

Moses Ben Maimone (Greek name **Maimonides**)

Talmudist, philosopher, astronomer, and physician; born at Cordova March 30, 1135; died at Cairo Dec. 13, 1204; known in Arabic literature as **Abu 'Imran Musa ben Maimun ibn 'Abd Allah**. The history of the "second Moses," as Maimonides came to be called, is overlaid with fable. According to some of his biographers, he evinced in boyhood a marked disinclination for study. This, however, is highly improbable, for the works produced by him in his early manhood show that their author had not passed his youth in idleness. Moses ben Maimon, or Maimonides, received his rabbinical instruction at the hands of his father, Maimon, himself a scholar of high merit, and was placed at an early age under the guidance of the most distinguished Arabic masters, who initiated him in all the branches of the learning of that time. Moses was only thirteen years old when Cordova fell into the hands of the fanatical Almohades, and Maimon and all his coreligionists there were compelled to choose between Islam and exile. Maimon and his family chose the latter course, and for twelve years led a nomadic life, wandering hither and thither in Spain. In 1160 they settled at Fez, where, unknown to the authorities, they hoped to pass as Moslems. This dual life, however, became increasingly dangerous. Maimonides' reputation was steadily growing, and the authorities began to inquire into the religious disposition of this highly gifted young man. He was even charged by an informer with the crime of having relapsed from Islam, and, but for the intercession of a Moslem friend, the poet and theologian Abu al-'Arab alMu'ishah, he would have shared the fate of his friend Judah ibn Shoshan, who had shortly before been executed on a similar charge. These circumstances caused the members of Maimonides' family to leave Fez. In 1165 they embarked, went to Acre, to Jerusalem, and then to Fostat (Cairo), where they settled.

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## THE CODE OF MAIMONIDES

### SANCTIFICATION of the NEW MOON

#### TRANSLATED FROM THE HEBREW BY SOLOMON GANDZ

#### TREATISE VIII

### LAWS CONCERNING THE SANCTIFICATION OF THE NEW MOON

To ascertain **by calculation** and to establish by proclamation the day on which each month of the year is to begin.

#### CHAPTER 1

1. The months of the year are lunar months, as it is said: This is the burnt offering of every new moon throughout the months of the year (Num. 28:14), and it is also said: "This month shall be unto you the beginning of months" (Exod. 12:2).

With reference to this latter verse the Sages have said: The Lord showed the form of the new moon unto Moses in a prophetic vision and said unto him, When thou dost see the moon in such a shape thou shalt sanctify it.

With respect to the years, however, we reckon according to solar years: for it is said: "Heed the month of the ripening ears" (Deut. 16:1).

2. By how much does the solar year exceed the lunar year? By approximately 11 days. Therefore, whenever this excess accumulates to about 30 days, or a little more or less one month is added and the particular year is made to consist of 13 months, and this is the so-called embolismic (or intercalated) year. For the year could not consist of twelve months plus so-and-so many days, since it is said, "throughout the months of the year" (Num. 28:14), which implies that we should **count the year by months and not by days**.

3. Each month the moon disappears and becomes invisible for about two days, or somewhat more or less - for about one day at the end of the old month, before it reaches its conjunction with the sun, and for about one day after its conjunction with the sun. Then it reappears in the evening in the west, and this night, on which it becomes visible in the west after its disappearance, is the beginning of the month. From this day on 29 days were counted, and if the new crescent appeared on the night of the 30th day, this 30th day was the first day of the new month. If, however, it did not appear on that night, the 30th day would belong to the old month and the 31st day would be the first day of the new month. **And no matter whether the moon did or did not appear in the night of the 31st day, no attention was to it, for the lunar month never lasts longer than thirty days.**

4. If the moon appeared on the night of the 30th day, so that the old month consisted of 29 days, this month was called a defective month; if, however, the moon did not appear on the night of the 30th day, so that the old month consisted of 30 days, it was called embolismic (or intercalated) month, or a full month. If the moon appeared on the night of the 30th day, it was said that the moon had appeared in its "proper time"; if, however, it appeared on the night of the 31st day, and not on the night of the 30th, it was said that the moon had appeared on the night of the embolismic day.

