

CAN YOU ANSWER THESE QUESTIONS?

1. Describe what Moshe Rabbainu actually received from G-d at Sinai.
2. According to the author of the Ohr HaChaim, in what way was Rabbi Akiva greater than Moshe Rabbainu?
3. How does the Talmud view someone who denies the Divinity of all or even part of the Oral Law?
4. In what way did Dr. Zacharias Frankel's view of the development of the Oral Law differ from the traditional view?
5. Describe Rav Shmshon Raphael Hirsch's opinion of Dr. Zacharias Frankel.

This and much more will be addressed in the third lecture of this series:
“Zacharias Frankel and the History of the Oral Law.”

To derive maximum benefit from this lecture, keep these questions in mind as you listen to the lecture and read through the outline. Go back to these questions once again at the end of the lecture and see how well you answer them.

PLEASE NOTE: This outline and source book were designed as a powerful tool to help you appreciate and understand the basis of Jewish History. Although the lectures can be listened to without the use of the outline, we advise you to read the outline to enhance your comprehension. Use it, as well, as a handy reference guide and for quick review.

This lecture is dedicated to the memory and *Li-ilui Nishmos*

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and to the merit and honor of Mordechai (Motti) Nederlander

THE EPIC OF THE ETERNAL PEOPLE
Presented by Rabbi Shmuel Irons

Series XIX Lecture #3

ZACHARIAS FRANKEL AND THE HISTORY OF THE ORAL LAW

I. The Origins of the Oral Law (*Torah sheBaal Peh*)

A.

(1) משה קבל תורה מסיני. ומסרה ליהושע. ויהושע לזקנים. וזקנים לנביאים. ונביאים מסרוה לאנשי כנסת הגדולה. אבות א:א

Moses received *the Torah* at Sinai and transmitted it to Joshua, Joshua to the Elders, and the Elders to the Prophets, and the Prophets to the men of the Great Assembly. **Avos 1:1**

(2a) אמר רבי לוי בר חמא אמר רבי שמעון בן לקיש: מאי דכתיב (שמות כ"ד) ואתנה לך את לחת האבן והתורה והמצוה אשר כתבתי להורותם, לחות אלו עשרת הדברות, תורה זה מקרא והמצוה זו משנה אשר כתבתי אלו נביאים וכתובים להורותם זה תלמוד מלמד שכולם נתנו למשה מסיני. ברכות ה.

R. Levi b. Hama stated in the name of R. Shimon b. Lakish: What is the meaning of the verse (Exodus 24:12), “[And the L-rd said to Moses (after the revelation of the Ten Commandments at Mount Sinai), Come up to Me into the mount, and be there;] And I will give you the Tablets of stone, and the Law and the Commandment, which I have written that you may teach them”? - “Tablets of stone”: these are the Ten Commandments; “the Law”: this is the Torah (the Five Books of Moses); “the Commandment”: this is the Mishnah; “which I have written”: these are the Prophets and the Hagiographa (Holy Writings - *Kesuvim*); “that you may teach them (rule through them)”: this is the Gemara. It teaches [us] that all these things were given to Moses on Sinai. **Berachos 5a**

(2b) כל המצוות שניתנו לו למשה בסיני, בפירושן ניתנו, שנאמר (שמות כד, יב) ואתנה לך את לחות האבן והתורה והמצוה. תורה, זו תורה שבכתב. והמצוה, זו פירושה. וצונו לעשות התורה על פי המצוה, ומצוה זו היא הנקראת תורה שבעל פה: . . . והמצוה, שהיא פירוש התורה, לא כתבה, אלא צוה בה לזקנים, ליהושע ולשאר כל ישראל, שנא' (דברים יג, א) את כל הדבר אשר אנכי מצוה אתכם אותו תשמרו לעשות וגו', ומפני זה נקראת תורה שבעל פה: אע"פ שלא נכתבה תורה שבע"פ, לימדה משה רבינו כולה, בבית דינו, לשבעים זקנים. ואלעזר ופנחס ויהושע, שלשתן קבלו משה. וליהושע, שהוא תלמידו של משה רבינו, מסר תורה שבע"פ, וצוהו עליה. וכן יהושע, כל ימי חייו למד על פה. וזקנים רבים קבלו מיהושע. וקבל עלי מן הזקנים ומפנחס. ושמואל קבל מעלי ובית דינו. ודוד קבל משמואל ובית דינו. רמב"ם, הקדמה למשנה תורה

