

THE REASONS FOR THE COMMANDMENTS

as given by

M A I M O N I D E S.

Graduating Thesis

of

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THE REASONS FOR THE COMMANDMENTS.
Maimonides
 PREFACE.

When we consider the numerous yet vain efforts that have been made in the Bible, ^CGreco-Jewish writings, Talmud, and in the philosophic literature of the Middle Ages to supply reasons for the ceremonial and institutional laws of the Pentateuch, we cannot but ask with the Rabbis: ¹מִדֵּי הָיָה לָנוּ מִסֵּד הַמִּצְוֹת לֵאמֹר כִּי הָיָה כֵּן. why were not the reasons of the laws revealed by those who ordained them? Of course, the Rabbis attempt to answer this question by saying: כִּי שָׂאָה יִצְחָק בְּרָם

"So that the laws might not be treated lightly". But we cannot be satisfied with such an answer. In the first place, because it is doubtful whether the knowledge of the origin of a law militates against it; secondly, because the Bible itself attempts to give reasons for many of the laws;¹ and thirdly, because we know better why most of the ceremonial and constitutional laws were left unexplained.

Now laws might be left unexplained on account of four causes. First, because the reason of the law was well known to the people of that generation. Secondly, because lack of space precluded the possibility of publishing the discussion that led to the adoption of the law.² Thirdly, because the reasons might have been lost.³ And fourthly, because a reason may never have existed.⁴ Now it matters very little which of the above mentioned causes had contributed to the fact that the ceremonial and institutional laws of the Bible were left unexplained.

1. See infra pp. ✓

2. The Mishnah leaves out all discussions.

3. Magic may have been the first cause. In the process of evolution that reason disappeared; but the ✓

One thing, however, we do learn from them namely that it is sheer folly to rationalize about laws concerning the origin of which we lack authenticated data. Rationalizing in that case is mere guesswork and guesswork is never praiseworthy or enduring.

But in spite of the absence of authenticated historical data, the desire to furnish reasons for the unexplained laws of the Torah has manifested itself in nearly every generation of our history. The causes for this desire were, of course, many. The human mind, in the first place, is never satisfied with mere commands but wants to know the why and wherefore of things. It therefore speculates and by speculation tries to learn what history has withheld from it. A people, again, may be stimulated to rationalize its reasonless laws in order to defend them against the attacks of another nation.⁵ And finally, men may be led to rationalize in order to reconcile their advanced ideas with the practices they dare not, for some reason or other, renounce.⁶ Of course we cannot always point out with definiteness to the cause that may have been operating at a certain period. Nevertheless we are pretty certain that the impetus to all Biblical rationalism was furnished by one or all of the above mentioned causes. Indeed even the Rabbis saw these causes and in explaining what a חוק is, say: אלה הם שהעפון סמכרנן עליהם: ואמם הקולם משיבין עליהם

.....

4. Ceremonies are often reactions to felt needs and are therefore non-rational.

5. This was obviously the task of Philo vol. 3. p. 175. Circumcision is ridiculed.

6. This is practically the position of Mainpny.

Introduction

Ch. I.

BIBLE.

The fact that the reasons for most of the ceremonial laws were lost at a very early period in our history, coupled with the fact that inner and outer pressure ever demanded reasons, accounts, indeed, for the tendency shown, now and then, by the Pentateuchal authors, in supplying reasons for some of the ritual laws. Some of these writers, spurred on as it were by the questions that the "children might ask" - ומה כי ישאלך בנך, proceeded to explain some of the most ancient festivals and customs on an exclusively historical basis. Thus, the sacrifices or the redemption of firstlings⁷, the Paschal lamb, the eating of unleavened bread, and the Feast of Tabernacles are all explained upon the basis of a supposed historical event. The abstention from the "shew that shrank" is connected with an episode in the life of an ancestor; Sabbath commemorates(?) the going out⁸ forth from Egypt, and circumcision is a sign of a covenant entered into by God and Abraham, another ancestor. Other writers, confine themselves to the giving of a moral or cosmological reason for the laws: Sabbath

7. The sacrifice of firstling is the common property of all primitive religions. It is based upon the theory that the "first" of anything belongs to the creator. It has nothing to do with the going out from Egypt.

8. It seems to me that in time of national prosperity only historical reasons were given for ; when in conflict with other cultures - pure rationalism was the result, ex. Alexandria; and in time of inner dissension all Nationalism was discouraged, ex. Antinomistic period.

is a commemorator of a cosmological

is a commemorator of a cosmological event; circumcision a remover of a disgrace (Gen. 34, 14); hewn stones are rejected for altar-building purposes because the "iron" desecrates them, and the altar must be mounted by steps for the sake of decency. Still other writers refuse to give any reasons except one, namely, the command comes from God: "אֵל עֲבֹדוֹתֵי חַשְׁמָל וּמִקְדָּשֵׁי חִירָאוֹ אֲבִי ה'" (Lev. 19, 31). On the whole however the Pentateuchal authors are very chary in giving reasons though they do not seem to object to the principle as such. Evidently they only felt the greatest pressure from within⁸ and therefore did not exert themselves as much as the writers of later generations.

The beginning however once made, a continuance of rationalism was inevitable. Naymore, it ever assumed the form of a well defined movement, particularly among the adherents of the Alexandrian school. We do not know how early it started; but in the first and second century B.C.E. we find this movement well under way. Greek hostility on the one hand, as well as, a desire to "glitter"⁹ were perhaps the main factors in ushering in this movement.

9.

בְּלֹא הֵיכָל הָיָה הַדָּבָר שֶׁהַהֲוֹת הַקֹּדֶשׁ נִהְיָה בִּיהֲהֻת הַיָּחָד לְהַקְוִים הַחֻקִּים שֶׁבִּיהֲהֻת

(הַשִּׁלּוֹחַ י"א רמא)

^c
GRIEKO-JEWISH PERIOD.

LETTER OF ARIISTEUS. (130 B. C. E.)

The author of this letter dwells in particular on the "reasons" for the dietary laws. His preference in this matter may indeed be accounted for. The dietary laws appeared in the first place most unreasonable to the Greeks, and in the second place because they seemed to make sociability between Greek and Jew well-nigh impossible. He therefore sinces out the dietary laws and proceeds as follows:

1. Why is there a distinction between clean and unclean food?

A. To promote holy meditations and to build up character, for the furtherance of righteousness, for

1. Unclean animals are rapacious(?)
2. Clean animals are not rapacious.

By prohibiting the first and permitting the second Moses wished to suggest to the people the desirability of cultivating the habits of the clean animals: i. e. gentleness and domesticity etc. Indeed this wish of Moses is well reflected in the signs by ~~which~~ which the clean animals might be recognized:

- | | |
|---------------------------------|---------------------------------|
| 1. Cloven hoof = Discrimination | } —two mental habits which lead |
| 2. Cud-chewing = Reflection | |

to the upbuilding of character. "For the laws have not been made at random or capriciously: but for the sake of truth and to point out where right reason lies."

B. "Above all the laws serve as a ^{גדר} against the heathen world, so that Israel who believes in one God might not fraternize with them and become corrupt."

Aristeas thus shows ~~that~~ two tendencies: Pure rationalism ^{פיר' אריסטו} and

a divine motive" (B. has practically the significance as כלפי פנים)
 In this "dualism" or double front he was not alone. We shall indeed see that other rationalists had similar tendencies.

THE THIRD AND FOURTH BOOKS OF THE Maccabees.

The third book (100 B. C. E.) contains almost nothing that bears on our thesis. It only brings out the point that the greatest obstacle between Jew and Greek was the dietary laws, and then proceeds to show -not by example- that an observing Jew can be a good citizen, naymore, a better citizen of the Commonwealth.

The fourth book (50 B. C. E.) also contains but little favorable material. There however we find indicated, the dualistic tendencies were hinted about. Eliezer first speaks of forbidden food as, "strange meat" leading to "strange pleasures", suggesting thus that the dietary laws serve a rational and moral purpose. In another place however he speaks of the dietary laws as having no other justification than their divine origin. (v. 16).

PHILO

Philo living in a milieu hostile to Judaism was therefore quite eager to show that Judaism was higher in many respects than Hellenism¹⁰ and that even that its ceremonies were based upon moral principles. His system is more comprehensive than that of Aristides, inasmuch as he attempts to give a reason for a great number of the ritual laws. His attitude is that of an apologist. Thus he takes up circumcision he remarks: "and we will begin with that which is turned into ridicule by....."

