



OF CABBAGES AND KINGS COUNTY

AGRICULTURE AND THE FORMATION OF MODERN BROOKLYN

Marc Linder and
Lawrence S. Zacharias

University of Iowa Press  Iowa City

F
129
.B7
L56
1999

University of Iowa Press, Iowa City 52242

Copyright © 1999 by Marc Linder and

Lawrence S. Zacharias

All rights reserved

Printed in the United States of America

<http://www.uiowa.edu/~uipress>

No part of this book may be reproduced or used in any form or by any means, electronic or mechanical, including photocopying and recording, without permission in writing from the publisher. All reasonable steps have been taken to contact copyright holders of material used in this book. The publisher would be pleased to make suitable arrangements with any whom it has not been possible to reach.

Printed on acid-free paper

Library of Congress Cataloging-in-Publication Data

Linder, Marc.

Of cabbages and Kings County: agriculture and the formation of modern Brooklyn / by Marc Linder and Lawrence S. Zacharias.

p. cm.

Includes bibliographical references and index.

ISBN 0-87745-670-4

1. Brooklyn (New York, N.Y.)—History. 2. Brooklyn (New York, N.Y.)—Economic conditions. 3. Land use, Rural—New York (State)—New York—History. 4. Urbanization—New York (State)—New York—History. 5. Agriculture—Economic aspects—New York (State)—New York—History. 6. Farms—New York (State)—New York—History. I. Zacharias, Lawrence. II. Title.

F129.B7L6 1999

333.76'13'0974723—DC21

98-51779

99 00 01 02 03 C 5 4 3 2 1

Publication of this book was made possible in part by a grant from the Iowa Law School Foundation.



8. THE IMPACT OF PROPERTY TAX LAWS ON DEAGRICULTURALIZATION

The old Dutch farms, that have been so carefully tilled for over 250 years, have at last given way to beautiful gardens and level lawns surrounding palatial homes, the abode of some of Brooklyn's worthiest men.

— Charles Andrew Ditmas, *Brooklyn's Garden*, 1908

A commonplace of modern land-use planning is that as property-tax rates rise, in the wake of (sub)urbanization, to reflect more intense and “higher” economic uses, farmers, whose lower-order, market-evaluated activities are not sufficiently profitable to support tax rates appropriate to industry and housing, are “forced” to sell their land — to buy cheaper farmland in areas farther removed from the urban housing frontier, to retire, or to move elsewhere to enter another occupation. In 1976, for example, the *New York Times* quoted a farmer in Putnam County, north of New York City, who paid \$4,000 in taxes in the 1940s and \$30,000 on his 700 acres three decades later: “Farmers are being forced out.” With such crucial socioeconomic processes relegated to the status of “journal-fodder” in the self-help pages of the real-estate section in the newspaper of record, disbelief once again prevails with regard to farming’s prosperity in other counties in and bordering on New York City: “farms are nearly extinct in Westchester and Nassau Counties. . . . It is difficult to believe today that Queens County as well as Nassau were, until 20 years ago, major centers for dairy farming.”¹

Some local historians, applying the twentieth-century tax-coercion explanation to the nineteenth century, assert that the “new tax rates” in the new city of Brooklyn following the annexation of Flatbush and the Kings

County villages in 1894, “forced farmers to sell to developers.” However, unpublished census manuscript schedules, assessment rolls, and federal income tax assessors’ lists suggest that such speculative assertions are unfounded. In fact, Kings County farmers had been selling out long before 1894; tax rates did not rise significantly following annexation; and rather than being “forced” by high taxes, farmland owners were motivated by the enormous rise in land prices to sell. Moreover, contrary to the received wisdom, agricultural property tax preferences did not begin in the 1950s: like their counterparts in other states in the nineteenth century, farmers in all the rural towns of Kings County (except Flatbush) enjoyed a statutorily conferred agricultural tax preference following annexation in the 1880s and 1890s.²

TAX BURDENS

Judge Lott said this was the first time he ever knew a Dutchman to refuse to take anything in the shape of property.

