

The *Shemittah*, the Sabbatical Year institution ordained in the Torah, requires that all land in Israel be left uncultivated for one complete year out of seven. The present year, 5719 (1958-59), is such a year, and considerable debate and study have been focused on this problem both in this country and in Israel. The present article is a summary of Rabbi Bak's discourse, delivered at the last national convention of the Rabbinical Council of America, touching on the legal highlights of this problem. Rabbi Bak was educated at the Telshe Yeshivah in Lithuania, where he was ordained. He spent three years of post-ordination study at Yeshiva University and holds a Master's degree from Johns Hopkins University. He is spiritual leader of the Har Zion Tifereth Israel Congregation of Baltimore, and a member of the Halakhah Commission of the Rabbinical Council of America. He has regularly contributed scholarly articles to rabbinic journals such as *Ha-pardes*, *Ha-darom*, and *Peri Etz Chayyim*.

THE SABBATICAL YEAR IN MODERN ISRAEL

Added to the economic and security problems which confront Israel as a newborn state, reconstituted on the sacred soil of our ancestral home, there looms this year the religious problem of the "Sabbatical Year." The institution of "Sabbatical Year" or "Year of Release" (*Shemittah*) is ordained in the Bible in three places: Exodus 23, Leviticus 25, and Deuteronomy 15. An entire talmudic tractate, *Sheviit*, deals extensively with this subject.

Basically, the Sabbatical year involves three fundamental elements which are to be observed during every seventh year of the Jewish calendar. 1. All land must be left uncultivated. 2. The produce which grows without human effort is to be considered ownerless. 3. Debts contracted prior to the expiration of this year are to be cancelled. The third element, calling for cancellation of debts, is classified in rabbinic law as a personal obligation, not connected in any way with the land of Israel. As a personal *mitzvah*, similar to the dietary laws or the observance of the Sabbath, it would apply

to all Jewish communities, whether in Israel or outside of the Holy Land. The agricultural elements of this institution, however, are known as *mitzvot* which are "dependent upon the land" and therefore apply only to Jews who live in the Land of Israel.¹

In addition to the Sabbatical year observed once in seven years, our Torah also ordains the observance of a Jubilee year to be proclaimed on the fiftieth year following the cycle of seven Sabbatical seasons (Leviticus 25). The Jubilee year, although it does not cancel loans, is nevertheless far more comprehensive in its scope and in its regulations than the Sabbatical institution. Like the Sabbath year it calls for a complete agricultural holiday, but demands in addition the automatic restoration of all acquired real property to its original owner, the emancipation of Hebrew slaves, and other features, all calculated to improve the lot of the poor and the dispossessed. Whether the two institutions of *Shemittah* and *Yobel* are interdependent to the degree that one will not apply without the other is debated in the Talmud. The final decision is most pertinent to the question of the present-day status of *Shemittah*.²

In talmudic times the personal element of the Sabbatical institution affecting credit received wide attention. As far back as nineteen hundred years ago, the duty to cancel debts during the seventh year presented a serious economic as well as humanitarian problem. As the Year of Release approached, the rich would stop lending money to the poor, and this stoppage of credit resulted in great hardship to the community. The suffering of the poor and the indifference of the rich prompted the famed Hillel to introduce a new provision, known as *Prozbol*, which, by the employment of certain formulae, all within the framework of rabbinic law, allowed the creditor to collect his loans.³ The *Prozbol* solution was limited to credit only. It did not in any way affect the agricultural aspects of the seventh year. It is probable that during the eight and one half centuries between the time our people entered Palestine under Joshua and the destruction of the first Holy Temple, our people carefully observed about half of the some one hundred and thirty five *Shemittah* years.⁴ In the period of the second Holy Temple, the

1. *Kiddushin*, 38b.

2. *Tosafot Arakhin*, 32b; *Kesef Mishnah* on *Hilkhot Shemittah Ve-Yobel*, 4:25.

3. *Gittin*, 36b.

