

ב"ה

Kovetz

הידיהן נצחה

Hey Teves

לקראת יום הבהיר ה' טבת

שנת העשרים

תשמ"ז - תשס"ו



יו"ל ע"י התלמידים השלוחים

ישיבת צעירי השלוחים

צפת עיה"ק תובב"א

Introduction

In honor of the auspicious day of "Hey Teves" the fifth day of Teves, we are pleased to present this Booklet on the Story of Hey Teves . "Hey Teves" is the Chassidic festival of **Didan Notzach** marking the U.S. Federal Court ruling, which placed the legal imprimatur of the U.S.A. upon the total exclusive ownership by Agudas Chassidei Chabad of the great library and collection of Seforim and Kesavim of the Chabad Rebbeim.(as the Rebbe noted on the Sichah of 5th of Teves 5747) "the day on which 'our side' was victorious openly, in sight of all the nations (in Federal Court) with regard to the Seforim and Kesavim of our Rebbeim – leaders, in the library of Lubavitch."

This booklet includes:

- ◆ **Dvar Malchus** – A compilation of excerpts from Sichos regarding "Didan Notzach", and the lessons to be learned from it.
- ◆ **The Story of Hey Teves** – An overview of the occurrences of our victory.

This section has been compiled from various sources and includes many angles on the case of the Seforim. The vast majority has been taken from the book, "Despite All Odds", by Edward Hoffman.

The editorial board has included court details and stories of the Rebbe, from this historical episode. The editorial board tries to express the Rebbe's view throughout. However, this overview does not present a full, comprehensive account of all that transpired. A thick book would be necessary for that purpose.

The editorial board has brought the basic, essential facts, peppered with interesting insights with the hope to expose "Hey Teves" in its proper light.

- ◆ **Did You Know** – Important dates regarding the case of the Seforim.

Parts of this Booklet have been translated from Hebrew to English. Unless otherwise indicated, it is to be assumed that the translations are free translations. The responsibility of accuracy lies solely upon the editorial committee.

We would like to thank all of those who helped to make this publication possible, especially Rabbi Pesach Burston.



It is noteworthy, that the Rebbe's words of that period, apply also now. Central to the Sichos on this topic (see Sichah of 5 Teves 5747 and other sources) is the theme: "מה זרעו בחיים אף הוא בחיים", ["He is alive" because his children (Chassidim) are alive."] Through learning the Rebbe's Torah, and fulfilling the Rebbe's directives and Shlichus, "He is alive," and we can "live" with the Rebbe.

May it be Hashem's will that we shall merit to the fulfillment of the promise "ויהקיצו ורננו וגו'", and we will go out of Golus with the Rebbe at our lead, speedily in our days.

The Shluchim

Yeshivas Tzeirei Hashluchim

Hey Teves 5766

Tzfas, Eretz Yisroel

(Credits go to the Shluchim of Yeshivas Ohr Elchonon Chabad 5762)

Table of Contents

A TIME FOR ACTION.....	3	DERECH EMUNAH AND DERUSHEI CHASUNAH	12
THE AVODAH OF OUR REBBEIM.....	4	WHAT ARE THE BOCHURIM SAYING?	12
THE LIBRARY – FROM EUROPE TO AMERICA ..	5	WHAT DO THE SEFORIM THEMSELVES SAY? .	13
MISSING SEFORIM.....	6	THE VICTORY BELONGS TO THE SEFORIM	13
THE REBBE'S REACTION	6	THE ULTIMATE VICTORY	14
TAKING ACTION	7	“IN THOSE DAYS – IN OUR TIMES”	14
THE COURT CASE	7	YUD-GIMMEL KISLEV 5746	15
THE STRATEGY	8	HEY TEVES 5747	15
THE TRIAL.....	9	CHOF-HEY CHESHVAN 5748.....	15
THE REBBE – CHASSID RELATIONSHIP.....	9	CHOF-ZAYIN CHESHVAN 5748.....	15
DIDAN NOTZACH!.....	10	BEIS KISLEV 5748	15
CELEBRATING THE GOOD NEWS.....	10	CHOF DALED ELUL 5750 -.....	16
THE SECOND COURT VICTORY.....	11	THE ULTIMATE “DIDAN NOTZACH”	16
THE SEFORIM RETURNED – A LESSON TO LEARN	12		

True Didan Notzach

In conclusion – the action we must take – from now onward to strengthen and add in Torah study – with extra vigor. This is the test for the true victory of the Seforim – “Didan Notzach”.

And [this means] simply to add fixed times for Torah study, particularly in public.

(Sicha of Shabbos Parshas Vayigash, 5 Teves 5748- 1987)

Purchasing Seforim

This day is connected to the matter of the Seforim . . . and based on the recent custom to connect [everything] with Tzedaka, we will connect with this matter (of the Seforim), in a manner of a new idea, something that has no precedent:

As customary, we will conclude with distributing a [dollar] bill for Tzedaka, to every man, woman and child; and now we will add one more [dollar] bill – as a participation in purchasing new Seforim, or in restoring old Seforim, or to give to another Jew to purchase or restore Seforim. This includes Seforim of the inner aspects of the Torah, as it has become customary recently to purchase Seforim of the inner dimensions of the Torah (and not only to learn them by heart).

(Sicha of 5 Teves, 5749 – 1988)

D'var Malchus

"In Those Days – In Our Times"

In connection with the Fifth of Teves, the day the court case of the Agudas Chassidei Chabad Library was won, we present a free translation of an excerpt from a Sicha said regarding "Didan Notzach".

A Time for Action

In the story of the liberation of the Alter Rebbe from Czarist incarceration we were told that based on charges brought against him, he later learned where, and in what areas, it was necessary to increase his efforts.

Having grasped this principle he was then able to receive the directive which he heard from the Baal Shem Tov and the Maggid, while still in prison, that after being released he would have to work harder at spreading the philosophical teachings of the esoteric knowledge of Chassidus, in a manner of continual increases, much more than before.

In recent years great and wonderful things in the area of spreading Yiddishkeit have been accomplished, especially since the Previous Rebbe came to this country. The spreading of the wellsprings of Yiddishkeit and Chassidus is so widespread that even the Aleph-Beis of Yiddishkeit has become permeated with the source of living waters of G-dliness. If so, the question is raised, why was it necessary that in this era and in this area there should be a problem situation similar to the case of "Yosef was taken down to Egypt, etc.?" Up until this time so much has been accomplished. The Previous Rebbe himself gave witness to this fact for he said: "Stand together ready..." and "You need only to polish the buttons!"

However, we must say that the reason for these problems was only to bring a greater level of ascent. The only reason for the troubling and uncertain situation was to accomplish greater things many times over, in the area of spreading Yiddishkeit.

To reach the greater heights there had to be opposition presented in the guise of an attack! What was said? That Agudas Chassidei Chabad are not active; and we are not using the manuscripts and studying the books and the words of the living G-d (Chassidus); and that the activities of spreading Yiddishkeit to the outside world are not being done. These arguments were presented to provide a basis upon which the question could be posed, "To whom do these things belong?"

Really nothing was lacking but the "polishing of the buttons." Remember, buttons only connect the sides of the garment – the right and left sides would be apart without the buttons. The buttons unify two halves. (By Jewish custom right is placed over left). The right helps the left and together they protect the body. But the buttons had only to be polished. Why all these problems?

The answer is that we must do even more! We must be filled with great joy which bursts all limitations and nullifies all restrictions and measures. The joy must infuse our action in all that we do.

(Sicha of 5 Teves 5747 – 1987)

The Rebbe and The Seforim Belong to The Chassidim

It is well known the pain and anguish the Rebbe and the Rebbetzin went through during the trial of the Seforim.

During the trial the lawyers came to the Rebbetzin at home for a deposition. The defendants' lawyer asked the Rebbetzin, "What is your opinion, to whom does the library belong, to your father or to the Chassidim?"

The Rebbetzin replied, "It belongs to the Chassidim, because my father belonged to the Chassidim..."

These words had a strong impact on the judge, and were very crucial in his decision.

