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MAIMONIDEAN CRITICISM AND THE MAIMONIDEAN CONTROVERSY

1180-1240

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1180-1240

BY

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To Adele, who loved
encouraged the writing and the writer

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INTRODUCTION

Moses Maimonides' *Moreh Nebuchim* (English, *The Guide For The Perplexed*) was burned at Montpellier three decades after the philosopher-rabbi's death. It was bonfired by Christian authorities. It had long been the subject of a roiling controversy within Jewish life. Indeed, whether or not individual Jews denounced this work to the Church (we will attempt to show that they did not), the Jewish community generally felt a corporate responsibility for this misfortune.

This volume explores what history has chosen to call the Maimonidean Controversy, a roiling argument over Maimonides' philosophy which got sufficiently out of hand to establish in Israel a sense of guilt for the burning.

History enjoys its paradoxes. Not the least among these is the unexpected discovery that the Maimonidean Controversy was essentially not a debate over Maimonides. Neither the virtue of the man nor the verity of his specific formulations was at stake. Both attacker and defender praised him. Without exception all homaged his piety and learning, and with few exceptions neither the critics nor the protagonists had read the *Moreh* carefully. The pages of Maimonides' vast and varied literary legacy became a battlefield by virtue of their author's unique genius and unrivaled fame which established him as symbol of an entire cultural matrix. Even in his lifetime Maimonides had become seal and symbol of the many-centuried tradition which in all solemnity had married Greek categories of thought to Hebraic categories of faith. Anti-Maimonideans disapproved the marriage, not the man. Maimonideans applauded the marriage as a fitting union of two high born traditions.

Why so late in the marriage of Athens and Jerusalem should bitter controversy have developed? Quite suddenly in the last half of the 12th century the intellectual inheritance of the Arabic-Jewish world was transshipped westward and north to communities which heretofore had hardly known of its existence. Contemporaneously with Maimonides' maturity, the cultural baggage of Islamic Jewry was brought ashore at Barcelona, Marseille, Montpellier

and Narbonne. Factors in the form of busy translators distributed this material widely.

Western Jewry was not given the leisure or the opportunity to digest in peace these imported delicacies. A crisis of survival rose up to plague these communities, a crisis which forced upon those burdened with leadership a precipitous and painful decision. Could the body politic tolerate this new thought, or was it dangerous to the social health and the wellbeing of the faithful?

As we shall show in the first chapter, the Church at this time, and for the first time in nearly a millenium, became involved with the existential facts of Jewish life. The Jew ceased to be viewed primarily as a necessary, if minor, pawn in the drama of the First and Second Coming. He had been the Christ-killer whose ultimate and inevitable conversion was basic to the messianic drama. He retained this role, but now took on another as heir of a vital and vigorous tradition which could occasionally convert one of the faithful and which invariably restricted the effectiveness of the missionaries of the true faith. To understand the living mind of the living Jew the Church made good use of the zeal and training of those who had been Jews. Raymond Pennaforte, the sometime director-general of the Dominicans (1238—1240), made it a matter of policy to establish schools where Hebrew was taught, with an eye to the opening up of the entire rabbinic tradition. Converts like Pablo Christiani were put to work teaching the ancient tongue and translating for Church inspection the Talmud and its sister texts. The unusual program of public disputation was intermittently encouraged, again in order that missionary priests might be better prepared. The direct result of the Paris disputation of 1240 was a published catalogue of the errors of the Talmud. The direct result of the Barcelona disputation of 1263 was James I's order establishing the right of the Dominicans and the Franciscans to enter and preach in the synagogues of Aragon where they must be greeted with marks of friendship and respect.

Jewish life before the 13th century had been tolerant of a broad range of theological speculation. Jewish leaders in Arab lands had taken part in the revival of Greek philosophy and, like their Muslim counterparts, had developed sophisticated apologetics deeply drenched in the norms of Neo-Platonism and Aristotelianism. Many of the Jews of Castille and Aragon had been weaned intellectually by tutors at home in such philosophies.

Such Greek systematics were unknown in the more northern communities of France and Germany except through an occasional reflection which shimmered off the vast sea of Talmudic and Midrashic material. In the late 12th and early 13th centuries, along with so much else, the cultural baggage of the Arab world was carried westward and north. We shall see such communities as those of the Provence and the Languedoc come alive, through the medium of translation, to this Hebraic-Hellenic philosophic tradition. Had there been no outside pressure the process of intellectual adjustment would have followed a natural course. The deep interest in the new learning manifested by competent and pious Provençal Talmudists like Jonathan ha-Kohen of Lunel illustrate that given opportunity (i.e. time) the 13th century rabbinic mind would have accomodated this intellectualism. Jews, after all, were trained to believe that in *Aggadah* broad latitude could and ought to be permitted.

Western Jewry was not given an opportunity to assimilate cautiously and digest slowly the attitudes of Isaac Israeli and Saadya Gaon and their successors. The Church, newly militant and missionary, upset the communities' equilibrium. The new learning brought into doubt popular and seemingly sacrosanct attitudes towards the reliability of Scripture, the authority of Scriptural law, the providential care by God of His people, and the ultimate promise of resurrection. Had there been time, questions would have been asked and doubts answered and a new *Weltanschauung* forged. Given conditions as they were, questions were asked and the very asking of these questions caused fear to shiver down the communal spine. Today's youthful questioner might be tomorrow's convert and the day after tomorrow's informer.

The Maimonidean Controversy was a statement of fear. Maimonides had forged the most brilliant and catholic philosophic apologetic of Judaism. A rabbi whose piety was unquestioned and a halachist without peer, his teachings could not be dismissed as the scribblings of a tyro without authority or competence. Those who wished the privilege of basking in the bright learning of the Arab-Jewish world claimed his sanction. Those who were fearful of the consequences of overexposure and sunburn created a Maimonidean controversy.

The issue was never Maimonides the man nor Maimonides the philosopher nor the correctness of Maimonides' philosophic system.

The issue was survival. The more realistic and confident held that the period of adjustment between cultural views could be successfully survived and that there was more danger in playing the heavy to an already restive intelligentsia than in bowing to their interests, joining their study groups, and helping them master their confusions. Judaism would only alienate those already aware of broader intellectual horizons by insisting that these horizons did not exist. Those with long historical memories and less patient by nature with intellectual confusion argued that faith could be maintained only by keeping the catalyzing intellectual yeast far from the cultural dough. The new learning would raise doubts where before none had existed. Philosophy was a volatile explosive; its one sure result a shattering for many of their heretofore untroubled faith. Satan ought not be given an opportunity. Let only those experienced and licensed handle the dangerous cargo.

Maimonides, with his charisma of genius and his genius for the simple declarative, could not escape becoming the center of this storm. He was *the* rabbi. He was *the* philosopher. He became *the* justification for any and all speculation — much of which he would have disapproved. The speculatives claimed him as patron, and the traditionalists energetically counterattacked, wisely (perhaps unwittingly) stipulated their opponents' claim to Maimonides. So committed, the anti-Maimonists perforce had to come to grips with the vast rabbinic output of a prodigiously prolix pen and an exceptionally fertile and magnificently competent mind. This many sided confrontation, too, is necessarily part of our story. Maimonides' fame rested on his work as a halachist. His great code, the *Mishneh Torah*, was in its own way as revolutionary as it was encyclopedic. Legal and literary criticism, in no way intended as part of a controversy on the tactics of survival, could be and was leveled against his restructuring of Jewish law. The controversialists often seized on purely juridical criticism which then despite itself became part of this boiling pôt au feu. Again, being human and many-sided, *halachic* critics occasionally inserted controversialist material into their glosses. In the Near East Maimonides' halachic views became entangled in a protracted struggle. The backwash of this essentially political debate also spilled over and further roiled already muddied waters. We shall follow many a narrow byway.

This debate over the valid techniques of Jewish survival was not

settled within our period (1180—1240). Indeed, it was never fully settled. How could it be? But after the trauma of the burning of 1232 the controversialists came clearly to understand that they had mixed Maimonides into a controversy not of his making, without warrant, and in such a way as not only to weaken their case but to disgrace the memory of a great and pious man. As we shall show, deliberate efforts were then made to disengage Maimonides from the Maimonidean controversy. The fourth decade presents, therefore, a convenient terminus ad quem beyond which the language of lingering controversy adopted a new idiom.

This is a study of the Maimonidean Controversy in its initial stage and while Maimonides, the teacher and his teachings, remained the focal issue. We shall study both criticism and controversy: those who wrote and who soberly criticized, those who wrote and who bitterly assailed, and those who wrote and who passionately defended. We shall be led down many byways, but when we have emerged, hopefully we will have gained a renewed appreciation of the breadth of mind of the greatest medieval Jewish thinker and a new appreciation of the tensions which contorted the western Diaspora at this stage of its historical pilgrimage.

CHAPTER ONE

CHANGING TIMES AND CHANGING TENSIONS

During the 13th century the attitude of the Church toward the Jews of Christian Europe hardened and the focus of its interest changed. The theology of apartheid was a thousand years old. The 13th century was unique in a determination to weave this theology into the fabric of feudal life.

Grayzel, the historian of Church-Jewish relations at this period, has documented the pronouncements and pressures which signaled and established this policy. His thesis is simply put: "One notes that the attitude of the Church remained essentially the same throughout the centuries; the difference lay in that the popes of the Thirteenth Century carried that attitude to its logical conclusion, and, moreover, bent their efforts to realize it in fact." [1]

The popes of the age from Innocent III to Boniface VIII spared no energy to induce kings, nobles, and towns to abide by the long overlooked segregationist provisions of the Theodosian Code (439) including those which prohibited Jews to hold office involving authority over Christians. [2] Local officials were ordered to effect the stipulations of the Council of Orleans (538) mandating that Jews be behind doors during Holy Week. [3] The Council of Béziers (1246) threatened excommunication to any Christian who sought medical care from Jews, [4] thus resurrecting a prohibition at least as old as the Trulam Council (692). Effective social apartheid became the aim of the 13th century Church. Promulgations were issued that Jews might neither enjoy nor reciprocate the hospitality of their Christian neighbors [5] nor bathe together, [6] thus reviving sti-

[1] S. Grayzel, *The Church and the Jews in the Thirteenth Century*, Philadelphia, 1933, p. 9.

[2] Letter of Innocent III to Philip Augustus of France (1205), Grayzel, No. 14, also Nos. 23, 24, 46, 47, 69, and 71; J. Regné, "Catalogue Des Actes De Jaimie I, Pedro III, et Alphonso III Rois D'Aragon Conçernant les Juifs," *REJ* LX (1910), No. 4; and G. D. Mansi (ed.), *Sacrorum Conciliorum Amplissima Collectio* (Florence and Venice, 1759-89), XXII, 1058.

[3] Mansi, XXIII, 1055; Grayzel, Nos. 14, XVII.

[4] Mansi, XXIII, 701; Grayzel, Nos. XIX, XLI.

[5] Grayzel, No. XLI; F. Baer, *Die Juden im Christlichen Spanien* (Breslau, 1929-36), II, 133, 148, 275, 295. [6] Grayzel, No. XXXIII.

pulations of the Council of Elvira (303) and of the Trulam. Special pains were taken that no Christian live with a Jewish family as servant or nurse.[1] Intermarriage, proselyting, the ownership of slaves all were prohibited. The Council of Avignon (1209) went so far as to prohibit Jews to touch the food exposed in open market stalls.[2] Typical of the ecclesiastic mood and of its rationale is a pontifical missive addressed in June of 1205 by Innocent III to Philip Augustus of France.

Though it does not displease God, but is even acceptable to Him, that the Jewish Dispersion should live and serve under Catholic Kings and Christian princes until such time as their remnant shall be saved, in those days when "Judah will be saved and Israel will dwell securely" nevertheless, such (Princes) are exceedingly offensive to the sight of the Divine Majesty who prefer the sons of the crucifiers, against whom to this day the blood cries to the Father's ears, to the heirs of the Crucified Christ, and who prefer the Jewish slavery to the freedom of those whom the Son freed, as though the son of a servant could and ought to be an heir along with the son of the free woman.

Know then that the news has reached us to the effect that in the French Kingdom the Jews have become so insolent that by means of their vicious usury, through which they extort not only usury but even usury on usury, they appropriate ecclesiastical goods and Christian possessions. Thus seems to be fulfilled among the Christians that which the prophet bewailed in the case of Jews, saying, "Our heritage has been turned over to strangers, our houses to outsiders." Moreover, although it was enacted in the Lateran Council that Jews are not permitted to have Christian servants in their homes either under pretext of rearing their children, nor for domestic service, nor for any other reason whatever, but that those who presume to live with them shall be excommunicate, yet they do not hesitate to have Christian servants and nurses, with whom, at times, they work such abominations as are more fitting that you should punish than proper that we should specify.

Moreover, although the same Council decided to admit Christian evidence against Jews in law-suits that arise between the two, since they use Jewish witnesses against Christians, and although it decreed that whoever preferred the Jews to the Christians in this matter should be anathematized, yet they have to this day been given the preference in the French realm to such an extent that Christian witnesses are not believed against them, while they are admitted to testimony

[1] Grayzel, Nos. 18, XXXIII, XXXIV, XXXVI.
[2] Mansi, XXII, 785.

against Christians. Thus, if the Christians to whom they have loaned money on usury, bring Christian witnesses about the facts in the case, (the Jews) are given more credence because of the document which the indiscreet debtor had left with them through the witnesses produced. Nay, more, in complaints of this nature witnesses are not received against them at all, thus, by this time, and it is with shame that we repeat it, they have become so insolent that at Sens they have built a new Synagogue near an old Church, a good deal higher than the Church. There they celebrate the Jewish rites, not in a low tone, as they used to before they were expelled from the Kingdom, but, in accordance with their custom, with great shouting; thus they do not hesitate to hinder divine services in that church.

What is even worse, blaspheming against God's name, they publicly insult Christians by saying that they (Christians) believe in a peasant who had been hung by the Jewish people. Indeed, we do not doubt that he was hung for us, since he carried our sins in his body on the cross, but we do not admit that he was a peasant either in manners or in race. Forsooth, they themselves cannot deny that physically he was descended from priestly and royal stock, and that his manner were distinguished and proper. Also on Good Friday the Jews, contrary to old custom, publicly run to and fro over the towns and streets, and everywhere laugh, as is their wont, at the Christians because they adore the Crucified One on the Cross, and through their improprieties, attempt to dissuade them from their worship. The doors of the Jews are also open to thieves half the night, and if any stolen goods be found with them, none can obtain justice from them. The Jews, likewise, abuse the royal patience, and when they remain Living among the Christians, they take advantage of every wicked opportunity to kill in secret their Christian hosts. Thus it has recently been reported that a certain poor scholar had been found murdered in their latrine.

Wherefore, lest through them the name of God be blasphemed, and Christian liberty become less than Jewish servitude, we warn, and, in the name of God, exhort Your Serene Majesty, and we join thereto a remission of sins, that you restrain the Jews from their presumptions in these and similar matters, that you try to remove from the French Kingdom abuses of this sort; for you seem to have the proper zeal of God and knowledge of Him.

Moreover, since secular laws should be directed with greater severity against those who profane the name of God, you should so turn against these blasphemers that the punishment of some should be a source of fear to all, and ease of obtaining forgiveness serve not as an incentive to evil doers. You should bestir yourself, moreover, to remove heretics from the French

> Kingdom, not should your Royal Highness permit wolves to hide in sheep's clothes in order to destroy the ewes, to wander in your realm, but rather by persecuting them Your Highness should display the same zeal with which he follows the Christian faith. [1]

Symbol of this reawakened interest in social apartheid was the enactment by the Fourth Lateran of the Jew Badge. [2] The result of this regulation was not only the gradual separating out of the Jewish element from the community but their gradual enclosure within what came, much later, to be called the ghetto. [3]

The details of the policy of segregation, sequestration and suborning have been fully described by others, together with the vital qualification that these pronouncements must never be construed as automatically enacted or equivalent to community practice. [4] Princes were not easily persuaded to undertake restrictions which limited the usefulness and value of their factors and feudal property. Until the economic self interest of craft and merchant guilds entered the commercial picture, locals were not always prepared to disgrace and think theologically of long time neighbors. But the pressure of the Church was continuous and it was supported by an economic climate which increasingly cut into the political and commercial usefulness of the Jew, rendering him marginal to its production and distribution agencies. The 13th century was to see steady and deliberate progress towards the Church's set goal.

Issue, however, may be taken with Grayzel's opening premise: "One notes that the attitude of the Church remained essentially the same throughout the centuries." It did not. Specifically, during the 13th century the Church's attitude toward Jews experienced a radical reorientation of focus.

[1] Grayzel, No. 14.

[2] Mansi 22 : 1055. Cf. also Grayzel 31, 36, 38, 41, 42, 43, 44, 49, 62, 69, 71, 72, 78, 99, 107, 120, 132, 133, X, XIII, XVIII, XX, XXV, XXIX, XXXIII, XXXV, XXXVII, XXXIX, XLI.

[3] The establishment of the ghetto is a complicated problem. Internal religious needs, practical questions of protection and defense, social land restrictions as well as the familiar self segregating practice of Oriental millet communities had led in many areas to a Jewish quarter. However, the distinguishing quality of a ghetto—the prohibition of owning or renting land outside such an area and the use of its geography to regulate circulation—was a late 13th century innovation. First evidence of such procedure is to be found in the Constitution of Avignon (1243). Cf. Grayzel, p. 60, note 96.

[4] Grayzel, *op. cit.*; J. Trachtenberg, *The Devil and the Jews*, Yale, 1943; J. Parkes, *The Conflict of the Church and the Synagogue*, London, 1934 and *The Jews in the Medieval Community*, London, 1938.

For many centuries, the Church's interest had centered on the person of the Jew. Since the days of the Church Fathers, rabbinic literature—the substance of a living faith—largely had been overlooked. In 533 Justinian forbade the study of the *Mishnah Deuterosis*; but from then on for seven centuries deliberate polemics such as Agobart of Lyons' *De Insolentiae Judeorum*,[1] Gilbert Crispin's *Disputatio Judaei cum Christiano*,[2] and Petrus Alphonso's *Dialogus*[3] were rare exceptions. In the main, the Jew was [illegible] as of the Christ Killers. He bore eternally, therefore, the mark of Cain and was consigned to Cain's eternal wandering. His conversion was held to be a vital precursory element of the messianic drama. Awaiting this, the Jew was to be set to one side lest his blindness prove contagious, yet at the same time he was to be wooed and won that the Kingdom of Christ might win through to its universal, inevitable, though long delayed, supremacy.[4] The liturgy, philosophies, and literature of the synagogue commanded little interest. The Church saw the Jew as bearer of a revelation given to his ancestors whose essential meaning the Synagogue subsequently had misconstrued—"They have eyes but they see not"—and as "a guardian of the Law" unfortunately deaf to the good tidings of the new gospel. The Church's theological stereotype of the Jew limited her interest in the contemporary atmosphere of rabbinic life and thought. By and large this myopia continued until the middle of the 13th century.

About then the Church came awake to the living faith. A flurry of activity ensued, activity of quite another nature than the routinely ground out social sanctions and theological formulas. The Council of Béziers (1255), at which Saint Louis himself proposed the decrees, pointed up the new direction: "Et talmud quam alii libri, in quibus inveniuntur blasphemie, comburantur."[5]

Almost at the same time, James I of Aragon ordered a censorship of the Talmud to erase blasphemous references to the Holy Family;[6] the preaching friar Berthold of Regensburg damned the Talmud and

[1] J. P. Migné, *Patrologiae Cursus Completus* (Latina), (Paris, 1844), CIV, 69 ff.
[2] *Ibid.*, CLVI, 1033 ff.
[3] *Ibid.*, CLVII, 538 ff.
[4] Trachtenberg, p. 159 ff.
[5] Grayzel, No. XLII, Art. 23.
[6] Regné, LXI (1911), Nos. 216, 249.

its devotees;[1] and Pope Alexander IV ordered a confiscation and censorship of the Talmud in France, Burgoyne, and Anjou.[2]

Why this renewal of a long dormant interest in the Talmud?

It was not quite all that sudden. About ten years before, in 1247, Innocent IV had ordered his Legate to France, Odo, Bishop of Tusculum, to examine all codices of the Talmud to determine "if they brought injury to the faith of Christ." Investigation established that such was their blasphemy that these texts could not be tolerated and a year later wagonloads of books were burned in the square before Notre Dame Cathedral.[3]

The cindering of rabbinic works after ecclesiastic review and indictment was a relative novelty. In the previous half millenium legally decreed book burning of rabbinic texts had occurred only twice and then as recently as 1232 and again in 1240 (or 1242)—incidents which we will soon relate—and which signal the emerging pattern. But from here on until the close of the Middle Ages the burning, confiscation, and censorship of rabbinic works remained part of the routine industry of the faithful—although Church officials generally kept at an official arm's length.

In 1240 another new technique for probing and revealing the lies and blasphemies of the Jew was projected, by the inauguration of public disputations.[4] The details of the first of these disputations is worth recounting.[5] Sometime in the early 1230's a vengeful but rabbinically trained apostate, Nicholas Donin, began agitating against his birth faith. His motivation remains hazy. A persisting tradition ascribed it to Karaite enthusiasm and spoke of his having

[1] R. Cruel, *Geschichte du Deutschen Predigt um Mittelalter*, (Dietmold, 1879), p. 62.

[2] I. Loeb, "Bulles inédites des Papes," *REJ*, I (1880), 116-117.

[3] Grayzel, No. 119.

[4] As it stands this statement is a bit bold. There had been earlier disputations, that of Priscus and Gregory of Tour, for example. There is some opinion that Crispin's *Disputatio* (late 11th century) was based on an historical debate. Cf. J. Jacobs, *The Jews of Angevin England* (London, 1893), p. 253 ff. A careful study of controversialist literature would surely adduce other possibilities. That these had a limited significance and impact can be seen by the silence of Hebrew sources and the generally repetitious and obviously copied quality of the Christian controversialist literature. Per contra, the debates of 1240, 1263, etc., excited an extensive Jewish resistance, much literature, and profoundly affected the context of Jewish hope.

[5] After 1240 disputations were fairly routine. In 1245 Meir b. Simon of Narbonne was summoned to confront leading ecclesiastics before the Bishop En Guillem de la Brou. Cf. H. Gross, *Gallia Judaica* (Paris, 1897). In 1263 the famous disputation of Barcelona between Pablo Christiani and Nachmanides

been attacked by the rabbis for this deviation. [1] Donin became a Dominican monk and bethought himself to denounce the Talmud to Pope Gregory IX, using the Bishop of Paris as intercessory. Donin charged that the Talmud blasphemed the Holy Family and the sanctities of the Catholic Church and that it contained heterodox ideas about God and theology. He argued that Jewish students reared on the Talmud forsook the Bible for these fanciful legends and consequently ceased to be susceptible for re-education and conversion. [2]

The existence and vigor of a sanctified oral law became a concern to the Church on many counts: first and foremost as a text of blasphemy, especially against the persons of Jesus and Mary; secondly as a tradition of folly and heterodoxy; and thirdly as a sanction for Jewish perfidy and dishonesty; and lastly because of its veneration as a second law and revealed authority ("Assurunt Iudei legem quem talmut dicitur Dominum edidesse." [3]

Later in the Middle Ages, during the investiture procession of a new pope, the Jews of Rome were ordered to come forward with tokens of fealty, bearing aloft their Torah scrolls. A strange ceremony ensued. The pope received the mandated homage and in turn paid homage to the Torah with this set formula:

> The Holy Law, you Hebrew men, we praise and venerate, for through Moses' hands almighty God gave it to your fathers. But your observance and unavailing interpretation of the Law we damn and reject (Observantiam vero vestram et vanam legis interpretationem damnamus et improbamus . . .). [4]

The Church had come up against the age old piety of a Sinaitically revealed Oral Law. The underlying assumptions of Hebraic jurisprudence included the conceit that ordained scholars merely developed, and revealed where necessary, a supplementary oral tradition which had been given verbally to Moses at Sinai. The rabbis avoided

took place before James I. In each of these, besides the record of Christian summation, the Jewish disputant felt it necessary to leave a personal record: Jehiel of Paris' *Se'er ha-Vikuach*, Nachmanides' *Milchemet Mova*; Meir b. Simon's *Milchemet Mitzva*.

[1] J. Parkes, *The Jews and the Medieval Community*, p. 172 f.; Grayzel, *op. cit.*, Appendix A.

[2] I. Loeb, "La Controverse de 1240 sur le Talmud," *REJ*, I-III (1880-1883); Grayzel, Appendix A; Jehiel of Paris, *Sefer ha-Vikuach R. Yehiel mi-Paris*, ed. S. Grinbaum (Thorn, 1873).

[3] Loeb, "La Controverse . . . ," *REJ*, II (1881), 253.

[4] A. Patrizi (ed.), *Caeremoniale Romanum* 1.2.21.

in this way two categories of law—one revealed and divinely mandated, the other reasoned and manufactured. The existence of a second revealed interpretation challenged the Church's own second revelation. Many churchmen did not comprehend fully this tradition and to some the existence of a revelation consequent on the Gospel covenant must have seemed subversive and heretical. This would seem to be indicated in the terms Gregory IX chose in response to Donin's charges: "Ipsi enim sicut accepimus, lege veteri, pretermittentes eadem, affirmant legem aliam, quę talmut, id est doctrina, dicitur, dominum edidesse ac verbo Moysi traditam . . ." [1] Further, much of the conversionist energy of the preaching friars was frustrated by this second law. Where it had been believed sufficient to point out the true interpretation of a shared Scripture, now the far more difficult task of opposing a vast body of later revelation had to be faced. The Jews simply had not waited patiently over the long centuries during which the Church assumed that their faith consisted largely of reading over a Bible they were unable to comprehend. The Oral Law consecrated rabbinic exegesis. This vast body of erudition had now to be confronted and studied and, as any rabbinic student might have told the Churchmen, this in itself was no mean task.

Gregory seems to have been much exercised—we might even guess surprised—by Donin's charges—yet the Talmud had co-existed with the Church for well on to a thousand years. On June 9, 1239 he ordered William of Auvergne to seize on the first Saturday of the Lent following all books of the Jews in his district for delivery to Dominican and Franciscan control. Gregory's interest in rabbinic material was awakened. He wanted all rabbinic works sequestered and examined, not just the Talmud. He was broadly concerned, for he sent similar confiscatory orders to the Kings of Portugal, England, France, Aragon, Castille, and Navarre and to the Archbishops of England, Castille, and Leon. [2]

The order was obeyed only in France. Talmud codices throughout the Capetian domain were seized. A public trial was ordered for June 25, 1240 before Queen Blanche, the court and high ecclesiastics. Rabbinic leaders were subpoenaed to defend the work and promised protection of life and limb. The Church was as eager to know more about this crucial text as to condemn it. The conclusion was, of

[1] Grayzel, No. 96.
[2] Grayzel, Nos. 95, 96, 97, 104, 119.

course, foregone. The debate, however, set a precedent which was followed elsewhere and often during the next two centuries. The Talmud was consigned to the flames, but not before Eudes of Chateauroux, Chancellor of the University of Paris, had ordered an *Extrationes au Talmut* in which thirty-five specifics of error were cited and condemned. [1] Eudes' stated purpose was to enlighten clerics on Talmudic error lest the rout of ignorance believe it a book without danger which might be freely tolerated. [2] The result was a careful and detailed examination of Talmudic texts touching on five major areas: the authority of the rabbis, blasphemies against Jesus, blasphemies against God, blasphemies against Christians, and miscellaneous errors, follies, superstitions, and immoralities. Although deliberately misinterpreted, Post-Biblical Judaism was by way of becoming an open book.

It was not the "new" Judaism—the scholasticism of the advanced philosophers of the Judeo-Arab world—which catalysed the Church's concern, but the "old" Judaism of Talmud and tradition. When William of Auvergne spoke of the latter he warned his fellow churchmen, "Cave autem tibi a fabulis et deliramentis Hebraeorum, quibus nel alienationes febricitantium errore et incredulitate comparabiles sunt." [3] On the other hand, he made exception of the philosophers: "A tempore autem multo ad fabulas incredibiles se convertit et illis se totaliter dedic, paucis duntaxat exceptis, qui commixt: genti sarracenorum philosophati sunt." [4] Although the Church did wage battle against Averroeism and although certain Jews could easily and correctly be figured as the transmitters of such dangerous errors, it was not on this account that the Church of the 13th century became exercised. [5] If Maimonides' literary legacy posed a threat to Jewish survival, it was not that his systematics posed a threat to Christian scholasticism. To the contrary, scholastics often borrowed his ideas [6] and such catalogues as the anonymous

[1] Loeb, *op. cit.*, published the Latin text of this document from a manuscript in the Bibliothe Nationale *REJ*, II-III (1881-1832), Vol. II, pp. 248-270; Vol. III, pp. 39-57.

[2] *Ibid.*, I, 249.

[3] William of Auvergne, *De Universo*, 1.3.59.

[4] William of Auvergne, 1.3.31.

[5] In the late 80's of the 13th century the Jews of Rome had no difficulty receiving from Pope Nicholas III a statement of the *Moreh's* freedom from error. The Pope was particularly happy with the *Moreh's* arrangement of arguments against the Aristotelian doctrine of the eternity of matter.

[6] Cf. J. Guttmann, "Guillaume D'Auvergne et La Litterature Juive,"

Parisian *Tractatus De Erroribus Philosophorum Aristotelis, Averrois, Avicennae, Algazelus, Alkindi, et Rabbi Moysis* [1] were sufficient to deal with the dangerous spots. Indeed, Maimonidean apologetics, especially his exegesis of the Biblical commandments, were often faulted by Jews for approaching Christian positions and, inferentially, for opening the door to apostasy. Maimonides became "controversial" among Jews not because he opened Judaism to the Christian charge of heresy but because he presumably misled other Jews into heterodoxy and placed in danger the integrity of the community.

Whatever the reasons behind the Church's new found concern, it altered basically and forever the construct of relationships between Christians and Jews. In the eyes of the Church the Jew disappeared as what he had never been, an artificial theological relic, and became a living, sentient being and an intractable opponent. Many Jews recognized early on the ominous portent of this new activity. Defending the Talmud at the Paris disputation of 1240, R. Yehiel argued: "Up to the present time no one has brought any charge against it and, as it is well known, Jerome, the Church Father, knew our Scripture and our Talmud. If these contained anything heretical they would not have left them unchallenged until now.... What have you discovered in us to warrant your calling us at this time to dispute our Bible and defend our very lives because of a supposed sin forgiven these fifteen hundred years?" [2]

They sensed the novelty, but could devise no remedy. Corrective exposition is effective only where ears are open and the face is not flushed. Any remedy had to await a change of heart in another century. What is of interest here is the crucial quality of the events of 1240—and the fact that when Jews looked back at their tear-filled medieval passage they could not escape the notion, mistaken to be sure, that they were themselves somehow responsible. Had

REJ, XVIII (1889); J. Guttmann, "Alexandre de Hales et Le Judaism," *REJ*, XIX (1890); J. Guttmann, *Der Verhältnis des Thomas Von Aquino Zum Judenthum Und Zur Jüdischen Literatur* (Goettingen, 1891); J. Guttmann, *Der Einfluss Der Maimonidischen Philosophie Auf* Das Christliche Abendland (Leipzig, 1908).

[1] I. Husik, "An Anonymous Christian Critic of Maimonides," *JQR*, II (1911), 159-190.

