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A PAPAL BRIEF OF PIUS IV

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ON examining the parchment cover of a copy of a ritual (Tikkun) for the community of Casale, printed at Venice, 1626, and belonging to the library of the Jewish Theological Seminary of America (cf. Van Straalen, *Cat. of the Heb. Books in the British Museum*, 1894, p. 143, col. 2), it was found that the inner portion contained a document of the character of which there could be little doubt.

The piece of parchment is a fragment of a larger piece which must have been about fourteen inches wide. Before cut to fit the book of which it was made the cover, it had been folded in the middle, so that of the left hand portion considerably more than half is missing and of the right hand somewhat less than half. That is to say, we shall have to understand between every line nearly another full line.

Fortunately, however, it is a public document and, therefore, largely formulaic in character. In spite of the serious gap to be filled in reading it, we can make out the substance fairly well. It is an official transcript of a papal brief or *breve*, which the prothonotary Augustine of Cusa made at Rome in 1587-1588.

The text is as follows:

In Nomine Sanctissimae et Individuae Trinitatis.

1.—*Augustinus Cusanus Prothonotarius Aplicus*, S. D. N.
Papae necnon Curiae causarum Camerae applicae —

- 2.—extra eam latorum ac Irarum aplicarum quarumcumq.
universalis et moerus exequutor —
- 3.—que pns publicum Transumpti Instum visuris lecturis
et audituris salutem in Domino —
- 4.—ut de his quae de Romani pontificis gratia processerunt
ac in nro Tribunali coram —
- 5.—uta ac registrata reperiuntur cum expedit aut ab ali-
quibus petitur veritati Testimoni —
6. *Augustinus Cusanus Auditor et Judex* prefatus tenu-
imus et legimus et —
- 7.—sub die nona mensis Decembris 1563, apud Acta
infrascripti nostri notarii ex —
- 8.—non cancellatum non vitiatum nec in aliqua sui parte
suspectum sed omni prorsus —
- 9.—ad futuram rei memoriam. Dudum accepto quod licet
certum hebreorum volumen —
- 10.—Republica christiana Inquisitoribus gnalibus de man-
dato nostro damnatum et —
- 11.—Redemptorem nostrum eiusq. sanctissimum nomen et
honorem blasphemias et ignominias continens —
- 12.—hebreorum infra limites iurisdictionis suae consis-
tentibus ex parte nostra intimarent et —
- 13.—quibus nomen Jesu Salvatoris nostri quod hebraice
Jesui hanozri dicitur cum blasphemia aut —
- 14.—diligentissime exquirentur et qui libros hmoī penes
se quoquo modo habere reperti forent de —
- 15.—corporalibus etiam ultimi suppliciq. ac alias prout a
fide christi appostantes —
- 16.—habere hmoī omni diligentia inquirent et studioso
investigarent inquirent. et investigari
- 17.— — ibili punirent, non permittentes de cetero
eosdem hebreos a quibusvis etiam apī —

- 18.—continerent nisi de expresso nrō mandato quomodo libet vexari aut molestari. Cum aut —
- 19.—*Salvatoris* nostri cum blasphemia aut ignominiose nominabatur cassa deleta abolita seu abrasa —
- 20.—reperiantur illi penes quos tales libri reperti fuerint tamquam habentes libros in quibus —
- 21.—dubitandi materiam amputare volentes. Motu proprio et ex certa scientia nra per pn̄s —
- 22.—contra Christum Redemptorem nrum eiusq. sanctissimum nomen et honorem blasphemia —
- 23.—cassis deletis abolitis et abrasis ut nullatenus legi possint libros eosdem ita expurgatos et —
- 24.—et locis publicis quam privatis domibus et alias ubiq. locorum habere et tenere absque aliquarum poenarum
- 25.—nominaretur. Ipsiq. Hebrei illos tum tenuerint et haberint dummodo intra dies quattuor, menses —
- 26.— — cumque Iudices et Commisarios quavis auctoritate fungentes etiam Causarum Palatii Auditores in quavis —
- 27.—et diffiniri debere ac si secus super his a quoquam quavis auctoritate scienter vel ignoranter
- 28.—ariis quibuscumque. Datum Romae apud stum Petrum sub Anulo Piscatoris Die vigesima octava Decembris —
29. Quarum quidem Irarum aplicarum sumptum ad instantiam et requisitionem
- 30.—et exemplari ac in hanc publici Transumpti formam redigi mandavimus et fecimus volentes et —
- 31.—adhibeatur eque ac si litterae ipsae originales in medium exhibitae aut ostensae forent. In *Quorum*

32.—quo in talibus utimur iussimus et fecimus appensione
muniri. Dat. Romae in Aedibus $\overline{\text{nr̄is}}$ sub Ap —

33.—Sixti Papae Quinti Anno Tertio. $\overline{\text{P̄ntibus}}$ ibidem DD.