(The Rebbe spoke of these important words and its impact on the case on Shabbos Parshas Trumah 5748 after the shivah following the Rebbetzin's passing)

The Avodah of our Rebbeim

As the court case over the Seforim began, the Rebbe called Rabbi Yehudah Krinsky into his office in "770" and handed him this note, to be used as the main proof that the Seforim belong to Agudas Chassidei Chabad. The Rebbe explained that this would assist greatly to overcome the opposition:

"כבכל אדמור"י חב"ד – היסוד הראשון: ביטול היש (מתחיל – בעצמו) באמיתות. היותו אדמו"ר ה"ז שליחות נפשית ועיקרית, לנהלם ולעדדם בתומ"צ בכלל (מתחיל באמונת ה' שמירת השו"ע וכו') ולהראותם דוגמא חי' בזה (עד כדי מסירת נפש בפועל) ופשיטא לשלול כל פעולה שיוכל לטעות לפרשם להיפך. לאחר זה באים חיו בתור פרטי וגם בזה יסוד שלא נוגע כלל בתפקידו הכללי והעיקרי".

הראי' העיקרית והשוללת כל הטענות שכנגד: מכתב המוריש (רשמית) דשייך לאגודת חסידי חב"ד. הקס"ד אולי כתב רק לפנים (היינו טפשות) והאומר כך זהו ח"ש הכי גדול ועד כדי כך שהאומר כך (במזיד) – צריך להיות ברמ"ח ר"ל. ובסגנון אחר (ועיקר): כל התעודות רשמיות, מכתבים וכו' כותבים מפורש דשייך לאגודת חסידי חב"ד – הטענות שכנגד הם דברים שבע"פ כתב.

Free Translation:

As with all Chabad Rebbes – the first foundation is: truthfully nullifying one's

existence (starting with oneself). Being a Rebbe is [the Previous Rebbe's] personal and primary mission, to guide and strengthen [the Chassidim] in Torah and Mitzvos in general (beginning with belief in G-d, keeping [the laws of] Shulchan Aruch, etc.) and to show them a living example of this (even to the extent of actual Mesiras Nefesh). It is self understood that a Rebbe must also withhold all actions that may mistakenly be explained [contrary to the above].

[Only] after this comes the Rebbe's private life. In this aspect as well the foundation is – not to interfere at all with his general and primary purpose.

The primary proof which overcomes all the arguments of the opposition: The Previous Rebbe's letter which (officially) declares [that the library] belongs to Agudas Chassidei Chabad.

To think that the Previous Rebbe wrote the letter only to deceive the European governments, (is foolish, and) one who says so creates a great Chillul Hashem. One who says this (intentionally) deserves excommunication G-d forbid.

In other words (– and the main point): All the legal certificates, letters, etc. express explicitly that [the Seforim] belong to Agudas Chassidei Chabad – the opposing views are merely words transmitted orally [without any written proofs].

Pidyon Shvuyim

During the months after the Seforim were stolen from the library, the Rebbe stressed, the need to repurchase the Seforim that had already been sold to book dealers, etc. In connection with this, one of the Rebbe's Secretaries relates:

Once, a Jewish book dealer approached me with an offer to sell me three books of the Tzemach Tzedek's manuscripts. I asked how much he was asking for. The reply was – fifty thousand dollars. I laughed and told him that I would pay three hundred dollars. Seeing that he was not striking a deal, he left.

Soon he phoned me and offered a compromise – \$25,000. I decided to ask the Rebbe.

The Rebbe told me that under no circumstances should I pay so much. The Rebbe explained that the Previous Rebbe said in the name of his father, the Rebbe Rashab, that we do not redeem the captive Seforim for more than their value.

The Rebbe added that I should tell this book dealer (who was a follower of the Kapishnitzer Rebbe) to ask the Kapishnitzer Rebbe's advice: Being that the Lubavitcher Rebbe says not to ask for more than \$1000, is it proper to ask for more?

The dealer went to the Kapishnitzer Rebbe and told him the entire story.

The Kapishnitzer Rebbe answered, "If the Lubavitcher [Rebbe] says not more than \$1000, than it should be no more than \$999." And so it was. We bought all three Seforim for \$999.

The Story of Hey Teves

During Pesach time 5745 (1985) Seforim were disappearing from the Library of Agudas Chassidei Chabad. This was discovered through a Lubavitcher who was a rare book dealer who suddenly noticed Seforim of the Agudas Chassidei Chabad Library for sale. He immediately informed the Rebbe's secretariat, and immediate plans were devised to catch those who secretly entered the library and stole the Seforim. At the end of Sivan it was already known who was stealing the Seforim. The Rebbe then became actively involved in the matter. The Rebbe's relationship to the issue, the trial & appeals, the victory, & lessons to be learned – is discussed in the general overview presented below, compiled from various sources. The following excerpts will help you understand "What is the Yom Tov of Hey Teves!"

The Library – From Europe to America

For several generations, the Lubavitch movement had possessed an immense library of Judaica, including the most extensive and valuable collection of Chassidic works in existence. Especially after the Holocaust, when so much of the literature of Eastern European Jewry vanished in the flames, the Lubavitchers cherished their library as a vital part of their contemporary mission in the world. Jews have always been known as the People of the Book. They were among the first to take advantage of the new technology of the printing press in the late fifteenth century, and some of the earliest books printed were Hebraica. Throughout their wandering and persecution, Jews have always managed to make books available for study.

The Lubavitch Library itself has a fascinating history. During the Russian Revolution, the Bolsheviks confiscated the Rebbe Rashab's sizable book collection and to this day, it is still in the hands of the Russian government, housed in the Lenin library in Moscow. Several years later the sixth Lubavitcher Rebbe began to rebuild the library, making purchases throughout Europe and appealing to his Chassidim for book donations and financial support. When the Soviet government in 1927 reversed his death sentence to exile, and then forced him to leave the country he refused to leave without taking his library. But in 1933 when he moved from Latvia to Poland, some of his books were lost en route. Then when he fled Nazi-occupied Warsaw in 1939 for the United States, the library was again confiscated. After the

war, the Rebbe managed to secure some of his books from Poland with the help of the United States government and the Joint Distribution Committee in New York City. He continued to augment the library until his last days.

Some twenty years later, Rabbi Yehuda Krinsky – board member of Agudas Chassidei Chabad (Lubavitch's chief administrative organization) learned that some of the Previous Rebbe's book collection seemed to have survived the war. Through European intermediaries, Rabbi Krinsky was sent microfilm copies of Chassidic manuscripts and asked whether he could identify them. He immediately realized that these were copies of Lubavitch manuscripts long thought to be lost. The agents refused to reveal where the copy manuscripts were, but it was obvious that if they would discover their whereabouts, the manuscripts themselves would probably be found in their original form. Investigation subsequently revealed that the microfilms had been processed in Warsaw, where there was a Jewish institute with thousands of rare Judaica books and manuscripts, including many from the Previous Rebbe's library. The microfilms had been processed on behalf of a foreign national library.

An emissary was sent to the Jewish institute who confirmed the presence of many Lubavitch-owned manuscripts. The emissary also learned that about fifty books and manuscripts had already been given away as souvenirs to American tourists. The bulk of the collection, though, was still intact.

Through the help of the U.S. State Department, Rabbi Krinsky and Rabbi Avraham Shemtov (member of the

The Story of Hey Teves

Agudas Chassidei Chabad) spent three years in negotiation with the Polish government. Finally, the Polish government was ready to release the books to Lubavitch, provided they published a thank-you notice in four major American newspapers. This seemed a reasonable request and the following notice appeared in The New York Times, The Washington Post, the Los Angeles Times, and the Chicago Tribune:

"We thank the Polish authorities and our friends in Poland, for their efforts in preserving the invaluable and irreplaceable collection of Lubavitch books and manuscripts. We also profoundly thank our Polish-American friends, whose contacts in Poland made this gift possible. These religious books and manuscripts will now become a valuable addition to the Lubavitch movement's library in the United States."

When the Rebbe recovered from his heart attack in 1977, his first visit out of 770 was to the Lubavitch Library nearby. There he spent many hours perusing the newly returned books and manuscripts. As Rabbi Krinsky recalls, "It must have been very pleasing and invigorating for him." Soon after, Agudas Chassidei Chabad began extensive renovations and hired new staff to maintain the library and catalogue the books.

Missing Seforim

In the winter of 1985, the library staff noticed valuable books were disappearing from the shelves. Before long, it became obvious that some of the rare Kabbalistic and biblical commentaries were missing.

All efforts to find out who had been taking the books were fruitless, until a hidden camera was installed. For several weeks, the camera's videotape was blank, then the image of the Previous Rebbe's grandson B. G. appeared, who had long since parted ways with the Lubavitch movement and with Jewish Orthodoxy altogether. The videotape showed him entering the library's basement late at night and leaving shortly afterward with a full shopping bag.

When the defendant was asked to return the books he refused, arguing that he was granted permission, from his mother and aunt (the Rebbetzin) to take whatever he wished from the library. The books were his, he insisted, and he intended to sell them at a good price. When asked about any permission she might have given B. G. to take the Seforim, the Rebbetzin denied the account as totally false.