All the Mitzvos that were given to Moshe at Sinai were given together with their interpretation, as it says (Exodus 24:12), “[And the L-rd said to Moses (after the revelation of the Ten Commandments at Mount Sinai), Come up to Me into the mount, and be there;] And I will give you the Tablets of stone, and the Law and the Commandment (*Mitzvah*), . . . ” “The Law”: is referring to the Written Torah (the Five Books of Moses); “the Commandment” (*Mitzvah*): is referring to its interpretation. We were commanded to implement the Torah according to the “Commandment” (*Mitzvah*). This is what is known as the Oral Law (*Torah sheBaal Peh*). . . . He

did not write down the Commandment (*Mitzvah*), which is the interpretation of the Torah, but commanded it to the Elders, to Yehoshua, and to the rest of Israel, as it says (Devarim 13:1), “What ever I command you, take care to do it; you shall not add to it, nor diminish from it.” For that reason it is called the Oral Torah (Torah sheBaal Peh). Even though it was not written down, Moshe Rabbainu taught it in its entirety in his Court of Law (*Bais Din*) to the seventy Elders, to Elazar, Pinchas, and Yehoshua. All three of them received the [Oral Torah] from Moshe. To Yehoshua, the disciple of Moshe, he transmitted the Torah and commanded him regarding it. Similarly Yehoshua, during his entire life taught it orally. Many elders received it from Yehoshua. Eli [HaKohen] received it from the Elders and from Pinchas. Shmuel received it from Eli and his Bais Din. Dovid received it from Shmuel and his Bais Din. . . . **Rambam, Preface to Mishneh Torah**

(3) רבי אומר: (דברים י"ב) וזבחת כאשר צויתך מלמד שנצטוו משה על הושט ועל הקנה ועל רוב אחד בעוף ועל רוב שנים בבהמה. חולין כה.

Rabbi says. The verse: And you shall slaughter . . . *as I have commanded you* (Deuteronomy 12:22). teaches us that *Moses was instructed* concerning the gullet and the windpipe; concerning the greater part of one of these organs [that must be cut] in the case of a bird, and the greater part of each in the case of cattle. **Chullin 28a**

(4) ועל רוב אחד בעוף ועל רוב שנים בבהמה. י"מ דרריש בגימטריא דכאשר אל"ף אחד בעוף שי"ן שנים בבהמה רי"ש רובו של אחד כמוהו רוב אחד בעוף ורוב שנים בבהמה ראשי תיבות למפרע של כאשר הוי רובו של אחד כמוהו: תוספות שם

(5) ת"ר: (דברים יב) אלה החוקים אלו המדרשות והמשפטים אלו הדינים אשר תשמרון זו משנה לעשות זו מעשה. קדושין לז.

Our Rabbis taught: *These are the statutes* — this refers to the [Rabbinic] interpretations; *and the judgments* — to civil law; *which you shall observe* — to [the study of the] **Mishnah**; *to do* — to actual practice. **Kiddushin 37a**

(6) מימות משה ועד הלל היו שש מאות סדרי משנה כמו שנתן הקב"ה למשה מסיני. ומן הלל ואילך העני העולם וחלשה כבודה [גבורה] של תורה. ולא תקנו הלל ושמאי אלא שש סדרים. והן אנשי המשנה מהלל ועד רבי נתן ורבי. והן והן סוף משנה. סדר מקבלי התורה (מתקופת הגאונים)

From the days of Moshe until Hillel, there were six hundred orders of Mishnah just as they were given unto Moshe at Sinai. From Hillel and on, the world became impoverished and the glory [and power] of Torah became diminished. Hillel and Shamai instituted a mere six orders. These are the authorities [lit. men] of the Mishnah: [The Masters] from Hillel all the way to Rabbi Nathan and Rabbi. These [latter authorities] were the last [authorities] of the Mishnah. **Seder M'Kablei HaTorah [A work dating from the Geonic period and quoted in the Machzor Vitri and the Sefer Krisus. This particular passage is found in the Responsa of Rav Hai Gaon]**

(7) משענה אלו בעלי משנה כגון רבי יהודה בן תימא וחביריו. פליגו בה רב פפא ורבנן חד אמר: שש מאות סדרי משנה וחד אמר: שבע מאות סדרי משנה. חגיגה יד.