5. **The authority over the observation of the crescent (and the subsequent proclamation of New Moon Day) was given not to everyone - as is the case with the Sabbath day, with respect to which everyone counts 6 days and rests on the 7th day - but only to the Court.** The day sanctified and proclaimed by the court as the beginning of the month was New Moon Day. For it is said: "This month shall be to you" (Exod. 2:2), that is to say, accepting or rejecting evidence concerning this matter is put into your hand.

6. Just as the astronomers who discern the positions and motions of the stars **engage in calculation, so the Jewish court, too, used to study and investigate and perform mathematical operations, in order to find out whether or not it would be possible for the new crescent to be visible in its "proper time," which is the night of the 30th day.** If the members of the court found that the new moon might be visible, they were obliged to be in attendance at the court house for the whole 30th day and be on the watch for the arrival of witnesses. If witnesses did arrive, they were duly examined and tested, and if their testimony appeared trustworthy, this day was sanctified as New Moon Day. If the new crescent did not appear and no witnesses arrived, this day was the 30th day of the old month, which thus became an embolismic month. **If, however, the members of the court found by calculation that the new moon could not possibly be seen, they were not obliged to be in attendance on the 30th day or to wait for the arrival of witnesses.** If witnesses nonetheless did appear and testified that they had seen the new crescent, it was certain that they were false witnesses, or that a phenomenon resembling the new moon had been seen by them through the clouds, while in reality it was not the new crescent at all.

7. **Scripture made it incumbent upon the court to discover by calculation whether or not the new moon might be visible,** to examine the witnesses, and then to sanctify the new moon and send out messengers to inform the whole community which day was to be New Moon Day, so that the people would know on which days the holidays would fall. For it is said: "These are the appointed seasons of the Lord which ye shall proclaim to be holy convocations" (Lev. 23:37), and it is further said: "And thou shalt keep this ordinance in its season" (Exod.13:10).

8. **Only in Palestine was it permitted to compute and proclaim new month days and embolismic years,** for it is written: "For out of Zion shall go forth the law and the word of the Lord from Jerusalem" (Isa. 2:3). If, however, a great scholar ordained in Palestine emigrated to a foreign territory without living in Palestine a man equal to him in learning, **he was permitted to compute and proclaim the new moon days and embolismic years outside of Palestine.** If he, however, learned that there had arisen in Palestine a scholar equal to him in rank and, needless to say, if the new scholar was superior to him, he was no longer permitted to proclaim new months and embolismic years outside of Palestine, and if he did so, against the law, his proclamation was null and void.

## CHAPTER 2

1. Two worthy men only, qualified to function as witnesses in any other legal matter, were fit to testify concerning the new moon. Women and slaves were considered disqualified as witnesses, and their testimony could not be accepted. If father and son had seen the new moon, they were to go to court and testify. This does not, however, mean that witnesses who were blood relatives were qualified to testify concerning the new moon, but the reason for it is as follows: In case one of them should be disqualified - whether because he was a robber or because of some other circumstance which disqualified him as a witness - the other could join with a third witness and testify. Any person who, by the law of the Scribes, was disqualified as a witness, even though he was fit according to biblical law, was also disqualified to testify concerning the new moon.

2. The primary law had been that one need not be too particular with regard to evidence concerning the new moon. If the court had sanctified the new moon **on the strength** of testimony of witnesses and these witnesses were subsequently found to have given false testimony, the sanctification of the new moon remained in force. Originally, therefore, the court used to accept evidence concerning the new moon from any Israelite, for the legal presumption was that any Israelite is qualified as a witness until evidence to the contrary is brought to light. However, when heretics began to cause trouble in a mischievous manner and to hire men to testify that they had observed the new crescent, although they did not in fact see it, the Sages decreed that evidence concerning the new moon should not be accepted unless the witnesses were known to the court as worthy men, and that the witnesses should be duly tested and examined.

3. If, therefore, men (from a town outside Jerusalem) who were not known to the court saw the new moon, the people of that town were accustomed to send with these witnesses who had seen the moon other witnesses to certify them before the court and vouch for their trustworthiness, and only then was their testimony accepted.

