Judaea after AD 70*

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The nature of Vespasian's treatment of Jewish land after the First Revolt is indicated by Flavius Josephus in a well known passage, usually considered obscure and imprecise. It is, however, generally agreed that Vespasian held the land as his private property and gave instructions to lease it out to his own advantage. There are differences of opinion as to the extent of the area affected: Judaea proper or the whole province of that name. It is agreed that Josephus fails to explain that only the land of insurgents will have been confiscated. It is further assumed that land around Jerusalem was assigned to the Tenth legion.

I shall now attempt to show that Josephus' statements BJ vii 6,6 (216) have been misinterpreted in modern literature.

(1) Josephus,

Περὶ δὲ τῶν αὐτῶν καὶ τῶν ἐπέστειλε Καῖσαρ Βάσσῳ καὶ Λαβερίῳ Μαξίμῳ, σώζος δὲ ἰδίᾳ ἐπίτροπος, κελεύων πᾶσαν γῆν ἀποδόσθαι τῶν Ἰουδαίων. οὐ γὰρ καταφύκειν ἑκεί πόλιν ἴδιαν αὐτῷ τὴν χώραν φυλάττων, ἀπτακοινὶς δὲ μόνοις ἀπὸ τῆς στρατιᾶς διαφέμενοι χωρίων ἐδωκεν εἰς κατοικήσιν ὁ καλεῖται μὲν Ἀμμαοῦς, ἀπέχει δὲ τῶν Ἰεροσολυμίων στάδιος τριάκοντα.

ἀυτῶ Dindorf, Bekker, Naber, Niese, Thackeray; ἀυτῷ L; ἀυτῶν PAMVRC.

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2 Mommsen saw internal contradictions due to a mistake or textual corruption. Momigliano considers Josephus' statement exaggerated, Schürer calls it vague, Smallwood brief and imprecise, Alon misleading.

3 Only P. Baldacci, La Parola del Passato 24 (1969), 366-7 concludes that the land was partly sold and partly made ager publicus and farmed out, but it is not quite clear how he deduces this from Josephus' text.

4 Mommsen interprets Josephus as referring to Jerusalem and its territory alone. Schürer assumed that Josephus meant all of Judaea in its narrower and proper sense. Momigliano argues that Jews in Galilee and the Peraea cannot have been treated differently from those in Judaea proper. Applebaum, op cit., 386-393 extensively discusses the area affected.

5 See below, n. 14.
Thackeray’s translation: About the same time Caesar sent instructions to Bassus and Laberius Maximus, the procurator, to farm out all Jewish territory. For he founded no city there, reserving the country as his private property, except that he did assign to eight hundred veterans discharged from the army a place for habitation called Emmaus, distant thirty furlongs from Jerusalem.

Michel and Bauernfeind’s translation: Um diese zeit erteilte der Kaiser dem Bassus und dem Liberius Maximus, letzterer war der derzeitige Schatzmeister, den schriftlichen Befehl, das ganze Land der Juden zu verpachten. Denn die Gründung einer eigenen Stadt unternahm der Kaiser dort nicht, er behielt sich also das Land persönlich vor. Nur 800 verabschiedeten Angehörigen des Heeres gab er einen Siedlungsraum, der Emmaus hiess und 30 Stadien von Jerusalem entfernt war.

Mommsen translates ἀποδόθαι as “to sell” and considered this as contradicting the next sentence, which he too assumed to refer to confiscation of Jewish land by the Emperor. Schürer resolves the contradiction by translating the verb as “to lease”, “to farm out”. Josephus is then represented as asserting that Vespasian kept all Jewish land and farmed it out to his own advantage. This is now the generally accepted interpretation.