[2] M. Broude, *Conscience on Trial* (New York, 1952), p. 37.

not the first burning of Jewish books been suggested to the Dominicans and Franciscans by Jews?

Many years later, perhaps as late as the 1290's, a retired Italian physician and Talmudist, Hillel b. Samuel of Verona, became exercised about the activities of one Solomon Petit who had returned to Europe from the Holy Land to seek support for a ban on the study of Maimonides' philosophic works. Professing an admiration bordering on veneration for "the second Moses," Hillel revived a long dormant acquaintance with Maestre Isaac Gajo, sometime papal physician in ordinary (1160—1171), and sought to enlist his influence to counter any and all of Solomon's activities.

The history related in Hillel's letter is suspect. Hillel was not an eyewitness to any of the events described. As we shall see, other sources correct it in dating and placing, but the recapitulation he made, be it history or dramatized hearsay, has a force and interest of its own. Six decades earlier, a small number of the leaders of the Provence [1] and Catalonia had taken issue with the *Moreh Nebuchim* and the *Sefer ha-Mada* (English, *Book of Knowledge*), largely because of internal communal pressures (unspecified) which could not be focused on directly. A charge of heresy had been raised against those who championed such unorthodox studies. The accusers had taken folios of the denounced texts to France, to Paris, where they had maligned and slandered these books and those who studied them before French rabbis. Excerpts of the targeted works had been read and their errors specified. Never deigning to read for themselves, and relying entirely on a verbal *precis*, the French leaders had assented to a verdict of censorship by fire and a ban of excommunication to be levied against anyone who persisted in reading or retaining these texts. A book burning, indeed, had taken place, the bonfire being lit from an altar light burning in a central monastery of Paris. God had been so incensed by this contretemps that He had taken vengeance by precipitating a Church-ordered burning of the Talmud which had flamed in Paris but forty days later. The ashes of the first burning had commingled with those of the second. [2]

The *Moreh* was reduced to ashes in Montpellier, not Paris. It

[1] Medieval rabbinic literature so labels the Languedoc, the Toulousain, and Rousillon together with the Provence proper. Rabbis of Montpellier, Lunel, Marseilles, Arles, Perpignan, Narbonne, etc. are the "Sages of Provence."

[2] Hillel of Verona Letter, *KTR*, III, 14b-15b.

was charred eight years, not forty days, before the Talmud. But Hillel's chronology accurately reflects the medieval awareness in its insistence on a causal relationship between the two burnings and in its echo of the general belief among Jews that the *Moreh* had been denounced by one of their own. To the pious, ever careful of God's providence, the burning of the sacred Law could be justified as a merited divine punishment. God had deliberately withdrawn His support from an unworthy people.

Guilt and dismay seared the cindering of the *Moreh* into the consciousness of the medieval Jew. He saw it as the opening scene in a new tragedy in Jewish-Church relations. In point of fact, the burning of the *Moreh* was the opening scene of a tragedy in religious relationships, but to our age it must be explained historically and in terms of mounting Church pressures, and of changing economic and political patterns and of the response of the Jewish community to its new situation. These elements combined to form the stage setting before which our *dramatis personnae* played their part, and it will be our purpose to color in their background and thus, hopefully, give meaning and dimension to their actions.

CHAPTER TWO

MAIMONIDES: THE MAN — THE TEACHINGS — THE PRESENCE

Moses Maimonides belongs to that small band of men whose qualities of mind and person may be denounced, debated, or deplored, but never dismissed out of hand. By the age of sixteen he had compiled a creditable lexicon of the logical terms and philosophical concepts basic to Aristotelian speculation.[1] By the end of his sixty-nine years he had written the classic text of medieval Jewish philosophy, systematized the most complete and original Hebrew law code, and stamped his presence on all subsequent rabbinic learning and opinion.

Maimonides was born in the Andalusian citadel of Cordova, which was in that year of 1135 still under Muslim control. He died in the Ayyubi capital city of Egypt—Fostat—in 1204. With the exception of a brief pilgrimage to Jerusalem via Acre (1165) while in transit from Morocco to Egypt, Maimonides lived out his days wholly within the Islamic world. His philosophic, medical, and astronomical works and much of his legal correspondence were written in Arabic. Any analysis of Maimonides' activities must presume the cultural and educational norms of this far flung, lineage proud, but deeply troubled Islamic-Jewish world. What was written to sustain faith within the culturally variegated academic culture of Bagdad or Fostat often only disturbed the faith of the Talmud-oriented academics of Paris or Sens. What was edited as a handy legal reference for a Jewish citizen of Damietta or Amman, where advanced seminaries of Hebrew study were few, seemed superfluous and even dangerous to a rabbi of Narbonne or Toledo, where excellent *yeshibot* flourished and transmitted the entirety of the *halachic* heritage.

In his lifetime Maimonides' genius was legendary. Within a generation he was being called the second Moses. The communities of Yemen accepted his code as an absolute standard and mentioned

[1] *Makālah Fī Sinā 'At Al Mantik* (Hebrew, *Millot ha-Higayon*; English, *Treatise on Logic*).

him by name in their *Kaddish* prayer.[1] In Egypt his son and his son's son unto the fifth generation were invested with the quasi hereditary prerogatives of the *Nagidate*.[2] Within thirty years of his death a fine Toledo *halachist* and one not unaware of the philosophic tradition was moved to ask a fine Provençal *halachist* and representative of the Maimonidean cause to search his soul whether he had not consecrated the *Moreh* as another Torah and elevated Maimonides to a rank above the Biblical prophets and into the innermost circle of celestial beings.[3] At the same time another scholar, who did not wholly approve of Maimonides' speculations, pleaded with the rabbinic leadership of Northern France to rescind their ban on Maimonides' materials because some had so identified Maimonides and Judaism that to ban the former was to debase the latter.[4] Such was the quality of his personal veneration that action against his works threatened religious schism. Nor need we wait the 1230's to establish his remarkable presence. Allowing whatever pianissimo we wish by way of acknowledging the fulsome routine of medieval panegyric—that which was lavished on Moses Maimonides exceeded all bounds. Typically, we cite this poem by Judah al Harizi, written in the first decade of the 13th century.

Of a day all the wise of the world climbed
To heights lofty and exalted
They reached the peak of intellect, but
Moses, only, unto God ascended.[5]

Had there been no veneration of Moses Maimonides, no legendary Maimonides, there might have been some criticism of his published works, but his name and his ideas would not have become the battleground of a century-long controversy in the schoolhouses and synagogues of Europe—a world Maimonides had never visited and over which his teachings had no direct authority. This becomes clear as we examine the fate of the philosophic chef d'oeuvre of Maimonides' older Andalusian contemporary, Abraham ibn Daud (1110—1180). This scholar's *Al-Akibah Al Rafiyah* (1168) (Hebrew, *ha-Emunah Ramah*; English, *The Exalted Faith*) was a fine, logically consistent, heavily Aristotelian apologetic which

[1] Letter of Nachmanides, *KTR*, III, 9a.
[2] J. Mann, *Texts and Studies in Jewish Literature* (Cincinnati, 1931), I, 416-465.
[3] Letter of Judah Alfakhar, *KTR*, III, 2b.
[4] Letter of Nachmanides, *KTR*, III, 9a.
[5] Judah al Harizi, *Tahkemoni*, ed. I. Toporovsky (Tel Aviv, 1952), p. 425.

pressed home the very same challenges to familiar Jewish concepts as did the *Moreh*. Like the *Moreh*, it was founded on what Wolfson has felicitously titled the "double faith theory," i.e., the equivalence of reason and revelation as techniques of obtaining truth.[1] The *Emunah Ramah* admitted the philosophic possibility of the eternity of matter. Abraham's theory of the creation in time of each individual soul brought into serious question the continuance of personality after death. Yet this work caused hardly a stir. There is no known request in either the 12th or 13th century for a Hebrew translation, and no such translation. The devotees of "Greek science" did not rush for its proofs nor covet its support. The enemies of that cultural matrix felt no need to raise a hue and cry about a volume that was known only to a few and pondered by individuals alone in their studies.

What made for the difference? What urged on scholars of Montpellier and Lunel to commission a translation of the *Moreh* sight unseen? What made it symbol to a century of all that Greek philosophy taught and did not teach?

The answer is not be found in any unique teaching in the *Moreh* itself, but in the reputation of the man who authored it in the fullness of maturity.

> Moses was a faithful messenger [of God]
> He regulated scrupulously all matters of faith
> His pen took the place of [Moses'] staff
> With which he did miraculous things.[2]

It was not Maimonides' theological ingenuity but his rabbinic omnicompetence and genius which made his philosophic work a *cause celebre*. Abraham ibn Daud was an historian. Maimonides was *the* rabbi.

The first half-century of Maimonidean criticism ended in the burning of his philosophy, yet in all this period no extensive gloss or challenge was penned to the *Moreh*. Surprisingly, but inevitably, an irrepressible cultural conflict became a controversy focused on the most powerful presence of the time and enlarged its concern

[1] H. A. Wolfson, "The Double Faith Theory in Clement, Saadia, Averroes, and St. Thomas, and its Origin in Aristotle and the Stoics," *JQR*, XXXIII (1942), 213 ff.

[2] This anonymous 13th century poem plays on the identity of names between the Biblical Moses and Moses Maimonides. As Moses' staff performed miracles so did Maimonides' pen. M. Steinschneider, "Moreh Mekom ha-Morch," *Fobets Al Yad*, I (1885), 17.

from a presumed threat of philosophy to faith to include strictures against the changes implicit in Maimonides' revolutionary *halachic* code. Throughout the "philosophic" controversy *halachic* specifics played a major role. Thus though the Maimonidean controversy has been traditionally and correctly identified as a skirmish in the persistent medieval cold war between the authority of revelation and the authority of reason, the battle front formed and reformed and swirled over legal as well as logical ground. Only in the last half of the 13th century did the protagonists settle on the central issue and agree in effect to separate Maimonides from the Maimonidean controversy.

Historical accident, as always, played a role in the controversy. An incursion of Berber Almohades, circa 1148, into Andalusia made life precarious for Cordova's Jews. By stages over the next ten years Maimonides moved West to East across the Mediterranean littoral, thus seemingly removing himself from influence on the Jewish centers of Europe. Moreover, the East had a millenial tradition of centralized religious control which subordinated the power and authority of individual scholars and jurists. Distance and community norms would seem to have been conspiring against any meteoric rise of the Maimonidean star.

Fortunately for Maimonides, only scattered vestiges of the once all powerful Gaonate system, i.e., of centralized religious authority, remained in being. Men continued to claim the prestige and prerogatives of that ancient title, but there were now several aspiring schools, and scholars like Maimonides' disciple Joseph ibn Aknin did not hesitate to found rival academies to those claiming hoary preeminence. No academy any longer commanded widespread support. This can be shown by the chronic financial shortages which plagued each.[1] Early on his arrival in Egypt, when the contrast between expectation and reality was still sharply defined, Maimonides observed, "Unknown people are addressed as *Rosh Yeshibah* or by some other title. All these things are but the vanities of title."[2] It was now possible from Fostat—especially if one had status in that powerful Ayyub capital and was at the same time an *halachic* genius—to win suasive authority through much of the Near East.

Maimonides came to Egypt, too, at a time when the Mediter-

[1] J. Mann, *The Jews in Egypt and Palestine* (Oxford, 1920), I, 163 ff. Mann, *Texts* . . . , I, p. 136 ff.

[2] Moses Maimonides, *Commentary on the Mishnah, Ekhorot* 4 : 4.

ranean was no longer a fearsome water barrier between Christian Western Europe and the Muslim Near East, but a broad and well traveled commercial, diplomatic, and military highway. Jewish sources alone make this abundantly clear. The last half of the 12th century saw a rash of world voyagings: in the 1160's Benjamin of Tudela in Aragon visited over fifty communities, some as far distant as Persia and the Soudan; Petahyah of Ratisbon and Jacob b. Nethaneel ha-Kohen followed somewhat less ambitious itineraries in the 1180's; Judah al Harizi, one of the *Moreh's* translators, visited the same area two decades later; Samuel ibn Tibbon, Lunel's chosen translator of the *Moreh*, proposed to Maimonides that he visit Egypt to work out the details of his project with the author directly [1] and later suggested to Maimonides at least one merchant voyager, Abraham ha-Kohen, who would be European courier for the precious manuscripts. The Maimonidean-Provence correspondence illustrates the degree of communication possible [2]—no less than eleven letters being exchanged in as many years. [3] Maimonides' fame, then his words, could and did spread quickly from East to West and, indeed, throughout the subsequent century the Maimonidean literature of Egypt, Palestine, and Europe acted and reacted on each other.

Legend has established Maimonides as personal physician of Saladin. [4] He was not, though in his later years he did become a house physician of Saladin's governor, Al Qādi al-Fādil. [5] Maimo-

[1] *KTR*, II, 27b.

[2] There is an abundance of corroborative evidence of wide reaching contact between all Jewries touching the Mediterranean littoral during this period. Maimonides was in contact with a *dayyan* of Alexandria, Meir, reputed to have been a disciple of Abraham b. David of Posquières. In 1210-11 a large group (some say two hundred) French and German scholars, including Simson of Sens, pilgrimaged to the Holy Land—some stopping off at Fostat en route (cf. Chapter 4). Jonathan b. David ha-Kohen of Lunel may also have been a member of this group (cf. Chapter 5). We find also the teachings of a Greek rabbi, Isaac b. Melchizedek of Siponto (12th century) quoted and argued against both in Fostat (S. Assaf, *Kiryat Sefer*, XVIII [1941], 65) and in Posquières (R. Abraham b. David of Posquières' gloss to *Mishneh Torah*, *Tu'meat ha-Met* 1 : 2, 14 : 7, 15 : 3).

[3] A. Marx, "Maimonides and the Scholars of Southern France," *Studies in Jewish History and Booklore* (New York, 1944), p. 49 ff.

[4] Some medieval legend books promoted Maimonides to a Viziership and treated him as the guardian spirit of oriental Jewry. A. Neubauer, "Documents inédits sur Maimonide et David Alroi," *REJ*, IV (1881), 173 ff.

[5] *KTR*, II 28b. E. Ashtor-Strauss, "Saladin and the Jews," *HUCA*, XXVII (1958), 312.

nides' medical treatises were of a high order, and some news of his medical prominence certainly filtered back to Europe, where the work of Hebrew and Latin translation of this material proceeded apace in the 13th century, [1] but to the Jews the force of the Maimonidean presence derived from the rabbinic jurist, not the physician-scientist.

Maimonides' far reaching fame was founded primarily upon the *Mishneh Torah*. This monumental compendium of the entire corpus of Hebrew law was completed circa 1180 and was constantly revised and corrected until his death.

Maimonides offered several explanations of this code. On the one hand he asserted that he had written it for his own private use to obviate the time consuming necessity of checking references and sources in the handling of his legal correspondence. [2] A few pages of shorthand references would have sufficed. The *Mishneh Torah's Introduction* probably offers a far more creditable key. *Halachic* terms are difficult and confused. Old patterns of study have been broken. Few any longer master the necessary material. Given the pace of life, it requires an inordinate and unavailable time to assimilate the sheer bulk of the material. Access, brevity, and correct determination are elementary communal necessaries; therefore, this book. [3] Furthermore, the citation of authority seems to encourage support of the claim by certain heterodox groups (*Minim*) that the Oral Law was based on human reasoning rather than divine revelation and reflected personal opinion rather than broad consensus. [4]

[1] G. Sarton, *Introduction to the History of Science* (Washington, 1927-1948), II, 372; III, 61.

[2] *KTR*, II, 30b-31a.

[3] *M. T., Introduction*. In his letter to Jonathan ha-Kohen of Lunel, Maimonides returned to essentially this position. Twersky, noting the reference to the similar work of Judah ha-Nasi in a Responsum to Pinhas, the *Dayyan* of Alexandria (*KTR*, I, 25), makes the observation that Maimonides was influenced by a Midrashic tradition that the days of this Judah (end of 2nd century) were difficult and unsettled—much like his own—while many of his critics in the West held to another tradition that Judah's days were relatively peaceful and prosperous—and hence could not admit an historical analogy and rationale. Such differing traditions at best rationalized the issue and can not be construed as causative. (I. Twersky, *R. Abraham b. David of Posquières* [Cambridge, 1962], pp. 133-134, note 9.)

[4] *KTR*, I, 26a.

Who were these *Minim*? An obvious conclusion is that they represent the Karaites. Marmorstein, indeed, has claimed that Maimonides wrote the *Mishneh Torah* to combat these. (A. Marmorstein, "The Place of Mai-

Wherein lies its commanding force? In part the *Mishneh Torah's* fame rests on versatility and scope. Within its fourteen volumes are enclosed the entirety of the Oral and Written tradition, laws current and those in abeyance, laws derived from the four tractates of the Talmud routinely studied in the schools and laws derived from the two concluding orders usually omitted since they related to matters of Temple worship and Palestinian agricultural practice and the like tabled for over a thousand years. Included also were such specialist areas as that of calendar regulation, usually dispensed with by the rabbis—these, too, set down with the brevity and clarity which marks the entire work.

To understand its fame, we must appreciate the difficulties attendant on its editing. This was no pedant's feat requiring only patience, scissors, and paste. Since the beginning of the 3rd century, when the Mishnah had been compiled, Hebrew law had ramified largely by scholarly excursus and specific case decision. The volume of such material was fantastic. Rules were scattered in the ~~rather unsystematic and~~ unindexed many-folioed Talmud, in the responsa and the excursuses and compendiums of the Geonim, and in numerous other texts and pamphlets. There existed in addition an extensive library of variant teachings, texts, and traditions. All

monides' Mishneh Torah in the History and the Development of Halacha," *Moses Maimonides*, ed. I. Epstein [London, 1935], pp. 159-175.) Maimonides did in 1176 consign a ban against Karaite practices concerning the ritual purity of wine (*KTR*, I, 30a). Mann has established the existence of a small Karaite community in Fostat, Cairo, and Alexandria, but under Rabbinate control. (A. Mann, *The Jews . . .*, I, 251 ff.)

Objection must be raised on the basis of a responsum where Maimonides "by virtue of what has been shown us from the Heavens" permits of his own cognizance and against tradition all social amenities towards the Karaites "as long as they do not malign the rabbinic sages of that generation and guard their tongues from mocking the opinion of our teachers." (Y. Blau (ed.), *Teshubot ha-Rambam* [Jerusalem, 1957-1961], 371.)

A tame Karaite community firmly under rabbinic control did not catalyse the *Mishneh Torah*. Marmorstein goes too far. He accepts Maimonides at face value when, in fact, Maimonides is rationalizing. The possibility of arguing a need to base the law clearly (as a refutation of Karaite charges against the Oral Law) was simply a convenient out. Maimonides programmed a code. He did so in largest part to permit the continuation of a non-professional rabbinate, i.e., the leadership of civic leaders who needed references if they were to act as jurists. (S. Zeitlin, *Religious and Secular Leadership* [Philadelphia, 1943], p. 46 ff.) Zeitlin also argues convincingly that Maimonides had in mind the promulgation of a constitution for a recreated and independent Jewish state. (S. Zeitlin, *Maimonides, A Biography* [New York, 1935], p. 61 ff.)

these materials had to be mined without the now usual library aids and indices. True, a step towards systematization had been taken by the teacher of Maimonides' father, Joseph ibn Migash (1077—1141) and by this scholar's more famous mentor, Isaac of Fez (Alfasi, 1013—1103), but such Talmudic condensation was limited to currently applicable laws, based on traditional principles of arrangement, and in many cases failed to decide between conflicting traditions.[1] Maimonides brought centuries of need and tentative solution to a brilliant and logical conclusion.

To understand its fame, we must appreciate the freshness and usefulness of Maimonides' system of organization. Biblical law was divided into fourteen topical areas, and the rabbinic extensions, modifications, and additions in these areas were clearly and precisely marshalled. Prefaced by an explanation of these groupings and by a handy reference to each Biblical precept, the *Mishneh Torah* permitted the jurist to put his finger on a required ruling in a matter of minutes.

To understand its freshness and originality, we must appreciate its language, a skillfully sculpted Mishnaic Hebrew which set it off from the polyglot Aramaic-Hebrew of Talmudic and rabbinic manuscripts.[2] This usefulness and erudition were deeply and immediately appreciated.

[1] The need for reference aids had already been recognized by the later Geonim, who published topical essays in the form of extended responsa. Thus R. Amram compiled the outline of a complete liturgy for Spain. Sherira Gaon edited the generations of Talmudic authority for Kairuan. Lesser school scholars such as Simmon Kayyara and Aha of Shabba brought out listings of Biblical laws together with comments on their ramifications. These, however, served more to indicate need than to meet it.

Why the schools did not go further is a moot question of historical research. Suggestions include the force of tradition, the fear that legal developments might be straightjacketed, the economic necessity of budgeting the schools in large part from the donations which accompanied *halachic* inquiry, a desire to maintain the authority and prerogatives of the scholar classes against the political authority and control of wealth and the majesty of law against public challenge.

[2] The choice of pure Hebrew was no mere stylistic refinement. The once all familiar Hebrew-Aramaic legal vocabulary had long since become recondite. In the 10th century an Arabic translation of the Talmud had perforce to be prepared. (Marmorstein, p. 159.) Joseph ibn Migash testified that most Iberian jurists could not grasp a Talmudic discussion (*ibid.*). Maimonides' contemporary and correspondent, Jonathan ha-Kohen of Lunel, for similar reasons chose Hebrew for his commentary on the Mishnah. (S. Hirsky, *Commentary of Johanan ha Kohen on Mishnah Tractates Megillah and Moed Katan* [Jerusalem, 1956], p. IX.)

> To all Israel he was a light in their habitations, for he saw that the masses thirsted for the Torah. They made motions to find the word of God but they could not find it. There was no food fit for their immature palates; their souls were cloaked in hunger and thirst. He saw that these times humble all hearts. Moses arose and delivered them. He winnowed the Talmud as flour in a sieve. He took from it the choice fine flour. He prepared it specially for those who busied themselves with the needs of the time—well prepared food, full of sweetness and fatness—and the children of Israel ate the manna for which they did not have to toil. Nor need they be turned aside from its highway, for he omitted from his book the citation of authorities, all excursus and asides, *aggadic* material and novellae, all of which caused the imagination to err, until he had made over the Talmud into a well-paved way and caused a voice to be heard throughout the exile: "Come unto His gates with thanksgiving and unto His courts with praise." [1]

Any novelty disturbs settled ways. Maïmonides, to create this vast legal compendium, paid scant heed to many a hoary convention. He broke ground for a new topical organization of the law. He translated from Aramaic into Hebrew. In the overwhelming majority of cases he cited only one opinion, dropping entirely minority or variant decisions. He stated the law without indication of its promulgator or source. Later he prefaced the entire code and each of its parts with a novel and unique enumeration of the traditionally assumed six hundred and thirteen Biblical laws. He brought the whole scheme off magnificently and filled the manifest need for a ready reference and readable code, but guaranteed by his originality and disdain of hoary forms a hornet's nest of protest. To some, like the physician of Saragossa, Issac bar Sheshet ha-Nasi, any opposition to this new arrangement seemed rank perversity and evidenced a selfish reaction by those whose monopoly of legal competence was now broken. [2] Selfinterest surely affects most decisions, but there were good and valid reasons for the negative response of many to the *Mishneh Torah*. Each law now had a finality which made equity difficult and change hard to come by. In their new language dress and context many formulas assumed new shadings of meaning.[3] Each law had a finality which threatened to erase

[1] Judah al Harizi, pp. 348-349.

[2] A. Marx, "Texts By and About Maimonides," *JQR*, XXV (1935), 427.

[3] Asher b. Yehiel (1250-1328) later complained, "Thus do all the legists err who expound from Maimonides and who are not expert in the Talmud . . . for he did not follow the practice of other jurists who brought proof to their

many an ancient and rabbinically acceptable local custom (*minhag*). The presentation of debate and minority argument had the effect of allowing variants in the law which could be built on at need. Law requires elbow room and must provide the basis for later change and judicial flexibility. In rabbinic *halacha* this elbow room had been provided by the inconsistent and even contradictory positions retained in the Talmud itself and by the possibility of playing off the Babylonian Talmud text against equally ancient but less accredited texts—the Baraitot, the Tosefta, the *Halachic* Midrashim and the Palestinian Talmud, as well as a number of other shorter and less authoritative treatises (*Abot de R. Nathan*, *Masseket Semahot*, *Kallah*, *Kallah Rabbati*, *Mishnat R. Eliezer*, *Pirke de R. Eliezer*, *Seder Olam*, *Targum Onkelos*, *Targum Jonathan*, etc.). Source citations also provided a factor of flexibility. To be able to list an ancient citation against a modern majority was to have added force to one's argument. Immediate practical necessity motivated the compiler. Tradition and a concern for equity, judicial prerogative, and future need motivated the challengers. Maimonides structured the law. Many of his critics feared he had also straitjacketed it.

Scholarship, originality, temerity, genius, these compelled the fame of the *Mishneh Torah*. It was from its inception a social force as well as a legal tour de force. Nor has a description of its form exhausted its novelty. In Jewish life it was traditional to separate law and dogmatics. *Halacha* was a precise detailed study. *Aggada* was deliberately non-precise study; its materials were written suggestively rather than didactically. Judaism, like the other revealed religions, had its fundamental tenets, but unlike its Christian daughter, these were more generally preached than catechized. Law commanded absolute obedience. Metaphysics and theology in the Jewish world rarely insisted on such conformity. There were also certain areas of cosmology (*Maaseh Bereshit*) and eschatology (*Maaseh Merkabah*) in which all printed or public speculation was discouraged. Along came Maimonides and in the very first volume of his code, the *Sefer ha-Mada*, he set forth black on white, briskly

> teaching and who cited sources . . . . But he wrote his book as one who prophesies under direct inspiration without bringing logic or proof. One who reads thinks he comprehends, but he does not for if he does not understand Talmud he can not understand the matter completely and he will trip himself in making decisions and in teachings." (*She-elot U'Teshubot* [Venice, 1607], 31.9.)

and unequivocably, the prime theological and metaphysical principles of faith. To be sure, Maimonides set down little that could not be found somewhere in the tradition, but the terse formulation and the unavoidable implication that full assent to these was as necessary as full obedience to the practical law startled many. Further close study revealed that many of Maimonides' wordings drew on philosophic rather than Talmudic formulas. This was especially true of the *Mishneh Torah's* treatment of resurrection. The promise of physical resurrection was universally believed. In his *Commentary on the Mishnah*, Introduction to Chapter X of *Sanhedrin*, Maimonides had included physical resurrection as a cardinal postulate of the faith. But between assertion and elaboration yawned a vast chasm. There had never developed any rabbinic consensus as to the specifics of this promise. The Bible, itself, spoke precious little about it. Talmudic Judaism had affirmed without dogmatizing on its precise terms. The wedding of Hebrew and Hellenistic thought had led to a philosophic tradition in Judaism, as in Christianity and Islam, which preferred the doctrine of the "immortality of the soul." The usual detente to this impasse was to insist that the delights of the next life are beyond the intellectual grasp of the human mind which can assimilate ideas only within familiar terms of reference. This was precisely the tack taken by Maimonides in the *Commentary on the Mishnah*. It was a familiar approach and aroused little criticism. However, in the *Mishnah Torah*, Maimonides' passion for orderliness and precision overcame his caution. The hidden promise of the *Olam ha-Ba* (the future world) is a life no longer attended by death. It is a blessing not connected in any way with ordinary accidents or hardship. So far so good. But Maimonides went one step farther. The next life is entirely other and distinct from our mundane existence. All human attributes fall away. The soul participates in the pure spiritual existence of the angelic spheres. In short, familiar bodily appetites and accidents no longer accrue. Talmudic statements seeming to promise bodily pleasures are figurative in force. The souls of the righteous survive. But Maimonides defined the surviving element as "the form of its (the soul's) intelligence by which it attained knowledge of the Creator Being according to its capacity and by which it attained knowledge of all non-concrete intelligences and the works of God." [1] Of the reward and punishment which traditionally attend

[1] *M. T. Teshubah* 8 : 3.

resurrection Maimonides said only that the righteous man's reward is resurrection itself and the wicked man's punishment is to be cut off from such life. There is no literal punishment, only death without hope of rejuvenation.[1] Any Dantesque view "is idle and vain and inconsequential" and occurs to men only because we cannot separate out in our minds our desires in this world from our longings and speculation on the nature of the next life.[2] Finally, in the last chapters of the last book of *Mishneh Torah*, Maimonides gave a humanistic picture of the Messiah. He is a political person of human dimensions and power who will reestablish the Davidic dynasty, rebuild the Temple, reestablish the sacrificial cult, and return Israel's dispersed to the Holy Land.[3] All of which conformed to traditional patterns based largely on the famous text of R. Samuel, "Between this world and the Messianic Age there will be no change save the end of Israel's subjection to alien governments."[4] However, Maimonides went on to withdraw all miraculous elements of the Messiah's power. What the Messiah will accomplish is in no way supernatural or, as Maimonides put it, the King Messiah need not perform miracles or bring anything new into being or resurrect the dead.[5] As proof he cited the acceptance of Bar Kochba as Messiah by the renowned Akiba without any evidence of divinely inspired powers and Akiba's rejection of Bar Kochba's Messianic role only when Bar Kochba's death supervened before Israel had been liberated. All this could be supported in the tradition but it was anything but traditional. There is little cause to wonder that the French ban of 1232 included in its stricture the *Sefer ha-Mada* with the *Moreh Nebuchim*.

The *Mishneh Torah* was elemental and could not be denied. Neither could it be accepted wholly on its own terms. The process by which the Jewish community digested and made palatable its rich food forms a significant part of our study. For this process was itself inextricably into the Maimonidean controversy. Indeed, in the truest sense the *halachic* debate was the Maimonidean controversy.

By extension of this *halachic* preoccupation the *Kitab Al' Faraid* (Hebrew, *Sefer ha-Mitzvot*; English, *Book of Commandments*), which

[1] *Ibid.*, 8 : 5.
[2] *Ibid.*, 8 : 6.
[3] *M. T. Melahim* 11 : 1-2.
[4] *T. B. Sanhedrin* 91b.
[5] *M. T. Melahim* 11 : 3.

Maimonides wrote to explain his method of selecting the Biblical laws which formed the skeleton of the *Mishneh Torah*, becomes part of our story. There had been a long standing Midrashic tradition that the Torah contained six hundred and thirteen laws, but there was no complete agreement on their exact listing. Over the generations certain selections became popular. Maimonides broke with all of these and edited the *Kitab Al'Faraid* to explain his fourteen basic guidelines of selection and the individual laws selected. Though the *Kitab Al' Faraid* was essentially little more than an exercise in legal theory, it saw at least three Hebrew translations in the 13th century. [1] From the early scattered notes of Daniel b. Saadya to the complete gloss by Nachmanides it remained an elemental part and a basic ingredient of the Maimonidean stew.

The force of the *Mishneh Torah* projected other of Maimonides' legal works into the limelight. By the age of thirty-three, Maimonides had composed an extensive gloss commentary to the Mishnah, the *Kitab Al Siraj* (Hebrew, *Sefer ha-Maor*; English, *Book of Light* or more commonly *Commentary on the Mishnah*). What he accomplished was to explain the Mishnah precepts *in situ* and develop their ramifications in later rabbinic tradition. Mishnah commentaries were not unusual. Where Maimonides moved away from familiar territory was in the writing of several extended introductions and a few topical excursuses in which he drew together history, ethics, theology, and the law, in essay form.

