#### CHAPTER 9

# METHODS OF SOCIAL CONTROL OVER LAND USE

## THE CLASSIFICATION OF SOCIAL CONTROLS

Social control in its broadest sense applies to any influence exerted by society on the individual. This influence may be unconscious and involuntary as is the case of customs, mores, and many social institutions whose existence is traceable to uncritical acceptance of traditional methods and procedures of doing and thinking. Social control may also be a consciously planned guidance of individual actions to achieve definitely stated objectives. The first may be called informal or moral control because the objectives and means are subjective and are often related to ethical values which may or may not be explicitly stated. The second type may be termed formal control because the ends and means are objective and explicitly stated. The last fifty years have seen a great extension of formal controls in the realm of economic and social planning, while the importance of informal controls has declined as mobility and individualism has increased.<sup>1</sup>

Given the aims to be attained, the basic problems of social control are, as Professor Ross<sup>2</sup> has pointed out, the determination of the best method of control, and the way in which the measures should be imposed. In the specific case of inducing conservation, the methods should be directly related to the specific causes of exploitation. As we have seen, these causes

<sup>&</sup>lt;sup>1</sup>See Helen Everett, "Control, Social," Encyclopaedia of the Social Sciences, The Macmillan Co., New York, 1937, Vol. 4, pp. 344-48. <sup>2</sup> E. A. Ross, Social Control, The Macmillan Co., New York, 1910, Chap.

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vary greatly between regions, states, areas within states, and even between farms in the same area. Therefore, the means used must vary accordingly, and any national program should be both broad and flexible in order to be most effective in attacking the basic causes. In many areas there will be found a complex of several factors, and action along several lines may be essential to achieve permanent results.

Because the means used to attain various ends all affect the individual, the most useful classification for our purpose is one based upon the way in which the methods used impinge upon him. Such a classification also permits an analysis of the relationship of the means used to the causes of exploitation which are also directly related to the individual. Social action may affect individual action through persuasion, through the price system, through subsidies, or through coercion which involves changes in property and contract rights. These four basic means of control have many subdivisions. They are not equally important, and the emphasis placed upon any one will vary according to the political ideology of the state and the nature of the problem involved. Many of our action programs involve the use of more than one of these means, but their relative importance varies. Within each of these four means we may distinguish between direct actions, which are used for the specific end of achieving conservation, and indirect actions, which are used primarily to attain another end but which indirectly affect land use and conservation. These major categories of means, the causal factors they may be used to counteract, and their limitations are discussed below.

Social Control Through Persuasion or Education The Farmer

Education covers a wide field of activities and ranges all the way from newspaper publicity to demonstration projects covering a watershed. There has been a rapid growth of direct conservation education during the past five years, but much remains to be done, particularly in emphasizing economic aspects. Direct conservation education could be one of the most effective methods of inducing action where continued exploitation is uneconomic to the individual and is largely due to ignorance. And yet education may be an extremely slow method. More effective and rapid action will result if education is supported by an additional incentive such as a subsidy. This applies particularly to the spread of knowledge among farmers through county agricultural planning com-mittees, the press, the radio, and all the other methods of adult education used today. The farmer may realize that conservation farming is economic and that he should modify his present methods. But if, during the transition period, there is a temporary drop in income, a good deal of extra work involved, or some capital expenditures required, education alone may not overcome inertia in the majority of cases. Education under these circumstances needs some other form of social action which will at the same time appeal to the farmer's self interest.

Direct conservation education of farmers must deal concurrently with two problems; it must show that conservation is actually economic, and it must show how it can be achieved on the individual's own farm. This means that it must be specific and practical for the local conditions prevailing, and it must embrace farm management as well as technological information on the physical means of controlling erosion. The growth of Soil Conservation Districts represents the development of a means of cooperative action and at the same time an extremely effective educational technique. If we look upon the technician as a teacher, his development of conservation planning skills with groups of farmers, each developing a

program for his farm, is an almost perfect example of direct education.<sup>3</sup> The major problem is that of developing techniques which will permit a wider coverage by the limited personnel available. The careful use of "land use capability classes"4 is one such technique, and if simpler procedures for making conservation maps could be developed, the educational process might be speeded up.