There are, however, several problems. First, Josephus uses the verb ἀποδόθαι fifteen times for “to sell” and twice for “to return”, “to give back”, but nowhere for “to lease”. Should we then prefer Mommsen’s “to sell” and accept that Josephus’ text contains a contradiction or a scribal error? That would be a last resort. It must be noted, moreover, that the next sentence, as usually interpreted, is bad Greek and uncharacteristic of Josephus. Josephus states that Vespasian did not found a city (οὖ γὰρ κατώκισεν... ind. aorist.). What Vespasian did instead of founding a city would then be expressed by a participle (φυλάττων), followed by δὲ and another aorist (ἐδωκε). I could find no parallel for such a sentence in Josephus’ work. Further, αὐτῷ φυλάσσειν is an awkward expression to indicate appropriation of property by the Emperor. There is a common phrase, ἄναλαμβάνειν, “to take up”, used also by Josephus. This point should perhaps not be pressed. More important is the fact that the usual interpretation accepts without discussion a rather
significant emendation. All manuscripts have \( \alpha \nu \tau \omega \nu \), apart from L which has \( \alpha \nu \tau \omega \). All editors read \( \alpha \nu \tau \omega \).\(^{10}\) A far more satisfactory interpretation leaves \( \alpha \nu \tau \omega \nu \) as it stands and recognizes \( \delta \varepsilon \) as an adversative particle, expressing opposition between \( \circ \) . . . κατάκλισαν . . . πάλιν and χυρίον \( \varepsilon \delta \omega \kappa \varepsilon \nu \) \( \phi \nu \lambda \tau \tau \omega \nu \) then serves as a modal participle, also negated by \( \circ \). This may be translated as follows:

About the same time Caesar sent instructions to Bassus and Laberius Maximus, the procurator, to dispose of all Jewish land. For he founded there no city of his own while keeping their territory, but only to eight hundred veterans did he assign a place for settlement called Emmaus . . .

Interpreted in this manner, all elements in the statement are well balanced.\(^{11}\) The sentence is perfectly comprehensible without resorting to emendation. The verb \( \alpha \varpi \delta \sigma \theta \alpha \iota \) causes no problem if Vespasian did not keep any land and may be translated as "to dispose of", "to sell", the normal use in this period. The verb is used three times to indicate the liquidation of the private estate of Archelaus after confiscation.\(^{12}\) That is the context of the present passage as well. The only element missing in the statement, needed to make it absolutely clear, is a note explaining that "all Jewish land" refers only to confiscated property. Josephus takes it for granted that the reader realizes that communities and individuals who had not taken part in the revolt were, as a rule, not punished. Furthermore, land which had been confiscated could be given as a present to others.\(^{13}\) Josephus himself received such a gift:

(2) \( \text{Vita} \ 76 \ (422) \)

\( \varepsilon \pi \varepsilon i \varepsilon \delta \varepsilon \κατάκλισαν \tau \alpha \zeta \varepsilon n \tau \alpha \zeta \varepsilon n \tau \tau \rho o s , \varepsilon \iota \kappa \alpha \si s s a s \tau o \beta \sigma \varepsilon \circ \gamma \rho \o \nu s o s \circ \circ o s \varepsilon l \gamma \o \nu s \varepsilon n \tau o \iota s \varepsilon \iota \r i o s o l \o \mu o s \a \omicron \nu t o s \varepsilon \circ \si m \o \nu s o s \mu o i \delta \iota a s \tau \eta n \varepsilon \mu \iota l \lambda o u s a s \varepsilon k \iota \varepsilon \varepsilon \iota \omicron \mu a i o n \varepsilon \f o r u r a n \varepsilon \gamma \kappa \alpha \th \beta \varepsilon \zeta \varepsilon \theta a s \varepsilon h a i , \varepsilon \delta \omega \kappa e \varepsilon n \varepsilon t \epsilon \r a n \chi \omega \r a n \varepsilon n \pi \varepsilon \delta \iota \psi \)