— “Consolidation: The Consideration of Judge Lott’s Plan,”

Brooklyn Daily Eagle, September 10, 1873³

The tax per acre of agricultural real estate in New York State did not rise during the 1890s, and the general tax rate for the city of Brooklyn as a whole actually declined in the wake of annexation. After consolidation into New York City in 1898, the tax rate in Brooklyn fell once again. From a post–Civil War high of \$3.78 per \$100 of assessed valuation in 1867, the Brooklyn tax rate fell to \$2.31 in 1882; it rose again to a high of \$2.94 in 1889, and then declined slightly to \$2.85 in 1893; despite some fluctuations as Brooklyn underwent expansion and then consolidation as part of New York City, the tax rate as the century closed (\$2.36 in 1899) was close to its lowest point in decades. The rates in the rural towns followed no uniform patterns, increasing in some instances more in the years immediately preceding annexation than afterward.⁴

Before exploring the tax data, it is necessary to understand how the total tax to be collected was determined and what the state tax encompassed. The state legislature fixed the amount of state tax to be raised from property assessments based on previous property valuations and apportioned it among the counties in accordance with their total assessed valuations; the county tax was similarly apportioned among the towns. The property tax in New York State was, seemingly, a comprehensive wealth tax, but the manner in

which local assessors determined assessments for the state and county created “a rivalry among local assessing officers for advantage to their respective districts by low assessments of property, resulting in gross inequalities and discriminations.” A legislative committee reported in 1863 that New York’s tax laws, not having been materially changed in a half century, had become outdated since “the agricultural element was [no longer] the absorbent of almost the entire property.” But the legislature failed to amend the law for many years to come.⁵

Significantly, property assessments and taxes were public information, widely disseminated, known, and discussed. Publicity was designed to help police the system by sustaining pressure to report and assess fully and accurately. The *Rural Gazette* frequently alluded to John Lefferts as the biggest taxpayer in Flatbush, and published a list of the largest taxpayers in Flatbush and Flatlands.⁶

The property subject to tax embraced both real and personal property. The tax on personalty included “all household furniture; monies; goods; chattels; debts due from solvent debtors, whether on account, contract, note, bond or mortgage; public stocks, and stocks in monied corporations.” The statute also exempted from taxation all property exempted by law from execution. The various homestead exemptions would not have shielded much of the personal household property of very wealthy families such as Ditmas, Lott, Lefferts, or Vanderbilt. Rich families could, however, benefit from the statutorily provided-for deduction of their “just debts” from the value of their personal property. Taxpayers submitted affidavits attesting to the amount of these debts.⁷

Such tax avoidance was hardly confined to the landed rich among the Kings County Dutch. New York State revenue and tax officials repeatedly declared the treatment of personalty in general and the setoff for debts in particular to be a source of great inequality. In 1858 the comptroller charged: “It is a notorious fact, that practically a large portion of the personal property of the State escapes taxation. The devices and fraudulent practices of those owning personal property to escape taxation, are so generally resorted to that it has become almost impossible to procure assessment of such property.” The next year the comptroller focused on the setoff: “When the assessors come, the ‘just debts’ are easily swelled to meet the exigency of the occasion; and not infrequently they are manufactured for the purpose of being used in that manner. The consequence is, that immense amounts of personal property liable to taxation, entirely escape.” As soon as the state assessors office was created, these officials stated their agreement with the

comptroller, calling the deduction of indebtedness “equivalent to a premium for perjury and fraud, and destructive of any just system for taxation.” Again, in 1871, commissioners appointed to report on tax law revision confirmed that nothing is “more easy than to create debts for the purpose of diminishing valuation, which no investigation on the part of the assessors will suffice to prove fictitious.” The assessed value of personal property in Flatbush fell so sharply during the 1870s (from \$919,000 to \$282,000) that the *Rural Gazette* conjectured that it would soon disappear there altogether.⁸

Kings County farmers, by and large, did not declare significant, or even any, personalty — William Williamson, whose taxes and farm profits are analyzed below, was one of the few exceptions. Taxpayers who did declare large amounts of taxable personalty were largely retired from farming, rented out land, or had not been involved in it such as the Ditmas and Cortelyou families, the Lefferts and Vanderbilt families, and the Willink and Ludlow sisters, respectively. Whereas John Lefferts always reported considerable personalty (in many years in excess of \$100,000), John A. Lott often declared none at all. Although most farmers did not declare any personal estate, for those, like Williamson, who did, it is not possible to identify the components of the personal estates; it is therefore unclear whether their personalty represented savings, expensive furniture, or carriages. In Williamson’s case it is also unknown why the value of his personal property fell so sharply in the 1860s — or whether, like many New York property owners, he was merely failing to disclose ever larger proportions of his personalty.⁹

The data on property taxation, which combined town, county, and state taxes, may shed important light on the forces propelling the decline of Kings County agriculture. In examining property taxes, it is important to note that whereas valuations remained relatively stable — the Kings County commissioners of taxes and assessments were, according to the state assessors, “careful and discreet men” — the rate of taxation and thus the total amount of tax paid by individuals and towns or counties fluctuated considerably from year to year. John A. Lott, for example, owned an 87-acre farm, which was valued at \$53,810 from 1873 to 1877; his tax rose from \$837.65 to \$931.56 from 1873 to 1874 because the rate increased from 1.56 percent to 1.73 percent, whereas a fall in the rate from 1876 to 1877 caused the tax to drop from \$830.75 to \$740.42.¹⁰