**4. The court used to employ methods of calculation of the kind employed by astronomers in order to ascertain whether the new moon of the coming month would be seen to the north or to the south of the sun, whether its latitude would be wide or narrow, and in which direction the tips of its horns would point.** And when witnesses appeared in order to testify, the court used to examine them as follows: Where did you see the new moon, to the north or to the south? In which direction did its horns point? How great was its altitude, in the estimate of your eyes, and how wide its latitude? **If their testimony was found to conform with the results of astronomical calculation, it was accepted; but if it was found not to conform, it was rejected.**

5. If the witnesses said that they had seen the new moon reflected in the water, or in the clouds, or in a crystal, or if they said that they had seen part of it in the sky and part in the clouds, or in the water, or in a crystal, this was not considered a valid observation and the court did not sanctify the new moon on the basis of such an observation. If one witness said, I saw it, and in my estimate it had an altitude of about double a man's height, and the second witness said, It had an altitude of about treble a man's height, their testimonies were combined. If one said, Its altitude was about treble a man's height, and the second said, about five times a man's height, the testimonies were not combined. However, the testimony of one of them could be combined with that of another witness who testified to the same effect, or who differed from him only to the degree of one man's height.

6. If the witnesses said, "We noticed the new moon while paying no attention, but later, when we looked at the sky intentionally and wanted to see it, so that we might bear testimony to its appearance, we could not see it," such testimony was not considered evidence, and the court did not sanctify the new moon on the strength of it. For there existed suspicion that at first something that looked to them like the moon had appeared in the gathering clouds, but that the clouds subsequently disappeared and that they then had seen nothing. If the witnesses said, "In the morning of the 29th day we saw the (old) moon in the east before sunrise, and in the evening, on the night of the 30th day, we saw the (new) moon in the west," they were considered trustworthy and the court could sanctify the new moon on the basis of this observation, since they did see the new phase "in its proper time." However, no attention was paid to the part of their testimony in which they said that they had seen the (old) moon in the morning, for the court was not obliged to heed what they had seen in the morning. Rather, it was assumed that something that had looked to them like the moon appeared in the gathering clouds. A similar case existed if witnesses said that they had seen the new moon in its "proper time," but on the night of the embolismic day the new moon could not be seen: the court considered such witnesses as trustworthy, for all that mattered was that they did observe the new crescent on the night of the 30th day.

7. In accepting the evidence concerning the new moon the procedure of the court was as follows: All those qualified to testify regarding the observation of the new moon would come to the courthouse, and the court would invite them all to one place and entertain them liberally with bountiful meals, so that people might make it a habit to come. The first pair of witnesses to arrive was mentioned above (Sec. 4). The older of the two men took precedence in being questioned; **if his testimony was found to conform to the data of calculation**, the other one was called in, and if both testimonies were in agreement, their evidence was declared valid. The other pairs of witnesses were also interrogated but only with a few leading questions, not because their testimony was needed, but in order to spare them the disappointment of not having been examined at all and to encourage them in the habit of coming to the court.

8. Thereupon, after the evidence had been accepted as valid, the chief justice of the court would pronounce the formula MEKUDDAS ("the new moon has been sanctified"), and after him the whole community would respond, "Mekuddas, Mekuddas." **Neither the calculation nor the sanctification of the new moon could be carried out except by a court of three.** Nor was formal sanctification of the new moon pronounced except when the new moon had been observed in its "proper time," nor the pronouncement made other than during day time, and if it was made during the night time, the sanctification was not valid. Even if the court itself and the whole community of Israel had observed the new moon, as long as the court had not pronounced the Mekuddas formula before the arrival of darkness on the night of the 31st day - if only because the examination of the witnesses had dragged on for so long that the court had no occasion to pronounce Mekuddas before the arrival of darkness on the night of the 31st - this new moon could no longer be sanctified and the old month was declared embolismic. In that case New Moon Day was declared to fall on the 31st day, notwithstanding that the new crescent had been observed on the night of the 30th day. **For it was not the observation of the new moon but the official pronouncement of the Mekuddas formula by the court which legally initiated the new month.**

9. If the court itself observed the new crescent at the end of the 29th day before the appearance of a star on the night of the 30th day, the court might proclaim Mekuddas, since it was still daytime. But if they saw it on the night of the 30th day after the appearance of two stars, the proper procedure was as follows: They waited until the following day and then they appointed two other judges to sit with one of them and to constitute a new court, while the two remaining members testified as witnesses before the new court of three, whereupon these three did sanctify the new moon.