\(^{18}\) Niese, in his critical apparatus, gives "ei" as the reading of the Latin translation. This presumably is taken from the Baseler edition of 1524 which is presently inaccessible to me. It is hard to see how \( e i \) (rather than \( s i b i \)) could justify reading \( \alpha \nu \varphi \). The \( \text{Kölner} \) edition of 1691 which I consulted reads: Eodem vero tempore Caesar etiam ad Liberium Maximum scriptit (erat autem procurator) ut omnem terram venderet Iudaorum. nec enim civitatem in ea condidit proprium servans sibi eorum agrum. Solis autem octingentis milibus illic relictus locum dedit quem incolerent, qui vocatur Ammaus. distat autem ab Hierosolymis triginta stadiis. There is no indication whether \( \text{e} \circ \text{r} \iota \varepsilon m \) is the translation of \( \alpha \nu \tau o n \) or \( s i b i \) of \( \alpha \nu \varphi \). In any event, not the ancient Latin translation, whatever its reading, should determine our interpretation of this passage, but a proper understanding of the Greek text as preserved in the manuscripts. On the Latin translation of Josephus see: H. Schreckenberg, \( \text{Die Flavius-Josephus-Tradition in Antike und Mittelalter} \) (1972), 59.

\(^{11}\) \( \delta \iota \alpha \nu \) is taken as attribute referring to \( \pi \alpha \lambda i v \) as in the German translation cited above. Most editors take \( \delta \iota \alpha \nu \tau \iota \varepsilon \tau \iota \circ \chi \w o r \varepsilon \nu \tau \iota \circ \z h \alpha \mu \tau \iota \z a \) together as a pleonastic phrase.

\(^{12}\) \( \text{Ant.} \ xvii 13,5(355) \) . . . \( \pi \varepsilon m \) \( \kappa \iota r \iota \circ \nu s o s \) \( \varepsilon \iota \tau o \iota s \) \( \varepsilon \iota \r i \i o s o l \) \( \alpha \omicron \nu t o s \) \( \varepsilon \circ \si m \o \nu s o s \) \( \mu o i \delta \iota a s \) \( \tau \varepsilon n \varepsilon \mu \iota l \lambda o u s a s \) \( \varepsilon k \iota \varepsilon n \varepsilon t \epsilon \r a \tau \iota s \) \( \varepsilon \circ \si m \o \nu s o s \) \( \mu o i \delta \iota a s \) \( \tau \iota l \) \( \varepsilon \gamma \kappa \alpha \th \beta \varepsilon \zeta \varepsilon \theta a s \varepsilon h a i \). \( \text{Ant.} \ xvii 1,1(2) \) . . . \( \varepsilon \circ \si m \o \nu s o s \) \( \tau \varepsilon \iota \r i \i o s o l \) \( \chi \h o \mu \tau a s \). \( \text{xviii} \ 2,1(26) \). The confiscation of Archelaus' estate is mentioned in \( \text{Ant.} \ xvii 13,2 \) (344).

\(^{13}\) Cf. Millar, \( \text{op cit.} \), 168f.
From this passage it has been concluded that land in the vicinity of Jerusalem became legionary territory. It must be noted, however, that Josephus does not say that his lands were confiscated or taken up by the army. Titus thought that the possessions of Josephus might become unprofitable because of the presence of the garrison in town. He therefore gave him other lands in the plain. It may be conjectured that land was assigned for the use of the army, but Josephus does not say so. The present passage only expresses what Josephus meant to convey: that, after 70, Jerusalem was dominated by the army and that he himself received gifts from Titus.

What conclusions may be drawn from the texts as reinterpreted? First, Josephus does not say that Jewish land was held as private property by the Emperor. Any reference to crown land in this passage exists only in the imagination of those who have emended the text. Second, Vespasian, according to Josephus, did not keep any territory in Judaea, but gave instructions to dispose of all confiscated land. That would not apply to crown land which had that status before the revolt, of course. Josephus means to emphasize that Vespasian did not introduce foreigners into any newly-founded Flavian city, intended to replace Jerusalem. He stressed therefore that only a limited number of veterans was established at the modest settlement of Emmaus. The Flavian cities of Caesarea, Jaffa and Neapolis are not mentioned because no foreigners were settled there. Moreover, they were outside the area of Judaea proper which would have been affected by the refoundation of Jerusalem as a pagan city. By not founding a city, Vespasian made it possible for Jews to buy land, if they could afford it, a possibility which the establishment of a large veteran-colony would have precluded. The difference between selling and leasing the land is obvious: after the sale the land became, once again, privately

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15 Mommsen, loc. cit., refers to Tacitus, Ann. xiii 54. That is definitely not a good parallel, for it refers to a border-area of the Empire kept clear of inhabitants as a buffer zone. Jerusalem was no frontier-town and Judaea was not kept clear of inhabitants. On military land in general see: F. Vittinghoff, Acc. Naz. Lincei 194(1974), 109-124.