Table 23 shows the rate of taxation in Flatbush and Brooklyn during the decades preceding the absorption of both into New York City. During the post-Civil War period, property situated outside of the gas district — which for the purposes of this study comprised the farming districts to the

east of Flatbush Avenue, the heart of the village, where gas streetlighting was introduced — was subject to a tax rate that, despite fluctuations, did not permanently reach a significantly higher plateau until the early 1890s. The county's preeminent farmer-capitalist, John Lefferts, underscored the link between taxation and lighting even to farm residents of the gas district. In a letter to the Flatbush highway commissioners in 1880, Lefferts requested that two lamps be erected and lighted at specific locations on East New York Avenue: "As I pay gas tax on the whole of my farm I believe my request is a just one." Since Lefferts was not only treasurer of the Flatbush Gas Company but also the biggest individual taxpayer in Flatbush, paying almost \$2,500 on his 90 acres — on which his son James harvested 7,500 bushels of potatoes — five houses, greenhouse, and \$60,000 in personalty, and accounting in some years for one-fifteenth of the town's entire tax receipts, his justification cannot be denied a certain force.¹¹

The rate as late as 1891, 1.31 percent, was actually lower than it had been in 1865 (1.45 percent). Tax payments by farm owners outside the gas district show little absolute increase during the intervening years. Although tax rates in the gas district were consistently higher, they, too, did not permanently reach a higher level until the advent of other urban services such as schools and sewers in the late 1880s and early 1890s. The gap in property-tax rates between the city of Brooklyn and Flatbush was large during the last third of the nineteenth century; often the Brooklyn rates were more than twice as high. By the 1880s, that is, more than a decade before annexation, the gap began to close; by the time of annexation in the mid-1890s, the Flatbush rate, as opponents had always feared, even exceeded Brooklyn's. But this phenomenon was short-lived: by 1899, the year after the formation of Greater New York, the tax rate for Brooklyn was lower than it had been since the Civil War (with the exception of 1882). Thus, rather than imposing Brooklyn rates on the suburbs, annexation effected a convergence between the two.

Since taxes can be raised by increasing tax rates and/or valuations, the product of both, the amount of tax paid (per farm acre), is the best measure of the trend in tax burdens. In 1853, when the Flatbush assessment rate was less than 0.5 percent: such a large farmland owner as Jeremiah Lott paid only \$280.70 on 164 acres of farmland assessed at \$31,444 (in addition to a \$25,000 personal estate), and John C. Bergen paid only \$90.16 on 90 acres assessed at \$17,830. Such tax payments, however, are not meaningful until they are set in relation to enterprise-level microdata.¹²

Table 24 displays the course of assessments and tax payments for a large

Flatbush farmer, William Williamson, who farmed on his own land into the 1880s. The account begins with 1860, when he was 42 years old, and ends in 1893: in 1894 Williamson finally subdivided his farm. The key variable in table 24 is the tax on real estate. It has been separately calculated (as it is not in the assessment rolls) because the tax on personalty is largely irrelevant to the impact of taxes on the viability of farming. Even after this factor has been segregated out, the real-estate tax does not reflect exclusively the price of the farmland because the assessed value includes the value of the house — in Williamson's case, of several houses; between 1860 and 1890, the number of houses on his land increased from one to four. Despite the modest increase in assessed value between the census years of 1870 and 1890, the total and per acre real-estate tax actually dropped slightly. Indeed, between 1870 and 1880, while the assessed value of the real estate declined by 25 percent, the total and per acre real-estate tax plummeted by 57 and 61 percent, respectively. During this decade, the value of Williamson's total farm output almost doubled — from \$5,500 to \$10,000.¹³

That Williamson's enterprise was prospering during these years is confirmed by the taxable income that he reported for purposes of the income tax that the federal government imposed between 1862 and 1871. In this last year of the tax, he self-declared \$838.78 of taxable income in excess of all his business expenses and a \$2,000 exemption. This net income or profit was more than half the total value of his production the preceding year. Nor was that year's profitability a fluke. For the tax year 1869, he reported taxable income of \$2,546.94 over and above the \$1,000 exemption; and for the years 1863, 1864, and 1865 he reported taxable income, in addition to the \$500 exemption, of \$1,060.76, \$1,902.79, and \$1,781.85, respectively. Such magnitudes do not suggest that property taxes were interfering with Williamson's capacity to operate his farm profitably.¹⁴