Meanwhile, they learned that the defendant had already begun selling some of the four hundred books he had taken from the library. Dealers in Europe, Israel, and the United States were very much interested in them. One illuminated Passover Haggadah dating back to 1757 was sold for \$69,000

to a Swiss book dealer who soon found a private buyer to pay nearly \$150,000 for it. Later, Lubavitchers learned that the defendant had approached Christie's auction house in Manhattan, but staff became suspicious and turned him away.

When B. G. repeatedly refused to return the books, despite his own father's urging, the Rebbe himself intervened and asked for the return of the books quickly and amicably. "They belong to the community and will ultimately be restored to their rightful owner," the Rebbe insisted.

The Rebbe's Reaction

At the Farbrengen on Yud Beis Tammuz, and days following, the Rebbe reminded his audience of the tremendous dangers to which his father-in-law had exposed himself in order to retrieve the library from the Soviet Union, and then Nazi hands.

The sight of the books on the open market for private gain gave the Rebbe much pain. He said that the library was not for private use, but was established for the use of the public. Indeed the library also has books of non-Torah content for the benefit of the non-Jewish users.

The Rebbe mentioned the argument of the defendant that the Previous Rebbe's motive by making it a public library (and not a private one), was only to fool the authorities at the time, thereby being able to remove the library from the country. This notion moved him to comment, "This is a Chillul Hashem without any comparison!" He explained that to say that a Tzaddik would say anything other than the truth, for any reason, is disrespectful and is a great Chillul Hashem. Even if to the untrained eye it may seem he had halachic grounds to do so, an average person can not compare his level to the level of a Tzaddik and the leader of the generation.

The main emphasis was based on a quote from the Talmud (Taanis 5b), "Our forefather Yaakov did not pass away .he is alive for his children are alive". Furthermore it states in Tanya (146b) "The life of a Tzaddik is not physical but spiritual, which they are belief, fear and love [of G-d]." Now, the books are the foundation of this "belief, fear and love" and the Tzaddik's general service of Hashem, for they were all derived from the books through learning. Therefore when one removes a book from the Rebbe's domain, every moment, he is taking a piece of his life, in the past, present and future, heaven forbid! For as above stated his life is eternal through his children and his children (the Chassidim) are still alive, therefore even now he is taking a piece (heaven forbid!) of his life which is founded upon the books!

Therefore, the Rebbe said, even though it is not place

The Story of Hey Teves

to discuss it, for "I am not a judge, lawyer, policeman or 'strap-holder'", I must speak about this publicly. For we are dealing with the honor of the leader of the generation, and this causes great pain and affects the health. I will therefore not be at ease until this case is settled! The Rebbe also expressed himself saying, that anyone with a Sefer in his possession, was like carrying a "live bomb" which can explode at any moment.

With great emphasis the Rebbe stated that nobody should try to buy back the books. Nonetheless the Rebbe made it clear that any innocent buyer who had unwittingly purchased an item from the Lubavitch Library would be fully reimbursed by Aguch.

Taking Action

At the same time, several wealthy supporters tried to negotiate with the defendant. Their efforts failed. The defendant maintained that the books were his personal property. The Lubavitchers could not possibly agree. To them, his stance represented a brazen act to appropriate books belonging to the Jewish community. In an even larger sense, the defendant's claim to own the library attacked the unique basis of the Rebbe-Chassid relationship and the very foundation of the worldwide Lubavitch community. For the claim that the library was a private collection, and not for the general Chassidim, was directed to prove that the Rebbe may be a shepherd - a leader - but is not united with his flock - the Chassidim.

What should Agudas Chassidei Chabad do? They sensed that the next step was up to them. Here was a man who had taken illegally hundreds of rare books, selling them like ordinary merchandise. Some had already been sold and were in the hands of collectors in America, Israel and Europe. All the books could go at any time and would be irretrievable.

The defendant was then asked to appear before a Jewish court, but refused. Rabbi Krinsky consulted rabbinical authorities on Jewish law who advised him that appeals can be made to a governmental court if justice cannot be effectuated in a Jewish court. On legal advice the Lubavitchers decided to obtain a temporary restraining order in the hope that this would resolve the matter.

By now, it was midsummer, and many federal judges for the Federal Court of the Eastern District at Brooklyn's Tillary Street were on vacation. Rabbi Krinsky decided to work with Nathan Lewin, a prominent attorney in Washington, D.C. On Monday, July 29, they went to the Brooklyn courthouse. Before considering any legalities, the judge asked the defendant to have the matter dealt with by the Jewish

courts. The defendant refused, leaving no alternative to Agudas Chassidei Chabad but to proceed with the restraining order.

A court messenger was immediately dispatched to the defendant informing him of the restraining order and enjoining him from selling any more books. Those in his possession were then placed in an escrow account in a bonded warehouse under attorney supervision. The Rebbe and all Chassidim alike waited eagerly for the defendant to return the books, but he did not.

The Court Case

Accordingly, on August 5, Lewin filed a lawsuit on Chabad's behalf, asking for recovery of the books, and alleging "conversion and trespass." On August 23, the defendant counterclaimed for a judgment that all four hundred books, as well as everything else in the entire Lubavitcher library, belonged to him and his mother. His argument was simple: as the Previous Rebbe's grandson and natural heir, he was entitled to the library, which was his grandfather's private property. On September 23, he filed an "answer and counterclaim" with his mother involving herself as an intervening party. On October 2, he filed for a jury trial, but the court denied this. On October 23, his mother filed and demanded a jury trial on all issues, but her motion was likewise denied.

Agudas Chassidei Chabad retained two legal firms - Miller, Cassidy, Larroca & Lewin of Washington, D.C., and Schnader, Harrison, Segal & Lewis of Philadelphia. The two chief attorneys were Nathan Lewin and Jerome Shestack respectively, and Seth Waxman, a law partner of Nathan Lewin; Shestack had assisted Agudas Chassidei Chabad several years before in its efforts to retrieve long-lost books from Poland. Joining these two law firms were members of a third: Schlam, Stone & Dolan of New York City. Meanwhile, the Lubavitchers unobtrusively continued to buy back the 120 books that the defendant had already sold.

The case was assigned to Judge Charles P. Sifton, who had once been married to the daughter of the theologian Reinhold Niebuhr. He saw the case as important and far-reaching - more than an internal dispute between the followers of a prominent deceased Jewish leader and his heirs for possession of a priceless library. Sifton recognized that the disagreement not only directly involved the Lubavitchers but also touched on a far more fundamental question: Are Jewish leaders, particularly spiritual leaders of a generation, essentially private individuals, able to do as they wish with funds given to them, or are they, rather, figures entrusted with a sacred, enormously responsible task and therefore responsible to the community?

The Story of Hey Teves

The Lubavitchers knew that the traditional Jewish answer was unequivocal. It was unthinkable that the Previous Rebbe, who had sought to live his entire life in accordance with Jewish precepts, had amassed a magnificent library of Judaica out of communal funds for his own personal gain and that of his immediate family.

Yet Chabad's board members and attorneys knew that it would not be easy to prove this in court. For one thing, more than thirty-five years had passed since the Previous Rebbe's Histalkus, and it was doubtful whether the pertinent documents would be available. Furthermore, this kind of legal case had few precedents, and it was hard to discern how Judge Sifton, unfamiliar with Chassidism and Lubavitch's history, might interpret the facts. Finally, Agudas Chassidei Chabad had decisively rejected any notion of compromise with the defendant on the issue of the library's ownership. It would be necessary to win a complete and unequivocal verdict in Lubavitch's favor.

The Strategy

That fall, Chabad's attorneys advised the library staff, under the direction of Rabbi Sholom Ber Levin (the head librarian), to find all pertinent documents to substantiate their claim to ownership of the library. It was a challenging and initially bewildering task. Levin recalls; "At first, I had little idea what we were even supposed to be looking for, but after we met the

attorneys, I had at least some sense of what they considered to be important and what might be helpful. Then we began looking."

The Previous Rebbe had been an amazingly prolific correspondent, and had composed more than one hundred thousand letters over the last forty years of his life. Copies of about half of these were in the library's archives. Did any relate to the library, and if so, could they effectively back up the claim that the library was communal and not private property? That was Rabbi Levin's first focus. Recalling that the Previous Rebbe had been the subject of top-level American governmental intervention at the time of his rescue from Nazi-occupied Poland, attorney Lewin also initiated archival research at the Library of Congress.