An experiment with soil mapping technicians working with groups of farmers, so that the farmers themselves make their own conservation maps, might well be made in several areas to determine how far and how accurately this educational technique could be used. With reference to the expense of this detailed educational approach, the fact is important that, once the farmer has established his own conservation plan and put it into operation, no long-time expenditures are involved. The new pattern of land use and practices will become customary, and the techniques will be passed on from generation to generation, and there may be no need for a permanent subsidy.

# The School System

A less rapid but important phase of direct conservation education is that which may take place in our school system. Classes in agriculture in high schools should all include erosion control as an important part of the curriculum, particularly in areas where erosion is serious and conservation is plainly economic. Such courses should include farm budgeting and methods of estimating capital losses as well as descriptions of the major control measures applicable to the area. In the lower grades only a beginning in conservation education has

<sup>&</sup>lt;sup>3</sup>Administratively, this technique is not called education because education is usually a prerogative of the Extension Services of the States; conflicts between agencies may be avoided by a careful formulation of policies to prevent over-lapping and duplication. See the discussion of Policy Formulation in Chapter 12. 'See E. A. Norton, "Land Classification as an Aid in Soil Conservation Opera-tions," and particularly the "Discussion" by G. A. Pond both in *The Classification* 

of Land, op. cit.

been made, and the outstanding work at present is that being done by the National Wildlife Federation. This organization has sponsored the writing of four conservation books<sup>5</sup> to be used in all grades from three to eight. Distribution through the school system is being attempted by encouraging various civic groups to become the "conservation sponsor" of a particular school or grade. The books are so designed that they may be used in a wide variety of courses from reading to biology and involve only a change in emphasis rather than content. The development of conservational attitudes regarding the preservation of our agricultural land resources as well as of wildlife, scenery, and recreational facilities is one of the most urgent educational problems; this may best be done through working with the younger children, but as yet only a modest beginning has been made.

#### The Extension Service

The Extension Services of the various states have done excellent work in educating farmers to the advantages of conservation, but in many cases the county agent, unless he is in a county where the Soil Conservation Service is operating, knows little about the techniques of conservation or how to assist a farmer to make an estimate as to whether conservation would actually pay or not. To offset these shortcomings we need courses in land use and soil conservation at the landgrant colleges,<sup>6</sup> and a simple budget analysis that the county

type of work needs to be greatly expanded.

<sup>&</sup>lt;sup>6</sup> The titles are Would You Have Lived When—? (for grades 3, 4 and 5); Raindrops and Muddy Rivers (for grades 4, 5 and 6); Plants and Animals Live Together (for grades 5, 6 and 7); Nature's Bank—the Soil (for grades 6, 7 and 8); published by the National Wildlife Federation, 1212 16th St. N.W., Washington, D. C.

<sup>&</sup>lt;sup>4</sup>Apart from the regular courses in these subjects, special summer courses of this nature were offered at Iowa State College in 1939. These courses carried graduate credit which could be used toward advanced degrees and special arrangements were made to enable county agents to attend. In Ohio a Conservation Laboratory for teachers was conducted in 1940 and 1941. The courses covered the major fields of conservation and also methods of teaching conservation to grade school children; graduate credit was given. This

agent could use with the farmer in making estimates of the economic relationships.<sup>7</sup> The greatest opportunity open to the extension service appears to be that of coordinating and making full use of existing conservation agencies in the whole field of conservation education. Leadership training institutes for A.A.A. Committeemen and other farm leaders could be established and Soil Conservation Service technicians called upon to present specific instruction.

## **Demonstration** Projects

Under the Soil Conservation Service program, demonstration projects and cooperative county projects have been established to show that conservation of soil resources actually can be achieved. To some extent these projects have had to develop practices most suited to a given area by the trial and error method, and their permanent acceptability to the farmer can only be demonstrated after a longer period of time has elapsed. The weakness of such demonstrations from an educational point of view lies in the fact that they can only cover relatively small areas and the cost is high. Farmer tours of inspection may do a great deal to increase the educational influence of such projects, and if all high school students taking agriculture could visit at least one project area, that influence would be greatly increased. In spite of the weaknesses of such demonstrations from an educational point of view, they have been valuable in testing the practicability of practices and demonstrating the ability of farm operators to maintain them. In the future, valuable information may be obtained from surveys conducted after all supervision and control is withdrawn. Entirely apart from soil conservation, many of these projects "conserved" a good deal of unemployed labor by embodying it in dams, waterways, and terraces and, in many

<sup>&</sup>lt;sup>7</sup> One of the weaknesses of many farm budget analyses is that no place is given to the important problem of estimating the loss in the capital value of the land as a result of soil deterioration.

cases, showed that undertakings, which would certainly not be economic to the individual, were economic to society when unemployed resources could be used.