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10. Philo even accuses the Greek philosophers of having appropriated the ideas of Judaism though they never confessed it.

by people in general." Then he proceeds to give the following reasons:

i. Circumcision¹¹

A. Preventive of carbuncle¹¹.

B. A securer of cleanliness of the whole body (?)

C. Conductive to fecundity.

D. A curtailer of pleasure which delude mind.

Quasi scientific
reasons.

E. The organ when circumsized resembles the heart and just as the
the one generates thoughts; so should the other one generate life. } Symbolic

ii. Priestly Rewards:

A. The נִיחַן and יְדֵי שֵׁשׁ symbolize two virtues that ought to distinguish the priesthood: manly vigor and gentleness. Or: יְדֵי שֵׁשׁ as above; - נִיחַן - against the appetites; - and יְדֵי שֵׁשׁ as first fruit of the head of the body.

iii. Animals fit for Sacrifice.

A. Oxen, sheep, and goats because they are the most gentle of quadrupeds.

B. Doves, because they are the most gentle of fowls.¹²

iv. Fins and scales symbolize the desirability that man try to shape condition

11. All rationalism defeats itself. For: circumcision could not have been introduced for hygienic purposes: inasmuch as primitive people (circumcision is frequent among primitive peoples) know nothing about hygiene. Moreover, the exposure of the "glans penis" really heightens lust. It is more likely that circumcision was practiced for the following reasons: 1. as a preparation for sexual life (the Arabs circumcise at the age of puberty) 2. Pars protota, 3. tribal mark, 4. initiation through the satisfaction of the genital.

12. The fallacy of rationalism is quite evident here. Philo gives one reason while Maimonides gives another. According to the latter, three clauses were chosen because they were more common in Palestine. Again Philo even the details of sacrifice while M. speaks of them as inconsequential.

13. This is at variance with the Talmud and Maimonides.

to ~~g~~it himself and not drift, like finless and scaleless fish, with the current.
 וְנִפְרָטָה - the same as in Aristops. Pork is very savory but prohibited so as to wean the people away from luxury.

v. A sheep-stealer pays fourfold because of four qualities of sheep¹², i.e., milk, cheese, fleece, and offspring. A cattle-stealer pays fivefold because of the five qualities of cattle.

vi. Sabbatical year: It was observed because

A. in honor of the number of seven

B. that by submitting willingly to need, we might train ourselves to withstand involuntary ones.

vii. וְהַחֵמֶה... and the reason why the flour is to be made of barley is because the food which is made thereof is of a somewhat ambiguous nature, suited alike for irrate animals and needy man; and is therefore a sign that a woman guilty of adultery differs in no respect from the beasts whose connections with one another are promiscuous and inconstant.

viii. וְהָיָה כִּי יִשְׁמָע ה' אֶת הַדְּבָרִים הָאֵלֶּה וְיִשְׁמָע ה' אֶת הַדְּבָרִים הָאֵלֶּה So that he may not hear the word of God about the freedom of the soul.¹⁴

The above citations from Philo show indeed how eager he was - often without success - to demonstrate to the Greek world the superiority of Judaism. He was nevertheless less dogmatic about his reasons than any of his predecessors or followers. Thus when trying to account why the Torah was given in the desert he frankly remarks, "these are the causes which may be advanced by probable conjecture. For the true cause God alone knows", vol. iii, p. 139.

14. This too is at variance with the assigned by tradition. It also seems that Philo thought that it was the ear's ear-iron and not tip of the ear was punctured so that he may never hear again.

TALMUD.

The Alexandrian Jews, however, were not the only ones to busy themselves with finding the reasons of the ritual laws. The Palestinian Jews were not much behind them in this respect. It is quite likely that the rationalistic movement began in Palestine shortly after the Maccabean wars when the Rabbis, compelled to take notice of Hellenism, felt it their duty to show the superiority of Judaism. Partisan strife, such as existed between Pharisees and Sadducees, may also have played its role. The Phar. standing as they did for the enlightenment and the democratization of the law, could not but resort to the means of explanation that promised to make the Torah the possession of the whole nation. Thus do we find the Rabbis divide the Torah into two general divisions: Mishpatim and Huqqim ((מפואר פרה יח' ומכילתא שמוח) . . . קומא מ" (The Mishpatim are such as,

while the Huqqim are while.
 שיכבדו ואלו הן עכום" נק" שד" נזל וברכת השם
 the Huqqim are these דברים שהשמן משיב עליהם ואלו הן חזיר שקמנו תליצה וכ" But, even
 the apparently irrational laws have their basis in ulterior moral purposes. For
 קאמר ר"ה. הוצגו בן שאול מס" אמרה חורה הביא עגל ה כנחל? אמר הקבה" ימא דבר של
 ע" פיהו: ניקרף במקום שאין עושה פיהו: ויכפר על מי שלא הניחו לעשות פיהו: (סופה מו")
 א. --- שקמנו --- שמקון בן אלקור אומר בלנו: ומליז אח אביו שבשמים (הנחומא א" ספרי כי חצא
 רלב"). מה נשחנה סדורק שאמרה חורה יביא שחי צפרים? אמר הקבה" הוא עשה סעודה פמיט לפיכך
 יביא קרבן פמים. (ערכין מ")

מ" סנחה מופה שעורים? היא עשה סעודה בהמה תביא קרבן בהס. מה נשחנה און סכל איברים?
 אמר הקבה" און שמעך קנלי על הר סיני כי לי בני ישראל וכ" (קהושין כב") מה נשחנה דלת
 וסנחה? שהיו עדים במצרים (קהושין כב"). והרבה את האשה: ואת הבהמה: אם, אם, חמא, סה.

15. But, suppose the slain person is an old man?

המאה בהמה? אלא לפי שבא לאדם תקלה על גידה לפיכך אמר הקבה" (מפרא קהושים פ" וי"ש)
שאלו את ריבזי מפני מה החמירה תורה בגנב יותר מבגנולן? אמר להם זה השוה כבוד עבד לכבוד
קדשו וזה לא השוה וכו' (בק"עמ"י) 17 ממ" מילה לשמונה? שלא יהיו כלם שמחים ואכיל וזאמו
בעצבים (נדה לא")

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These passages by no means exhaust all the reasons the Rabbis advance for the ceremonial laws. ¹⁸ These however adequately prove that the Rabbis at one time were not averse to rationalize and to supply reasons for the apparently unreasonable laws. This tendency however received a check in the time when the struggle between Christianity and Judaism was stronger. Paulinian Christianity attacked all legalism and explained away all the laws as mere symbols and signs. (Such an attitude threatened the very existence of Judaism and the Rabbis had to insist upon strict adherence to the law be its reasons whatever they may. Indeed the very tendency that was formerly held praiseworthy (מאי למסכת עתיק יומין?)

איכא דאמרי זה המגלה דברים שכימה עתיק יומין ומאי ניהו? מעמי תורה. (פמחים קימ")
האומר על קן צפור יגיעו רחמיך וכו' מפני שעושה מהותו של
הקבה"רחמים ואינו אלא גזירה" (ברכות לג:) למה חוקצין? רחמנא אמר חוקצין (רה"ז"י).
אל יאמר אדם אי אפשר בבשר חזיר, אלא אפשר בהן והחזיר אמרתן. מה נשתנו פמרי חסמורים
מפמרי סומים? גזירה הכתובה היא (בכורות ה"ה) 19 אמר רבי ממ" לא נתגלו מעמי תורה? שהרי
שתי מקראות נתגלו מעמן נכשל בהן גהול העולם וכו'.

But even those who objected to the searching for the divine reasons because they regarded the commandments as the expressions of God's will, (חקה חקתי גזירה גזרתי) even these saw some general purpose in the ritual commandments (מכות כג:) (מכות כג:)
ומש" יונה דמתי למכנת ישראל ליונה? מה יונה אינה נצולה אלא בכנפיה; ואף ישראל אינו ני
אלא במצות (ברכות כג:) מה איכפת ליה להקבה"ל לצרף בהן את הבריות (בראשית רב"י) ממ"

נתנה תורה לישראל? מפני שהם עזין... שאלמלא אין כל אומה ולשון יכולין לעמוד (ביצה כ)
We may therefore say that on the whole the Rabbis were inclined to rationalize

that they even looked with favor upon it, discouraging it only when the times

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demanded such an attitude. At no time ~~however~~ did they regard the Mishpatim as superior to the Huquim. Indeed the reverse is rather true. For the moral law they thoughtman could ^{learn} from his surroundings (אמר ה' יהונא אלסלא ניתנה תורה לישראל) היינו לסדין בניעות סחחול; גזל סנסלה, וכו' (עירובין, ק:)

But the ritual law he ^{would} not know by himself. God therefore had to reveal it to him and for that very reason it is more sacred than the moral law.

