

RECENT RELIGIOUS THOUGHT IN ISRAEL

Aryeh Newman

The author of this report is Director of the Jewish Agency's religious education program for English speaking communities. His essay on "Zvi Hirsch Kalischer — Father of the Third Return to Zion" appeared in our Fall 1962 issue.

THE SABBATICAL YEAR — YESTERDAY AND TODAY

Historical circumstance conspired to remove the Sabbatical year and its related laws from the statute books of Jewish life down the ages. Persecuted in their own land or exiled for the greater part of their history, the Jewish people had every reason, both human and theological, to waive the observance. Yet even when reduced in the eyes of some religious authorities to at most a purely voluntary act of piety,¹ the Seventh Year has remained a live issue in the conscience of the faithful and is coming more and more into its own in the state of Israel.

The Torah laid down two conditions for the observance of the *Shemittah and Jubilee*: (1) the residence of the entire Jewish people in the Land; (2) the settlement of each tribe in the territory assigned to it.² Only during the first Commonwealth from the settlement of Canaan under Joshua³ to the exile of the two and a half tribes⁴ were these conditions fulfilled. Yet during that period, the Jewish people were lax in their observance of *Shemit-*

tah and Jubilee, especially during their lapses into idolatry. As Ezra ruefully observes in the epilogue to Chronicles,⁵ "And they burnt the house of God . . . and those that escaped from the sword did Nebuchadnezzar carry into exile into Babylon . . . until the kingdom of Persia came to the government, to fulfill the word of the Lord until the land had been paid its [unobserved] Sabbaths; all the days of its desolation it rested till seventy years were completed."

The warning given by Moses in the chapter of Reproof was fulfilled to the letter. Neglect of *Shemittah* brought exile — measure for measure. For over four of the nine centuries of its existence the First Commonwealth, especially during the reign of those Judges and Kings "who did evil in the sight of the Lord" the Sabbatical Year was not observed properly. Upon the return of the exiles under Ezra and Nehemiah, one of the very first things they solemnly vowed to keep was *Shemittah*. Thus the covenant

described in chapter 1 of Nehemiah stipulates, "We shall leave our lands fallow in the seventh year and forego the exaction of every debt." This commitment was undertaken in spite of the fact that under the prevailing conditions of the time, with large numbers of Jews residing outside of Eretz Yisrael, the laws of *Shemittah* no longer possessed the weight of a Torah-ordinance. But it was natural that their desire to make amends for past sins and the fervor of their religious revival expressed themselves in dedication to a precept which symbolized absolute faith in Providence, the neglect of which spelled exile.

References to *Shemittah* are also found in the Book of Maccabees,⁷ because food shortages resulting from *Shemittah* observance affected the war. The Jubilee itself was not kept, since there was no longer any possibility of reverting to the original allocation of the land. But the Jubilee year was counted by the *Bet Din* in Jerusalem in order to preserve the seven year cycle and consecrate the *Shemittah* within the Jubilee framework.⁸

One might well have expected that the destruction of the Temple and the decimation and impoverishment of the Jewish population might have meant the end of all Sabbatical Year observance. But, on the contrary, every effort was made to keep the institution alive and the subsequent discussions of the Palestinian and Babylonian Talmuds with respect to the detailed regulations enshrined in the *Mishnah* of *Shevi'it* bear witness to its continued relevance.

The enormous self-sacrifice necessary to refrain from cultivation at a

time when the Romans demanded their annual crop tax on pain of dire penalties was cited by the Rabbis in their public discourses. Rabbi Isaac⁹ applied to observers of the Seventh Year the text, "Mighty in spirit, the doers of His word."¹⁰ He commented: "In the ordinary way a person will perform a good deed for a day, may be a week, even a month; but would you say he could keep it up for a whole year? Yet these people see their fields lying fallow, their vineyards untended but pay their crop taxes without a murmur!" On the other hand, we have from this very period the oft-quoted ruling of Rabbi Yannai:¹¹ "Go forth and sow in the Seventh Year on account of the *arnona*" (the crop tax levelled by the Romans). Similarly, his renowned teacher, leader of the Jewish people and editor of the *Mishnah*, Rabbi Judah Hanasi was inclined to leniency in his application of Sabbatical regulations which in his view no longer enjoyed the weight of Biblical ordinance. We are told of a barber who was hauled before him on suspicion of having violated the Sabbatical Year. "What should this poor fellow do? He but worked his land in order to keep body and soul together."¹² Rabbi Judah sympathized. But his saintly colleague, Rabbi Pinchas Ben Yair, who mapped out the pilgrim's progress towards ultimate spiritual perfection in his exercises in saintliness, would not accept this cavalier treatment of *Shemittah*. The Roman theatre, particularly at Caesarea, found the hardships of the Jews a subject for ridicule. Rabbi Abbahu referred to the taunts of an actor (probably an assimilated Jew) who

