

CHAPTER 6

CODIFICATION AND THE SPIRIT

The keynote of the Talmud is discussion. But life requires decision and action. And it can become so difficult and disturbed that a written rule of action is essential. The recognition of this fact prompted the production for Judaism of its second great re-statement (the first was the Mishnah) in its first systematic Code.

In the year corresponding to A.D. 1177, Moses ben (i.e. the son of) Maimon, known commonly as Moses Maimonides, completed his *Mishneh Torah*, that is, Repetition of the Law. The name is significant. It is the Hebrew equivalent (derived from Deut. xvii, 18 as understood already by the Septuagint) of the Greek Deuteronomy. Moses the son of Maimon was consciously offering his generation what Moses the son of Amram gave his, when on the plains of Moab, before they entered into the promised land, he 'undertook to explain' (Deut. i, 5, R.S.V.) the Law.

Maimonides, who wrote on philosophy only incidentally, was a Rabbinic scholar who earned his living as a physician. It was only in his spare time, of which he did not have much, that he acted as the head of the Egyptian Jewish community. 'From Moses unto Moses', it was said, 'there was none like Moses'; but between the two Moseses (and the two Deuteronomies) there were, by the traditional reckoning, some two thousand five hundred years of life and change; and so Maimonides is constrained to sketch in the Introduction to *his* 'Deutero-

onomy' the history of the 'oral' law with its various stages and records. The last great stage before his time, he explains, was the Talmud, but between it and him many centuries [about six] had passed; and this long period had been filled with a ceaseless labour of exposition and further application as the lives of individuals and communities presented problems demanding settlement. But now external conditions were such that learning was dying out; and the people needed a plain manual which they could understand easily and use by themselves. It was this that Maimonides was now giving. (He says in a letter that he had originally started it in order to meet his own needs in his wandering life.) The book is thus offered as what we are in search of. It is, if not a definition—an entity like Judaism cannot be defined—at least a survey, for everyday use, of the whole of Judaism.

The first thing that strikes one about it¹ is its comprehensiveness. It covers all possible ground. There is no sphere of life it does not include: whether religious and moral principles [I am quoting the Table of Contents]; the practice of the love of God in prayer and religious observance; Sabbath and festivals; marriage and divorce; forbidden relations, forbidden food; vows and oaths; the year of release, Jubilee and tithes; public sacrifices and temple worship; private sacrifices; laws of purity and impurity; laws of the relations between man and man, and first those involving bodily injury and damage to property; sale and transfer; bailees, trustees, debts; matters involving the death penalty; laws of evidence; monarchy; war; and finally the so-called Noachide laws² and the Messianic Age. Special attention should be directed to the starting point

¹ A complete translation into English, from the hands of various scholars, is now appearing in the Yale Judaica Series.

² 'Seven commandments were imposed on the descendants of Noah [i.e. the whole human race] concerning justice between man and man, the prohibition of idol worship, of blasphemy, of incest, of murder, of theft, and the prohibition of eating parts cut from living animals.' See Nathan Isaacs' essay in the Oxford *Legacy of Israel*, pp. 383 ff.; and cf. Acts xv, 20, 29; xxi, 25.

and the conclusion. It starts with God, the 'First Existent who brought every existing thing into existence'; and it ends with a vision of the Messianic Age in which 'the whole world will be occupied with one thing only, namely, the knowledge of God'.

It is not surprising that Maimonides should call the first division of his Deuteronomy, which sets out his view of religious and moral principles, by the name of the *Book of Knowledge*. It expresses his conviction that the human intelligence also is engaged in religion. But his name for his second division, that dealing with Prayer, is more significant. He called it the *Book of Love*. The 'love' is clearly the love of God as shown in the keeping of the precepts, and it is important to realize that this Rabbi of the Rabbis in his popular vade-mecum takes the religious intention of ritual for granted. He writes of prayer, for example:

'Prayer without devotion is not prayer. If a man pray without devotion, he should repeat his prayer with devotion. If he finds his attention distracted and his mind disturbed, he is forbidden to pray until his attention is restored. If he comes from a journey therefore and is fatigued or distraught, he is forbidden to pray until his attention is restored. The Talmudic sages said: "Let him wait three days until he rest and grow calm, and after that let him pray."