(Some additional passages bearing upon the attitude of Rabbis toward giving reasons for the mitzvot are the following: בכורות, לו; בסדר, ה; יב"י" בכוהות, לו; נדה, לא; ספרי דברים, רכו; חולין, קלד; ספרי כי תצא, רלב; רה" כח; עירובין, לא.)

MAIMONIDES' PREDECESSORS.

SAADIAH. (892 - 942)

Chap. II.

The tendency to reconcile and to rationalize did not succumb to the crusade initiated against ^{it} during and after the antinomistic movement. The causes I have indicated in the preface ^{were} ~~are~~ constantly at work and naturally ^{bring} ~~bring~~ about the corresponding effects. The Karaitic movement, insisting, on the one hand, upon literalism, and attacking, on the other, the anthropomorphism of the Hagadiets could not ^{but} ~~bring~~ about the recrudescence of rationalism as well as antirationalism. The first to combat literalism and the other - to protest ~~against~~ the Hagadiets who by their symbolization actually corporealized God. These two antagonistic principles, strange as it may seem, ^{were} ~~also~~ ^{almost simultaneously} espoused by the greatest Jewish philosopher of that time, Saadiah. He divided the commandments into rational - רציונלי and חובות - mandatory. The first are dictated by reason, while the second class derives its importance primarily because it has been commanded by God. This definition of the "mandatory" laws Saadiah was compelled to give because of a double reason: ^{because} First, it was the traditional definition; and secondly because it was a direct outgrowth of his God conception. God to him was primarily an ^{יוש} a creator - a being whose will is constantly asserted" (, רציונלי / חובות / 10, 3). The commands of such a being, therefore, should not be inquired into, but strictly obeyed. The stress of the times, however, com-

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Saadiah attacks the author of the Kalam for having omitted of God's attribute the attribute יכול. (p. 92) and א/כ כ, סוף יב

pelled Saadiah to be inconsistent. The Karaitic controversy must have raised other questions too and Saadiah must have felt the need of having a revaluation of values. Thus do we find him entering ^{among others also} the old field of שְׁמִיּוֹת מִצְוֹת

He begins by answering the question: why God, desirous of conferring only good upon Israel, did not dispense with all commandment²¹ and says that the reward for action is greater. Then he gives a few examples of the שְׁמִיּוֹת, such as worship, prohibition of blasphemy and the laws of righteousness, and shows how these are perfectly logical. After this he turns to the שְׁמִיּוֹת and tries to explain some of them:

1. Holidays - for rest and study of the Torah.
2. Sanctification of priests - to arouse emulation in the rest of the people.
3. Dietary laws - so that people worship not animals.
4. Incest - to discourage illicit intercourse that close proximity might otherwise facilitate.²¹
5. שְׁמִיּוֹת - self abnegation.
6. הַקָּשָׁת׃ הָקֵם וְהַחֲלֹב - "for we know that the blood is the dwelling place of our souls. Now, when we see this (i.e. the sacrifice) we will say to ourselves: we will not sin again so that our blood and fat might not be shed and burnt as we see these."²¹
7. Why Temple cult²¹? - God desires that man attest his faith in an overt manner.

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Consanguineous marriages may have grown out of

(a) The lure that the stranger exerts,

(b) The desirability to have *exogamy* & its advantages

8. Why circumcision? ^הprecept ^אdefect; circumcision makes man perfect

Most of his explorations, however, have their basis in morality. This is indeed, natural. For although God is primarily a ^יכֹּלֵל, He is also ^אמֵאֱלֹהִים and his commandments must of course be conducive to the heightening and deepening of life's values. ²² Moreover, God is a ^יקָדִים, eternal. He created the world out of sheer goodness. All of His commandments must therefore be good and of benefit to His creatures. Thus the apparent inconsistency we alluded to above is really explained away. For inasmuch as God is a ^יכֹּלֵל His commandments need no other sanction. But whereas He is also a ^אקָדִים His laws must necessarily have good reasons and Saadiah was at liberty to point them out.

BAHYA *--(1050 -- חִיבֵת הַלְבָבוֹת)

Bahya seems to follow Saadiah in using the same division of the commandments. Thus, in the introduction he says: חִיבֵת הַאֵיבֵרִים

יחלקי לִבִּי חֲלָקִים: (א) הָאֵחָד מֵהֶם מֵצִיחַ שֶׁמֵּחִיב בָּהֶם הַשָּׂנֵל אֶפִּילֹי אִם
לֹא חֵיבֵק בָּהֶן הַתּוֹרָה; (ב) וְהַחֲלָק הַשֵּׁנִי מֵצִיחַ הַשָּׂנֵל שֶׁאֵין הַשָּׂנֵל מֵחֵיב בָּהֶם וְלֹא
דוֹחַ אֹתָם, כִּי אִיִּסּוּר בְּטֵר כְּחֹלֶב, שְׁעִטָּה, כְּלָאִים וְדִימָה לָכֵן מִמֶּה שֶׁנִּעְלָמָה
מִמֶּנִּי עֵילַת אִיסּוּרִם וְעֵילַת כֹּחַ חֵיב מִמֶּה שֶׁנִּתְחַיֵּבֵנּוּ בָּהֶם

He also has a division of his own

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From the foregoing I am inclined, much as I regret, to differ from my teacher, Dr. Neumark, who in one place remarks: ^נעֵינִי שֶׁפִּעְדִּיק נִשְׁבָּא
בְּמִנְיַת עַם הַפְּלוֹסוֹפִיָּה בִּיּוֹעַת הַחֵיב אֶת דְּפִרְצָה שֶׁבִּין הַחִקְיָה קְדוּתָהּ וְהַמִּוִּסּוּת עַל יְדֵי לֵב
שֶׁהַגִּדּוּל בֵּין שְׁמַעֲיָה וְהַשְׁכָּלִיּוֹת וְנֹ" (בְּשֵׁלֶחַ, פֶּקֶד י"א, דף ר"ז)
For even Saadiah just as Maimonides, concedes that the ^אחִקְיָה after all rest upon a moral basis. Saadiah: God is good. Therefore the laws are good. Maimonides: Laws are good. Therefore God gave them. This difference of method could lead to different results. But as both believed in the plenary inspiration of the Bible their different methods lead to the same result.

Saadya says: (א) הָאֵחָד מֵהֶם מֵצִיחַ שֶׁמֵּחִיב בָּהֶם הַשָּׂנֵל אֶפִּילֹי אִם לֹא חֵיבֵק בָּהֶן הַתּוֹרָה; (ב) וְהַחֲלָק הַשֵּׁנִי מֵצִיחַ הַשָּׂנֵל שֶׁאֵין הַשָּׂנֵל מֵחֵיב בָּהֶם וְלֹא דוֹחַ אֹתָם, כִּי אִיִּסּוּר בְּטֵר כְּחֹלֶב, שְׁעִטָּה, כְּלָאִים וְדִימָה לָכֵן מִמֶּה שֶׁנִּעְלָמָה מִמֶּנִּי עֵילַת אִיסּוּרִם וְעֵילַת כֹּחַ חֵיב מִמֶּה שֶׁנִּתְחַיֵּבֵנּוּ בָּהֶם
The emphasis is to be laid on my words: *הַחֵיב אֶת דְּפִרְצָה שֶׁבִּין הַחִקְיָה קְדוּתָהּ וְהַמִּוִּסּוּת עַל יְדֵי לֵב*

which at a glance reveals his deep insight into the nature and origin of ceremony and custom. He calls one ^{class:} "external" and includes in it: *מפניק* *איום, צדקה, למידת-תורה, סוכה* while the other, *מזידה, ומטקק*.
while the others

he names "Internal" and includes in it: *אמונה בן עבודתו, קבלת עבודתו, יראת ופחד מפינו*.
Being, however.