4. See *Rashi* on Leviticus 26:35 where it is mentioned that the seventy years of

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Sabbatical year was widely observed and all agricultural activity was halted one year in every seven.¹ The same would seem to be true of the talmudic period except in those periods of severe foreign oppression when the country was under military occupation. In those periods when there was real danger to either life or property, the rabbis permitted the people to till the soil on the Sabbath year in order to enable them to feed the occupying legions.²

The great medieval rabbinic scholars differ as to the underlying philosophy of the Sabbatical year institution. Among the proposed rationales were included the following: the purpose is to conserve the land from over-exhaustion; to set aside one year out of every seven to spiritual values and religious betterment; to impress the thought that the land is not our exclusive possession but given to us rather as a trust; to stimulate the practice of charity by making available to the poor the natural, uncultivated produce.³ But whatever the reason ascribed for the *shemita* by these sages, most of them agree that this institution is mandatory in modern times.⁴ Whereas justifiable doubt may be expressed whether the Jubilee year, calling for the restoration of property to the original owner, was practiced after the Babylonian exile, there can be no similar doubt about the Sabbatical year.⁵ Basing their conclusion on a section of the Talmud which lends itself to various interpretations, most rabbinic authorities, among whom Rashi and Maimonides are most prominent, maintain that the observance of the Sabbatical Year in modern times in respect to stoppage of agricultural activity is obligatory upon Jews residing in the Holy Land. Whether the duty today is biblical or rabbinic is debatable, depending upon

the Babylonian exile were the punishment for the non-observance of seventy *Shemita* years during this period.

1. For a more comprehensive chronology listing the number of Jubilee and Sabbatical years observed during these two periods, see *Arakhin*, 12.

2. *Sanhedrin*, 26a and Tosafot; Maimonides, *Hilkhot Shemita Ve-yobel*, 1:11 and RaBaD, *ad loc.*

3. *Guide for the Perplexed*, III:39; *Chinukh*, 84.

4. Maimonides, *Hilkhot Shemita Ve-yobel*, 4:25. RaBaD in his criticism on Alfasi (*Gittin*, 36) is often quoted as maintaining that *Shemita* today has no validity whatsoever except as an act of extreme piety. It is, however, highly controversial whether he referred to the cancellation of debts only, or to the agricultural elements as well. See *Shabbat Ha-aretz* by Chief Rabbi Kook, chapter 6.

5. *Gittin*, 36a, Rashi and Tosafot; Maimonides, *ibid.*

how we decide the question mentioned earlier, namely, whether the Sabbatical year institution is dependent upon the Jubilee year institution or not. Its fulfillment in fact is nonetheless unavoidable.¹

Thus, with the return to Zion of the early pioneers during the latter part of the nineteenth century, this problem came to the forefront. Throughout the centuries of the *Galut*, the Sabbatical Year as a practical rather than theoretical institution was almost forgotten, simply because the Jewish population living in Israel was small, and most of them did not engage in agriculture. The situation changed radically with the spread of the "Lovers of Zion" movement and the development of modern Zionism. The problem was quite serious to the religious colonists. They looked upon the settlement of the land as a religious duty and as such were thrilled with the prospect that at long last they would be in a position to fulfill many biblical precepts which, owing to the dispersion, had long ceased to be practiced. But there were economic realities which could not be ignored. A complete cessation of agricultural work for one year out of every seven would spell disaster to the struggling colonies. It was quite obvious that the fulfillment of the "Year of Release" in concrete form was, under such circumstances, impossible. And yet its non-fulfillment meant a flagrant transgression of a sacred institution of the Jewish religion. The religious pioneers would be the last ones to violate the Torah because of economic considerations.

This problem became very acute in the *Shemittah* year of 1889, and called for an immediate solution. After heated debate and much rabbinic argumentation, the great spiritual head of Russian Jewry, Rabbi Isaac Elchanan Spector, proposed a solution. If the land could be sold to non-Jews prior to the seventh year, with proper safeguards for its resale after the Sabbatical year, it would be permissible to cultivate the land through non-Jewish labor. This solution was predicated upon the authoritative views of most *Poskim* that the Sabbatical institution in modern times (when the Jubilee is no longer practiced) is only a rabbinic requirement. Assuming that this is so, the State of Israel today would fall into the same category as Syria in ancient days. Owing to the special circumstances surrounding its conquest, Syria never

