

Thomas Gaskell Shearman and the Single Tax
H. William Batt, Ph.D., Fall, 2011

Henry George was his own best advocate during his short life of 59 years, only twenty-five of which were devoted exclusively to expounding his philosophy.¹ If there is one other contemporary who came close to matching his advocacy, it was Thomas Gaskell Shearman. In some ways, Shearman was able to meet challenges that George could not: he was both a lawyer and an economist, some also say a statistician² as well as certainly being an established figure in New York high society. Little has been written about Shearman the man, although most of his written work and speeches are accessible. This essay is intended to explore his talents, dimensions, and influence.

Shearman was born in Birmingham, England, in 1834, five years before Henry George's birth in Philadelphia. He came to New York with his parents at age nine and left school at thirteen to earn his own living in a dry goods store. He continued his studies under the tutelage of his mother and moved to Brooklyn to be on his own in 1857. Two years later, at age 25, he was admitted to the practice of law in Kings County. Even prior to becoming an attorney, he was the editor of a legal journal and continued as the author of law books throughout his life. He died in September 1900 at his home in Brooklyn shortly after returning from Europe.³ He left a wife, but no children.

Shearman's obituary in the New York Times identifies him as a "well-known lawyer, political economist, and single tax advocate." But it could have noted also that he was a leader of Brooklyn's Plymouth Church one of the largest and most prominent congregations in New York. His place in the Georgist movement can be accounted for by two particular factors: the introduction of the term "single tax" into the discourse and his view that a small portion of the rental value of land should remain untaxed. Each element has had importance for the movement since. One can infer that Shearman's relationship with George could not always have been a smooth one, as

1 *Progress and Poverty* was published in 1879, and George died on October 29, 1897. But his first article he published on the subject, "Our Land and Land Policy," was published in 1871.

2 Tribute to Shearman by Louis F. Post, *The Public*, October 6, 1900, Number 131, p 405-406.

3 "Thomas G. Shearman Dead," *New York Times* Obituary, September 30, 1900.

George himself felt differently about each of these points. But his commitment to the Georgist philosophy was total, as was his understanding. It is important, therefore, to know a bit more about Thomas Shearman and his place in the history of Georgist thought than just have access to his significant body of work.

Shearman, the Church Pillar

Throughout his life, Thomas Shearman was a member and later a pillar of Brooklyn's Plymouth Congregational Church. The church was first established in 1847 by a group of transplanted New Englanders, and its first pastor was Henry Ward Beecher, who has recently been described in a book as *The Most Famous Man in America*.⁴ When Beecher died suddenly in 1887 Lyman Abbott, a friend and colleague, succeeded him for another decade. As an attorney turned minister, Abbott was a prolific writer and influential theologian. He was one of four to deliver a eulogy at the funeral of Henry George.⁵ For a considerable time Shearman served as the Treasurer of Plymouth Church, and he served as the Superintendent of its Sunday school for the ten years prior to his death. In fact his obituary recounts a story of his having given \$10,000 to finance an addition to the Sunday school when the Church could not otherwise afford it.⁶ He was also co-editor of the monumental Plymouth Sunday-School Hymnal, published first in 1892, which was subsequently circulated widely throughout the nation.

Plymouth Church was a leader in the anti-slavery movement from its inception, and it continued its progressive tradition throughout the later 19th century and does to this day.⁷ Its governing structure follows that of the original Plymouth colony; in fact it has adopted the language of its covenant. Its

4 Debby Applegate, *The Most Famous Man in America: The Biography of Henry Ward Beecher*. New York: Random House Doubleday, 2007.

5 www.plymouthchurch.org. Besides Dr. Lyman Abbott were lifelong friends Heber Newton, Rabbi Gustav Gottheil, and Father Edward McGlynn. These speeches were later published in 1897 in the booklet, *Addresses at the Funeral of Henry George*. Chicago: *The Public* Publishing Co., and are available on the website of the School of Cooperative Individualism, www.cooperativeindividualism.org.

6 *New York Times* Shearman obituary.