a psychologist-moralist he refuses to follow Saadiah in his rationalism and declares that we do not know the reason for the laws. He only suggests, in a general way, that: -"the ordination of the ritual as well as the moral law had but one purpose to serve God and thus reach happiness here and hereafter."^(שעני קבוצה) But he loses no time in stating which of the two, the ceremonial of moral law is superior. The moral is of course superior. "For it is lodged in man's reasoning faculties, planted in his very consciousness, is in fine, innate in him." (שעני קבוצה אל) It, however, needs the commandments so that man, ere he matures, might have some sort of a guide. Having thus laid down his principle, Bahya ignores the eternal question entirely, and rather proceeds to show the relative value of each law, i.e. the moral and ceremonial. He is no longer concerned with Jewish ceremonialism: ^{but with ceremonialism in general} is general and, after giving seven reasons why the moral law is superior, he also gives seven reasons for the cultivating of the ritual. These, I believe, are very important. Indeed, by far more important than all the seasons, rational or historical, that have ever been given in order to make the ritual laws more acceptable. For these give the psychology of ceremony and this, if true, is lasting and may appeal to all generations. It is because of the import-

23 "שכל" in Bahya surely means moral.

ance that I attach to psychology that, although somewhat irrelevant to my subject matter, I herewith state his seven reasons for the ceremonial law: (Chap. 3)

1. ^{There are} To stabilize man's dual nature. ²⁴
2. "Reason does not necessitate such worshipful action as prayer, fasting, charity, and Kindness." ^{25 / these commandments, which} Also ^{to know} the limit of these. ^{^ reveal}
3. Moral consciousness varies with individuals. Commandments apply equally to all.
4. Worship is due God for past favors. This can only be known through revelation, e.g. Deliverance from Egypt. etc.
5. Ritual law stepping stone to moral law.
6. This amplifies "3." "The Torah includes matters the fulfillment of which reason can not define. These are (the details of) the ceremonial law, and the general principles of the moral law. This (the ^Vmoral and the ceremonial) was necessary (to be included in the Torah) because the people to whom the Torah was given were at that time in a low state of civilization and their minds were too weak to grasp the moral law. The Torah, therefore, laid down one law, in which the moral and the ceremonial seem to be of equal importance. Thereby the moral and intelligent man would fulfill the Torah in two ways. While the ignorant would at least be sure to live rightly (regardless of whether he is consciously impelled to do so). ²⁶ Thus all grades of society will benefit.

²⁴ This may not be true ^{from new point of} to modern psychology.

²⁵ There is a little confusion here, Fasting and charity can not be be classed together. Moreover charity and kindness would follow from moral consciousness.

²⁶-- Parenthesis are mine.

42

for instance,

in

[III, 7]

III, 23

27

Again, in "סיני" he: "

continues in the previous strain: כי הקמתם וחסדך אינו מביא אל
אלהים. וכבר אמרתי שאין מתקיימים אל אלהים כי אם במצוות קאלהים נלסם

He is even more emphatic in ((ה, ה, יו"ט ד"ט) "for the objects which dispose(matter) to receive those divine influences are not in man's power, nor can he determine their approximate quantity or quality. He, therefore, who accepts that object (ritual law) fulfills it properly and faithfully, he is the believer. But he who attempts to improve those objects and to accept them through investigation, speculation and logic -- he is the scoffer." From the foregoing it is clear that Hallevi objects to all rationalism. To him the ritual law is even higher than the moral law and therefore needs no strengthening from reason. Of course his stand is vulnerable in more than one place. But it is the only stand an orthodox Jew can honestly and consistently take.

IBN DAVID. (רא"ב ד) 1109 -- 1179.

האמנה הכללית

This philosopher also accepts the traditional division of the commandments, calling them רתות מקיבלת או שמעיות and מפוסטמות או שכליות. But while he grants that neither is abrogable and that: כל נבואה, וכל שלמות וכל סיוע מסיודני קטגוריות אמנם הם מאת האל ית' וברצונו ובסמכו' והפסל הקדום מני על [ציקני ה, פיק ב']

28

He himself, however, is somewhat guilty of the same offence. Thus in וקיטחצפני' בענין האלקי בתחבולות תבילין - על מקום המחשבה והזכרון; צצית - שלא ושירדוקו חושית beginning with he gives some reason, e.g. and some other

he nevertheless regards

the ceremonial laws of an inferior rank ~~as~~ as a means to the attainment of the all important religious life. Thus

are only symbols to

תפלין, וציצית
כדורה, פסח, סוכות, פורים וכו'.

remind us of God and His great principle, justice. That the ceremonial laws are of an inferior rank and therefore of an inferior ^{value} rank

he infers from the fact that the prophets usually inveighed against them while they always championed the moral law. In consonance with

the the foregoing he argues that Deut. 4, 6 -- "כי קיא חכמתכם

לעין האדם" -- "was not intended by the law-giver to apply to the ritual laws. For there is nothing in them that

might appear wonderful to one not of the Jewish people. That verse rather applies to the fundamentals of our religion which were revealed

to us by God a thousand years before the nations could grasp their importance." He however sees the importance of the ritual law and

counsels strict adherence to it. In the first place because it leads to the moral law, and in the second place because it demands obedience

and obedience is a great virtue in itself.

29

Sacrifices thus served this purpose: 1. Each sacrifice is accompanied by a confession. 2. The priest thus has an opportunity to rebuke the sinner.

Chap. III

MAIMONIDES (1135 - 1204)

Guide, Vol. III, Chs. XXV-XLIX.

The task of explaining the ritual laws of the Torah finds its culmination in Maimonides. Indeed, compared with his efforts, those of his predecessors, with the exception of Bahya, might rightly be termed amateurish. They had one purpose, the purpose of making the ritual law acceptable to the people and, therefore, could resort to but one of two alternatives: Either claim with Hallevi, that all laws are the expressions of God's will and therefore should be obeyed blindly or, regard, with Philo, all the laws as symbols of truth and higher ideas which should be adhered to because of their ulterior motives. Maimonides, however, seemed to have a double purpose and therefore attained different results. Being an observant Jew he surely wanted, in the first place, to strengthen the hold of the ceremonials upon the people and he too therefore, rationalized. But he was also a philosopher and as such he surely had other cravings. He knew that all the phenomena in life are not causeless. Why then should the ritual commandments of the Torah be without corresponding causes? They could not have been the mere expression of God's will for God to him was not will, but wisdom. To look then for that wisdom in his own rationalistic interpretation would have been both folly and self-deception. The wisdom of a law could, if anywhere, be found only in historical events that brought it about -- for there is no effect without a cause -- and Maimonides therefore turned his attention to history and there

tried to discover the true reasons for the ritual laws.

This method is surely a modern one. It was applied but recently, by Z. Frankel to the Mishnaic Laws where it proved very successful. In the case of Maimonides, however, it could not be so fruitful. This for obvious reasons. He, in the first place, was hampered by his conception of the plenary inspiration of the Bible. Now, if the Bible is the expressed word of God and God is Wisdom, then the conclusion is inevitable: Everything in the Bible must of necessity be the result of wisdom. This is obviously not true. He, was further handicapped by lack of data. All he could do therefore was to generalize and not to particularize. That is to say, he could not compare a Jewish law with a ~~Sabean~~ ³⁰ law and say with definiteness that the former was to counteract the latter. Indeed, he himself must have been fully aware of this weakness ³⁰ in his investigations for he emphasizes over and over again that only the general principles have ³¹ reason; but not the details.

EXPOSITION OF CHS. XXV. §§ XXXIV.

Aware of several difficulties yet desirous to overcome them at any cost, he devotes nine chapters to the task of establishing five premises, which if successful, would at once vindicate his method as well as the results attained. In this he ^{is} more or less ~~is~~ successful. The first of these premises is the wisdom of God. This, however, he does not have to prove here. He has done that very ably elsewhere (Chs. 51-58, Vol. 1). All he does here (Ch. 25) is to show four

30

See the end of Ch. 49/

31

This is either erroneous or arbitrary. If God is wisdom why should not even the details be the result of that wisdom? Maimonides however, confesses in Ch. 49 that had he had more data he might have been able to explain even details.

classes of action: --purposeless, unimportant, vain, and good --
and that only the last could properly be ascribed to God. This be-
ing the case he can not understand how others could have regarded the
ritual laws as reasonless and yet have assumed them to have been of
divine origin. He therefore discards the old division between חקית
and משפטיה and declares that both are founded upon reason though
that is revealed to us only in the case of the latter. Or to use
his own words : (Ch. 25) — "לֹא שָׂאָה מִה שֶׁאֵינָנוּ מַלְאכֵי הַבַּיִת כְּעִלּוֹת
שֶׁבִיקֵשׁ מֵהֶם תְּנִילִית אֶחָת, אֵין הַפִּיט בִּין שְׂנֵדֵי הַתְּנִילִית הַקֵּיץ אוֹ לֹא וְלֹא."
He, moreover, attempts to strengthen

his own speculations by inferences from Torah
and Talmud. Deut. IV, 6 apparently speaks in his favor. The Rabbinic
pun "כִּי לֹא דָבַר יִיךְ קוֹץ מִכֶּם" as well as his own construction of
the famous passage in Br. Rabbah: מִה אֵינְכֶם לֵיךְ לְהַקְבִּיחַ וְנִי

also serve him as good proof that all (?) the
Rabbis agreed upon the identity of חק and משפט. This being so
he now has the undisputed right to supply reason for the ever trou-
blesome חקית.

