

# THE LAND QUESTION IN THE TALMUD

An Old Viewpoint Fits Present Conditions

By SOLOMON SOLIS-COHEN



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*Sir:—Some thirty-five years ago Mr.*

*Phineas Mordel called my attention to certain passages in the Talmud concerning the ownership and occupancy of land, and I made these the basis of an article entitled, "The Land Question in the Talmud."*

*During the last few years I have received a number of requests for copies of this paper, but I have been unable to comply therewith.*

*In view of the present conditions in Palestine, and in fact, in view of the "unemployment" difficulties in all countries, it may be worth while to call attention to the subject once more through your columns, by reproducing the article in question, with some few additions.*

*Very truly yours,  
S. SOLIS-COHEN.*

That the Mosaic system of landholding as set forth in the books of Leviticus and Numbers, is in principle, though not in method, virtually the same with that advocated by Henry George, is well known. It rests upon the fundamental doctrine, that "the land is the Lord's" (and in Theocracy, the State is the Lord's agent); that

the people are given merely the use of it; and that this use belongs to all equally; and that, therefore, the land may not be sold for an exclusive and perpetual ownership into private hands.

It is not generally known, however, that Talmudic discussions not only emphasize and elaborate this theory of landholding (exhibiting incidentally a clear knowledge of the factors that give rise to land value or "economic rent"), but that the Rabbis explicitly set forth a principle which is the very essence of Mr. George's "Single Tax" system—namely that for the possession of land having superior "site value" the holder must make compensation in money to the common treasury. I am indebted to Mr. Phineas Mordel—an acute student of Hebrew literature, as well as of economics—for calling my attention to significant passages in the Gemara.

The discussion is probably academic, presenting "what should be" and not "what was," but for that reason its principles are of importance.

In "Baba Batra" 122, A, there is a discussion as to the manner in which Canaan was partitioned among the tribes under Joshua. It is stated, among other facts, that the land was allotted "according to

value" (kekesef); in connection with which, the statement is attributed to Rabbi Judah, that "an acre in Judea is equivalent to five acres in Galilee."

In further discussion of this point, it is asked: "In what respect was the allotment made 'according to value'? Does the text (a "Boraita") refer to the comparative fertility of different tracts of land, to the difference between good land and bad land?" To which the contemptuous answer is ready: "What, are we then debating about fools?" That is to say, only fools could imagine that differences of fertility alone cause the differences in the values of land in different localities. No! "according to value" means according to situation—whether it is near to, or far from (Jerusalem) ("likroba urkoka"); and from these premises is further deduced an agreement between the dictum of Rabbi Eliezer, who said that inequalities should be balanced with money, and that of Rabbi Joshua, who said that they should be balanced by area. For, as explained by Rashi, he that received the less fertile land was to be given more, and he that received the more fertile land was to be given less; thus balancing by acreage—one measure in Judea being the equivalent of five measures in Galilee. But in the case of land disadvantageously situated, no such adjustment was possible, as mere increase in the size of a cornfield or vineyard did not bring it nearer to the Capital.

Here, therefore, prevailed the decision of Rabbi Eliezer that the adjustment should be made by money; ("bekesef") that is to say, that he whose land was nearer the city should pay into the common treasury the estimated excess of value pertaining to it by reason of its superior situation; while he whose land was less valuable, by reason of its distance from the city, should

receive from the treasury a money compensation. In this, then, we see affirmed clearly the doctrine that natural advantages are common property, and may not be diverted to private gain. Upon the more valuable holdings was to be imposed a tax, the measure of which was the excess of their respective values over a given standard; and the fund thus created was to be paid out in due proportions to those whose holdings were in less favorable locations.

But still more emphatic upon the point of common ownership in natural opportunities is a passage in "Baba Kama" 81, A. Here is also discussed the allotment of land by Joshua, and it is stated that individuals were given possession of their respective shares, subject to certain reserved rights of the public. For example: Every citizen was entitled to fish in every stream, no matter through whose land it might run; but the fishers, on the other hand, were not allowed so to dispose their nets as to obstruct the waterway. If the common roads were impassable, one might travel through the fields adjoining the roads, even though he trampled down the grain or destroyed the vines; on the traveler, however, rested the obligation to do no damage that was avoidable. More significant, however, than either of these reservations, is the provision that if a well should be found on land allotted to an individual, it should be subject to common use by all citizens ("bene ha'ir"). The same reasoning, of course, that would make common property of a well of water discovered upon land in private possession, would apply to a well of oil, a vein of coal, or any other natural treasure. Under such a system the mineral wealth of a country would belong to the common treasury, not to the owner or user of the surface soil.

Had this been the law of the United States, many of the issues that now occupy politicians and plague the people, could not have arisen. The "silver question," for example, would have had no pertinence; the Standard Oil Company could not have come into being; import duties on coal and iron would not have seemed necessary even to the most ignorant dullard; and the political corruption that has flowed from trusts and tariffs and other monopolies and special privileges might have been avoided. (To these old questions might now be added that of "hydro-electric" power rights—as at Muscle Shoals and Niagara.)