# Indirect Education and Informal Controls

Education having an indirect effect upon conservation is widespread. The teaching of the principles of farm management, studies of wildlife, nature study, geography, agronomy, and soils all carry in some degree references to conservation. Probably an expansion of the conservation content in all these courses could be attained, without eliminating any of the present subject matter, by a simple adjustment in emphasis. This type of indirect conservation teaching can be developed through our present educational system without any increase in the present budgets.

There is also the problem of social attitudes toward the land and agriculture. Professor Zimmerman<sup>8</sup> has shown the importance of local responsibility and informal controls in developing attitudes to conservation in Klein Lengden, Germany. In the United States, however, there has been a great deal of mobility not only of tenants seeking new farms within the states, but also of retired farmers moving from one state to another. Village populations have been mobile, and in many areas, there are not the closely knit community relationships extending over generations that we find in European villages. The land is a means of making money, and there is little "reverence" for it and little or no community interest in the economic production of the individual. Whether these relationships and attitudes will be affected by the development of county agricultural planning committees and community cooperation in solving problems is a matter of speculation. However, it seems certain that changes in attitudes will only

<sup>&</sup>lt;sup>8</sup> Carle C. Zimmerman, "Soil and Men-Blut und Boden," Land Policy Review, Vol. II, No. 4, Aug., 1939, p. 18.

take place as the interdependence of the individuals and the community is recognized. Whether such changes can occur with a highly mobile population and tenancy is problematical; how much stability is desirable and how much mobility is necessary to maintain a progressive dynamic society are questions still requiring an answer, but the depression and curtailment of our rapid economic expansion all emphasize the need for greater security and stability in the future. As this develops, the growth of informal controls should be anticipated, and definite action to encourage conservation attitudes should be taken. In this development both sociology and social psychology have important contributions to make, and from the point of view of conservation, our present informal controls need to be studied, and the possibility of modifying them in order to further conservation ends should be explored.<sup>9</sup>

Other forms of informal control, more direct in nature, are the pressures that may be brought to bear upon individuals by the Federal Land Banks, the Farm Security Administration and landlords who may require adherence to a conservation plan in order to protect their equity. In this case the rights of the borrower or tenant to benefit from improvement of the land should be protected by some form of compensation for unexhausted improvements.

### SOCIAL CONTROL THROUGH PRICES

There have been no direct attempts to induce conservation through manipulation of prices. To use this method of stimulating individual action, we would need to know more about the responses of individuals to price changes. The simplest method would be to manipulate the prices of farm products

<sup>&</sup>lt;sup>9</sup> For example, the traditional plowing-match stresses straight lines and the covering of all trash and stubble; conservation plowing-matches have been developed which stress plowing on the contour and leaving trash or stubble on the surface to prevent soil washing. Some work of this nature has also been done by the Forest Service in fire control; where community firing of brush had become a social custom it was offset by introducing other community activity.

so that conservation farming would have a comparative advantage over exploitive farming. If this were done there would be immediate repercussions on farm incomes, supplies of products, and retail prices. Such a method of control could be advocated only when the difficulties involved in estimating the costs and anticipating the results have been explored much more fully.

Far less drastic, however, is government action which reduces the price of lime and fertilizer by reducing the costs of production or distribution of these products. This implies that no subsidy is necessary. Where this can be done, there appears to be little justification for using the program as a direct method of achieving conservation, but the service should be made available to all farmers; in this case it becomes one more example of indirect action.

One important action affecting prices and directed to improving the general welfare of farmers has been the development of the Federal Land Bank System. This has lowered the rates of interest available to farm borrowers and has important indirect effects on conservation by making it more economic to the individual.