The second premise he tries to establish in these introductory
chapters is that only the general principles have reasons and not
their details. This too he infers from the Rabbinic passage מִה אֵינְכֶם
לֵיךְ לְהַקְבִּיחַ וְנִי. He interprets it thus: "Why don't the Rabbis
ask! לֵיךְ לְהַקְבִּיחַ וְנִי לְשִׁחְטָהּ?" Because they knew that the general prin-

32
Probably Saadiah (and Hallevi).

33.
See Supra רַבִּי רַחֲמֵל who disagrees with Maimonides.

34
He contradicts himself or rather he is inconsistent, on this point.
In Ch. 26 he has these two statements:

וְנִי הַתְּבַאֵר לִי קֶצֶת חֲלָקֵי מִצְוֹת וְנִי
— וְנִי מִי שֶׁיִּשְׁלִיךְ עֲצָמוֹ — מִשְׁתַּחֲוֶה שֶׁעֵינָיו

ciple of ³⁵ *ה'נ'נ'ו* had a good reason, namely, to insure to the animal an easy death. What they wanted to know was the reason of the details attendant upon slaughter and that they could not know, inasmuch as details have no reason. Their answer, therefore, *לכך קב"ה* is perfectly correct." The same is also true of sacrifices. The principle is surely a good one. But the details, such as number, species, etc. are unimportant. ~~That~~ speculation as well as authority established the proposition that only the general principles need to be accounted for but not the details.

The third premise is that some of the general principles are important per se -- such as the acquisition of truth -- while others are subservient to higher purposes -- such laws, for instance, as are conducive to social improvement, etc. Among the first he includes God's existence, unity, omniscience, ~~omnipotence~~, will (in contradistinction to necessity) and eternity; while among the second class he places such beliefs as "the wrath of God" and others which prevent man from transgressing social regulations.

The fourth premise is that certain laws may originally have had a negative purpose. ³⁶ The Sabean, for instance, believed in Baal, Astorte, and Adonis and, attributing to these power and intelligence, worshipped the sun, the earth, and the crop. To counteract this worship Deut. XXVIII explicitly stated that such worship would yield not long life and prosperity but death and poverty. We may therefore, infer --

³⁵ This is pure rationalism.

³⁶ This is indeed true. Many laws and beliefs owe their existence to antagonisms; such as *ה'נ'נ'ו*; *אכ"ב* Akibba's
stood for divorce question.
stand on the

argues Maimonides -- that even certain practices were assigned to the people which might act as deterrents against pagan customs. To

quote Maimonides himself: (Ch. 30) רצוה הקב"ה לרוב רחמין עלינו למחות זיו (Ch. 30) השקות מדעתנו ולקסיק העמל מאופותיל בבחל השעשם הם הם המטווח אשר אין גם מועיל ונתן לו את תורת ע"י עשה ובל, ע"ה.

And again in Ch. 29: אפ"ן כל המצוות שבאו באזהרה מעבירה זיו (Ch. 29) הנתנה בה וט המביאים אליה או חש המיוחסים לה — הם מבוארים התעלת מצט שהם כלם להציל מן הרעות היעות המטווח מל מה שמועיל בשט הק שלמות.

Sacrifices for example, (Ch. 32) served just such a negative purpose. The people were used to them, and it would have been exceedingly hard to wean them away from that practise upon short notice. It was therefore allowed to continue but in such a restricted and burdensome way as to make its final elimination inevitable.

As those sacrifices, moreover, were brought to God alone in a temple dedicated to Him alone, idolatry was thereby speedily eradicated. The negative laws, furthermore, served a purpose all their own. For just as positive commandments were needed to emphasize the three purposes of all general principles namely רעות, מדות, וקנקנות מהיות.

(1) the acquisition of truth, (2) the establishment of a good social order, and (3) ~~remorse of bad qualities~~ ^{the inculcation of good virtues}. It is for this reason the Torah enjoined abstemiousness, depreciated gluttony, sexual indulgence, and laid stress upon the laws of cleanliness. For they tend to eliminate all passion, bad manners, and pernicious habits. It is clear then, concludes Maimonides, that even in the Bible are to be found practices the purpose of which is manifestly to counteract undesirable customs or beliefs.

* even so were the negative laws needed to demand the removal of 1. falsehood, 2. injustice, and 3. bad qualities.

The fifth premise is that the law does not take notice of exceptional circumstances. Some individuals, at certain times, might be unfavorably affected by it; but that is of no importance. For the law is both universal and eternal and, therefore, can not take into account the variations³⁷ and the special.

EXPOSITION OF CHS. 35-49

After advancing the above premises Maimonides proceeds to explain the laws. Before doing that however, he divides all of them into fourteen classes, each ^{being} the embodiment of a general principle. They are as follows:

1. Fundamental principles (יסודי התורה). Ex. repentance, fasting, etc.
2. Against idolatry (הלכות ע"ז). This has the purpose of establishing principles of truth. In it are included. -- ענין ע"ז, ענין ע"ז

37

These five premises are essential to the conclusion Maimonides wishes to draw. His God conception helps him discard the old division between חק and מנהג, and also to indulge in rationalism. The dismissing of details as unimportant is a good means of making a virtue of a rather imperative necessity, i.e. the lack of historical matter. The "per se" and "subserving" principles aid greatly in explaining the חק. For the moment^{of} grant that the חק may serve an ulterior purpose, the whole problem is almost solved. The same is true of the fourth premise -- the negative nature of law. For unless he established this point he has no right to declare that some of the חק were intended to counteract undesirable or erroneous practices. Even then, however, people might find fault with the reason, or try to disregard the ritual laws on the basis that their causes have now disappeared. For that reason M. premises the last proposition.

3. Social advancement (*shiy*)
4. Voluntary duties such as charity, gifts, loans, etc.
5. Prevention of violence.
6. Retribution (here) to discourage evil.
7. Civil law, i.e. commerce, transaction, etc.
8. Festivals. These have a double purpose: To establish truth--
(Sabbath and creation) and to allow bodily recreation.
9. Religious rites and ceremonies. Purpose: love of God; right belief.
10. Temple culture -- to divert attention from idols.
11. Sacrifice.
12. Laws of cleanliness and uncleanness.
13. Dietary laws. Here also belong the laws of temperance and
vow. The purpose of all of these is the attainment of self-control.
14. Forbidden marriages-- to diminish sexual lust.

All these Maimonides, further groups under two headings: Social -- in which are contained 5,6,7, and part of 3; and those "between God and man", which include all the rest of the fourteen. The purpose of all of these, in their general outlines, is or ought to be well-known. But as they could not have been known heretofore on account of the lack of historical facts, Maimonides now proceeds to supply that desideratum.

I. The purpose of the fundamental principles, Maimonides, continues, is indeed self evident. So are also some of their special laws. Thus, the usefulness of acquiring and dispensing knowledge is indeed clear. Without true theories of life there could be no proper conduct.

This necessitates that the wise should be respected. Otherwise their instruction would be of no avail.

Under I Maimonides also includes the prohibition against perjury. For the aim of the fundamental principles is to point out truths. A commandment, therefore, that tends to raise respect for the truth, i.e. honor of God, ought to belong to this class. This is also true of the injunction to pray to God in time of need. For thereby the truth that God controls our destinies will be emphasized and the theory of chance or accident will be repudiated. Repentance (תשובה) has a similar function. It, moreover, prevents further sinking in the mire of guilt. For by assuring man that God might forgive him if he truly repented a change for the better is made possible. And inasmuch as fasting, confession, and sacrifices usher in a penitent mood, they too were given ample space in the Bible.