Scipione Grimaldo et Marco Antonio Bruto

The exordium recites the formulaic section found in most papal bulls and briefs, authorizing the issuance of transcripts, *cum expedit aut ab aliquibus petitur*, "when it is deemed expedient or is required by any person or persons." Lines 1-5. (Cf. the section *Ceterum quia difficile foret* in the brief of Pius IV, Feb. 27, 1562.)

The prothonotary, auditor and iudex—he boasts of all these titles—finds in his office a decree which he has himself held, examined and read, and which contains no mark of erasure or cancellation (lines 6-9). This refers to the practice in the Papal registry, of marking documents no longer valid with the words *Cancellatum*, etc., in whole or in part.

Then follows (lines 9-28) a copy in full of the papal letter or brief.

Of this decree, the document before us is declared to be a true copy, and it is ordered, in accordance with the clause *Ceterum quia difficile*, mentioned above, that the same force and effect be granted to it as would be granted to the original. It is then dated in the third year of Sixtus V and witnessed by Scipio Grimaldi and Marcan-tonio Bruto.

Who the persons are at whose instance and request (l. 29, *sumptum ad instantiam et requisitionem*) this copy was issued, unfortunately does not appear.

But it is, of course, the papal letter or brief itself which chiefly attracts our attention.

In substance it runs as follows:

Although a certain book or certain books (*certum hebreorum volumen*, l. 9; *libri huiusmodi*, l. 14) of the Jews have been condemned as blasphemous by the Grand Inquisitor, and though those who, upon search, are found to possess them are subject to the same penalties as for apostacy, the various officials whose duty to investigate and search for such books is here re-emphasized, are not to permit general and unauthorized molestation of the Jews, inasmuch as, if all scandalous or blasphemous references to Jesus or to Christianity shall have been obliterated, it is expressly ordered that these books may be freely kept and used anywhere, either in public or private, provided, of course, that the books have been submitted to inspection.

The bill is then dated December 28th, but the year is tantalizingly absent.

Who is the pope who issues it and what relation has this decree to the many similar utterances of pope and council?

Two dates are given, one of the transcript, viz., the third year of Sixtus V, or 1587-1588, and one other mentioned in the body of the document, Dec. 9, 1563 (l. 7), which falls within the reign of Pius IV.

We shall, however, look in vain either in special or general collections of papal documents for the decree before us. The fullest of these, the *Magnum Bullarium Romanum*, put together from the archives by Tomassetti in 1867 under the auspices of Pius IX and published at Turin, contains an especially large number of documents of both the popes mentioned above, but not this brief. Nor again is it to be found in Stern's *Urkundliche Beiträge*, nor in the numerous discussions either of the period or of the sub-

ject. We may, therefore, assume that it is a new and unpublished document of which we must determine the relation and effect.

The agitation against the Talmud, fostered chiefly by apostates, was already of long duration by the beginning of the sixteenth century, and culminated finally in the public burning of the book and in its prohibition. But on March 24, 1564, a *breve* was issued confirming the Tridentine Index. Pius IV, for reasons, perhaps not the most creditable (cf. Graetz, IX, 3rd ed., Breslau, 1891, p. 368, note), permitted the printing of the Talmud without that title and after expurgation.

This qualified tolerance had been rendered nugatory by the severe repressive measures of Pius IV's successors. In 1586, just as some twenty years before had been done under Pius IV, a deputation waited on Sixtus V and pleaded for permission to print and possess copies of the Talmud. Sixtus, in his decree of October 22, 1586, gave the permission sought for with the usual stipulation of preliminary censoring.

If the dates mentioned (cf. Graetz, IX, 368, and 470, and *Bullarium Magnum*, 7, p. 167, and 8, p. 789,) are considered, it is evident from the date of the decree here transcribed, December 28 (l. 28), that it is identical with neither of the two just referred to. Both position and phrasing (*sub amulo Piscatoris*, *ibid.*) make it impossible to refer the date, December 28, in this document, to anything else than the Papal brief itself.