The situation after 1890, however, changed significantly. From 1890 to 1893, the assessed value of Williamson's real estate rose by 63 percent while his property-tax bill jumped 117 percent even after he had stopped adding new houses. Although the loss of the manuscript schedules of the 1890 census makes it impossible to reconstruct the course of Williamson's operations after 1880, macrodevelopments in Flatbush farming during the 1880s suggest that Williamson probably did not continue to double his output. If his output did stagnate or decline by the early 1890s, the fact that he subdivided all his land in 1894 is hardly surprising.¹⁵

The higher tax rates in the gas district were not so much the cause of the earlier cessation of farming there as symbols of the intrusion of (sub)urban

life, which was increasingly inconsistent with farming. Although by the 1880 Census of Agriculture all of the handful of surviving owner-farmers were concentrated east of Flatbush Road outside the gas district, much of the farmland in the gas district was rented out to tenants. Tenancy was not, however, correlated with the differential levels of taxation: it antedated the introduction of gas lighting, and many of the farms lying along or adjacent to Flatbush Road had been operated by tenants for decades.

If the ad valorem tax of 2.29 percent of Flatbush in 1890 had actually been applied to the full value of the average Kings County farm, which was 41 acres and worth \$844 per acre in 1889 for a total of \$34,604, the owner would have incurred a tax liability of \$792. In New Utrecht the liability would have been \$924. With assessed valuation running at only 60 percent of "true" valuation in Flatbush, the liability would have been limited to \$475; the 45.1 percent ratio in New Utrecht would have limited the property tax bill there to \$417. These sums presumably would have been significant for most farmers, but there is evidence that assessments of farmland were relatively even lower than the average. For nonwealthy farmers, and especially for immigrant owners with mortgages, however, even a few hundred dollars must have been an appreciable deduction from funds available for accumulation and family consumption at a time when the average farm produced products valued at \$3,531 annually. Only 10 years earlier, before the land boom had erupted, when the 1880 census reported an average land value of \$474 per acre and average farm size of 25 acres, the resulting total value of \$11,850, or a third of the average in 1890, would have been subject to a much less burdensome tax liability — closer to \$150 for a farm producing products worth, on average, \$2,983.¹⁶

The trend in farmland taxes in the other rural Kings County towns was similar to Williamson's, although they remained at lower levels. In Flatlands, per acre real property taxes for a group of the largest farmers rose from \$0.90 in 1860 to \$2.47 in 1870 before declining to \$1.85 in 1880. These amounts represented quite modest deductions from profitable operations. Even as late as 1890, the average per acre tax of \$3.11 was only about one-third of Williamson's tax. Even in 1892, when the average exceeded \$5, it still remained far below the more than \$17 that Williamson was paying. In Gravesend, the course of agricultural land taxes between 1860 and 1880 closely tracked that in neighboring Flatlands, but thereafter, under the pressure of the relentless development of the beachfront resorts, taxes rose more sharply, reaching almost \$9 per acre by 1893. However, as the surviving account books of William Bennett, a large Gravesend potato farmer, attest,

even such taxes did not undermine profitable operations: of the more than \$32,000 in profits that Bennett recorded between 1883 and 1893, his property taxes represented less than 10 percent.¹⁷

These quantitative studies for Kings County do not gainsay the reality of tax-induced pressures on market gardeners. At the turn of the century in the Boston area, even though rising land prices “laid the foundation of fortunes” for market gardeners,¹⁸ complaints were voiced that:

near-by market gardeners are now suffering from burdensome and often unjust taxation. Situated within the rapidly growing towns, and near large cities, they are compelled to carry their proportionate part of the expensive improvements in the central portions of those towns, often receiving but little or no direct benefit from them.

The solution of this problem can only be found in the gradual absorption and cutting up into house lots, of those farms, thereby compelling those continuing in this line of business, to move back where lands are to be had cheaper, and where therefore taxation is lower. It is the opinion now of many that this condition should be adjusted, even by legislation if necessary, so as to give encouragement to those who are continuously doing so much for the advancement of agriculture.¹⁹

PROPERTY TAX PREFERENCES FOR FARMERS IN THE NINETEENTH CENTURY

Flatbush real estate has been the cause of much prosperity. One farm sold some eight or nine years ago [1899–1900] for the total valuation of 1817.

