Rabbi Rosensweig, a native Torontonian, who previously served as Rabbi of Congregation Shaarei Tefilah in Toronto, is now the spiritual leader of Kew Gardens Adath Yeshurun Synagogue and teaches history at Queens College of the City University of New York. Rabbi Rosensweig also serves as a vice-president of the RCA.

THE HERMENEUTIC PRINCIPLES AND THEIR APPLICATION

When the traditional Jew talks about the Torah and its binding character, he is discussing two Torahs which are in effect one: the Written Law (*Torah She-be-Ktav*) and the Oral Law (*Torah She-Baal Peh*).[1] The Written Law consists of the Pentateuch which was divinely revealed to Moses at Sinai. The Oral Law, which makes equal claim to Sinaitic roots,[2] embodies the expositions and the interpretations which were communicated orally to Moses as an elucidation of that Divine Law. In fact, the Oral Law is the soul of the Written Law, and invests it with individuality and uniqueness. The Rabbis tell us that God gave the Israelites the Written Law to make them become virtuous; and He gave them the Oral Law to distinguish them from the other nations.[3] It is in this vein that Rabbi Yochanan said: "God made a covenant with Israel only for the sake of that which was transmitted orally."[4]

In truth, one cannot obtain a knowledge of Judaism from a study of the Biblical text alone. Even a cursory reading of the Torah will demonstrate that without its authoritative exposition, many Scriptural texts would often be unintelligible, and would not suffice to meet the demand for clarification. There are many precepts worded vaguely in the Torah, which would remain obscure without the traditional elucidation. It stands to reason that, side by side with the Mosaic Code, there must have been an oral tradition which made explicit that which was implicit in the text.

For example, in discussing the laws of the Sabbath, the Torah sets down the principle: "But the seventh day is the Sabbath of the Lord thy God; in it thou shalt not do any work (*melakhah*) . . ."[5] What is meant by "work" in this connection? In the Written Law there is no exact definition of the concept of *melakhah*. Specifically, the Torah specifies a small number of forbidden acts on the Sabbath— ploughing, reaping, kindling a fire, and carrying from the private domain into the public domain.[6] However, it is the Oral Law which defined thirty-nine major categories of "work," all of which are derived from the acts which were performed in the construction of the Tabernacle in the desert.[7]

The Oral Law is divided into a number of categories.[8] One of these primary groupings is defined as *Midot She-Ha-Torah Nidreshet Bahen,* i.e., "rules whereby the Torah is expounded." There is a mass of religio-legal material which is not found explicitly in the Holy Writ, but which was elicited therefrom by means of a set of hermeneutic rules for which Sinaitic origin is claimed.[9] Through these principles of interpretation, the words of the Biblical text were subjected to extension, limitation, analogy, textual parallelism, logical inference, as well as other methods of interpretation which enable us to explain and to clarify many details in connection with the observance of the commandments.[10]

There are three principal systems of hermeneutics found in rabbinic literature, namely those attributed to Hillel, Rabbi Yishmael and Rabbi Eliezer ben Rabbi Yose Haglili. Hillel was the first to formally set down and to enumerate a system of hermeneutics, consisting of seven basic principles.[11] On the basis of Hillel's seven rules, Rabbi Yishmael projected the thirteen rules of interpretation which henceforth became the authoritative instruments of the *Midrashic* method.[12] The *Middot* attributed to Hillel and Rabbi Yishmael are generally utilized for *Halakhic* exposition, whereas those of Rabbi Eliezer deal mainly with *Aggadic* interpretation, or the derivation from the text of some moral or ethical rule. Consequently, the thirty-two rules[13] enumerated by Rabbi Eliezer do not play a significant role in our analysis of hermeneutic principles.

Let us discuss a number of *Middot* and demonstrate their application to the Biblical text.

Kal Ve-Chomer

The rule of interpretation which occupies primacy of place in the hermeneutic systems of Hillel and Rabbi Yishmael is termed *Kal Ve-Chomer*. The word *kal,* in this context, refers to that which is considered, within the framework of Jewish Law, to be less important, less stringent; while *chomer* defines that which is considered to be comparatively of greater halakhic weight, of greater importance, and, consequently, more stringent. In other words, the *Kal Ve-Chomer* characterizes a logical inference, an *a fortiori* argument, from the less stringent to the more stringent, from the minor to the major premise. At the same time, it also categorizes the syllogism which results from the movement in the other direction — from the more important to the less stringent, from the major to the minor premise.

Underlying the concept of *Kal Ve-Chomer* is the idea that if a certain restriction of the law is found in regards to a matter of minor importance, then we may logically infer that the same will certainly hold true of that which is of major importance. On the other hand, it stands to reason that if a certain leniency is detected in a law which is considered to be of major importance, we may properly conclude that the same leniency will certainly apply to that which is comparatively of minor importance.

Thus, for example, the Sabbath is regarded as weightier or of more importance than the Festivals, because every kind of work is forbidden on the Sabbath, while those acts which are necessary for the preparation of food are permissible on the Festivals.[14]. Now if a certain kind of work is permissible on the Sabbath, then we can infer that such a task is certainly permissible on the Festivals. In the tractate *Bezah,* for example, the school of Hillel contends, in opposition to the school of Shammai, that one may bring a burnt offering on the Festivals. In support of their position, the school of Hillel endeavored to develop an *a fortiori* argument. If, on the Sabbath, when it is

forbidden to slaughter an animal in order to provide food for a layman, it is nonetheless permitted to offer up the public sacrifice for the Most High; then, it would surely seem to be logical, that on the Festivals, when it is permitted to slaughter on behalf of a layman, it should certainly be permitted to offer up a burnt-offering for the Most High.[15] Here the new law for the minor premise is derived from the major one. On the other hand, if I find something which is forbidden on the Festivals, e.g., taking the heave (*Terumah*) which was to be given to the priest,[16] then we can infer that this act would most certainly be forbidden to do on the Sabbath, which is weightier. Here we derived the more important from the less important.