As it stands, it would not be impossible to connect it with the document of 1586. For, although in the article by Deutsch, *Jewish Encyclopedia*, X, 127 a, it would seem that the bull was wholly devoted to the subject of censor-

ship, and Graetz; IX, 470, seems to confirm that statement, the bull itself as it appears in the *Bullarium Magnum* (supra) and, indeed, as Graetz himself states (IX, 468), was in reality a general grant of privileges and refers to the specific matter of printing only by implication.* This document, if it were shortly before the transcript in time would in a measure complete the bull of 1586.

Two things, however, make it impossible to place it in this period. First, the true copy here issued is expressly stated to have been of a document found recorded and registered in the office (*apud acta infrascripti notarii*, l. 7) and not in any way cancelled or suspicious. This does not point to a recently issued decree.

Secondly, and most important of all, no restoration of missing words between lines 6 and 7 can escape the inference that the document so registered bore the date (of registration) December 9, 1563.

Since the Papal brief is dated December 28, it follows that the omitted year cannot be later than 1562.

It is obvious that if, in 1586, a bull or other decree had been issued permitting the printing of Hebrew books, no one, in 1587, would think of falling back upon a document of 1562 or earlier. The statement, then, so frequently made that the bull of 1586 did that very thing, viz.: lifted the prohibition of the Talmud and other Hebrew books, is based upon a misapprehension of the effect of that decree.

* Graetz found the bull only in Coqueline's *Collectio*, IV, 4, No. 69. The above-mentioned *Bullarium*, however, contains it, in its regular chronological place.—The term "bull" has been used for this decree, in accordance with the statements of the various writers who have discussed it. Strictly, however, it is no more a bull than the document here published. Both are signed *sub anulo Piscatoris* and are therefore briefs. Bulls are sealed with the *bullæ*. The distinction, to be sure, had ceased to be of serious moment in the latter half of the sixteenth century.

As before stated, the decree was of the most general character and meant for the widest publicity. The technical portions, i. e. exordium and conclusion, are in Latin, the main body, however, is in Italian. Not only that, it is intended to abrogate (subject to the etiquette necessary to a system in which direct abrogation is impossible), the restrictions successively imposed on the Jews by Pius V and those after him. It consciously restores, therefore, the conditions obtaining under Pius IV. Naturally, Jews, who desired protection in their rights, would supply themselves with copies of those documents of Pius IV, to which, we may say, the bull of October 22, 1586, had given a renewed validity.

But the bull of February 27, 1562, mentioned above (incorrectly dated 1555 and referred to Paul IV, *Jewish Encyc.*, X, 129), was also of general indulgence and makes no mention of books or censorship. Again, it was not until 1563, after the brief here transcribed, that the deputation of Italian Jews visited Pius IV, to obtain permission to print the Talmud.

But is it the Talmud, after all, which is here permitted? The phrase "*certum hebreorum volumen*" occurs in line 9. It is easily possible that the actual word *Talmud* was found in the missing portions. All this is in the earlier portion of the decree. Later on, when the expurgated books are mentioned, it is *tales libri, libri huiusmodi*, etc. Again in the earlier portion, special attention is given to the name *Jesui hanozri* (l. 13), which is stated to be the Hebrew equivalent for the name of Jesus. This would also point to the Talmud, or to the Toledot Yeshu.

If we were then to understand the decree before us as stating that, while it had long been decided to forbid

certum hebreorum volumen, viz. : the Talmud, other Hebrew books, if properly expurgated, were free, we have an intelligible version of a document which, otherwise, would have rendered the Tridentine Index and the bull embodying it unnecessary. That non-Talmudic books were, even after the decree of 1559, allowed, though reluctantly, we know (cf. Porges, *Jewish Enc.*, III, 648 a). Just as at Cremona, in the incident there recorded, so at Rome on appeal to a well-disposed Pope like Pius IV, over-zealous inquisitors may have been warned that the decree of 1559 included only the Talmud and not all Hebrew books.

A point deserving attention, and fixing probably the date of this brief at 1562, is that the opening words "dudum accepto" are an echo of the opening words of the bull of February 27, 1562, "*Dudum a felicis recordationis Paulo*, etc.". To be sure, the cases might be reversed and the latter document might be an echo of the former. Still from the vastly more important character of the decree of February 27, this hypothesis seems less probable.