— Charles Andrew Ditmas, *Brooklyn's Garden*, 1908

In fact, several states did tailor tax adjustments to urban market-gardeners in the nineteenth century, and Kings County farmers were among the prime beneficiaries of such intervention. The manifold forces constraining farmers' decisions to keep farming or to sell out were complex, but one fallacy underlying the empirically unsupported claim that property taxes forced Kings County farmers out is the belief, held by many land-use planners and scholars, that no state enacted a preferential tax law for farmland until 1956, when Maryland required that: “Lands which are actively devoted to farm or agricultural use shall be assessed on the basis of such use, and shall not be assessed as if sub-divided or on any other basis.” According to A. M. Woodruff, a land economist and planning commissioner: “Starting

with Maryland in the 1960s, a movement spread throughout most states to tax fringe farmland not on market value but on usufruct.”²⁰

Such views, however, are amnesiac. Many states conferred various types of tax preferences on farmland owners in the nineteenth century in connection with the incorporation of such land into the burgeoning cities. One form in which states lightened the tax burden of urban farm districts was to relieve them of the obligation to contribute to the cost of supporting city services, such as police, fire, and lighting districts, which were deemed unnecessary for farmers. The New York State legislature treated the agricultural wards, such as Gowanus and Bushwick, that were incorporated into Brooklyn in 1834 and 1854 in this manner.²¹

In the wake of extending the corporate limits of its largest cities, Pennsylvania required assessors in Philadelphia in 1856 to assess and collect only two-thirds of the city tax rate on real estate used for agricultural purposes; in 1868 the legislature reduced this agricultural rate to one-half of the highest rate. Two years later, in extending the boundaries of the city of Erie, the legislature required the city government to “discriminate in laying the city taxes as not to impose on the rural portions those expenses which belong exclusively to the built up portions” such as those associated with lighting, paving, police, and water. In 1859 Connecticut limited the assessment of city tax on lands used exclusively for farming purposes within the territory annexed to Hartford that year.²²

Nor were such special provisions for farms located within areas annexed to cities confined to the citified East. As early as 1833, and continuing for many years, Kentucky withheld from the city of Louisville the power to tax rural areas that the legislature permitted it to incorporate. Even rural Iowa enacted a city limits extension law in 1876 providing that no land within the new city limits that was not “laid off into lots of twenty acres or less . . . and which shall also in good faith be occupied and used for agricultural or horticultural purposes, shall be taxable for any city purpose.” In upholding the statute in 1887, the Iowa Supreme Court opined: “Where the limits of a city are extended so as to take in what is used essentially as a farm, there is much reason for exempting it from city taxes.” That court also explained the background to the intensively litigated disputes over the tax status of urban farmland in 1864: “the immigration to this State was heavy, and the growth and improvement of our river towns . . . were rapid, not to say marvelous, the population, in some instances, flowing over and beyond their chartered limits.” When the legislature enlarged these cities’ corporate boundaries, it took “very much more territory than was needed for immediate population

and building purposes; in view, perhaps, of prospective enlargement of the same.”²³

From the mid-nineteenth century forward, farmers whose land had been incorporated into nearby cities challenged the constitutionality of any taxation on the grounds that they received no benefits from the urban services that their taxes financed. The details of these political-economic and constitutional-doctrinal struggles are not relevant here — in Kings County the issue was not whether in principle farmers in the towns annexed to Brooklyn could be taxed, but whether they would receive tax preferences. But the U.S. Supreme Court’s rejection in 1881 of a Pennsylvania farmer’s claim that the tax had violated his rights under the Fourteenth Amendment to the U.S. Constitution by depriving him of his property without due process of law is particularly illuminating because the facts that he alleged were so extreme that they lent strong support to the argument that city taxes “force” farmers out of business.²⁴

James Kelly owned an 80-acre farm, which came within the consolidated city limits of Pittsburgh after the state legislature had extended them in 1867. He asserted that because the city had not filled in its original limits, not only did much vacant land separate the city’s inhabited portions from his farm, but a generation or even fifty years would pass before the city would need his land for its growing population; in the meantime, Pittsburgh had failed to spend a dollar to enhance the farm’s value. Under these circumstances, Kelly argued, the city lacked any right to interfere with his property — “until the natural growth and multiplication of numbers and extension, and reasonable business of the city shall require the use of his . . . farm for city purposes.” This concession was significant for its acceptance of the “natural” character of the process by which cities absorbed farmland and converted it into an incompatible use. In the meantime, however, the city assessed Kelly’s farm at \$244,000 — this \$3,050 per acre value far exceeded all other countywide farm values in the 1870s — and levied a tax of \$2,672.48 for 1874. Since, according to Kelly, “the greatest productive income or value” of his farm was a mere \$10 per acre or \$800 for the whole farm, the tax was tantamount to “confiscation” — especially since he owed an additional \$428.47 in state and county taxes.²⁵