**10. If the court sanctified the new moon by inadvertence or by mistake or under duress, the sanctification was valid and everyone was in duty bound to observe the festivals in accordance with the day in which the judges had sanctified the new crescent. Even though it was known that the judges had erred, their decision was binding, for the authority over this matter had been given to them only. He who has commanded us to observe the festivals has also commanded us to**

**follow them, for it is written: "which you shall proclaim" (Lev. 23: 37).**

### **CHAPTER 3**

1. If witnesses observed the new moon, and there was a walking distance of one night and one day, or less, between their place and the place of the court, they were obliged to go there to testify. If, however, the distance was greater than this, they were not obliged to go, for after the 30th day their testimony was of no value, since the old month had already been declared embolismic.

2. Witnesses who observed the new moon were obliged to go to court and testify, even on a Sabbath; for it is said: "which ye shall proclaim in their appointed season" (Lev. 23:4), and wherever the term appointed season is used in connection with a commandment, this commandment takes precedence over the laws of the Sabbath. Accordingly, they were allowed to violate the Sabbath only on account of the months of Nisan and Tishri, for the observance of the festivals (in proper season) depends only upon these two months. At the time, however, when the sanctuary was still standing, violation of the Sabbath was permissible on account of all the months, because of the Musaph offering of each New Moon Day, which offering took precedence over the laws of the Sabbath.

3. Even as the witnesses who had observed the new moon were permitted to violate the Sabbath, so also the witnesses who accompanied them to certify their trustworthiness before the court were permitted to profane the Sabbath, whenever the observing witnesses were not known to the court. And even if there was only one witness to introduce them to the court, he was allowed to accompany them and violate the Sabbath on account of the possibility that another witness might be found who would join him to form a pair.

4. If a witness who had observed the new moon on the night of the Sabbath was sick, he was allowed to ride an ass, or to be carried on a litter. If the witnesses were afraid of enemies who might be lurking for them on the road, they were allowed to take along weapons; and if it was a long journey, they were allowed to carry along food. Even if the new moon had been so large that it must have been observed quite generally, the witnesses might not say: "Just as we have observed it, so must many other people have observed it, and there is thus no need for us to violate the Sabbath." For the law prescribed that whoever had observed the new moon and was qualified to testify was in duty bound to violate the Sabbath in order to go and testify, if the distance between his place and the place of the court was only that of a night and a day, or less.

5. Originally, the court was wont to accept the testimony of witnesses concerning the new moon during the whole of the 30th day. Once, however, it happened that no witnesses had yet arrived late in the afternoon, so that the authorities of the Temple were embarrassed and did not know what to do. They hesitated to sacrifice the afternoon burnt offering, for they were afraid that witnesses might still come, and it would then be impossible for them to sacrifice the additional offering of the (New Moon) Day, inasmuch as no sacrifice could be offered after the daily offering of the afternoon. Thereupon the members of the court decided to enact a law to the effect that evidence concerning the new moon was not to be accepted after the time of the afternoon offering, so that enough of daytime might be left to sacrifice the additional offering and the daily burnt offering, and to perform their respective libations.

6. Therefore, if the time of the afternoon offering had arrived and no witnesses were yet there, the priests proceeded to sacrifice the daily burnt offering of the afternoon. If witnesses arrived after the afternoon offering, both the rest of that day and the next day were observed as holy days, but the additional (New Moon Day) offering was sacrificed only on the subsequent day; for no sanctification of the new moon could take place after the afternoon offering had been performed. After the destruction of the Temple, however, a law was decreed by Rabban Johanan ben Zakkai and his court to the effect that evidence concerning the new moon be accepted during the whole of the 30th day. Hence, if witnesses came even at the end of the 30th day, near sunset, their evidence was accepted and the 30th day alone was duly observed as New Moon Day.

7. Whenever the court declared a month as full, because no witnesses had appeared during the entire 30th day, it was customary for people to betake themselves on the 31st day, which was New Moon Day, to a place held ready for that purpose, and there a meal was prepared. They went there not in the evening but in the early morning before sunrise, nor did they go to this meal if they were less than ten persons, nor did they take along anything save bread made from grain or pulse, which was all that they ate at this meal. And this is meant wherever reference is made to the "religious meal for the intercalation of a month."