‘Staff’ (Isaiah 3) — *this means the masters of the Mishnah*, like R. Judah b. Taima and his colleagues. R. Papa and our Rabbis dispute therein: one says that there were six hundred orders of the Mishnah, and the other that there were seven hundred orders of the Mishnah. **Chagigah 14a**

B.

תנן התם: משמת יוסף בן יועזר איש צרידה ויוסף בן יוחנן איש ירושלים בטלו האשכולות איש שהכל בו ואמר רב יהודה אמר שמואל: כל אשכולות שעמדו להן לישראל מימות משה עד שמת יוסף בן יועזר היו למדין תורה כמשה רבינו מכאן ואילך לא היו למדין תורה כמשה רבינו. והאמר רב יהודה אמר שמואל: שלשת אלפים הלכות נשתכחו בימי אבלו של משה דאשתכח להו אישתכח, ודגמירן להו הו גמירי כמשה רבינו. והא תניא: משמת משה, אם רבו מטמאין טמאו, אם רבו טהורין טיהרן ליבא דאימעט, מיגמר הו גמירי להו כמשה רבינו. במתניתא תנא: כל אשכולות שעמדו לישראל מימות משה עד שמת יוסף בן יועזר איש צרידה לא היה בהם שום דופי, מכאן ואילך היה בהן שום דופי. . . . אמר רב יוסף: דופי של סמיכה קתני. והא יוסף בן יועזר גופיה מפליג פליג בסמיכה כי איפליג בה בסוף שניה, דבצר ליבא. תמורה טו:

We have learned in a Mishna elsewhere: When Yosef b. Yo'ezer of Tzereda and Yosef b. Yochanan of Jerusalem died, the grape-clusters came to an end. What is the meaning of eshkoloth [grape-clusters]? — A man in whom all (Torah, fear of G-d, and loving kindness) is contained. R. Yehudah reported in the name of Shmuel: All the ‘grape-clusters’ who arose from the days of Moses until Yosef b. Yo'ezer learned Torah like Moshe our Teacher. From that time onward, they did not learn Torah like Moshe our Teacher. But did not Rab Yehudah report in the name of Shmuel: Three thousand halachos were forgotten during the period of mourning for Moshe? — Those laws which were forgotten were forgotten, but those which were learned they learned like Moshe our Teacher. But has it not been taught: After the death of Moshe, if those who pronounced unclean were in the majority, they [the Rabbis] declared [the object] unclean, and if those who pronounced clean were in the majority, they [the Rabbis] declared [it] clean? — Their acumen diminished, but what they had learned they learned like Moshe our Teacher. It has been taught: All the ‘grape-clusters’ who arose in Israel from the days of Moshe until the death of Yosef b. Yo'ezer of Tzereda were free from all dofi [taint]. From that time onward, some matter of taint was found in them. . . . Said R. Yosef: [The word dofi here means] dispute, [e.g., the dispute] relating to ‘laying on of hands’ [on a sacrifice on Yom Tov]. But does not Yosef b. Yo'ezer himself differ with reference to the law of laying on of hands? — When he differed, it was in his latter years, when his mental powers declined. **Temurah 15b-16a**

C.