The Rabbis discerned that in the Scripture the *Kal Ve-Chomer* was used. R. Yishmael taught that there were ten *a fortiori* arguments recorded in the Torah,[17] which include the following:

> (1) "Behold the money which we found in our sacks' mouths, we brought back unto thee;" does it not then stand to reason "how then should we steal out of thy lord's house silver or gold?"[18]
>
> (2) "Behold the children of Israel have not hearkened unto me;" surely all the more, "how then shall Pharaoh hear me?"[19]
>
> (3) "Behold, while I am yet alive with you this day, ye have been rebellious against the Lord," does it not follow then "and how much more after my death."[20]
>
> (4) "And the Lord said unto Moses: If her father had but spit in her;" surely it would stand to reason, "should she not hide in shame seven days."[21]

The *Kal Ve-Chomer* is used throughout the Talmud, and covers many areas. In regards to the reading of *Megillat Esther* on Purim, the question arose whether the students of the Law should forsake their studies in order to hear the reading of *Megillat Esther*. We are told that the members of the house of Rabbi Judah the Prince desisted from the study of the Torah in order to come and hear the reading of the *Megillah*. They argued *a fortiori* from the case of the Temple service. The Temple service was suspended so that the priests, levites, and

the Israelites at their station, could come and hear the reading of the *Megillah*. They reasoned that if the Temple service, which is so important, may be abandoned, how much more the study of the Torah?[22]

In discussing the question of how far the responsibility of the borrower extends, the *Kal Ve-Chomer* was used in order to establish the limits. "If in the case of a paid bailee who is exempt from breakage and death, he is nevertheless liable for theft and loss; in the case of a borrower who is liable for breakage and death, would it not be all the more certain that he should be liable also for theft and loss?"[23]

However, the *Kal Ve-Chomer* had certain restrictions. It could not be used in order to derive a law contrary to one set down in the Torah. The Torah tells us that if the intention of scheming witnesses is discovered, "then you shall do unto him as he purposed to do" to the accused.[24] The very first *Mishnah* in the Tractate *Makkot* indicates that the law of scheming witnesses does not strictly apply to the case of a priest accused of being the offspring of a divorced mother. Two witnesses, who are themselves priests, testify that a fellow-priest is a *chalal,* i.e., desecrated, and is, consequently, disqualified from priestly office.[25] If these two priests are exposed as scheming witnesses (*Eidim Zomemim*), we do not say that each of them, in turn, becomes stigmatized as a *chalal;* instead, they each receive forty lashes.[26]

Rabbi Joshua ben Levi derives this law from the interpretation of the Torah text. However, Bar Pada suggests that the sanction for this action may be obtained by means of a *Kal Ve-Chomer.* If a priest who is himself a desecrator of future generations by virtue of his marriage to a divorcee, does not himself become desecrated, it follows that those who merely came to try and to desecrate another priest, but did not in fact desecrate him, should not themselves become desecrated. However, Rabina rejected this argument, because he indicated that if you accept this kind of deduction, you will in effect be nullifying the law of the Torah in regards to retaliation for scheming witnesses. We might argue that since the law declares that if the scheming witnesses were not discovered until after the execution

of the sentence — the stoning of the accused — they were not punished by retaliation;[27] then it is logical to argue that these witnesses who only intended to bring about the stoning of the defendant by their evidence, but did not succeed in stoning him, should not be stoned themselves! This *a fortiori* argument would undermine the law of the Torah and, consequently, cannot be properly advanced.[28]

It is possible "to break" the *Kal Ve-Chomer* by demonstrating that the minor premise is not really minor, that it possesses a stringent side which is not found in the major premise, and therefore nothing can be derived from the major premise, since both premises are now of equal strength and stringency. The *Kal Ve-Chomer* can also be broken if we can show that the major premise is not as stringent as it appears, that it has a lenient side which is not found in the minor premise. Rabbi Simeon was of the opinion that no Biblical verse was required to forbid the eating of the first fruits outside the wall of Jerusalem because it is derived *a fortiori* from the law of the second tithe. If someone eats the second tithe, which is less restricted, outside the wall, he is flogged;[29] then, it follows, that for eating the first fruits outside the wall a flogging is deserved.[30] However, Raba refutes this *Kal Ve-Chomer*. In what respect is it assumed that the first fruits are more stringent than the second tithe? In that first fruits are forbidden to non-priests! But the second tithe is also a law of graver importance, because it is forbidden to an *onen,* to someone who is in mourning over a loved one who is still unburied. Consequently, the argument is unsound.[31]

The Rabbis checked and limited the force of the *Kal Ve-Chomer* by applying the principle of *Dayyo,* i.e., that it is quite sufficient that the law in respect of the thing inferred should be equivalent to that from which it is derived. The origin for this principle is Biblical. When Aaron and Miriam spoke against Moses, Miriam became leprous, and Moses pleaded before the Almighty on her behalf. "And the Lord said unto Moses: If her father had but spit in her face, should she not be ashamed seven days?"[32] How much more so then in the case of Divine reproof should she be ashamed fourteen days? Yet the number of days remains seven, for it is sufficient if the law in respect

of the thing inferred be equivalent to that from which it is derived.

Finally, the principle has been firmly established that "no penalty is inflicted on the strength of a logical inference."[33] In other words, no punishment, whether it be of a capital nature,[34] or lashes,[35] can be inflicted in a law which is the result of a *Kal Ve-Chomer*. The reasoning behind this rule is meritorious. Since a *Kal Ve-Chomer* is something which a man is able to project on his own, and since it is the result of human reasoning, then there is always the possibility that the resulting inference can be logically broken; and, consequently, there can be no punishment.[36]

Gezerah Shavah

We will define *Gezerah Shavah* as an analogy between two separate laws based on a similar word or phrase or root occuring in each. Hillel applied this rule in the following classical case: On one occasion, the fourteenth day of Nisan happened to fall on a Sabbath, and the *Bene Bathyra,* who were the religious heads of the Jewish community at that time, had forgotten whether the Paschal Offering overrides the Sabbath or not.[37] Hillel, who had come from Babylonia, and who had studied under the two great masters of the time, Shemaia and Abtalion, was able to resolve their uncertainty. Among the arguments which Hillel advanced in support of permitting the Paschal sacrifice on the Sabbath was one based upon the rule of *Gezerah Shavah*. In regards to the Paschal Lamb we read: The children of Israel shall keep the Passover *"be-moado,"* "in its appointed time." However, just as the expression *"be-moado"* in regards to the Daily Offering provides that it overrides the Sabbath, and that it was to be brought even on the Sabbath Day; similarly, the same expression, *"be-moado,"* which is used in connection with the Paschal Lamb, also enjoins that this sacrifice be offered at the appointed time, even on a Sabbath day.[38]

From this analogy then, based on the word *"be-moado"* the Rabbis were able to formulate a most important *halakhah*. The

Gezerah Shavah, then, operates on two levels. It is an exegetical aid to determine the meaning of an ambiguous expression in the law, to give clarity to something already found in the Torah. At the same time, it creates new laws not found explicitly in the Torah, by construing laws with reference to each other, so that certain provisions connected with one of them may be shown to be applicable also to the other.