1. *Kesef Mishnah*, on *Hilkhot Shemittah Ve-Yobel*, *ib.*

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attained biblical sanctity similar to that of the Land of Israel. The rabbinic sanctity imposed upon Syrian soil was regarded as automatically removed through subsequent non-Jewish acquisition of the land. The same principle would apply to the soil of Israel in modern times, for legally it is no different from that of Syria.¹ The legal sale of land in Israel in modern times to a non-Jew thus removes the land from a state of (rabbinically imposed) sanctity, and releases such land from the rules of *Shemittah*. This legal permission (*heter*) was sharply attacked by noted contemporary rabbinic leaders, chief among whom was the head of the famous Voloziner Yeshivah, Rabbi Naphtali Zevi Berlin. He argued that it was the sacred duty of Jews everywhere to provide special funds to enable the colonists to observe the *Shemittah* year, so that our people will come to realize that "we are not striving to rebuild the land of the Philistines, but that of the Holy Land." He also raised many legal objections, for in his judgement the sanctity of the soil applies even where the land is held by non-Jews. This would seem to be especially true if we were to accept the position of some of our great authorities who maintain that even today the Sabbatical year institution is biblically mandatory. Moreover, selling the land to non-Jews may in the opinion of some authorities constitute a violation of biblical law.² Thus, in order to fulfill one *Mitzvah*, one would have to violate another. Again the question of the legality and genuineness of the sale was raised, although there were many precedents in Jewish law indicating its acceptability.³ Nevertheless, the universal recognition of Rabbi Isaac Elchanan as the greatest scholar of his generation, plus the economic realities of the day, saw the acceptance of his solution by most of the colonies. Only a small fraction refused to submit to the proposed sale and observed *Shemittah* fully by refraining from all agricultural work treating the uncultivated produce as ownerless property.

The action of Rabbi Isaac Elchanan established a precedent. With the approach of every *Shemittah* year the Chief Rabbinate of Israel executed the formal sale of the land and issued careful instructions to the farmers as to which type of labor Jews might perform themselves and which had to be done by non-Jews. With

1. *Gittin*, 47; Maimonides, *Hilkhot Terumot*, 1:10.

2. *Abodah Zarah*, 21a.

3. Chief Rabbi Kook, *Shabbat Ha-aretz*, chapter 13.

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the establishment of the new state, the tremendous increase in the Jewish population and the corresponding decrease in the Arab population, the legal dispensation was extended to permit many types of work heretofore prohibited to Jews, whenever non-Jewish labor was unavailable.

During the current Sabbatical year most of the religious colonies in Israel have accepted this solution, though reluctantly. The colonies of Hapoel Hamizrachi, relying entirely on the action and instruction of the Chief Rabbinate, have nevertheless decided to set aside one field in each colony which will be left fallow as a token of their literal adherence to the *Shemittah* laws. The *Chafetz Chayyim* colony of Poale Agudat Israel has declined to make use of the legal permission of the rabbinate, and has suspended all agricultural work for the current Sabbatical year. Special funds were made available by religious Jews in this country and in Israel to support them. All in all, it is estimated that about five thousand people in Israel do observe the present Year of Release literally.

Recently, very interesting experiments were carried out in Israel to test the possibility of growing vegetables in large metal tanks containing water and chemicals, without the need for soil. The experiments promised success and opened new possibilities for solving the problem for those groups who wish to fulfill *Shemittah* laws literally. And yet from the rabbinic point of view this solution is not as simple as it appeared at first, and before it can be put into practice further research will have to be carried out. In an article printed a number of years ago, the late Chief Rabbi Uziel of Israel attempted to show that the sanctity of the Sabbath year applies to produce grown in Israel in water tanks just as if it were grown on Israel soil.¹ His thesis is supported by very sound evidence.²

The literal fulfillment of this holy institution on a large scale, fondly hoped and earnestly yearned for over the centuries, seems, as yet, regrettably far from realization. With hostile neighbors and mortal enemies on all sides and with countless thousands of new immigrants pouring into the country and the resulting food shortage, most of the religious elements in Israel have refrained

1. *Ha-pardes*, Vol. XXV, No. 6 (1951).

2. *Gittin*, 7b, Rashi and Tosafot; Maimonides *Hilkhot Terumot*, 1:23, and RaDBaZ, *ad loc.*

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from advocating that the entire country observe an agricultural holiday for an entire year. Under present-day conditions, such a haltage of agricultural activity might very well expose the people as well as the country to the gravest dangers. However, Jews loyal to Torah do entertain the great hope that some day in the not-too-distant future, Israel will find itself at peace with all its neighbors, become economically self-supporting, and be blessed with an agricultural abundance which will enable the government to plan the economy on a seven-year plan basis and store up enough food to supply the population during the Sabbatical holiday. When this happens, it will mark the revival of a great institution which for many centuries Jews have diligently studied but not often had the opportunity to practice.