8. Originally it was customary, when the court sanctified the new moon, to light fire signals on the tops of the mountains, so that those who lived at a distance might learn of it. But when the Cutheans began to cause trouble by kindling fire signals in a mischievous way, in order to mislead the people, a law was enacted whereby messengers were sent out to inform the public. These messengers, however, were not permitted to profane a holiday, or the Day of Atonement, and least of all the Sabbath; for one may not violate the laws of the Sabbath in order to facilitate verification of New Moon Day, but only to facilitate its sanctification.

9. Messengers were sent out to verify the sanctification for the following six months: Nisan, on account of the Passover; Ab, on

account of the Fastday; Elul, on account of the New Year - so that the people might look out on the 30th day of Elul and wait for a message: if they learned that the court had sanctified the 30th day, they observed this day alone as New Year's Day; if they received no message, they observed both the 30th and the 31st days as New Year's Days, until the messengers of Tishri reached them; Tishri, on account of the proper observance of the Tishri holidays; Kislew, on account of Hanukkah; and Adar, on account of Purim. During the existence of the Temple, however, messengers were sent out also to verify the beginning of Iyyar, on account of the Lesser Passover.

10. The messengers sent out to verify the New Moon Day of Nisan and Tishri could leave only on the first day of the month, after sunrise, and after they had heard the court pronounce the Mekuddas formula. If, however, the court had sanctified the new moon at the end of the 29th day, as we have explained above (9), and the messengers had heard the court pronounce Mekuddas, they could leave in the evening (of the same day). The messengers, however, who were sent out to verify the sanctification for the other months could leave in the evening, after the new crescent had been observed, even if the court had not yet sanctified the new moon. Once the new phase had been observed, they were permitted to leave, inasmuch as the court was certain to sanctify the new moon the next day.

11. In places that the messengers could reach in good time, each of the (annual) holidays was observed one day only, as prescribed in the Law. In remote places, however, which the messengers could not reach in time, it was customary to observe the holidays for two days, since the people were in doubt as to the exact day (the 29th or the 30th) which the court had declared as New Moon Day.

12. There were places that the Nisan messengers could reach in time, while the Tishri messengers could not. By law the people of these places should have observed the Passover feast one day only, since the messengers had reached them in time and they knew which day was declared as New Moon Day; whereas they should have observed the feast of Tabernacles for two days, because the messengers had not reached them in good time. However, in order not to make a distinction between the festivals, a law was enacted by the Sages that in all places which could not be reached by the Tishri messengers, the people should observe all the holidays, including even the feast of Pentecost, for two days.

13. The difference in traveling time between the messengers of Nisan and those of Tishri is two days; for the messengers of Tishri could not travel on the first day of Tishri, because it is New Year's Day, nor on the tenth, because it is the Day of Atonement (above, Sec. 8).

14. It was not necessary to send out two messengers; even one was considered trustworthy. Nor did he have to be a messenger of the court; even an ordinary tradesman from among the people, who came along on his customary journey and said: "I have heard the court pronounce the sanctification of the new moon on such and such a day," was considered trustworthy, and the festivals were set **on the strength of his testimony**. For such a matter (as the announcement of the New Moon Day) was something that was certain to be divulged in public, and in a matter of this kind one worthy witness was sufficient.

15. If the court had been sitting the entire 30th day and no witnesses arrived, and the court then arose early in the morning and declared the old month to be full, as pointed out above in this chapter (Sec. 7), but after the lapse of four or five days witnesses came from a remote part of the country and testified that they had seen the new moon in its "proper time," which is the night of the 30th day, or they even came at the end of the month, the rule was as follows: The court tried to intimidate the witnesses by strong methods of intimidation, confuse them with questions, annoy them with investigations, and examine the testimony minutely; in short, the court did its utmost to avoid having to sanctify this new moon retrogressively, since the old month was now generally known to have been declared as a full one.

16. If, however, the witnesses persisted in their observation; and were found to be in complete agreement with one another; if, moreover, the witnesses were known to be reputable and intelligent men, and their testimony was tested by proper cross examination - the court had no choice but to sanctify the 30th day retrogressively, and to readjust the counting of this month from the 30th day on, seeing that the moon had been observed on the night of that day.

17. If, however the court, for reasons of expediency, preferred to leave the old month full, just as it was before the appearance of these witnesses, it could do so. And this is what the Sages mean in saying: "One may declare the month full for reasons of expediency." Some of the great Sages, however, disagreed and said that one must never make the month full for reasons of expediency, and that the court is obliged to sanctify the new moon if proper witnesses come forward, and that they must not be intimidated.