There is a *Gezerah Shavah* which acts as a form of clarification. In regards to the consecration of a woman for marriage we are told: "When a man takes (*yikach*) a wife"; while in regards to the purchase of the cave of Machpelah, the Torah reads: "I will give the price of the field; take it (*kach*) of me." From this, the following *Gezerah Shavah* is developed: Just as the acquisition of the cave of Machpelah was achieved through money, similarly, the legal acquisition of a woman as a wife can be achieved through money.[39] Here the concept of the consecration and acquisition of a wife is merely clarified through the use of the *Gezerah Shavah.*

On the other hand, there is a *Gezerah Shavah* which is used to create a new law. The *Mishnah* in *Yevamot* tells us that an uncircumcised priest may not eat *terumah* (the heave-offering). The *Gemara,* in commenting on the *Mishnah,* tells us: "A sojourner and a hired servant" were mentioned in connection with the Paschal Lamb; and "a sojourner and a hired servant" were also mentioned in respect of *terumah.* As the Paschal Lamb, in connection with which "a sojourner and a hired servant" were mentioned, is forbidden to the uncircumcised, so is *terumah,* in respect of which "a sojourner and a hired servant" were mentioned, forbidden to the uncircumcised.[40]

The principle of *Gezerah Shavah* is subject to a number of limitations. Thus we are told, that even though a man may project a *Kal Ve-Chomer* on his own, no man may advance a *Gezerah Shavah* unless he has received it as a tradition from his teacher[41] and his teacher from his teacher, all the way back in time to the Lawgiver, Moses.[42] This obviously stands to reason. There must be this kind of restriction in regards to the *Gezerah Shavah* because, as Nachmanides points out, there are literally hundreds of words repeated in the Torah within differ-

ent contexts; and if there were free license to make a *Gezerah Shavah* out of any two identical words, there would be the danger of introducing unauthorized laws or demolishing the basis of existing ones.[43] This danger is not as apparent in the *Kal Ve-Chomer* because, at least, it must satisfy the self-limiting conditions of logical argument. On this basis, it becomes obvious that one can punish on the basis of a *Gezerah Shavah,* which has the force of tradition, and is not susceptible to the vagaries of logic.[44]

It is of great interest to know which aspect of the *Gezerah Shavah* is the result of tradition. There are instances when the subject and the context are revealed by tradition, and it was left to the Rabbis to discover the words which substantiate this tradition. The *Mishnah* in *Ketubot* discusses the case of the fine which is imposed on the violator of a girl who had been betrothed and then divorced. Rabbi Akiva maintains that the girl is entitled to receive the fine and that the fine belongs to her. In defending his position, Rabbi Akiva explained that the Scriptural verse "That is not betrothed" is used as part of a *Gezerah Shavah.* In the case of an outrage it is said "that is not betrothed" and in the case of seduction it is also written "that is not betrothed." Just as in the case of an outrage, the fine is that of fifty silver coins, so will the fine be in the case of seduction; and, just as in the case of seduction the coins must be *shekels,* so in the case of outrage must they also be *shekels.*[45]

However, the *Gemara* wonders what moved Rabbi Akiva to utilize the text of "that is not betrothed" for a *Gezerah Shavah;* why could he not have developed a *Gezerah Shavah* through the application of the word *"betulah,"* virgin, which is found both in the verse in regards to seduction and that of outrage?[46] In other words, the implication of this Talmudic discussion is that there was an accepted tradition that the cases of seduction and of outrage were the sources for a *Gezerah Shavah,* but there was no firm tradition as to which words were to be used in the construction of the *Gezerah Shavah.*

There are other situations in which the words which are to be used in the *Gezerah Shavah* were handed down by tradition, while their appliction had to be established by the Rabbis.

When a Hebrew slave was freed, he was furnished with gifts. The question arose as to how much he was to be given. Rabbi Judah maintained that he was to be paid thirty *selaim,* and he derived his position on the basis of a *Gezerah Shavah* with the law of an injured heathen slave. In both instances, a form of the word *"netinah,"* giving, is used. Just as in the case of a heathen slave, thirty *shekalim* is meant so, here too, thirty is meant.[47] However, here the *Gemara* asks: Why should we not derive a *Gezerah Shavah* based upon the word *"netinah"* from the law in regards to the valuation of man, which would then make it a matter of giving the freed slave fifty *shekalim?*[48] What seems to be clear from this discussion is that according to the tradition the word *"netinah"* in the verse on providing gifts for the freed slave was to be utilized as part of a *Gezerah Shavah;* the problem which the rabbis set about to resolve was from which particular law, using the similar word, was the *Gezerah Shavah* to be established, and the amount derived.

There is another important distinction in the application of the *Gezerah Shavah.* There is a definite difference in law, depending on whether only one word is redundant, i.e., whether only one of the two words in the analogy is disengaged and not being used for its own purposes and, consequently, superflous and free for interpretation; or whether both words to be used in the *Gezerah Shavah* are redundant and superflous, and free for interpretation in both texts. The practical difference between these two situations is reflected in the ruling that where only one of the words is free, then the *Gezerah Shavah* is subject to refutation; whereas a *Gezerah Shavah* in which both subjects are disengaged, cannot be refuted.[49] It stands to reason that since both words are not used for themselves, and are, consequently, used only for the sake of the *Gezerah Shavah,* then it is considered as if the Torah had stated it explicitly, and it cannot be refuted.[50]

Binyan Av

There are a number of passages which are similar to each other in character or in law; and one of these verses makes a

specific statement which is not explicitly to be found in the others. Through this norm of interpretation — *Binyan Av* — the explicit Biblical passage serves as the foundation, as the principal passage, from which is derived the explanation to passages which are similar to it. In effect, this principle is an inference by analogy from a case explicitly in the Torah for all similar cases which are not specified in detail. The word or sentence where the particular concept is to be found is considered to be the "father" of the law, whereas its derivatives are in the category of "offsprings." Through the use of this rule, the principal passage imparts a common character which unites the remaining verses in one family.

There is one type of *Binyan Av* which is only used to teach the meaning of a word. The Torah says: "And if a person sins through error, then he shall offer a she-goat of the first year for a sin-offering." From this, the generalization is projected that wherever a she-goat is mentioned, it must be in its first year.[51]

There is another type of *Binyan Av* which clarifies the meaning of a word in a manner opposite to the case explicitly stated in the Torah. For example, in regards to witnesses we are told: "One witness (*eid echad*) shall not rise up against a man for any inequity . . ." The Rabbis, in commenting on this verse tell us: "From the implications of this verse, do I not know that one is meant? Why then state one (*echad*)? That it may establish the principle that wherever it says 'a witness,' it implies two, unless one is specified by the verse."[52]

It is of interest to understand why there is such a distinction in the clarification of words. In the case of the she-goat, the mention of its age is not superfluous, because without the addition of the words "in its first year," I would not have known that when a she-goat is referred to it must be within its first year. Consequently, we establish the principle that wherever there is mention made of a she-goat, it refers to one in its first year. But where the explanatory note is not necessary originally, as for example, in the case of one witness, where the singular form *"eid"* already implies one, and the use of the word for "one," (*echad*) is superfluous, in such a circumstance we es-

tablish the principle that in other circumstances, the use of the word "witness" (*eid*) in the singular, without the specific addition of the word for "one," (*echad*), is to be understood as implying the need for two witnesses.