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brought a camel dressed in black onto the stage. Asked why the camel was in mourning, the actor replied: "These Jews observe the seventh year and since they have no vegetables of their own to eat, they devour the weeds of the camel and he mourns for his loss."¹⁴

In all epochs there were those who kept the observance despite all hardship; others made concessions for the difficult conditions because they regarded the observance of *Shemittah* under prevailing conditions not as Biblically ordained but merely as a Rabbinic enactment which was designed solely to perpetuate the memory of the institution.

Each revival of settlement in the Holy Land down the ages led to renewed discussion and controversy over the role of *Shemittah*.

After the decimation of Jewish settlement in the Holy Land and its eclipse under Christian persecution towards the end of the Talmudic period, the next milestone in *Shemittah* discussion coincided with the golden age of Jewish mysticism and codification in the sixteenth century Galilee. Safed became the center of the Jewish world. Joseph Karo composed the *Shulchan Arukh* as the practical contemporary guide to Jewish practice. Following the *Tur*, he deliberately omitted laws which no longer applied. Thus though we can find laws of *Orlah*, *Terumah* and even of *Prozbul* — the release of debts in the *Shemittah*, we can find no chapter on the release of lands — *Shemittat Karkaot*. The rulings on the annulment of debts are included in the civil code of *Choshen Mishpat* as a subsection of

the Laws of Loans.

There, Karo rules,¹⁵ following Maimonides:

The release of debts no longer applies as far as the Torah is concerned except when the Jubilee is in effect. But the Soferim (i.e., rabbis) have ordained that the release of debts continue to be observed even today, everywhere.

R. Moses Isserles appends:

Such is the general consensus of authorities but some maintain that *Shemittah* no longer applies today and it would seem that reliance is placed on them in these countries (Europe) where *Shemittah* is not observed at all.

Rabbi Joshua Falk in the classic gloss of *Meirat Enayim* on the *Shulchan Arukh* of Karo explains the latter's ruling as follows:

The Soferim insisted on the observance of the release of debts so that the institution of the Seventh Year be not forgotten by Israel. Ploughing and sowing, however, was not prohibited by them because the community as a whole could not be expected to stand such a stringent enactment. As writes the *Tosafot* in *Gittin* (36b): "Only when the institution had Biblical force did the Biblical blessing apply of a three-fold harvest in the sixth year." But in my humble opinion the reason is different. The Rabbis deliberately refrained from instituting *Shemittah* observance in regard to those prohibitions connected with the sanctity of the land and not applicable outside it. But this does not apply to the annulment of debts which is a personal duty (not tied to the land of Israel).

But the question of the status of Seventh Year produce of non-Jews in Eretz Israel preoccupied Karo and his colleagues. This is under-

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standable since most of the produce was in the hands of non-Jews. It was Karo who insisted *Ma'aser* must be taken during the Seventh Year as in every other year, and that the holiness of the Seventh Year did not apply to the fruit of non-Jews. But his view was disputed.¹⁶ The problem of Jews working in the fields on *Shemittah* was still not particularly pressing. This only became so with the arrival of the Lovers of Zion in the nineteenth century and the establishment of the first colonies.

Again there was a controversy: Was it necessary to desist from farm work altogether or could one find other ways of observing the Seventh Year without unduly disrupting the new colonies that had sprung up in the 1880's? The battle was joined in earnest on the eve of the *Shemittah* year of 1888-89 with the publication of the *heter* (dispensation) permitting the sale of the land to Arabs and its cultivation, where possible by Arabs; and where Jews were involved, they were limited to work not originally prohibited by the Torah. The *heter* was signed by three leading rabbis closely connected with the efforts of the Chovevei Zion — Yehoshua of Kutno, Shmuel Mohliver of Bialystok, Shmuel Zanvil of Warsaw. They, however, conditioned their *heter* on its confirmation by the Torah leader of the age, Rabbi Isaac Elchanan Spector. Like all succeeding dispensations it was an *ad hoc heter* proclaimed as an emergency measure for the particular *Shemittah* year, lest "the whole enterprise of colonization be endangered."¹⁷ But with each succeeding *Shemittah* this *ad*

hoc heter was renewed, whether under the authority of Rabbi Kook or, later, during the emergence of the State, under the signatures of Chief Rabbis Herzog, Uziel and Frank. The latter wrote on the eve of the first *Shemittah* of the State of Israel, 1951-2:

With all the exultation and thanksgiving to the Almighty for being granted His salvation — in the emergence of the government of Israel in a portion of our sacred land we have not yet reached the final stage of salvation and blessing. We still need to resort to the *heter*, as a temporary ruling on account of the emergency situation and urgent need to liquidate and gather in the exiles . . .