17 πόλις Ἰονία, a city of his own, i.e. named after him like Aelia Capitolina (Hadrian's city).

18 For Caesarea see Isaac, Talanta 12-13 (1980-81), 38-43; for Neapolis and Jaffa, ibid., n. 36. Caesarea was made a titular colony, while Jaffa and Neapolis were previously existing communities ravaged in the war.
owned property. According to the usual interpretation of the text, all the land would have been farmed out by the Emperor to tenants who could never own their land and had to pay rent. Josephus’ statement emphasizes Vespasian’s moderation in his treatment of the Jews and to a certain extent this may be considered a pro-Flavian description of the state of affairs.

Josephus’ information corresponds with the facts as we know them. Talmudic sources leave no doubt that the Jews owned land in Judaea after 70.19 Eusebius and others cite Hegesippus as their authority for a story about relatives of Jesus in the reign of Domitian, smallholders who possessed “only thirty-nine plethra of land on which they paid taxes and on which they lived by their own work”.20 In the Second Jewish Revolt, the governor Tineius Rufus “enslaved the territory of the Jews”, according to Eusebius.21 This implies that the Jews owned their land, for Tineius Rufus could not have enslaved crown land. Titus promised prominent Jewish refugees from Jerusalem to restore to them their property after the war.22 It is clear that Jews possessed land in Judaea in fact and by right after the First Revolt. While the property of those condemned for participation in the revolt was undoubtedly confiscated, this was not taken up by the treasury, but sold again. It could then be bought by Jews and gentiles.

19 Dr. A. Oppenheimer writes to me: Numerous Talmudic sources deal with the sale, mortgaging and inheritance of landed property and with related subjects. It can not be assumed that all are purely theoretical. In a number of instances the events referred to are firmly dated in the period following the destruction of the Second Temple. For instance, the sale of land and related activities which prove ownership of landed property by Ba’itos ben Zonin, a wealthy resident of Lydda in the time of R. Gamaliel of Javneh (mBaba Megi’a 5,3; bBaba Megi’a 63a); R. Eliezer ben Hycanus owned a vineyard east of Lydda near Kefar Tavi (bRosh Hashanah 31b); R. Akiba undertook to buy land on behalf of R. Tarfon (Wayyikra Rabbah 34, 17, ed. Margolies, 812; this is indeed a legendary story, but it may be interpreted as reflecting a reality of free trade in landed property). Various ordinances of the Jewish leadership at Javneh and Usha prove that Jews owned land and that the Sages took steps to preserve this situation: it was prohibited to sell to gentiles land or slaves and large cattle—which formed the work-force in agriculture; it was also prohibited to change over from agriculture to the raising of small cattle. All these ordinances originated in the period subsequent to the First Revolt and were further established during the crisis following the Second Revolt. In this connection must be mentioned the enactments concerning ‘sikarikon’ which deal with the acquisition of landed property expropriated by the Romans. These are testimony of land-expropriation but they do also indicate that Jews could acquire land. Finally there are the sources regarding the observation of precepts connected with the produce of the land, such as the Sabbatical year (shebi’ith) or tithes (ma’aseroth) which show clearly that landed property played an important role in Jewish life after the First Revolt. See A. Büchler, The Economic Conditions of Judea after the Destruction of the Second Temple (1912), 30-39; Alon, op. cit. (supra, n. 1), 59-64; 152-168; 277-287; S. Safrai, Tarbiz 35 (1965), 306-310 (Hebr.).

20 HE iii 19-20; Georgius Syncellus, p. 652 (Dindorf); Zonaras, p. 504 (Niebuhr). The reliability of the source is uncertain, but the details seem realistic.