By late autumn, hundreds of items and documents were found to buttress Chabad's argument, and the attorneys became more confident that they now had a solid case to present. They had amassed documents showing that the Previous Rebbe had publicly appealed for book donations to Chabad (rather than himself) in the 1920s, 1930s, and 1940s, and that book purchases had been made out of several of Chabad's organizational accounts rather than personal funds. They also found evidence that books continued to be bought for the library in the name of Chabad even after the Previous Rebbe's Histalkus in 1950. In particular, they found a Hebrew letter written by the Previous Rebbe on February 25, 1946,

The Letter written by the Frierdiker Rebbe to Dr. Marx

To the renowned scholar Dr. Alexander Marx

Greetings and blessings!

After the Nazi occupation of Poland in [1939], the evildoers confiscated several crates full of aged manuscripts and valuable books which had been kept in my library in Otwock. These manuscripts and books besides others added later – were the personal library of the well-known librarian Shmuel Wiener from whom I bought it.

Manuscripts: Three large boxes of aged manuscripts were confiscated, as mentioned, by the Nazis. Among these manuscripts are some from the author of the Tanya and from the five generations of Chabad leaders succeeding him, during a period of about 150 years. These manuscripts are on the subject of Chassidism and also Jewish law . . . letters and correspondence which are a packed treasure house on the subject of our people's history in the land of Russia during the past two centuries.

These manuscripts are registered under the names of the Rabbis, members of Agudas Chassidei Chabad, Rabbi Israel Jacobson, and his son-in-law Rabbi Shlomo Zalman Hecht, both American citizens, [who are] the official owners of this property.

Books: Several thousand books, among them many ancient books of great value and very rare. These books are the property of Agudas Chassidei Chabad of America and Canada.

Before the United States entered the War, the State Department conducted negotiations with Berlin concerning the return of this property to its owners, citizens of the United States of America. The boxes were stamped by the police and were kept until an opportune time for sending them to the U.S. However, after the U.S. entered the War, the negotiations stopped, and after the War, the negotiations resumed. . .

In order that the State Department should work energetically to locate these manuscripts and books in order to return them to their owners, the State Department needs to understand that these manuscripts and books are great religious treasures, a possession of the nation, which have historical and scientific value. Therefore, I turn to you with a great request, that as a renowned authority on the subject, you should please write a letter to the State Department to testify on the great value of these manuscripts and books for the Jewish people in general and particularly for the Jewish community of the United States to whom this great possession belongs.

The Story of Hey Teves

to Alexander Marx, a prominent professor at the Jewish Theological Seminary, describing how the Seforim were a treasure of the Jewish people at large, not a private library.

After Lubavitch Library staff had sifted through hundreds of thousands of archival documents, attorneys Lewin and Shestack were given the opportunity to consult with the Rebbe. At the meeting the Rebbe described his father-in-law's letter to Dr. Marx as a crucial piece of evidence, constituting a clear and unequivocal statement as to the nature and ownership of the library. The Rebbe recommended that it become a prominent part of their legal argument.

Lewin and his co-attorneys next began to plan for expert witnesses to testify on Lubavitch's behalf. They wished to establish irrefutably that among Chassidim in general and Chabad adherents in particular, it was unthinkable for Rebbes to spend communal funds on personal property; specifically, to collect a private library for personal gain. Their choice of witnesses included Nobel Laureate writer Elie Wiesel, and such renowned scholars of Jewish studies as Toronto's Rabbi Dr. Immanuel Schochet and London's Dr. Louis Jacobs. Another key line of argument was to show that Agudas Chassidei Chabad had been an active organization since the mid-1920s, and that the books were its possession, not the Previous Rebbe's. On November 22, Judge Sifton ruled that a trial should proceed without a jury and scheduled opening arguments to begin on December 2. For the Lubavitchers, the date could not have been more auspicious. It marked the anniversary of the Alter Rebbe's release from Czarist prison in 1798 and has been celebrated annually as the Yom Tov of Yud-Tes Kislev ever since. To those more mystically inclined, it seemed wholly impossible that with such an omen, they could lose the case. B. G. tried to change the date, but failed.

The Trial

The trial lasted twenty-three court days and was a fascinating spectacle. Each morning, an old yellow school bus arrived at the federal courthouse in downtown Brooklyn and disgorged dozens of Chassidim. They lingered in the hallway, reading Tehillim, and then filed into the courtroom. Throughout the trial proceedings, a tableau of striking images was presented. The Stars-and-Stripes at the rear of the courtroom contrasted dramatically with the black garb of the Lubavitchers, who had drawn lots to see who would be privileged to attend the trial. As in an Orthodox Jewish synagogue, men and women sat on opposite ends of the courtroom. Bearded old men shuffled through space-age metal detectors. The courtroom was jammed with Jews – litigants,

spectators, and even the court reporter – all presided over by a non-Jew: Judge Charles P. Sifton.

Throughout the duration of the trial the Rebbe went every day to the Ohel, to daven at the Tzion of the Previous Rebbe, for success in retrieving the Seforim. Chassidim across the world joined in prayer for the favorable outcome of the court case.

Much of the testimony, depositions, and archival material such as the Previous Rebbe's correspondence was in Hebrew or Yiddish. Translations into English were necessary, and had to be done precisely. Indeed, interpreting fine nuances of specific Hebrew or Yiddish words created a constant battleground between the opposing attorneys.

Most of the testimony involved each side's calling of witnesses to bolster its interpretation of the facts, which were themselves little disputed. Though the Lubavitchers felt that they had a strong case, they knew that little precedent existed with respect to its basic issues. Judge Sifton sat impassively throughout the voluminous testimony and gave neither side any clues as to his personal reaction.

The Rebbe – Chassid Relationship

Perhaps the most moving and poetic testimony came from Elie Wiesel, who was testifying for the first time in an American courtroom. Appearing at the end of the trial, he had agreed to speak on behalf of the Lubavitchers as an expert witness on Chassidic life, refusing any fee for his time. Wiesel had long been an admirer of the Rebbe and had met with him privately on many occasions. Wiesel commented during his testimony, "Although I am not a member of Chabad, still I felt that its place in history is incommensurate, and to this day I feel close to it." Wiesel emphasized that Chassidic life decisively rejects the notion that Rebbeim may acquire personal wealth as an indication of their unique status. Rather, "the attitude of the Rebbe toward personal wealth was one of disdain," he commented. "First because he didn't have it, and even if he had it, he never kept it. Numerous stories existed of Rebbeim who whenever they received a ruble from a Chassid, would give it away. Most Chassidic masters claimed that money never stayed in the house overnight. From the time they received it and the time they went to bed, they had already found the opportunity to give the money away to the poor. And there were poor people enough in Eastern Europe."

Commenting on the subtleties of the Chassid-Rebbe relationship, Wiesel continued, "Strangely enough, the choice [of involvement] is made by the Chassid and not the Rebbe. It is not the Rebbe who chooses

the Chassid. It is the Chassid who chooses the Rebbe. But once that choice is made, it is boundless. It is complete and total loyalty. But, therefore, the Rebbe owes the Chassid total loyalty. So, the Rebbe must have for the community [not only] total loyalty, but total generosity [and] compassion. Even more total responsibility. That's why he is a Rebbe." Wiesel concluded, "I have seen followers of Chabad do for others with self-sacrifice things that I cannot even repeat because they were too dangerous."

In March 1986, the two sides completed their post-trial submissions, and awaited a decision. Judge Sifton was by reputation methodical and careful. He promised a judgment within three to four months. This seemed like a long time to wait. Then, almost immediately, Sifton presided over a Mafioso criminal trial, and months began to drag by without a verdict.

Didan Notzach!

On Teves 5 5747 (January 6, 1987), the forty one page decision was issued. It was a most unusual document, offering a capsule history of Chassidism and Chabad, and peppered with Hebrew and Yiddish phrases. In first describing the collection of books and manuscripts at issue, Judge Sifton gave his opinion that "both were undoubtedly, in their origins, personal property of the Rebbe, albeit property used to serve the purposes of Chabad Chassidism."

Sifton dismissed the defendant's position that no trust relationship existed between the Previous Rebbe and Chabad. In Sifton's view, a legally enforceable relationship had indeed been created, "not because of the demands of his followers, but as a result of the Rebbe's need to avail himself of the assistance of the United States government in getting the books out of Poland." In other words, the Previous Rebbe decisively established the communal rather than private nature of the library once he involved the American government in retrieval efforts.