There is also a *Binyan Av* which is utilized as the basis of a law. In regards to Passover, Scripture informs us: "No manner of work shall be done in them, save that which every man must eat, that only may be done by you."[53] The major categories of work involved in the process of eating, which have been permitted on Passover, are, on the basis of this hermeneutic rule, equally permitted for all the Festivals.[54]

In the instances of *Binyan Av* which we have mentioned, the general law is drawn merely from one special provision. In other words, if we find that a given law has properties which are similar to another law, and, if this law has an aspect — which may be either lenient or stringent — which is not found explicitly in the other law, then, the characteristic of the specific law can be applied to the law which is similar in nature, but does not have this explicit formulation. Rabbi Tarfon, for example, is of the opinion, that one may offer oil to the Temple without it being accompanied by a meal-offering. In support of his position, Rabbi Tarfon explains that just "as we find that wine which is offered as an obligation may be offered as a free-will offering, so oil which is offered as an obligation may be offered as a free-will offering.[55]

However, sometimes the *Binyan Av* is formed by the combination of two different passages of the Torah. In these circumstances, it is termed "a general rule drawn from two provisions."[56] It makes no essential difference as to whether the two provisions which are involved are found in the same or different passages; in either case, the same method is applied.[57]

The Torah records that "if a man smite the eye of his servant and destroy it, he shall let him go free for his eye's sake. And if he smite out his servant's tooth, he shall let him go free for his tooth's sake."[58] Here we have two provisions, one concerning the eye, and one concerning the tooth. But how do we know that manumission of slaves is not only on account of the loss of these two members of the body, and that it includes any

projecting limbs which do not grow again? This is accomplished by applying the rule of *Binyan Av*. The tooth and the eye are different in nature; but they resemble each other in that they are patent blemishes and they are principal members which do no grow again. Consequently, the Rabbis were able to establish, on the basis of these two provisions, the general law that the mutilation of any limbs which are patent blemishes and do not grow again, is sufficient grounds for the immediate freeing of the slave.[59]

The *Binyan Av* can be undermined when the two provisions have a common stringency; however, the results of the *Binyan Av* cannot be attacked by proving that each of the provisions has a separate, singular trait of severity; obviously, since the stringency which is inherent in one of the provisions is not inherent in the other provision, then the derived law is not dependent upon those stringencies. In fact, to accept this kind of argument as a valid one, would in effect make this kind of *Binyan Av* impossible.[60]

The attempt to use this kind of argument is found in the Talmudic literature. By the use of a *Binyan Av* involving the law of the defaming husband and the law concerning scheming witnesses, Rabbi Judah endeavors to derive the principle that a prohibition which is contravened without action results in a flogging. In their rebuttal, the Rabbis point out that these two laws cannot be used as the source of a *Binyan Av,* because they have something in common; that is, each of them has a singular trait of severity — the scheming witnesses are subject to a flogging even though they had not been previously cautioned, and the defaming husband is not only flogged, but has to pay a fine as well. To this criticism, Rabbi Judah responds that a *Binyan Av* cannot be attacked from that position because, logically, it is only permissible to argue from stringencies which are similar and not from those which are dissimilar.[61]

Klal and Prat

Klal means the general, that which defines a class of objects, while *Prat* defines the particular, that which singles out an in-

dividual from among a class. It sometimes happens that either the general is succeeded by the particular (*Klal U-Prat*) or the particular is followed by a general (*Prat U-Klal*), or one general precedes and another succeeds the particulars (*Klal U-Prat U-Klal*).

In the case where the Torah has the general followed by the particular or particulars, then it is obvious that the Torah intended to limit the general, and the general includes nothing but the particular. When the particulars come second, the particulars are not merely illustrating examples of the preceding general; in fact, they restrict the meaning of the general term to that of the particulars.

In discussing free-will offerings, Scripture tells us: "When any man of you bringeth an offering unto the Lord, ye shall bring your offering of the cattle, even of the herd or of the flock." "Cattle" is a general term which would include beasts: However, "herd" and "flock" are particulars. The result is that the only animals which can be brought must come from the herd or the flock.[62] The purpose of the *Klal* in this circumstance is to prevent the addition of other animals by means of the use of other hermeneutic principles.

Where a particular term is followed by a general term, it is assumed that the law refers to anything included in the general, the particular being regarded merely as illustrative examples of that general. In Exodus, the following law is set down: "If a man delivereth to his neighbor an ass or an ox, or a sheep, or any beast to keep, and it dies . . ." Here the particular terms "ass, ox, sheep" are followed by the general term "any beast." Hence this law refers to any kind of animal which is delivered to be guarded.[63] The purpose of the particulars in this instance is to forestall the possibility of suggesting, through the use of some other principle, that the general term is not all-inclusive.

In the case of a general, a particular, and a general, in that order, we include only that which resembles the particular. In the Torah we are taught in regards to the second tithe: "And thou shalt bestow the money for whatsoever thy soul desireth (general) for oxen, or for sheep, or for wine, or for strong drink (particulars), or for whatsoever thy soul asketh of these (gen-

eral)." On the basis of this norm of interpretation, everything that is the produce of produce (an animal is born from an animal, and grapes are produced from the seed of the grape), and that derives its nourishment from the earth, is included in this commandment.[64] In effect, this rule is an amalgam of the *Klal U-Prat* and the *Prat U-Klal,* and the result is that we include everything that is like the particulars and exclude everything that is unlike them.

Interestingly enough, where you have a particular, a general and a particular, the particulars again are the determinants. In the case of the *Nazir,* we are told: "He shall abstain from wine and strong drink (particular). He shall eat nothing that is made of the grape-vine (general); from the pressed grapes even to the grape-stone" (particular). Here, too, only what is similar to the particular may be adjudged to be within the scope of the prohibition. Just as in the particulars, fruit and fruit-refuse are particularized, so whatever is fruit or fruit-refuse is included.[65]

The difference in principle, between a general, a particular and a general, and between a particular, a general and a particular, is that in the former case anything that is similar to the particular even on one side is included, whereas in the latter it must be similar on both sides, if it is to be included. The definition and the application of the concept of "both sides" is left in the hands of the authoritative rabbis.[66]

There are, however, certain modifications of the principle of *Klal U'Prat.* In the principle of *Klal U'Prat,* the general proposition or, for that matter, the particular instance is clearly defined and understood, and does not require any external clarification. In the example which we cited above in regards to the free-will offerings, "cattle" is a perfectly clear concept, and nothing is added to our understanding of the word "cattle" by the addition of the words "herd" and "flock." There is no change in its basic interpretation; consequently, these words are superfluous to the meaning of the word "cattle." In these circumstances, their obvious intention is to limit the generalization to the terms of the particular.