21 Eusebius, HE iv 6,1: τὰς χώρας αὐτῶν ἐξαιρετικῶς

Cf. Momigliano, op cit., 86.

22 BJ vi 2,2,(115).
The status of the land seems clear in outline. A related problem is the legal status of the Jews after 70.23 Mommsen’s theory that the Jews ceased to exist legally as a nation and permanently remained peregrini dediticii is not now accepted. Yet we know that the Jews were punished in various ways. Most serious for the people as a whole was the fact that Jerusalem and the Temple were left in ruins.24 Vespasian founded the fiscus Iudaicus as a form of collective punishment of all Jews wherever they lived in the Empire.25 All this is recorded by Josephus and in other sources, but no source has anything to say about the legal status of the Jews, an indication, perhaps, that there was nothing worth saying.26 It may confidentially be assumed that those who had not participated in the revolt did not suffer any further punishment. Large numbers of insurgents were deported as slaves. It is not clear what legal status was conferred on those who had surrendered and who remained free men. It has been suggested that they remained dediticii for a relatively long period.27 There is, however, no evidence showing that Jews were kept in a class inferior to that of other provincials. Momigliano has argued that there must have been a connection in fact, though not in law, between the status of the people and that of the land.28 That there was such a connection is suggested by Cicero: “cum . . . senatus et populus Romanus Thermitanis . . . urbem agros legisque suas reddidisset”.29 We now know that Vespasian did not keep large tracts of Jewish land as his own property. If Momigliano’s assertion is accepted, we have no reason to believe that large numbers of free Jews were kept in an inferior condition. The text of Josephus would seem to support this assertion. Following the statement on Jewish land, Josephus describes the institution of the Fiscus Iudaicus, ending with the sentence: “Such was the state of Jewish affairs at this time”.30 Apparently these were the two

23 Cf. Mommsen, Historische Zeitschrift 64(1890), 424-6; J. Juster, Les Juifs dans l’Empire roman II (1914), 19-27; Momigliano, op cit., 84-9; Alon, op cit. (supra, n. 1), 71 with n. 45a; 122-3; S. W. Baron, A Social and Religious History of the Jews II (1952), 103-4; S. L. Guterman, Religious Toleration and Persecution in Ancient Rome (1951), 103-8; Smallwood, op cit. (supra, n. 1), 342.
24 BJ vii 1,1(1-4) records Titus’ decision regarding the city.
25 BJ vii 6,6(218); cf. V. A. Tcherikover and A. Fuks, Corpus Papyrorum Judaicarum I (1957), 80ff.; Schürer-Vermes-Millar, op cit., 1, 513, n. 143; Smallwood, op cit., 371-6. See also: Tcherikover, The Jews in Egypt in the Hellenistic and Roman Periods in the Light of Papyrology (1963), 86-94; 112 (Hebr.).
26 Christian sources would not have omitted any decision seriously embarrassing to the Jews.
27 See literature cited above, n. 23. On dediticii see Gaius, Inst. I 14 and cf. A. H. M. Jones, JRS 26 (1936), 229-31. Momigliano first pointed out that a distinction will have been made between participants in the revolt and those who remained loyal to Rome, such as the Jews of Sepphoris. For the treatment of those who surrendered see BJ iv, 3,2(130); 8,1(444) and supra, n. 22.
29 Verr. 37,90; cf. Jones, loc. cit.
30 BJ vii 6,6(218): καὶ τὰ μὲν Ἰουδαίων τότε τοιαύτην εἴξε κατάστασιν
important decisions regarding the Jews. Apart from the establishment of legionary headquarters at Jerusalem, Josephus makes no mention of any reorganization of Judaea as a Roman province. As argued elsewhere, archaeology confirms this impression. There is no trace of road-building or of the introduction of foreign settlers anywhere in the province. No further measures were taken actively to suppress the Jews. The contrast with Hadrian's policy is obvious. Hadrian initiated the construction of a road-network and reinforced the garrison. He seems to have interfered in local affairs. He may not have made the Jews dediticii, but he certainly took steps aiming at the suppression of their religion, and transformed Jerusalem into a pagan city inhabited by foreigners.

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