In ruling that the library was not the Previous Rebbe's personal property at the time of his Histalkus in 1950, Sifton observed that a fundamental change in the Chabad movement had taken place: it had adapted to the modern industrial-legal world through historical exigency. In his view, the library became "a community asset delivered [by the Previous Rebbe] into the custody of Agudas Chassidei Chabad with an express declaration that it was to be held in trust for the benefit of the Chabad Chassidic community... The fact of the matter is that the library was never held by the Rebbe as personal property for his personal benefit and his private, as opposed to religious, purposes.

"The Rebbe did not hesitate to convey his valuable library to be held in trust for the community when the

events of World War II and its aftermath made that step advisable for the community's welfare... What the record makes poignantly clear is the drastic change in the Rebbe's affairs brought about by World War II and his rigorously honest acceptance of the realities which those events forced him to recognize."

As one piece of evidence for this view, Sifton noted that by 1938, when Agudas Chassidei Chabad sought to acquire in its name a prospective Brooklyn home for the Previous Rebbe, "the increasing sophisticated regularization of Chabad Chassidism's legal status had already started to occur." Sifton further found it legally significant that in the same period of time, from 1940-46, when the Previous Rebbe was articulating the movement's relation to the library, he was also "regularizing his position with the State of New York by seeing to the acquisition of his residence at 770 Eastern Parkway in the name of Agudas Chassidei Chabad."

In short, the Previous Rebbe had entered into a legally enforceable relationship with his Chassidim not due to their demands, but "by the events of the mid twentieth-century." As the Rebbe had recognized in the legal-strategy meeting, his father-in-law's letter to Dr. Marx at the Jewish Theological Seminary proved to be the decisive evidence. Sifton described it as "an extraordinary letter which sets forth clearly and unambiguously the relationship between the books, their owners, and the community."

It convinced Sifton that the Previous Rebbe had realized that Chabad had to adapt from its pre-industrial, Old World ways to survive and grow in the complex legal-administrative nexus of America. Sifton rejected the defendant's view that the letter was duplicitous and intended to mislead Marx in a self-serving way. Rather, Sifton commented, "Not only does the letter, even in translation, ring with sincerity, it does not make much sense that a man of the character of the sixth Rebbe would, in the circumstances, mean something different than what he says, that the library was to be delivered to [Agudas Chassidei Chabad] for the benefit of the community."

In short, the landmark decision not only upheld Lubavitch's full ownership of the library but affirmed it in a manner its adherents found gratifying: the mutual and reciprocal relationship of Rebbe and Chassid as partners in a sacred community.

Celebrating the Good News

It was late morning when the exciting news reached Crown Heights. Within a few hours, Lubavitch's global network had spread the word far and wide, by fax transmission, telephone, and word of mouth from Australia to Rio, from Jerusalem to Detroit.

The Story of Hey Teves

In Crown Heights Bochorim placed their hands upon each other's shoulders and circled in dance, joined by hundreds of others as they rushed, still dancing, to "770" (Eastern Parkway). Soon, bands were playing and loudspeakers blaring as the celebratory dancing intensified. Hundreds of Shluchim and supporters throughout the world flocked aboard flights, on their way to Crown Heights to participate in the rejoicing and express their solidarity.

The Rebbe himself did not seem interested in encouraging the exuberant celebration. Instead, after davening Mincha, he emphasized the trial's moral implications. He said that this was all to spur us to reach inner heights, there had to be an opposition created in the form of an attack. The charge was that Agudas Chassidei Chabad is inactive, that we are not studying the manuscripts and books, and that we are not strengthening Yiddishkeit. These arguments were presented in an American courtroom to provide a basis for answering the legal question "To whom do these things belong?"

The broader implication of the court's decision is not only that such charges are wholly false, but that we must do more! We must now expand the library and make maximum use of its books. We must be filled with great joy which bursts all limitations and nullifies all restrictions on our spiritual life! This joy must infuse our action and influence all that we do to become messengers of G-d and transform every Jew to be an emissary of righteousness!

Start by making your own home a place where Torah study is increased. So, too, increase prayer and all mitzvahs, beginning with charity and good deeds. All of you will accomplish great things for the sake of heaven!

The festivities continued for an entire week, with the Rebbe saying a Sicha almost every night.

The Second Court Victory

Since they had won the case, Agudas Chassidei Chabad requested that Sifton allow the books to be released, but he refused: an appeals process had first to be completed.

The appeals presentation took place on June 25, several weeks later than anticipated, and was very brief. Each side had only twenty minutes to present its arguments. To the Lubavitchers, the three highly experienced judges all seemed very perceptive. For example, one sharply remarked to the defendant attorney, "Do you know what surreptitious means? Do you know that your client was removing the books at night?"

Nevertheless, summer turned to fall, fall to winter, and still no decision was issued. The long wait brought considerable tension to the Lubavitch community. Had its case presentation somehow been faulty? Was it possible that the appellate court was considering a reversal of Sifton's favorable ruling? On Chof Hey Cheshvan 5748, the United States Court of Appeals for the Second Circuit issued its unanimous decision. The three judges fully upheld Justice Sifton's verdict.

"The precise question before us is whether the evidence before the district court was sufficient to demonstrate a settler's [the Previous Rebbe's] unequivocal intent to convey the library in question to appellee [Agudas Chassidei Chabad] as trustee for charitable purposes. We acknowledge that some of the evidence is, standing alone, equivocal. But, as is often the case, a person's actions sometimes speak even more plainly than his words. Such is the case here. When the settler's actions and words are viewed as a whole, the district court's findings of an unequivocal intent to create a charitable trust - far from being erroneous - are in our view rightly decided."

Citing Elie Wiesel's testimony, the appellate court ruled even more strongly than had Sifton that the Previous Rebbe had collected a communal, not a personal, library. They vigorously rejected the argument that his letter to Marx had been a deception. "It simply defies reason and common sense to believe that a religious leader of the [previous] Rebbe's stature, whose life was dedicated to expounding the spiritual values of truth and morality, would deliberately write letters of misrepresentation regarding the ownership of a valued and to him sacred national treasure in order to feather his own nest."

Concurring with Sifton, the appellate court also concluded that "the cataclysmic events of World War II irretrievably altered the prior, informal relationship that had existed between the Previous Rebbe and the community he served." Finally, the three dismissed on technical grounds the defendant's contention that a jury trial had been legally required for the case. Once more, there was jubilation in Crown Heights and throughout Lubavitch's worldwide community. The exciting international convention of Shluchim was under way in Crown Heights, and the following evening many participants analyzed the wider implications of the decisive ruling.

The Seforim Returned – A Lesson to Learn

It was only on the 27th of MarCheshvan 5748, that the Federal Court issued a special order for the actual return of the books. The joyous news spread like lightning, Temimim everywhere began streaming toward “770”, outside, the sidewalk overflowed with jubilant, dancing Chassidim. From the first moments the Rebbe received word of the court decision, he was filled with rejoicing. As Mincha approached, an ad hoc crack construction team of volunteers hastily assembled the raised platform customarily used by the Rebbe during Tishrei.

Two days later, on the 27th of MarCheshvan (Nov. 19), the Federal Court acceded to Agudas Chassidei Chabad's request and issued instructions for the upcoming return of the books. Chassidim were arriving from every point on the globe during those eventful days, and joining the combination Farbrengens and festive thanksgiving meals then taking place at “770”.

On Monday, the 2nd of Kislev, excitement mounted with the knowledge that the books would be coming that day. The Rebbe left for the Ohel at 2:00 PM and, before entering the car, distributed Tzedaka to children, and spoke to everyone present: The return of the books, he said, should result in intensified Torah study and greater attention to learning schedules. He also issued instructions: in the event the books reached “770” while he was at the Ohel, several should be sent to him there.

At 3:00 PM they arrived in 13 crates plus assorted sacks. Agudas Chassidei Chabad members brought them to “the lower Gan Eden” outside the Rebbe's study, while sending a number of them, including Mizmor LeTodah (significantly entitled “A Song of Thanksgiving”) and Derech Emunah, to the Ohel.

That afternoon the Shluchim Convention hosted, as guest of honor, Attorney Jerome Shostak, who had played a key role in the legal proceedings. In his speech he aptly noted the verse appearing in that week's Torah reading, Veshavti B'Sholom el beis avi (“and I shall come back to my father's house in peace”, Bereishis 28:21): the holy books were back home.

Derech Emunah and Derushei Chasunah

On Thursday, the 5th of Kislev, the Rebbe gave instructions to reprint Derech Emunah, authored by kabbalist Rabbi Meir Ben-Gabbai (known also for his work, Avodas HaKodesh), which was one of the Seforim regained through the legal struggle.

