Williamson noted the two basic principles of the law: "...1) The public must recieve a prospective guarantee of the agricultural land upon which it offers any type of assessment relief...2) Agricultural tax relief should be looked on not as an end in itself, but as a means to an end--that of preserving agricultural land...." (Williamson, p. 14) In the law itself, the urban interests in agricultural land preservation are explicit in the three purposes of the law: (1) "...the preservation of a maximum amount of... agricultural land is necessary to...maintenance of the agricultural economy...and for the assurance of adequate food for...this state and nation"; (2) "...the discouragement of...conversion of agricultural land to urban uses...will be of benefit to urban dwellers themselves...."; and (3) "...agricultural lands have a definite public value as open space... an asset to...urban or metropolitan developments." (California Legislature, pp. 4-5) The law's sponsor commented on the urban interest which is embodied in the law: "It is my hunch that rural conservationists will discover a surprising amount of urban interest in the program...the bill had, as co-authors, a great many of the leading urban legislators in the state...." (Williamson, p. 3).

Under the CLCA, counties may enter into contracts with landowners, offering use-value assessment in exchange for a written contract in

which the landowner agrees not to develop the land. To qualify, land must meet certain minimum agricultural production requirements and must be located in an area designated as an agricultural preserve by the county. The contract period is a minimum of ten years, although some counties offer only 20-year contracts. The contract is automatically renewed each year for an additional year, so that the land is always under a 10-year no-development restriction. Termination (nonrenewal) can be voluntarily requested by the landowner, but the land continues under the contract for the remaining nine years of its term. During this nine-year period the assessment is gradually increased to the level of full-market value.

The urban and environmental interest which initially supported the CLCA were soon to be disappointed with its result as a land-use planning tool. In 1976, 46 of 58 counties were participating in the program and over 14 million acres were enrollled, approximately 43 percent of all eligible agricultural land. (Hansen and Schwartz) In the highly productive Sacramentao and San Joaquin Valleys, where there is considerable urbanization pressure, participation rates are quite high, particularly for land with the most productive soils in those areas. (Hansen and Schwartz, p. 200)

The performance of the CLCA in preserving agricultural land near urban areas has been particularly disappointing. A 1968-69 study of the pattern of participation showed that of the 2.1 million acres enrolled at that time, only 84,421 acres were within three miles of an incorporated area. (Carmen and Polson) The proportion of land near cities which was enrolled was also slight: land under contract, as a percent of total agricultural land area was 14.2 percent for all lands over 10 miles from

a city, 3.9 percent in the 3-10 mile category and 2.6 percent in the 0-3 mile category. (Carman and Polson, p. 4) Another study of land under contract in 11 counties in 1971-72 revealed that land near incorporated areas was much less likely to be enrolled than more remote land. (Gustafson and Wallace, p. 381) A 1973 study in Sacramento County revealed a similar enrollment patterns, and further analysis of the benefits of participation indicated that the low enrollment near urban areas may be due to overly optimistic expectations about theprospects of a land development sale. (Hansen and Schwartz, p. 202) In effect, landowners near cities are willing to enter into a ten-year (or twenty-year) contract restricting their development options because they are (correctly) aware of the large capital gains that result from such sales, and are (incorrectly) optimistic about the prospects for sale of their own property for development. Thus, due to the low enrollment near cities, may argue that the CLCA has had little effect in preserving agricultural land or guiding urban development.

The program is also criticized for the failure to integrate general land use planning and zoning programs with the CLCA contracts. There are two methods for enrollment of land: (1) the county prepares a land use plan, designates agricultural preserves and thereby makes all included agricultural land eligible for contracts; or (2) farmers apply to the county for contracts and the county simply creates an agricultural preserve which includes only the land of those applying for contracts. Gustafson and Wallace note: "Though it is evident that the act intends local government to initiate the process, the language of the act is sufficiently vague to to permit landowner initiation." (p. 389) Landowner initiation is the most widely used contracting procedure, and counties have generally been agreeable since the need for rigorous and politically

difficult land planning is eliminated. (Gustafson and Wallace, pp. 385, 389) The result is an essentially random pattern of enrollment (within each of the urban distance zones). This process may actually create additional pressures to convert land to urban uses and exacerbate urban sprawl. However, two counties, Napa and Marin, have combined the CLCA with local zoning programs. In Napa County, land in an agricultural zone with a 20-acre minimum lot size is identified in the zoning ordinance as an "agricultural preserve," making the land eligible for CLCA contracts and use-value assessment. (Gustafson and Wallace, p. 386)

The disappointing results of the CLCA in preserving agricultural land, promoting land use planning and controlling urban sprawl have prompted several attacks on the program and demands for amendment. Among the groups publicly critical of the CLCA and its land use effects in 1973 testimony were the League of California Cities, Sierra Club and the state Conservation Department. (Gustafson and Wallace, p. 383) The urban and environmental iterests which supported the program and helped ensure its passage have become critical of the results. The recognition that even a use-value assessment program tied to a restrictive contract could not guarantee the preservation of agricultural land led to efforts to combine tax relief with more comprehensive land use policies, as illustrated by recent legislation in New York and Wisconsin.