18. It occurs to me that this controversy among the Sages refers only to the months other than Nisan and Tishri, or even to witnesses of Nisan and Tishri if they came after the expiration of the holidays, so that the time of the sacrifices and other festival observances had already passed and everything had become an accomplished fact. If, however, witnesses came in Nisan and Tishri before the middle of the month, their testimony was accepted and they were not intimidated in any way, for the court was not allowed to intimidate witnesses who came to testify that they had observed the new moon in its "proper time," merely in order to keep the old month a full one.

19. The court, however, did intimidate witnesses in the following case: If their testimony had been impaired, and the evidence appeared doubtful, and if the court considered it a humiliation not to sustain their testimony but to declare the old month full; under such circumstances the witnesses were intimidated in order to sustain their testimony and to make the sanctification of the new moon in its "proper time" prevail. Similarly, if witnesses testified that they had seen the new crescent in "proper time," but after the court pronounced the sanctification, other witnesses came forward to refute this testimony and to claim that it was false, the court did intimidate the refuting witnesses, so that their refutation might not be sustained and that the new moon might be sanctified in its "proper time."

## CHAPTER 4

1. An embolismic year is a year to which a (13th) month has been added. Such an extra month is never any other month but an added Adar. Hence the embolismic year has two months of Adar, a First Adar and a Second Adar. And why is just this month added? Because of the season of the barley harvest-that is, in order that Passover be celebrated in that season. For it is said: "Heed the month of the ripening ears" (Deut.16:1), which means, give heed that this month (of Nisan) fall in the season of the ripening ears. Without the addition of this month (of Adar), however, Passover would fall sometimes in the summer and sometimes in the winter.

2. Intercalation of the year depended upon the following three criteria: the "tekufah," the barley harvest, and the blooming of the tree fruits. **Namely, if the court ascertained by calculation that the tekufah of Nisan would fall on the 16th day of Nisan, or later, it intercalated the year and declared the Nisan of this year to be a Second Adar, so that Passover might fall in the season of the barley harvest.** This criterion alone was sufficient to rely upon for the intercalation of the year, and no attention was paid to any other criterion.

3. Similarly, if the court found that the barley crop was not yet ripe, being retarded, and that such tree fruits as usually sprout during the Passover season had not yet produced buds, it took these two conditions as a criterion and proceeded to intercalate the year - even if the tekufah was to take place prior to the 16th day of Nisan - in order that the barley crop might be available for the offering of the Sheaf of Waving on the 16th day of Nisan, and in order that the fruits might sprout as usual during the season of the barley harvest.

4. With regard to the barley harvest the court took into consideration the following three regions: Judea, TransJordan, and Galilee. If the barley crop was ripe in two of these regions but not in the third, the year was not intercalated; if, however, the barley crop was ripe in one of them but not in the other two, and if the fruit of the trees had not yet sprouted, the year was intercalated. These were the three main grounds for intercalation - in order that the years (of months) coincide with the solar years.

5. There were, however, additional grounds of expediency for the sake of which a year was intercalated by the court and these were as follows. If the roads were not in good order and the people could not travel (to Jerusalem), it was desirable to intercalate the year (and thus retard the Passover until the rain should cease and the roads be in good condition). If bridges were destroyed, so that the rivers formed barriers across the pilgrimage roads, impeding travel and endangering people's lives, the year was intercalated to provide time for repairing the bridges. If (in Jerusalem) the ovens for the Paschal lambs were destroyed by rain and the pilgrims had no facilities for roasting their Paschal lambs, it was desirable to intercalate the year, so that there might be time to rebuild the ovens and allow them to dry. And, finally, if the Jews of the Dispersion had set out on their pilgrimage but could not possibly reach Jerusalem in time (owing to the conditions of travel), it was necessary to intercalate the year in order to enable them to arrive in season).

6. However, it was not customary to intercalate the year on account of snow, or cold, or on account of such Jews of the Dispersion as had not yet set out on their pilgrimage, or on account of uncleanness. Thus, if the majority of the community or of the priests had become ritually unclean, the court was not bound to intercalate the year in order to give them time to become clean and to sacrifice the Passover in condition of cleanness; rather, the people were allowed to perform the sacrifice while in defilement. However, if the court did intercalate the year on account of uncleanness, the intercalation was valid.