This is a Sefer “small in size and rich in content” as its title page states, dealing with issues of faith and the Kabbalah in a question-and-answer format. At the Rebbe's instructions, notes and annotations were added, as well as the price: one dollar.

The Rebbe devoted an entire Sicha at the Farbrengen on the coming Shabbos Parshas Vayeitzei to Derech Emunah, and explained the author's answer to his first question: How is someone in charge of the world? The purpose of printing this work, the Rebbe pointed out later, was not merely to add another book to the shelf. Rather, he urged, Look into it, study it in depth, for this work - in contrast to other kabbalistic writings - is written in a clear, uncomplicated style accessible to everyone. According to all opinions, everyone is permitted to study it.

Another work soon to be printed, the Rebbe said toward the end of the Farbrengen, is Derushei Chasunah (Chassidic discourses delivered by the Rebbe Rayatz at the wedding of his second daughter Rebbitzin Chayah Mushka and the Rebbe) in 1928. And again, the Rebbe emphasized, the purpose behind their publication is that they be studied. Immediately after Shabbos, groups of Anash and the Temimim gathered together with copies of the two above-mentioned works in earnest study.

The Rebbe's emphasis on learning appropriate topics each Chassidic Yom-Tov continued into Tes Kislev, the birthday and Yahrzeit of the Mittlerer Rebbe. At that day's Farbrengen the Rebbe called for increased study of the Mittlerer Rebbe's teachings, and in particular, his newly-published work, and he recommended the study of the Maamorim beginning with the words Padah B'Sholom.

What are the Bochorim Saying?

It's an informal Chassidic tradition: to get the proper inside perspective, you've got to hear “what the Bochorim at “770” are saying.” There was widespread acknowledgment in those days, and, in fact, from the preceding Tishrei, that something quite unusual was in the making. That whole Kislev felt different, a fantastic gateway into Didan Natzach and the return of the Seforim. And if anyone needed additional proof, why did the Rebbe increase his trips to the Ohel to an unheard-of four times in a single week?

The anticipation continued into Yud-Tes Kislev and into Chanukah's unprecedented timetable: returning from the Ohel, the Rebbe delivered Sichos each of the eight days after Minchah and candle-lighting.

The heightened mood steamrolled with the approach of Shabbos Parshas Vayigash, the first anniversary of the 5th of Teves. Preparations began; giant banners

appeared over intersections on Thursday, the 3rd of Teves, announcing a large-scale Farbrengen the coming Motzaei Shabbos.

That Thursday's Kfar Chabad Magazine (Issue 314) featured an unusual editorial: excerpts of the Rebbe's Sich'a on Shabbos Parshas Vayechi, 1987, a year earlier, in which he described the current controversy as a test to be succeeded by a miraculous outcome. A short lead-in preceded the Sich'a: "In honor of that great and luminous day, Hey Teves, we are presenting excerpts from the Rebbe's talk on Shabbos Parshas Vayechi explaining the primary lesson to be learned from that day. Indeed, [his] words achieved their purpose in effecting a powerful awakening and growth throughout the entire year. It is fitting to reprint these selections here, with the certainty that they will continue to inspire hearts." Few were aware that the impetus to print portions of the Sich'a came from the Rebbe himself.

On the eve of Shabbos, as the Rebbe entered the vast synagogue and study hall for Kabbolas Shabbos, thousands of voices joined in a zestful Didan Natzach; the chazzan wove Shabbos Bereishis melodies into the lively davenen. At its conclusion, many Chassidim chose to have their festive Shabbos dinner inside "770" - a turn of events lead naturally to a hearty, extended Farbrengen

Yet, it was all a warm-up for the Farbrengen of Shabbos afternoon when, promptly at 1:30, the Rebbe came in -accompanied, of course, by the singing of Didan Natzach.

What do the Seforim Themselves Say?

The Rebbe began: "It is appropriate to begin with this day's significance, the widely-publicized events of last year's Hey Teves the day when Didan Natzach - Victory became ours."

"More specifically, the subject is the Seforim belonging to the library of Agudas Chassidei Chabad Lubavitch, founded under the direction of my father-in-law, the Nasi of our generation, while still living in Russia. When he left that country, following his liberation [in 1927] on Yud-Beis and Yud-Gimmel Tammuz, the library left too, as the result of his self-sacrifice not to leave without it. It eventually reached these shores and underwent continual expansion to this very day under the administration of the Rebbe [Rayatz]. As our Sages say, 'Our father Yaakov didn't die..., for just as his seed is alive, so too he continues to live,' and just as in the spiritual realm he stands and serves, so too here, he stands and serves."

"And since we are discussing a world-renowned library, a rich repository of Torah treasures, the

victorious redemption of these volumes on Hey Teves is a celebration for all Yiddishkeit - and in particular: a victory of the ever increasing expansion of activities surrounding Torah and Chassidus outreach. Overcoming all obstacles, it advances in a path of pleasantness the path of Padah B'Sholom - 'He has redeemed my soul in peace..., for there were many who were with me' (see Tehillim 55:19), for Dovid HaMelech's opponents, the army of Avshalom, also prayed for his victory. ... And these days are recalled and relived throughout every generation' Megillas Esther 9:28) through their yearly observance, their dynamism will be re-enacted for all matters related to the books..."

"Now it is self-understood that in order to determine the proper manner to celebrate the victory of the Seforim, it is only fitting to ask the Seforim themselves, so to speak - to study their teachings carefully and conduct oneself accordingly."

The Victory Belongs to the Seforim

After explaining at length the special attributes of holy Seforim, and citing the comment of the Rosh (Rabbeinu Asher ben Yechiel, 1250 -1327) - that in our times one may fulfill the mitzvah of writing a Sefer Torah through the acquisition and study of holy Seforim - the Rebbe explained the teaching to be learned from the victory of the Seforim:

"From this we can see that the real triumph of the Seforim lies not in the fact that from now on they will be carefully preserved, so that no one will touch them, just as a Sefer Torah is kept carefully inside its cabinet. Rather it's the opposite: they will be studied intensively. And the more extensively they are used (even if that leads to their wear and tear), the greater is the honor accorded to them. This, in turn, leads to an increase of respect for Sifrei Torah (which we are required to keep in an Aron Kodesh), whose central function '...teach it to the Jewish people, put it in their mouths' (Devarim 31:19) - is achieved through the study of printed Seforim."

"The practical lesson is that Torah study from now on should be strengthened and increased; this is the true indication of the Seforim' Didan Natzach. This applies especially to group study ('Ten who sit together and engage in Torah study'), beginning with 'learning that leads to action', to know what and what not to do: the study of Halachah in Rambam and in the Shulchan Aruch and its commentaries, as well as the Torah's inner dimensions, the teachings of Chassidus."

The Rebbe noted during the Farbrengen that 5748 was the 500th birthday of the Beis Yosef (Rabbi Yosef Caro, 1488-1575), author of the Shulchan Aruch. We should observe this, he said, with

increased study of all of his teachings, and particularly, his Shulchan Aruch. The Rebbe added that it would be appropriate for Seforim shops and publishers to arrange discount sales in honor of the 500th year as an incentive for more people to purchase and study his works.

The Rebbe also urged everyone to enlarge their own domestic libraries: “Each individual Jewish household should contain the essential texts (besides a Chumash, Siddur, Tehillim, and - for a Chassidisher home Tanya), including halachic works dealing with day-to-day living. The latter should be studied frequently for their practical usefulness. Young couples preparing to build a Jewish home should, along with necessary home furnishings, be sure to include Sifrei Kodesh, with the intent to study them. This will bring about a Bayis Molei Seforim (a house filled with Seforim'), signifying also that the entire essence of the house and its furnishings become permeated with their content as the Sages described: a Beis Vaad Lachachomim (a meeting-place for scholars)”

“Every Jewish boy and girl (even the youngest, able to speak) should be provided with their own Sifrei Kodesh: Siddur, Chumash, and Tehillim - Seforim that will belong to them, and for which they will be responsible. These Seforim should be kept in their room, where they can daven and learn from them; a Pushka should also be there, in which they can drop their coins for Tzedaka every weekday. In short: a room of Torah, Tefillah, and Tzedaka.... It should be explained to them that they need not fear overusing and wearing out the Seforim; parents should promise them that they will purchase new and more beautiful ones to replace them.”

“And if the ideal of Bayis Molei Seforim applies to individual homes, for sure it relates to communal buildings, where it will encourage increased learning. Beyond Chumashim, Siddurim, and Tehillim, these locations should include works covering the Torah's full spectrum. In short: Torah libraries should be either established or expanded to furnish the means for broadened learning both in quantity and quality, through extensive and accessible collections.”