The most important government agency influencing farm prices has been the A.A.A. Its indirect effect upon conservation (through affecting prices and quite apart from the effect of subsidies) is determined by the degree the measure changed the relative comparative advantage of exploitive and nonexploitive crops. To the extent that the comparative advantage of exploitive crops has been increased or maintained, the program has affected conservation adversely. On the other hand, to the extent that the A.A.A. has raised or maintained the general price level of all farm products it has discouraged the exploitation which results when land values decline, mortgages are foreclosed, and investment is curtailed. These generalizations are subject to the limitations outlined in Chap-

ter 5, *Price Changes and Conservation*, and need not be repeated here. The final effect of the induced price changes on conservation can be analyzed only in terms of specific areas. A tentative hypothesis which should be investigated is that conservation has been encouraged in those areas producing surpluses of exploitive crops and discouraged in deficit areas. It is impossible to separate the effect of these price factors from the effect of acreage reductions induced by the A.A.A. parity payments, and these are discussed in the following section.

# SOCIAL CONTROL THROUGH SUBSIDIES

## The Agricultural Adjustment Act

A direct payment to a farmer for adopting conservation practices may be an effective method of control. Where used, however, the payments must be for positive conservation actions rather than for negative actions as is the case for most of the payments under the A.A.A. Where the payment is made for the reduction in a specific acreage of an erosive crop without strict limitation on other crops that could be grown, one erosive crop may be replaced by another as, for example, when soybeans replace corn under the A.A.A. program.<sup>10</sup> This method of direct payment is limited in scope by its cost and the fact that the change in land use is not necessarily permanent. Where exploitation without the subsidy is economic, the induced change will probably be only temporary; where the use of a subsidy overcomes inertia and induces conservation which is economic to the individual, the change will tend to be permanent and the subsidy may be discontinued as soon as conservation is established

The greatest weakness of the A.A.A. from the point of

<sup>&</sup>lt;sup>10</sup> The importance of this is indicated by W. Wilcox, who has shown that in 1929–33 there were 26.5 million acres of intertilled crops of which 25 were corn and 1.5 soybeans; and in 1939 there were 27 million acres of intertilled crops, 22 corn and 5 soybeans. Increases in grass were at the expense of small grains. *Iowa Farm Economist*, Vol. VI, No. 5, May, 1940, p. 12.

view of conservation has been the general policy of limiting payments for conservation practices to a sum not in excess of the costs. This effectively prevents the use of these subsidies to overcome the forces of inertia and custom. This is largely the result of conflicting concepts embodied in the act. Production control with "parity" payments to cooperators may be used to achieve three ends: (1) reduce supplies of specific crops in order to raise prices; (2) soil conservation; and (3) redistribution of income. These ends are not fully compatible because, for example, to reduce corn production we must reduce the corn acreage in the most productive areas, while to achieve conservation the poorest land needs to be taken out of corn production, and the best land, which does not suffer from erosion, should be left to produce all the corn it can.<sup>11</sup> At the same time, a low price for corn will reduce its production on poorer land, encourage hay and pasture crops, and permit corn to be imported when needed for feed. A desirable redistribution of income may or may not result from acreage changes aimed at either conservation or reduction of supply. One criterion of a just redistribution of income is need, and yet where the good land is taken out of production the payments largely go to the farmers with a relatively high income. On the other hand, because low incomes are often associated with poor land and lack of capital, payments in areas where conservation is seriously needed may coincide more directly with the need for increased income. In spite of this, there is not sufficient evidence to justify the assumption that conservation and income deficiency payments are identical, because the level of living is also related to the size of the farm and the family. Conservation payments, however, must consider the ability of the farm to provide an acceptable level

<sup>&</sup>lt;sup>11</sup> In the lake states, for example, "Corn acreage increased in spite of the A.A.A., partly because of the corn loan which raised prices in 1939 and 1940." See O. H. Brownlee and T. W. Schultz, "No Production Control," *Iowa Farm Economist*, May, 1941, p. 12.

of living without disinvestment, or the conservation program will not be maintained in the face of economic pressures. Whether subsidies under the A.A.A. can become effective means of achieving conservation will depend upon the basis of allocation and the importance attached to the conflicting ends.

In all cases of subsidies the cost of the measures in relation to the amount of conservation achieved must be a primary consideration, and this is closely related to the permanence of the changes introduced. If we spend large sums to reduce the acreage of erosive crops and then also permit the prices of these crops to rise so that their comparative advantage is increased, the program may be self-defeating from the standpoint of soil conservation.

