

Background

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. 1709, Statute of Anne, *An Act for the Encouragement of Learning, by vesting the Copies of Printed Books in the Authors or purchasers of such Copies, during the Times therein mentioned*

Whereas Printers, Booksellers, and other Persons, have of late frequently taken the Liberty of Printing, Reprinting, and Publishing, or causing to be Printed, Reprinted, and Published Books, and other Writings, without the Consent of the Authors or Proprietors of such Books and Writings, to their very great Detriment, and too often to the Ruin of them and their Families: For Preventing therefore such Practices for the future, and for the Encouragement of Learned Men to Compose and Write useful Books; May it please Your Majesty, that it may be Enacted...

3. 1760's, William Blackstone, Commentaries on the Laws of England 26:8

There is still another species of property, which, being grounded on labor and invention, is more properly reducible to the head of occupancy than any other; since the right of occupancy itself is supposed by Mr. Locke, and many others, to be founded on the personal labor of the occupant. And this is the right, which an author may be supposed to have in his own original literary compositions: so that no other person without his leave may publish or make profit of the copies. When a man by the exertion of his rational powers has produced an original work, he has clearly a right to dispose of that identical work as he pleases, and any attempt to take it from him, or vary the disposition he has made of it, is an invasion of his right of property.

1540's – The case of Rabbi Meir of Padua

4. The players

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| • Daniel Bomberg | Christian publisher, best known for producing the <i>Mikra'ot Gedolot</i> Bible |
| • Marcantonio Giustiniani | Christian patrician publisher, drove Bomberg out of business |
| • Alvise Bragadin | Christian publisher, published Maimonides' <i>Mishneh Torah</i> with Rabbi Meir |
| • R' Meir Katzenellenbogen | Chief Rabbi of Padua |
| • R' Moshe Isserles | Chief Rabbi of Cracow |

5. Frontispiece of the Giustiniani 1550 edition of *Mishneh Torah*
<http://hebrewbooks.org/pdfpager.aspx?req=11791&pgnum=1>

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).

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

לא נניח את שלנו ולומר שכל ישראל ומי שבשם ישראל יכונה לא יקנה שום ספר מיימוני החדשים רק מאותן היוצאים מתחת יד הגאון הנ"ל או באי כח, והוא מארבעה טעמים.

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 22a

רב דימי מנהרדעא אייתי גרוגרות בספינה א"ל ריש גלותא לרבא פוק חזי אי צורבא מרבנן הוא נקיט ליה שוקא
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.

8. Talmud, Ketuvot 19b

אתמר ספר שאינו מוגה אמר רבי אמי עד ל' יום מותר לשהותו מכאן ואילך אסור לשהותו משום שנא' אל תשכן באהליך עולה
Rabbi Ami said: One may not keep an unchecked Torah scroll for 30 days; Job 11:14 says, "Do not maintain corruption in your tent."

9. 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.

The Roedelheim Machzor

10. David Nimmer, *Lessons from Maharam Banet's Clash with Chatam Sofer*, <http://bit.ly/1JQECXC>

11. Rabbi Mordechai Benet (19th century Moravia), Parashat Mordechai 7

ונראה עוד שנהגו כן הגאונים כדי להחזיק בידי עושי מצוה ולא יהיו עושי מצוה נזוקין, ואם יש לחוש שידפסו כל איש ואיש כרצונו ימנעו עצמם מלדפוס כלל ומפני חשש פסידא, וע"י החרם לא ימנעו. אך לפי"ז אין לגזור החרם רק עד שימכור הראשון סחורתו, אבל לגזור בחרם על זמן רב דגם אחר שימכור הא' סחורתו יהיו אחרים אסורים לדפוס, בזה לא שייך ה"ט דלעיל. ועוד האידנא דאיכא מדפיסים גוים והם אינם מצווים לשמוע בקול חכם, א"כ הישראל המדפיס הנזהר לקיים החרם שגזרו יפסיד, ולא יהי' לו ריוח כשידפיס גם הוא ע"י החרם, דהא המדפיסים הגוים ישיגו גבולו.

It appears further that the *gaonim* did this in order to strengthen the hands of performers of *mitzvot*, lest they be harmed. If there were concern that each person might publish as he wished, people would refrain from publishing at all, out of concern for loss. Via the ban, they will not refrain. However, one should only decree the ban until the first one sells his lot; decreeing a ban for a long time, so that even after the first has sold his lot the others will still not be allowed to publish, is beyond the reason stated. Also, when there are non-Jewish publishers who are not instructed to listen to the sage, the Jewish publisher who is careful to honour the ban will lose out. He will not profit when he only publishes in accordance with the ban, for the non-Jewish publishers will overstep his boundary.

12. Rabbi Moshe Sofer (19th century Hungary), Chatam Sofer 5:Choshen Mishpat 41

א"א להדפיס בלי שיוציא הוצאות הרבה ויבוא מי שיבוא אחריו ויפסדנו קרנו ועמלו ומטעם זה אסר רמ"א ספרי רמב"ם של המדפיס השני... ואלו לא נהגו ה' ראוי' להנהיג שלא מן הדין לעזר תגרי ספרי' כמו שפטרם חז"ל מתפלה והתענו עליהם אנשי כה"ג כי חשו שיתבטלו. ואם לא נגזר בפני פועלי און לא יקרב עוד איש אל המלאכה ויתבטלו מ"ס מישראל ואם יש מדפיסי' א"נ (א"י?) אשר לא ישמעו לקול מלחשי' נגזר על הקונים...

It is not possible to publish without making large expenditures, and the next one will come and cause him to lose his capital and his work. Therefore Rabbi Moshe Isserles prohibited the books of Maimonides of the second publisher... And if they had not done this, it would have been appropriate to act thus even without legal sanction, to aid merchants of books, just as the sages exempted them from prayer (Succah 26a), and the Great Assembly fasted lest they cease to function (Pesachim 50b). If we would not decree against evildoers, no one would enter the trade, and sellers of books would cease from Israel. And if there are unfaithful merchants who will not listen to these invocations, we should decree upon the consumers...