'What means "devotion"? That a man should clear his mind of all disturbing thoughts and see himself as if he were standing before the Divine Presence. He should therefore sit awhile before praying in order to devote his mind and after that pray in quiet and supplication. Nor should he make his prayer as one who carries a burden and throws it off his back and goes away; he should therefore sit a while after praying and only then go his way.' (Laws of Prayer iv, 15-16)

A similar spirit fills his treatment of the detail of the ceremonial law. Ceremony for Maimonides is religion is action. Here are some remarks on some typical commandments:

The Sounding of the Ram's horn on the New Year

'Although the blowing of the Ram's horn on the New Year is a

commandment of the Law [and so to be obeyed without question], there is a further meaning in it of this purport: "Awake ye slumberers from your sleep, and rouse you from your lethargy. Make search into your deeds and turn in repentance. Remember your Creator, ye who forget truth in the trifles of the hour, who go astray all your years after vain illusions which can neither profit nor deliver. Look to your souls and mend your ways and your actions. Let every one of you leave his evil path and his unworthy praise." (Repentance iii, 4, trans. A. Davis)

The sign on the doorpost¹

'A man should attend to this very carefully as it is a duty incumbent on everyone always. Every time that he goes in or out he should touch the place of the name of God and remember his love, and awaken from his slumber and his distractions, and bethink himself that there is nothing permanent but the knowledge of the Rock of the universe; and thus he returns to soundness of mind and walks in the way of righteousness.' (Mezuzah vi, 14)

The service of God and oil offerings

'There are nine kinds of oil and they are all allowed for offerings. But if they are all allowed, why were they enumerated? In order that a man should know clearly which is the very best and which is the less and which the least good; and if he incline to profit by using the inferior kind, he should bend his evil inclination and make broad his hand and bring his offering from the finest, from the very best in the kind from which he brings. . . . And the same holds of all things which are for the worship of God who is good: they should all be of the finest and best. When a man builds a house for prayer, he should build it finer than the house in which he dwells himself. When he feeds the hungry, he should feed him from the best and daintiest on his table. When he clothes the naked, he should clothe him from the best of his garments.' (Forbidden Things of the Altar vii, 8-11)

¹ The small scroll seen on the doorposts of Jewish houses. It contains two passages from Deuteronomy: vi, 4-9 (the 'shema') and xi, 13-21.

These instances are from specific religious duties and are expressed as a rule in the language, often the very words, of the earlier literature, thus representing not only his own personal view but that of the Talmudic authorities. But he included in the Code basic religious ideas too, and on them too he gives a conspectus of previous opinion as his own. He writes, for example, on Repentance:

‘Great is repentance for it brings men to the Divine Presence. Repentance brings near those who are far away. But yesterday this person was odious before God, abhorred, estranged, an abomination. Today he is beloved, desirable, near to God, a friend.’ (Repentance vii, 5, trans. Hyamson)

On the moral responsibility of the individual

‘Every one throughout the year should regard himself as if he were half innocent and half guilty; and should regard the whole of mankind as half innocent and half guilty. If then he commits one more sin, he presses down the scale of guilt against himself and the whole world and causes its destruction. If he fulfils one commandment, he turns the scale of merit in his favour and in that of the whole world, and brings salvation and deliverance to all his fellow-creatures and to himself.’ (Repentance iii, 4, trans. Hyamson)

On Charity

‘We must observe the commandment to give charity with greater care than any other positive precept. For charity [I must here interpolate the remark that the Hebrew word Tzedakah (cf. below, p. 171), which became the conventional word for charity, means also righteousness or justice; whence the use made of various verses in what follows] . . . For charity is the sign of the righteous man, the seed of Abraham our father, of whom it is written, For I have known him to the end that he may command his children to do justice [charity!]. The seat of Israel is only established, and true religion only stands, on charity, as it is written, In righteousness [charity!] shalt thou be established. . . . No man ever became poor through giving

charity, and no evil or harm was ever caused through the giving of charity. . . . Whoever shows mercy will find mercy. . . . If a man be cruel and not merciful, one may suspect his ancestry, for cruelty goes with idolatry, as it is written, They are cruel and have no mercy; whereas Israel and those who join themselves to him are brothers . . . and if a brother will not have mercy, who will?' (Gifts to the Poor x, 1-2)

Maimonides's Deuteronomy contains, as an essential part of its foundational first book, a section on Idolatry. The first chapter shows his general conception of human history. The style is thoroughly medieval. It is a re-writing of the Biblical story after the fashion of a stained-glass window; but it is nonetheless purposive for that.

He tells us that in the days of Enoch mankind relapsed into idolatry and that the truth of monotheism was re-discovered by Abraham. Abraham became a reformer. He broke the idols and took his message to the wider world:

'He then began to proclaim to the whole world with great power and to instruct the people that the entire universe had but one creator and that it is he whom it is right to worship. . . . Thus thousands and tens of thousands joined him. These are the persons referred to in the phrase [Gen. xvii, 27], Men of the house of Abraham.'