#### The Soil Conservation Service

The Soil Conservation Service has not made use of cash payments to induce farmers to adopt a conservation program, but it has used subsidies in the form of free labor from C.C.C. camps, the services of skilled technicians for mapping and planning, and materials such as lime, fertilizer, and seed. Where the S.C.S. plan called for a reduction of exploitive crops, the A.A.A. payments encouraged the farmers to accept five-year agreements with the Department of Agriculture; how important this factor has been, it is difficult to say, but 42 per cent of a sample of Iowa farmers cooperating with both agencies stated that the parity payments were "very important," and only 19 per cent stated they were "not important."12 It seems reasonable to accept the general thesis that where conservation is economic in that it will just maintain the present farm income and reduce the rate of disinvestment, some form of subsidy will help to overcome inertia especially where the practices that are needed involve changes

<sup>12</sup> The Farmer Looks at Soil Conservation in Southern Iowa, op. cit., p. 129.

in the techniques of farming. Where a conservation plan increases farm income, the need for any subsidy declines. In both cases, however, the subsidy need only be of a temporary nature and cover the period of adjustment; the amount paid should be related to the total change required, the period over which it takes place, and the amount of disorganization resulting.

Where conservation is not economic to the individual but is desired by society, some form of permanent subsidy or informal or formal restraint may be needed to maintain conservation on a permanent basis.

### The Conflict of Agencies

A third agency concerned with conservation is the County Agricultural Planning Committee. These committees have developed land use recommendations but have no control over funds (except in a few experimental areas), and their effectiveness will be directly related to their ability to initiate and control action programs. This again is dependent to a large degree upon the ability of the Committee to call upon the services of technicians and to direct subsidies according to their local needs. Where Soil Conservation Districts have been formed, a similar problem exists except that the district has the authority to request the services of technicians to assist in developing an action program. Neither of these agencies has any direct control over the allocation of A.A.A. funds except as their recommendations are accepted at the state and Federal levels. Where the two organizations function in the same county an inevitable conflict of powers develops and three logical solutions appear. The county committee may be designated as the controlling agency for the area with S.C.S. personnel and A.A.A. payments being allocated to the committee to be used by it in developing the desired land use and conservation action program, and no district board would be

needed. The conservation district board, on the other hand, might be given these powers, and in that case the function of the county committee largely disappears. A third alternative is the development of a cooperative enterprise through some form of agricultural council representing both the district and county organizations. If A.A.A. payments are made on a basis that emphasizes conservation more than production control, the need for a solution of these conflicts in the agencies administering subsidies will increase.

In developing a solution to the problem of allocation, certain basic principles regarding subsidies to achieve conservation may be summarized. (1) The more economic conservation or improvement is to the individual, the smaller is the need for cash subsidies. (2) The greater the degree and speed of change, the greater is the need for both cash and service subsidies. (3) The more serious the problem of soil deterioration or erosion, the greater is the need for service subsidies for planning erosion control. (4) The unification of the various programs should be such that the basic causes of exploitation are remedied and the largest amount of conservation achieved at the lowest social cost.

Apart from the S.C.S., the County Committees, and the A.A.A. are the Farm Security Administration, the Federal Land Banks, and the Extension Service, all of which have important indirect relationships to conservation through education and informal controls and should be related to a unified program. The present means of cooperation and their relation to actual achievement might well be studied in order to develop improvements in the future. Such a study should also include an analysis of other forms of subsidies such as tax rebates on crop land placed under permanent vegetative cover, low interest loans for conservation investments, and subsidized low prices for lime, fertilizer, and seed where these are necessary to get the program into operation. It appears doubtful whether any single solution, applicable to all areas, can be developed. Much greater flexibility in all programs is desirable so that the form of coordination best suited to the problems involved may be developed in each area.

The use of subsidies is limited by their cost to society, and in the case of indirect subsidies, the difficulty of relating the social cost to the amount of conservation achieved makes any social accounting very complex.

## Social Control Through Property and Contract Rights

## Liberty, Equality, and Democracy

Liberal thinkers of the eighteenth century often looked upon individual property rights as one of the means of checking the influence of the state and the king. This was a reaction to despotic control where the sovereign and the state were synonymous. In many cases, however, they failed to realize that while it might be beneficial to society to reduce the influence of the state under autocracy, this might not be true under a democracy when the state represented the people. The framers of the Constitution of the United States, like their contemporaries amongst the English and French liberals, were very much concerned about the individual's freedom of action and embodied the concepts of liberty and equality in this document. These two ends, however, are partly inconsistent because equality, to be absolute in an economic sense, implies an equal distribution of property which would destroy the liberty of the individual to acquire property.