Land Use Policies and Tax Relief

The New York and Wisconsin programs are quite different, although each can be viewed as an attempt to integrate tax relief policies with

more general land use programs or controls. The Wisconsin program is based on traditional land use planning practice, exercise of the police power through zoning and circuit breaker tax relief. The New York program relies on voluntarily formed agricultural districts, no restrictions on individual development options and limits on the use of public funds to support nonfarm development.

New York. The New York Agricultural Districts Law can be viewed as a compromise between those (largely urban) who wanted state level planning and exercise of the police power to protect farmland and those (largely rural) who wished to enact a deferred tax law such as New Jersey (Conklin and Bryant). The defeat of various bills proposed by each of the groups led to a compromise which embodied the concept of special agricultural districts. (Conklin and Bryant, pp. 608-609) Under the Agricultural District Law landowners may propose the formation of an Agricultural District in which the major activity must be farming and farm businesses.[10/] The proposal must be approved by the county planning board, county government and a state agency. Qualified farmers received use-value assessment, and can still develop their land at any time. Land development is not restricted in any way, although these are limitations on the expenditure of public funds within districts for sewer, water and other facilities which would promote nonfarm development. (Conklin and Bryant, p. 610) These restrictions effectively prevent large-scale subdivisions, but have no effect on small-scale subdivisions or lot-by-lot development.

Other provisions such as restrictions on special assessments are generally designed to protect farm operations. There is widespread participation in New York's program (5.6 million acres in Districts, about

70% of total permanent farmland in the state) even though the program has been in effect only since 1971. Very few districts are located close to New York City or close to other cities upstate.[11/] However, there are many districts in "semirural" counties where there are some urban pressures, but little large-scale development can be expected over the next five years.[12/] Some argue that the program is effective in maintaining an economic and physical environment conducive to agriculture but cannot be effective in stopping urban sprawl: Thus, it's major effects will be observed in rural areas where there is considerable scattered nonfarm development (Conklin and). Participation is high, yet the lack of controls on nonfarm development makes evaluation of the land use impacts difficult. A conclusive evaluation must await further experience and research.

Wisconsin. The effort to obtain farmland property tax relief began in 1960, when the Farm Bureau and other farm groups proposed that farmland be assessed for tax purposes according to its value in agricultural use. (Barrows, 1977) However, the uniformity clause in the state constitution prevented use-value assessment, requiring instead that all property be assessed at its market value. A proposed constitutional amendment did not receive the required legislative approval until February, 1974, and was finally approved in a statewide referendum in April, 1974.

The referendum narrowly passed (50.9% YES) with a mixture of urban and rural support. The strongest support was found in rural counties adjacent to major metropolitan centers, although the amendment received considerable support from urban areas as well. The referendum was supported

by rural and farm organizations, but also by urban-environmental groups such as the Sierra Club and Natural Beauty Council (Barrows, 1977).

After the passage of the constitutional amendment a special Legislative Council Study Committee drafted legislation to implement the constitutional amendment. The committee was quite aware of the experience of other states with farmland tax relief/land use policies (Barrows, 1974). The committee's proposed bill was a compromise between rural and urban interests and passed on a committee vote of 17-2, with the two "no" votes from opposite ends of the political spectrum--a conservative rural Republican and a liberal urban Democrat (Barrows, 1977). When the Legislative Council bill reached the legislature, it was attacked by rural groups because it required land use controls on farmland, and was attacked by urban groups because it offered tax relief for farmers. The bill failed to pass.

The next, and final attempt to pass farmland tax relief legislation came early in 1977 when the Governor's massive budget bill was introduced into the state Senate. Several rural senators were determined to enact farmland tax relief, and tied their support of the budget bill to the inclusion of tax relief for farmers. Because of the extremely large number of policy items in the budget bill, the effect of these senators' demands was greatly enhanced; each legislator's vote is important in gathering enough votes to pass the state budget bill. The farmland tax relief amendment to the budget bill eventually contained a significant land use policy component, which was demanded by many urban legislators and favored in some form by many rural legislators as well. With the signing of the 1977-79 State Budget, the Farmland Preservation Act became law.

The law provides that the first five years of the program (1977-80), any qualified farmland owner can sign a contract with the state, agreeing to keep his land in farm or open space use in exchange for eligibility for state income tax credits. All initial contracts expire in 1982. After 1982, in order for farmland owners to remain eligible for tax credits, the county must adopt some form of policy to preserve farmland. Counties are not required to act, but continued tax credits are dependent on county action.