However, there are words—both generalizations and particulars—the meaning of which is unclear, or which may have more

than one meaning, or which may be characterized as relative words, i.e., words which have meaning only in relation to the word or words which follow them. Obviously, a general law which is not clearly delineated cannot be defined as a generalization; nor can a particular instance which is undefined and ambiguous serve the function of the particular.

The result is that when the meaning of the generalization is uncertain or indefinite, and it is followed by a particular which supplies the explanation lacking in the generalization, and thereby clarifies its meaning, that *prat* or particular reveals the scope of the generalization, and the general proposition is interpreted within the framework and limits defined in the specific instance. Conversely, there are times when we would have been hard-pressed to define the particular clearly without the accompanying generalization; then the presence of the general law in this situation formulates the real meaning of the particular without negating or annulling it. This is the hermeneutic principle which is characterized as "a generalization which requires a particular, and a particular which requires a generalization."

The Torah tells us that the first-born of animals was to be sanctified to God. On the basis of the principle of *Klal U'Prat,* we are able to deduce that this law applies only to first-born males. However, the definition of *"bechor,"* first-born, is still somewhat vague and uncertain. Does it mean that the first-born of the males is to be sanctified, even if it were to be born after a female? Or, does the definition of the word *"bechor"* in our context include only a male which is also the first to be born? This would, consequently, exclude a first-born of males which was, in fact, born after a female. By adding the particular "whatsoever openeth the womb," the concept of *"bechor"* is clarified, and we are able to state that the first-born of male animals, born after a female, is not considered to be a *"bechor."* This is a case where the generalization requires the particular instance not to limit, but to interpret its meaning.

On the other hand, the particular concept of *"peter rechem,"* "opening of the womb," is not fully clarified either. Left on its own, without any further clarification, we might conclude that the first-born of animals that comes through the womb should

be sanctified. The implication of this statement would be that even if there had been a male animal born previously, but it had been extracted by means of the caesarean section, this would not preclude the first male to be born thereafter through the womb, from being recognized as the first-born and sanctified. However, the presence of the word *"bechor"* in this context invests the particular with a new meaning; consequently, the law is that only the first-born that comes through the womb, and has not been preceded by one born by a caesarean section, fits into the sanctified category.[67]

Whenever Anything is Included in a General Proposition and is then Excepted . . .

There are four hermeneutic rules which operate within the context of this general statement. If the Torah sets down a general law, which obviously includes any particular instances, and then we find that a single case which was already included in the generalization is repeated separately in the Torah, then we must conclude that this was done for a definite purpose and that the provision in the specific case applies not only to the particular instance, but to all other cases included in the general law.

There are times when the specific case adds nothing to our essential knowledge of the particular, nor does it affect its definition. Its primary purpose in these circumstances is to limit and to confine the scope of the general law. In the beginning of Chapter 22 of Deuteronomy, the Torah discusses the duty to restore lost property to its owners. The law is encompassed in a generalization — "And in like manner shalt thou do with every lost article of thy brother." Why, then, was it necessary to single out a garment in a specific verse — "and so shalt thou do with his garment" — when it is already contained in the general term of "every lost article?" Its purpose is to limit and to confine the kind of articles which one is obligated to advertise in order to restore them to their owner. Just as a garment is distinguished in that it bears identification marks and has claimants, so must only those things be announced or advertised that bear identi-

fication marks and have claimants.[68]

In this case, we are taught nothing new about a garment or its legal status. All this specific instance does is to re-define the area encompassed by the general law which requires the restoration of lost articles.

There are other instances when the singling out of a specific case serves to teach a new law about the particular instance, and to clarify the general law. The practice of witchcraft is, according to the general proposition set down in Exodus, punishable by death; but the kind of death to be meted out to the sorcerer is not specified. However, since the Torah has singled out those who divine by a ghost or familiar spirit in a specific statement specifying their punishment as that of stoning, we are able to clarify the general law, and to state: just as those who divine by a ghost or familiar spirit are stoned, so are all other sorcerers stoned.[69]

Finally, there are occasions in which the purpose of reiterating a particular case of a general law is not to limit the law or to clarify it, but "to divide" its particulars, i.e., to apply the principle arrived at in that specific law, to each particular instance in the general law.

The Torah specifically states that "thou shalt do no manner of work" on the Sabbath day; and this obviously includes every category of "work." Why was it necessary for the Torah to declare: "You shall kindle no fire throughout your habitations upon the Sabbath day?" After all, kindling is included within the thirty-nine categories of *"melakhah"* and is, consequently, included in the general prohibition.

It has been particularized in order to teach the concept of "separation" or "division," i.e., just as one is liable to a sin-offering for kindling on Sabbath, so is each transgression of the Sabbath laws to be atoned for separately. Just as kindling, which is an *Av Melakhah,* a major category of work, entails a separate liability since it was set down separately in the Torah, so does every major category of work incur a separate liability. Consequently, if a man will transgress a number of different categories of work in a state of forgetfulness or of unawareness, he will be obligated to bring a separate sin-offering for each cate-

gory of work which he had transgressed.[70]

There is a second hermeneutic principle which appears when a specific case that was included in a comprehensive general law is then specifically stated in a separate provision in the Torah, with one major difference: the law in the specific instance, while similar in its essence to the general proposition and operating within its faremwork, is in some aspect more lenient than the generalization. In these circumstances, while we do not impose the stringencies of the generalization upon the particular law, we do apply the leniencies of the general proposition to the particular case, even though they are not specifically expressed in the particular. Obviously, the purpose of separating the particular from the generalization is to stress its more lenient position, *vis-a-vis* the general law; consequently, we cannot make the specific instance more stringent by denying to it the leniencies of the generalization.

All the various plagues, including boils and burning by fire, were included in the general principle: "When a man shall have in the skin of his flesh a rising, or a scab, or a bright spot, and it become in his flesh the plague of leprosy . . ." However, the Torah has specifically singled out both boils and burning by fire in separate laws similar in nature to the general proposition, but more lenient in that quick raw flesh does not constitute a symptom of uncleanness; furthermore, if the plague persists in its appearance after seven days and does not spread, the priest is not required to shut up the patient for another seven days.