אמר רב שמן בר אבא אמר רבי יוחנן: לעולם אל תהא שבות קלה בעיניך שהרי סמיכה אינה אלא משום שבות ונחלקן בה גדולי הדור. פשיטא שבות מצוה אצטריכא ליה. הא נמי פשיטא לאפוקי ממאן דאמר בסמיכה גופה פליגי, קא משמע לן בשבות הוא דפליגי. אמר רמי בר חמא: שמע מינה סמיכה בכל כחו בעינן. דאי סלקא דעתך לא בעינן בכל כחו מאי קא עביד ליסמוך. חגיגה טז:

R. Shemen b. Abba said that R. Yochanan said: Never let [the principle] of *Shevus* (a rabbinic prohibition involving resting on Shabbos) be unimportant in your eyes. For the laying on of the hands [on a Festival-day (*Yom Tov*)] is [prohibited] only on account of *Shevus*, yet the great men of the age differed thereon. But is this not already quite obvious! This statement was needed to be made even in a case when that *Shevus* would interfere with the fulfillment of a *mitzvah* [such as *semicha* on *Yom Tov*]. But that too is quite obvious [as that was exactly the situation when they argued regarding *semicha* on *Yom Tov*. [The gemora answers that Rabbi Yochanon came] to

contradict the view that they differed regarding the laying on of the hands itself [in the case of an obligatory sacrifice such as the *Chagiga* which is brought on *Yom Tov*]: Thus he taught us that it is in regard to *Shevus* that they differ. Rami b. Hama said: You can deduce from this that the laying on of hands must be done with all one's strength; for if you suppose that one's whole strength is not required, what [work] does one do by laying on the hands? **Chagiga 16b**

D.

אמר רב הונא: בשלשה מקומות נחלקו שמאי והלל. שמאי אומר: מקב חלה והלל אומר: מקביים וחכמים אומרים: לא כדברי זה ולא כדברי זה אלא קב ומחצה חייב בחלה. משהגדילו המדות אמרו: חמשת רבעים קמח חייבין בחלה. רבי יוסי אומר: חמשה פטורין, חמשה ועוד חייבין. ואידך הלל אומר: מלא הין מים שאובים פוסלים את המקוה. שחייב אדם לומר בלשון רבו. שמאי אומר: תשעה קבין וחכמים אומרים: לא כדברי זה ולא כדברי זה עד שבאו שני גרדיים משער האשפה שבירושלים והעידו משום שמעיה ואבטליון בשלשה לוגין מים שאובין פוסלים את המקוה וקיימו חכמים את דבריהם. ואידך שמאי אומר: כל הנשים דיין שעתן, והלל אומר: מפקידה לפקידה, ואפילו לימים הרבה. וחכמים אומרים: לא כדברי זה ולא כדברי זה, אלא: מעת לעת - ממעט על יד מפקידה לפקידה, ומפקידה לפקידה - ממעט על יד מעת לעת. ותו ליכא והאיכא: הלל אומר לסמוך, ושמאי אומר שלא לסמוך - כי קאמר, רב הונא היכא דליכא פלוגתא דרבוותא בהדייהו. שבת טו.

R. Huna said: **In three places Shammai and Hillel differed**: Shammai said: Hallah is due from a kab [of flour]; Hillel said: From two kavs: but the Sages ruled neither as the one nor as the other, but a kav and a half is liable to hallah. When the measures were enlarged, they said, Five quarters of flour are liable to hallah. R. Yose said: [Exactly] five are exempt; just over five are liable. - And the second? - Hillel said: A *hin* (12 logs) full of drawn water renders a mikveh unfit. (For one must state [a dictum] in his teacher's phraseology). Shammai maintained: nine kavs. But the Sages ruled neither as one nor as the other, until two weavers came from the dung gate of Jerusalem and testified on the authority of Shemaiah and Avtalion that three logs of drawn water render a mikveh unfit, and the Sages ratified their words. And the third? - Shammai said: All women [who find blood in the vaginal area], their time suffices them [and are not considered *tomei* retroactively]; Hillel maintained: [They are considered *tomei* retroactively] from [one] examination to [the other] examination; but the Sages ruled neither as the one nor as the other, but a full day reduces [the time] between examination and examination, and [the time] between examination and examination reduces a full day. And are there no more? But there is [this]: Hillel said: One shall lay [hands]; while Shammai ruled that one must not lay [hands]? - R. Huna spoke only of those concerning which there is no dispute of their teachers in addition. **Shabbos 15a**

E.

משרבו תלמידי שמאי והלל שלא שמשו כל צרכן - רבו מחלוקת בישראל ונעשית תורה כשתי תורות. סנהדרין פה:

When the disciples of Shammai and Hillel, who had insufficiently served their respective masters, increased [in number], disputes multiplied in Israel, and the Torah became as two Torahs. **Sanhedrin 88b**

II. Loss and Reconstruction

A.