The framers of the constitution emphasized liberty, and property and contract rights were accepted as essential rights of the citizens. Historically, we have seen a constant conflict

between individual liberty and the right of the state to control. Both sides claim to represent "Democracy," and this results from a failure to distinguish between individual freedom and democracy. Democracy means the rule of the people directly or through their representatives, and this rule can only be effected by the use of majority decisions and the corresponding coercion of a minority where necessary. This inevitably means a limitation of the freedom of the individual, and these limitations progressed rapidly as society became more complex and more interdependent. On the other hand, the limitation of the freedom of some individuals may expand the liberties of others; the relationship is well expressed by Professor Commons in the phrase "collective action, controlling, liberating, and expanding individual action."<sup>13</sup>

Limitation of property rights does not, therefore, conflict with the concept of democracy, but in many cases it represents the logical result of attempts to achieve it; it does, however, represent a limitation of individual freedom. The writers of the constitution recognized that there must be some limitations of property rights, and the three main types.foreseen by them were (1) taxation, (2) eminent domain, and (3) those rights of the states which were later embodied in the concept of the police power plus the similar rights of the Federal government to regulate commerce and promote public welfare. The rights of the individual were protected by the 14th amendment stating that he "shall not be deprived of life, liberty, or property without due process of law." It is through the interpretations of conflicts that the concepts of property and control have been changed and developed by the Supreme Court. The Court's function of acting as a check upon legislation developed out of the necessity of resolving conflicts between Federal, state, and individual rights.

<sup>&</sup>lt;sup>13</sup>John R. Commons, Institutional Economics, The Macmillan Co., New York, 1934, p. 92.

## Eminent Domain and Public Ownership

Eminent domain represents the right of the state to acquire the property of an individual when it needs to do so. It is directed against a single person and his property, and compensation has to be paid. It can not be used to regulate the use of property by an individual but only to change the ownership. In regard to conservation, the main use of eminent domain is in acquiring public ownership where this is deemed expedient and necessary.

Public ownership gives the most complete form of social control over land use in that all the property rights become vested in the state. The main limitations to this method of control lie in the fact that it is exceedingly costly (except when confiscation without compensation is resorted to and then it may be unjust) and is only adapted to those uses which do not require a great deal of intensive supervision. It is particularly applicable to forest and grazing areas where land is cheap and may revert to government ownership through tax delinquency, and where supervision is relatively simple. In the case of arable farms, the cost would be extremely high and supervision difficult.

#### Taxation

Easements represent the right of an individual to obtain access to his property over that held by another, through a court decision and the payment of compensation. This is similar to eminent domain in that the withholding power of the individual is restricted. Taxation, like eminent domain, also takes something away from the owner, but it differs in that taxation is directed to a group and not to an individual and does not affect any of the remaining property rights. Taxation might be used more widely as a method of controlling land use, providing that it is directed towards all persons

in a stated group or is related to specific services rendered. It is doubtful if punitive taxes aimed at persons who did not conform to a specified land use pattern would be upheld by the courts while a high property tax with rebates permitted for cooperation in a conservation program might be accepted.

The Wisconsin forest crop law, with an annual tax of 10 cents an acre and a 10 per cent tax levied on the cut, represents a movement towards a taxing system related to land use. Similarly, woodlot tax exemption or reduction laws current in many states might be expanded to include permanent vegetation of all kinds. How far this instrument could be used would depend upon the attitude of the Supreme Court and its interpretation of the "reasonableness" of the measure. In general, the taxes or tax rebates would have to be related to easily definable land uses and could not be based upon such an intangible concept as conservation; in spite of these limitations there appears no reason why tax rates on land might not be differentiated on the basis of whether it was used for intertilled crops (or specific crops such as corn, cotton, or soybeans), small grain, rotation meadow, or permanent pasture. Contrasted to the present taxes in many counties, this would appear to be a much more logical basis of taxation. Lower taxes on non-exploitive crops relative to those imposed upon exploitive crops would tend to raise the comparative advantage of a conservational system of farming. To a large extent the use of differentiated land values within a farm, or the use of slope and soil type classes, would have a similar effect.