The Ultimate Victory

“In accordance with the proclamation of the Rebbe Rayatz after he moved the library to this country, its growth should be supplemented through the assistance of rabbis, authors and publishers, who can send copies of their works. Collectors of rare books may be requested to contribute, as well, with special editions, or titles included in family inheritances and not currently used for learning purposes. All of these

may be donated to the library of Agudas Chassidei Chabad for the communal benefit.”

Didan Natzach, a new Chassidic Yom-Tov, had arrived. Just as the Sages had decreed for Chanukah, a day had been set aside one year later, and forever, for book-inspired rejoicing and thanksgiving. “And may G-d grant that this Yom Segulah (this auspicious day) and Eis Ratzon (this propitious time) be used with the best possible results: with an increased study of Nigleh, the revealed plane of the Torah, and of Pnimitiyus, the mystical plane of the Torah; with a particular emphasis on studying Shulchan Aruch in this 500th year commemorating the birth of the Beis Yosef,- with an enhanced acquisition of books for private homes and for children, and all the more so for communal buildings and for Agudas Chassidei Chabad's central library. These combined efforts, directed for the good of the entire Jewish people, will further accelerate the highest Didan Natzach of all: the fight filled victory of Ner Mitzvah V'Torah Ohr (A commandment is a lamp and the Torah is light) over the darkness of exile, with the true and complete Redemption through Moshiach Tzidkeinu.”

“In Those Days – In Our Times”

Throughout the years, “Hey Teves – Didan Notzach” has become a celebrated Yom Tov, as the Rebbe has stressed its significance.

Quoting the Posuk in Mishlei, “The superiority of the light that illuminates the darkness,” we can appreciate the victory of the Seforim. This is not only a library being restored to its proper owner, but also an outstanding revelation that was never before. The court case revealed, even to the nations of the world, that the Seforim belong to the Rebbe and Chassidim. It expressed the true infinite bond between a Rebbe and a Chassid.

“Didan Notzach”, reinforces the Seforim as property of the Rebbe. Like a contract that has been confirmed in court after arguments of authenticity (see Tractate Kesubos 19b and other sources), the entire world now realizes that this concept of a Rebbe and Chassid can never change.

Specifically now in the last moments of Golus, we must remember the message of “Didan Notzach.” The bond that exists between a Chassid and a Rebbe, especially through studying the Seforim of the Rebbe, will never be diminished. Even in these bitter days, the world will realize this, ‘just as his children are alive, so is he alive.’

In this spirit we will merit the ultimate “Didan Notzach”, and once again we will be united with the Rebbe, through the Geulah, now Mamosh!



Important Dates

"Hey Teves" is the most essential and crucial date of the entire episode of the Seforim. It is therefore the most widely celebrated day in this matter. There are however several other dates that stand out as times of Hoda'ah (thanksgiving) to Hashem, for their important role in the Pidyon Shvuyim of the Seforim.

Yud-Gimmel Kislev 5746

The Federal Court rules that the Rebbe does not have to testify.

Hey Teves 5747

Hey Teves, "The day on which 'our side was victorious' (Didan Notzach), openly in sight of all nations (in Federal Court) with regard to the Seforim and Kesovim of our Rebbeim, in the library of Lubavitch" (note by the Rebbe to Sicha of Tuesday, Teves 5, 5747).

The Federal Court rules (file CV-85-2909), that all the Seforim and Kesovim, belong to Agudas Chassidei Chabad. This shows how even the nations of the world recognize that a Rebbe is totally and selflessly dedicated to his Chassidim, and to the Jewish people at large.

Chof-Hey Cheshvan 5748

After the ruling of the Federal Court on 5 Teves 5747, the defendants appealed in the same court.

This appeal was quickly revoked.

The defendants then went to the New York State Court of Appeals for another appeal. Court sessions were held throughout the summer of 5747 (1987). On 25 Cheshvan 5748 (1987), the final unanimous ruling was issued by the three presiding judges. The appeal had no standing at all. The three judges upheld the Federal Court's ruling that the library belonged to Agudas Chassidei Chabad. The case was finally closed.

Chof-Zayin Cheshvan 5748

On 27 Cheshvan the Court of Appeals issued that the Seforim and Kesovim be returned to their rightful owner, Agudas Chassidei Chabad. The Seforim were until then held in a bonded warehouse under attorney supervision.

Beis Kislev 5748

The Seforim returned on Beis Kislev. Rejoicing and dancing broke out in Chabad circles around the world. The Rebbe, however, insisted that the joy and

How Will The Bochorim Accept This?

Rabbi Avraham Shemtov, member of Agudas Chassidei Chabad (actively involved in the trial over the Seforim), relates:

The first time the Rebbe met with the lawyers working for Agudas Chassidei Chabad, the Rebbe focused primarily on two points.

The first point was the letter the Previous Rebbe wrote to Dr. Alexander Marx, which expresses the Previous Rebbe's view that the Seforim are a public library. The Rebbe stressed that this was a key issue to success.

As one of the lawyers was leaving the Rebbe's room, I asked him, "Nu, what do you say?" He replied that the Rebbe felt it important to use the letter of the Previous Rebbe as a crucial part of our case, but he did not think this is the avenue we should take.

As the court case continued, it became clear that this would be a very decisive factor in the verdict.

Another important issue discussed was the question of the Rebbe testifying in court.

The Rebbe did not speak long regarding this, yet it was clear that the Rebbe felt strongly about it; the Rebbe would not testify in court.

Discussing this the Rebbe remarked, "How will the Bochorim accept this?"

Rabbi Shemtov concluded, "We never saw that the Rebbe should be limited in any way. Yet here the Rebbe was very concerned about going to testify. Not for himself was the Rebbe concerned, only how this would affect the Bochorim..."

celebration should be through increased Torah study and service to Hashem.

On the following day the Rebbe instructed the library research staff and the Kehot Publication Society to reprint one of the returned Seforim – Derech Emunah, a rare Kabbalistic work.

Chof Daled Elul 5750 -

On Tuesday, third day of Selichos, after all attempts to appeal, the court ruled that this case has already been resolved and is closed forever.

The members of Agudas Chassidei Chabad relate, that when they entered into the Rebbe's room to inform him about the completion of the Seforim episode, and that every last Sefer and manuscript was returned to its proper place, the Rebbe said: "נו, יעצב" "נו, יעצב" [= Nu, now we are able to say Chassidus.]

The Ultimate "Didan Notzach"

Rabbi Yehudah Krinsky, secretary of the Rebbe and member of Agudas Chassidei Chabad (actively involved in the court case), relates the following:

"On Hey Teves 5747, I entered the Rebbe's room to inform the Rebbe of the good news, the victory. At that time the Rebbe had a very satisfactory expression on his face. Yet, when I suggested making a

Farbrenge in honor of the victory, the Rebbe replied, "מ'דארף זיך נאך מיישב זיין" – "We must still resolve."

"This was a message that, although there was indeed a great victory, nevertheless, it was not a final and complete victory. Now we know of the appeals that were submitted thereafter. In fact, these appeals were harsher than the first court case in many ways, for the arguments were against the Rebbe himself. This continued until Teves of 5750 (1989) when the final verdict was issued that the Seforim belong to Lubavitch and that no further appeals are to be submitted.

"Hence, we see that the above dates are indeed important to the "Didan Notzach" of the Seforim. Yet the date Hey Teves is the Yom Tov concerning which the Rebbe said, "These days are remembered and enacted," for then was the main victory."

Rabbi Krinsky concluded, "As we stand at Hey Teves, when we are still in a circumstance of Golus, and the epitome of Golus, we are reminded of the great "Didan Notzach", and we remember that soon will be the final, greatest "Didan Notzach", the Pidyon Shvuyim of all the Jewish people, as the Rebbe will lead us triumphantly to the Geulah Ho'Amitis V'Hashlaimah, now Mamosh!"



“The Rebbe's familiarity with the case amazed me!”

Interview with Attorney Nat Lewin י"ש, head lawyer at the Hey Teves court case

It all started during the winter of 1985 and turned out to be one of the most complicated battles Lubavitch ever experienced in its history. It was a real “Kitrug”. Books were stolen from the library of Agudas Chasidei Chabad and that led to one of the most unique court cases ever conducted in a U.S. court.

It took two years of praying and legal maneuvering until the 5th of Teves 5747 when Agudas Chasidei Chabad won the case in court, and that date has been dubbed ever since as “Didan Notzach,” (we were triumphant).