The entire *Siraj* played only a minor role in Maimonidean criticism within the European world. The fame of the *Mishneh Torah*, however, stimulated interest and around 1200 a ~~century-long~~ often interrupted translation into Hebrew was begun. [2] A ~~pattern of~~ interest, however, is evident in Arabic speaking lands. [3]

[1] Abraham b. Hisdai circa 1230 (?), Solomon b. Joseph ibn Ayyub circa 1240, Moses ibn Tibbon circa 1260.

[2] Judah al Harizi translated the introduction and the first five chapters of *Zeraim*. Over the decades Joseph b. Isaac al Fawwal, Jacob b. Moses of Huesca, Solomon b. Jacob of Saragossa, and Nethaneel b. Joseph of Saragossa completed the task. (M. Steinschneider, *Die Hebräischen Uebersetzungen des Mittel-Alters* [Graz, 1956], p. 923 ff.)

[3] Cf. Chapter III for the *Siraj*'s central role in the "ordination" controversy.

Maimonides referred his respondents far more often to the *Siraj* than they question him on it. (Blau, 128, 131, 136, 150, 190, 211, 263.) Yet questions of its meaning or criticism of its decisions are not unknown. (Blau, 38, 217, 257.) The same pattern emerges in Abraham Maimonides' responsa. (Abraham Maimonides, *Teshubot Rabbenu Avraham b. ha-Rambam*, A. H. Frieman

Historians have assumed that two of the *Siraj's* excursuses were well known and debated by the Maimonidean controversialists. The first of these, an introduction to Mishnah *Abot*, was, indeed, early and separately translated and well ventilated.[1] The popularity of this treatise on ethics is attested by the extensive number of manuscript copies which have survived[2] and by its reproduction in almost all the early printed exemplars of the Mishnah and Talmud. Maimonides' psychology is basically Aristotelian. The soul consists of five faculties (nutritive, sensory, imaginative, conative, and rational). In the sensate world the human soul uniquely possesses the rational faculty which permits the acquiring of knowledge and discrimination between choices of action. The soul, like the body, can be in good or ill health. The improvement of one's moral discipline is the appropriate therapy for the soul. The key to such discipline is the Nichomachean middle way, which he equated with the ethical norms of the Torah. This treatise, popularly known as the *Shemoneh Perakim* (English, *Eight Chapters*), was treated as an appendix to the *Moreh*. Indeed, specific reference is made to it there.[3] No attempt was made to include the *Shemoneh Perakim* in the debate, despite its Aristotelian frame; Maimonides had limited himself largely to moralizing and had made no attempt to grade virtues as he did in Part III, Chapters 51 and 52 of the *Moreh*,[4] an unprecedented procedure which precipitated, as we shall see, quite a storm.

It has also been assumed that the excursus which introduces Mishnah *Sanhedrin*, known in Hebrew as *Perek Helek* and famous in later sources for its discussion of immortality, retribution, and resurrection and as the locus of the often debated and more often venerated "Thirteen Articles of Faith," was known to the contro-

and S. D. Gotein (eds.) [Jerusalem, 1937], 1, 4, 82, 106, 107.) Interestingly, only one respondent cited the *Siraj* by title. (Abraham Maimonides, 81.)

[1] Samuel ibn Tibbon circa 1200. The existence of at least one other early translation, possibly by Judah al Harizi, has been suggested. (J. I. Garfinkle, *The Eight Chapters of Maimonides on Ethics* [New York, 1912], p. 5.)

[2] *Ibid.*, p. 27 ff.

[3] *Moreh*, i. 39; i. 71; iii. 35; iii. 48; iii. 53.

[4] Chapter 8 of the *Shemoneh Perakim* dealt with the sensitive question of free will and, especially, with the often posited regulation of human activity by celestial motion and is basic to any discussion of free will and astrology raised to the *Mishneh Torah* or the *Moreh*. But the fuller development of these themes there as well as in Maimonides' letter on astrology preempted center stage. (A. Marx, "The Correspondence Between the Rabbis of Southern France and Maimonides About Astrology," *HUCA*, III [1926],

versialists and entered their arguments. We respectfully disagree.[1]

The *Kitab Dalalat Al-Hairin* (Hebrew, *Moreh Nebuchim*) was completed about 1190. It is generally subsumed under the title of philosophy, but is in reality far broader in scope. Such purely philosophic matters as ethics, politics, and logic hardly are touched, while a good bit of the work is devoted to such purely theological matters as divine providence, retribution, the messianic promise, and the perfect worship of God. But again systematic theology does not fully describe this work, for it dilates at length on Biblical exegesis and hermeneutics, comparative religion, and grammar, subjects not usually considered essential in such studies.

The *Moreh* is best taken on its own terms—as a syllabus or study guide for those who have been exposed to the tradition of Aristotelian speculation and science as it was current in the 12th century Islamic milieu and who find their faith challenged and in part undermined by its assumptions.

The object of this treatise is to enlighten a religious man who has been trained to believe in the truth of our Holy Law, who conscientiously fulfills his moral and religious duties, and

p. 311 ff.) In any case, Maimonides' rigid opposition to astrology could not be met on strong halachic grounds. There was Biblical and Talmudic support for Maimonides' view. Cf. Ex. 22 : 17; Lev. 19 : 26; Deut. 18 : 9-14; Babylonian Talmud (hereafter *T. B.*) *Pesahim* 113b; *T. B. Sanhedrin* 68a; *T. B. Shabbath* 156a. Such an anti-philosophic sage as Judah b. Asher shared Maimonides' view. (*Zichron Jehudah*, ed. D. Cassel [Berlin, 1846], No. 91.) Whatever their private opinion, most perforce had to state their astrologic views as best they could and conclude rather lamely, as did Rabad, "All this is not important" (Gloss to *M. T. Teshubot* 5 : 6).

[1] In our study of the literature we have found not a single reference to this work outside Maimonides' own Arabic language responsa. Maimonides' views on the Messianic Age and the *Olam ha-Ba* were known from the *Moreh*, the *Mishneh Torah* (cf. *Teshubot* and *Melahim*) and from his short essay *Ma'amar Tehiyyat ha-Metim*. Debate focused sharply on these; *Perek Helek* was not cited.

The same is true of the famous debate on the place of dogmatics in Judaism. Schechter and Loew have read a 14th-15th century debate back into the 13th. (S. Schechter, "The Dogmas in Judaism," *Studies in Judaism* [Philadelphia, 1896], I, 161 ff.; I. Loew, "Judische Dogmen," *Gesammelte Schriften* [Szegedin, 1889], I, 156 ff.) Nachmanides and others do, in fact, suggest shorter listings of principles (Nachmanides, *Torat ha-Shem Temimah*, A. Jellinek (ed.) Vienna, 1872), but there is no evidence that such positions were taken in deliberate reflection on Maimonides.

There is further no evidence that *Perek Helek* was available in Hebrew translation until late in the century (circa 1290) when Solomon b. Jacob of Saragossa completed the translation of the entire order of *Nezikin*.

Probably the existence of these articles was known to some, but certainly they excited little if any controversy of their own.

> at the same time has been successful in his philosophic studies. Human reason has attracted him to abide within its sphere: and he finds it difficult to accept as correct the teaching based on the literal interpretation of the Law... Hence he is lost in perplexity and anxiety.[1]

It may be seen then, without denigration, as a justification of faith by one who believed that the original revelation, correctly interpreted, need not be a stumbling block to the philosophically sophisticated who, reading tradition's pages, question the truth and appositeness of religious teachings.[2] The most serious problem posed by Scripture to such readers was the anthropomorphic vocabulary it employs to describe God. It is not surprising, therefore, that the bulk of Part I (Chaps. 1-67) was devoted to a systematic examination of all Biblical terms which are, or seem to be anthropomorphic suggesting in each case their "true" meaning. Maimonides' discussion of the psychology and the symbolism of the prophetic statements (Part II, Chaps. 40-48) and of the reasonableness of the Biblical commandments (Part III, Chaps 30-49) were explanatory efforts at a similar exegesis; as was his metaphysical and cosmological exposition of the Biblical accounts of creation and of Ezekiel's chariot (Part III, Chaps. 1-7).

We might thus presume the *Moreh* as a search for the "correct" interpretation of Scripture and for its essential meaning. Yet this presumption would not exhaust its content. Part I, Chaps. 71-76 is a trenchant criticism of the Kalam, that heavily Neo-Platonic theology by which Mutazilite and later Asharite Muslims were wont to defend their faith. This section cleared the ground for the purely Aristotelian premises with which Maimonides began Part II (Introduction) and with the aid of which he argued to a first cause (Part II, Chap. 1).[3] Maimonides felt philosophically secure within Aristotelian norms except for their assumption of the eternity of matter. Part II, Chaps. 2-30 is, therefore, an examination of the physics of the universe and of matter. Maimonides' conclusion was that Aristotle can not prove his case, thus it certainly is possible

[1] Maimonides, *The Guide for the Perplexed*, trans., M. Friedlander (New York, 1956), p. 2.

[2] The suggestion that a mystical structure is at the root of much of Part III—especially Chaps. 51 ff.—and that a technique of mystical preparation is expounded will be made. cf. Chapter IX.

[3] Maimonides' argument runs as follows: Nature requires a cause, the series of such causes can not be infinite, Q.E.D. there must be a first cause.

and even highly probable that the religious postulate of a creation in time and *ex nihilo* is preferable.

There is yet more. In Part III Maimonides turned to the vexing theological problems of defining human capacity and human nature (Chaps. 8-9), of explaining the existence of evil (Chaps. 10-12), of establishing both free will and divine omniscience (Chaps. 13-16), of describing the mechanics of divine providence (Chaps. 17-25), of expounding the purpose of religious law (Chaps. 30-49), the nature of worship (Chaps. 50-51), and the burden of ethics (Chap. 52).

The *Moreh* was received both with exaggerated praise and the ban. Translated circa 1200 by Samuel ibn Tibbon and again circa 1210 by Judah al Harizi, it became quickly a classic in intellectual centers East and West—Jew, Muslim, and Christian.

One of the problems of which Maimonides himself was deeply conscious was the preparation in "Greek science" which the work presumed (Introductions, Part I and Part III). Philosophy always commands two audiences—one professional ~~which~~ examines the subtletics, one literate but non-professional who derive only some general impressions of its contents.

In the 13th century, the *Moreh* commanded the second reader far more often than the first. The classic and searching commentaries of Crescas, Ephodi, and Narbonni were not penned until the 14th century.[1]

No detailed examination of the text antedates the mid-thirteenth century, and we must rely on the controversialist literature to indicate the *Moreh's* reception. Briefly put, the *Moreh* circulated privately and was read privately or by small impromptu circles. It seems never to have interested the intellectuals of the Northern French communities. On the other hand it was seized upon avidly by a number of Aragonese, Catalan, and Castilian sophisticates who lacked the training to understand its depths but were eager to assume that the Maimonidean defense of reason justified their "reasoned" rejection of certain pieties which they had ~~already~~ discarded out of simple disinclination.

[1] Around 1250 various detailed examinations of the *Moreh*'s various parts began to emerge. We shall have occasion to discuss Nachmanides' challenge to Part III, Chaps. 26-49 in his commentary on the Pentateuch. Later in the century Hillel of Verona explained twenty-five of the twenty-six Aristotelian propositions which precede Part II, Shem Tob ibn Palaquera's justified the work's theology and took up criticism of ibn Tibbon's translation. Jacob Anatoli, Joseph Gikatilla, Abraham Abulafia and others, in turn, took up various aspects of the work.

Like many similar master works, the *Moreh* was read carefully by but a few, discussed by many, and banned and beatified by some who had not opened its covers.

What image did the *Moreh* project? Some dismissed it out of hand as another pernicious subtlety founded on the vanity of the Greeks. [1] To others it was literally a way of salvation. Note this anonymous 13th century inscription poem:

> Happy the man who listens to me
> To linger by my gates daily,
> He will find wisdom—the treasures of life
> He will deliver his soul with a precious deliverance. [2]

To some rationalists it was the proof text in their debate against religious mystery. To some mystics like Abraham Abulafia (1240—1291) and Joseph ibn Gikatilla (1245—1305) it was the key to Biblical secrets and a guide-book to the mystical union of man's intellect with the cosmic intellect. [3] Were these separate reactions to disparate elements in the *Moreh*? Possibly. Men read into every important text the ideas they wish to find there. But essentially all reaction took off from one of two basic Maimonidean contentions, God's otherness and the necessity of intellectual competence for true worship. What distinguishes the *Moreh* both in specific statement and in systematics is what may be called the uncompromisable dogma of God's unity (*Yihud*). That God is one is bedrock Judaism. That God's "oneness" implies "otherness" was at least as old as Deutero-Isaiah's charge, "To whom can you liken Me?" [4] The systematics of this "otherness," especially as regards divine attributes, had been developed centuries before by Saadya and others. [5] What distinguished Maimonides' formulation was his hypostasizing of the principle of otherness. God is not only a necessary being

[1] "Cursed is the one who teaches his son the wisdom of the Greeks." (*T. B. Sotah* 49b.) This text was quoted by Joseph b. Todros ha-Levi Abulafia. (*Ginze Nistaret*, J. Kobak, ed. [hereafter *GN*], III [1872], 158.) There was also a widespread belief in Spain and the Provence that the French rabbis who had issued the ban had had to rely on hearsay evidence of its contents. (Letter of Samuel Saporta, *GN*, III, 43.)

[2] M. Steinschneider, "Moreh Mekom ha-Moreh," Kobetz Al Yad, I (1885), 4.

[3] Abraham Abulafia, *Hayyai ha-Nefesh*—manuscript Munich 408; *idem*, *Sitrei Torah* (Ferrara, 1556), pp. 23-31; Joseph b. Abraham Gikatilla, *Shelelot Saul ha-Kohen* (Venice, 1574).

[4] Isa. 40 : 25.

[5] Saadya Gaon, *The Book of Beliefs and Opinions*, trans. S. Rosenblatt (New Haven, 1948), pp. 110 ff.

whose existence follows from its essence and who is other than all contingent being, but any denial or compromise with this position puts one under the suspicion of heterodoxy. [1] More than this, God's "otherness" cannot be simply comprehended. It is not a matter of stating certain formulas but of arriving at a certain and complete understanding of the nature of life and of the universe. This is possible only after scholastic preparation for which, even if all were willing, all are obviously not fit. [2]

God's simplicity rather than God's significance became *faute de mieux* the touchstone of Maimonidean speculation. Everything is framed in these terms. Where earlier interpreters had been prepared to understand the anthropomorphic passages of the Bible figuratively or metaphorically, Maimonides insisted that these terms be understood as homonyms, that is, suggestive but in no way substantively significant. [3] God's simplicity is not only defined by a series of negative attributes, [4] but by a psychology of prophecy which presumed prophecy to be rather more an intellectual accomplishment than an act of divine will, [5] and a theory of miracles which subsumed these into natural law assuming them to be simply subtleties of the natural process which men do not as yet understand. [6]

A diamond shines brilliantly but the crystal is cold. Sophisticates dissatisfied with the intellectual content of the faith, as they understood it, were delighted with its clean cut brightness. Those to whom Judaism was warm and intimate noticed the coldness and one might almost say the "inhumanity" of the Maimonidean philosophic system. Reason and revelation were not the ultimate focii of this debate. The issue was one between speculative mysticism and religious mysticism, that is, between the conceit of the activation of the intellect and the conceit of the at-oneness of the heart. In both pieties men reached out for God. In the Maimonidean system the outreaching was of the mind. In more traditional systems the outreaching was of the heart and the mind. Maimonidean piety made a requirement of philosophy. Traditional piety required only Torah.

[1] *M. T. Teshubah* 3 : 7.
[2] *Moreh* iii. 55.
[3] *Ibid.*, i. 1–39.
[4] *Ibid.*, i. 50–59.
[5] *Ibid.*, ii. 32–47.
[6] *Ibid.*, ii. 27.

We will not concern ourselves with Maimonides' astronomical and medical works, but we must briefly turn to some of his slender essays.

1) *Iggeret ha-Shemad* (1160). (English, *Letter on Apostasy*.) (The Arabic original is lost.) This essay was written during Maimonides' stay in Morocco, where he had been part of a community facing the brutal choice between death and conversion. Maimonides used his *halachic* skill to permit the masquerades necessary for survival. The letter was broadly known in Europe, but was not subject to controversy.

2) *Risala* (1182). (Hebrew, *Iggeret Teman*; English, *Epistle to Yemen*.) This essay contains Maimonides' discussion of the problem of messianic pretensions and his airing of the whole messianic problem. Written to dissuade the Yemenite Jews from being duped by false claims, it is our one source of Maimonides' private messianic hopes. Translated by Samuel ibn Tibbon circa 1210 and quickly thereafter again by Nathan ha-Ma'arabi and Abraham ibn Hisdai, it was well known in Europe and played a role in subsequent messianic speculation, but none in the controversy.

3) *Makalah Fi Tehiyyat ha-Metim* (1190). (Hebrew, *Maamar Tehiyyat ha-Metim*; English, *Treatise on Resurrection*.) An extended controversialist discussion of the problems of God's unity, the messianic age, resurrection, and the *Olam ha-Ba*. Several years before, Maimonides had written a brief responsum on resurrection requested by the communities of Yemen.[1] This correspondence had been shown to the Bagdad Gaon, Samuel b. Ali, who proceeded to publish a critical brief. Maimonides' excursus was by way of response and to make clear to all that he did not share nor condone any denial of bodily resurrection. On the contrary, it is a cardinal tenet of the faith .This letter was already famous when it was translated into Hebrew by Samuel ibn Tibbon circa 1202 and again shortly thereafter by Judah al Harizi.

Maimonides' burden is that resurrection is not in accordance with nature, hence it can not be proved by philosophy. Its substantiation is revelation;[2] what is requisite is a correct understanding

[1] This letter incidentally, testifies to the spread of Maimonides' authority. One of the pupils in a *Yeshibah* in Damascus was citing publicly its authority to substantiate a denial of any beyond-the-grave recombination of body and soul. ("Ma'amar Tehiyyat ha-Metim," ed. J. Finkle, *AAJR*, IX [1939], 10-11 [Heb. sect.]). In Yemen similar claims also were being made.

[2] Many modern rationalist expositors of Maimonides overlook without

of the texts of the revelation. The traditional terms *Olam ha-Ba* and *Yemot ha-Mashiah* (Messianic Age) come under searching analysis and a rigid demarcation is made between the events of the Messianic Age which retain their ordinary physical context and the purely spiritual promise of the *Olam ha-Ba* where neither form nor matter nor appetite will intrude. The political reward of a redeemed Israel will take place in the Messianic Age. Such resurrection as God then disposes will be ancillary to that of the *Olam ha-Ba*. There will be a second "death" before the spiritual promise of the *Olam ha-Ba*. Reward and punishment is not a Dantesque phantasmagoria, but exclusion from or inclusion in the *Olam ha-Ba*.

As we shall see, no construction of Talmudic texts really permits such an analysis and no position of Maimonides' will be more roundly attacked. What remains to be asked is why Maimonides on the one hand established physical resurrection as a pivotal principle of faith (*Pinat ha-Torah*) [1] and on the other limited resurrection to a minor and temporary function of the penultimate promise. Finkle suggests that Maimonides was attempting to protect himself from precisely such denunciation of the *Moreh* as Abd-Al-Latif-Al-Baghdadi, an influential courtier, apparently raised to his orthodox and resurrection-believing caliph Saladin. [2] In brief, the burden of belief both within and without the community certainly centered on such a bodily resurrection, yet in no practical issue did "Greek" concepts lead the consistent metaphysician farther away from the fold.

How did Maimonides rationalize his speaking with a forked tongue? A passage from Averroes picks up the stray justifications common to religious philosophers and develops them consistently.

> Having finished this question Ghazali begins to say that the philosophers deny bodily resurrection. This is a problem which is not found in any of the older philosophers, although resurrection has been mentioned in different religions for at least a thousand years and the philosophers whose theories have come to us are of a more recent date. The first to mention bodily resurrection were the prophets of Israel after Moses, as is evident from the Psalms and many books attributed to the

warrant Maimonides' insistence that there are three keys to truth: 1) Science; 2) The Five Senses; 3) Revelation and Tradition. (Marx, *HUCA*, III [1926, 350.)

[1] Finkle, p. 6 (Heb. sect.).

[2] *Ibid.*, p. 71. Finkle based his argument on Ibn Abi Usaybi'a *Tabagat al-Atibba.*

Israelites. Bodily resurrection is also affirmed in the New Testament and attributed by tradition to Jesus. It is a theory of the Sabaeans, whose religion is according to Ibn Hazm the oldest.

But the philosophers in particular, as is only natural, regard this doctrine as most important and believe in it most, and the reason is that it is conducive to an order amongst men on which man's being, as man, depends and through which he can attain the greatest happiness proper to him, for it is a necessity for the existence of the moral and speculative virtues and of the practical sciences in men. They hold namely that man cannot live in this world without the practical sciences, nor in this and the next world without the speculative virtues, and that neither of these categories is perfected or completed without the practical virtues, and that the practical virtues can only become strong through the knowledge and adoration of God by the services prescribed by the laws of the different religions, like offerings and prayers and supplications and other such utterances by which praise in rendered to God, the angels, and the prophets.

In short, the philosophers believe that religious laws are necessary political arts, the principles of which are taken from natural reason and inspiration, especially in what is common to all religions, although religions differ here more or less. The philosophers further hold that one must not object either through a positive or through a negative statement to any of the general religious principles, for instance whether it is obligatory to serve God or not, and still more whether God does or does not exist, and they affirm this also concerning the other religious principles, for instance bliss in the beyond and its possibility; for all religions agree in the acceptance of another existence after death, although they differ in the description of this existence, just as they agree more or less in their utterances about the essence and the acts of the Principle. All religions agree also about the acts conducive to bliss in the next world, although they differ about the determination of these acts.

In short, the religions are, according to the philosophers, obligatory, since they lead towards wisdom in a way universal to all human beings, for philosophy only leads a certain number of intelligent people to the knowledge of happiness, and they therefore have to learn wisdom, whereas religions seek the instruction of the masses generally. Notwithstanding this, we do not find any religion which is not attentive to the special needs of the learned, although it is primarily concerned with the things in which the masses participate. And since the existence of the learned class is only perfected and its full happiness attained by participation with the class of the masses, the ge-

neral doctrine is also obligatory for the existence and life of this special class, both at the time of their youth and growth (and nobody doubts this), and when they pass on to attain the excellence which is their distinguishing characteristic. For it belongs to the necessary excellence of a man of learning that he should not despise the doctrines in which he has been brought up, and that he should explain them in the fairest way, and that he should understand that the sin of these doctrines lies in their universal character not in their particularity, and that, if he expresses a doubt concerning the religious principles in which he has been brought up, or explains them in a way contradictory to the prophets and turns away from their path, he merits more than anyone else that the term unbeliever should be applied to him, and he is liable to the penalty for unbelief in the religion in which he has been brought up. [1]

4) *Maamar ha-Yihud* (date unknown). (Arabic original lost; English, *Treatise on the Unity of God.*) This short essay, which moves from physics to metaphysics to God, was unknown in Europe until the 14th century. Its teaching does not vary from the ideas on this subject exposed in the *Sefer ha-Mada* and the *Moreh* Part II, Chaps. 1-30.

Like all religious authorities of the day, Maimonides received and answered theological inquiries and appeals for appelate decision and requests for statement of guiding legal principles. These responsa, of which we control about five hundred, are a critical research area for our study of the Maimonidean criticism, as they suggest the early reactions to his *halachic* works and clearly underscore the complicating factor of imperfect texts hastily copied and imperfect translations hastily drawn in establishing the precise issues under debate.

In the Hebrew Union College Museum there is on exhibit a gilded manuscript Bible of 14th century Spanish provenance. Above and below each column Samuel ibn Tibbon's translation of the *Moreh* has been patiently written in. To our knowledge, the *Moreh* was the only non-commentary ever paged with the sacred text. These silent minscule letters speak loudly of a people's veneration and of the philosopher's overarching presence.

[1] Averroes, *Tahafut al-Tahafut*, trans. S. Van den Bergh (Oxford, 1954), I, 359-360.

CHAPTER THREE

THE AKWARD CONTROVERSY

> After the death of Moses the self-willed and difficult came together. Every fool opened wide his mouth throughout Spain, France, Palestine, and Babylonia. They counselled together to raise up meaningless arguments and trivial matters against his word. They breached the walls which the upright had raised: "Little foxes despoiling the vineyard." Had they spoken out in his presence they would have been melted as wax by the fire of his anger and would perforce have fled before him as the lamb before the lion or as birds before the eagle. They would have sunk as lead into his deep waters. But every man, when he is by himself, thinks he is Moses' equal in wisdom. The weak says, "How strong I am."
>
> The weak when at home boasts of his strength to his wife, but when he comes near the battle his confusion and his shame are strikingly revealed. [1]

The Maimonidean controversy ought never to have taken place—yet it could not be avoided. An understanding of this apparent paradox is the key to any comprehension of the event.

In 1305—on July 26th, to be exact—after a century of charges and countercharges, the Barcelona Jewish community agreed with its rabbinic leader, Solomon ibn Adret, to place under the ban "any member of the community who being under the age of twenty-five years shall study the works of the Greeks on natural science or metaphysics, either in the original language or in translation." Works by Jewish philosophers were specifically exempted. The purpose of the ban was made patently clear: "Lest these sciences entice them and draw their hearts away from the Torah of Israel which transcends the wisdom of the Greeks." [2]

One can make out a case that Maimonides would not have been opposed to these terms. In *Mishneh Torah Yesode ha-Torah* we read:

> I say that it is not proper to stroll in the *Pardes* until one

[1] Judah al Harizi, pp. 348-9.

[2] Solomon b. Abraham ibn Adret, *She'elot u-Teshubot* (Bologna, 1539), I, 415. Some references to the ban stipulate the permitted age as thirty. (Abba Mari of Lunel, *Sefer ha-Yareah*, in *Minhat Kenaot* [Fressburg, 1838], p. 124.)

> has filled his belly with bread and meat. The bread and meat referred to is a comprehensive knowledge of what is ritually permitted and what prohibited and of all similar sophistications of the Torah law. . . . [1]

Halachic knowledge must precede philosophic. Speculative theology is not a school topic. "Our ancient sages enjoined us that these matters are not to be expounded in public, but should be communicated and taught to an individual privately." [2] Indeed, theosophy, i.e., metaphysics, is never to be made fully explicit. "Only the chapter headings are to be given to the student." [3] He must fill out the details on his own.

A correspondent of Ibn Adret's in the Provence and one equally involved in establishing the ban on premature study of "Greek wisdom," Abba Mari b. Moses of Lunel, wrote shortly before 1305 a *pièce justitative*, the *Sefer ha-Yareah*, which had as its central theme the proof of Maimonides against the Maimonids. [4]

All science was known to the early rabbis, who received it from the prophets. [5] However, due to the dislocations of the Diaspora the books regulating these studies have been lost and such sciences *now* are known *largely* from the scraps of Jewish wisdom which had been taken over and digested by the Greeks. Greek books are both appealing and dangerous. They can be likened to a jar of honey around which a dragon is entwined. [6] Maimonides performed the unique service of refining metal from the base ore, in the process pointing up the validity of Aristotle's substantiation of God's existence, oneness, and noncorporeality and the error of Aristotle's denial of God's knowledge of particulars, *creatio ex nihilo*, and miracles. [7] Furthermore, Maimonides in his wisdom had insisted that even Hebraic speculation should be attempted only by the properly trained and truly observant and only after thorough preparation. [8] Abba Mari repeated approvingly the five reasons Maimonides had given in the *Morah* Part I, Chap. 34, "why instruction should not

[1] *M. T. Yesode ha-Torah* 4 : 13. *Pardes* was the legendary garden of intellectual delight (theosophy). Cf. *T. B. Haggigah* 14b.

[2] *M. T. Yesode ha-Torah* 4 : 10.

[3] *Ibid.*, 2 12, 4 : 11.

[4] Abba Mari of Lunel, *Minhat Kenaot*, pp. 122-130. The title is a play on "moon"—"Lunel."

[5] *Ibid.*, p. 12.

[6] *Ibid.*, pp. 126-127.

[7] *Ibid.*, pp. 127-8.

[8] *Ibid.*, pp. 128-9.

begin with metaphysics" and why such research should be carried on privately, tutorially, and with a wholly competent teacher. The obvious lesson of Abba Mari's reasoning was simply put: let those who claim Maimonides' mantle not disobey their master's rule.

> Those who bring proof from the great rabbi who scrutinized and researched the Greek books and nursed at their breast, must see clearly that he filled his belly with old wine and fat meat [the reference is to Torah, cf. *M.T. Yesode ha-Torah* 4:13] and only then drank of the upper wells. He finished a commentary on the *Mishnah* at twenty-eight. Who is like unto him as a teacher who brings abundant water to the soul? A righteous man governed by the fear of God, his teachings are trustworthy, his wisdom broad and his hands faithful. Therefore, we must not disobey his rule nor demur from his fiat. [1]

Of such arguments anti-Maimonid controversialists were made! A most ingenuous paradox—what?

The paradox is more superficial than substantial. Whatever approval Maimonides gave to the traditions delineating and circumscribing such study[2] he not only studied philosophy and

[1] *Ibid.*, p. 128.

[2] Cf. his labored justification in the *Moreh* Part III — Introduction.

"We have stated several times that it is our primary object in this treatise to expound, as far as possible, the Biblical account of the Creation (*Ma'aseh Bereshit*) and the description of the Divine Chariot (*Ma'aseh Merkabah*) in a manner adapted to the training of these for whom this work is written.

"We have also stated that these subjects belong to the mysteries of the Law. You are well aware how our Sages blame those who reveal these mysteries, and praise the merits of those who keep them secret, although they are perfectly clear to the philosopher. In this sense they explain the passage, 'Her merchandise shall be for them that dwell before the Lord, to eat sufficiently' [Isaiah 23 : 18), which concludes in the original with the words *ve-li-me-kesseh 'atik*, i.e., that these blessings are promised to him who hides things which the Eternal has revealed [to him], viz., the mysteries of the Law (*T. B. Pesahim* 119a). If you have understanding you will comprehend that which our Sages pointed out. They have clearly stated that the Divine Chariot includes matters too deep and too profound for the ordinary intellect. It has been shown that a person favoured by Providence with reason to understand these mysteries is forbidden by the Law to teach them except *viva voce*, and on condition that the pupil possess certain qualifications, and even then only the heads of the sections may be communicated . . . .

"To give a full explanation of the mystic passages of the Bible is contrary to the Law and to reason; besides, my knowledge of them is based on reasoning, not on divine inspiration [and is therefore not infallible]. I have not received my belief in this respect from any teacher, but it has been formed by what I learnt from Scripture and the utterances of our Sages, and by the philosophic principles which I have adopted. It is therefore possible that my view is wrong, and that I misunderstood the passages referred to.

taught it to individual disciples, but set these themes out in a book. That the book was written on the pretext of being a correspondence course for a single, now departed, graduate student—a pretext Maimonides liked to claim—does not mitigate the fact that the *Moreh* was written and that Hebrew translations were prepared with Maimonides' knowledge and blessing. Maimonides knew that the *Moreh* would command an audience.