II. Laws against idolatry. Their purpose is twofold: to destroy error and to reveal truth. Now as magic and witchcraft lead to error it stands to reason that they and those indulging in them should be destroyed. For magic is not the result of reason but of superstition. And its efficacy does not depend upon natural phenomena but upon the supposed extraordinary virtue of some natural object, of some propitious moment, and of some attendant action, such as dancing, howling, burning a leaf, etc. By virtue of these superstitious acts the heathens believed themselves able to control natural phenomena, such as rain, fertility of the soil, the destruction of harmful animals or insects and many other useful operations. This claim of theirs naturally attracted many people and perpetuated, as it

were, error. The chief offenders in this case were women. For this reason we find the explicit commandment Exod. " מכשפה לא תחיה
 For they were actuated by " ובחוקותיהם לא תלכו
 superstition; but we should follow good reason. In view of this we can understand why מקדש were forbidden. Because these formed part
 of the superstition of the Heathens. The prohibition of רמב"ט was due to a similar cause. For the heathen priest used to adorn themselves with garments containing vegetable and animal material while holding a seal made of mineral. For a like reason women were forbidden to wear that which pertaineth to man. (Deut. XXII,V). For Gomtom relates that men used to wear coloured women's garb when standing before Mars, while women would dress in man's garb while standing before Venus. And that all profit should be prohibited from objects of idolatry is also a very useful law. For it may happen that a man, possessing some object connected with idolatry suddenly prospers, & He Being superstitious ^{he} might attribute his prosperity to that object. So also might others do and error would spread. Once however all such objects of idolatry were destroyed, error too would be stamped out.

The law of שנה is similarly directed against idolatry. For the custom prevailed among the heathen to sacrifice part of the first fruit of trees and to eat the rest in the sanctuary. Now as some trees yield fruit after the first year, some after the second, but the majority after three years the magician had some means -- magic means of course -- whereby to accelerate the growth of the tree. For that reason the Torah forbade the eating of the fruit for the first three years so that the people might not resort to magic, inasmuch as in the third year the trees would yield their product of their own

natures.

The Sabeans also had another belief which made it necessary to prohibit ~~mixing~~ or ~~mixing~~ of different species and grafting of trees. They believed that in order to make the grafting successful a young woman must hold the branch in her hand while a man held unnatural intercourse with her. To discourage that disgraceful practise the law had to forbid all grafting. It is clear then that such apparently unreasonable law ~~ex~~ ^{was actually founded upon good} reason and still serves a good purpose. For even today (in Maimonides' time) some of the ancient superstitions still survive, even though in a symbolic fashion. The midwives, for example, still fumigate the child -- clearly a survival of Moloch worship. It is therefore necessary to adhere strictly to the Torah for the causes that have called it into being are still operative. (Ch. 37)

III. The virtue of all laws tending to improve social life require no discussion. It is, indeed, self evident that to imitate God, love friends, protect strangers, rebuke the wrong-doer, and assist the powerless -- are of the highest importance for society. Maimonides, therefore, dismisses this general principle with very little discussion.

IV. In this chapter (38) Maimonides has again recourse to rationalism. Thus he explains that the second tithe ~~was~~ had to be spent in Jerusalem, first to compel, as it were, men to give charity; and secondly to cement social bonds among the people who, coming from various parts of the country, were heretofore total strangers.

Again all of these are *all there are* נטע נביעי, תל/אק, חלה בנזימ ויאטה ת.ד. 37
 based upon the idea that the first of everything belongs to God.

Not that God needs it, but to accustom man to the giving of charity and to diminish in him the desire to possess. It is for the reason given above that the priest received certain portions from the sacrificed animal. The paunch -- ^{and} is the first of the intestines; the shoulders -- because it is the first to branch out of the body; and the jaw-bones -- as they are of the first part of the animal body i.e. the head. The recital of the first-fruit formula, however, had a different motive. It was to plant humility in the human breast, so that in time of prosperity he might remember his days of affliction. The redemption however or sacrifice of the first born was due to the previous principle, yet horses and camels were not included in that law as they were rare in Palestine. But the neck-breaking of the ass was enjoined so as to compel its owner to redeem it.

Again, the Sabbatical year, jubilees, and the leaving of the field-corners *אס* had as their purpose the cultivation of generosity on the one hand, and the actual help of the needy, on the other. these two reasons also animated the laws of *עייני, חובלי, מלוא ולוה*
 For all of these tend to plant in the heart of man mercy and charitableness and turn him away from the desire to grab, enjoy and possess. This principle of mercy also dictated the manumission of a slave who lost a tooth or an eye. "For it would be cruel to subject a man to both slavery and disease." Good as this principle of mercy is Maimonides ^{however} cautions against its indiscriminate application.

37 This is a ^{actual} historical fact, practised among ^{all} primitive peoples. The Torah should therefore have forbidden them, according to Maimonides. 2

Only the worthy should be pitied but not the guilty man. The guilty should suffer and no mercy should be wasted upon them.

V. In this chapter (40) all laws tending to prevent violence are treated. Among others, Maimonides explains such laws the reason for which is obscure. Thus he tells us, that the putting to death of a goring ox is not to mete out punishment to the animal but to punish the owner, so that he might watch more carefully the animals belonging to him.

The return of a find Maimonides explains upon an utilitarian basis. "Return a find so that when you lose something it might be returned to you."

The reason why the author of an unpremeditated murder returns at the death of the high-priest is as follows: He goes to the city of refuge so that he might not be a constant reminder to the blood avenger. The blood avenger however, forgets his own sorrow when others are similarly afflicted. As the death of the high priest evokes the greatest sorrow it will surely divert the attention of the blood avenger from his own, and that is why the murderer is allowed to return. ³⁸

The neck-breaking of the heifer in case the murderer of a stranger is not arrested is also rationalized by Maimonides. According to him this ceremony is only to give publicity to the case so that the murderer might be caught. ^{39.}

³⁸ This is pure rationalism. Maimonides here does not even pretend to be historical.

³⁹ The fallacy of this is obvious. ^{4/207} takes Maimonides to task for this piece of rationalism. [^]

VI. (Ch. 41) The principle underlying all retribution is the "tit-for-tat" principle. To Maimonides it is the most just principle as well as the most efficient in inhibiting anti-social tendencies. Punishment, however, Maimonides says, was guided by four rules or considerations: (1) The magnitude of the harm; (2) the frequency with which it might recur; (3) the intensity of the criminal impulse; (4) and the facility with which the crime can be perpetrated. Thus, for example, a sheep-pilferer had to pay five-fold because it is much easier to steal cattle than sheep. A highway man on the other hand paid no fines as his task is so difficult. *just talion*

That the penalties in the Bible followed the afore mentioned considerations is very clear to Maimonides. Thus capital punishment was inflicted only in cases of great harm and intensity of desire such as: idolatry, incest, murder, desecration of Sabbath (since it attests the theory of creation ex nihilo), false prophets, man-stealer, etc.,

לֹא יָמוּת was pronounced in cases where the relation between God and man had been violated and by which society did not suffer directly or greatly. These were: eating blood, leaven on Passover, ^Von Day of Atonement, etc. Petty infringements were punishable by whipping. While the transgressing of negative commands, which do not involve action brought down no punishment whatever. Of all the punishments however, that of the מורד, or a rebellious elder seems the most unjust and Maimonides feels called upon to explain it. "It is true", he says, "that the Torah must at times be amended or part of it held in abeyance. This however must be regulated by an authoritative body. Otherwise confusion would prevail, the divine origin of law would be doubted, and its abrogation would follow. A man, therefore, who by ~~misguided deeds of through~~

misguided deeds or thoughts brings about such an anarchy must be put to death -- be his intention ever so good. In fact, Maimonides continues, even such transgressions which usually are punished lightly, should, in case of outright wilfulness to undermine the Torah, be visited with death. Hence the execution of a rebellious elder is justifiable.

The "lex talionis" also animated the laws to destroy Amalek. They were the first to unsheathe the sword and they should therefore, suffer for ever from it. The relations between Moab, Ammon and Israel were ^{similarly} ~~sedulously~~ regulated. They acted in a spirit of miserliness and for that reason marital intercourse was forbidden with them.

711 71 were provision to keep the camp of God clean.

The law of ~~בנות נא~~ was also a generous one. It is true as the Rabbis say that it was concession to passion; but paradoxically as it may sound, it ^{also} served as a check to passion. Her captor for example, was not allowed to cohabit with her a second time until her mourning period was over. That period was entirely under her control. She could shorten ~~it~~ or extend it. Her sorrowful state however naturally stifled passion and rather stirred pity in ~~his~~ ^{her captor's} breast, and he was thus compelled to subdue his desire. It is clear then that even when the Torah yielded to human frailty ^t ~~it~~ did so only to aid him.