This is not the forum for marshaling all the arguments pro and con of the *heter*. The proponents felt that they were following the policy of Rabbi Judah Hanasi. They were just as sincere in their wish to keep *Shemittah* literally as in the days of old, but felt they had no right to impose such a burden on the public, in view of the controversial nature of its applicability. Who were they to impose as an institution unconditionally binding on all what to some authorities was merely in the nature of *middat chasidut* — extra piety?

Rabbi Kook summed up these considerations in his introduction to *Shabbat Ha-aretz*, his classic work on the rulings of *Shemittah*:

All the arguments in support of the *heter* are designed to preclude these farmers who act in accordance with the proper directives from being pilloried, God forbid, as violators of our Holy Torah . . . to strengthen the resolve of those of our brethren in the Diaspora who wish to eke

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an honest livelihood from the soil of the Holy Land or to invest money therein and would be discouraged by the complete cessation of work in the Sabbatical year. I felt it my duty to investigate the authoritativeness of the *heter* to show that it is based on proper foundations. But far be it from me to detract in any way from the importance of trying to observe this sacred and precious *mitzvah* by those whom God has given the courage, trust and purity of heart to fulfill it as in days of yore.

Rabbi Kook explicitly warned both individuals and groups against using his halakhic justification of the *heter* to bring pressure against those farmers who refused to resort to it and who preferred to refrain from all agricultural work during the *Shemittah*. He viewed the *heter* as a fully justifiable but essentially *ad hoc* measure inspired by the principle "profane one Sabbath so as to ensure the future opportunity of keeping many."¹⁸ The cause of building up Eretz Israel outweighed any arguments against the *heter*. The concluding words in his introduction to *Shabbat Ha-aretz* have served as the pillar of all later decisions of the Israeli rabbinate:

In the light of all this there is no basis for questioning this approach (of sale to a non-Jew) as an emergency measure where public loss is involved, even if the advancement of Jewish settlement in Eretz Israel were not the issue. How much more so is this valid when the very basis of Jewish existence in Israel is at stake! But no permanent ruling has been laid down, only a temporary one. Whenever it becomes clear to an authoritative *Bet Din* that there is no alternative, let it implement its decision in the name of Heaven and the Lord be with it!

But as has been pointed out, the *heter* encountered strong opposition from the very beginning. Opposition to the *heter* crystallized with the growth of the colonies and the regular resort to it by the majority of Jewish farmers. Passions were aroused quite naturally, since it provided further cause of division between the few rabbinic authorities who went along with the Zionist movement and the hard core of the majority of Torah scholars who sincerely felt they were fighting the battle of the Lord against the profaners of the soil of the Holy Land — the socialists and nihilists who were inspired by secular national ideals rather than obedience to the Divine Law.

Rabbi Jacob David of Lutzk (the Ridbaz), rabbi of Safed, became the leader of the opposition and published his commentary to *Pe'at Ha-shulchan* (1900) in which he marshalled all the counter-arguments in favour of complete observance of *Shemittah*.

But the real test of the *Shemittah* observers came some forty years later when the first agricultural communities committed to full *Shemittah* observance came into being — the kibbutzim of the Poalei Agudah. They were fortunate in the appearance of another giant of Jewish religious law, Rabbi Isaiah Karelitz (Chazon Ish) who in 1938 had published his decision against the *heter*¹⁹ complete with alternate rulings for the observance of the Sabbatical year. Since this time the number of those who insist upon observing *Shemittah* without utilizing the *heter* has increased. Rabbi Karelitz used all the weight of his

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authority to help raise funds towards the support of those who observed the *Shemittah* in accordance with his ruling and to finance agricultural experiments that would obviate the need for sowing during the Seventh Year.

His approach may be contrasted with Rav Kook's and is reflected in the following imaginary letter²⁰ he composed, purported to have been written by a pious Sabbatical-observing farmer.