# The Police Power and Zoning

The police power, which was originally vested in the states, has grown in importance as the concept of property as an absolute right has moved towards the concept of property as a social institution through adjudication and legislation. In the United States the police power is characterized by two concepts; it aims to secure and promote the public welfare, and does so by restraint and compulsion. It differs from eminent domain in that the owner keeps his property but is subject to regulation in the use of it and receives no compensation. The regulations are usually negative but may also be positive. Originally the "bill of rights" appears to have been designed to check executive power and be a procedural rule so that any individual could claim a hearing before a court. Conflicts over the powers of the states, however, led to the interpretation of laws by the Supreme Court, and finally the laws themselves became subject to judicial review to determine whether they were in harmony with the constitution or not.14

This has meant that the courts in this country have limited the powers of the legislatures, and the exercise of the police power has developed subject to two checks; first, the regulations must be directed to health, morals, public safety, or general welfare, and secondly, they must not be unreasonable in the eyes of the courts.<sup>15</sup> The basic problem lies in enacting measures that will further public welfare and at the same time protect the individual from loss. In contrast to the development of restrictions upon legislative powers as developed in this country, most European democracies have made no attempt to limit legislative powers but have permitted the courts to award damages when an act affected the value of property held by an individual. Today the application of the police power to control land use is much more feasible than it was ten years ago, because of the gradual acceptance by the Supreme Court of the idea of social control.

The major application of the police power to land use problems has been in city zoning ordinances where the power

<sup>&</sup>lt;sup>14</sup> For an excellent historical background, see W. B. Hastings, "The Police

<sup>&</sup>lt;sup>16</sup> The final decision is made by the Supreme Court. As Felix Frankfurter puts it, "The Supreme Court mediates between citizen and government; it marks the boundaries between state and national authority," *Encyclopaedia of the* Social Sciences. op. cit., Vol. XIV, p. 474.

has been delegated by the state through an enabling act. The question as to whether these ordinances may be retroactive or not has not yet been settled; in some cases state supreme courts have decided for a retroactive application and in others against it. The police power has also been used to regulate private forestry, and as early as 1908 the Supreme Court of Maine agreed that forest owners are required to handle their property in such a way as not to injure public interests, and gives the state power to regulate lumbering, to protect streams, and maintain the productiveness of the forests.<sup>16</sup>

The most important application of the police power affecting non-urban land use has been the development of zoning by counties in Wisconsin and Minnesota. Enabling acts gave the counties the right to establish land use zones, usually three in number: forest zones in which residence and agriculture is not permitted, recreation areas in which residence but not agriculture is permitted, and open areas in which no restrictions apply. Methods of holding public hearings, determining boundaries, and hearing complaints have been established, and the problem of non-conforming users remaining in the zoned areas has been attacked through land purchases and resettlement. The major benefit of zoning is that maladjustments in land use are prevented; its use to eliminate present maladjustments in agricultural land is limited by the difficulties of defining "zones," except in broad terms, and the difficulties that arise in making it retroactive.

The application of zoning or other statutory legislation aiming at the achievement of conservation is limited by two basic considerations: the enactment must be such that it deals with specific factors; it must also be enforceable at a low cost and with as little coercion as possible. For this reason,

<sup>&</sup>lt;sup>18</sup>See Henry L. Graves, "Public Regulation of Private Forests," Annals Am. Acad. Polit. Sci., May, 1909.

the delegation of authority to local groups is probably essential because they are best able to judge the practicability of the measures and the willingness of the majority of farmers to accept them. This method of control is particularly suited to areas where exploitation results in social damages. It might also be used in connection with other methods of control such as subsidies in order to prevent the development of exploitive farming in the future. Where soil conservation districts have the right to force a minority to cooperate to promote the general welfare, a typical example of an extension of the police power is revealed.

The right of the state to delegate the powers to pass land use ordinances has been accepted in some states, and the constitutionality of such acts have been upheld by federal district courts and state courts. Legality alone, however, is not the sole criterion of a useful law; it must also be enforceable, and the larger the minority opposed to the measures the greater is the difficulty of enforcement, and the measures may collapse. A balance between resentment against control, because of its limitation of freedom, and the urgency of the social need must be made; once the controls are established they tend to become part of the institutional framework and are accepted like the weather and taxes.