Nonetheless, while the stringencies of the general law do not apply to these cases, the leniences of the generalization, even though not specifically mentioned in the particular instances, apply to them, as well. In this way, we insure that the special case will not be any more stringent than the general law, which would be the case if we did not apply the leniencies of the generalization. In consequence, if the boil, for example, turns completely white, the man is pronounced clean.[71]

Incidentally, the same is true if the special case, which is similar in nature to the general principle, is more stringent than the general proposition at some given point. In that case, while none of the leniencies of the general law would apply, the

stringencies thereof would apply to the particular law, even though not specifically mentioned in its section.[72]

What differentiates this hermeneutic rule, both in its lenient and stringent manifestations, from the preceding principle, is instructive. In the previous principle, there is no difference between the general law and its particular instance and, therefore, we cannot say that the particular is different or separate from the general proposition. On the contrary, we contend that it comes to teach us something, not only in regards to itself, but in regards to the generalization, as well.

On the other hand, in the hermeneutic rule which operates in our case, the particular instance which is singled out is only partially in accord with the generalization, and it moves either in a more lenient or in a more stringent direction than the general law. In "going out" so to speak, on its own it, in effect, creates a new law different from the general proposition.

In the hermeneutic rule which we have been discussing, the special case remains essentially the same as the general law from which it is singled out; it differs only in its legal implications, either in a lenient or in a stringent direction, from the general proposition. There is, however, another principle in which the particular differs from the generalization not only in its law, but in its essence as well.

In these circumstances, we say that the specific law was singled out in order to separate it completely from the general proposition. Consequently, the bond between the general law and its particular specification is severed, and we apply neither the stringencies nor the leniencies of the general law to the specific instance. Only those leniencies and stringencies which are specified in the particular law itself can be applied.

The Torah tells us that "if you buy a Hebrew servant, he shall go out free for nothing." This is a general principle in which the case of the Hebrew maid-servant was included. Yet the Torah has singled out the law of the Hebrew maid-servant and separated it both in essence and in law from the general proposition — "And if a man sell his daughter to be a maid-servant, she shall not go out as the men-servants do."

In this case, the particular instance acquires neither the

leniencies nor the stringencies of the generalization. While a male servant is not freed if he produces signs of puberty or if his master dies, the maid-servant is freed once she acquires the signs of maidenhood or if the master should die, even in the midst of the six years. On the other hand, the maid-servant can be forcibly betrothed by her master.[73]

Finally, when a single case, though included in a general proposition, is separated or excluded from it by an entirely new provision which contradicts the generalization,[74] then such a case cannot be restored to the restrictions of the general law unless this is expressly restored in the Torah. In this situation, we assume that the Torah separated the specific law from its generalization not only to emphasize the new provision, but to remove it completely from the authority of the generalization and its laws. The result is that the particular is no longer tied to the general principle, except where there is an explicit indication in the Torah that this specific case is also included in the law of the general proposition.

The guilt-offering of the leper was singled out from the laws relating to other guilt-offerings in order to impart a new law concerning the thumb of the right hand and the great toe of the right foot — "And the priest shall take the blood of the guilt-offering, and the priest shall put it upon the tip of the right ear of him that is to be cleansed, and upon the thumb of his right hand, and upon the great toe of his right foot." This new provision contradicts the provision in the law relating to other guilt-offerings which requires that all the blood should be poured on the altar.

In these circumstances we would conclude that the particular case of the leper's guilt-offering cannot be brought under the provisions and restrictions of the general proposition. Consequently, the guilt-offering of leper would require no application of blood to and no burning of the prescribed portions of the sacrifice upon the altar.

However, the Torah restores the relationship of the particular to the general law with the words "as the sin-offering so is the guilt-offering," and we conclude that just as the sin-offering of the leper requires application of the blood to and burning of

the prescribed portions upon the altar, so does the guilt-offering of the leper also require application of the blood to and burning of the prescribed portions upon the altar. Had the Torah not restored it, we would have assumed that it had been singled out in order to separate it from the generalization, and only the laws expressly associated with the particular would have applied.[75]

It would be instructive to understand what differentiates this hermeneutic principle from the *Middah* which precedes it. After all, in both of these principles we apply to the specific instances only those provisions which are explicitly stated in their particular sections, rather than the laws of the general proposition.

There is, however, a fundamental difference between these two principles. In the previous *Middah,* the change in the particular is not confined to a specific provision, but involves the very essence of the general proposition; whereas, in our hermeneutic rule, the Torah has not changed the actual essence of the specific instance from that of the generalization.

The specific case is not really any different in its essence from the general proposition from which it has been separated. It is only that the Torah has projected a new provision which contradicts the generalization and, in effect, severs the relationship with the general rule. However, the Torah did not change the actual essence of the law; it only introduced a new provision.

The implications of this difference are far-reaching. In the preceding principle, the change of essence negates the generalization and its laws completely, so that there is no situation in which the particular can be restored to the general proposition. In our case, however, the particular remains essentially the same as the general law, deflected only by the new provision which contradicts the generalization. Therefore, when the Torah so indicates, the specific instance can be restored to the restrictions of the general rule.

In sum, the four hermeneutic principles in which the particular instance is separated from its generalization, represent respectively four different relationships to the general proposition. In the first rule, the specific instance is similar to the generalization both in terms of its essence and in terms of its laws; in the second

principle, the specific instance is similar to the general proposition in its essence but not in some aspect of its provisions; in the third *Middah,* the particular case is different from the general rule both in its essence and in its provisions; in the fourth hermeneutic principle, the particular identifies with the general proposition in its essence, but it projects a new provision which contradicts the generalization.

An Interpretation Deduced from the Text or from the Subsequent Terms of the Text

If a word or a passage or a law is vague or obscure, then its meaning or interpretation can be deduced either by considering the whole context or by examining the subsequent terms of the text.

There are times when the meaning of a passage and its legal interpretation can be explained by reference to its context. In the Decalogue we are told: "Thou shalt not steal." This refers to the stealing of human beings. How do we know that in fact it does not mean the theft of property? By interpreting the law of theft in terms of its general context, we can conclude that the Ten Commandments speak of crimes involving capital punishment, e.g., idolatry, desecration of the Sabbath, murder; hence, the act of stealing mentioned in this verse refers to a crime involving capital punishment — the stealing of a human being.[76]

In Leviticus 19:11, the Torah tells us: "You shall not steal." Here the Holy Writ refers to the theft of property. How do we know that Scripture in this verse does not refer to the theft of human beings? By utilizing this principle, and examining the text, we realize that it speaks of money matters and, therefore, must refer to monetary theft.[77]

There are times when the obscure or uncertain clause in the law can be explained by a clause which follows it. God commanded Moses: "Speak unto Aaron your brother, that he come not at all times unto the holy place . . . Herewith shall Aaron come unto the holy place." We might have thought that Aaron could enter the Holy of Holies at will, as long as he followed the prescribed order. However, the end of the section clarifies the

situation, when we are told: "And this shall be an everlasting statute unto you . . . once in the year." This teaches us that he could not enter whenever he so desired.[78]

Two Verses Which Contradict Each Other

Two verses which seem to contradict each other can be harmonized and reconciled when a third text is found. Sometimes the reconciliation of the texts is reflected by a Biblical verse; at other times, the harmonization is made by the rabbis themselves.