A tax bill that was almost four times the farm’s net income was a spectacular illustration of every antiannexationist farmer’s worst nightmare and thus the best imaginable propaganda. The master to whom the case was referred found that at least some of Kelly’s allegations concerning the lack of

city services were accurate, but he also reported that even before consolidation the value of Kelly's farm, which had been close to the city, had risen in tandem with Pittsburgh's growth and prosperity "until it became very great." Consequently, any interference with the city's development brought about by a reduction in tax revenues needed for providing services would "seriously affect the value" of the farmland. Therefore, Kelly's claim that he received no special benefits was misconceived and "the idea that taxing unproductive property according to its market value is confiscating it" was equally mistaken.²⁶

Despite the impressive numbers pointing clearly toward bankruptcy or a forced sell-off and abandonment of farming, the Pennsylvania Supreme Court displayed even less sympathy, subtly suggesting that Kelly may have been a mere speculator. Without being able to divine the meaning of Kelly's argument that the city's tax power had to be suspended until the farmland was needed for city uses, the judges suspected that what Kelly really meant was that an annexed farmer could not be taxed "until the city is so nearly built up to his lands that they may be advantageously laid out and sold as city lots." Kelly's complaints about the disparity between burdens and benefits were hardly novel: "if direct personal benefit were to form a criterion for taxation we should have half the community clamoring at our doors for relief." After all, Kelly was not only no worse off than the childless who had to pay school taxes, but he had already received relief from the state legislature in the form of the statute mandating a 50 percent reduction in municipal tax rates for rural lands. The U.S. Supreme Court was also unable to muster much sympathy for Kelly's plight. His taxes might have borne "a very unjust relation" to the benefits he received: "But who can adjust with precise accuracy the amount which each individual in an organized civil community shall contribute to sustain it?" The Court consoled him with the prospect that even if the streets did not penetrate his farm, they at least led to it, and the waterworks "will probably reach him some day."²⁷

When the New York State legislature, contingent on the approval by the electors, annexed the town of New Lots to Brooklyn in 1873, a compromise on levels of taxation for the new residents of the country's third-largest city facing large and expensive infrastructure projects was an essential component of the political process. The statute provided that: "The valuation for the purposes of taxation of lands actually used for agricultural purposes . . . shall be based upon the value of said lands . . . for agricultural purposes only." Farmers were able to mobilize a majority of voters against annexation



FIGURE 20. *New Lots farm of Jacob Rapelje, 1890s. The smokestacks in the background signal the city's encroachment. Courtesy of Peter Rapelje.*

at that time, but when it was finally implemented in 1886, the legislature provided that: "For the purposes of taxation the real estate included within the territory hereby annexed shall be assessed at the value of the land for agricultural purposes, unless the same shall have been, at the time this act shall take effect, or shall thereafter be divided up into building lots, and a map thereof filed in the office of the register of deeds of the county of Kings, or in the office of the board of assessors of the city of Brooklyn, and a sale or sales referring to such map made or unless the same shall have been otherwise sold as a building lot or used as such."²⁸

The vitality of the 1886 New Lots provision was demonstrated by a decision of the state's highest court in 1891. Stephen L. Vanderveer owned a 109-acre farm located in Flatbush, Flatlands, and New Lots. In 1888, the Brooklyn assessors assessed Vanderveer, who resided on the 30-acre segment located within New Lots, on the whole farm including the parts lying outside of Brooklyn. Although the Court of Appeals decided the case against Vanderveer because another state statute specified that such farms were to be taxed in the county or ward where the occupant resided, no one contested the validity of the special assessment rate for agricultural purposes.²⁹

When the New York State legislature at last gave effect to "the manifest

destiny of the towns” to join Brooklyn by enacting annexation legislation in 1894, consolidating Kings County and the City of Brooklyn on January 1, 1896, it inserted provisions identical to the New Lots agricultural preference in the statutes for Gravesend and Flatlands, the two most rural towns. Flatlands in particular was a town that, according to the *Eagle*, in its more than 250-year existence “had never until after annexation risen much above the dignity of a farming settlement” because farming and market gardening were “extensively carried on” there on the eve of annexation.³⁰