7. There were considerations in themselves insufficient to justify intercalation but they could be given as supporting reasons if the year required intercalation either on account of the tekufah or on account of the conditions of the barley harvest and of the fruit of the trees. Those additional reasons were as follows: if the kids and lambs had not yet been born, or were still too young, or if the pigeon squabs were still unfledged. Although it was not permissible to intercalate a year merely in order that (properly aged) kids and lambs might be available for the Passover sacrifice, or in order that (properly aged) pigeon squabs might be available for the pilgrims' burnt offering or for those who were obliged to bring a sacrifice of fowl, yet the court could consider these things as additional support in favor of intercalation.

8. How did the court state these additional reasons for intercalation? By putting it thus: This year requires intercalation on account of the lateness of the tekufah, or because of the lateness of the barley harvest and the unripe condition of the tree fruits; moreover,

the kids are too young, and the pigeon squabs too tender.

9. Only those who were appointed (to sit in the Council of Intercalation) might decide whether a year should be intercalated. How was this done? The Chief of the Supreme Court would say to certain members of the Synedrium: "You are appointed to come to such and such a **place to calculate, consider, and ascertain whether or not this year requires intercalation.**" And only those who were thus invited might decide about the intercalation of the year.

As for the number of those who took part in the Council, the procedure was as follows: The deliberations began with three ordained judges chosen from among the members of the Great Synedrium. If two of them said, "We need not meet to consider whether or not the year requires intercalation," and the third said, "We should meet and examine the matter" - then the single member, as a minority, did not count. If two of them said, "We should meet and deliberate the matter," and the third said, "We need not meet," two more members were added from among those who had been invited, and the deliberations did begin.

10. If two of the five said, "The year requires intercalation," and three said, "It does not require it," the two, being a minority, did not count. If three members said that it required intercalation and two said that it did not require, two members were again added from among those who had been invited, and the deliberations were continued and concluded with a panel of seven. If all seven of them unanimously decided to intercalate or not to intercalate, their decision prevailed; but if they disagreed, the opinion of the majority was followed, whether to intercalate or not to intercalate. But it was necessary that the Chief of the Supreme Court, who was also the Chief of the College of Seventy-One, be among the seven. However, if it so happened that there were only three members in the council and they decided to intercalate the year, the intercalation was valid, provided that the Nasi was one of them, or that he approved of their decision. In the deliberations concerning intercalation of the year, the vote of the side bench was taken first; in those concerning the sanctification of the new moon, the vote of the senior judge was first taken.

11. Neither a king nor a High Priest could be appointed a member of the Council on the Intercalation of the year. A king was not eligible for fear that he was primarily concerned with his armies and military campaigns, and that his concern for things would influence his opinion on whether or not the year should be intercalated. A High Priest was not eligible because he might be concerned about the (beginning of the) cold season, for he was obliged to take five baths of purification on the Day of Atonement; hence he might wish not to intercalate the year, so that the month of Tishri should not fall in the cold season.

12. If the Chief of the Supreme Court - it is he who bore the title of Nasi - was away on a distant journey, the year could be intercalated only on condition that the Nasi would give his consent: if upon his return he consented, the intercalation was valid; if he did not consent, the intercalation was not valid. The year could be intercalated only in Judea, for the Sekinah resided there; as it is said: "Even unto His habitation shall ye seek" (Deut. 12:5). However, if it so happened that intercalation was decided upon in Galilee, it was valid. Again, a year could be pronounced as intercalated in daytime only; and if it happened that the pronouncement was made at night, the intercalation was not valid.

13. **The court had the authority to ascertain by calculation and to determine which year was to be intercalated. It could do so whenever it pleased, even many years in advance.** However, the court might not announce the intercalation of a year before that year had begun. Only after New Year's Day could the court announce that this year was to be intercalated, and even this was only permitted in a case of emergency. When there was no emergency, announcement of the intercalation was not to be made prior to the month of Adar. Only in Adar could the court announce that this year had been declared intercalated, and that, accordingly, the following month was not to be Nisan but Second Adar. If the court did announce before New Year's that the coming year was to be intercalated, the intercalation did not take effect on the strength of this (premature) announcement.

