



Topic 2: A Copyright Battle

1. Marvin Heller, *Further Studies in the Making of the Early Hebrew Book*, pg.305

On August 12, 1553, Pope Julius III issued a papal bull ordering the confiscation and burning of the Babylonian and Jerusalem Talmuds. In a time of religious turmoil and repression in Europe – the Counter-Reformation – this particular decree represented the culmination of a dispute between two printers, neither of whom were Jewish, over competing editions of Maimonides' *Mishneh Torah* with the glosses of Rabbi Meir Katzenellenbogen of Padua.

2. The players

- Daniel Bomberg Christian publisher, produced the *Mikra'ot Gedolot* Bible and printed Talmud
- Marcantonio Giustiniani Christian patrician publisher, drove Bomberg out of business
- Alvise Bragadin Christian publisher, published Maimonides' *Mishneh Torah* with Rabbi Meir
- Rabbi Meir Katzenellenbogen Chief Rabbi of Padua, author of a commentary to *Mishneh Torah*
- Rabbi Moshe Isserles Chief Rabbi of Cracow

3. Bragadin's note, *הסכמה ורשות בדפוס וייציאה*, M. Benayahu, pg. 24

And I know that when... [he] will see that I have begun to publish the twenty-four and Rav Alfasi, he, too, will race to the battle to do this work, and not sooner as he did with me regarding Maimonides. With this I will know that you will praise me, for it is due to me that books will be available cheaply.

4. Frontispiece of the Giustiniani 1550 edition of *Mishneh Torah*

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We have also decided to print at the end that which was written on the page by one sage, head of the rabbis of Padua, Rabbi Meir, "new each morning" [a play on Lamentations 3:23], who wrote of his own heart in the Maimonidean edition printed anew by Bragadin, introducing his head between the early giants. We consulted wise and complete people, near and far, and in truth, they counseled us not to print them in this book, lest they not appear correct to many students of Torah - as will be clear to any who examines one preface on the other side of this page. But in truth, we printed them to satisfy the desire of every man, "doing the will of each man" (Esther 1).

5. Rabbi Joseph Caro (16th century Turkey, Israel), Code of Jewish Law, Choshen Mishpat 212:1

One may transfer, through sale or gift, only items of substance. Intangible items may not be transferred.

6. Rabbi Moshe Isserles (16th century Cracow), Responsa of Rabbi Moshe Isserles, #10

We will not abandon our part. We declare that all Israel, and anyone known as Israel, should not purchase any new copy of Maimonides other than those which emerge from the hand of the aforementioned Gaon or those whom he has empowered, for the following four reasons...

7. Talmud, Bava Batra 21b

Rav Huna said: If an alley resident establishes a mill, and another alley resident establishes one nearer the sole entrance to the alley, the former is legally able to prevent this, saying, 'You are interrupting my livelihood.'

8. Rabbi Mordechai ben Hillel (13th century Germany), Mordechai to Bava Batra 516

Where a street is closed on three sides, and only on one side is it open for entry, and Reuven lives near the closed end and Shimon comes to live near the open end, such that a non-Jew could not enter the street without passing Shimon's entrance, the law is that Reuven can prevent this [new business], like the view of Rav Huna.

9. Talmud, Bava Batra 22a

Rav Dimi of Neherdaa brought dried figs by boat. The Exilarch said to Rava: Go and see; if he is a young scholar, set up the market for him.

10. Midrash, Sifra Behar 3

How do we know that when you sell, you should sell only to your friend? 'And when you sell to your friend.' And how do we know that when you purchase, you should purchase only from your friend? 'Or you purchase from your friend.'

11. Talmud, Ketuvot 19b

Rabbi Ami said: One may not keep an unchecked Torah scroll for 30 days; it is written, "Do not maintain corruption in your tent."

12. Marvin Heller, *Further Studies in the Making of the Early Hebrew Book*, pg.310

Anticipating a loss on his investment, Giustiniani appealed to Pope Julius III for relief. The Pope assigned the Giustiniani-Bragadin dispute to a committee of six cardinals – the Congregation of the Inquisition – for investigation. The committee was headed by Cardinal Giovanni Pietro Caraffa, the future Pope Paul IV. Both sides were represented by apostates, whose charges soon deteriorated into an attack on the Talmud. Under Caraffa's direction, the committee reported in favor of burning the Talmud, and on August 12, 1553, the Pope issued a bull ordering the confiscation and burning of the Babylonian and Jerusalem Talmuds. On the Jewish New Year, September 19, 1553, the Talmud was burned, first in Rome and then elsewhere.

13. Amnon Raz Krakotzkin, *Persecution and the Art of Printing*

The burning of the Talmud extended the Bet Yosef's role, as it contained a substantive number of quotations from the banned composition, and was thus perceived as an invaluable source of talmudic knowledge.