There is a verse in the Torah which tells us: "And the Lord spoke to Moses, and spoke unto him out of the tent of meeting . . ." The implication is that God spoke to Moses from the tent of meeting itself. However, there is another verse which seems to contradict this statement — "And there I will meet with you, and I will speak with you from above the ark-cover, from between the two cherubim which are upon the ark of the testimony . . ." What reconciles and resolves the apparent contradiction is the verse: "And when Moses went into the tent of meeting that He might speak with him, then he heard the Voice speaking unto him from above the ark-cover that was upon the ark of the testimony, from between the two cherubim . . ." On the basis of this statement, we are able to say that Moses had to enter the tent of meeting itself in order to hear the voice of God, descending from on high, speak to him from between the two cherubim.[79]

There were times when the rabbis were able to effect the reconciliation of the texts. Rabbi Simeon ben Eliezer noted an apparent contradiction in two Biblical verses. One passage states: "Seven days shalt thou eat unleavened bread," while another verse in the Torah tells us: "Six days shalt thou eat unleavened bread." How are these verses reconciled? The reconciliation is effected on the basis of the law of the Omer. No use whatsoever could be made of the new corn until the offering of an Omer of the first produce of the barley harvest had taken place on the second day of the Festival. Therefore, unleavened bread prepared with the new produce could be eaten only during

the remaining six days of Pesach; consequently, we are told, that you may not eat unleavened bread of the new produce during the seven days, but you may eat unleavened bread of the new produce six days.[80]

These are the hermeneutic principles which made explicit that which was implicit in the Law, and assured the dynamic development of the Halakhah as the central force in Jewish life.

NOTES

1. The Oral Law was handed down orally from generation to generation until it was redacted by Rabbi Judah the Prince in approximately 175 C.E. The motivation for setting down in writing that which had been transmitted orally, can undoubtedly be traced to the worsened political and economic conditions which followed in the wake of the ill-fated Bar Kochba rebellion. The rabbis legitimately feared that the scholarly level would be lowered to such a degree that the Oral Law could conceivably be lost forever. See Maimonides, *Introduction to Mishneh Torah.*

2. Maimonides, in the introduction to the Mishneh Torah, states that "all the Sinaitic precepts were communicated to Moses with interpretations." In fact, this view is developed in the Talmud. See *Berakhot* 5a on the elucidation of the verse in Exodus 24:12. See *Megillah* 19b.

3. *Numbers Rabbah* 14:10. See also *Midrash Tanchuma,* Ki Sissah and Vayeira.

4. *Gittin* 60b on Exodus 34:27.

5. Exodus 20:10.

6. See Exodus 34:31; Exodus 35:3; Exodus 16:29.

7. See *Shabbat* 96b; *Baba Kamma* 2a. The Written Law already hints at the connection between the *melakhot* of the Sabbath. See Exodus 31:13; Exodus 35:2.

For other examples of the indispensible nature of the Oral Law for the proper understanding of the Written Law, see Z. H. Chajes, *The Students' Guide through the Talmud* (London, 1952), Chapter I.

8. See Maimonides, *Introduction to the Mishnah,* where he subdivides the Oral Law into five categories.

9. In the *Mechilta of Rabbi Simeon ben Yochai* (Halakhic Midrash on Exodus) (ed. D. Hoffman, Frankfort, 1905), p. 117, Rabbi Yishmael enumerates the thirteen *Middot* with the remark that they were delivered to Moses at Sinai.

10. Generally speaking, the rabbinic authorities were agreed that the laws which are deduced from the hermeneutic principles possess the status of Mosaic Law. However, Maimonides in Root II in his *Introduction to Sefer Hamitzvot* declared that a law which is inferred from these principles is considered to have rabbinic force only, unless the Talmudic authorities explicitly declare it to be Biblical in nature. In that case, it really is a law known by tradition rather than by logical deduction. This position was vigorously attacked by Nachmanides and re-interpreted by Rabbi Simon ben Zemach Duran. See Rabbi Simon ben Zemach Duran, *Zohar Harakia,* Root no. 2. Cf. K. Kahana, *Cheker Ve-Iyun* (Hebrew) (Tel Aviv, 1960), pp. 18-22.

11. *Tosefta Sanhedrin* 7:5; *Avot De-Rabbi Nathan* 37:10.

12. *Introduction to Sifra* (Halakhic Midrash on Leviticus). It should be noted that beside the principles of Rabbi Yishmael there are other rules which are utilized for the interpretation of Biblical passages; e.g. *Hekesh* and *Semukhin.*

13. See *Mishneh of Rabbi Eliezer* (ed. H. G. Enelow) (New York, 1933). It is within this framework that the rabbi declares: "Wherever you hear the words of Eliezer ben Yose Haglili in the *Haggadah,* incline your ear like unto a funnel." See *Chulin* 89a.

14. *Megillah* I, 5. This principle eliminates eleven of thirty-nine major categories of work. See also *Bezah* 2b.

15. See *Bezah* 20b.

16. *Bezah* 36b.

17. *Genesis Rabbah* CXII, 7.

18. Genesis 44:8.

19. Exodus 6:12.

20. Deuteronomy 31:27.

21. Numbers 7:14.

22. *Megillah* 3a.

23. *Baba Kamma* 57b; Exodus 22:9-11, and 13.

24. Deuteronomy 19:19.

25. See Leviticus 21:6-8; Ezekiel 44:22.

26. *Makkot* I, 1.

27. See *Makkot* 5b.

28. See *Makkot* 2a and b.

29. Deuteronomy 12:17.

30. *Makkot* 17a.

31. *Makkot* 17b.

32. Numbers 12:14. See *Baba Kamma* 25a.

33. *Makkot* 5b.