14. If the 30th day of Adar had arrived and the court had not yet come to a decision concerning intercalation, it could no longer do so; for this day might prove to be the first day of Nisan; once, however, the month of Nisan had begun, and the year had not been declared intercalated, it could not be so declared. However, if the court did intercalate the year on the 30th day of Adar, the intercalation was valid. If after the intercalation of the year on the 30th day of Adar had been announced, witnesses arrived and testified that they had seen the new moon, the court sanctified the new moon on that day, which thus became the first day of Second Adar. Had the court sanctified the new moon before announcing the intercalation, it could no longer have decided to intercalate the year, for they were not allowed to intercalate in Nisan (and the new moon would have been sanctified as the moon of Nisan).

15. The court might not intercalate the year in a year of famine; for then everyone hastened to the granary to get food for the preservation of his life, and it was improper to prolong the time in which the new crop of the field was prohibited for consumption. Nor was it proper to intercalate a Sabbatical year, for then everyone had to depend upon the aftergrowth, and thus there would not have been enough left for the offering of the Sheaf and the two Wave Loaves. It was customary, however, to intercalate (if need be) the year preceding a Sabbatical year.

16. It occurs to me that the statement of the Sages that no intercalation should be declared in a year of famine or in a Sabbatical year refers only to cases in which intercalation was indicated by reasons of expediency, as, for example, the state of the roads and bridges or similar considerations. If, however, the year required intercalation on account of the tekufah or on account of the barley

harvest and the fruits of the trees, the court was obliged to intercalate the year at all events.

17. Whenever the court intercalated a year, letters were sent out to all distant places, announcing the intercalation and giving the reasons for it. And these letters were written in the name of the Nasi, as follows: "This is to notify you that I and my colleagues have agreed to add to this year so and so many days," either 29 or 30 days. For the court had the authority to declare the month of intercalation in advance as either full or defective to the people who lived in distant places and were kept informed by letters. The court itself, however, depended on observation of the new crescent as to whether the intercalated month was to be made full or defective.

## CHAPTER 5

1. All that we have said above concerning the fixation of New Moon Days on the basis of observation of the new crescent, and concerning intercalation of the year because of the season or because of other reasons of expediency, applies only to the Synedrium in Palestine or to a Palestinian court of judges ordained in Palestine, to whom the Synedrium had delegated the authority to do so. For Moses and Aaron were thus ordered: "This new moon shall be unto you the beginning of months" (Exod. 12:2), and the Sages have learned from an oral tradition going back to our Teacher Moses that the meaning of this verse is: The authority over the evidence is vested in you and in your duly qualified successors. **In times, however, when no Synedrium existed in Palestine, fixation of New Moon Days and intercalation of years was effected only by such methods of calculation as we are using today.**

2. It is thus a Mosaic tradition from Sinai that in times when there was a (Palestinian) Synedrium, declaration of New Moon Days was based on visual observation, **while in times when no Synedrium existed, this declaration was based on calculations such as we are using today and no attention was paid to observation of the new crescent. Rather, the day established by calculation might well coincide with the day in which the new moon became visible, but it might sometimes be the day before it or the day after it.** The latter case, however, **when the calculated New Moon Day** happened to be the day after the new moon became visible, occurred only rarely, and then only in the countries west of Palestine.

3. Since when did **all** of Israel begin to employ these methods of calculation? Since the time of the last Sages of the Gemara; that was the time when (the Jewish community of) Palestine was destroyed and no regularly established court was left. In the times of the Sages of the Mishnah and also of the Gemara, however, up to the days of Abbayi and Raba (ca. A.D. 325) the people depended upon the Palestinian courts for the determination (of the calendar).

4. In the time of the Synedrium, when New Moon Days were determined by observation, the rule was as follows: the people in Palestine and in places that could be reached in ample time by the messengers of Tishri, celebrated (each of) the holidays one day only, while those living in more distant places that could not be reached by the messengers of Tishri used to celebrate the holidays for two days, because they were in doubt, inasmuch as they did not know which day the Palestinian court had declared as New Month Day.

5. **But in our times, when no Synedrium exists and the Palestinian court itself determines the calendar by calculation, it might seem proper that the Jews of all countries, even of the more distant countries of the Dispersion, need celebrate the holidays one day only, just as the Jews of Palestine do - seeing that all follow the same method in determining the calendar...**