Introduction to a Forgery

14. David Friedlander, On Self-Development and the Abolishment of Jewish Autonomy, 1792 (Mendes-Flohr, *The Jew in the Modern World*, pg. 79-80)

We are living among the Gentiles, all of whom daily probe into their religions in order to eliminate the chaff, to purify their morals and to improve their faith. We, on the other hand, who have started out on the highest level, constantly deteriorate...Were our rabbis not completely blind, were they not confined to the four walls of the Halakhah - where they know as much about the things of the world as I know about the doings of the Nabob in Sanghar - they would think of repairing the breach. But nobody seems to notice.

15. Rabbi David ben Natan of Lissa, 1782, Sermon (Mendes-Flohr, *The Jew in the Modern World*, pg. 67-8)

We speak of an act by a sycophant, an evil man, a man poor in understanding, the most mediocre of mediocre of men. This man, Herz Wessely of Berlin, has addressed an epistle to those of the House of Israel who dwell in the land of His Majesty the Emperor. This epistle, called "Words of Peace and Truth," makes one's heart heavy. It consists of eight chapters of bootlicking. And, deeming himself unique in his generation, he offers rash advice to wise, understanding, perfect and flawless men.

16. Avot 6:6

One who makes a statement in the name of its original source brings redemption to the world, as Esther 2:22 says, "And Esther told the king, in the name of Mordechai."

17. Jerusalem Talmud, Shabbat 6:1

Rabbi Avahu cited Rabbi Yochanan: One may teach his daughter Greek; this is ornamental for her. Shimon bar Abba heard this and said, "Because Rabbi Avahu wants to teach his daughter Greek, he hung this upon Rabbi Yochanan." Rabbi Avahu heard this and said, "May terrible things happen to me, if I did not hear this from Rabbi Yochanan!"

18. Talmud, Pesachim 112a

If you wish to be strangled, hang yourself by a tall tree.

Besamim Rosh

19. Responsa of Rabbeinu Asher ("Rosh") 55:9

The wisdom of philosophy and the wisdom of Torah and its laws do not follow the same path. The wisdom of Torah is a tradition received by Moses from Sinai, and the scholar will analyze it via the methods assigned for its analysis, comparing one matter and another. Even where this does not match natural wisdom, we follow the tradition. Philosophical wisdom is natural, with great scholars who established natural arguments, and in their great wisdom they dug deeper and corrupted (Hosea 9:9) and needed to deny the Torah of Moses, for the Torah is entirely unnatural and revelatory.

Regarding this it is stated, "You shall be pure with Hashem your Gd (Deuteronomy 18:13)," meaning that even if something is outside of natural logic, you should not doubt the received tradition, but walk before Him in purity. Therefore, you should not bring proof from their words, to make a sign or argument or parable against the just laws of Gd.

Regarding this the sage said, "Those who enter it will not return (Proverbs 2:19)," meaning that one who enters this area of [natural] wisdom will not be able to leave it and introduce his heart to the wisdom of Torah, for he will not be able to return from the natural wisdom to which he has become accustomed. His heart will be continually drawn after it, and he will not be able to establish himself in the wisdom of Torah, which is the path of life, for his heart will be perpetually drawn after natural wisdom. He will try to equate the two wisdoms, and bring proof from one to the other, and so he will warp justice for these are two opposites and rivals which cannot dwell in the same space.

20. Responsa Besamim Rosh 240

One who opens his mouth with doubts in various areas should not be judged heretical. With our own eyes we have seen giants of Israel speak harsh things occasionally, things one may not hear; some of them are even recorded in books. Benevolent Gd will atone for him. One is not termed "heretical" unless he attacks our tradition.

21. Responsa Besamim Rosh 251

It is known to most, and to almost all students, that one cannot learn wisdom in such matters unless he fills his belly with Greek texts, engaging in deep analysis of their compositions. And even though these are the beginning of Torah and the essence of religion, still, all agree that one cannot grasp the essence of Torah and mitzvot from the intellect he acquires from simple Scripture and the words of our Sages of blessed memory, but via the intellect that learns and is accustomed to the works of the philosophers of the nations...

22. Responsa Besamim Rosh 40

Regarding the person who shaved on *chol hamoed* because he had already shaved before the holiday, based on the fact that he had heard that Rabbeinu Tam permitted it: You are correct that one may not follow an individual's leniency against a community... But neither law nor custom has been stated in the matter, and no clear evidence to prohibit is available, and so it is not right that you ex-communicated him, since he did have Rabbeinu Tam's authority. The master should forgive his ex-communication.

23. Responsa Besamim Rosh 251

Gd gave [the Jews] the Torah to bring them to satisfaction and completion, to goodness and pleasure. Therefore, occasionally when we have sinned in our ways and warped our paths, some of the Torah's laws have damaged the good which should have come upon us via fulfillment of the Torah, and then we have rejected that law and done the opposite, as the pious king said (Psalms 119:126), "It is a time to act for Gd, they have nullified Your Torah."

If it could be imagined that a time might come when the laws and mitzvot of the Torah might clearly bring evil upon our nation, the whole nation, or even if it could be imagined that they would not bring satisfaction to the nation, then we would throw its yoke from upon our necks. The hinge upon which all of the Torah's laws turn is that Gd instructed the Jews to perform these laws out of love, for He desires kindness, and He spoke good for Israel...