34. *Ibid.*

35. *Terumah* 9a; Rabbi Chananel, *Makkot* 5b; Ritva, *Makkot* 5b; Tosafot, *Baba Kamma* 4b. For a contrary opinion in regards to lashes, see Maimonides, *Mishneh Torah, Edut* 20:2. The question arises whether this principle applies in monetary matters. Nachmanides (Ramban) and Ritva are of the opinion that this rule applies in monetary matters; whereas Maimonides, Rabbi Yitz-

chak, (Ri), Rabbi Yitzchak ben Asher (Riva) maintain that monetary penalties can be inflicted on the basis of a *Kal Ve-Chomer.* See Ritva, *Makkot* 5b; Maimonides, *Mishneh Torah, Edut,* 20:2; Tosafot, *Baba Kamma* 4b.

36. Cf. *Middot Aharon,* II, 13. Rabbi Samuel Edels (Maharsha), in his commentary on *Sanhedrin,* rationalizes this principle along other lines. Since that which is derived may be more stringent than the law from which it is derived, then it stands to reason that the punishment of the original, more lenient law, cannot serve as a proper atonement for the more stringent law. See Edels, *Sanhedrin* 64b.

37. The problem arises because slaughtering an animal is one of the thirty-nine major categories of forbidden work on the Sabbath. See *Shabbat* 23:2.

38. *Pesachim* 66a; Numbers 23:2; *Ibid.,* 9:2; *Ibid.,* 28:10.

39. *Kiddushin* 2a; Deuteronomy 24:1; Genesis 23:13.

40. *Yevamot* 8:1; *Ibid.* 70a; Exodus 12:45; Leviticus 22:48; Exodus 12:48.

41. *Pesachim* 66a; *Niddah* 19b.

42. Cf. Rashi, *Sukkah* 11b and *Pesachim* 66a.

43. Cf. Nachmanides, *Sefer Hamitzvot,* Root no. 2.

44. See *Keritot* 5a.

45. *Ketubot* 38a; Exodus 12:15; Deuteronomy 12:28 and 29.

46. *Ibid.*

47. *Kiddushin* 16b and 17a; Deuteronomy 15:14; Exodus 21:32.

48. *Kiddushin* 17a; Leviticus 27:23.

49. See *Niddah* 22b and 23a.

50. See Rashi, *Shabbat* 64a. It should also be mentioned that Rabbi Yishmael is of the opinion that a *Gezerah Shavah* which is only redundant in one passage is also irrefutable. If there is a choice between a *Gezerah Shavah* which open on both sides and one which only disengaged in one, then under those circumstances, Rabbi Yishmael would concede that the *Gezerah Shavah* which is redundant in both sections is preferable. See *Niddah* 22b and 23a.

51. *Sifre,* Numbers, no. 112; Numbers 15:27.

52. *Sanhedrin* 30a; Deuteronomy 19:15.

53. Exodus 12:16.

54. See *Megillah,* this case is utilized as an example of *Binyan Av* by Rashi in his commentary on the *Baraitha* of Rabbi Yishmael, and Rabbenu Bachya in his commentary on Numbers 12:14.

55. *Menachot* 104b; Numbers 15:13.

56. This principle of *Binyan Av* is mentioned by all three authorities, although with slight differences. Thus, whereas Rabbi Eleazar calls it simply *Binyan Av,* Hillel divides it into two separate principles, while Rabbi Yishmael combines these two and reckons them as one principle.

57. This is not a unanimous position. There are those who maintain that where the two provisions are found to be in the same verse or law, the general law is said to be derived from one special provision. Cf. *Middot Aharon,* Chapter IV.

58. Exodus 21:26-27.

59. *Kiddushin* 24a and b; *Mechilta* on Exodus 21:27.

60. See *Tosafot, Ketubot* 32a.

61. *Makkot* 4b, and the commentaries thereon. See also *Rashi* and *Tosafot, Ketubot* 32a; *Ritva, Ketubot* 32a.

62. *Zevachim* 34a; *Introduction to Sifra;* Leviticus I:2.

63. *Nazir* 35a; *Baba Metzia* 57b; Exodus 22:9.

64. *Erubin* 27b; Deuteronomy 14:26.

65. *Nazir* 34b; Numbers 6:3-4.

66. The school of Rabbi Akiva utilized another set of principles in this area. This hermeneutic rule was termed *Ribui U-Miut,* extension and limitation. This principle is distinct from the concept of *Klal U-Prat,* and they differ from each other in a number of crucial respects. In the case of *Klal U-Prat U-Klal,* for example, we include only that which resembles the particular, whereas according to the principle of *Ribui U-Miut Ve-Ribui,* the *Ribui* includes everything, even that which is not similar to the *Miut,* with the exception of that which has the least similarity to it.

An illustration of this difference between *Klal U-Prat U-Klal* and *Ribui U-Miut Ve-Ribui* is the classic case in *Erubin* 27b, which we have quoted in the body of the essay, regarding the foodstuffs which may be bought with the redeemed money of the second tithe. If we interpret the verse in question according to the principle of *Ribui U-Miut Ve-Ribui,* then fish may be included in the food stuffs to be purchased with the redeemed money of the second tithe and consumed in Jerusalem, whereas, if the verse is analyzed on the basis of *Klal U-Prat U-Klal,* then fish would be excluded from the permitted purchases to be made with the money acquired through the redemption of the second tithe.

67. *Bechorot* 19a; *Rashi,* ad loc.; *Introduction to Sifra;* Deuteronomy 15:9; Exodus 13:2.

68. *Baba Metzia* 2, 5; 27a; Deuteronomy 22:3. See also *Yebamot* 7a; *Keritot* 2b.

69. *Sanhedrin* 67b; Exodus 22:17; Leviticus 20:27.

70. *Shabbat* 70a; Exodus 20:8; Exodus 35:3. It is of interest that one of the Rabbis utilizes this verse within the framework of another hermeneutic rule to demonstrate that he who kindles a fire on the Sabbath day transgresses only a prohibiting law.

71. *Introduction to Sifra;* Leviticus 42:2; 13:18; 13:24.

72. See *Mekhilta,* Ex. 21.

73. *Saadia Gaon* and *Rashi* on the Hermeneutic Principles; *Midrash Hagadol, Vayikra;* Exodus 21:2; 21:7; Deuteronomy 15:12.

74. See *Tosafot, Yebamot* 7a.

75. *Yebamot* 7a-b; Leviticus 14:13-14; 7:1ff.

76. *Sanhedrin* 86a; Exodus 20:5.

77. *Ibid.* See also *Baba Metzia* 61a.

78. *Midrash Hagadol* on Leviticus; Leviticus 16:2-3; 16:34.

79. *Sifre* no. 58; Leviticus 1:1, Exodus 25:22; Numbers 7:89.

80. *Menachot* 66a; Exodus 13:6; Deuteronomy 16:8; Leviticus 23:14.