In point of fact, Maimonides' cautions on mass exposure to metaphysics stem as much from Aristotelian as Talmudic reservations. Averroes wrestled with the same limitations in a strikingly parallel manner:

> The problem concerning the knowledge of the Creator of Himself and of other things is one of those questions which it is forbidden to discuss in a dialectical way, let alone put them down in a book, for the understanding of the masses does not suffice to understand such subtleties, and when one embarks on such problems with them the meaning of divinity becomes void for them and therefore it is forbidden to them to occupy themselves with this knowledge, since it suffices for their blessedness to understand what is within their grasp. The Holy Law, the first intention of which is the instruction of the masses, does not confine itself to the things in the Creator by making them understood through their existence in human beings, for instance by the Divine Words: "Why dost thou worship what can neither hear nor see nor avail thee aught?" (Koran 19:43) but enforces the real understanding of these entities in the Creator by comparing them even to the human limbs, for instance in the Divine Words: "Or have they not seen that we have created for them of what our hands have made for them, cattle and they are owners thereof?" (Koran 36:71) and the Divine Words "I have created with my two hands." (Koran 38:75). This problem indeed is reserved for the men versed in profound knowledge to whom God has permitted the sight of the true realities, and therefore it must not be mentioned in any books except those that are composed according

Correct thought and divine help have suggested to me the proper method, viz., to explain the words of the prophet Ezekiel in such a manner that those who will read my interpretation will believe that I have not added anything to the contents of the text, but only, as it were, translated from one language into another, or given a short exposition of plain things. Those, however, for whom this treatise has been composed, will, on reflecting on it and thoroughly examining each chapter, obtain a perfect and clear insight into all that has been clear and intelligible to me. This is the utmost that can be done in treating this subject so as to be useful to all without fully explaining it."

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to a strictly rational pattern, that is, such books as must be read in a rational order and after the acquisition of other sciences the study of which according to a demonstrative method is too difficult for most men, even for those who possess by nature a sound understanding, although such men are very scarce. But to discuss these questions with the masses is like bringing poisons to the bodies of many animals, for which they are real poisons. Poisons, however, are relative, and what is poison for one animal is nourishment for another. The same applies to ideas in relation to men; that is, there are ideas which are poison for one type of men, but which are nourishment for another type. And the man who regards all ideas as fit for all types of men is like one who gives all things as nourishment for all people; the man, however, who forbids free inquiry to the mature is like one who regards all nourishment as poison for everyone. But this is not correct, for there are things which are poison for one type of man and nourishment for another type. And the man who brings poison to him for whom it is really poison merits punishment, although it may be nourishment for another, and similarly the man who forbids poison to a man for whom it is really nourishment so that this man may die without it, he too must be punished. And it is in this way that the question must be understood. But when the wicked and ignorant transgress and bring poison to the man for whom it is really poison, as if it were nourishment, then there is need of a physician who through his science will exert himself to heal that man, and for this reason we have allowed ourselves to discuss this problem in such a book as this, and in any other case we should not regard this as permissible to us; on the contrary, it would be one of the greatest crimes, or a deed of the greatest wickedness on earth, and the punishment of the wicked is a fact well known in the Holy Law. [1]

one

Unlike the Hebrew reservations, those of the Aristotelians were determined largely as a protection for the author from charges of heresy and mischief making rather than as religious requirements. An overriding reason could, of course, always be found to violate such restrictions and to turn away any indictment. Thus Maimonides:

> If I were to abstain from writing on this subject, according to my knowledge of it, when I die, as I shall inevitably do, that knowledge would die with me, and I would thus inflict great injury on you and all those who are perplexed. I would then be guilty of withholding the truth from those to whom

[1] Averroes, I, 215-216.

it ought to be communicated, and of jealously depriving the heir of his inheritance [1].

Further, a deliberately cryptic language could be adopted—thus the Maimonidean *sodot*. Such language the author contented himself could be construed literally and without injury by the amateur yet be sufficiently opaque to suggest profounder meanings to the student. [2]

Maimonides, in truth, was conscious of deliberately violating the taboos which he himself had repeatedly approved. He relied on his own purity of motive, on Psalms 119:126 (the traditional proof text for any original or revolutionary literary or *halachic* change), [3] and on the manifest urgency of defending the faith:

> When I have a difficult subject before me—when I find the road narrow, and can see no other way of teaching a well established truth except by pleasuring one intelligent man and displeasuring ten thousand fools—I prefer to address myself to the one man and to take no notice whatever of the condemnation of the multitude.... [4]

The early anti-Maimonid controversialists recognized that Maimonides had both sanctified the traditional reservations and violated them. They were of various opinions in their judgment of his actions. Some agreed that the times were such that his special pleading could be admitted; these, if critical, shifted their attack to the translators who by popularizing his works presumably abused the discretions Maimonides had abided. [5] Others found no extenuating circumstance and charged him bluntly with sin. [6]

Maimonides could be charged with revealing what ought to have been concealed, but those who defended the older ways and were seriously concerned with a philosophically attenuated fabric of faith confused the issue and weakened their case by centering their attack on him. Perhaps they could do no other, since his protective mantle was broadly claimed, but an attack in the name of faith on one who is admittedly a paragon of piety and who wears the crown of rabbinic learning blunts one's words before they can take effect. There was as much fulsome and honestly meant praise of

[1] *Moreh*, iii. Introduction.
[2] *Ibid.*
[3] This text was understood to mean: It is time to do something for the Lord, so make void thy Torah.
[4] *Moreh*, i. Introduction.
[5] Letter of Joseph b. Todros ha-Levi Abulafia, *GN*, III, 155.
[6] Letter of Judah b. Joseph Alfakhar, *KTR*, III, 2a.

Maimonides in the anti-Maimonid camp as in his own. Typically, the Toledo physician whose judgment of guilt we have just quoted preceded this verdict with a paean to Maimonides' incomparable erudition and felt constrained to recall that even such Biblical greats as Aaron and David had sinned—that after all to sin is human.[1] If the Maimonidean controversy achieved any lasting result, it managed to write indelibly in the ledgers of Jewish literature Maimonides' prestige and to underscore the universal and reverent admiration in which he was held.

The familiar term, Maimonidean controversy, is an awkward historian's way of collecting the various attacks made on Maimonides' writing and on philosophic speculation generally over the course of the 13th century.

It is awkward because not all critical notations or evaluations were edited with an eye to controversy. The early glossators of the *Mishneh Torah*, Abraham b. David of Posquières (Rabad) and Moses ha-Kohen of Lunel, were ignorant of the *Moreh*, which had not yet been translated and, however sharp their criticism, were conscious only of following a time-honored academic practice. Important works of *halacha* were read carefully in the schools and teachers often had their scholars reproduce in the margin of manuscripts their own evaluations, additions, or challenges. This practice, it was felt, added to the value of important legal works, which were thus corrected and made functional. Glossing a text implied respect rather than the reverse. Later controversialists seized on some of these notes to their own purpose and they became part of the controversy, but that is another story.

It is awkward, also, because the sheer mass and diversity of Maimonidean material forced the controversialists down many tangential byways. We will at times find ourselves well into the sophistications of jurisprudence far from the social and political pressures which roiled within the Jewish communities and forced upon them the elemental question: how can faith be firmly established among a dispersed community enjoying very different levels of education and culture and exposed daily to the threat of conversionistic pressures directed at an intelligentsia already restive and unsatisfied by traditional apologetics.

> We have been alarmed by reports from your holy community as well as from other sources to the effect that dangerous here-

[1] *Ibid.*, III, 22.

tics have arrived in the land. This is bad news, for their numbers may increase if we do not bar the door in their faces. It is obvious that these men, having completely lost faith, sin and lead others to sin. We do not know what they rely on for support. Observe how the Gentiles punish their heretics, even for a single one of such heresies as these men expressed in their books. Why, if anyone would dare say that Abraham and Sarah represent matter and form, they would wrap him up in twigs and burn him into cinders. All the nations trace their faith to them and those say that they are nothing but symbols! Their books and sermons are but thorns in our side. [1]

It is awkward, finally, as has been suggested, because the anti-Maimonists, before and after the burning of the *Moreh* in 1232, often combined a condemnation of philosophy with a commendation of the philosopher. No more striking example exists than these lines taken from a didactic poem written by the Perpignan poet Joseph Ezobi (late 13th century):

Put not they faith in Grecian Sophistry:
To climb its vineyard's fence, no man is free.
Its draught will make thy footsteps vacillate
From truth; will make thy heart to curse and hate.
But askest thou in what to set thy lore,
In Grammar much, but in the Talmud more.
To know the secret of the Law's restraint,
Wherein the "holy" and wherein the "taint."
To fine the "goring ox," the "open pit,"
The cattle's lawless graze, the haystack lit.
Alfasi, glory to his memory,
Alone did bring the law to harmony.
The hungry soul from out his wisdom fed,
His touch gave life to what would else be dead.
And after, rose a man of piety,
Maimonides, the Sage of God's decree.
Whose books, that on the world their lustre shed,
In Hebrew and in Arab tongue are read.
Breathe thou the incense of his off'ring soul.
The path of rectitude his words extol.
Accept his laws of life, for he will guide
Thee near to God; in him thy trust confide. [1]

Yet the anti-Maimonidean Controversy is the familiar title of the 13th century sturggle between Aristotle and Akiba—and with all its awkwardness, it is this story which must be told.

[1] Letter of Solomon ibn Adret, *Minhat Kenaot*, pp. 60-61.
[1] Joseph Ezobi, "The Silver Bowl," J. Freedman, trans. *JQR*, III (1896), 534-

CHAPTER FOUR

CRITICISM AND CONTROVERSY IN THE NEAR EAST

Near Eastern Jewry, in the days of Moses Maimonides, was demographically urban [1] and vocationally artisan and merchant, topped by a small but influential upper class of state officials and professionals—mostly physicians. Social intercourse and business activity outside the Jewish group was fairly routine. [2] A unique feature was the status and prerogatives awarded certain families and certain offices, especially state officials and court physicians, both by the Jewish and the general communities. [3] Maimonides

[1] E. Ashtor, "Prolegomena to the Medieval History of Oriental Jewry," *JQR*, L (1959-60), 55-63. A careful extrapolation from the available material suggests a total Jewish population for Syria of 15,000 and for Egypt 12,000 with probably no more than 300 families living in the largest centers, Damascus, Aleppo, and Tyre—Cairo, Fostat, and Alexandria. The number of small Jewish settlements is impressive—some thirty being known in Egypt alone—and significant. Certainly little, if any, rabbinic training was there available. Few such communities numbered a rabbinically trained citizen, a fact of no little importance in understanding the need for and reception of the *Mishneh Torah*.

[2] W. Fischel, *Jews in the Economic and Political Life of Medieval Islam* (London, 1937), p. 60ff.

[3] Heredity had long been essential in the election of an Exilarch. Heredity even played a role in the schools. When the unified authority of the Exilarch broke down, *Neisiim* foisted themselves into similar positions in the local centers on the basis of their Davidic family trees. The state generally found it convenient to confirm those whom the Jews reverenced as living links in the chain of their messianic hopes.

The special status of court officials and attending physicians was significant in many ways—not the least, from a status point of view, was the privilege of riding a horse instead of the donkey prescribed for the *Dhimmis*.

These rights shared by all *Dhimmi* in the higher ranks of business, medicine, or the state were in Egypt a product of the need by a Shiite dynasty (Fatamid) to rule an orthodox population. Copts, Jews, Nestorians, etc. became the agents of their rule. Islam, generally, did not educate a broad enough civil servant class and *Dhimmis* were integral to the function of the state. The Ayyubis sought to reverse this trend and create a Muslim bureaucracy. Such special rights of *Dhimmi* officials as riding on horses were rescinded. Madrasas were encouraged out of a need for their graduates. Older and stricter orthodox regulations were revised, but subordination and exclusion as a consistent policy was limited by the inability of the state to function without *Dhimmi* manpower.

enjoyed the prerogatives and certain of the prejudices of this class.[1]

A comprehensive study of rabbinic education in the Near East remains to be written. Basic schooling was communally available, but rabbinic academies were few and rabbinic seminars headed by individual scholars depended on chance and circumstance. With the closing of the academy in Fostat shortly before Maimonides' arrival, Egypt seems to have lacked adequate facilities to graduate a sufficient number of native jurists.[2] Maimonides' own seminars were not unique, and, significantly, enrolled but two or three whom we would call today graduate fellows.[3]

One surmises that few of the upper class attended *yeshibot*, that such advanced study as the sons of this class enjoyed was guided tutorially and weighted toward the Greeks.[4] The broad but idealized curriculum *Tab-ul-Nufus* (English, *Cure of Souls*) by Joseph ibn Aknin, Maimonides' disciple, presumed such tutoring.[5] Whatever the specific form of their training, those tutored could not but be aware of the philosophic traditions coursing through Islamic life. Saadya and ibn Gabirol, if not Avicenna and Al-Gazzali, were known, if not read. Arabic was, after all, a spoken vernacular. Hebrew was a specialized attainment.[6]

[1] Maimonides was wont to pass off opposition on the grounds that these were "men of no rank as well as of no ability" (*KTR*, III, 30b). Maimonides' insistence on adding to his autograph *ha-Sephardi*—the Spaniard—was due partly to the necessity to establish his pedigree and place and partly to pride. Maimonides' views on the Exilarchate were deeply influenced by traditional Jewish emphasis on blood lines.

[2] A surprising number of the active Egyptian correspondents of Maimonides were of non-Egyptian birth and, interestingly, from centers outside the Oriental world, cf. Anatoli b. Joseph of Lunel, Pinhas b. Meshullam probably a Byzantine, Joseph b. Judah of Ceuta, Hasdai b. Levi of Spain.

[3] *KTR*, I, 25b. Maimonides read the Talmud, Alfesi, and presumably his own code with them.

[4] A. Neuman, *A History of the Jews in Spain* (Philadelphia, 1942), II, 64 ff. The tutorial nature of advanced secular education must be insisted on, for the academies themselves were entirely rabbinic.

[5] M. Gudemann, *Das Jüdische Unterrichtswesen* (Vienna, 1873), Appendix, pp. 1-57 (Arabic text), p. 43. The curriculum suggested began with reading and writing, Torah, Mishnah, and grammar; and progressed to Talmud and poetry, theology, philosophy (apologetics), logic, arithmetic, geometry, optics, astronomy, music, and mechanics, natural science, medicine, and, finally, metaphysics.

[6] Cf. a letter from Maimonides to Joseph ibn Djabir, *KTR*, II, 15b. "We have received the letter of the honored and esteemed sage. . . . He mentions in it that he is illiterate in Jewish things. However, it is clear to us from his letter that he is making a strong effort to study Jewish lore and that he is busying himself with our Arabic *Commentary to the Mishnah*, although he

Jewish educational practice, as differentiated from idealized norms, has always been deeply affected by local attitudes and practices. In the Near East Muslim elementary education proposed to teach the Koran and its recitation, some *hadīth* and such exegesis, writing, and grammar as sacred study required.[1] Elementary Hebrew education, too, centered on Bible, prayer, some *halacha*, and such auxiliary disciplines as these required. Graduate rabbinic study, like the curriculum of the Mosque schools, had juridic competence and faith as basic objectives. However, for the privately tutored student extensive libraries were available which opened the mind to the Hellenic-Syriac-Arabic sciences and systematics. When Saladin deposed the last Fatamid he closed their famous *dār al-hikma* and disposed of a library variously claimed to number between 120,000 and 2,000,000 volumes. There were then hardly that many books in all Europe. *Dār al-'ilms* and *madāris* and the like existed in every major city, often in surprising numbers. The purpose of such schools, we would label today seminarial, but their libraries contained the ancient treasures and besides *Fikh* (the Islamic counterpart of *halacha*) such subjects as history, science, mathematics, astronomy, medicine, poetry, and even metaphysics (*Falsafiya* or *Ḥikliya*, the Islamic equivalent of the Hebrew *filosofia* or *hokmah*) occasionally were taught. There were no provisions, of course, for Jews in these professional schools, but many Jews were neighbors to the academic atmosphere, exchanged ideas with Muslim teachers, borrowed books, and studied privately with competent graduates. The intellectual heights of the one became the intellectual sights of the other. Not unexpectedly, Maimonides felt obliged to digress in the *Mishneh Torah* on the "mistaken" notions of the purely Islamic Kalam (*Moreh* Part I, Chaps. 71-76) on the well taken assumption that these were generally known by and part of the intellectual repertory of Jewish intellectuals.

Among contemporary scholars only one, an Alexandrian *dayyan* of Spanish extraction, Hasdai ha-Levi, wrote any extensive query to the *Moreh*. Philosophically rationalized apologetics were not novel in the Near East, whose scholars were long since accustomed to such sophisticated explanations of religion. Unfortunately,

does not understand the code that we have written . . . because it is in Hebrew." Interestingly, this ibn Djabir, a Bagdadi, took Maimonides' part against Samuel b. Ali.

[1] "Madrasa," *Shorter Encyclopedia of Islam*, eds. Gibb and Kramers (Leiden, 1953), p. 301.

Hasdai's original letter to Maimonides has been lost and we must rely on a ghost-written answer. Possibly because of illness, Maimonides entrusted this correspondence to a pupil, dictating only a broad outline of the message. [1] Only one specific can be reconstructed having to do with two seemingly disparate exegetical explanations of the same Biblical text (Genesis 28). [2] However, it is clear that Hasdai touched the crucial dilemma of any interpretive system: how does one set out ground rules and fix limits. Can Jacob's dream, for instance, be a running allegory of the process by which the intellect becomes active and illumined as in prophecy and at the same time a symbol of the fundamental reality and matter of the universe? [3]

It is clear that Hasdai questioned Maimonides' resolution of the conflicting claims of reason and revelation and brushed over his views on free will, the motion of the planets, immortality (especially as it touched the future fate of non-Jews), miracles, cosmology, and resurrection. The dictated response reads like a capsule of the unique emphases of the *Moreh*, but it is difficult to determine Hasdai's precise feelings and whether he took issue in whole or in part or only requested elucidation.

The *Moreh* did not go unread. Most extant Arabic manuscripts contain marginalia. [4] It was read, however, by a narrow circle of students and professions, as Maimonides had, after all, intended. These were conditioned to accept a work of philosophy on its own terms and to deal with it with academic dispassion. We turn again to ibn Aknin for corroboration. Throughout his life this favored disciple remained a belligerent protagonist of Maimonides' authority. Yet his philosophic excursus, *A Treatise on the Meaning of Existence*, . . . took, in the moderate words of a modern translator, "a directly opposite position from that taken by the master" [5] presuming in its argument a theory of atoms and the possibility of a philosophically valid argument to establish *creatio ex nihilo* (a logic denied by Maimonides). In the Oriental world one could be close

[1] *KTR*, II, 23a.

[2] Maimonides had treated of Jacob's dream in the *Moreh* i. 15 and again in ii. 10.

[3] *KTR*, II, 24a.

[4] British Museum MSS 1423: Berlin Museum MSS OR Oct. 258. 2, 8, 10. A fragment survives of a full commentary by Yahya ibn Suleiman. Berlin Museum MSS OR QU 554. 2.

[5] Joseph ibn Aknin, *A Treatise on the Meaning of Existence*, ed. J. L. Magnes (Berlin, 1911), p. 6.

personally yet philosophically in disagreement. A presumption of the appropriateness of speculation, rather than agreement on any one system of speculation, was the psychological bond of the scholar class. [1]

The *Mishneh Torah*, not the *Moreh*, was the focus of Maimonidean interest among Near Eastern Jews. [2]

Many received the *Mishneh Torah* gratefully. Mann has published from the Genizah a letter addressed by a merchant currently in Kalne to a one-time Egyptian neighbor praising Maimonides and requesting a copy of certain correspondence in which Maimonides had answered *halachic* criticism of some of his decisions. This anonymous merchant fancied himself something of a master of poetics and he grudged being separated from "civilization;" his rather intelligent interest and obvious approval were probably largely typical of his class. [3]

Maimonides' Arabic responsa are replete with critical and confirmatory citations taken from the *Mishneh Torah* testifying to its widespread use in both court proceeding and school activity. [4] There is evidence that at least one seminar met regularly in Alexandria to discuss the *Mishneh Torah*. [5] The nature of the questions submitted permit the assumption that the text was studied seriatim. [6] There were other such small study groups in Egypt, Syria, and Yemen. [7] Besides a search for the exact meaning of the *Mishneh Torah* text [8] some took pains to check the consistency of the *Mish-*

[1] I have assumed the identity of Joseph ibn Aknin (Joseph b. Judah b. Joseph b. Jacob ha-dayyan al Barcaloni) with Joseph b. Judah b. Joseph al-Sabti the writer of the *Treatise* following M. Steinschneider, *Die Arabische Literatur der Juden* (Frankfort, 1902), p. 228, note 170 and Magnes against S. Munk, *Notice sur Joseph b. Jehouda* (Paris, 1842), p. 9 ff., and D. H. Baneth (ed.), *Iggerot ha-Rambam* (Jerusalem, 1946), I, 6 ff. Were the separate identity of these two scholars established our point would be no less valid. The cryptic exchange of letters published by Munk, *Notice sur . . .*, makes an intellectual break—though not its timing—abundantly clear.

[2] Interestingly, a legendary biography of Maimonides, probably of Islamic Jewish origin, actually labeled the *Mishneh Torah*, rather than the *Moreh*, as the *causus belli*. (A. Neubauer, "Documents Inédits," *REJ*, IV [1881], 123 ff.

[3] Mann, *The Jews in Egypt*, II, 321-322.

[4] Blau 66, 158, 160, 161, 162, 184, 219, 252, 253, 257, 264.

[5] Blau 160.

[6] Blau 184 raises specific questions to seriatim points in *M. T. Tefillah* 6 : 3, *M. T. Berachot* 1 : 11, 3 : 13, 4 : 4, 4 : 5, 5 : 7, 6 : 5, 6 : 8, 8 : 1, 10 : 7.

[7] There is even a responsum citing *M. T. Teshubah* 11 : 17 addressed from Magreb. Blau 271.

[8] Blau 264.

neh Torah with Maimonides' other legal works—especially the *Siraj*.[1] Most questions centered, however, on Maimonides' authority for particular statements *in situ*. Students would cite contradictory traditions, and since the text gave no indication of Maimonides' sources, the seminar often could not establish it—thus necessitating an appeal to Fostat.[2]

Another evidence of the *Mishneh Torah*'s pervasive popularity can be seen in a responsum sent by Maimonides to Alexandria (probably to be dated in the early 1190's). In it Maimonides told of a scholar, for whom he evidenced a measure of respect, who had raised during a personal audience a query as to the source and authority for a particular *Mishneh Torah* decision.[3] The incident had stuck in Maimonides' memory not because it signalled a careful research of his book—this he expected—but because he could not locate the source and put him in mind to compose a catalogue of source citations.[4]

Not all comment on the *Mishneh Torah* was deferential. In a letter written to ibn Aknin some time after 1185, Maimonides referred to a highly emotional outburst in Fostat itself. Some "persons

"Pray teach us what your honor intended in *M. T. Talmud Torah* 5 : 6. . . . What is the force of this teaching? Further concerning what your honor wrote in *M. T. Talmud Torah* 7 : 11, . . . what is the force of this teaching? Further concerning what you have said in *M. T. Abodah Zarah* 2 : 5, . . . Yet your honor said in *M. T. Teshubah* 3 :14 . . .

"Teach us, O holy teacher, may God enlighten our eyes in the meaning of his law. Amen."

[1] Blau 38 questions a discrepancy between *M. T. Sabbath* 17 : 6 and *Siraj Erubin* 1 : 1. Similarly Blau 217 questioned Maimonides' discussion of *Prosbul* in *M. T. Shemittah v'Yovel* 9 : 22 and *Siraj Shevut* 10 : 5. Such questions were not picayune nor intended necessarily to beard the author. Scribal error was common. Indeed, it was at fault in the last cited case. Correspondents noting contradictions usually assumed such error and checked with the author for confirmation. Abraham Maimonides continued to receive queries to his father's halachic work. (Abraham Maimonides, pp. 125-129.)

[2] Typically Blau 65.

"May our master teach us concerning what he wrote in *M. T. Iyshut* 2 : 12 . . . A challenger came and said . . . basing himself on R. Samuel b. Hofni's *Sefer ha-Boggeret* and citing further proofs from the teaching of *T. B. Yebamot* 80b, where in a debate between R. Huna and R. Johanan, the ruling follows Johanan (who agrees with the challenge). We hesitated to answer. Teach us, O honored master, the proper law and your blessing will be doubled from God."

[3] *KTR*, I, 25b-26a.

[4] Abraham Maimonides also mentioned his father's notion to compile a *Sefer ha-beqer*. (*Birkat Abraham*, ed. Goldberg [Lyck, 1859], p. 8.)

of no account" would not even open his work lest it be said of them that they had derived benefit from it.[1] Maimonides implied that intellectual vanity rather than any basic criticism of the *Mishneh Torah* had motivated their conduct.[2] The context of his response, however, belies this explanation, for his response was in fact an apologia attacking a variety of charges raised against him for authoring such a book, and making much of his rationale that he did not write the book for personal glory, but out of a personal need for a ready legal reference and because of a manifest need by many for such a work. He had not written the *Mishneh Torah* to supersede the Torah. Indeed, his only thought had been to settle on the correct interpretation of ~~that~~ law lest attacks based on false exegesis be levied against it.[3] Maimonides was fully alive to the unsettling effect of the *Mishneh Torah* on familiar habits and prejudices.[4] However, precisely whose toes he had stepped on and whose settled prejudices he had outraged we are not sure.

A few leagues to the north we hear not only of seminar study but of stout criticism—this by one Pinhas b. Meshulam, an elderly Byzant *dayyan*[5] settled now and officially busy in Alexandria. Pinhas was in routine communication with Maimonides.

Of this correspondence we retain 1) certain appelate cases sent to Maimonides from Alexandria by respondents challenging Pinhas' decisions and/or by Pinhas himself seeking corroboration;[6] 2) three theoretical questions from Pinhas questioning specific rulings of the *Mishneh Torah*;[7] 3) an extended response by Maimonides (to a query no longer extant which touched the method of the *Mishneh Torah*) in which he defended his omission of sources and of authority citations and the book's code structure.[8]

Pinhas was a rabbinic scholar of quality. The legal specifics he raised pointed up issues which were to become classics of *Mishneh Torah* criticism, especially Maimonides' treatment of the re-

[1] *KTR*, II, 30b.
[2] *Ibid.*
[3] *KTR*, II, 30b-31b.
[4] *KTR*, II, 31a. Maimonides argued that human vanity and status seeking would compel many to seek to sweep his work under the carpet. Those who want office and authority will put the book to one side to make it appear that they have no need of it.
[5] Blau 367—cf. Mann, *The Jews in Egypt*, II, 309, note 2.
[6] Blau 21, 82, 173, 235, 246, 258, 269, 361, 367, 393, 402, 412, 420.
[7] Blau 355, 445, 453.
[8] *KTR*, I, 25a-27a.

quirement of a ritual bath for prayer leaders who had experienced nocturnal emission (Maimonides was lenient) [1] and his stipulation that marriage by *kinyan* (money exchange) was a rabbinic rather than a Biblical stipulation. [2]

Most issues between these men were thrown up by actual circumstance, but Pinhas had both practical and personal reasons to be disturbed by the *Mishneh Torah*. On the mundane level it is apparent that many began to check Pinhas' decisions by *Mishneh Torah* formulas. There is, further, some evidence that another Alexandrian *dayyan*, Daniel, may have tried to undermine Pinhas' position as senior *halachist* by repeated appeals from his decisions to the *Mishneh Torah* text and to Maimonides himself. [3]

Pinhas' structural criticisms must be reconstituted from Maimonides' answer. 1) The *Mishneh Torah* is a useful tool only to the rabbinic scholar who can read between and behind its lines, and even such an authority may end by overlooking sources and hence subtleties and niceties of the law. If an amateur used the code he would have no knowledge of original authorities and would not understand the variants and the intricacies of the law. [4] 2) The *Mishneh Torah* was intended to supplant the Talmud and the corpus of traditional literature. Were it really to become a *Mishnah Torah*, the second Torah, the whole nature of the Hebraic legal system would be transformed. [5]

Pinhas certainly, and probably the anonymous Fostat critics, sensed the radical challenge of the *Mishneh Torah* to familiar *halachic* norms. Instead of law being the preserve of the legally competent, now amateur jurists could act on their own, aided and abetted by this encyclopedic legal code. Rabbinic competence would

[1] *KTR*, I, 25a.

[2] Blau 355. The prevailing view held that all forms of marriage were Biblical in authority.

[3] *KTR*, I, 25a reveals Pinhas' fear that gossip and slander may have been spread about him before Maimonides.

[4] *KTR*, II, 25a.

[5] *KTR*, I, 25b.

"I [Maimonides] never dreamt of suggesting that one should no longer busy himself with the Talmud or Alfasi or other compendiums. You fail to understand the separate perspective and purpose of a Talmudic style law case book and of a Mishnah style code. The former interprets, the latter regulates."

One can read behind this argument to what must have been Pinhas' response. It is precisely the encyclopedic and constitutional structure of your work which is of concern. How can law remain flexible and fluid, etc.?

be at a discount. Case law's presumed flexibility would be replaced by the rigidity of a crystal clear and crystal cold code. Finally, in the *Mishneh Torah* Maimonides repeatedly had selected, ~~between~~ coexisting but conflicting traditions. Could his selections be accepted? Often Maimonides' authority had rested on the Palestinian Talmud, Tannaitic *halacha*, or even stray midrashim. Were these adequate? Maimonides' sources were not always familiar, available, or acceptable. Something of a bibliophile, Maimonides had enjoyed collating textual variants, often deliberately selecting one at odds with the familiar and accepted.

> There are versions of the Talmud in which it is written: "If a man said to his fellows..." This is a scribe's error which misled those who have taught in accordance with these books. I have investigated the old versions and found therein the reading... There has come into my hands in Egypt part of an old Talmud written on parchments, and I have found two formulas in both of which it is written...[1]

Given these variables and unstandardised, handwritten texts to boot, ~~and~~ concern with the acceptability of the *Mishneh Torah* becomes understandable. Nor could the interpretive problem be overridden even on the plea of social necessity. Hebrew law was not simply regulatory. It was revealed. "All the commandments were given to Moses at Sinai and their interpretation."[2] Correct interpretation was both a juridic and a religious obligation. "Ye shall not add to the word which I command you, neither shall ye diminish from it."[3] The precise formula was a matter of religious moment.

The Near East had a Maimonidean controversy all its own. It swirled about the legitimacy of current institutions of religious and secular authority.

Some time before 1189 one Zekaryah b. Berakhel composed a paper critizing positions taken by Maimonides in the *Siraj* and published it in Aleppo. This document (unfortunately) is lost.[4] It is known that Maimonides' one-time pupil and ardent disciple, Joseph b. Judah ibn Aknin, then resident in Aleppo, reacted bitterly

[1] *M. T. Makweh We-Loweh* 15 : 2.
[2] *M.T. Introduction.*
[3] Deut. 4 : 2
[4] It would seem to have been a closely reasoned gloss of specifics. Many of the *halachic* points raised Maimonides perforce admitted to be valid. (*KTR*, II, 31a.)

and emotionally to its contents both locally and in a report to his mentor.[1] In understanding why a list of errata and corrigenda to a Mishnah commentary long since published should have generated such high voltage debate, the dimensions of this controversy within a controversy, become clear.