7 In February 1963 Martin Luther King spoke at Plymouth Church just months before delivering his "I have a Dream" speech in Washington.

ministers have been leaders among Protestant congregations nationally and it conceived the practice of congregational hymn singing that has since become so widespread. Its activities extend well beyond Sunday worship services: in 1867, for example, the Church sponsored a five and a half month trip to Europe and the Holy Land. Among the tour group was the young Mark Twain who wrote *The Innocents Abroad* based on this experience.⁸ Today it maintains an extensive garden as well as activity rooms serving as space for banquets and gymnasium. Doubtless it is the endowment, which Shearman had a hand in, which today allows for such outreach.

Shearman, the Attorney

In his role as a lawyer, Thomas Shearman should be mentioned separately for his scholarly work and by his legal practice. His identities in these respects may actually be somewhat paradoxical. Even before he was formally admitted to practice, he was compiling case law into what would later become texts. Along with senior attorney John Tillinghast, Shearman completed a manual of procedures for use in the State of New York published in 1865. This became the basis of the Code of Procedure for the State.⁹ The first edition of his *Treatise on the Law of Negligence*, authored with Amasa A. Redfield, appeared in 1869, a three volume work. It was further revised in 1874, 1880, 1888,¹⁰ and 1898. Despite the deaths of both Shearman in 1900 and Redfield in 1902, the text continued to be used in law schools, with another edition appearing in 1913 and yet again in 1941 edited by one Clarence S Zipp. A supplement

⁸ www.plymouthchurch.org.

⁹ John L. Tillinghast and Thomas G. Shearman, *Practice, pleadings, and forms in civil actions in courts of record in the State of New York*: adapted also to the practice in California, Missouri, Indiana, Wisconsin, Kentucky, Ohio, Alabama, Minnesota and Oregon. This was published in two volumes, the first about three inches thick and the second about four inches thick. He may well have worked on other code compilations done at that time under the supervision of attorney David Dudley Field. A *Book of Forms* was issued in 1861, the first *Penal Code of the State of New York* first published in 1850, a *Political Code of the State of New York* in 1857, and a *Civil Code of the State of New York* all published anew in 1865. These came to be known as the "Field Codes."

¹⁰ The 1888 edition is downloadable from Google Books. Baker, Voohis & Co., published that edition, the fourth, in two volumes Publishers, in New York.

was inserted into each of what had by now become five volumes in 1970.

Shearman's role as a practicing attorney and litigator was much more colorful. In 1868 at the age of 24 he partnered with David Dudley Field, a man more than old enough to be his father, and who had, according to the Shearman obituary, "done something which aroused the enmity of the bar generally." Without knowing him personally, Shearman defended Field, and when the latter learned of this, a meeting ensued that resulted in their joining together in a new law firm. Working closely with a prominent lawyer senior by almost thirty years was no doubt a valuable experience for the aspiring lawyer.¹¹ Shearman became the lead attorney for the Erie Railroad Company and presented extensive testimony before the New York Assembly Railroad Committee in February 1872.¹² The line from New York City to Buffalo had shortly before been wrenched from the control of Cornelius Vanderbilt by Jay Gould. With the connivance of Daniel Drew and Jim Fisk, it would ultimately become controlled exclusively by Gould. This involved the clear bribery of State legislators and judges, and it is unlikely that Shearman's services were untainted.¹³ When Field left for business in Europe,

11 Field published a pamphlet in 1846 titled "The Reorganization of the Judiciary," which was a factor in persuading the New York State Constitutional Convention of that year to report in favor of codification of its laws. The following year he was appointed head of a State commission to revise practice and procedure, which was enacted in 1848 as the "Code of Civil Procedure." By 1857 a comprehensive code of civil and criminal procedure was completed and enacted, a system that was largely adopted intact by several other states, in other British colonies, and in England and Ireland itself in 1873. Field became chairman of a state commission for the reduction into a written and systematic code of the whole body of law of the State of New York. This firm was shortly thereafter retained to take entire charge of the legal business of the Erie Railway Company. A number of other powerful corporate clients led to his having a somewhat mixed reputation. *Encyclopedia Britannica* (11th ed), 1911. See also Wikipedia and www.nndb.com/people/862/000115517/; and <http://legal-dictionary.thefreedictionary.com/David+Dudley+Field>.