Counties with a population density of 100 or more persons per square mile must adopt exclusive agricultural zoning. The county ordinance must be certified by the state and must provide that no residences can be constructed unless occupied by the farm family or other farm workers. Any development requires a full rezoning with public hearings, and rezoning decisions must be based on availability of public services and protection of the local environment. Farmland owners in those exclusive agricultural zones are eligible for 70% of the tax credit calculated under the circuit-breaker formula, with no contract required. In a county with both exclusive agricultural zoning and a farmland preservation plan, which meets state standards, farmers in zones and the plan's preservation districts are eligible for credits at the 100% level.

Counties with population density less than 100 per square mile must adopt farmland preservation plans (or exclusive agricultural zoning) to qualify farmland owners for tax credits after 1982. The plan must meet statutory standards and must be certified by the state. Farmers in the plan's preservation districts may voluntarily sign 10-25 year contracts, agreeing not to develop their land. Farmers with those contracts are eligible for credits at the 70% level, with 100% available with both planning and zoning.

The income tax credit is based on household income (which includes net farm income, off-farm income in excess of $7500 and transfer payments earned by the individual, spouse and dependent children). There is a 10-year rollback tax when either land is rezoned or a contract expires, payable upon conversion to nonagricultural use.

Since the law has been in effect only two years, it is difficult to analyze its long-run effects. Participation has been quite widespread, particularly with respect to county planning and zoning activity. As of December 1979, approximately 2.6 million acres of farmland were protected by either exclusive agricultural zoning or individual contracts. This represents 9% of the farms in the state, and 10% of the farmland. The most surprising result is that most of the participation (about 2.1 million acres) has come through county exclusive agricultural zoning in thirteen counties, with relatively modest participation under individual contracts.[13/] Eight of the counties which have adopted exclusive agricultural zoning are "urban" under the definition in the law, representing about one-half of all urban counties in the state. In addition, 44 counties are in the process of preparing agricultural preservation plans, or have already adopted plans that have been certified.[14/] Thus, early results of the program indicate fairly rapid action by counties in adopting exclusive agricultural zoning and preparing preservation plans. Participation through contracts is likely to increase as landowners become more aware of the program and more familiar with the contract process and provisions.

Other Policies

Although there is not yet sufficient evidence to evaluate the impact of the New York and Wisconsin programs, several states have

abondoned tax-related or incentive policies as a means of preserving agricultural land, based on the disappointing results of preferential, deferred and restrictive agreement tax relief programs. The arguments in favor of abandoning use-value assessment or incentive programs to preserve farmland are: (1) the monetary incentive for the individual to develop his property will generally outweigh any tax relief incentive for preservation (Hady and Sibold; Gloudemans; Keene, et al.); (2) restrictive agreement programs rely on landowner initiative and there is no quarantee that land will be preserved in areas where urban pressure exists (Gustafson and Wallace; Hansen and Schwartz); (3) tax relief or incentive programs do not guarantee that the land will be permanently perserved (Park); (4) attempts to enforce strict zoning or other land use cntrols (such as the Wisconsin law) will fail because either the controls will be declared an unconstitutional "taking" of property without compensation, or the community will fail to enforce the controls because of a popular view that fair treatment of landowners requires compensation (Park; Chavooshian). Although it is not clear that all of these arguments are valid, the experinece of use-value assessment will substantiate the first two and suggests that the third may be valid as well. The fourth argument is probably incorrect further evidence on the Wisconsin and New York experience is needed in order to decide the issue.

Transfer of development rights (TDR) and purchase of development rights (PDR) are the two policies most often advocated as means of preserving agricultural land, TDR programs require government planning to identify preservation and development areas. Preservation area landowners may not develop their property, but are issued "development

right certificates" (DR) which they may sell to others. Development area landowners are allowed only to develop their property to a low-density but may increase density with purchase of development rights from restricted landowners. In theory, preservation area owners are compensated for the loss of development potential on their own land, while the compensation is paid by development area landowners, developers or those who ultimately purchase the developments. PDR programs involve direct purchase of the development rights by an agency of government. Either can be used incombination with use value assessment, but are more often viewed as separate policies.