VII (Ch. 42) The laws treated here are those governing business relations and property rights. That these should be animated by a spirit of equity and justice was only natural. Cheating, usury, or overcharging were therefore deprecated. Equity thus demanded that an unpaid watchman should not be held responsible in case of loss; that a borrower, however, being he is the sole beneficiary, should stand sponsor for all losses; and that a paid watchman or a renter, should

should only be partly liable i.e. when the fault was theirs.

It is similarly an act of justice and mercy to pay the laborer at sun down ✓. Not to muzzle the threshing beast is likewise an expression of pity and as a result we have: *the law*

דִּבְרֵי חַיִּים. That a father, however, should be allowed to leave his property to his children is not so much an instance of justice ~~and~~ mercy as a scheme to give a man an incentive to work and produce. But it was pure love that allowed the first-born to take two parts. For inasmuch as he was first to be loved that mark of distinction ⁴⁰ should be expressed in a tangible fashion, i.e. a double share,

VIII (Ch.43) Festivals. The reasons for the festivals are partly known and partly not. Maimonides, however, discusses all of them:

Sabbath has a two fold purpose: to give rest, and to strengthen belief in "creation ex nihilo."

Day of Atonement: holds out to the sinner the hope of forgiveness.

Passover lasts a week -- "as seven is the mean between the solar day and the lunar month.

Feast of Weeks is the day of giving of Torah. And, as it is very beloved upon us, we count ~~the days~~ ⁴¹ -- as lovers do -- *the days* elapsing between it and passover.

The unleavened bread is eaten for seven days so that their reason might become well known.

40

This may have been an outgrowth of Semitic custom which allowed the eldest son to assume charge of the whole household -- including his own ~~matters~~. *mother*

41

Here as well as in other places Maimonides simply rationalizes,

Shophar -- to rouse the people and warn them of their fates to be sealed on Yom Kippur.

Feast of Tabernacles ⁱ for rejoicing. Fall is the natural season for it, as the harvest is always a period of gladness. Moreover, Fall is the season most suited for dwelling ^{in a} booth, as it is neither too hot nor too cold. Of course, Succoth as well as Passover also teaches: Belief in God and His providence as exemplified in the Exodus from Egypt and in the wilderness; and good virtues namely, to remember while in prosperity the bitterness of the past.

^{Sukkah} is to complete and round out the festivities which could not be done in the Succah but in the spacious homes.

The four species are used on Succoth for this reason: "I believe that the four species are symbolical expressions of the rejoicings of Israel when they went forth from a place of no seed, vines, pomegranates or water to a country full of trees and rivers. In order to remember this we take the most pleasant fruit of the land, the most fragrant branches, the most beautiful leaves, and the choices ⁴² herbs". Maimonides apparently is not satisfied with his own symbolism and tries gives better reasons: 1. the four species were most plentiful in Palestine and could easily be procured by all, 2. They have a good appearance, being green; 3. They keep fresh for seven days. These reasons may be true, at least, as far as I am concerned. But true or false -- the method Maimonides uses here has at any rate, a claim upon science.

All the laws included here have but one purpose, i.e. to promote belief in God. As prayer, study, and benediction are manifestly conducive to the establishing of such a belief, Maimonides chooses not to dwell upon them.

X. (Ch. 45) Temple Culture.

The Mount-Mariah, the future temple site, was not chosen by Abraham without purpose. It was aimed against the heathen. They proclaimed their religion from the mountain tops. Abraham, therefore, ascended the highest mountain in the vicinity to outdo them by the proclamation of his own God.

The sanctuary was located in the west end of the Temple so as to indicate that Israel did not worship the sun.

The Temple site was not named in the Bible but was spoken of as *בית המקדש* -- for three reasons: 1. So that the nations might not seek to conquer it. 2. That its possessors disfigured it not; 3. That the tribes might not fight among themselves for its possession. It was for this last reason that the building of the Temple was delayed till the reign of Solomon, a man able to quiet all intertribal trouble.

As the heathens built tempels to idols the Jews were commanded to build one to the only God. In its Holy-of-Holies was placed the ark containing the two tablets of stone. The lid of the ark bore two Cherubim for obvious reasons. In the first place, to

43 All the three reasons betray a lack of historical insight. From his conception of the Bible he is not altogether wrong, at least not in his third reason. The first two however are puerile. — *W. W. W.*

repudiate the Sabeian theory that their idols and asherahs were influenced by the upper sphere wherefrom they received the power to inspire prophets. The Cherubim, thus proved that God is the ruler of the universe and that the messenger of his inspiration are angels. Two Cherubim, however, were used. For had one been employed, it might have been identified with God.

The candle-stick burning before the Ark had the function of adding to the beauty, honor and distinction of the place.

The table of the "show bread" has no plausible reason, at least as far as Maimonides is concerned.

Newn stones were rejected for altar purposes because they were used by the heathen.

The laws prohibiting a foreigner, a non-priest, unclean person, and drunkard from coming near the altar had the purpose of raising respect for the Temple. The same reason made it necessary to attach distinction and importance to the priests and also to demand from them punctiliousness, care, perfect health and sobriety.

The frankincense was burned to do away with the bad odor that came from the shambles. Of course its pleasing odor was also sought in order to magnify the importance of the place whence it issued.

The anointing oil was used mainly to impress the people and make them believe that ^{the} ~~an~~annointed object or person was divinely distinguished.

44.

This is a remarkable chapter. It abounds in both folly and wisdom. Thus, for example, the explanation of ^{הַשֶּׁמֶט, וְהַכִּיֹּרֶת} is indeed noteworthy. So also is the reason for the existence of a Priestly clan with its qualifications. All these were meant to impress and to dignify the whole temple. That this was their purpose may well be ascertained from the initiatory ceremonies of all primitive, and of some modern, religions. These are confessedly intended to overawe and impress. Equally significant is Maimonides' admission that he can not explain the ^{שִׁבְעִים} and the ^{לְמַעַן}. This rather tends to show the M.'s rationalism had limits which he did not wish to overleap.

XI. (Ch. 46) Service and Sacrifice.

As sacrifices were in reality a concession to an old established custom, they had to be regulated strictly. That is to say, they had to serve the purpose they were tolerated for. Now, as the custom to worship sheep, goats and horned cattle was very prevalent among the heathen, God saw it fit to command Israel to bring sacrifices from these three species only. Thus for example the Paschal lamb was sacrificed in Egypt to protest against the Egyptian cult object, — sheep. Another reason why only these three species were used as sacrifice was because they abounded in the land. Poor people, however, were given the privilege of sacrificing either fowls or bakery preparations. But the sacrifice, at all times, was regarded as a voluntary affair, a man being held just as righteous even though he brought none.

Leaven and honey were excluded from the sacrifice because these were used by the heathen. But as salt was not used by them, it was recommended to form an integral part of every Jewish sacrifice.

The insistence that sacrifices be free from blemish and taint-- such as the ^{price} piece of a hierodule or sodomite -- was no doubt, due to the fact that the sacrifices were ostensibly brought to God, to whom the proper respect must be shown. For that ^{same} reason the sacrifices had to be skinned and cleansed, and uncircumcised or unclean persons were forbidden to partake of it.

The prohibition concerning blood is explained by Maimonides in a brilliant manner. The Sabaeans, he says, would either eat the blood proper, though they regarded it as unclean, or eat the flesh around it. This act they thought would help them commune with spirits and demons whose food consisted of blood. To prevent Israel seeking after the

help of demons, blood had to be forbidden. Thus do we find that they were forbidden to eat blood; to eat around it -- for the blood had to be poured out -- and that the blood was used for ^{purifying, sanctifying} cleansing purposes.

The quality of a sacrifice depended upon the sin. The greater the sin -- the poorer was the sacrifice. By this principle Maimonides wishes to account for the great variety of sacrificial objects. In this he succeeds very well. As an illustration we might take the sacrifice of a "suspected woman" -- it was commanded that her sacrifices should be of the poorest quality, i.e. plain barley without oil or incense -- because her act was very disgraceful. ✓ Talmud

The reason why all sin offering, whether for the individuals or the community, were always he-goats, was because Israel passionately worshipped the "satyrs". ^{ד' ו' ו' ו'} Every sin-offering, therefore, was burned outside the camp and not upon the altar. This because they were not thoroughly acceptable to God. The scapegoat too was not burned but was neckbroken in a waste land far from the habitation of the people.