(1) כשחלה ר' אליעזר נכנסו ר' עקיבא וחביריו לבקרו הוא יושב בקינוף שלו והן יושבין בטרקלין שלו ואותו היום ע"ש היה ונכנס הורקנוס בנו לחלוץ תפליו גער בו ויצא בנזיפה אמר להן לחביריו כמדומה אני שדעתו של אבא נטרפה אמר להן דעתו ודעת אמו נטרפה היאך מניחין איסור סקילה ועוסקין באיסור שבות כיון שראו חכמים שדעתו מיושבת עליו נכנסו וישבו לפניו מרחוק ד' אמת א"ל למה באתם א"ל ללמוד תורה באנו א"ל ועד עכשיו למה לא באתם א"ל לא היה לנו פנאי אמר להן תמיה אני אם ימותו מיתת עצמן אמר לו ר' עקיבא שלי מהו אמר לו שלך קשה משלהן נטל שתי זרועותיו והניחן על לבו אמר אוי לכם שתי זרועותיו שהן כשתי ספרי תורה שנגללין הרבה תורה למדתי והרבה תורה לימדתי הרבה תורה למדתי ולא חסרתי מרבתי אפילו ככלב המלקק מן הים הרבה תורה לימדתי שלא חסרוני תלמידי אלא כמכחול בשפופרת ולא עוד אלא שאני שונה שלש מאות הלכות בבהרת עזה ולא היה אדם ששואלני בהן דבר מעולם ולא עוד אלא שאני שונה שלש מאות הלכות ואמרי לה שלשת אלפים הלכות בנטיעת קשואין ולא היה אדם שואלני בהן דבר מעולם חוץ מעקיבא בן יוסף פעם אחת אני והוא מהלכין היינו בדרך אמר לי רבי למדני בנטיעת קשואין אמרתי דבר אחד נתמלאה כל השדה קשואין אמר לי רבי למדתני נטיעתן למדני עקירתן אמרתי דבר אחד נתקבצו כולן למקום אחד אמרו לו הכדור והאמוס והקמיע וצרור המרגליות ומשקולת קטנה מהו אמר להן הוא טהור ויצאה נשמתו בטהרה עמד רבי יהושע על רגליו ואמר הותר הנדר הותר הנדר למוצאי שבת פגע בו רבי עקיבא מן קיסרי ללוד היה מכה בכשרו עד שדמו שותת לארץ פתח עליו בשורה ואמר אבי רכב ישראל ופרשיו הרבה מעות יש לי ואין לי שולחני להרצותן. סנהדרין סח.

When Rabbi Eliezer fell sick, Rabbi Akiva and his companions went to visit him. He was seated in his canopied four-poster, whilst they sat in his salon. That day was Sabbath eve, and his son Hyrkanus went in to him to remove his phylacteries. But his father rebuked him, and he retreated crestfallen. "It seems to me," said he to them, "that my father's mind is deranged". But he (Rabbi Akiva) said to them, "His mind is clear, but his (Hyrkanus) and his mother's is deranged: how can one neglect a prohibition which is punished by death, and turn his attention to something which is merely forbidden as a shevus (a Rabbinical prohibition relating to Shabbos)?" The Sages, seeing that his mind was clear, entered his chamber and sat down at a distance of four cubits. "Why have you come?", said he to them. "To study the Torah," they replied. "And why did ye not come before now?" he asked. They answered, "We had no time." He then said, "I will be surprised if these die a natural death." Rabbi Akiba asked him, "And what will my death be?" and he answered, "Yours will be more cruel than theirs." He then put his two arms over his heart, and bewailed them, saying, "Woe to you, my two arms, [you] have been like two Scrolls of the Law that are wrapped up. Much Torah have I studied, and much have I taught. Much Torah have I learned, yet have I but skimmed from the knowledge of my teachers as much as a dog lapping from the sea. Much Torah have I taught, yet my disciples have only drawn from me as much as a painting stick from its tube. Moreover, I have studied three hundred laws on the subject of a deep bright spot (a form of צרעת-leprosy), yet no man has ever asked me about them. Moreover, I have studied three hundred, about the planting of cucumbers and no man, excepting Akiva ben Yosef, ever questioned me thereon. For it once happened that he and I were walking together on the road, when he said to me, 'My master, teach me about the planting of cucumbers.' I made one statement, and the whole field was filled with cucumbers. Then he said, 'Master, you have taught me how to plant them: now teach me how to pluck them up.' I said something, and all the cucumbers gathered in one place." His visitors then asked him, "What is