12 Erie Railway. Argument of Mr. T.G. Shearman upon the classification law repeal bill. February 14, 1872, before the New York State Assembly Railroad Committee.

13 One can capture the sordid history of the Erie Railroad Company during this era in Gustav Myers, *History of the Great*

Shearman formed a new partnership in 1873 with John W. Sterling who had earlier also been part of the Field firm. The new firm was then retained to defend Jay Gould in more than 100 damage suits growing out of the gold panic of 1869, where Mr. Gould was held to blame. The firm's arguments prevailed in every case, and Gould was exonerated. An extensive website on notable figures of the period has a detailed portrayal of the Shearman and Sterling law firm, which continues to this day. One section points to the nature of the firm's clients:¹⁴

One could say that the firm was less than discriminating (no pun intended) when it came to accepting clients. Among the clients Shearman & Sterling represented were Jay Gould and his partner (or as some would say, "accomplice") James Fisk. The pair were always in legal trouble and represented a good source of income for the firm, so maybe they weren't such bad clients to take on after all.

Gould is perhaps best remembered for his role in 1869's Black Friday. He manipulated the price of gold by purchasing millions of dollars worth. Then he persuaded President Grant's brother-in-law to help him, by ensuring that the government would not stop his attempt at cornering the gold market. When the President discovered what his brother-in-law had done, he was slow to act. So for two days, Gould sold his gold at inflated prices, while appearing to buy. Investors followed his apparent path. The price of gold continued to rise and Gould was getting richer as he was selling it. On Friday, President Grant released five million dollars worth of gold for sale and the prices plummeted. The Stock Exchange closed for a short time to "separate the solvent from the ruined." When Gould died of consumption in 1892, he left more than \$75 million to his family, or over \$3 billion in today's money.

However, one must realize that times and ways of practicing law and doing business were much different then, and many saw nothing wrong with the way these men conducted business. Other Shearman & Sterling clients were Stillman's National City Bank of New York, and John D. Rockefeller's Standard Oil.

American Fortunes (Random House Modern Library Edition, 1907, especially Part III, Ch. X and XI; and Edward Harold Mott, *Between the Ocean and the Lakes*, New York: J.S. Collins, 1901, especially the Appendix, titled "Under the Legislative Probe," available in Google Books.

14 The series of articles is intended to focus on notable figures in past history that were gay. Despite this agenda, most of the information appears to be accurate. See http://outhistory.org/wiki/Claude_M._Gruener_and_Rick_Wagner:_Section_Two_Sterling_and_Bloss:_The_Working_Years. The firm has twenty offices worldwide, and its website is www.shearman.com.

Shearman's most publicized case, however, was the lawsuit of noted writer Theodore Tilton against Henry Ward Beecher, when the latter was accused of having an affair with Tilton's wife, one of Beecher's most pious parishioners. As the book jacket puts it, "Suddenly the 'Gospel of Love' seemed to rationalize a life of lust." Although the charges were not proven, Beecher's life thereafter was never again the same. When the ensuing scandal exploded, Beecher turned to Shearman who assembled a team of seven star attorneys, headed by William Evarts. Evarts was as much of a Boston blueblood as could possibly be, a product of Yale (Skull and Bones) as well as Harvard Law, one who would later defend Andrew Johnson from impeachment, serve as US Senator from New York, and Secretary of State and Attorney General during the Hayes presidency. Professor Debby Applegate's captivating chronicle of the six-month trial describes Shearman as "a corporate lawyer notorious for his shady corporate clients, ruthless tactics and ardent admiration for Henry Ward Beecher."¹⁵ According to Applegate, Shearman, along with fellow attorney Benjamin Tracy either initiated or passed along other slanderous stories, as both were "notorious in New York for their unscrupulous legal careers." Yet, in personal communication, Professor Applegate admits that she came in the end to have a great deal admiration for "Tommy Shearman."