Zekaryah was not just another *halachic* technician. He was the *Ab-bet-din*, associate head, of the venerable *Yeshibah* Gaon Yaakob in Bagdad. He was on an official commission to Aleppo as representative of the *Yeshibah* head (Gaon) Samuel b. Ali (in office 1164—1198).[2] Indeed, he had been "ordained" for this particular visit,[3] a fundraising swing through Aleppo, Tyre, and Damascus. What had a *Commentary to the Mishnah* to do with a foundation fund campaign for a venerable seminary? Simply this, in the *Siraj* Maimonides had ruled:

> It remains incumbent on us to make clear who it is that gives permission to judge over us. I say that he who certifies is the Exilarch who is appointed in Babylonia and he does not need to be a sage.[4]

In brief, Samuel envisaged his capital funds drive not as a voluntary effort but as the collection of legal dues. He asserted ancient prerogatives both financial and judicial, most surprisingly the long dormant right of ordination, and he ran up against local opposition—motivated by principle or parsimony we can not be sure—which challenged these pretensions and cited in substantiation the authority of Maimonides.

Jewish life never sanctified any single *norm* of secular authority. In the course of the first millenium of the Common Era (consequent on Parthian, Sassanid, and later Arab hegemony) effective power tended to concentrate in that area the Jews called *Babel* (Babylonia). Here two institutions (one "secular," the other "religious") were established and competed for authority, allegiance, and taxes.

[1] *KTR*, II, 31a-b.

[2] The letter of authorization under which Zekaryah traveled has been published. (S. Assaf, "A Collection of R. Samuel b. Ali and his Contemporaries" [Heb.], *Tarbiz*, I, No. 2 [1930], 58-70.) Zekaryah's function was fund raising, but he was empowered in all other matters by the most venerated authority of the area.

[3] *Ibid.*, I, 61-62.

[4] *C. M. Sanhedrin* 1 : 3. cf. *M. T. Sanhedrin* 4 : 13. "The Exilarchs of Babylon stand in the place of the King. They exercise authority over Israel everywhere and sit in judgment over the people, with or without the consent of the latter, as it is said: "The sceptre shall not depart from Judah' (Gen. 49 : 10). This refers to the exilarch of Babylon."

As early as 140 C.E. a certain Nahum established the Exilarchate. The office was empowered by the state, hence "secular," and was made responsible for the peace and tax farming of the Jewish community.[1] The office was hereditary in families claiming lineal descent from King David and was popularly associated with the dramatis personae of the Messianic expectation. Feudal lands, poll taxes, licensing fees, and the like were among its perquisites. Its authority tended to wax and wane with the effective authority of the empowering authority.

From the very beginning of Diaspora settlement, spiritual authority had been vested in the religious leaders and (with the shift of power to Babylonia) especially in the Babylonian academies (Sura and Pumpedita). These Babylonian academies won suasive religious authority over world Jewry, received their appelate cases, rendered law, empowered jurists, and from the first were in an uncertain relationship to the Exilarch over regulatory autonomy and fiscal prerogatives. The Gaonate, providing as it did indispensible *halachic* and religious service, was able to maintain a central position for an extended period after the Exilarchate's authority weakened (consequent on the break up of Caliphal dominance) and so become for a time the *de facto* though not the *de jure* "secular" and "religious" authority in Arab Jewish life. This was achieved largely by arrogating to the Gaonate two prerogatives which traditionally had belonged to the Exilarch: assent in the nomination of the Gaon and control of all appointments to the judicial system.

The Samuel b. Ali-Maimonides debate broke out during the twilight of this ancient power struggle. Old battle slogans and long contested theories and sanctities were aired *de novo*, but the issue was already moot. The realities of a widely scattered Diaspora (especially the emergence of the Christian-European Diaspora) owing a wide variety of political allegiances and featuring independent legal centers had drained the debate of broad effect although not the individual participants of their emotional involvement.[2] In fact, though Maimonides sided with the political arguments of the Exilarch, he synthesized the views of this farflung Diaspora where individual scholars and schools, often two thousand miles

[1] A. A. Gocde, "The Exilarchate in the Eastern Caliphate," *JQR*, XXXI (1941), 149 ff.

[2] On the emerging patterns of leadership cf. S. Zeitlin, *Religious and Secular Leadership* (Philadelphia, 1943).

distant from Babylonian academies, had assumed perforce plenary rabbinic authority. Communal reality and messianic hopes led to a veneration of a political authority which could not interpose or establish any substantial claims to power in being and to an opposition to a rabbinic authority which could and did.[1] Specifically, Maimonides' rationale rested on the premise that academic control of the judicial system had ceased with the voidance of the system of ordination, traditionally the function of the Palestinian Academy. Ordination might in time be reinstated[2] under certain conditions,[3] but in the meantime the Exilarch was the proper agent to continue the authorization of judges.

Per contra, on the testimony of the German traveler, Petahyah b. Jacob of Ratisbon, who visited the Near East during the eighth decade of the 12th century, Samuel b. Ali not only claimed but attempted to exercise rights which traditionally had been secular.[4]

> In all the lands of Syria and Palestine, in the cities of Persia and Media, as well as in the land of Babel, they have no judges unless appointed by R. Samuel, the head of the Academy. It is he who gives permission in every case to judge and fine.[4]

Assaf has published a responsum in which Samuel b. Ali asserted not only control of all judicial appointments, but claimed the traditional powers of ordination in almost ancient panoply,[5] "only excepting the power of levying fines."[6] Samuel's historical rationale is known to us. The Babylonian Gaonate had exercised broad authority since its establishment a millenium before. Its authority had been respected *de facto*. The ancient powers of the Exilarch, as representative of the Hebrews and as an arm of the royal house, had ceased in the days of the Exilarch David b. Judah (820—840) when the incumbent had accepted membership in and subservience

[1] *M.T. Sanhedrin* 4 : 13, in turn based on *T.B. Sanhedrin* 5a.
[2] *C.M. Sanhedrin* 1 : 3.
[3] *M.T. Sanhedrin* 4 : 11.
[4] Petahyah of Ratisbon, *Sibbub ha-Olam*, ed. A. Baruch, (Jerusalem, 1872), p. 19.
[5] Assaf, p. 82 ff. Traditionally ordination was vested only with the Palestinian academies. (*T.B. Sanhedrin* 13b.) The powerful Gaons of the 8th-10th centuries had arrogated most of its implicit powers though they could not change the ancient texts to permit them actually to ordain. Ordination was in time practiced in the Sarfatic and Ashkenazic communities which were deeply influenced by the Palestinian tradition, but not in Babylon. Samuel's "ordination" of Zekaryah was a unique, bold, and unsuccessful attempt to introduce this power into the Babylonian tradition. cf. S. Zeitlin, " Rashi and the Rabbinate," *JQR*, XXXI (1941), 56-58.

to the authority of the Academies.[1] This act had established Gaonic authority *de jure*. Further, what respect can Israel have for an Exilarch "who can not control Bible or Talmud nor make practical decisions but is powerful through money and closeness to the throne."[2] "In the Exile Israel is not bound by any power associated with royalty and they have no need except for such as will guide them and teach them the religious law and judge their cases."[3] Religious integrity is the elemental survival mechanism. It can exist only when religious authority (the Academy) is free of the controlling heavy hand of court appointed officials. Moreover, now that the Caliphal hegemony has broken down, Jewries in areas not owing allegiance to Bagdad run a risk by pledging loyalty to a Jewish official accredited to Bagdad—the 13th century version of the dual loyalties charge. Finally, monarchy was from its inception a rebellion against God's law (I Samuel 8). Q.E.D. only legitimate rabbinic authority can be accepted by God's priest people.[4]

Emboldened by the rise of an Egyptian-Syrian bloc under Saladin which weakened even further the Bagdadi power on which the Exilarch depended, Samuel had attempted in 1174-5 to end the office of the Exilarch once and for all when an incumbent, Daniel b. Hisdai (1150—1174) died without issue. He could and did argue that the only valid central body required was the scholars.

Samuel b. Ali had ambition and a cogent argument, but he did not carry the day. Samuel of Mosul, scion of a collateral blood line, was appointed Exilarch (1174—1195). Further exacerbation was inevitable—brought on ultimately, as is so often the case, by economic necessity. In the late 1180's the Yeshibah's debt became unmanageable, even non-Jews held its paper. Zekaryah's visit to Aleppo was a bold move to bail out the academy. If control could be gotten over the judicial system dues and tithes of many kinds would flow in—but this plan, too, failed as it ran up against the increasingly vigorous autonomy of the Syrian, Palestinian, and Egyptian communities, the Diaspora's continuing practice of and affection for localism, and widespread and lingering Messianic dreams associated with the house of David.

[1] Assaf, p. 65ff.
[2] *Ibid.*, p. 128.
[3] *Ibid.*
[4] On monarchy and its presumptions in ancient and medieval Israel, see my "Monarchy," *In the Time of Harvest*, ed. D. J. Silver (New York, 1963), pp. 421-432.

Maimonides' own role is beyond reconstruction. On the basis of his counsel to ibn Aknin, he seems to have regretted the open clash between Zekaryah and ibn Aknin. Yet we have no protest from his pen to ibn Aknin's use of his name in public and private debate with Zekaryah. Nor did Maimonides moderate his opinion that the days were long since over when Israel must depend for law on the Academy. Further, he approved of ibn Aknin's plan to set up a graduate academy in Bagdad to teach the *Mishneh Torah* and Alfasi's *Code*, a move which can not be seen but as a challenge to Samuel's authority in the lion's own lair. [1] Matters came to a head in 1195 when the Exilarch, Samuel of Mosul, died and Samuel b. Ali again tried to block the naming of a successor and was again unsuccessful. As symbol of his approval of the election of David b. Samuel (1195—1240), Maimonides summoned the communal leaders of Fostat to his home and all stood in silent confirmation while the letter of investiture was read. [2]

Samuel had to fight the most difficult windmill of all—prestige. Maimonides sought neither his office nor title. Samuel could not meet him face to face in the political arena. Little latitude was left but to challenge the rabbinic omnicompetence on which Maimonides' prestige rested. A protracted trench warfare ensued.

We control a responsum by Maimonides to one Joseph ha-Ma'arabi from which it is clear that Samuel had glossed the Sabbath laws of the *Mishneh Torah* and had broadcast his criticisms. [3] This

[1] *KTR*, II, 31b. Maimonides' interest in ibn Aknin's new school was also at least partially pedagogic. He was something of an educational reformer and was unhappy with the irrelevant burdens of the traditional curriculum. He hoped the new seminar would waste little time "in the interpretation and in the intricacies of the Talmud." Let the modern functional codes like Alfasi's be the class texts.

[2] *Birkat Abraham*, p. 8.

[3] Blau 464. We control only Maimonides' response written in the hope that Joseph will disseminate the answer. Issue was joined on *M.T. Sabbath* 1 : 6-7, 20 : 7, 8 : 2. The original document was evidently a searching legal gloss sometimes discursive, sometimes simply imputing error. Typically in a discussion whether one is culpable for certain work on the Sabbath which is not self-evidentially vital and hence permissible, Samuel returned the issue to its base *M. Sabbath* 20 : 5 and *T.B. Sabbath* 31b and argued that the burden of this discussion has been misunderstood. Samuel here followed Hai Gaon, Nissim, and Hananeel (cf. Blau, III, 144, note 13). Maimonides depended on a source he could not remember. Not all "errors" were laid by Samuel to Maimonides. Thus the discussion of *M.T. Sabbath* 20 : 7 led Samuel to hold that his text was a scribal error, an explanation to which Maimonides gratefully agreed. Samuel, to his credit, maintained the traditional scholarly respect for truth and judgment.

gloss was in its turn probably an outgrowth of a lingering dispute over a decision originally set down by Maimonides touching the permissibility of travel on broad riverways on the Sabbath.[1] Maimonides had equated such travel with ocean travel and permitted it.[2] Samuel b. Ali, shown a copy of the decision, entered a dissenting brief, gentlemanly in language, but with the unmistakable imprint of his feeling that the "much praised" can be shown overly praised.[3] Maimonides in response maintained a scholarly, dispassionate tone, "This is the way men of rank and knowledge should address each other," but backed down not one whit.[4] *Halachically*, little was resolved. In all such legal discussions, decision rested ultimately with the community's assent, but the correspondence is interesting historically as an example of how battles of prestige were fought out at the once removed.

On what issues did the Academies and Samuel seek to make capital? A response by Maimonides to a Bagdadi defender, Joseph ibn Gabir, makes clear the central charges: 1) that Maimonides denied the Abrahamitic origin of circumcision;[5] 2) that Maimonides erroneously permitted river travel on the Sabbath;[6] 3) that Maimonides negligently lifted the requirement that women remain

[1] Blau 308. The question was submitted by one Abraham ha-Kohen of Damascus.

[2] Blau 309. This permission was based not only on a visible similarity between a river so broad that its banks could not be seen from either side and the open seas, but on the narrower point that the original stipulation was rabbinic rather than Biblical in origin and thus permitted other than the strictest construction.

[3] *Ibid.* Samuel's argument was from authority. He challenged on the basis of *T.B. Erubin* 51a that the original prohibition was Biblical and hence to be narrowly construed.

[4] Blau 310. He referred Samuel to the *C.M.*, *Sabbath* 27 : 1, and the *S.M.*, *N.C.* 321 and reminded Samuel that these texts were available in Bagdadi schools and that there was no need for him to act the pedagogue. He too was aware that most Sabbath limits are Biblical. He spoke only of the specific case of "broad rivers."

[5] *KTR*, II, 15b. In the *C.M.* Maimonides had stated that though Abraham was enjoined to circumcise his children (Gen. 17 : 10-14), the operative law was based on Lev. 12 : 3. It would appear to be an historic subtlety and logical nicety. Moses might not have known the Abrahamitic requirement. On the other hand, Maimonides' attempt to ground the law Mosaically may have been taken against Muslim interpreters who based their similar requirement on Abraham in line with their general denial of the force of Sinaitic regulation. In *M.T. Milah* 1 : 1 Maimonides reverted to the more traditional authority of Gen. 17 : 14.

[6] *KTR*, II, 16a.

at home during the full seven days established as menstrual: [1] 4) that Maimonides did not require the ritual immersion of a prayer leader who had suffered a nocturnal emission; [2] and 5) most sorely pressed of all, that Maimonides denied the physical resurrection of the body.

The attack on Maimonides' concept of resurrection was the most deliberate, potentially dangerous, and demanding of answer. Maimonides, as we have developed in Chapter II, had dealt with resurrection in the *Siraj* and in the *Mishneh Torah* in *Teshubah* and *Melahim*. His various dogmatic formulas were inconsistent. On the basis of the *Mishneh Torah* a scholar in Damascus publicly denied resurrection, and a protracted and apparently acrimonious debate ensued. [3] Similar positions on similar authority were taken by individual scholars in Yemen. [4] Yemenite correspondents requested of Maimonides an elucidation of his position. He answered at some length, restating his understanding of the tenet but insisting that resurrection is a basic creed not to be rationalized away nor to be taken entirely in a figurative sense. [5] Certain members of the Yemenite community then circulated Samuel b. Ali for comment on this paper. His response was, in part, an attack on Maimonides focused on two charges: that Maimonides in fact effectively denied the substantive truth of resurrection by his interpretive exegesis

[1] *Ibid.* Maimonides did not so teach. This charge's only possible source is a responsum, Blau 114, in which Maimonides permitted certain housewifely activities during this period. He did not insist that those who practice stricter rules change them. According to A. Mazahéry, *La Vie Quotidienne des Musulman au Moyen Age* (Paris, 1952), p. 67, the 11th and 12th centuries saw some relaxation of the norms of sexual apartheid and sequestration, and this broader Jewish construction may have been a concommitant. In Blau 320 Maimonides labeled the stricter practice "Karaite" and hence identified it with the lower classes. In any case it is easy to understand how such a broad charge could excite.

[2] *KTR*, II, 16c. Maimonides did not, in fact, remove the requirement of water purification. He had labeled it a *minhag* (custom) rather than a law. He personally abided the ruling. The source is a responsum from Maimonides to Pinhas, the dayyan of Alexandria (Blau 140). This European scholar had tried to remove the requirement on the grounds that it had no Talmudic support. Maimonides admitted that it was unknown outside Muslim countries. As Wieder has shown, the practice was reinforced in late Gaonic times to counter Muslim charges that not to require such bathing was shameful. (N. Wieder, *Hashpaot Islamiyot al Pulhan ha-Yehudi* [Oxford, 1947], pp. 23-25.)

[3] Finkle, p. 11 (Heb. sect.).

[4] *Ibid.*

[5] *Ibid.*

of Talmudic and Biblical passages and that Maimonides, in effect, postulated a purely spiritual bliss in the *Olam ha-Ba*.[1]

Maimonides was moved to complain to Joseph ibn Gabir about those who deliberately misinterpreted his teaching[2] and to write a further exposition of his views, the *Maamar Tehiyyat ha-Metim*.[3]

The question is, why this extensive defense? The answer lies in the nettles which surrounded this issue, popularly venerated, believed Scriptural in both Islam and Judaism, yet essentially unphilosophic and un-Greek. It is interesting to note that each of the issues charged against Maimonides, except the Sabbath ruling, touched life at a point where the Islamic world impinged on the Hebraic and where Samuel's followers might well believe that the whole weight of both cultures would descend on Maimonides. A non-Abrahamitic origin of circumcision would seem to deny Muslim traditions—as would, of course, a purely spiritual resurrection.[4] Greater freedom to women during the week of menstrual seclusion might seem to violate Muslim sexual taboos. The ritual bathing of the reader was a Muslim norm. Surely, implicit here was an attempt to discredit Maimonides as much in Muslim as in Jewish eyes.

Samuel died in 1199, Maimonides in 1204, but the passions roused by their correspondence and the infighting of their disciples did not die with them. Sometime after 1204 a venerable scholar of the Gaonate party, Daniel b. Saadya of Damascus,[5] compiled

[1] *Ibid.*, p. 12 (Heb. sect.)—unfortunately, our only knowledge of Samuel b. Ali's position comes from Maimonides' response. Maimonides accused Samuel of deliberately misrepresenting his position, of spinning out old wives' tales, and of teaching philosophic material without understanding it. "If the Gaon had limited himself to a collection of sermons and parables and to straightforward exegesis of Biblical passages which illustrate that resurrection has a Torah source it would have been far more seemly." (*Ibid.*, p. 13.) He faulted Samuel for an analysis which postulated the soul as an accident and failed to differentiate between soul and intellect. (*Ibid.*, p. 14.) This is precisely the systematic error for which Maimonides faulted the Kalam. Cf. *Moreh*, i, 73, Proposition 5. Samuel's position was not philosophically naive; at worst he did not share Maimonides' rigorously Aristotelian systematics.

[2] *KTR*, II, 15b.

[3] Cf. Chapter II.

[4] The crucial nature of this charge can be seen not only in the energy Maimonides expended in establishing his orthodoxy in the *Maamar Tehiyyat ha-Metim*, but equally in the fact that a disciple, one Daniel of Damascus, found it necessary to reestablish and underscore this point.

[5] The poet Eliezer ha-Babli called him "the father of all moral instruction and reproof." (*Divan of Eliezer b. Jacob ha-Babli*, ed. H. Brody [Jerusalem,

glosses to both the *Mishneh Torah* and the *Kitab al Faraid*,[1] each

1935]. No. 10. Abraham Maimonides in his *Milhamot Adonai* also spoke of him as moralist and preacher. (Abraham Maimonides, *Milhamot Adonai*, R. Margaliyot (ed.) [Jerusalem, 1951-3], p. 55.)

[1] Questions in Hebrew to the *Mishneh Torah* text were published with Abraham Maimonides' justifications as the *Birkat Abraham*. In their day they enjoyed broad circulation. Four responsa of Abraham Maimonides answered the questions of certain men of Aden which reproduced seriatim Questions 16, 20, 31, and 34 of *Birkat Abraham*. (Abraham Maimonides, pp. 111-114.) Questions 40 and 41 of the *Birkat Abraham* show Daniel to have been familiar with the twenty-four questions submitted by Jonathan ha-Kohen to Maimonides. The Arabic gloss to the *Sefer ha-Mitzvot* is dated in 1213, as is Abraham Maimonides' rejoinder. Both gloss and defense were published together as *Maaseh Nissim*, ed. Y. Brill [Paris, 1866]). The method, as in *Birkat Abraham*, is scholastic—there is no personal attack nor denigration of Maimonides' scholarship. There are thirteen Questions in all. The first five deal with the premises underlying Maimonides' unique 14 principles of selection, the remaining deal with specific laws (P.C. 56 [No. 6], 57 [No. 7], 111 [No. 8], 135 [No. 9], 31 and N.C. 77 [No. 11], N.C. 321 [No. 12], N.C. 199 [No. 13]).

Daniel's method was to recast Maimonides' meaning and then comment. First off, he disagreed that only those laws which tradition specifically labeled Mosaic were, indeed, so. He preferred the inclusion of laws logically adduced from the Torah text—a traditional position. He had already adumbrated this position when he questioned in *Birkat Abraham* the exclusion of marriage by *Kinyan* (monetary exchange) from the category of Torahic law.

> "It seems to me despite my limited capacity that this conclusion is not required by the teaching of the sages for they spoke of 613 laws 'spoken' to Moses at Sinai and not of 613 'written down' by Moses in the Torah. The tradition includes all those matters generally referred to as *Torah le-Moshe mi Sinai*. It excepts only the Takkanot and Gezerot (fiat rulings)" (*Birkat Abraham*, p. 44).

Daniel pointed out inconsistencies in Maimonides' own practice of his guide rules. How might he justify N.C. 76 (the exclusion of a defiled priest from performing Temple service despite ritual immersion)? It was derived by logic from Lev. 2 : 6 and there was no tradition of Mosaic authorship. (Question 1.)

There were other problems anent Maimonides' rules. Maimonides' Rule 3 excluded laws not binding for all times. How, then, justify P.C. 34, 187, 188 (which required the mandatory extermination of Amalek and stipulated certain requirements imposed on priests who bear the Ark on their shoulders), obligations which historically either had been completed or superseded (Question 2)? Maimonides ruled that a similar legal proposition couched in a variant formula should not be listed with its brother. How, then, include N.C. 176 or 179 (both prescribe similar categories of edibles) (Question 4)? Maimonides established that the details of a law ought not be listed separately, only the general rule. Daniel would add this qualification: except in those cases where the violation of each stipulation required a differing punishment (Question 4). Maimonides established as a guide line for the grouping of laws the concept of identity of interest; Daniel rejected this test. He argued, convincingly, that a whole flock of widely disparate laws

in the language of the original text, and sent them to Maimonides' son Abraham. Abraham, despite some complaint about the unnecessary multiplication of questions, answered them and spoke respectfully of the author's scholarship. Daniel had indicated in his gloss that he had certain reservations about the *Moreh* which although as brilliant as crystal contained items about the God-head and explanations of Biblical commandments which were foreign to Jewish teaching.[1] He apparently included those criticisms, or some of them, in a commentary on the Biblical Book of Ecclesiastes, a work which is, unfortunately, lost to us. All that we know of the criticism contained is the one issue on which Abraham Maimonides chose to comment—Daniel had opposed Maimonides' denial of the existence of daemonic spirits.[2] To Abraham's later discomfiture, the Exilarch David of Mosul (a not disinterested party, certainly) used the publication of this commentary as a pretext to excommunicate Daniel—a rash, highhanded action for which Abraham three decades later still had to protect and defend his innocency.[3]

have the identical rationale "that we may remember the Sabbath" (Question 5). Again even in his own terms, Daniel found Maimonides inconsistent. P.C. 12 and 13 were listed separately (the wearing of phylacteries on the head and on the arm) though both had a single purpose "as a public proclamation of God's unity."

Much like Nachmanides' larger and later gloss of the same work, the *Maaseh Nissim* drove home the point that Maimonides had not replaced the inconsistencies of Simmon Kayyara and the *Halachot Gedolot* with an altogether rational order.

Daniel's work was unknown to the West during the 13th century.

[1] *Maaseh Nissim*—Postscript.

[2] This can not be taken as evidence that Daniel defended a crude God concept. Abraham Maimonides was concerned almost solely in *Milhamot Adonai* with the problem of *Yihud*—God's spiritual unity—and did not fault Daniel in these terms. cf. Note 1, p. 100, below. Daniel was probably wrestling with theodicy and the tortured problem of the existence of evil. A commentary on Ecclesiastes was a classic *locus* of such discussion both because of its general tenor and specifically because of 12 : 4-5.

[3] Abraham Maimonides, *Milhamot Adonai*, pp. 54-55.

"It happened that a student of Samuel, may his memory be for blessing, the head of the school in Bagdad, Daniel of Bagdad by name, came from Bagdad to Damascus and wrote questions and raised doubts on the decision set down in the work (*Mishneh Torah*) of my father and teacher, may his memory be for blessing, and in the *Book of Commandments*, and he sent them to me. I replied with many added proofs and after I had sent him these chapters—some years afterwards—a letter came to me from a very wise and respected pupil of my father and teacher, R. Joseph b. Judah b. Simon, by name Joseph ibn Aknin, whose school was in Aleppo after he had left father and it was for him that father wrote the *Moreh*. . . . With this message came

The elements of controversy were markedly different in the Near East and Western Europe. Many of the elements of *halachic* criticism were similar. The Exilarchate was never a central issue in the Provence. This Near Eastern controversy died without heirs. We will now trace those who inherited Pinhas' and Daniel's concern with the nature and context of *halacha* and with Maimonides' unique code.

a work of the aforementioned Daniel—a commentary on Ecclesiastes—wherein it appeared that he raised his voice against father and against the early Gaonim—the work was published anonymously.

"R. Joseph mentioned above and others asked that I excommunicate him for the sake of the honor of my father. Nevertheless I refrained from so doing and I answered them that though he will be an enemy of ours I will be like his defender and I will not sentence him for my honor or for the sake of my father's lest there be any profanation of God's name in the issue because our fathers taught (*T.B. Ketubot* 105b) 'not to excommunicate a man in the case of one he loves or in the cases of one he hates.' Further his faith in God's pristine unity and in the rest of the first principles of the Torah was well ordered and he did not argue except in the matter of evil spirits and the like. Further I heard of him that he sermonized publicly and induced many to revere and serve God and that he brought many sinners to repentance. . . . When our answer reached them they turned it over to the honorable David the Exilarch, may his memory be for blessing, and he excommunicated him and he remained under the ban until he repented. He adjured himself before them and they freed him. Afterwards he went and finished out his days in Damascus. And that is what happened."

CHAPTER FIVE

HALACHIC CRITICISM

European ports of entry for the Maimonidean cargo were the small urban and newly vigorous Jewries of the Bas Languedoc and the Provence.[1] Time of arrival was the last two decades of the 12th century.[2] The first freight handled were the fourteen volumes of the *Mishneh Torah*.

The *Mishneh Torah's* fame spread quickly. It quickly became a staple of *yeshibot* libraries, often referenced in the rabbinic seminaries if not already the subject of graduate research.[3] Moses Maimonides' fame was thereby given visible substance.

[1] Evidence of the speedy westward passage of Maimonides' work can be cited for the North African communities as well. A commentary on the Song of Songs, written in Fez some time before Maimonides' death, contained reference to all Maimonides' major works. (A. S. Halkin, "Ibn Aknin's Commentary on the Song of Songs," *Alexander Marx Jubilee Volume*, English Volume [New York, 1950], p. 404.) It is probable, nay, certain, as the Jonathan ha-Kohen-Maimonides and Samuel ibn Tibbon-Maimonides correspondence shows, that the texts known to the Provence came directly by sea from Egypt rather than circuitously through North Africa and Spain.

[2] The *Mishneh Torah* was completed November 28, 1180. (A. Marx, "Moses Maimonides," *Studies in Jewish History and Booklore* [New York, 1944], p. 39.) Maimonides' first answer to the halachic questions on the *Mishneh Torah* put to him by Jonathan ha-Kohen of Lunel was dated May 1198—and came after a considerable delay. (M. Steinschneider, *Catalogus Librorum Hebraeorum in Bibliotheca Bodleiana* [Berlin, 1931], I, No. 2490.) Abraham b. David of Posquières, the author of classic glosses to the *Mishneh Torah*, died the same year (1198). His glosses evidence internal revision and were surely written somewhat earlier. In at least one gloss there is a reference to an earlier well known argument raised to the text. (*Rabad* to *M.T. Zizit* 2 : 8.)

[3] When and how was the *Mishneh Torah* studied? It was researched independently and according to personal interest. Lecturing in the yeshibot was based solely on the Talmud text. (Neuman, II, 76 ff.) The glosses of Moses ha-Kohen and Rabad were certainly used by graduate students in their special studies. There is early evidence of the copying of the text and its discussion by small informal groups. (Marx, *JQR*, XXV, 427.) The non-curricular use of the *Mishneh Torah* is uniquely highlighted by a responsum of Meir of Rothenburg (1215-1293) where this consummate *halachist* spoke of having been a respected jurist long before he had read the *Mishneh Torah*, yet of so respecting Maimonides' authority that he was psychologically prepared to concede an opinion if Maimonides differed. (I. Agus, *Rabbi Meir of Rothenburg* [Philadelphia, 1930], I, 218-220, No. 134.)

Despite its revolutionary structure, the *Mishneh Torah* ignited no "controversy"; much criticism and discussion, but no passion-ridden conflict. There was some disposition, largely it would appear in Castille and Aragon where the quotient of rabbinic literacy was lower than elsewhere in western Europe, to use the *Mishneh Torah* not only as reference to the law but as the final statement of the law. But this attitude seems largely to have been limited to a few among the courtiers and the wealthy who, though well educated, had not graduated from *yeshibot* and who wished for some basis to validate a challenge to rabbinic authority.[1] Such use had explosive potential, but perhaps because Hebrew was not a universal tongue[2] (especially among these groups) the *Mishneh Torah* did not become the judicial passkey some had hoped it might become. Early training in Bible and liturgy and the continuing ritual repetition of both must have kept a minimal Hebraic fluency alive, but this for the average merchant of physician was something far less than the facility required to control the *Mishneh Torah*. Only those close to scholarship and to circles where Biblical exegesis, Hebrew grammar, Mishnaic law, and Midrashic literature were rehearsed achieved and maintained the necessary competence. In the West, therefore, there was never any serious move to supplant the Talmud tradition with Maimonides' code and hence no "controversy" over the *Mishneh Torah*.

The *Mishneh Torah's* importance in the "controversy" was threefold. It established Maimonides' credentials. No work of his could be dismissed as the scribbling of a tyro. It quickened the thirst of the Provençal scholars for his entire output. Where Judah ha-Levi's *Kitab al-Hujjah Wal-Dalil Fi Nuer al Din al Dhalil* (Hebrew, *Sefer ha-Kuzari*; English, *Kuzari*) had waited half a century for a Hebrew translator,[3] the *Moreh's* translation was

[1] The letter of the Saragossan physician Sheshet ha-Nasi bar Isaac, written circa 1200 (Marx, *JQR*, XXV, 427 ff.), will be discussed in Chapter VII.

[2] Writing late in the 13th century Mordecai b. Isaac ibn Kimhi answered a suggestion concerning the education of women by wondering aloud what language skills could be expected of the weaker sex in an age when the men themselves can not speak or understand Hebrew. (A. Neubauer, "Documents Inédits," *REJ*, XXII [1886], 82, No. 59.) Similarly Abraham Abulafia (1240-1290) wrote in his *Otzar Eden Ganuz*, "The Jews have forgotten the holy language, if not totally, at the least in overwhelming measure." (A. Neubauer, "Bibliographie." *REJ*, IX, [1884], 142-149.)