A thorough discussion and critique of these programs is beyond the scope of this paper, but a critical evaluation can be found in (Lesher and Eiler; Field and Conrad; Barrows and Prenguber). It is sufficient here to note that proposed TDR and PDR policies are fraught with may difficulties and neither policy may be necessarily practical or effective as a means of preserving agricultural land. Many state and local political leaders have begun to advocate these policies (first advanced by academics) as a reaction to the failure of use value taxation to preserve agricultural land. Before abondoning all incentive programs, it may be wise to carefully explore the "middle ground"-- innovative use of traditional policy tools, such as land use planning and zoning combined with tax relief or other monetary incentives to preserve agricultural land. This potential of these combinations seems high, given the apparent early successes in New York and Wisconsin. The dissatisfaction with tax relief programs is quite understandable, given the extremely poor performance of use-value assessment in preserving agricultural land, and the monetary cost to those urban interests which may have supported tax relief legislation

hoping to attain land use objectives. However, it is probably wise to empirically analyze the effects of recent policy innovations in New York and Wisconsin before wholesale abandonment of all tax relief programs and traditional land use policy tools in favor of as-yet-untested concepts such as TDR or PDR.

Summary

The political economy of farmland tax relief and land use policy is closely tied to the one-man-one-vote Supreme Court decision and the resulting need for rural interest groups to attract significant urban support in order to enact state programs to reduce farmland property taxes. Typically, in the more urbanized states, it was argued that use value assessment would help control urban sprawl. As evidence mounted on the ineffectiveness of tax relief as a land use policy, state policy shifted first toward rollback taxes then toward individual, voluntary, restrictive agreements as a condition for tax relief, and finally toward collective decisions and the use of the police power as conditions for tax reduction.

An important caveat must be noted. The paucity of published accounts of the rationale and politics of enactment of farmland tax relief legislation makes it extremely difficult to analyze the evolution of these policies. In most of the literature, it is assumed that the legislation had certain specific objectives, on that the legislature had an "objective" in enacting the legislation. In this paper published materials were used togather the reflections of those actually involved in the legislative process, to help determine why specific states enacted

Footnotes

1/ About 44 states have enacted property tax relief programs specifically for farmland. For a discussion of the provisions of various state laws, (Hady and Sibold).

2/ The average enactment date of preferential tax laws was 1964, with the earliest in Maryland (1956) and the latest in Wyoming (1973). (Barlowe and Alter for details, or the summary in Keene, et al., p. 19).

3/ The average enactment date of deferred tax laws was 1970, with the earlies in New Jersey in 1964, and the latest in Ohio in 1974. See Barlowe or Keene, et al. for details. Clearly, there was no linear progression from one type of law to another. Indeed, the enactment of farmland tax relief in most legislatures was undoubtedly accomplished with the ususal amount of confusion and the hectic pace that characterizes the legislative process (Allison, Ch. V). However, as will be clear from the discussion of the alternative forms of tax relief in the various states, in fact there was considerable communication, among states, of the basic results of use-value assessment programs. In this paper, the trends in state laws are considered in the aggregate, with specific states used only to illustrate the evolutionary process. The choice of states was constrained by the availability of research, and an attempt was made to include the most well-known example of each type of law (see below for details).

4/ For an extremely detailed account of this process in a rural county in the very early stages of urbanization, see Stauber.

5/ For discussion of this point, and empirical evidence, see House (1963; Welliver and Blase (1968); House (1967).)

6/ There is considerable doubt about the strength of this incentive. Some argue that increasing farm property taxes can drive the farm operation out of business far in advance of urbanization, and that farm operations are quite immobile because of the time costs of search for a suitable farm and the high costs of the move itself (Conklin and Lesher; pp. 755-56). Others argue that the tax incentive is quite weak and that for most farmers the option to sell at development prices is far more important than the option to remain in agriculture (Conklin and Lesher, p. 756).

7/ Some argue that the increased tax pressure on farmland owners to use land for urban development actually <u>discourages</u> urban sprawl. For a discussion of this argument, (House, pp. 1-4).

8/ Several of these states have amended their laws to include rollback taxes, as did Maryland in 1969 (Ishee, p. 28) and Connecticut in 1972 (Barlowe, p. 6)

9/ While these data are interpreted here as evidence that the program had little effect on land conversion, other authors have interpreted the same data differently, arguing that they are encouraging indications that the program may have some effect on the land conversion decisions of at least a few farmers (Goudemans, p. 48).

10/ By law a district can be proposed by owners of only 10% of the land, but in fact most districts are porposed with large majority or unanimous support.

11/ Less than 4 percent of the land in districts was within 10 miles of a city with a 1970 population of 50,000 or more (Bills, p. 8).

12/ About 23 percent of all land in districts was within 25 miles of a city of 50,000 population or more (Bills, pp. 7-8). However, over 76 percent of district acreage is located more than 25 miles from such cities. In addition, the New York results roughly parallel those from California; only a small percent of district land is within 10 miles of an incorporated place (Bills, pp. 8-11).

13/ The participation rate under individual contracts is, by itself, greater than participation in comparable states at a similar point in the respective programs. (Wisconsin Department of Agriculture, pp. 6-8)

14/ There are 71 counties in Wisconsin of which approximately 57 have significant agricultural activity. The remainder are northern counties where most of the land is forested and the local economy is based on recreation and forestry.

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