the law of a ball, a shoemaker's last, an amulet, a leather bag containing pearls, and a small weight?" He replied, "They can become [ritually] unclean, and if unclean, they are restored to their cleanliness just as they are." Then they asked him, "What of a shoe that is on the last?" He replied, "It is clean"; and in pronouncing this word his soul departed. Then Rabbi Yehoshua arose and exclaimed, "The vow is annulled!" On the conclusion of the Sabbath, Rabbi Akiva met his bier being carried from Caesarea to Lydda. He beat his flesh until the blood flowed down upon the earth. Then Rabbi Akiva commenced his funeral address, the mourners being lined up about the coffin, and said, "My father, my father, the chariot of Israel and the horsemen thereof; I have many coins, but no money changer to accept them." **Sanhedrin 68a**

(2) ר' אליעזר אומר אם יהיו כל הימים דיו ואגמים קולמוסין ושמים וארץ מגלות וכל בני האדם לבלרים אין מספיקין לכתוב תורה שלמדתי, ואני לא חסרתיה אלא כאדם שמטביל זכרותו כמכחול בים, רבי יהושע אומר אם יהיו כל הימים דיו ואגמים קולמוסין ושמים וארץ יריעות וכל בני אדם לבלרין אין מספיקין לכתוב דברי תורה שלמדתי ולא חסרתיה רק כאדם שמטביל זכרותו כמכחול בים, ר' עקיבא אומר אני אין בי כח לומר כמו שאמרו רבותי אלא רבותי חסרוה ואני לא חסרתיה אלא כמריח באתרוג המריח נהנה והאתרוג לא חסר, וכממלא מאמת המים וכמדליק מנר לנר. שיר השירים רבה פרשה א ד"ה א [ג] לריח

Rabbi Eliezer says: If all the seas would be ink and the reeds pens, and the heaven and earth scrolls, and all of mankind scribes, they would not suffice to write all the Torah that I studied. And yet I only took from [my Masters] the equivalent of what a dauber of "kohl" (eye salve) takes from the sea. Rabbi Yehoshua says: If all the seas would be ink and the reeds pens, and the heaven and earth scrolls, and all of mankind scribes, they would not suffice to write all the Torah that I studied. And yet I only took from [my Masters] the equivalent of what a dauber of "kohl" (eye salve) takes from the sea. Rabbi Akiva says: I don't have the power to compare myself to my Masters. My Masters took something from their Masters. I only took the equivalent of one that smells an esrog. The one who smells has pleasure, yet the esrog remains whole. Or it could be compared to one who fills water from a spring or to one who lights a lamp from another lamp. **Midrash Shir HaShirim Rabbah 1:3**

B.

(1) אמר רבי יהודה אמר רב בשעה שעלה משה למרום מצאו להקב"ה שיושב וקושר כתרים לאותיות אמר לפניו רבש"ע מי מעכב על ידך אמר לו אדם אחד יש שעתידי להיות בסוף כמה דורות ועקיבא בן יוסף שמו שעתידי לדרוש על כל קוץ וקוץ תילין תילין של הלכות אמר לפניו רבש"ע הראהו לי אמר לו חזור לאחורך הלך וישב בסוף שמונה שורות ולא היה יודע מה הן אומרים תשש כחו כיון שהגיע לדבר אחד אמרו לו תלמידיו רבי מנין לך אמר להן הלכה למשה מסיני נתיישבה דעתו חזר ובא לפני הקב"ה אמר לפניו רבוננו של עולם יש לך אדם כזה ואתה נותן תורה ע"י אמר לו שתוק כך עלה במחשבה לפני אמר לפניו רבוננו של עולם הראיתני תורתו הראני שכרו אמר לו חזור לאחורך חזר לאחוריו ראה ששוקלין בשרו במקולין אמר לפניו רבש"ע זו תורה וזו שכרה א"ל שתוק כך עלה במחשבה לפני. מנחות כט:

Said Rabbi Yehuda, said Rav: At the time that Moshe went up to Heaven, he found Hashem sitting and tying crowns to the letters. Said Moshe, "Hashem, who stays Your hand?" He answered, "There will arise a man at the end of many generations, Akiva ben Yosef by name, who will expound upon each tittle heaps and heaps of laws". "Hashem," said Moshe, "permit me to see him." He replied, "Turn yourself round." Moshe went and sat down behind eight rows. Not being able to follow their arguments, he was ill at ease, but when they came to a certain

subject and the disciples said to the master, "Whence do you know it?" and the latter replied, "It is a law given unto Moshe at Sinai.", he was comforted. Thereupon he returned to the Holy One, blessed be He, and said, "Hashem, You have such a man and You give the Torah by me!" He replied, "Be silent, for such is My decree." Then said Moshe, "Hashem, You have shown me his Torah; show me his reward." "Turn yourself round," said He; and Moshe turned round and saw them weighing out his flesh at the market-stalls. "Hashem," cried Moshe, "such Torah, and such a reward!" He replied, "Be silent, for such is My decree." **Menachos 29b**

(2) וראיתי ליישב מאמרי רבותינו ז"ל (ויק"ר כב א) שאמרו שלא היה דבר שלא נמסר למשה בסיני ואפילו מה שתלמיד ותיק עתיד לחדש, ואמרו במקום אחר (במדב"ר יט:ו) כי רבי עקיבא היה דורש מה שלא ידע משה כאומרו הדברים עשיתים אעשה לא נאמר וכו' יעויין שם דבריהם, וכן כמה מאמרים שדומים לזה: ונראה כי ישוב המאמרים הוא, כי הן אמת שכל דבר תורה נאמר למשה, ואין חכם יכול לדעת יותר ממה שידע משה, והגם שתצטרף כל דורות ישראל מיום מתן תורה עד שתמלא הארץ דעה אין חידוש שלא ידעו משה, אבל ההפרש הוא כי משה נתן לו ד' תורה שבכתב ותורה שבעל פה, והנה האדון ברוך הוא בחכמתו יתברך רשם בתורה שבכתב כל תורה שבעל פה שאמר למשה, אבל לא הודיע למשה כל מה שנתן לו בעל פה היכן הוא רמוז בתורה שבכתב, וזו היא עבודת בני ישראל עמלי תורה שיישבו ההלכות שנאמרו למשה בסיני והסודות והדרשות כולן יתנו להם מקום בתורה שבכתב, ולזה תמצא באו[ר]ן[ר] התנאים וחברו תורת כהנים וספרי וכו', וכל דרשתם בכתובים אינם אלא על פי ההלכות והלבישום בתורת ד' תמימה שבכתב, ואחריהם ועד היום זו היא עבודת הקודש בני תורה לדייק המקראות וליישבם על פי המאמרים שהם תורה שבעל פה, וזו היא עבודת התורה הנקראת ארץ החיים: וענין זה לא נמסר למשה כולו לדעת כל תורה שבעל פה היכן היא כולה רמוזה בתורה שבכתב, ולזה אמרו ז"ל (שם) שדרש רבי עקיבא דרשות שלא ידעם משה, אין הכוונה שלא ידע משה עקרון של דברים הלא ממנו הכל אפילו מה שתלמיד ותיק עתיד לחדש, אלא שלא ידע סמיכתם ודיוקם היכן רמוזים בתורה . . . ספר אור החיים, ויקרא יג:לז