A son of the farm I am, eking a livelihood with travail and now the Sabbatical year has arrived. As a scion of a stiff-necked people, the thought crept into my mind of observing the Sabbatical year, according to prescription, out of sheer cussedness. I was alone and isolated, the scorn of all my neighbors. Is it possible? If we sow not, how can we gather in? Surely it is impossible to fight against Reality! But my stubbornness stood me in good stead and despite the fact that everyone who is blessed with a brain in his head knows that it is impossible to observe the Seventh Year — and the Seventh Year was only meant for one who has a three year stock of corn — for later generations are not to be compared to the former ones. In spite of all these things, only a half year has gone and Reality has favored me with her love. I did all my sowing before *Rosh Hashanah* in the sixth year and in the seventh I desisted, neither ploughed nor sowed. The sixth year crop that entered the seventh year I treat with the sanctity of the Sabbatical year and eat it as such. I hope to make my peace with Reality or, strictly speaking, Reality will make its peace with me during the next half year. My neighbors who scoffed at me, ploughed and sowed in the Seventh Year. Reality fought against them, raged and destroyed all their crop in the

abundance of its rain and the fierce torrents. Now all I ask is that the *matirim* (the authors of the dispensation permitting work in the Sabbatical Year through the sale of the land to a non-Jew) should forgive me for having transgressed their orders and be so kind as to give the matter second thoughts. Perhaps their brains will once more understand that the Torah will never be changed and where there's a will the Seventh Year can be observed.²¹

Practically speaking, what is the situation today in the State of Israel? Observance of *Shemittah* still follows "party lines" — the general public including the Mizrahi-oriented elements follow the directives of the Chief Rabbinate that are inspired by the approach of Rabbi Kook. Agudat Yisrael and Poalei Agudat Yisrael and the world of the yeshivot with a few exceptions do not accept the *heter* and every *Shemittah* sees more elaborate arrangements for assuring a supply of "Shemittah-free" produce. Chains of shops that market only Arab or imported produce are operated. The kibbutzim of Poalei Agudat Yisrael have developed hydroponic beds to provide fresh vegetables, also resort to early deep sowing of double harvest varieties of produce.

But there has been a development in the measures taken by the Rabbinate with a view to fulfilling Rabbi Kook's own dearest wish that *Shemittah* observance should come into its own, but not before the time was ripe. Farmers are directed to do all the sowing before the *Shemittah* and avoid all agricultural labours originally forbidden by the Torah throughout the year. The produce is marketed by a procedure whereby the *Bet Din* appoints the farmers

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as its emissaries to harvest the crop.²¹ The measures governing the treatment of Seventh Year produce comprehend a whole new code of rulings for the observant Jew, impinging upon his daily existence in all that relates to the obtaining, eating and disposing of fruit grown during the year. The Kibbutz Hadati of Hapoel Hamizrachi, which accepts the authority of the Chief Rabbinate and does not dispense with the *heter* (by which the State of Israel still sells all its lands), has devoted a great deal of thought to the problems of giving meaning to the *Shemittah* in the contemporary setting. The *Shemittah* resolutions passed by the Kibbutz Hadati secretariat this year may be of interest.

1. The Kibbutz Hadati accepts the mode of *Shemittah* observance recommended by the Chief Rabbinate as applicable to itself. But at the same time, the Kibbutz Hadati strives to attain a solution that will appeal to the heart and mind of the public and express the spirit of the *mitzvah*. It is therefore our duty to go beyond the letter of the law and reduce to a minimum all labors forbidden on the Seventh Year, strengthen the consciousness of the holiness of the Sabbatical Year amongst members and give expression to the social value of the precept "that the needy of thy people may eat with thee."

2. Whenever possible, winter crops should be sown before *Rosh Hashanah* of the *Shemittah* year. Should there arise the need to sow in the Seventh Year itself, the prior approval is required of the Committee for Guiding Religious Life attached to the Kibbutz Hadati secretariat in consultation with the authorized rabbinate.

3. All operations such as ploughing, fertilizing, stone-removal and land improvement are not to be

implemented in the Seventh Year if they can be done before or after. In case of need the aforementioned Committee must be consulted.

4. The holiness of the produce of *Shemittah* is to be maintained by following the rules formulated by the Committee.

5. All the produce is to be transferred to the stock of the Bet Din which shall be composed of two representatives of the Kibbutz Hadati and one from the Ministry of Social Welfare. The Chairman of the Bet Din shall be versed in the laws of *Shev'it*, and the fundamentals of Israeli Law. The Bet Din shall do its best to ensure the implementation of the principle: "That the needy of thy people may eat with thee" by allocating a portion of the harvest to the needy, . . . through the offices of the Ministry of Social Welfare.