The accommodation for New Utrecht, in contrast, provided that: “The aggregate assessed valuation of the real estate . . . exclusive of the additional value caused by the erection of new buildings or other structures, shall not, during the five years commencing with the year eighteen hundred and ninety-four and ending with the year eighteen hundred and ninety-eight, be increased in any one year more than twenty per cent over and above such valuation for the year immediately preceding; and such valuation shall be deemed the ‘full and fair market value’ of such property for the purpose of taxation.” New Utrecht residents argued for this provision on the grounds that town mismanagement had brought about such a high and unjust rate of taxation that it was difficult to borrow money on property; the tax exemption was designed to induce new property buyers to move to New Utrecht. In further negotiations, representatives of New Utrecht agreed to exclude new buildings from the 20 percent provision. The aforementioned bad government included “lines of costly lights strung along fields as destitute of cultivation as they are barren of settlement.”³¹ Speaking before the Society of Old Brooklynites in October 1894, Jere Johnson, a key county real-estate figure, vividly portrayed these developments:

During the last few years the greatest extravagance has been practiced in the county towns which now form the Thirtieth [New Utrecht] and Thirty-first wards [Gravesend]. . . . [S]treets not needed for generations have been constructed at fabulous prices, and in the town of New Utrecht 4,000 gas lamps, erected principally to light grass, potato and cabbage fields, on a long contract, at an annual expense of \$130,000. Wonderful for vegetables, attractive for night bugs, bankruptcy for owner! No wonder taxes in the now Thirtieth Ward have increased tenfold in eight years. I say shame on such useless prodigality.³²

The Flatbush annexation statute alone lacked a corresponding provision. It is unclear why the legislature conferred such different levels of tax pro-

tection on the farmers of the five towns when they were annexed to Brooklyn. It is possible that the more advanced stage of deagrulturalization along with the more highly developed infrastructure in Flatbush — which was already constructing a sewer system — made it less necessary to accommodate its farmers, who were more clearly on the way out of business than were their counterparts in the other towns. If, as the *Eagle* editorialized, “Flatbush had more desire and less need of annexation than New Utrecht or Gravesend,” then the other towns’ greater need and less desire may have induced legislators to make the transition more appealing. Of New Utrecht *The Citizen Guide to Brooklyn and Long Island* noted in 1893: “Formerly the majority of its people were engaged in gardening, but it looks now as if all the farms were being cut up into streets and planted with the homes of the prosperous middle classes.”³³

This understanding of the differences among the towns that might have prompted the legislature to confer varying levels of tax protection on landowners receives strong support from the court submissions of a litigant defending the validity of the Gravesend annexation provision two decades later. The Coney Island Jockey Club argued that:

The territory contained in the towns of New Utrecht and Flatbush was of a totally different character from that contained in the Towns of Gravesend and Flatland [*sic*].

New Utrecht and Flatbush contained little farming land. Their real estate was mostly used for building lots.

The Towns of Flatlands and Gravesend contained a great amount of farming lands, and a comparatively small amount of lots valuable for building lots.³⁴

The New York press reported repeatedly on certain tax aspects of the annexation, but devoted scant attention to the favored agricultural treatment. Perhaps the most extensive discussion emerged in a statement by Brooklyn Corporation Counsel McDonald, at a hearing held by the New York State Senate Cities Committee on March 8, 1894. Emphasizing that the city of Brooklyn, which strongly advocated annexation of all the towns simultaneously or not at all, was caught in a fiscal predicament because it had almost reached its constitutional debt limit while having contracted for infrastructure projects in excess of the lawful limits of its bond issue, he noted the serious implications of annexing territories as large again as Brooklyn that were “to a certain extent rural, undeveloped and without such improve-

ments as are customary to a city.” By the same token, McDonald argued that the annexation bills embodied the town residents’ self-regarding interests; among the measures “obnoxious to the city” was a restriction of

the assessed valuation on a rural basis for a term of years and guaranteeing an increase of only a certain per cent. for the same term of years. This simply restricts the Brooklyn board of assessors by direct legislation from using the same liberty with the property in annexed districts that is used on property in the city. . . . I have the authority of our city treasurer that . . . the city cannot ignore one town at the expense of another. It must treat all with equal fairness.³⁵

It was generally known or at least believed in real-estate circles of the time that: “Rural land is assessed . . . for only a proportion of its value, and what is worse, for a very varying proportion.”³⁶ Dissatisfaction with unequal assessments had become widespread enough to prompt the *New York Daily Tribune* in 1896 to devote a long article to their excesses in Brooklyn. Purportedly reflecting “the unanimity of views” gathered from the borough’s “leading real estate and business men,” the piece repeatedly used farms in Flatbush (the new 29th Ward) as examples. Most prominent was a 45-acre farm mentioned by the counsel of the Brooklyn Taxpayers’ Association, which was assessed at \$136,400:

The land has always been used for agricultural purposes, and is now being cultivated by a tenant, who pays \$1,100 a year rent. There are no streets through the property. . . . The present use of this land is all that it is good for, as the Flatbush market is now overstocked with building lots, and no more lots are needed at present. The cash value of this farm is not more than \$35,000. . . . Taking into consideration the sale of surrounding farms, and the asking price on any terms, what right has the Board of Assessors to value this property as city lots? When valuations are made, the property should be taken as it is, its use taken into consideration as well as the income. The Assessors should not judge as to how a man ought to improve his property.³⁷

The *Tribune* reporter learned from the Assessors’ office that “discrimination of the assessment in the various towns was caused by certain legislative enactments, being a part of the various annexation acts, which had to be treated in the nature of contracts with the residents of the respective localities, and that by reason of such acts the Assessors were compelled to as-

sess the property in such towns according to its use, irrespective of value.” After quoting the special tax provisions for agriculture in the New Lots, Gravesend, and Flatlands annexation statutes, the reporter observed that the “Assessors consider that their duties under this provision are to assess the land according to the amount of produce that can be raised on it. In other words, they become experts upon the value of land for raising crops, instead of its value as land in a residential community.” In spite of the assessors’ “clear” duty under the New Utrecht provision limiting increases in valuations to 20 percent annually through 1898, the land there had become “greatly undervalued” because valuations had not risen more than 10 percent. Another expert informant stated that residents of Flatbush had been “greatly surprised” by their tax bills for 1895 showing increases of almost 50 percent; in particular, “unimproved property or farm lands were in some instances assessed at the rate of \$5,000 an acre.”³⁸

These examples suggest that the special provisions in the annexation statutes for the towns did in fact protect farm landowners from steep development-related tax increases in Kings County except in Flatbush, on which the legislature conferred no such benefit. But even in Flatbush, as another real-estate expert informed the reporter, an assessor valued vacant lots by figuring “the kind of ‘crap’ you can get out of it. Now, ‘taters’ is a pretty good ‘crap’ down there, and I think the value of those lots ought to be fixed by the amount of ‘taters’ you can raise on them.”³⁹

The precise longevity of the preferential agricultural assessment provisions of the Brooklyn annexation statutes is unclear. In 1897 a state intermediate appellate court construed the tax provision in the Gravesend annexation statute in favor of the landowner. It is unknown when the New York City tax authorities began administratively challenging the validity of the special provisions for farmers in the former Kings County towns, but the point was not judicially determined until 1912, when it was held that they had been repealed by implication by the Tax Law of 1898 or the Greater New York charter of 1898. The issue was still relevant in Gravesend where “[j]ust after the turn of century, the land still clung to its country character,” and “prosperous farmers” owned fields and meadows.⁴⁰ In a case involving the assessment of 52 parcels of 430 acres of land in Gravesend owned by the Coney Island Jockey Club, the New York City Commissioners of Taxes and Assessments had assessed the land at a value in excess of its alleged value for agricultural purposes at \$160,000. In explaining its decision, the court offered revealing detail about the purposes behind the original preferences:

The sentiment favoring urban enlargement resulted in the incorporation within the city of Brooklyn of the outlying and thinly populated territory, which had scant or infrequent need or capacities for the usual privileges, improvements and protections of the city, save as it should, from time to time, by subdivision into lots come into the uses of residence or business. To gather this outlying domain into the city and force upon it urban characteristics, which it did not have, appealed to the State as incongruous or undesirable. Hence it was included for what it was in its general extent, naked land, approximating more nearly to agricultural uses, and assessors were commanded to regard it as such, unless the owner would otherwise adapt his land in the manner indicated by the statute. Did the Legislature, after an intervening year, the territory having been brought in, capriciously reverse its policy and disappoint those who had abided by the promise that the rural quality of the land for taxation be preserved? That it could, by sheer force, have done so should not be doubted, but the act would have carried to the inhabitants of Gravesend some just sense of injury to them and of injustice on the part of the State. For in the meantime the nature of the locality could have little changed.

Although the court speculated that it was “contrary to the general policy of the State to limit for the purposes of taxation land to its value for agricultural purposes where its relation to population and the demand for it for other uses gave it a much greater value, which was its actual value irrespective of its incorporation into a city,” it held that “justice” was subordinated to power: “The town of Gravesend did not voluntarily contribute its territory or yield rights. The Legislature had full power to incorporate it willingly or unwillingly, and if the State justly or unjustly made concession to the town in the matter of taxation, it could take away at any time what as an act of grace and without consideration it had given. The matter is purely political.”⁴¹