## Contract Rights

Limitations on contractual relations have followed a pattern similar to limitations upon property rights and have developed in the direction of protecting persons with weak bargaining power; the abolition of slavery, the legalization of unions and cooperatives, elimination of child labor, and wages and hours legislation represent the major developments.

In the field of land use, tenure and mortgage legislation modifying contractual relationships have important indirect effects upon conservation. Insecurity of tenure operates

against conservation, and legislation which limits the rights of the landlord and tenant to terminate a lease upon short notice, which extends the length of the lease, or establishes compulsory arbitration of disputes, all tend to give both owner and tenant greater security, and this encourages longtime planning. Similarly, legislation giving the tenant the right to claim compensation for unexhausted improvements, and the landlord the right to claim damages, also encourages conservation by giving greater security to investments in soilbuilding practices and crops. In some areas legislation of this nature should run concurrently with other conservation measures if conservation is to become permanent.

The problem of mortgage payments is associated with two factors; the interest rate, and the rapidity with which the capital is repaid. Legislation eliminating excessive interest rates resulting from monopoly, inefficiency, or custom may encourage conservation by making it more economic for the individual. Since the establishment of the Federal Land Bank system, however, the major field of adjustment lies in relating the ability of the borrower to pay to the length of the mortgage. This may be done by legislation which automatically extends the mortgage period when income is reduced through loss of crops due to drouth or pests or through a decline in prices. This would relieve the pressure to disinvest which occurs when fixed cash payments remain high while income declines. Much legislation which was originally considered for an emergency might well become a permanent part of our institutional pattern, and compulsory extensions of the mortgage period appear to be of this kind.

# Problems of Conservation Planning

When we attempt to relate the various means of social control to the various social and economic causes of exploitation, the complexity of the problem and the need for cooperation between all agencies dealing with agriculture is revealed. The problem of conservation of all resources is further complicated by the fact that the method of control must also vary with the type of resource involved. Conservation of our soil resources, when it is economic for the individual or society, does not imply lower economic returns now, but rather the stabilization of returns at their present level, and an increase in present prices is not a necessary concomitant. In the case of exhaustible (fund) resources, conservation implies a reduction in the present rate (unless the present rate is the most economic one) of use and higher prices for the commodity in the present. As Hotelling<sup>17</sup> has shown, this will occur under monopoly conditions; there is, therefore, an economic basis for public ownership of exhaustible resources as well as for those flow resources, such as fish and game, when capital values cannot be allocated through private ownership. Where public ownership is not feasible, rigid social control under the police power, with private monopolies closely supervised by the state, provide an alternative solution.

This does not imply that private monopoly and public monopoly would achieve the same results. A public monopoly has the advantage of returning to society (in social services or lower taxes) all surpluses above costs resulting from the higher prices. To some extent these results may be achieved by the use of a high income tax or by a severance tax when private monopoly is permitted. Which is the most practical solution will depend upon political and administrative factors. In the case of commercial fishing, licenses to take stated numbers of fish might be auctioned to competing fishing companies or issued at a nominal sum in conjunction with a high excess profits tax. For recreational purposes, fees for licenses should be low and the numbers taken limited as is done by existing game laws.

<sup>17</sup> Harold Hotelling, "The Economics of Exhaustible Resources, op. cit.

The problem lies in finding the most practical method of reducing a too rapid rate of use and at the same time preventing the increase in consumer prices from creating excessive profits for private individuals. This may be done through public ownership, through private monopoly under government supervision and special taxes, through competitive bidding for government controlled privileges, or through price fixing and rationing. The selection of the best method of control turns on the type of resource and also the present economic conditions under which exploitation is taking place. These considerations are touched upon here to show that soil eonservation is only one of many conservation problems and to indicate the limited though related scope of this study.

There can be no final answer to many of the problems outlined in this chapter until we develop techniques of making estimates and methods of measurement which will provide the necessary factual background for social accounting and policy formulation. Also, it may be pointed out, factual material is of little value unless programs and policies are formulated with insight into the complexity of the relationships involved. The development of conservation over the wide areas in which it is needed will not be achieved rapidly; it is a longtime program, and as such it may well be sound social economy to spend both time and money in experimentation with various methods of social control and the evaluation of their results.