The approach of the Kibbutz Hadati has been summed up by Zuriel Admonit in the movement's monthly journal, *Amudim*:

We trust we can carry out some of the laws involved in the treating of the Seventh Year produce with due holiness at home, despite our resort to the *heter*. The profound religious ideas embodied in the *mitzvah* have been brilliantly propounded by Rabbi Kook in his introduction to *Shabbat Haaretz*. Even when the time is not appropriate for observing the *mitzvah* in its entirety, we are obliged to create a kind of *Shemittah* atmosphere even today. We shall not succeed in one or two *Shemittah* years, but gradually, in the course of time, we shall achieve it. If we succeed in implanting in the community the aspiration for a frank re-appraisal of the concept of the holiness of the fruit of the soil as the blessing of God and the social equality of every Jew as strangers and residents before the Lord of the earth — we shall have deserved the *mitzvah* in its original Torah framework

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and not have given rise thereby to unnecessary divisions, since "the idea behind the *Shemittah* is one of brotherhood, equality and peace" (*Keli Yakar, Vayelekh*).

Shemittah undoubtedly presents a challenge to modern Orthodoxy far greater than that posed by any other religious precept. Upon every Jew loyal to Torah there devolves a duty "not to allow the institution of *Shemittah* to become a dead letter." Fortunately, there is little likelihood that this danger will ever materialize. But there are other problems which tax the resourcefulness and scholarship of the finest Halakhic minds — problems that arise with respect to obligations which unquestionably possess Biblical au-

thority. There will always be the so-called maximalists and pietists who pour their scorn on those whom they would, in all sincerity, pillory as men of little faith and minimalists. The latter will as likely be activated by considerations of public interest and of the unity of the people as a whole. Perspective in such a context is always difficult. It may often require greater self-sacrifice and courage to advocate less than to advocate more. The *Shemittah* controversy will persist as it has for generations. The essential thing is to ensure that it constitute a controversy *leshem shamayim* (for the sake of Heaven), not one prompted by any personal or political considerations.

NOTES

1. Meiri to *Gittin* 36b; R. Zerachya HaLevi, *Sefer Haterumot* 45:1.
2. *Arakhin* 32b; Maimonides, *Hilkhos Shemittah Ve-yovel* 10:8-9.
3. *Ibid.* 10:2.
4. *Ibid.* 10:8 and II Kings 15:29, I Chronicles 5:25-26.
5. II Chronicles 36:19-21.
6. Leviticus 26:34.
7. I Maccabees 6:53; Josephus, too, notes that both Alexander the Great and Caesar released the Jews from crop taxes during the *Shemittah*. *Antiquities*, XI, 5:1; XIV, 10:6.
8. *Arakhin* 32b; "They kept count of the Jubilees in order to consecrate the *Shemittah* Years."
9. *Midrash Vayikra Rabbah* 1:1.
10. Psalms 103:20.
11. *Sanhedrin* 26a.
12. *Yer. Taanit* 3:1.
13. *Avodah Zarah* 20b, also end of *Mishnah Sotah*.
14. *Ekkah Rabbati* 17.
15. *Ibid.* 67:1.

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16. *Avkat Rochel* 22, 24 by Moshe b. R. Josef of Trani. But the latter's opinion was condemned and Karo appended a note: "On pain of excommunication it was proclaimed that everyone must separate tithes from gentile produce as in ordinary years." The whole relevant correspondence is cited in *Betzet Hashanah*, Jerusalem, 1960, Hechal Shlomo, p. 89 ff.

17. From the wording of the first *heter* in 1888 cited on p. 71 *Betzet Hashanah*, p. 71.

18. *Shabbat Haaretz*, Introduction p. 65.

19. Chazon Ish, *Sheviit*. Among the Chazon Ish's objections to the sale may be mentioned the prohibition of selling any ground in Eretz Israel to a gentile (Rambam *Sefer Hamitzvot*, *Lo Taase* 51) and the invalidity of the power of attorney signed by the farmers empowering the Rabbinat to sell their lands for them on the grounds of *ein shaliach le-devar averah* — an agent cannot be appointed for a transgression.

20. *Letters, Chazon Ish*, vol. II, p. 74, letter 69.

21. In accordance with *Tosefta Sheviit* 8.