In his later years, Shearman devoted his legal attention entirely to the management of large estates and trust funds in the care of his firm. Since he appears to have been a person of moral scruples, his departure from the arena of corporate law was with good reason. But this may also be due to the fact that an increasing focus of his attention was on the Georgist agenda and less on doing the bidding of disreputable clients. He was a staunch Republican for most of his career until the Presidential campaign of Grover Cleveland and later of William Jennings Bryan and the Gold Democrats. He was also active in several prominent New York and Brooklyn civil organizations - The Brooklyn Revenue Reform Club (of which he was a founder), The Reform Club of New York, the National Civic Club, the Brooklyn Democratic Club, and the Hamilton Club. His *New York Times* obituary notes still "other kindred organizations" of which he was a member, but does not name them. According to the same source, he surprised many of his fellow Plymouth Church members by supporting the British in the Boer war. In fact it led

¹⁵ Applegate, p. 432 ff.

to his resignation from the Manhattan Single Tax Club when that organization adopted resolutions of sympathy for the Boers.¹⁶

Shearman, the Economist and Single Tax Advocate

It is Thomas Shearman's contribution to the Georgist "single tax" movement that warrants our further record and attention. Beginning shortly after the publication of *Progress and Poverty*, Shearman wrote many articles as well as a very solid book advocating the taxation of rent. He traveled and spoke widely on the subject, testified before legislative bodies and commissions, and gave credence and respectability to the single tax message that George himself might not have been able to achieve.

Shearman likely read George's book shortly after its 1879 publication, for there exists in George's archives a complimentary letter written in March 1881, reading in part:

I have long been much interested in your "Progress and Poverty," and have distributed a number of copies among friends, besides recommending every one to read it. The larger part of your book commands my entire assent. . . [and] although the question was not quite new to me, . . . I am thoroughly in favor of the system of taxation which you advocate.

It is therefore an irony that upon first hearing George speak he was singularly disappointed. The *New York Times* relates a story Shearman must have told often, that his "greatest disappointment . . . was when Mr. George made his first appearance as an orator. After speaking for fifteen minutes Mr. George repeated himself and seemed to lose the *thread* of his argument. He then gave no promise of the great power he afterward displayed."¹⁷ It is worth noting that George would soon be one of the most captivating speakers of his time, in an era when oratory skills were an essential asset for any public figure.

Shearman, for his part, would deliver at least fifty prepared speeches about Mr. George's ideas, at least that have come down to us, in the following two decades of his life. This is in addition to a 268-page book published in 1895 that remained in print for decades thereafter.¹⁸ The earliest ones of which we have

16 *New York Times* Shearman obituary.

17 *New York Times* Shearman obituary.

18 *Natural Taxation: an inquiry into the practicality, justice and effects of a scientific and natural method of taxation*. New York: Doubleday & McClure, 1895, new and enlarged edition, 1898, 1915.

record address the tariff question, as salient a political issue in the early 1880s as were taxes.

[to be continued]

Shearman's political affiliation was with the Republicans from his earliest days, in good part because of its stands on the slavery issue. In his visit to Des Moines in 1883 he began his speech by professing his strong allegiance to the Republican Party. It was likely as much a surprise to him as to others that he allied himself with the Democrats in 1892 after reading of the incorporation of the free trade plank in the platform by Tom Johnson.¹⁹

19 The Brooklyn Democratic Club met on the evening of September 26, 1892 mainly to endorse the candidacy of Grover Cleveland for President and Adlai Stevenson for Vice President. The news account of the meeting went on to say

Thomas G. Shearman . . . took up the tariff question immediately [after its earlier endorsement] took up the tariff question immediately and said that he was never willing to say before "I am a Democrat," but when he heard of the "glorious Tom Johnson plank in this platform," he hastened to cable over from Europe that he was a Democrat. "Everybody in this room," he added, "will live to see the day when the Democratic Party will stop temporizing and will tear this thing up by the roots." The statement was of such significance that it was printed essentially in its entirety in the following day's account. *New York Times*, September 27, 1892.