Maimonides is puzzled why wine was allowed to be used in sacrifices since heathen also used it. Another person, however, suggested the following reason to him: "The best food for the appetitive faculty, which originates in the liver, is meat; wine is the best support of the vital faculty, which rises in the heart; while music soothes best the psychic faculty, which dwells in the brain. The sacrifice, therefore had to include all the three."

XII (Ch. 47) "Laws of Tumah and Tohorah."

The laws of defilement and purification, Maimonides avers, were intended to lessen the burdens of the people. The Sabaeans, for instance, would burn their children, burn everything that a menstruating

woman touched, isolate her completely, and declare every barber unclean. But the Jews had much easier burdens. A sacrifice of doves ~~redeemed~~ redeemed the child; a menstruating woman was forbidden to copulate with her husband, and the laws of defilement and purification were mainly restricted to the Temple and not to every-day life.

These laws, moreover, really served a good purpose. They caused the people in the first place, to shun all that is naturally ugly and execrable. They raised, further, respect for the temple. For were a man allowed to enter the temple at any time and in ^Vstate of mind or body, he would soon depreciate even the Holy of Holies. They again, trained people to respect old and time-honoured custom. And they, finally, rendered easy, as we have shown above, of fulfillment of certain laws.

The length of the period during which a person is declared defiled depended upon the frequency of the source of defilement. The more frequent it was the longer and the harder was the period and means of purification. Coming in contact with dead bodies is most common and the period of defilement ~~is~~ therefore seven days and the means of purification -- the ashes of the red heifer, a difficult means indeed. On account of this the priests, whose service in the Temple ~~is~~ greatly needed, were strictly enjoined not to come in contact with dead bodies, except in very urgent cases. But as it ~~is~~ often impossible to avoid entering the temple ~~is~~ a state of defilement, he-goats were sacrificed on the ד'ל' י' ו'ש and on new-

moons to atone for that unintentional sin.

Maimonides discards the hagadic reason for the use of cedar branches, hyssop, and crimson-colored thread that were used in purification processes. But confesses that he knows no reason that might account for these practices. This confession is significant. It shows that Maimonides did not want, at least consciously, to rationalize when he lacked historic data.

XIII (Ch. 48) Dietary Laws.

Maimonides contends that the dietary laws were instituted for health purposes only. According to him all forbidden animals are naturally harmful food-stuffs.. This may even be said about pork. For it contains too much moisture and too many superfluities. Were pork, moreover, allowed the Jewish homes⁴⁷ market places would resemble those of the Frenchmen. Similarly, the fat of the intestines retards digestion. The same is true of blood and carcasses. The clean animals, on the other hand, are universally recognized as best suited for food and health.

The prohibition to cook and eat meat and milk together was undoubtedly due to health consideration. Maimonides also thinks that that prohibition was directed against an idolatrous practice which was performed on sacred days. He infers this from the fact that the injunction *לֹא יִבְשֹׁן בְּיָמֵינוּ* follows close upon that of the festive days. But as he has^{no} parallels for it in the Sabeian ceremonies, he does not press his point.

46 --There is hardly any need to point out that M. here wishes to account for the variety in the means of purification and the extent of the period. His reasons, however, are not of the best. *Debes Gebou 12*
 had nothing to do with the frequency of source. It was more guided by qualitative than quantitative consideration.
 47 -- The danger of rationalism is evident here. People eat ham to-day and yet manage to keep their homes and streets clean.

Pity, according to Maimonides, is at the bottom of the laws demanding that animals be slaughtered in the easiest way; that mother and offspring be not killed in the same day; and that the mother bird be driven away before its fledgelings are appropriated.

Unclean food, however, may be regarded as forbidden to a particular person when made so through a vow. The vow in such cases is regarded valid so as to accustom people to exert self-control. But in the case of dependent women the vow may be invalidated. This is so because they are more impulsive.

The virtues of the Nazarite laws are selfevident. They lead to abstemiousness from drink, a habit deserving indeed to be encouraged by all.

XIV (Ch. 49) Forbidden marriages.

Every man needs friends. In fact, the greater part of his life is spent in cultivating friendships. These are mostly to be found among near relatives. The consciousness of kinship serves as a bond to tie all their interests together. Anything, therefore, that might endanger that bond should be discouraged. Illicit intercourse, inasmuch as it threatens to disrupt family life, is consequently forbidden. Of course, there are other causes too. An illegitimate offspring for example is usually ostracized and is thus made to suffer through no fault of his own. Promiscuous intercourse tends to increase the sexual passion -- a thing that ought indeed, be avoided. And finally, a life of licentiousness would undoubtedly endanger the amicable relations of society. On account of the foregoing reasons the law forbade all free intercourse and laid down the foundations of the beneficial institution, marriage.

To safeguard this institution many "fences" had to be erected. The procedure in the case of a "suspected woman" is one of them. Women being naturally modest would indeed fear that public ordeal greatly and would strive to attain scrupulous chastity. Certain other marriages, furthermore, had to be declared incestuous. For were marriage, for example, allowed between near relations, much fornication would result inasmuch as many facilities are accorded them. Again such marriages would, to say the least, appear shamelessly vulgar. These two considerations naturally led to the prohibition of consanguineous marriages.

Crossing animals, or any act that might lead to it, has been forbidden mainly because it might lead to immorality.

Morality, that is to say, the desire to decrease sexual passion may also have been a factor in the establishment of the ceremony of circumcision. For this operation unquestionably weakens the organ and naturally diminishes lust. This reason, however, is only secondary. The real purpose of circumcision may have been to grant a group of people, bound together by a common belief in the unity of God, some physical symbol which might serve as an emblem of recognition. Thereby a powerful solidarity would be built up among them which would result in the welfare of all concerned.

The ceremony is performed when the child is small lest he dispense with it when grown up. The pain, moreover, is not so intense at that early stage of the child's life. And, lastly, the parental love, at that time, is not as yet firmly rooted, at least not in the father, and they will allow the child to be subjected to some pain.

The child, of course, must be at least eight days old before

the ceremony can take place. Prior to that it can hardly be called a living being. In fact the same is true of animal sacrifices.⁴⁷

Marriage, moreover, must fulfill the function imposed upon it namely, "to increase and to multiply". Such marriages, therefore, that would fall short of this requirement are strictly forbidden, and hence *אבות שפחה* were rigidly excluded from God's congregation.

CONCLUSION.

In summing up I wish to state that I heartily agree with my teacher, Dr. Neumark on the great historic value that the attempts of Maimonides have. It is true that he rationalized even more extensively than any of his predecessors; that his rationalistic reasons outnumber his historical reasons by the ratio of 3:1; and that he is lacking in definiteness and detail. But it is equally true that he was also the first to approach this subject from a scientific point of view and to provide posterity with a method that has proved so helpful in recent years. Unfortunately he was hampered by many difficulties: the beliefs of his time, his own traditional bias and lack of data. When we take these into consideration we are at times wonderstricken at the genius of Maimonides, a genius which

47

The inference might be drawn here that circumcision is really a sacrificial rite, i.e. "pasa pro toto".

48

Rationalistic ^{הנהגה}accounted: *שחיטה, מיתנות-כהונה, חלה, תרומה מעט שני, ערו-מקלט, ער מית הכהן הגדול, עגלה-ערופה, ספינה, כרוכים, גילה אלו.*

Historic reasons

עולה, כלאים, כשוק, שעסוק, דף

gave him the power to transcend now and then all obstacles and to hew for himself and those desirous to follow him a newer and better path. Such a path indeed, he hewed when ^{he} first introduced the method of comparative religion. It is not the method alone, however, that is of historic importance to us. Its implications, to be sure, are of no less moment. For these suggest that Maimonides had a clear conception of evolution, yes, of evolution even in matters of religion. Of course, his traditional bias did not allow him to carry out his theories to their logical conclusion -- the abrogation of the effects when the causes for their existence had disappeared -- but that does not, in the least, lessen the significance which Maimonides conception has for us. For he invests, as it were, the anti-ceremonial tendencies of Reform Judaism with all the dignity of learning and authority. To love God, according to him, means not doing for, but knowing, God. We differ from him only inasmuch as we dare incorporate our theories in life. But then this difference does not remove us far from him. Had he lived today, I venture to predict, or had not been beset by the obstacles I alluded to above, he too would not have objected to being classed among the leaders of Reform Judaism. Nay more, he might eagerly have sought, to deserve a niche among them.

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