[3] Judah ibn Tibbon.

commissioned even before all its parts were completed. It suggested at least one major area, eschatology, where Maimonides' views were abrasive to the fabric of traditional faith, and one concern, the concept of the oneness of the Godhead (*Yihud*), where philosophic requirements and religious affirmations, though seemingly in agreement, were in reality of quite disparate purpose. To some like Abulafia of Toledo and Simson of Sens, Maimonides' apologetics in the *Morek* were suspect (because of what they had read in the *Mishneh Torah*) even before opening the *Moreh's* covers. Meir b. [redacted] Todros, during a long life which lasted into the fourth decade of the 13th century, claimed to have abided a self-imposed regimen never to read the *Moreh*.[1] For weal or woe, the *Mishneh Torah* predisposed many as to their reception of the *Moreh*.

When Europeans leafed the *Mishneh Torah* they were both awed and troubled by its catholicity. Its pages regulated narrowly every aspect of life and presumed a uniformity which did not in fact exist. All Jewry was by its own confession under Biblical and Talmudic authority. In theory practice was uniform. In fact it was not. The legal system adjusted to local variations by admitting the force of customary law and by permitting ritual and civil requirements to be bent before the weight of such practices. Much use was made of the Talmudic principle, "Custom causes the law to be suspended."[2]

Maimonides was well aware of the existence and force of customary law. On one occasion Pinhas b. Meshullam, the *dayyan* of Alexandria, had appealed for support to Maimonides when a decision of his to permit the leader of prayer to carry on without a ritual immersion (if he had experienced nocturnal emissions) had precipitated popular outcry and a challenge to his authority.[3] Maimonides' answer was equivocal. Finally, he permitted the continuance of this customary practice despite the absence of any Talmudic requirement for it and despite its non-raisance in Byzantium, France, and the Provence. Customary law must not be cavalierly set aside.[4] However, in the code itself he made few allowances for such customary variations.[5]

[1] *KTR*, III, 6b.
[2] *P.T. Babe Metzia* 7 : 1.
[3] *KTR*, I, 15a.
[4] *Ibid.*
[5] The only non-authoritative section of the *Mishneh Torah* was the *Seder ha-Tefillah*, a liturgy, which Maimonides appended to *M.T. Ahabah* and

Northern European Jewry had matured independently of the Islamic-Jewish way of life, and was feeling at this time a need to validate long established customs against criticism by Sephardic immigrants and travelers.

European Jewry was one in faith, but distinguished by geography, custom, and political conditions, as well as historical tradition, into four separate and self conscious communities: Sephardic (i.e., Spanish), Sarfatic (i.e., French), Ashkenazic (i.e., German, especially Rheinish), and Provençal (i.e., Languedoc, Rousillon, the Toulousain, and the Provence). The Reconquest had brought and was bringing ancient Sephardic communities, shaped by Islamic pressures, into the ambit of Christian Europe. Travel and trade assured penetration and many a merchant's raised eyebrow must have loosed a spirited defense of local practice. An element of superiority feeling was probably also present among these merchants and wanderers. What they found about them lacked the breath of culture and the pride of history to which they believed themselves accustomed. Not surprisingly, early in the 13th century we find Abraham b. Nathan ha-Yarhi compiling a full blown customary, the *Sefer ha-Minhag*, and Asher b. Saul editing a *Sefer ha-Minhagot*.[1] Both men were Provençals. Familiar habits were not given up diffidently or silently.

The *Mishneh Torah* seemed to ride roughshod over the familiar ways of European life and to insist on the ways Maimonides knew—ways which were molded by Islamic influence. The earliest gloss of the *Mishneh Torah* appears to have had as its central theme an exposition and defense of the European *minhagim*.

This gloss by the Provençal scholar Moses ha-Kohen of Lunel lacks either introduction or statement of purpose. It may have had some preface, but none is reproduced in the unique manuscript.[2] It is clear, however, that the commentator was concerned throughout to validate local practice against the all embracing and precise regulations of the *Mishneh Torah*.

In matters of liturgy the Sephardim were insistent on prescribed forms and formulas. The Spanish schools were heirs to a tradition

which he introduced with "*Nahagu ha-Am*"—"It is the custom of the people."

[1] Sarfati scholars produced no similar collections—travel north was less frequent—but the principle of customary authority was no less guarded. cf. R. Tam, *Sefer ha-Yashar* (Venice, 1811).

[2] Bodleian MSS No. 613.

which had opposed rather consistently any flexibility in the formulas of the liturgy. Maimonides mirrored this attitude when he legislated:

> All these blessings (*Berachot*) as well as all the other blessings with which Israel is familiar were instituted by Ezra and his court. One is not permitted to add or subtract from their wording....
>
> The general principle is that if the form of the blessings which the sages gave is altered this is an error and the blessings must be repeated and recited according to the prescribed formula. [1]

Moses ha-Kohen, whose tradition was permissive as to liturgical wording, did not let this pass unchallenged.

> This is not clear from the case of the shepherd who said "Blessed be the Merciful One, the owner of this bread" [2] nor from the case of the one who said "Blessed be the All-Merciful who has given you back to us and has not given you to the dead." [3] In this case the Talmudic authorities freed him from any further obligation in the matter of blessing for deliverance, further, they recorded this change in the blessing over food yet held that in that case too he has fulfilled his obligation.
>
> R. Zecharyah has ruled that one who changes the formula of a blessing has fulfilled his obligation. [4]

A variant to the same basic purpose illustrates Moses ha-Kohen's concern and general method—the breaking open of Maimonidean formulas by the illustration of exceptions, the citation of conflicting prevailing customs, and of previous authorities who validated the customary practice. Maimonides had ruled: "In the first three and last three benedictions of the *Amidah* there must be no additions, subtractions, or changes." [5] Moses ha-Kohen glossed: "This is to be

[1] *M.T. Keri'at Shema* 1 : 7.

[2] *T.B. Berachot* 40b. "Benjamin the shepherd made a sandwich and said: 'Blessed be the master of this bread' and Rab said that he had performed his obligation." This statement was much qualified by subsequent Talmudic discussion but Moses ha-Kohen used this example to question Maimonides' contention that anyone who varied the formula of the blessing (here substituting an Aramaic single blessing for the correct three-fold Hebrew one) was deemed not to have fulfilled his obligation.

[3] *T.B. Berachot* 54b. Another example in which the Talmud permitted the substitution of a different Aramaic blessing for the prescribed Hebrew one.

[4] R. Zecharyah ha-Levi. The precise citation is unknown to this author.

[5] *M.T. Tefillah* 1 : 11. Maimonides based himself on the authority of *T.B. Berachot* 34a. He also had strong personal feelings against "those foolish people who are extravagant in praise, and fluent and prolix in the prayers they compose and in the hymns they sing in their desire to approach the

explained as referring to private petitions, but petitions which involve the public weal are permitted, for example we say *Zachrenu* [1] in the first blessing. R. Isaac ibn Giat ruled similarly." [2]

This glossator had his eye throughout on *minhag*—not only the *minhag* of his own native Provençal culture but Sarfatic and Sephardic practice as well. Thus when Maimonides ruled flatly that "When a new moon falls on the Sabbath the reader of the Prophetic section from the Bible must include mention of the fact in his blessings. . . ." Moses ha-Kohen demurred, "This is the opinion of Alfasi but it does not follow from the Mishnah (Sabbath 4:1). In all the lands of France mention of the new moon is not inserted in this blessing." [3] Similarly when Maimonides listed the restrictions imposed on one under the ban, Moses ha-Kohen wondered why he had not included the restriction requiring the drawing off of shoes, which not only has some Talmudic basis but "is the custom in the whole land of Spain." [4]

Moses ha-Kohen's eye was peeled sharply for texts from which Provençal customs varied.[5] His typical note cited what traditional support he could find for a particular practice and the place where that custom was familiar. His legal rationale was always the same: "When the law is in doubt, one follows the custom." [6] To cite a few examples, Maimonides had stipulated that at a wedding feast only the last of the seven marriage blessings might be repeated. Moses ha-Kohen glossed, "Our custom is to repeat the seven blessings during the meal even though all were at the marriage and had heard them." [7] Maimonides had made the flat statement, "It is forbidden to recite the Shema before a naked child or a non-Jew." Moses ha-

Creator." (*Moreh*, i. 59.)

[1] A petition for life inserted in the first blessing during the ten days of Repentance. There were other accepted insertions of public petition in the opening and concluding prayers, indeed, Maimonides knew of these. cf. *M.T. Amidah* 2 : 29: "There are places where they add the prayer *Zachrenu* during the ten days of Repentance and the prayer *Mi Kamoha* in the second blessing. . . ."

[2] *MK* to *M.T. Tefillah* 1 : 11. Isaac ibn Giat was a Spanish Biblical commentator, philosopher, and poet (1038-1089). He was either a teacher or fellow pupil of Alfasi and was especially famous for his liturgical poetry.

[3] *MK* to *M.T. Amidah* 12 : 15.

[4] *MK* to *M.T. Talmud Torah* 7 : 4. The Talmudic text referred to is *T.B. Baba Metzia* 58a.

[5] *MK* to *M.T. Berachot* 1 : 11, 2 : 1, 11 : 9, 11 : 10, 11 : 16; *Keriat Shema* 3 :16; *Amidah* 3 : 5, 3 : 11; *Zizit* 3 : 8, etc.

[6] *MK* to *M.T. Zizit* 3 : 8.

[7] *MK* to *M.T. Berachot* 2 : 10.

Kohen stipulated, "It is our custom that the circumciser may recite the Shema without covering the child." [1] Similarly to Maimonides' declaration, "If he faced the obligation of reciting the *Amidah* twice (the time for the *Minhah Amidah* having arrived without the *Musaf Amidah* having been said), he prays first the one for *Minhah* and afterward the one for *Musaf*." Moses ha-Kohen insisted on a refinement: "It is our custom on Yom Kippur that after the time of the *Minhah* has arrived he no longer recites the *Musaf* service before the *Minhah*." [2] Again, to the stipulation, "One who prays the *Musaf* service after the seventh hour even though he transgresses fulfills his obligation," Moses ha-Kohen qualified, "I do not know why he calls one who prays after the seventh hour a transgressor. It is our custom on Yom Kippur to pray *Musaf* after the seventh hour. In any case our practice is not to be overly scrupulous in this direction." [3]

Moses ha-Kohen cited not only custom but local case decisions which validated legal variations. Two decisions of Abraham b. Isaac (Rabi) were cited against Maimonides wherein this jurist permitted a *Kohen* to defile himself in order to mourn for his deceased father even if only a limb of the torso remained, [4] and in a similar case to defile himself even after the father's grave had been topped. [5] Moses ha-Kohen also cited "the sages of this city" who had ruled that in the case of a man executed by the civil authorities mourning need not be delayed until the body had been recovered, [6] against Maimonides' stipulation that "the observance of mourning rites and the counting of seven and thirty days begins from the time that the relatives have ceased petitioning the government for permission to bury the executed." [7] In similar manner Moses ha-Kohen advanced the unusual ruling of the sages of Béziers and Montpellier permitting an *erub* inclusive of both the inner city and the faubourg without a purchasing of the intervening public thoroughfare [8] against Maimonides' strict construction of the Sabbath limit rules.

[1] *MK* to *M.T. Keriat Shema* 3 : 16.
[2] *MK* to *M.T. Amidah* 3 : 11.
[3] *MK* to *M.T. Amidah* 3 : 5
[4] *MK* to *M.T. Ovel* 2 : 14.
[5] *MK* to *M.T. Ovel* 2 : 8.
[6] *MK* to *M.T. Ovel* 1 : 3.
[7] *M.T. Ovel* 1 : 3
[8] *MK* to *M.T. Sabbath* 17 : 10.

Moses ha-Kohen's *hagahot* were known to later rabbinic scholars largely through numerous citations in Joseph Karo's 16th century commentary to the *Mishneh Torah*, the *Kesef Mishneh*.[1] Moses' manuscript contained notes only to sections of currently applicable law.[2]

Traditionally, Moses ha-Kohen is known as *Baal Hagahot*.[3] The usual explanation of *hagaha* refers it to a gloss lacking the acerbity and caustic burden of *hassagot* marginalia. A distinction was thus established between Moses ha-Kohen's *hagahot* and the more famous and more damning *hassagot* of Abraham b. David of Posquières (Rabad). The distinction is artificial. The late 13th century Perpignan scholar Menahem ha-Meiri twice referred to Rabad as among the *Gedole ha-Magihim*.[4] The Bodleian manuscript of Moses' glosses bears a subtitle labeling what follows *hassagot*.[5] The scribe of columns 35 ff. of this manuscript used the term *hagaha* throughout.[6] No judgment of Moses ha-Kohen's purpose can be extrapolated from a comparison of these two terms of reference.

Unfortunately, we know little of Moses ha-Kohen's biography. Sambary (17 c.) spoke of him as a descendant of the 11th century Aragonese scholar Isaac b. Reuben of Barcelona.[7] In his text Moses referred to a *Kunteros* and to some *Hiddushim* from his pen—but we might expect these familiar pedagogic fruits from any Talmudic scholar.[8] Sambary also spoke of an excursus on the regulations concerning vows (*Hilchot Nedarim*).[9]

[1] The present study is based on a unique manuscript, Bodleian Library, MSS No. 613, partially published by S. Atlas, "The Glosses of R. Moses ha-Kohen of Lunel to the *Mishneh Torah*" (Heb.), *HUCA*, XXVII (1956), 1-94; XXXIV (1963) 1-40, and secured *in extenso* in photostat by the author.

[2] *M.T. Yesode ha-Torah, Talmud Torah, Abadah Zarah*, all portions of *Ahabah*: *Shabbat, Erubin, Sheviat, Issur, Shemitat Yom Tov, Hametz u Matzah, Ishiyot, Gerushim, Yibbum v'Halitzah*, all of *Kidushin, Sanhedrin, Mumrin*, and *Ovel*.

[3] Sambary, 'Likkutim Mi'dibre Yosef," *Medieval Jewish Chronicles and Chronological Notes*, ed. A. Neubauer (Oxford, 1887), I, 132-133.

[4] Menahem ha-Meiri, *Bet ha-Behirah—Baba Metzia*, ed. K. Schlessinger (Jerusalem, 1959), pp. 246 and 266.

[5] Bodleian MSS No. 613, Column 1.

[6] Cf. the text beginning *M.T. Shabbat* 6 : 12. Interestingly, this same scribe apparently went back and inserted *hagaha* as a reader's direction above some earlier texts (*vide M.T. Shabbat* 3 : 11, 3 : 12, etc.).

[7] Neubauer, I, 126-127.

[8] The *Kunteros* is referenced in glosses to *M.T. Sanhedrin* 22 : 4, *Edut* 8 : 1-4, etc.; the *Hiddushim* in *MK to M.T. Sheviat Yom Tov* 4 : 6.

[9] Neubauer, I, 133.

Tradition, as reflected in the title of the Bodleian manuscript, associated Moses with Lunel. These are two indications that these glosses at least were written in Narbonne. Moses cited a decision recorded in Narbonne concerning a *Kohen* who defiled himself to attend the funeral of his father's dismembered corpse as "an opinion of R. Abraham *Ab Bet Din* and all the scholars of *this* city." [1] Again we find reference to a certain case adjudged "*here* in the days of the *Rishonim*, i.e. by *R. Abraham Ab Bet Din* and his disciples." [2]

Moses ha-Kohen belonged to that self conscious Provençal school which was flourishing not only in Narborne and Lunel but at Montpellier, Béziers, Marseilles, Nimes, Carcassonne, etc. There is internal evidence aplenty for this fact. He cited Sephardic texts as variants to his own. [3] Concerning the propriety of women who put on fringes and spoke the appropriate blessing, he wrote, "In any case, the custom of our locals is that women may speak the blessing and I have heard that this also is the custom in Spain." [4] Concerning the length of periods of mourning which are interrupted by holidays, he set out his opinion and added, "This also is the opinion of the Rabbis of France (Sarfat) and they have expatiated at length in their books and Responsa and one ought not deviate in this matter from their opinion. . . ." [5]

The dating of these glosses is an even more complicated problem than their geography. There has been a general assumption that Moses ha-Kohen's notes postdate Rabad's. This opinion was based on a misreading of the initials ראב"ד—a misreading which is as old as one of the scribes of the manuscript itself. [6] One of the intriguing problems of these glosses is that Moses ha-Kohen never quoted Rabad nor Rabad, Moses, even though at times their views coin-

[1] *MK* to *M.T. Ovel* 2 : 14.
[2] *MK* to *M.T. Ovel* 2 : 8.
[3] *MK* to *M.T. Ovel* 2 : 1.
[4] *MK* to *M.T. Zizit* 3 : 8.
[5] *M.T. Ovel* 10 : 4.
[6] Twice a subsequent reader of the Bodleian MSS indicated the correct reading in the MSS margin, *M.T. Edut* 12 : 1 and *M.T. Ovel* 3 : 8. The [illegible] referred to throughout—often fully and correctly—is R. Abraham (*Ab Bet Din*) of Narbonne, the author of *ha-Eshkol* (1110-1179). Rabad's father-in-law. Twersky, p. 53 *passim*, repeats this error of identification.

cided [1] and at other times differed markedly. [2] Interestingly, as we have seen, Moses cited Rabad's father-in-law, Rabi of Narbonne.

The 18th century scribe Hayyim Joseph b. David Azulai placed Moses ha-Kohen's *hagahot* slightly before Rabad's:

> First Moses ha-Kohen wrote *hassagot* (*sic*) on the book and they were sent to Maimonides out of respect for there were raised many public and open questions; Moses answered them as *Migdal Oz* and Karo show in their quotations of Responsa from Maimonides to the Sages of Lunel. Afterward Rabad made *hassagot* and then Moses ha-Kohen again made answer—and afterward Karo quoted many. [3]

Azulai's evidence is unreliable. We will show that the questions sent to Maimonides by Jonathan ha-Kohen on behalf of his school were drawn at times from Rabad, but never from Moses ha-Kohen. This whole construct would seem to have been derived from simple uncertainty. How was one to understand Karo's cryptic reference "to answer the *hassagot* of Rabat and the *hagahot* of Moses ha-Kohen."? [4]

Gross established Moses ha-Kohen as a contemporary of Joseph

[1] Cf. *Rabad* and *MK* to *M.T. Keriat Shema* 3 : 2, 3 : 6, 4 : 1, etc. In one place the Bodleian MSS scribe copied in the margin a comment of Rabad's as if completing Moses ha-Kohen's thought. (*M.T. Edut* 8 : 3-4.) In the whole manuscript there is just one text where Moses ha-Kohen may be reproducing, albeit freely, a comment of Rabad *ad loc.* (*MK* to *M.T. Sanhedrin* 25 : 3), but in all probability the reference is rather to a familiar Tosaphistic debate.

[2] Cf. *Rabad* and *MK* to *M.T. Berachot* 1 : 11, *Melachim* 12 : 1, *Maachelot Assurot* 11 : 18, etc. The suggestion forces itself that Moses ha-Kohen was a partisan of Zecharyah ha-Levi, whose *Sefer ha-Maor* Rabad had handled peremptorily, and that the silence of one or the other of these men was premeditated. This suggestion stems from Moses' treatment of Alfasi. Moses ha-Kohen is hard on Alfasi. The *hagahot* often read as much as a critique of him as they do of Maimonides. (*MK* to *M.T. Abodah Zarah* 8 : 11, 9 : 6, 10 : 3; *Keriat Shema* 2 : 12; *Tefillah* 12 : 15; *Berachot* 1 : 12, 8 : 7, 8 : 10, 12 : 9; *Milah* 1 : 15; *Sabbat* 1 : 7, 1 : 17, 2 : 13, 2 : 14, 3 : 2, 3 : 4, etc.) "This is the opinion of R. Alfasi, but it does not appear so from the passages in *T.B. Sabbath* . . ." (*MK* to *M.T. Tefillim* 12 : 12). "Alfasi taught according to the anonymous Mishnah, but it appears to us as this rabbi (Maimonides) has taught." (*MK* to *M.T. Berachot* 8 : 10). "Even though Alfasi so teaches, it did not appear so to R. Hai and to all my teachers . . . Alfasi needs greatly to be set in order here." (*MK* to *M.T. Shabbat* 2 : 13). Couple this with his familiarity with ha-Levi's *Sefer ha-Maor* and it would appear that Moses ha-Kohen belonged to the small Provençal school of Alfasi critics born of R. Ephraim and the *Sefer ha-Tashlum* and continued by Zecharyah ha-Levi in his *Sefer ha-Maor*.

[3] Hayyim Joseph David Azulai, *Shem ha-Gedolim* (Leghorn, 1786), lxiii. 137.

[4] Joseph Karo, *Kesef Mishnah*, Introduction.

ibn Plat (last half 12th century). The *Jüdische National Biographie* followed suit, but its authority is unknown. There is a doubtful tradition that Moses ha-Kohen lived till 1225. Perhaps Gross had this in mind.[1]

Internal evidence suggests a somewhat later date than Gross' —that Moses ha-Kohen was a contemporary of ibn Plat's students, including Rabad. Zecharyah ha-Levi's *Sefer ha-Maor*, completed circa 1185, is cited,[2] as is Eliezer b. Samuel of Metz' *Sefer Yereim*.[3] This work was completed towards the end of the octogenarian's life. R. Abraham b. Isaac, the contemporary of ibn Plat, and Rabad's father-in-law, is cited as among the *Hahamim Rishonim*.[4] For a *terminus ad quo* we can only argue from silence; no 13th century work is cited,[5] and from the bracketing of Rabad and Moses ha-Kohen in the minds of later commentators and historians, it would seem probable that the two writers were contemporaries.

Moses ha-Kohen was a *halachist*. Whatever his interest in theology or science it was well hidden. His comments on *aggadic* matters were few. To Maimonides' requirement that members of a Sanhedrin must "possess some knowledge of the general sciences such as medicine, mathematics, (the calculation of) cycles and constellations" in addition to other qualifications, Moses ha-Kohen remarked, "I do not know his source for this and it is cause of some amazement for what necessity is there that judges know medicine, mathematics, and astronomy. It requires investigation."[6] Because of Rabad's silence *ad loc* some have taken this text to evidence Moses ha-Kohen's disinterest in philosophic matters. Lacking other manifestation, this is an unwarranted extrapolation. The issue would seem to revolve much more narrowly about the judicial relevance of Deuteronomy 1:13, "Get you from each one of your tribes, wise men, and understanding, and I will make them heads over you."

[1] H. Gross, *Gallia Judaica* (Paris, 1897), p. 285. "Moses ha-Kohen," *Jüdische National Biographie*, ed. S. Wininger (Czernowitz, 1927-1936), IV, 442.

[2] *MK* to *M.T. Berachot* 1 : 8 and 3 : 1, *Maachalot Assurot* 2 : 1 f. and 3 : 1 f.

[3] *MK* to *M.T. Maachalot Assurot* 4 : 4.

[4] *MK* to *M.T. Ovel* 2 : 10.

[5] Moses ha-Kohen's sources included both Talmuds, the Tosefta, Targum Onkelos, Gaonic responsa, Alfasi, Isaac ibn Giat, Rashi, R. Tam, R. Asher, R. Isaac the Elder of Rameru, R. Samuel, R. Ephraim, R. Eliezer b. Samuel of Metz, R. Isaac b. Merwan ha-Levi, R. Abraham b. Isaac, *Ab Bet Din* of Narbonne, R. Zecharyah ha-Levi, and R. Aaron ha-Kohen of Lunel.

[6] *MK* to *M.T. Sanhedrin* 2 : 1.

Moses ha-Kohen was neither obscurantist nor literalist. The crucial text is a comment on a prohibition against the writing of the names of angels or holy names in a mezuzah. Maimonides had explained that the mezuzah's purpose was to express God's unity, and had insisted that it was not intended to be a safeguard or good luck charm for the home.[1] Moses ha-Kohen's gloss involved three points: 1) a Talmudic story about Onkelos[2] where the principle seems to be established that the mezuzah safeguards Israel; 2) the agreement of "R. Samuel and all my teachers" to the interpretation that the "mezuzah safeguards from all dangers;" 3) the prevailing practice of scribes to include in mezuzah parchments such protective names. Moses ha-Kohen's points are culturally typical: a search of the Talmud for variant opinion; an expression of previous authorities; a detailing of local custom; but these points in no way reveal his championing of religious credulity against Maimonidean rationalism. In the first place, though he tolerated the custom and would not proscribe it, Moses ha-Kohen appended the admonition, "Note that this is according to the teachings of Onkelos." Onkelos, by tradition a famed proselyte, had a legendary rather than scholarly fame and the annotator thus cautioned against any positive legal norm being derived from such authority—a caution reinforced by his concluding remark, "All this (custom) is not according to the true way."[3]

Moses ha-Kohen was not a theologic primitive, though on the basis of these *hagahot* no reconstruction can be made of the specifics of his faith. His interests were simply, here at least, *halachic*. Even when such problems as providence and free will were raised in the *Mishneh Torah* in a manner which Rabad could not let pass, Moses ha-Kohen remained silent. Only once did he indicate even tangential concern. In *Mishneh Torah Milah* 1:2 Maimonides had discussed the punishment of one who grows up uncircumcised and delays having that operation performed: he is in violation of a positive commandment—the usual punishment for which is

[1] *M.T. Mezuzah* 5 : 4.

[2] *T.B. Abodah Zarah* 11a. Onkelos was the reputed first century translator of an Aramaic Targum to the Five Books of Moses.

[3] *MK* to *M.T. Mezuzah* 5 : 4. It ought also be noted that Maimonides is not here the complete rationalist he seems to be. His concurrence in the permission to write *Shaddai* on the outside of the mezuzah (which he permitted) legitimitized a practice generally believed to be especially powerful against demons.

Karet [1]—but Maimonides had prescribed "he is not liable to *Karet* until he shall have died and become a deliberate violator of the law." Moses ha-Kohen could not understand this formulation of punishment.

> It requires investigation. How can *Karet* be imposed after death? Does not *Karet* involve the taking of half a life and the foreshortening of a life span. [It is possible to say] when he dies [uncircumcised] he will be judged in Gehenna, if he had not repented and accepted [the obligation], for if he desires he can at any time circumcise himself.... [2]

It is unwise to establish on the basis of this single text any wide disparity between Maimonides' views on retribution and Moses ha-Kohen's. There may have been one and in all probability there was—but it is not here defined. The problem here is logical, not theological.

The same reservation must be made in interpreting Moses ha-Kohen's gloss to *Mishneh Torah Abodah Zarah* 1:3. Maimonides, explaining the historical origin of monotheism, had described an intellectual program which led Abraham at the age of forty to the knowledge of God's unity. Moses ha-Kohen margined, "This is a cause of surprise since in *T. B. Nedarim* 32a it states that Abraham was three when he recognized his creator. עזא according to its *gematria* [numerical equivalent] is 172." [3] Much has been made of this note, especially in studies on the Rabad, who repeated it. [4] It has been seen as a veiled attack by the philosophically naive against

[1] Literally "cut off" cf. Num. 15 : 30 f. *Karet* is a God-imposed penalty and not enforced by human agency. *Karet* was generally presumed to result in an untimely death. However, Maimonides in *M.T. Teshubah* 8 : 1 had implied that *Karet* had a double edge, i.e. that it was a punishment both in this world and in the world to come. Because of this view Maimonides could presume that punishment might be delayed until after death. Maimonides' reason for so doing was purely logical—the obligation of circumcision has no fixed time limit: Circumcision might be performed at any time until one's death, hence one is not in unredeemable violation until his death.

[2] *MK* to *M.T. Milah* 1 : 2. Rabad raised the same question and to solve it posited an *Issur Karet*, a kind of intermediate obligation-cum-punishment under which the one who delayed his circumcision stood as long as he delayed.

[3] בפ״ entered the picture because of the language of Gen. 26 : 5. "Because (עקב) that Abraham hearkened to my voice." Abraham lived one hundred and seventy-five years—deduct one hundred and seventy-two and you find Abraham recognizing God while only a lad of three. cf. Midrash Rabbah-Genesis *ad loc.*

Rabad's gloss *ad loc* was identical in thought but not in language.

[4] Twersky, p 268.

Maimonides' insistence on metaphysical study as a prerequisite for the knowledge of God. However, there is no reason to assume that the glossator espoused the legend he cited. Moses ha-Kohen cited the Talmudic source, to be sure, but he omitted any indication of agreement or disagreement. There is no reason to assume that Abraham's "knowledge" was any more philosophic and self achieved at forty than at three.[1] Karo *ad loc* cited a continuation of Moses ha-Kohen's note, not in the Bodleian manuscript, which if genuine discourages any such theory spinning:

> It is possible to sustain both interpretations, that Abraham was three when he began to think and to puzzle out in his mind how to recognize his creator, finally when he was forty he attained a complete recognition of God.

On the basis of this single text, Moses ha-Kohen's theology can not be reconstructed. Nor need it be. Moses' purpose throughout was *halachic*. As teacher and scholar he had before him a *halachic* magnum opus which he set out to gloss where it seemed to contradict or limit or run counter to local practice. The *Moreh* had not yet been translated and Maimonides appeared to him but another, albeit brilliant, contemporary rabbi-jurist.[2] Moses ha-Kohen was as willing to contradict Maimonides as any other master, his teachers[3] or Alfasi[4] and he did so in each case in the time honored vocabulary of such exercises without disturbing his equanimity and without sarcasm. He researched this text as he might have any other.[5]

[1] The addition is questionable, as Moses ha-Kohen rarely attempted to reconcile opposing views, preferring rather to choose one side of the argument or the other.

[2] Key formula of the *MK* text is the ubiquitous abbreviation, (צ"ע) "It requires investigation." The glossators' technique was to strip away the pristine simplicity of a text and return with specific reference to the complexity of the Talmudic tradition. "All this requires investigation because of the debate in the Talmud." (*MK* to *M.T. Shabbat* 8 : 7.) There is no set purpose apparent to discredit Maimonides. Silence can be construed as approval, but more significantly the text is sprinkled with approval of specific rulings. "He has explained well, even though my teachers did not argue in this vein." (*MK* to *M.T. Abodah Zarah* 3 : 10.) cf. also *ibid.* 2 : 11, 7 : 26, etc.

[3] *MK* to *M.T. Keriat Shema* 3 : 12.

[4] Cf. p. [illegible], note 1, above.

[5] Though Moses ha-Kohen listed glosses only to operative law, he had read carefully the entire text. *Vide* his gloss to *M.T. Erubin* 1 : 12. He also had an eye peeled for inner contradictions. (*MK* to *M.T. Abodah Zarah* 3 : 6, 7 : 13, etc.)

Joseph Karo listed Moses ha-Kohen as among the critics who believed the *Mishneh Torah* ought never to have been written.[1] There is no internal evidence for this assertion. But by his citation of sources, local customs, variant textual proof texts, and conflicting authorities Moses, in effect, began that academic conflation of the *Mishneh Torah* which destroyed its briskness and its quality of ultimate authority and reduced it to the rank of more familiarly organized compendiums of law. Moses ha-Kohen's glosses reflect the need of Diaspora communites for elbow room to maintain their separate refinements of ritual and law.

Moses ha-Kohen shot an arrow of practicality at the *Mishneh Torah*. His far more illustrious contemporary, Abraham b. David of Posquières (1125—1198), shot at the same target, but his quiver held far more than a single bolt. Rabad was far more aware of the *Mishneh Torah's* broader implications, and his glosses punctured the text from many angles.