Can the Mosaic-Talmudic principle or methods be applied to the more complex conditions of the present day? The principle—Yes; the methods—No.

The conditions under which we live, the diversity of industries, the great development of cities, the complexity of social organization, necessarily render inadequate to present needs, the crude machinery that sufficed (in theory) for a more primitive age and people; but the principle of compensating the community for the possession of special advantages, not the result of one's own ability or industry, can be applied in another way. By taking for public use the rental value of land, and devoting this revenue to public works and the administration of justice, the end held in view by Moses and the Rabbis, which may be tersely expressed as "The common wealth for the common weal," may easily and effectively be achieved. This is the proposition known as "The Single Tax," the only scheme of taxation founded upon the desire to do absolute justice to all.

The difference between the Talmudic System and the "Single Tax" System is this: Under the

Talmudic System, the land having been divided by lot among individuals (or families), an average value of land was to be ascertained; and the holders of more or less valuable allotments were to pay in to, or receive from, the treasury, the excesses or deficiencies respectively. An approximate equalization of landholdings could thus be effected; but a fund for common expenses would not be provided; and hence taxes upon the products of industry (tithes and the like) would have to be imposed. In a primitive society such a plan might have answered well; and if it was ever put into practice, probably did prevent some of the worst evils of monopoly, class rule and pauperism from arising among the Jews. But the power to tax industry was a fatal defect and so proved when Theocracy gave way to monarchy. Samuel foresaw and warned against the exactions of kings, and as a matter of historical fact, in the days of Rehoboam, taxation had already become so onerous as to cause rebellion.

Under the Single Tax System there would be—since it deals with present and not past conditions—no allotment of land; but whoever might happen to hold land,\* (irrespective of the manner by which it came into his possession), would pay into the common treasury the annual rental of his holding; he that had more valuable land paying more, he that had less valuable land paying less. In other words, land would be treated as State\*\* proper-

\*By "land-holding" here is not meant "occupancy" or "use"—but possession of legal titles. The land may be used by the "holder", rented to another or kept idle, but irrespective of this, the title-holder must pay the ground-rent into the public treasury. If he uses the land, he gets the benefit; if he leases it he gets the rent from his tenant; if he holds it idle, he must bear the loss. But having paid ground rent he is free from all taxation.

\*\*As a matter of fact, it is so treated to a certain extent, in legal theory—as shown by the right of "eminent domain".

ty, and whoever held it would pay—not to a private landlord, but into the common treasury — “ground rent” in proportion to the value of his holding. From the fund thus created, however, payment to individuals, would not be made except in return for services (goods or labor) rendered by them to the community. It would be used for the communal (governmental) expenses, and hence there would arise no necessity for the imposition of other taxes.

Thus, in reality, the “Single Tax” is not a tax at all. Its advocates would abolish all taxes, all burdens upon industry, taking for common use only the common property—the annual rent of the bare land without improvements. Since each individual would pay to the community in exact proportion to the benefits received by him, and receive pay from the community in exact proportion to the service rendered by him, the system would give “equal rights to all, but special privileges to none.”

Land speculation would be stopped, because the “tax”—i. e. the ground rent—would have to be paid just the same, on land held out of use or improperly used; and hence it would not pay to keep land idle or use land unprofitably, while waiting for a rise in value. Unemployment would be reduced or even entirely remedied, because the increased use of land, and the building and other activities stimulated, would provide “jobs” for all. For those who wished to use land directly—as in farming—access to arable land, or land suitable for vineyards or grazing, etc., would be made easier; since dogs-in-the-manger would be forced out; for landholders would be compelled to rent their unused holdings on fair terms, or forfeit them. At the same time the users of land would be safe in the

possession of that which they used; and their buildings and other improvements, their flocks and herds, their machinery and other property, would be untaxed. Enterprise and industry would no longer be penalized.

It may be added that the simplicity of this “causal remedy” for diverse conditions of social disorder — “unemployment” among others — has hitherto prevented its adoption; and there seems no likelihood of an early change in this respect. Henry George, when asked why so little practical result followed the recognition of his doctrine by the intellectual world, answered: “The people who think haven’t suffered enough; and the people who suffer—can’t think.”

The world will probably have to suffer much longer from preventable economic evils before there is an adequate recognition of their cause and remedy.

It may be interesting to add further, that Spinoza (*Political Treatise*; Elwes translation; Bohn edition, 1889, Vol. 1, pages, 319, 336, 350, 373,) points out that a single tax on land values is the proper fiscal system for (absolute) monarchies and for democracies; while oligarchies can maintain themselves in power only when the members of the ruling class own the land, and appropriating the ground rent for their private use, impose various taxes on the citizenry. This results from the obvious fact that ownership of the land is necessary to power. In a monarchy the power belongs to the king; in a democracy to the government representing the whole people; in an oligarchy to the members thereof. Hence payment of ground rent is to be made to the king, to the popular government, or to the aristocrats (oligarchs) according to the character of the State.