

## *A Halachah in Mishneh Torah*

By: ASHER BENZION BUCHMAN

וראיתי לחלק חיבור זה הלכות הלכות בכל עניין ועניין, ואחלק ההלכות לפרקים שבאותו עניין; וכל פרק ופרק אחלק אותו להלכות קטנות, כדי שיהיו סדורין על פה. (הקדמה למשנה תורה)

The division of *Mishneh Torah* into הלכות קטנות was necessary to ensure that the reader would be able to master and remember the material; thus it was done in such a way as to maximize comprehension and retention. Unfortunately, Rambam's division of *halachos* was not retained in the printed editions for many centuries. Rambam did not number the *halachos* but merely delineated separate *halachos* with spaces and dots,<sup>1</sup> but the first printed edition and all subsequent ones used a numbering sequence that did not follow Rambam's division of the *halachos*. When Rav Kappach put out his edition of *Mishneh Torah* based on original manuscripts, he restored the original breakdown of *halachos*. This breakdown is also retained in the *Mechon Mamre* internet edition. It finally reached the popular audience with the publication of the Shabse Frankel edition, where the original numbering system is retained but with "colons" inserted to show where the *halachos* actually begin and end. In their introduction, the editors point out how important their contribution is and that many mistakes have been made in interpretation because of these erroneous divisions,<sup>2</sup> but they give no examples.

<sup>1</sup> Rav Yitzchok Shelot, in the introduction to his edition of *Mishneh Torah* (p. 19) based on fragments of *Mishneh Torah* believed to be in Rambam's own hand and manuscripts of his *Peirush HaMishnah*, says that there was a סגל הפוך between *halachos*. Ksav Yad Oxford that is signed by Rambam has spaces between *halachos*.

<sup>2</sup> Nevertheless, my personal canvassing of *talmidei chachamim* suggests that very few are aware what the colons in the Frankel Rambam indicate. And even at least some academic scholars who are touted to be experts in Rambam seem to be unaware of the entire issue. On a November 14, 2007 post on The Seforim Blog, Dr. Menachem Kellner followed the printed count of the *halachos* to claim that it is significant that the famous last *halachah* in *Shemittah v'Yovel* is the 13<sup>th</sup> *halachah*. It is, in fact, the 12<sup>th</sup>, and he corrects this in a footnote in the present version of the blog after the error was pointed out to him. As far as I can discern,

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In order to benefit from Rambam's pedagogic intent we must study the *halachos* as he wrote them. Moreover, the changes that were made were not merely a matter of carelessness but apparently the scribes and printers felt that they could improve on the structure that Rambam had designed, and that they were adding clarity, precision, and readability with their changes. Probably they felt the manuscripts in front of them had been written carelessly and by using their own simple logic they were reconstructing the original design. In reality, it was their lack of understanding how Rambam structured a *halachah* that caused them to feel they could improve the text. In some of the fourteen *sefarim* changes are made routinely, while in others there are very few. This is probably a function of the scribes who worked on these *sefarim*, but it is also possible that some subject matter was more prone to misinterpretation. *Sefer Abavah* has very few errors, with *Hilchos Sefer Torah*, *Mezuzah*, and *Tefillin* having almost none.

There are subtle lessons being taught by Rambam every time he composes a *halachah*. For us to be able to align ourselves with his way of thinking, we must read each *halachah* the way he wrote it.

In the following examples, using the text of Mechon Mamre and following their formatting, the bracketed numbers show where the printers began a new *halachah*, while the true *halachos* are delineated by separate paragraphs.<sup>3</sup>

### From the Beginning

Let us start at the beginning, the first *halachos* in *Mishneh Torah*. The scribes were active from the very beginning and edited and obscured the lesson Rambam wished to teach in his opening statement:

#### הלכות יסודי התורה – פרק א

א [א] יסוד היסודות ועמוד החכמות, לידע שיש שם מצוי ראשון. והוא ממציא כל הנמצא; וכל הנמצאים מן שמיים וארץ ומה ביניהם, לא נמצאו אלא מאמיתת הימצאו. [ב] ואם יעלה על הדעת שהוא אינו מצוי, אין דבר אחר יכול להימצאות. [ג] ואם יעלה על הדעת שאין כל הנמצאים מלבדו מצויים, הוא לבדו יהיה מצוי

Prof. Isadore Twersky makes no mention of the issue of a definition of a *halachah* in his comprehensive book on *Mishneh Torah*. A noted academic scholar who is also an exceptional *talmid chacham* told me some years ago that he still preferred to use the old printed editions which had the צורת הדף that he was accustomed to.

<sup>3</sup> I retain the punctuation that was added on that site, but this is from the scholars of Mechon Mamre—not from the hand of Rambam so that, too, cannot be fully relied upon by the reader.