Where Moses ha-Kohen's concern was largely existential, Rabad's was essential as well. Unlike Moses, Rabad wrote glosses to almost every section of the *Mishneh Torah*. He was as concerned with regulation and formula long in abeyance as with operative law. Rabad did not slacken his glossator's pace when he reached the volumes dealing with discontinued practice. Material concerning Temple sacrifice was carefully annotated. A theoretical text such as *Bi'at ha-Mikdash* received thirteen logical and quite sophisticated and technical notes. However, Rabad was not interested equally in all the *Mishneh Torah's* parts. The intricate calendar regulations of *Kiddush ha-Hodesh* sport only one gloss, the heavily theological sections of *Yesode ha-Torah* and *De'ot* only one and two respectively. *Halacha* was Rabad's prime interest. Rabad took the *Mishneh Torah* on its own terms—as a code of Hebrew law in its entirety. He refashioned it to the same end, discounting in so doing that other announced purpose of Maimonides: that the *Mishneh Torah* serve as a ready handbook for the working jurist. Moses ha-Kohen was a competent legal technician. Rabad was a competent legal theoretician.

Among the second generation of the invigorated Provençal scholarship no name shone more brightly than that of Abraham b. David of Posquières. Blessed by a first rate mind and an excellent education, he was blessed also by a fortunate birth. His Provence

[1] *Kesef Mishnah, Introduction.*

could provide teachers of exceptional competence and range: Moses b. Joseph of Narbonne (Rambi), Abraham b. Isaac of Narbonne (Rabi), and Meshullam b. Jacob of Lunel. His family could and did give him a leg up financially. [1]

By and large, the Jewries of the Provence remained till the mid-12th century as insulated rabbinically as most other communities north of the Pyrenees. When the Spaniard Abraham bar Hiyya visited Southern France circa 1130, he spoke of it as Sarfat. "I would not have had to treat of this matter, if I had found in Sarfat any Hebrew books on this subject." [2] At the end of the century Judah ibn Tibbon reminisced in his ethical will of a time when "there were among them [in Provence] scholars proficient in the knowledge of Torah and Talmud, but they did not occupy themselves with other sciences because Torah study was their sole profession and because books in other disciplines were not available." [3]

This earlier world was bounded by the sophisticated but circumscribed seas of the Talmud and the Midrashim. The Eastern Crusades, the Spanish Reconquest, and the pre-Murat trans-Pyrenean political ambitions of Aragon brought in their train a newly vigorous and international economic life, newly burgeoning communes, troopers, travelers, teachers, refugees, and professional poets who crossed boundaries and cross-fertilized cultures.

In the 12th century first the Pyrenees, then the Mediterranean ceased to be a cultural wall. Abraham bar Hiyya came north circa 1130 and, finding no astronomical works in Hebrew, indited his *Sefer ha-Ibbur*. He was followed circa 1150 by the exegete-poet Abraham ibn Ezra, who while resting at Béziers dedicated his *Sefer ha-Shem* to two local scholars. Joseph b. Isaac Kimhi (1110—1195) came to Narbonne from Spain, introduced Sephardic gram-

[1] Unlike Moses ha-Kohen, whose life remains a blank, Rabad's has been often studied and carefully reconstructed. (J. Reitmann, "A Biography of Rabad the Author of the Hassagot" (Heb.), *Ha-Maggid*, VI [1862], 382-390; H. Gross, "R. Abraham b. David Aus Posquieres," *Monatsschrift für Geschichte und Wissenschaft des Judenthums*, XXII [1873], 337-344, 398-407, 446, 459, 536-546, XXIII [1874], 19-23, 76-85, 164-182, 275-276; A. Marx, "R. Abraham b. David et R. Zerahya Ha-Levi," *REJ*, LIX [1910], 200-224; B. Bergmann (ed.), *Kaluv Sham* [Jerusalem, 1957], *vide* Introduction; "Rabad," *Encyclopedia Hebraica*, I, 294-295; Twersky.)

[2] Abraham bar Hiyya, *Sefer ha-Ibbur*, ed. Filipowski (London, 1851), p. 4.

[3] Judah ibn Tibbon, *Musar Ab*, I. Abrahams (ed.), *Hebrew Ethical Wills* (Philadelphia, 1926), I, 57.

matical norms, and began a family tradition of translation by rendering from Arabic to Hebrew works by Bahya ibn Paqûda and Solomon ibn Gabirol. (One of his sons, David, became the most active Maimonist in the controversy of 1230—1235.) Contemporaneously Joseph ibn Plat, a transplanted Castilian, instructed scholars of Narbonne and Lunel in the Spanish Talmudic tradition. We know only the scholars. They were the most historically visible of the merchants and emigrés who, fleeing Almohade terror and Reconquest dislocation, made their way into the more settled Provence. [1]

Where Provençal Jewish history remains dim and uncertain during the early Middle Ages, it emerged with startling vigor in the 12th century. Shortly after mid-century the Castilian traveler-journalist, Benjamin b. Jonah of Tudela, pictured the area in flourishing terms. There were aljamans in all the major centers bordering the Mediterranean, north from Barcelona to Marseille and spreading inland to Aquitaine and the Auvergne. These communities were often fairly large for the time—one hundred to two hundred souls or more—and seemingly prosperous. Trade was apparently the major contributory cause. [2] Academies and scholarship flourished.

The southern sun graced a land basking in new wealth, busily growing, eager to savor new tastes and new texts—a bit more conscious than the rest of Western Europe of the limitations of Christian culture. The same sun graced the Jewish settlements and made them aware of and hungry for rabbinic delights beyond those of the European *yeshibot*. The Talmudically advantaged Rabad was not unaware of the burden of apologetics and speculation, both mystical and philosophical, which was being passed through custom by the translators at Lunel and elsewhere. [3] Careful records have

[1] Later teachers were conscious of the importance and chronology of this cultural transmission. Towards the end of the 13th century Yedaya Penini of Béziers wrote to Solomon ibn Adret, "Our ancestors told that the pious and honorable and wise of the region received Abraham ibn Ezra with great favor. It was he who opened our eyes to the light of science." (Solomon ibn Adret, *She'elot u-Teshubot* [Bologna, 1539], I, No. 418.)

[2] This economic factor was recognized at the time. cf. Benjamin of Tudela on Marseille (*Massa'ot* [Lemberg, 1859], i. 4.)

[3] R. Abraham *Ab Bet Din* of Narbonne, his teacher and father-in-law, had crossed the Pyrenees to study with Judah b. Barzillai in Barcelona. Meshullam b. Jacob, besides being an excellent scholar, was the Maecenas of the early translations of the ibn Tibbons. A polemic compendium of the Maimonidean dispute of 1305 contains an interesting confirmation of Meshul-

established that Rabad cited in his works some paragraphs for Honein ibn Ishak, Saadya, Abraham bar Hiyya, Solomon ibn Gabirol, and Judah ha-Levi and that he was among those who urged ibn Tibbon to complete his translation of Bahya ibn Paqûda's *Kitab Al-Hidaya 'Ila Fara'id Al-Aulub* (Hebrew, *Hovot ha-Lebobot*; English, *Duties of the Heart*).[1]

Whatever Rabad intended the *hassagot* to accomplish, he did not author them as the opening gun of an anti-philosophic Kultur Kampf. What reason would he have to do so? He had before him a *halachic* text. He found in it many errors. It may have seemed pretentious, but its purpose was honorable and its subject time honored. Maimonides had spoken eloquently of the substantive truth of the Torah Law. The *Mishneh Torah* stated the law and left aside the rational explanations of these laws.[2] Rabad had not experienced the Albigensian crusade nor the new hard line of the Church. He could not foresee how one day philosophy might corrode the close-knit unity of Jewish life. Philosophy was still, in his day, a brand new and eagerly sought after delicacy. In all probability he did not even think of Maimonides as a philosopher when he died Samuel ibn Tibbon began the *Morch's* translation.

A case can be made that in Rabad and Maimonides we find opposed two concepts of Jewish piety. Both were pious men—but each defined piety in different terms. We speak now not to the piety of worship but to the piety of study (Torah), which enjoys in the Jewish world a religious virtue. To Maimonides "Torah" ultimately involved the activation of the intellect. It was essentially philosoph-

lam's importance as patron of such interest. Joseph b. Makir, the Narbonne philosopher, cited the sainted and venerable Meshullam as patriarch and validator of his intellectual interest. (Abba Mari b. Moses ha-Yarhi, *Sefer Minhat Kenaot* [Pressburg, 1838], p. 85.

[1] Louis Ginzberg has shown that the *hassagah* to *M.T. Teshubah* 5 : 5 was a literal translation of Honein ibn Ishak's *Musre ha-Philosophim*. ("Abraham b. David," *Jewish Encyclopedia*, I, 103.) Marx has detailed Rabad's knowledge of Judah ha-Levi's *Kuzari* (*REJ*, LIX [1910] 207) and Twersky his knowledge of Abraham ibn Ezra's *Yesod Mora*, Solomon ibn Gabirol's *Tikkun Midot ha-Nefesh* and Abraham bar Hiyya (p. 274 ff.). However, Rabad knew no Arabic. He called Arabic "a strange dark language." (*REJ*, LIX [1910], 208.) Living in the generation before Samuel ibn Tibbon, Judah al Harizi, Abraham b. Hasdai and others occupied themselves with the Aristotelian *Organon*, Galen, Euclid, Avicenna, and Averroes. Rabad knew philosophy largely as dialectics and as Neo-Platonic theosophy and apologetics.

[2] *M.T. Melakin* 11 : 3.

ic. It presumed *halacha* but in its upper reaches moved far beyond it, into metaphysics. To Rabad "Torah" involved an immersion in tradition—a mastery of the four ells of *halacha*; philosophy was but a pleasant if dilettantish sidelight.[1]

One of the features of the Maimonidean controversy of 1230—35 was the deference, even reverence, paid throughout to Maimonides himself. Solomon b. Abraham of Montpellier, the self-acknowledged leader of the anti-Maimonid camp, affirmed his constant respect and admiration.[2] Compare this with the offhandedness of Rabad's curt citations, "this man" or "this author," and his more than occasional outbursts of vitriol, "If they (certain righteous men) had been present when he said this, they would have applied burning torches to his face."[3] "This author brought up water from deep wells but the water he brought up was turgid."[4] Rabad saw no reason to hang on Maimonides' every word. Until scholarly respect became in the next generation awed reverence there could be no Maimonidean controversy.

Rabad's role in the Maimonidean controversy was circumstantial and paradoxic. As *the* critic of the *Mishneh Torah* he pointed up the areas where *halachic* issue might be taken and challenge raised. As *the* critic of the *Mishneh Torah*, he encouraged a later generation to criticism. As *the* critic of the *Mishneh Torah*, he gave it added stature and usefulness; indeed, his criticisms and comments would be cited by moderates and Maimonidean protagonists in their cause. Thus Nachmanides cited these *hassagot* to the French rabbis as proof of the work's worth and substantiated his claim that impeccable scholars of first rank had never considered banning it.

[1] This can be seen in the whole burden of Rabad's work. I am indebted to Twersky for one striking confirmation. In *M.T. De ot* 3 : 3 Maimonides stated the Hebraic distrust of ascetic excess—the barring of excessive fasting or of any debilitating or physically debilitating regime because "he will not be able then to understand or research the sciences." Rabad, per contra, explained this attitude "because he will cease from study [Torah] and prayer." (Twersky, p. 272 and note 47.) cf. also *Rabad* to *M.T. Lulav* 8 : 5 and to *M.T. Metame Mishkan U'moshav*, where Rabad spoke of being enlightened as to certain esoteric meanings and simple rulings by a presence, "The holy spirit." Rabad's Kabbalah is still moot; but his Torah centered theosophy certainly gave his son, R. Isaac the Blind, a theologic springboard. Between the *Weltanschauung* of Rabad and of the Geronese school of mystics there are certain elemental ties. In Chapter IX we will develop and contrast these pieties at some length.

[2] *GN*, IV, 32. cf. Chapter IX.

[3] *Rabad* to *M.T. Abodah Zarah* 11 : 4.

[4] *Rabad* to *M.T. Tumat ha-Met* 12 : 6.

Already all the sons of Lunel and their great rabbi Abraham b. David, peace be unto him, have seen this book. They did not label it unfit...but all of them studied and read it continuously. Abraham b. David discussed some of its concepts acidly, but he made no claim that it was either heretical or misleading. God forbid! [1]

Reviewing Rabad's criticism from their awareness of the subsequent controversy, modern scholars have put Rabad in arms against Maimonides' Aristotelianism. Such a case is more easily stated than proven. Rabad's attitude to philosophy is hard to characterize. Philosophy was never for Rabad an end in itself. Thus this arresting comment on a Mishnah Torah formula touching the problem of God's omniscience and free will:

> This writer did not follow the practice of the sages. For a writer does not begin a discussion unless he is able to complete it. Maimonides here raised difficult issues and he left these issues hanging in mid-air, dependent entirely on being accepted on faith.
>
> It were better for him to have left this matter in its undisturbed simplicity. He should not have bothered men's minds with doubts—even if man's heart is thereby troubled only for the space of an hour.[2]

Rabad was keenly aware of some divergences between rabbinic learning and philosophic logic. "We ought not to depend for our learning on one who is not proficient in rabbinics." [3] However intrigued he may have been with the new learning, this was not his world and he suspicioned its validity. [4]

Perhaps the best example of Rabad's attitude is to be found in a discussion of *Minim*-heretics. Rabad's view of God was as non-anthropomorphic as Maimonides.' He passed up Maimonides' discussions of God's essence and existence in *Sefer ha-Mada* without comment—but Maimonides had developed the matter further. He had declared that one who assumed any human qualities of the Godhead was perforce a *Min*. Certain practical consequences followed, and Rabad rose angrily to the issue.

> Why should the one who conceived God anthropomorphically be called a *Min*? How many better and greater than he have held such opinions following what they understood of the Bible

[1] *KTR*, III, 95.
[2] *Rabad* to *M.T. Teshubah* 5 : 5.
[3] *Katuv Sham* (*Hassagot ha-Rabad 'al Ba'al ha-Me'or*) to *Rosh Hashonah*, ed. B. Bergmann (Jerusalem, 1957), p. 23.
[4] *Rabad* to *M.T. Kiddush ha-Hodesh* 7 : 7.

and from what they read in the Midrashim which is capable of such interpretation. [1]

The *halachist* in Rabad was outraged. This was unorthodox law.

But one can not label Rabad a disciple of the *Shiur Komah* or of any anthropomorphic theosophy on the basis of this gloss. It said no more than that Judaism had never read the simple minded or the literalist out of the fold. It reveals nothing of Rabad's personal profession.

To Maimonides' analysis of the ticklish problem of reconciling God's foreknowledge and man's freedom of will (which Maimonides resolved semantically by arguing the absolute otherness of Divine Knowledge) Rabad suggested his own solution, i.e. that the attributes of Knowledge and Will are separate in the Godhead. [2] Rabad was not above speculating with the familiar theological coin of the Midrashic literature.

Rabad was not unwilling to speculate on his own. Thus to Maimonides' declaration of God as Creator and Foundation (*Yesod*), Rabad egregicusly and pointedly added the nicety that God must be considered Creator *ex nihilo* and not as a sculptor who fashioned with preexistent elements. [3]

Rabad did not face either Maimonides' need to be "advanced" or "systematically consistent"—the Provençal world was not yet as "intellectual" as the Sephardic. As yet philosophy had no broad approval among the enlightened of the Midi. Maimonides would not permit any assumption of potency in omens. Rabad equivocated, dredging up a text from *T. B. Hullin* 95b that if an omen has proven out three times it possessed a presumption of reliability. [4] Maimonides explained Exodus 33:15 (Moses' plea, "Show me, I beseech Thee, Thy glory") as a request for true and full metaphysical knowledge. Rabad objected that Moses had already "seen" God at Sinai and that this passage should therefore be construed as evidencing Moses' concern for God's special presence among and protection of Israel. [5]

Rabad neither knew of the pressures which later precipitated the Maimonidean controversy nor did he deny himself the pleasures of Midrashic, non-authoritative speculation. He may even have

[1] *Rabad* to *M.T. Teshubah* 3 : 7.
[2] *Rabad* to *M.T. Teshubah* 5 : 5.
[3] *Rabad* to *M.T. Teshubah* 3 : 7.
[4] *Rabad* to *M.T. Abodah Zarah* 11 : 5.
[5] *Rabad* to *M.T. Yesode ha-Torah* 1 : 10.

felt himself a philosopher—though he had not mastered its "Greek" systematics. His opposition was not to speculation *per se* but to Maimonides' specifics. Like the Damascus school before him, Rabad sensed the novelty of Maimonides' eschatology and reacted unfavorably.

To Maimonides' description of the Messianic Age as one of independence for Israel in which the familiar laws of nature continue routinely, Rabad wondered what of the miraculous promises of Isaiah 11:1-7.[1] To Maimonides' insistence that the Messianic King will perform no miracles or wonders and that he will not bring into being anything new, Rabad suggested, but did not insist, that this limitation was not religiously elemental. Maimonides had cited Akiba's acceptance of Bar Kochba as Messiah as proof that scholars did not require any magical or supernatural powers of the Messiah—only his political success in the reestablishment of an independent Israel. Rabad countered with the tradition of *T. B. Sanhedrin* 93b that the sages did in fact examine Bar Kochba and ordered his execution when he failed.[2] Rabad's strictures on Maimonides' views on the *Olam ha-Ba* were astringent:

> "The words of this man appear to me to be close to the position of one who says there is no resurrection for the body only for the soul and, by my life, this was not the prevailing opinion of the sages." cf. *T.B. Kethubot* 111b "In the future the righteous will stand up in their garments—a deduction *a minori ad majus*...and from what is stated in *T.B. Sabbath* 114a 'So they commanded their sons do not bury us in white garments and not in black shrouds, white lest I do not merit ...black lest I have merit..." and from *T.B. Sanhedrin* 92a "The righteous will not revert to dust.. but remain in their accustomed form" and from *T.B. Sanhedrin* 90b-91a "They will rise in their deformities and be healed." All of which is proof that the dead will be resurrected in their bodies.[3]

Two points must be added: 1) Rabad subsecuently qualified his position by saying, "It is possible that the Creator may make their bodies strong and healthy like the bodies of the angels and Elijah";[4] 2) Rabad's complaint about Maimonides' treatment of resurrection and theosophy was to its substance, not to its appearance in the text. "This one did not follow the custom of scholars;

[1] *Rabad to M.T. Melakin* 12 : 1.
[2] *Rabad to M.T. Melakin* 11 : 3.
[3] *Rabad to M.T. Teshubah* 8 : 4.
[4] *Ibid.*

for no man begins a thing he does not know how to finish, whereas he commenced with inquiries and questions and left the issues open and only twisted it around incidentally to the faith. It would have been better had he left the innocent in their innocence." [1] It follows that competent speculation, though difficult, would not be unwelcome.

Rabad's *hassagot* to the *Mishneh Torah* were written when he was at the apogee of an illustrious career, [2] and their fame was as much due to Rabad's own fame as to the brilliance of his trenchant analysis of the text. [3] Medieval writers deemed him the dean of Provençal *halachists* in his generation. [4] A man of many virtues but not always of discretion, Rabad was by his own admission "the revered jurist to whom neighboring communities and scholars submitted their appeals and inquiries." [5]

To evaluate these *hassagot* we must bear in mind that they were academic in origin and purpose, i.e. Rabad's lecture notes to advanced students, and that they were not the first questions to the *Mishneh Torah* text.

Rabad's choice of a gloss as his technique of criticism can be

[1] *Ibid.*

[2] Rabad's works can be listed briefly: *Issure Mashehu*, a short critique of his teacher's (Meshullam b. Jacob) study on the fitness of mixtures in various foods; *Hibbur ha-Mizvot ha-Nogahot Atah ba-aretz*, a brief codex for travelers and pilgrims of laws applicable in the Holy Land but not required in the Diaspora; *Hibbur Harsha'ot*, an excursus of the implications of contractual powers transferred to agents; a *Commentary on the Talmud* of which we control segments of many sections, parts on *Shebuot* and *Abodah Zarah* and all of *Baba Kama*; *Hilkot Lulav*, a code of *Sukkot* ritually important as emphasizing Provençal traditions against Spanish customs; *Ba'ale ha-Nefesh*, a code of the laws of uncleanness and purification; a *Commentary to Sifra*; Commentaries to *Mishnah Edyot*, *Kinnim*—there may have been others; some holiday lectures and sermons; *Tamim Deim*, a compendium of Responsa; and *Hassagot* to Zecharyah ha-Levi's *Sefer ha-Maor*, to Isaac of Fez' *Halachot* and Maimonides' *Mishneh Torah*.

[3] It is possible that Rabad controlled a manuscript of the *Mishneh Torah* more akin to the Oxford manuscript published by M. Hyamson, *The Mishneh Torah*, 2 vols. (New York, 1937, 1949) than to the more familiar text through which rabbinic students have known these glosses. This would explain the often noted halachic discrepancies in the familiar text. cf. *M.T. Yesode ha-Torah* 3 : 5, *Talmud Torah* 5 : 5, *Abodah Zarah* 7 : 7, 7 : 11, etc. For the technical references to the various texts cf. A. Neubauer, *Catalogue of the Hebrew Manuscripts in the Bodleian Library*, I (Oxford, 1886), 114.

[4] Anon., *Sefer ha-Kabbalah*; *Neubauer, Medieval Jewish Chronicles*, I, 84; Isaac b. Abba Mari, *Sefer ha-Ittur* (Lemberg, 1860), II, 21; Solomon ibn Verga, *Shebet Yehudah*, A. Shohet (ed.) (Jerusalem, 1947), pp. 146, 171.

[5] Abraham b. David, *Tamim Deim* (Lemberg, 1811), No. 113.

please straighten letters at each end of line – they drop noticeably.

explained both personally and academically. This was a form in which he delighted. He had previously completed two such marginalia, one to Zechariyah ha-Levi's *Sefer ha-Macr*, the other to Alfasi's *Halakot*. This form was a ~~uniquely~~ useful academic device in that it permitted ~~naturally~~ criticism, ~~but~~ a discussion with students of the ~~refinements of~~ points raised, and gave them on completion a text ~~which, being corrected, could be academically useful~~. Rabad's choice of a gloss criticism offers us insight into ~~Rabad's~~ his purpose. By its nature a gloss establishes a text. At the very least it admits the text's popularity, for the gloss can not survive the demise of its literary parent. The intent of a glossator is both to correct the author and to correct the author's text. His purpose can be spoken of as existential. His program is to correct, establish warning signals, suggest lacunae or gross errors—in brief, to make it possible for a reader to use the work as a dependable reference in his studies and juridic work. It is not surprising that Rabad ~~gave no thought~~ did not think to submit his text to Maimonides. There would have been no benefit. His concern was not to change Maimonides' mind, but to regulate the teaching and practice of his ~~fellow~~ students. [1]

Rabad referred to Maimonides as an erudite, yes, and younger, contemporary whose teachings must be fenced within necessary limits and to whose writings necessary danger signs and warning signals must be affixed. Acerbity was to Rabad a natural inclination, and the harshness of some of his language must not tempt us to see in his writings more than was intended. [2] Many notes simply elaborated, expressing neither approval nor disapproval. Others expressed approval. [3] Rabad was concerned in the *Hassagot*

[1] There is an old tradition that Maimonides saw the *hassagot* of Rabad. (Simeon b. Zemah Duran, *Sefer ha-Tashbez* [Amsterdam, 1738], p. 72.) There is also a pious anecdote that having seen the book Maimonides commented, "Never have I been bested but by this one author." (*Ibid.*) Twersky tries to authenticate the tradition, rather unsuccessfully in the author's opinion. (Twersky, p. 195 f.) There is no evidence that even Abraham Maimonides ever saw the whole corpus of Rabad's *hassagot*. Twersky dismissed the omission of this legendary tradition by Joseph ha-Zaddik too lightly. (*Sefer Zaddik*, A. Neubauer (ed.), *Medieval Jewish Chronicles*, I, 94.)

[2] Rabad often suggested that an error was not Maimonides' but a careless scribe's (*Rabad* to *M.T. Tumeat ha-Met* 7 : 3; *Melahim* 9 : 11; *Genebah* 5 : 2) or that Maimonides controlled a faulty text and erred through no fault of his own. (*Rabad* to *M.T. Teshubah* 4 : 4.)

[3] "He has spoken well." "He has interpreted accurately." "He has developed this point well." (*Rabad* to *M.T. Zizit* 3 : 1, *Cenebah* 13 : 15, *Milah* 7 : 2, *Sabbath* 5 : 28, 4 : 17, 29 : 14, *Nezikim* 1 : 18, *Shekanim* 9 : 9, *Maachelot Assurot* 15 : 20, *Yom Tov* 1 : 14, *Terumot* 10 : 16, *Parah Adumah* 5 : 5.

with the integrity of his *halachic* world. His concern was to the structure of law, not to the stability of communal life. This latter was not as yet threatened in Posquières.

How, then, shall we assess these *hassagot*? Unfortunately, they lack introduction or preface. We begin in *media res*: the first note simply corrected Maimonides' dating of a certain Ahijah the Shilonite, the second arguing against Maimonides' "who's who" among the disciples of Judah ha-Nasi. [1]

Rabad's one general statement on the *Mishneh Torah* is well known:

> I say [2] he wanted to bring order but he did not succeed because he departed from the method of all students of the Law who came before him, in that they brought proof of their teachings, and in that they set out the Law in the name of its propounder.
>
> This method offers great advantage in its procedures, since when a judge decided to permit or prohibit finding the decision in one place, if he had known that there was a decision by one greater than he, he would have changed his opinion to conform.
>
> Now I have no way of knowing whether I should reverse my legal traditions and opinions because of the nature of the work of this writer—for if the one who disagrees with me is greater than I, then all is well; if not, why should I withdraw my opinion for him?
>
> Further, there are matters in which the Geonim disagree. This author arbitrarily chose one opinion and set it down. Why should I depend upon his choice if it does not find favor with me—especially if I do not know whether the dissenter has the right to differ? This is nothing but a presumptuous project. [3]

Justice, ~~final authority~~, in Rabad's mind, rested not in the law library but in the living law—in a jurist, not in a book. The *Mishneh Torah* ~~interrupted~~ the balance between case presentation, due process, and equity which a ~~learned~~ jurist class, following ancient norms, established. A code ~~permitted the unskilled to mount the bench with the inevitable result that this balance would be~~ upset and ~~legal forms become~~ more rigid than they need be.

Kilayim 3 : 3.) At times Rabad approved a point even though this reversed familiar traditions. "He spoke well, even though he does not agree." (*Rabad* to *M.T. Yom Tov* 1 : 14.) At times he merely defined Maimonides' position further. (*Rabad* to *M.T. Abodah Zarah* 10 : 14, *Tefillah* 9 : 11, *Keriat Shema* 14 : 8, *Beth ha-Behirah* 15 : 16, *Korbanot* 10 : 11.)

[1] *Rabad* to *M.T. Introduction.*

[2] The abbreviation, aleph-aleph, might be translated with equal correctness, "Abraham states."

[3] *Rabad* to *M.T. Introduction.*

To illustrate the unreliability of this code (and presumably of any code) Rabad reintroduced the sources. "This writer brings those matters according to their simplistic explanation. When I looked in the Talmud at the pertinent references I found that the explanation was not so." [1] "I researched this rule but I could not find it either in the Mishnah or the Tosefta or in the Babylonian Talmud. Perhaps it follows by what was said by..." [2] Again and again we come upon, "By my life the Mishnah is not so" [3] or the like.

It should not be thought that Maimonides proposed to stifle equity and legal change while Rabad by affirming the older case method sought greater change. Rabad was anything but an innovator. When Maimonides stipulated that a court might recast the decrees of an earlier body "if it is greater than that body in numbers and wisdom," Abraham took pains to circumscribe this power, however, doubtful it certainly was that such a court would ever again be convened. [4] When Maimonides spoke of the "provisional power of a court to permit what the Bible prohibits and to prohibit what it permits" Abraham shied away from any ~~construct~~ LANGUAGE which made it appear that ~~these~~ decisions contravened Scripture— ~~with the intimation that~~ such expedients were implicit in ~~the~~ Biblical ~~Scripture~~. [5]

Rabad, like Moses ha-Kohen, set great store by local custom. Maimonides had stipulated that at a circumcision the Moel should recite the blessing, "who has commanded us concerning circumcision." Rabad added, "Our custom is that the Sandek recites it." [6] Maimonides had permitted the reading of the last eight verses of Deuteronomy without a *minyan*, arguing that these verses had been altered since Moses' day. Rabad argued that the relevant Talmudic formula, "that an individual reads them," implied only that the Hazan did not read these verses with him. [7] Maimonides had ~~accepted the general indifference to women's rights prevalent in the Moslem world and~~ he prescribed marital intercourse when

[1] *Rabad* to *M.T. Sabbath* 1 : 10.
[2] *Rabad* to *M.T. Shabbat V'Yovel* 4 : 6.
[3] *Rabad* to *M.T. Tumeat ha-Met* 7 : 7.
[4] *Rabad* to *M.T. Mumrim* 2 : 2.
[5] *Rabad* to *M.T. Mumrim* 2 : 9.
[6] *Rabad* to *M.T. Milah* 3 : 1.
[7] *Rabad* to *M.T. Tefillah* 13 : 6. cf. also *Rabad* to *M.T. Berachot* 9 : 16, *Erubin* 1 : 16, *Sukkah* 6 : 12, *Iyshut* 3 : 23, etc.

the sex act was medically or physically necessary for the man. Rabad supplemented, "similarly when she insists." [1] Maimonides had declared that one who converted in time of persecution was a *mumar* [illegible]. [2] Rabad labeled him a *min*. To Rabad in a trinitarian environment such a man perforce denied God's unity, while to Maimonides, in the unitarian Islamic world, no such denial of monotheism was implicit. [3] Some notes say no more than "Not so." "He erred." [4] Others develop Rabad's conflicting views at greater length. Typical in form and method is [illegible] *Talmud Torah* 7:7. Maimonides had stated that three citizens or one qualified and authorized sage are required to release from *niddui* or *herem*. Rabad appended:

> This is not so. According to the number and rank of those who pronounced the ban is the number required to lift it. Perhaps this refers to the case where release is effected during the period of sentence, but when the sentence is served any three or one scholar may release him. Perhaps this refers to the case where one not a scholar pronounced the ban for a transgression, then after the serving of sentence any three or one scholar may release him. However, if many made the ban, an equal number is required to release from the ban. [5]

Rabad assumes the rabbinic competence of his reader. His technique is to raise subtle but significant qualifications—that will suggest to such a reader a whole sackful of reservations.

Other glosses developed questions to Maimonides' regulations without stating the law or even insisting finally that a formula be changed. Maimonides had established the rule that a sage who imposed *niddui* on himself may release himself. Rabad wondered:

> This is not clear. If so then why did Judah not release himself. . . [Ed. from the vow to bring Benjamin home safely]. [6]

[1] *Rabad* to *M.T. De'ot* 3 : 2.

[2] *Mumar* is usually translated "Apostate," but see J. J. Petuchowski "The Mumar—A Study in Rabbinic Psychology," *HUCA*, XXX (1959). 179-190.

[3] *Rabad* to *M.T. Teshubot* 3 : 9. Subsequent Church censorship makes the relevant Talmudic text uncertain. The original text may have read *meshumad*, which would underscore the meliorative character of Maimonides' ruling.

[4] *Rabad* to *M.T. Genebah V'abedah* 13 : 15.