The following is an interview with Attorney Lewin (by shturem.net), about his feelings and how this case was unique compared to all the trials he conducted before and after this one. He even disclosed some interesting facts that were unknown until today.

How did you get involved in this case in the first place?

LEWIN: Well, I had done some work for Lubavitch prior to this case and I received a call from Rabbi Krinsky. He came down to visit me in my office in Washington to tell me the situation and we talked about what the possibilities were to proceed in the case.

How would you compare this case to the other cases you had before and after this case?

LEWIN: I have been very fortunate in having very interesting cases during my career as a lawyer. I did a lot of work in both the Supreme Court and elsewhere on behalf of Jewish causes. I've argued 27 cases in the Supreme Court of which one case involved the Lubavitch Menorah case. But this was certainly among the most interesting cases.

Did you approach this case as a lawyer or as a “chosid”?

LEWIN: I am not a chosid, I approached this as a lawyer. Although from the time I was selected as the attorney for this case I received many invitations to Crown Heights to participate in farbrengens. I am very supportive of Lubavitch. My father and family have always been. My father was close to the Rebbe.

But, the Rebbe told people and it

was repeated to me “loz der lawyer zein a lawyer. Mach nisht kein chosid fun dem lawyer.” (Let the lawyer be a lawyer. Don't make him into a chosid).

Since this was a unique case, did you at any time during the litigation experience a “breaking point,” where you saw that it was a lost case or were you confident that you would win from the very beginning?

LEWIN: No case even if you have total faith and trust that you are on the right side do you know from the start if you win or not .Unfortunately, in the legal system in the U.S. there are all types of judges .You may be absolutely right and if you don't have G-d's help you can lose. So from the very beginning we were concerned about the case.

So you were concerned who would be the judge presiding in the case?

LEWIN: Well the judge was picked from the time we filed the law suit. It works automatically in the federal court that a judge is assigned to a case from the time the complaint is filed. So we knew from the beginning that the judge would be **Judge Sifton** who would be presiding.

The truth is that the very first day that we entered into court to get a restraining order in the case Judge Sifton was away on vacation. Another judge substituted for him. At that point it was a Jewish judge by the name of **Leo Glasser** and he issued the initial restraining order.

As a matter of fact, he asked at the time why this case was not before a Rabbinic court and I responded that from our perspective if we got a restraining order that prevented him from selling the books we were prepared to go to a Rabbinic court for the rest of the litigation. It was our opponents that said they want the whole case decided in a court of law?

Are there any interesting episodes or things that the Rebbe told you that were not disclosed until now?

LEWIN: Well, I don't know what was publicized and what not.

Is there any episode that occurred during the case that stands out in your mind until today?

LEWIN: Well, there were different anecdotes in the course of the case. It was, I would say, the best attended trial that I have conducted and I have been involved in a number of highly publicized trials. There were a lot of people in attendance. This was the only trial I ever had where every seat was taken for every minute of every court session.

All by Lubavitchers?

Lewin: No, not only Lubavitchers, the other side had also reserved some rows for their people who came.

Towards the end of the trial when the other side saw that things were not going so well, at one point during a bench conference they complained to the judge “look at the way the audience spectator section is set up here in the court room, it is just not American. There is gender discrimination, rows separate for women and men. This is not the American way .

The judge got very angry at them and said, “Look, I don't think I have ever been in a trial where the audience has been as respectful and decorous as in this trial and as far as I can tell everybody is sitting where that person wants to sit. No one is being discriminated or prevented from sitting and if they are sitting separate by gender it's their own choice. The judge reprimanded them in that.

Did you have personal meetings with the Rebetzin during the case?

LEWIN: Yes we had personal discussions with the Rebetzin prior to her deposition.

What was your impression of her?

LEWIN: She was a very grand and noble lady.

There are her famous remarks that “everything belongs

to Chassidim even my husband” that are believed to have tipped the scales.

LEWIN: Those were her famous lines at the end of the deposition when they tried to get her to say that the library belonged to the Rebbe personally and she said “well, the Rebbe personally was the property of Chabad”.

Did you also meet with the Rebbe privately and did he offer his insights in the case?

LEWIN: Oh, I was amazed at how fully familiar he was of the entire court proceedings. Obviously he thoroughly digested the transcripts and the discussions we had with the judge and earlier sessions that were transcribed. We didn't have to repeat for him what had happened, we just discussed what can be done in the future, what legal theories there could be.

Did you have difficulties in obtaining an agreement that the Rebbe should not appear in court?

LEWIN: We never got to the point where there was a question whether the Rebbe should appear in court. The question was whether he would appear for a deposition in a lawyer's office and there was a period of time when the other side was insisting that he should come for a deposition.

We opposed that and as a matter of fact in one of the meetings we had with the Rebbe we discussed specifically that question. The Rebbe said that he didn't think that he had any personal interest or personal testimony to give with regard to whether he was the spiritual leader of Lubavitch and therefore should not be expected on that account to testify. We opposed to take his deposition and ultimately the other side saw the wisdom of that position and withdrew its request for a deposition.

Did this case affect you personally in any way?

LEWIN: Well, it was frankly a very illuminating and advancing case in the sense that I felt very gratified by having been selected as the attorney, by the experience of going through this representation for which frankly called upon various aspects of my education and background that is not usually in most litigations .

For instance, the fact that **Chaim Lieberman** (the once care-taker of the library that was testifying for the “other side”) gave his testimony in Yiddish

through an interpreter (and I understand Yiddish) to the knowledge of Jewish Law.

They brought an expert from Israel, **Professor Shiloh** to testify that under Mishpat Ivri there had not been any “kinyan” (transaction) therefore the library could not have changed hands from the Rebbe's ownership to the ownership of the public. I guess again, thanks to my yeshiva training I was able to cross-examine him and refute him on the basis of “amira l'govoha kemesira l'hedyot.” (one's declaration consecrating an object to the Holy Domain is as effective a transaction as one's handing it over to the private person). He did not even know of that whole principle and therefore didn't even take it into account. But through my yeshiva background I was able to refute him.

In other words, if not for your yeshiva background we could have lost the case?

LEWIN: I don't know if I can make that statement but it is gratifying that I was able to counter his testimony. It was really unexpected. Suddenly they announced that they are bringing in an expert on Jewish Law. It was on the date of his testimony that they identified him and gave us a brief summary of what he was saying in terms of the different ways of making a “kinyan” and there was no “kinyan” and therefore there was no way that this library changed hands, and I had to like overnight figure out how I was going to cross examine him successfully.

The verdict was issued on Hey Teves, did you meet with the Rebbe privately right after that?

LEWIN: I had meetings with the Rebbe afterwards like by dollars. But I don't remember that I met with him right after Hey Teves.

Were you involved in the appeal afterwards too?

LEWIN: Of course, I wrote the brief and argued the appeal in the court of appeals.

Well, after Hey Teves that was probably a “piece of cake”?

LEWIN: I don't know if it was a piece of cake because the problem is always that you can never know who the judges are on the court of appeals. They hired attorneys whom they thought were appeals specialists.

I am involved now in the case involving the library in Russia.

Do you feel it's better to act in this case in a clandestine manner like it used to be when dealing with Russia concerning Soviet Jewry years ago or come out full force in the public?

LEWIN :Well they tried for years in a clandestine manner. I was not involved in all those discussions, they got promises from Gorbachev and Reagan. Then after the Supreme Court issued its decision about suing a foreign government in the case of Austria and the paintings, that clearly is a precedent that helps us, it doesn't resolve the whole thing. So they brought the case in California.

(*Ed. note:* Last June, the U.S. Supreme Court ruled that an American woman can file a lawsuit in U.S. courts against the Austrian government to seek the return of six Gustav Klimt paintings seized by Nazis during the World War II era. The ruling could have profound implications for lawsuits involving seized property and human rights violations committed by foreign governments like Russia today that has seized property (–The Lubavitch library) not belonging to it.)

How does the case look now?

LEWIN :Oh, as they say in Hebrew “yesh sikuim,” there are possibilities. It is a difficult case. I have to tell you that legally it is not a piece of cake by any means.

Was the case with the Rebbe's library of Hey Teves easier?

LEWIN :I don't know if I can say easier but it was different. The truth is that in the Hey Teves case since the issue was between private parties it was in a lot of ways easier for a court to deal with than when you sue a foreign government. There are all kinds of questions in terms of suing foreign governments that makes the present case much more difficult and different. You have to get over the problems of suing a foreign government that is expropriating books. So now the case has been transferred to Washington, D.C .and I have been asked to be legal counsel in Washington.

Gut Yom Tov!