Abraham then founds a family to carry on his work. The family becomes a 'people that know God':

'This great doctrine Abraham taught to Isaac his son, and Isaac settled down, instructing and exhorting. Isaac imparted the doctrine to Jacob and ordained him to teach it. He too settled down, taught and strengthened all who joined him, and instructed all his sons. He set apart Levi as a teacher and placed him in a college to teach the way of God and keep the charge of Abraham, and he charged his sons to appoint one instructor after another from the tribe of Levi, in uninterrupted succession, so that the doctrine might never be forgotten. And so it went on in increasing vigour among Jacob's children and their adherents

until they became in the world a people that know God. . . .'
(Idolatry cap. i, trans. Hyamson)

This passage is remarkable because the quite extraordinary pictures it offers (of Abraham, first as a philosopher and then as a revivalist; of Jacob, as a preacher; of Levi, as the head of a theological college), however quaint they may be, serve to add weight and seriousness to its central conception. In Maimonides's eyes the Jews are a missionary people, a people who have been taught to know God and whose task it is to make God known. Their mission is to teach the faith of Abraham, which is nothing other than the original faith implanted by God among men; and the fulfilment of their mission will be the Messianic Age when that faith will be restored to all.

The reference here to the special place given to the person and tribe of Levi, which is of course Biblical, adds point to a further passage in a later context (Release and Jubilee xiii, 12-13): 'And why did not Levi have a share with his brethren in the inheritance of the land of Israel and in the spoil?' Maimonides asks; and answers, in the words of the Bible: 'Because he was set apart to worship God and to serve him and to teach his upright ways and righteous judgements to the many.' He then adds:

'And not the tribe of Levi only, but any man born into the world [the Hebrew phrase used is the widest possible and includes every single human being] whose spirit has moved him freely and whose understanding has taught him to set himself apart and stand before God to serve him and worship him in order to know God; anyone who walks upright as God made him and has thrown off from his neck the yoke of the "many inventions made by men" [the phraseology is from Ecclesiastes vi, 29]—such a one is sanctified with the sanctity of the holy of holies, and God will be his portion and his inheritance for ever and unto all eternity.'

These are indeed notable words, and we may well ask: Have we here the philosopher meddling with the Rabbi? But it would not appear to be so. It was the first-second century Rabbi Akiba,

who was certainly not a philosopher and certainly was a national patriot and hero (see above, pp. 17, 20) who was responsible for the saying quoted earlier: 'Beloved is man in that he was created in the likeness of God; but it was by a special love that it was made known to him that he was created in the likeness of God, as it is said, For in the likeness of God made he man'; man, we may add *Rabbinico more*, not Priest or Levite or Israelite, but plain man. It is man as man according to Akiba (the special privilege of Jewry as being entrusted with the Law is given by Akiba a further and distinct paragraph) who was not only made in the likeness of God but was also given the intelligence to know it.

It is this conception which is brought out so powerfully by Maimonides in the passage last quoted, and its place too is worthy of attention. It appears not in a private letter or a philosophical treatise but in a handbook composed specifically for the use of everyman in the ordinary circumstances of daily life. Maimonides must have meant it; and he must have meant also that the ordinary unlearned member of his public should mean it too. The Rabbi¹ who first uttered the remark which has become a commonplace of Jewish apologetic that the 'righteous of all the peoples have a portion in the world to come' might possibly (although there is no reason to think so) have had his eye on the non-Jewish public of his time. Maimonides in this case could not have had. And what he says is completely consistent with his account of the Jewish people as the 'people who know God' [above, p. 94; the phrase is repeated in Guide iii, 51] and whose task it is to spread that knowledge. It is an obvious corollary that any man 'of the house of Abraham'—not Priests or Levites or Israelites, but man—will 'have God for his portion and his inheritance for ever and to all eternity'. 'Nous autres' would seem to have a chance after all!

¹ R. Joshua (Montefiore-Loewe, pp. 604 f.). The curious vicissitudes of this text and its variants are discussed by J. Katz in *Zion*, 1958-9, pp. 174 ff. It is worthy of note that it seems to have been Maimonides who put the received formula into general circulation.