[5] Cf. also *Rabad* to *M.T. Abodah Zarah* 2 : 5, 3 : 9, 3 : 13, 6 : 10, 8 : 3, 8 : 11, 9 : 4, 9 : 13, 10 : 4, 12 : 10, *Teshubot* 5 : 2, *Sheviut* 3 : 6.

[6] *Rabad* to *M.T. Talmud Torah* 7 : 11. cf. *Rabad* to *M.T. Abodah Zarah* 11 : 1, *Teshubah* 10 : 6.

Another typical form challenged the authority of a statement, i.e. its base in tradition. Maimonides had stated that the refuge cities in Palestine could never become apostate cities.[1] Rabad began his note, "I do not know where he found this. It is not stated in the Talmud except in the one case of Jerusalem. . ." Not so gentle, but as typical was Rabad's reaction to *Abodah Zarah* 10:6, where Maimonides set the rule that were Israel to be reestablished as a Jewish state no gentile might settle there or even trade there unless he bound himself to the basic terms of moral law (the seven Noahite commandments). Rabad commented:

> We do not know the source. We never heard this tradition. The Biblical verses which he adduces (Exodus 22:33 etc.) refer only to the seven Canaanite nations. Further even on his own terms it is a restriction on settlement only, never on trade or transit.

Rabad also suggested that translations from the familiar legal language of the Talmud into Mishnaic Hebrew often distorted the meaning of an ancient formula.[2] Let it be emphasized that Rabad complained of Maimonides' choice of pure Hebrew but of the effect of [illegible] on [illegible]. Still another form resurrected a Talmudic debate to suggest that Maimonides misinterpreted a [illegible] and [illegible] the minority, rather than the majority opinion.[3] A variant indicated a rabbinic debate which earlier authorities had left unresolved for which Maimonides had furnished a decision.[4]

Rabad never read the *Sefer ha-Mitzvot*. It was translated from the Arabic only after his death. However, Maimonides prefaced the *Mishneh Torah* had prefaced [illegible] of the Torah commandments [illegible]. The fourteen general principles of selection passed without comment. However, Rabad objected to the [illegible] among the positive commandments of those laws which he felt involved double affirmations, and which, therefore, logically ought to be listed as negative commandments ([illegible] 7 [Deut. 10:20], 60[Lev.

[1] *Rabad to M.T. Abodah Zarah* 4 : 4.
[2] *Rabad to M. T. Shabuot* 6 : 9.
[3] *Rabad to M.T. Abodah Zarah* 7 : 10, 8 : 1, 8 : 2, *Teshubot* 3 : 6.
[4] *Rabad to M.T. Korban Pesach* 7 : 3, *Abodah Zarah* 17 : 4, *Sabbat* 8 : 6, *Abot Hatumeah* 5 : 7.

22:27], 146[Deut. 12:12], 149 [Lev. 11:2]). ~~Further~~ He felt that Positive Commandment 6 (Deut. 10:20, "and to Him shalt thou cleave") was not a separate command but a warning not to swear by other gods, and that Positive Commandment 108 (Num. 19:9 and 21) should have been divided into two separate laws, one concerning the laws of sprinkling as applied to the clean and one as applied to the unclean. It is a pity that Rabad could not have seen the fuller text. His comments would have been worth the reading. Some, too, would have been retracted. Thus his feeling that the law requiring that the Temple altar be built only of stone should have been included among the positive commandments cogently argued against by Maimonides in his excursus on Positive Commandment 20 (Ex. 25:8). On similar grounds Rabad's objection to Positive Commandment 239 (Ex. 21:37) would have been unnecessary.[1]

With Rabad we have the confrontation of genius by excellence. The *hassagot* have ever defied categorization, for they touch almost every area of the rabbinic geography and range widely and seemingly erratically. Surely Rabad could have written far more than the four hundred-odd marginalia he set down. Yet need he have done so? He was writing for a technically skilled reading public. His interest was in the ~~application~~ of law, ~~but not its prescriptions~~. Not the *Mishneh Torah* but the Torah preoccupied him. Never did it enter his mind that Maimonides' code would actually become the basic legal text of Jewish life. It was but another of a long line of important ~~contributions to~~ juridic scholarship to be valued for its contributions and faulted for its confusions. There is no more valuable source for understanding *Mishneh Torah* criticism than it is misleading to ~~presume that the hassagot were intended as the~~ opening gun in ~~the protracted polemic which became~~ the Maimonidean controversy.

[1] Nachmanides, in his later and much more extensive gloss of the *Sefer ha-Mitzvot*, showed that he had read these *hassagot*. This can be seen from the commentary prepared by Nachmanides to a small work of the Rabad's on the laws of the Lulav, reported by Meiri in his *Magen Abot*. Similarly we find the language of Negative Commandment 58 duplicated in the notes of the Rabad and of Nachmanides. Both scholars argued that the command that a soldier should not entertain fear in battle is an expectation or a hope, not a command. Both Rabad and Nachmanides argued that Positive Command 198 (that in granting a loan to an idolator interest is to be demanded) was not a positive commandment at all. Rabad took out the sting of Deut. 23:21 and from the Sifre *ad loc* by arguing that this text did not establish a Positive Commandment but rather a possibility which devolved from the Negative Commandment that interest may not be asked of an Israelite.

CHAPTER SIX

JONATHAN HA-KOHEN OF LUNEL AND THE BROADENING OF CRITICAL HORIZONS

> Research much in outside books and you will find that which will give status to its doer in the gates, that which will lengthen your speech among the mighty and exalt your name among your fellow academics. [1]

In the 12th century the various centers of Jewish life, heretofore largely hermetic, began to draw on each other. By mid-century cultural apartheid was giving way rather rapidly to cultural cross-fertilization.

Rashi (Solomon b. Isaac, 1040—1105), the rabbinic giant of his age, lived intellectually as well as physically entirely within the Franco-Jewish world. He knew nothing of the philosophic output of an Isaac Israeli (c. 855—955) or a Saadya Gaon (882—942). He did not control the legal works of Alfasi (Isaac b. Jacob ha-Kohen, 1013—1103), his Sephardic and equally illustrious rabbinic contemporary. Similarly, Alfasi had not read Rashi's monumental contributions.

Cross-fertilization took place in many ways and at many levels. The Tosaphist tradition of Talmudic study moved north to south. By the mid-12th century it had penetrated the Provençal schools. By the end of the century it had rooted itself in Spanish soil. Conversely, the Alfasi-Joseph ibn Migash system of codification moved south to north. At mid-century Jonathan ha-Kohen of Lunel was studying *halacha* with Joseph's son in Toledo and a great debate was breaking out in the schools of Narbonne and Lunel between Rabad and Zecharyah ha-Levi and others over the relative weight to be credited to Alfasi or the Tosaphists. Maimonides' *Mishneh Torah* capped the influence of the Sephardic school on the European Jewish communities but did not carry the day.

We have already noted the growing awareness of customs (*minhag*) variables and the resultant literature of customaries. [2]

[1] Neubauer, I, 67. Samuel ha-Nagid, quoted by Judah ibn Tibbon.
[2] Cf. Chapter V

Parallel to the commingling of variant *ha'achic* traditions there occurred an exchange of philosophic materials. The systole of this exchange was east to west as the ~~advanced~~ Arab-Hebrew philosophic tradition was translated and penetrated Western Europe. The ~~systole~~ was west to east ~~and later~~ when the new European compound of philosophy and piety—Kabbalah—penetrated the Holy Land and the Near East.

> The *Morch Nebuchim* would have remained to us but a pebble in a stone heap and a rose among nettles (since the work was given to those who could not read it) if God had not brought to us a wise man, learned in all sciences, taught by his father the literature and language of the Arabs, the son of the wondrous sage, the skilled physician R. Judah ibn Tibbon the Spaniard who made available to us and enlightened and taught us from books of the various intellectual disciplines by translating for us [Saadya's] *Book of Beliefs and Opinions*; [Bahya ibn Paqûda's [*Book of the Duties of the Heart*; [*Solomon* ibn Gabirol's] *Book of the Qualities of the Soul* and *Chain of Pearls*; [Judah ha-Levi's] *Book of the Khazars*, the *Book of Grammar*, and the *Book of Roots* of [Jonah] ibn Ganah and his *Book of Grammar* (*Sefer ha-Rikmah*) . . . .[1]

~~Beginning~~ In the 1160's Meshullam b. Jacob of Lunel ~~established~~ a busy translation factory centered on the scholar-physician-translator Judah b. Saul ibn Tibbon (1120—1190). The letter to Maimonides just quoted indicates the breadth of ~~his~~ accomplishment. At the same time, in nearby Narbonne, Joseph b. Isaac Kimhi (1105—1170) established another scholar-translator dynasty and ~~rendered~~ duplicate but valuable translations of Bahya and ibn Gabirol.

At the turn of the century not only these ~~Hebraic~~ works but their Greek and Arab counterparts and sources began to be transshipped. Judah ibn Tibbon 's son Samuel (1150—1230) translated Maimonides' *Morch Nebuchim*, the *Maamar Tekiyyat ha-Metim*, and ~~his Midrash~~ *Commentary* to *Pirke Abot*, Ali ibn Ridwan's commentary on the *'ArsParva* of Galen, three small treatises of Averroes known in Hebrew as the *Shelechah Ma' ~~Amarim~~*, and Yahyah Ali Batrik's Arabic paraphrase of Aristotle's *Meteora*. As the years pressed on more and more literary baggage passed over through the linguistic midwifery of Judah al Harizi (c. 1160—1220), Abraham ibn Hisdai (c. 1190—c.1250), David Kimhi (1160—

[1] Letter of Jonathan ha-Kohen, *Ginze Yerushalayim*, S. Wertheimer (ed.), I (1896), 33.

1235), Berachiah ha-Nakdan (c. 1180—1260), and others. Interests broadened. Judah al Harizi, for instance, translated not only Maimonides' *Moreh*, the first part of his *Commentary to the Mishnah*, and Honain ibn Ishak's *Musre ha-Philosophim*, but an anonymous Arabic paraphrase of Aristotle's *Ethics* and *Politics*, Algazali (through Abraham ibn Hisdai),[1] Avicenna, Averroes, and Aristotle[2] (largely through Averroes' paraphrases), by the 1220's, at least in part available to a qualified European Jewish audience. These translators did more than translate. In his letter requesting the last volume of the *Moreh*, Jonathan ha-Kohen praised Samuel ibn Tibbon as one who "gave us background, made us to understand, and taught us from philosophic texts. . . ."[3]

If Torah be taken generically as word-symbol of the entire rabbinic tradition, Rabad's faith agreed with the Mishnaic proposition, "Turn it (the Torah) over, Turn it over again, for everything is in it."[4] Tradition delimited truth even if tradition's depths were not easily mined. There were those, however, among Rabad's Provençal contemporaries who though professionally competent in rabbinics and personally scrupulous in observance (and certainly convinced that the Torah was the ultimate repository of truth) nevertheless looked for reflections of truth both within "the" book and in the new "outside" books. The Torah was truth, but there was truth also in medicine, poetry, astronomy, caligraphy, mathematics, etc., yes, even in certain philosophies.

Rabad's classmate and contemporary, Jonathan b. David ha-Kohen (c. 1135—1215), was of this latter type.[5] Truth is one. The new truths would help mine and refine the full virtue of the old. In a letter to Maimonides Jonathan praised those well versed in secular learning as indispensable "in opening the rooms of the Torah so that the eye can perceive".[6]

[1] Abraham ibn Hisdai, *Mozene Zedek*, ed. Goldenthal (Leipzig, 1839).

[2] M. Steinschneider, *Die Hebräische Uebersetzungen Des Mittel-Alters* (Berlin, 1893); N. Golb, "The Hebrew Translation of Averroes' Fasl Al-Moqal," *PAAJR*, XXV (1956), 91-95; A. Hyman, "The Composition and Translation of Averroes' 'Ma'amar be-'Esom ha-Galgal'," *Studies and Essays in Honor of A. A. Neuman* (Philadelphia, 1962), pp. 299-307.

[3] *Ginze Yerushalayim*, p. 33.

[4] *Mishnah Firke Abot* 5 : 22.

[5] Jonathan's biography remains to be adequately written. cf. S. K. Mirsky, "R. Jonathan of Lunel" (Heb.), *Sura*, II (1956), 242 ff.; S. Assaf, "R. Jonathan ha-Kohen of Lunel" (Heb.), *Tarbiz*, III (1932), 27 ff.

[6] Marx, *HUCA*, III (1936), 243, line 9.

Whatever his wide intellectual interests, Jonathan b. David ha-Kohen was primarily a competent and respected jurist. There were then no systematic philosophers native to the Provence nor did the Provence ever [illegible] such men. Jonathan's primary occupation and interest was the law. He had been a contemporary and fellow student of Rabad and Zecharyah ha-Levi at the Narbonne *yeshibah*. His major life work was a well thought of commentary to portions of Alfasi's *Halachot* in the form of longish essays explaining the underlying Mishnah text. [1]

Whatever his intellectual angle of vision, Jonathan was primarily a pious, even ascetic believer, deeply stirred by the messianic hope of redemption. In an encomium Jonah b. Solomon ibn. Behaleel described him not only as "one who [illegible] propagated the Torah" but equally as one who "rejected the pleasures of the day." [2] Circa 1210 Jonathan pilgrimaged to the Holy Land in hope of an early coming of the Messiah. [3]

Yet to Maimonides Jonathan found a teacher after his own heart, a rabbi who could call the Talmud his "father" and reason his "sister," an acknowledged *halachist*, (Jonathan set Judah al Harizi to work translating the *Siraj* [5]) a scholar revered for his piety, (Jonathan praised Maimonides for "cleaving with his soul to the reverence of his Creator" [6]) yet one alert to and master of all the various intellectual disciplines current. It is our position that

[1] *Commentary on Berachot and Erubin* in the El ha-Mekorot edition of Talmud (Jerusalem, 1959); *Commentary on Megillah and Mo'ed Katan*, S. Mirsky (ed.) (Jerusalem, 1956); *Commentary on Hullin*, S. Bamberger (ed.) (Frankfort à Main, 1871); *Commentary on Sukkah* (fragments), S. Kaminka (ed.); *Ha-Me-assaf*, IV (1899), 133 ff., 155a ff.

[2] N. Wieder, "The Burnt Book of Judah ibn Shabbatai" (Heb.), *Mesudah*, II (1944), 124.

[3] It was believed that there was a possibility of the Messiah's arrival in the year 1216. This calculation was based on the prophecy of Num. 23 : 23, "Now be it said of Jacob and of Israel: What hath God wrought?" By accepted calculations Balaam's prophecy had occurred in 2448 A. M. = 1216 A.D. (A. H. Silver, *Messianic Speculation in Israel* [New York, 1927], p. 75 f.) That Jonathan was adept at such calculation is evidenced by a eulogy to him found in the Cairo Genizah which begins, "O Torah bewail the one who read your books and interpreted your secrets." (S. Assaf, "Elegies on the Death of the Great in Israel" (Heb.), *Minah li-Yehudah*, I [1950], 164.)

[4] *Teshubot ha-Ranbam*, A. Friemann (ed.) (Jerusalem, 1934) (hereafter *TR*), p. LIV.

[5] Judah al Harizi, p. 406. Judah did not prosecute the work beyond the first order *Zeraim*.

[6] *TR*, p. LIII.

Maimonides' catholicity of knowledge attracted Jonathan to initiate and sustain their correspondence.

"Our hearts are disturbed. We row about seeking to return to the dry land but are unable." [1] Jonathan thus movingly described to Maimonides the impact of the Eastern philosophic tradition on the West. Here was a new world enticing but confusing. Jonathan sensed its promise and that his generation required competent instruction to avoid its pitfalls. He sensed that traditional apologetics were inadequate, and that neither he nor his fellow European rabbis were sufficiently equipped to be able to answer the many questions which forced themselves to attention.

Not unexpectedly, Jonathan's first concern touched a practical consequence of the new thought rather than some recondite systematic ramification. Philosophy becomes rarified only when its social implications have been exhausted. The issue raised concerned the validity of the science of astrology. [2] In a letter to be dated circa 1193 [3] Jonathan requested of Maimonides an authoritative statement on the powers, if any, of the stars and planets over human destiny. There are men about who insist upon man's dependence on the stars. [4] They quote such texts as the *T. B. Mo'ed Katan* 28a: "Rabba said: Life, children, and sustenance depend not on merit but on the planets." Various Talmudic texts cited by defenders of astrology were minutely analysed, and it is clear that the writers were troubled in squaring a theory of man's dependence on the power of the stars with their understanding of the religious tenets of divine omnipotence, free will, and the justice of retribution. [5] Although this letter was a query rather than a flat denial submitted for confirmation, it is clear that the interrogators were predisposed against ascribing any efficacy to astrologic calculations. [6] That Jonathan and/or the Montpellier school with which Jonathan was then associated, had won their way to a denial of astrologic control is a remarkable fact not sufficiently underscored. Post-Biblical Judaism had been steeped in astrologic speculation. Long since forgotten were The Biblical invectives against Egyptian and

[1] *TR*, p. LVII.
[2] Marx, *HUCA* III (1936), 311-358.
[3] *Ibid.*, p. 338.
[4] *Ibid.*, p. 348, No. 27.
[5] *Ibid.*, p. 345, Nos. 4, 5, 6.
[6] There is nothing in the text to justify Marx' assertion, "One feels that they believed in its (astrology's) truth in their hearts." (*Ibid.*, p. 315).

Babylonian necromancers and astrologers and Jeremiah's plea, "Learn not the way of the nations; be not dismayed by the signs of the heavens."[1] From Mishnaic days to the 13th century one is hard put to find rabbi or philosopher who denied planetary influence. Some qualified and denied the planets' power over Israel.[2] Others concluded that God could at will divorce a man independent of his star.[3] But few, if any, were prepared to deny entirely the power of the stars. A sophisticated astrologic rationale had been brought into the Provence by two early 12th century Spanish transplants, Abraham ibn Ezra[4] and Abraham bar Hiyya.[5] Gifted astronomers and mathematicians, these men had developed a subtle and beguiling rationale for popular belief. In short, there was no tradition which categorically denied astral power. No one had yet insisted in the West—as Maimonides was insisting in the East (where, incidentally, he was the first among medieval philosophers so to do)—that astrology was not only false but tantamount to idolatry.[6]

In his answer Maimonides presumed that his correspondents had not yet seen the *Mishneh Torah*. This conviction was based on his knowledge that the *Mishneh Torah* contained a straightforward, unequivocal prohibition against astrologic practice and belief, even prescribing punishment for anyone who acted on horoscopic advice.

> Who is an "observer of times"? The term applies to those who cast horoscopes claiming that astrologically a certain day is auspicious and another unfavorable or that it is well to do a specific task on a certain day or that a certain month or year is inauspicious for a specific task. It is forbidden to be an "observer of times" even if he performed no overt act but only spoke such lies as the foolish believe to be true and pregnant with wisdom. Anyone who acts on such advice... is stripped....[7]

[1] Jer. 10 : 2. cf. Isa. 65 : 4, Lev. 20 : 6 and 27, Deut. 18 : 9-15.

[2] *T. B. Sabbath* 156a, etc.

[3] *Ibid.*, 142a-b, etc.

[4] "Sefer ha-Nibharim," J. Fleisher, *Semitic Studies in Memory of Immanuel Loew* (Budapest, 1935); *Sefer ha-Tekunim*, J. Fleisher (ed.) (Jerusalem, 1951); *Sefer Reshit Hokmah*, R. Levy and F. Cantera (eds.) (Baltimore, 1939); *Sefer ha-Meorot*, L. Fleisher (ed.); *Sinai*, V (1937).

[5] Hegyon ha-Nefesh, I. Friemann (ed.) (Leipzig, 1860); *Hibbur ha-Meshihah We ha-Tishborot*, J. Guttmann (ed.) (Berlin, 1913); *Megillat ha-Megalleh*, A. Poznanski and J. Guttmann (eds.) (Berlin, 1924); *Zurat ha-Aretz* (Offenbach, 1720).

[6] Marx, *HUCA*, III (1926), 350, lines 21-27. *Note bene* that the rules on astrology were subsumed in the *Mishneh Torah* into the category of prohibitions implicit in the Biblical term "idolatry."

[7] *M. T. Abodah Zarah* 11 : 8-9.

One wonders, however, if Maimonides did not misinterpret the motivation of Jonathan's letter. Having found this text and having read the other scattered references to free will, retribution and omniscience in the *Mishneh Torah*, Jonathan may simply have wanted Maimonides to draw out and systematize his logic. Possibly he wished to circulate such a document to counter the sophistications of bar Hiyya's *Megillat ha-Megalleh* and ibn Ezra's *Sefer Reshit Hokhmah*. If, as seems to be indicated, Jonathan denied astrologic influence he stood almost alone. Rabad qualified Maimonides' prohibition against practicing divination or acting on advice thus secured by insisting that although one may not act on the advice of magician or astrologer, one may act on the basis of premonition or experience. [1] Moses b. Jacob of Coucy (circa 1180—1250) insisted that the common practice of foretelling by randomly selecting a Biblical verse was "prophecy" rather than "divination" and therefore permissible. [2] Nachmanides insisted that the planets and intelligences do control human destiny with a single exception—Israel had been uniquely exempted from their invisible chains. [3]

Despite its primacy in time, the issue of astrology was not raised controversially in the Maimonidean debate. The rationalists (i.e. the Maimonideans) were the devotees of this pseudo-science. Here they took their lead from ibn Ezra rather than Maimonides. [4] Not until the next century do we find a philosophically oriented scholar, Isaac Pulgar, fully subscribing to Maimonides' thesis that divination is not only false and misleading but a form of idolatry. [5] On their side the traditionalists were rigidly limited in their attitudes by the Biblical condemnation of "the ways of the Amorite" and furthermore many had little interest in the sophistications of the "science" of the stars, preferring to make their predictions from the permutations of the Torah text rather than the intersects of planetary trajectories.

The subsequent item in the Jonathan-Maimonides correspondence was a set of twenty-four *halachic* questions to the *Mishneh Torah*. [6]

[1] *Ibid.*, 11 : 4-5.
[2] Cf. Joseph Karo, *Kesef Mishneh* to *M. T. Abodah Zarah* 11 : 5.
[3] Nachmanides, *Perush ha-Torah* to *Num.* 23 : 23.
[4] L. Baeck, "Characteristen den Levi ben Abraham," *MGWJ*, XLIV (1900), 24-41.
[5] Isaac Pulgar, *Ezer ha-Dat*, G. S. Belasco (ed.) (London, 1806).
[6] *TR*, p. LII ff. and *TR* 1, 2, 7, 49, 50, 59, 61, 65-89, 90, 93, 106, 123, 129, 131, 143, 150, 152, 165, 260, 339, 340.

It was dispatched East circa 1194 and answered in 1199 after several intervening petitions and pleas.[1] It became a classic and much circulated document. The protagonists of the *Kitab al Rasail*[2] obviously had this document before them as had Daniel b. Saadya.

These questions present many difficulties. Why were these precise issues chosen from the vast *Mishneh Torah* text for Maimonides' personal comment? There is no readily discernible plan. Were more than these questions sent? What is the relationship, if any, between these questions and the *hassagot* of Rabad and the *hagahot* of Moses ha-Kohen? On this latter question there were already in the Middle Ages several traditions. One tradition insisted on Jonathan's impartiality. Shem Tob ibn Palaquera (13c) observed, "It appears to me that the sages of Lunel edited anonymously the essence of the *hassagot* (Rabad) to learn how Maimonides would answer."[3] Isaac b. Jacob Lattes (14c), however, made Jonathan a Maimonidean protagonist. Jonathan "answered the glosses of Rabad in order to establish the teaching of Maimonides—a great many beyond numbering."[4]

Lattes' view commends itself. The implied purpose of these questions was to win support for Maimonides against one or another of the glossators, but the details are not certain. None of the documents is dated save the final response, September 30, 1199.[5] Though there is a high degree of similarity between the content and language of these twenty-four questions and Rabad's corresponding *hassagot* there is no identity. The questions to *M. T. Tefillin* 1:8 (*TR* 7), *Berachot* 8:11 (*TR* 51), *Sabbat* 14:6 (*TR* 59), *Shehitah* 8:23 (*TR* 89) ard 8:11 (*TR* 90), and *Nedarim* 13:1 (*TR* 106) are unique. Only one of these, *M. T. Shehitah* 8:23 (*TR* 89) was discussed by Rabad and was discussed by Moses ha-Kohen, and the issue submitted to Maimonides was not similarly joined. On this point at least we can be certain; the twenty-four were not derived from Moses ha-Kohen. Moses ha-Kohen glossed only five of the same

[1] On the datings of these various documents cf. Marx, *HUCA*, III (1926), 325-335; A. Deisendruck, "On the Date of the Completion of the Moreh Nebukim," *HUCA*, XII-XIII (1937-38), 463 ff.; I. Sonne, "The Letter of Maimonides" (Heb.), *Tarbiz*, I (1938-39), 135-154, 309-332.

[2] Cf. Chapter VII.

[3] Shem Tob ibn Palaquera, *Migdal Oz* to *M. T. Zivit* 2 : 6.

[4] Isaac b. Jacob Lattes, *Kiryat Sefer*; Neubauer, *Medieval Jewish Chronicles*, II, 438. David of Castille made an identical comment. (*Kiryat Sefer*, *ibid.*, II, 252).

[5] *KTR*, III, 292.

passages, *M. T. Berachot* 1:11 (*TR* 49), *Sabbath* 2:21 (*TR* 61), *Shehitah* 8:23 (*TR* 89), *Maachelot Assurot* 11:18 (*TR* 93), and *Issure Bi'ah* 15:2 (*TR* 152), and there is in these passages little similarity in language or approach.

It may be that Jonathan had a text of Rabad before him, but given the facts as they are the reverse construction is equally possible—though not probable—Rabad may have had before him some original notes of Jonathan ha-Kohen's school. Neither, to be sure, mentioned the other, but notice Rabad, "I saw one who disputed Maimonides on this..." [1] where the issue being glossed was precisely one on which Jonathan raised comment. There is no Moses ha-Kohen *ad loc*. The more probable construction, however, is that Jonathan selected from all the glosses raised by anyone and chose either the most difficult or the most typical.

Is there any explanation possible for his choice of texts? They range over nine of the fourteen books of the *Mishneh Torah*. It was the practice in many schools to study only the four Talmudic tractates covering currently applicable law. Perhaps they reflected interest only in current practice? Not so. *TR* 143 raised a technical point concerning the manumission of slaves sanctified to the Temple in Jerusalem. *TR* 150 concerned the problem of cleansing certain vessels used for the burnt offering in the Temple.

A surprising number deal with the personalia of the faith. *TR* 1 involved the making of the fringes of a prayer shawl. *TR* 2 treated the same theme. *TR* 7 involved a classic rabbinic debate about the placement of Scriptural passages in the parchment insert for phylacteries and the preparation of that parchment. *TR* 129 concerned the preparation of parchment for Torah scrolls, phylacteries, or mezuzot. *TR* 131 concerned the definition of "house" with a view towards deciding when a doorway required a mezuzah. It is known that these practices were then in a state of uncertainty but the immediacy of many of these rulings dissipates on closer examination. *TR* 1 concerned a blue dye which had been unavailable for half a millenium, all fringes of a tallis long since having been made white. *TR* 2 dealt with the possibility of these same, no longer available, blue threads being twined. *TR* 131 turns out to be not so much a search for a proper "definition" of a house as for the proper wording of a decision in a debate in *T. B. Menahot* 32a. In short, the issues are rather more technical than topical.

[1] *Rabad* to *M. T. Zivit* 2:8.

The as yet uncited responses range farther afield and often indicate no more than a continuing imprecision concerning an old and never settled Talmudic debate. *TR* 50 involved the wording of two related but irreconcilable Talmudic texts, *T. B. Berachot* 20b and 48a. *TR* 260 questioned the required height of a fence in a subdivided lot to assure privacy—at issue is the text of *T. B. Baba Batra* rather than any practical consequence. *TR* 339 involved the degree of liability for cattle which wander through a breached fence and is at base not as much a search for law as for the consensus between *T. B. Baba Kama* 56b and other relevant passages.

Five questions cited possible textual errors on the part of the *Mishneh Torah*'s scribe: *Zizit* 2:7 (*TR* 2), *Shabbat* 14:6 (*TR* 59), *Shehitah* 8:11 (*TR* 90), *Kiddushin* 4:44 (*TR* 165), and *Nizke Mamon* 4:4 (*TR* 340). In all cases but *Shehitah* 8:11 Rabad had noted the error. In one case, *Berachot* 8:11 (*TR* 51), Jonathan suggested a correction which Maimonides admitted—somewhat testily, to be sure—though it was not a scribal error but an oversight. The issue was minor. There is an appropriate blessing for strong drink, "by whose word all things exist," and a special bessing for wine, "who createst the fruit of the grapes." If the special blessing for wine is recited over hard liquor Maimonides ruled the obligation had been fulfilled. Jonathan wondered how this can be, seeing many liquors are made from cereals rather than from grapes. All one need add is that Maimonides lived among those who eschewed strong drink, at least openly, and the vines of South France were famous. That Rabad was a teetotaler is not indicated by his lack of comment.

No generalization fits all these questions. The construction which appeals is that they represent some culling of questions raised in the Provençal schools and that they were sent to Maimonides by a group eager to defend his rabbinic competence and, thereby, further validate his philosophic and/or messianic approach. The introductory panegyric of Jonathan's letter often seems preoccupied with theological issues rather than with the submitted *halachic* points. "Most graciously you did give to the people of God knowledge, understanding, and reasoned analysis." [1] Maimonides is Israel's best guide to the citadel of wisdom. Hence the *Moreh*'s text rather than the *Mishneh Torah*'s context which was being solicited.

Indeed, Jonathan's requests for Maimonides' long delayed answers to these questions shaded off into interest in the *Moreh*, re-

[1] *TR*, p. LV.

quests for its text,[1] requests for its third part,[2] and Samuel ibn Tibbon's questions as translator.[3] Let Maimonides' own evaluation of Jonathan and his circle stand.

> [Their letter] testifies to the purity of their souls, and that they pursue the sciences and investigate the discipline of knowledge and that they desire to go up the rungs of true understanding to find fit teachings and proper tradition, to understand the issue and the interpretation, to open up all that is closed and to straighten all that is bent.[4]

The fact that Maimonides answered these *halachic* queries established for them an historic centrality they basically did not deserve. Both Rabad and Moses ha-Kohen edited more sophisticated marginalia, but Maimonides, himself, had responded and scholastic makers of tempests in *halachic* teapots made the most of it.

For students of the Maimonidean controversy this correspondence establishes the presence and quality of at least one circle of Provençal rabbinic admirers who were excited by the full ambit of Maimonidean ideas. Shortly, as we shall see, attack was pressed against Maimonides for his analysis of the tenet of resurrection. The challenger could not throw down the gauntlet to Maimonides directly, so he directed his arguments to this circle of admirers in Lunel. A champion was not tardy, but that is the substance of the next chapter of our history.

[1] *TR*, pp. LII-LVI.
[2] *KTR*, II, 44b.
[3] *KTR*, II, 26b-27a. The second letter was published in Z. Deisendruck, "Samuel and Moses ibn Tibbon on Maimonides' Theory of Providence," *HUCA*, XI (1936), 13-22; for Maimonides answer cf. *KTR*, 27a-29a.
[4] *KTR*, II, 24b.