It may be thought that this is empty rhetoric, a repetition of phrases which had lost all force and living meaning. We may leave then the Code and turn to the Letters, written at odd moments in reply to the multifarious questions addressed to Maimonides from all corners of the Jewish world. The letter to be quoted was written to a convert to Judaism who seems to have been made to feel himself inferior to a Jew 'by blood' and to have brought his trouble to the Master. In his reply Maimonides recapitulates his general conception of the nature of Judaism and of its function in the education both of Jewry and of mankind:

'Thou hast asked about the blessings and the prayers, and whether thou shouldst say, "Our God and the God of our fathers", and, "Who sanctified us with his commandments", and, "Who separated us and chose us", and, "Who gave our fathers an inheritance", and, "Brought us up out of the land of Egypt", and, "Didst work miracles for our fathers", and the rest of the traditional allocutions.

'Thou shouldst use them all and change nothing but shouldst pray as any born Jew, whether thou prayest in private or whether thou leadest the congregation in prayer.

'The root of the matter is that Abraham our father taught the whole people and instructed them and made them acquainted with the religion of truth and the uniqueness of God, and spurned idolatry and destroyed its worship and brought many under the wings of the Divine Presence and taught them and instructed them and ordered his children and household after him to keep the way of God, as it is written in the Law, "for I had known him to the end that he may command his children and his household after him that they may keep the way of the Lord, to do justice and judgement".

'Therefore every stranger who joins us to the end of time, and everyone who recognizes the unity of God as taught in Scripture, is a disciple of Abraham our father; and they are all of them members of his household, and he it is who brought them to the right path.

‘And therefore thou art to say, “Our God and the God of our fathers” because Abraham is thy father; . . . there is no difference between us and thee in any thing. Thou mayest certainly say in thy prayers “Who hast chosen us”, “Who hast given us the Law”, and “Who hast caused us to inherit”, and “Who hast separated us”, because God hath indeed chosen thee and separated thee from the peoples and given thee the Law; for the Law is given alike to us and to the stranger, as it is written, “O congregation, there is one statute for ye and for the stranger that dwelleth among ye”; “an everlasting statute for your generations, alike for ye and for the stranger before the Lord”; “one law and one judgement is there for ye and for the stranger who sojourneth with ye”.

‘Know this: Our fathers who went up from Egypt were, in Egypt, idolaters for the most part: they had mixed with the nations and had learned of their ways; until God sent Moses our teacher and brought them under the wings of the Divine Presence, us and the strangers together, and gave us all one statute.

‘Let not then thy descent be light in thine eyes. If our descent is from Abraham, Isaac and Jacob, thy descent is from God himself; and so it is expressly stated in the book of Isaiah: “One shall say, I am the Lord’s; another shall call himself by the name of Jacob.”’

Perhaps the most remarkable thing about Maimonides from the point of view of the history of Judaism is his conviction of the unity of the tradition speaking through him. It may be that the unity was imposed by his own mind, but there is no question that Pentateuch, Prophets and Writings, Mishnah, Midrash, Talmud, Rabbinic responsa, prayer book, local custom and ceremony, all meet together in him and form one clear and individuated whole. Maimonides is a living example of and testimony to his own theory of tradition. The whole of Judaism is in his explicit view transmitted in a living chain of great teachers forming one unbroken succession from Moses.



There is no detail or principle, either of thought or of practice, for which he is not prepared with support culled from the whole gamut of the literature; and his quotations, springing from an astonishingly well-stored and selective mind, always serve to illumine his master conception of Judaism as the knowledge of God and his way for man, rooted in reason and articulated in action. It is this which constitutes for him the spirit of Judaism, a spirit not divorced from the matter of the tradition but filling it and giving it its unity and specific shape and quality.

A random instance will serve as a last illustration. It is incidental and attaches to a practical point of law. Yet no less than the letter to the convert, although in a more restricted context, it brings out Maimonides's view of Judaism as a shaping influence on character and conduct, universal both in its origin and in its application:

‘It is permissible to use a Canaanite slave with rigour.

‘Yet though the letter of the law allows it, the virtue of kindness and the path of wisdom require a man to be compassionate and to act with equity, and he should not make his yoke heavy on his slave and cause him pain or give him just anything for food and drink. Our early sages would give a slave from the dish they were themselves eating, and they saw to the feeding of animals and slaves before they sat down themselves.

‘A master must not shame a slave whether by blows or by words—Scripture assigned them to slavery, not to shame. And he must not shout at him or show excessive anger but should speak to him quietly and listen to what he has to say. This can be learned clearly from the account given by Job [xxxix] of the good actions in which he took pride: “I despised not the cause of my manservant or my maidservant when they contended with me; *did not he that made me in the womb make him, and did not one [God] fashion us [all] in the womb?*”’