I feel the necessity to resolve the seeming contradiction between the statements of our Rabbis of blessed memory. [On the one hand,] they have said (Midrash Vayikra Rabbah 22:1) that there wasn't anything that wasn't given over to Moshe at Sinai, even those insights which a distinguished student was destined to reveal. [On the other hand,] they have said (Midrash Bamidbar Rabbah 19:6) that Rabbi Akiva knew something that Moshe didn't know. [The following is the text of the Midrash:] It is stated (Isaiah 42:16), "[And I will bring the blind by a way that they knew not; I will lead them by paths that they have not known; I will make darkness light before them, and crooked things straight.] These are the things I will do (I have done), and will not forsake them." It is *not* written, I will do (*e'eseh*) but rather I have done (*asisim*), for I have already done these things for Rabbi Akiva and his colleagues. Matters that were not revealed to Moshe were revealed to Rabbi Akiva and his colleagues. [The verse (Job 28:10),] "He cuts out channels among the rocks; and his eye sees every precious thing," refers to Rabbi Akiva and his colleagues. - There are many other statements similar to these.

It seems that the resolution to these contradictory statements is the following: It is [absolutely] true that the entire Torah was told over to Moshe and no scholar can ever know more than Moshe, even if you take the combined knowledge of all of the generations of Israel from the time of *Matan Torah* (the giving of the Torah) until [end of days when] the whole world will be filled with knowledge (see Isaiah 11:9), there won't be any novel revelation that Moshe didn't already know. The distinction between Moshe and [R. Akiva and his colleagues], however, is that although Moshe was given the Written Torah (*Torah ShebiKsav*) and the Oral Torah (*Torah SheBaalPeh*), the complete code, where exactly the Oral Torah (*Torah SheBaalPeh*) is alluded to

in the Written Torah (*Torah ShebiKsav*), was not made known to Moshe. This [discovery] was to be the product of [the efforts of] all of those who would toil in Torah who would find where the laws that were handed down from Moshe and all of the (*sodos*) secrets and *drashos* (interpretations and hidden meanings) were hinted at in the Written Torah (*Torah ShebiKsav*). As a result you find elucidations of the *Tannaim* (scholars of the Mishnaic era) who composed works such as *Toras Kohanim*, *Sifrei*, etc. All of the their expositions of Scripture are based solely on the *halachos* (laws) [which they received from Moshe] and “clothed” (found allusions to) them in the perfect Written Torah of Hashem. The work of those that came after them, to this day, the holy work of the *B'nai Torah* (Torah scholars) is to carefully read Scripture and resolve any difficulties through use of the Oral Torah (*Torah SheBaalPeh*). This is the [Divine] service of Torah study which is known as *Eretz HaChaim* (the Land of life). This subject matter, where the Oral Torah (*Torah SheBaalPeh*) is alluded to in the Written Torah (*Torah ShebiKsav*), was not given over to Moshe in its entirety. Regarding this [specifically] did they say (Midrash Bamidbar Rabbah 19:6) that Rabbi Akiva expounded *drashos* (expositions from Scripture) that Moshe did not know. It does not mean that Moshe didn't know the core ideas, as Moshe is the source of everything that we know, even those insights which a distinguished student was destined to reveal. Rather, it means that Moshe didn't know the place in Scripture where it was hinted at and how the phraseology in that verse lends itself to such an interpretation. . . . **Sefer Ohr HaChaim, Vayikra 13:37**

III. The Oral Law as a Principle of Faith

A.

תניא אידך: כי דבר ד' בזה זה האומר אין תורה מן השמים. ואפילו אמר: כל התורה כולה מן השמים, חוץ מפסוק זה שלא אמרו הקדוש ברוך הוא אלא משה מפי עצמו - זהו כי דבר ד' בזה. ואפילו אמר: כל התורה כולה מן השמים, חוץ מדקדוק זה, מקל וחומר זה, מגזרה שוה זו - זה הוא כי דבר ד' בזה. **סנהדרין צט.**

Another [Baraiisa] taught: “Because he has despised the word of the L-rd, [and has broken His commandment, that soul shall utterly be cut off; his iniquity shall be upon him].” refers to he who maintains that the Torah is not from Heaven. And even if he asserts that the whole Torah is from Heaven, excepting a particular verse, which [he maintains] was not uttered by G-d but by Moses himself, he is included in “Because he has despised the word of the L-rd.” And even if he admits that the whole Torah is from Heaven, excepting a single point, a particular ad majus deduction (*kal v'chomer*) or a certain “*gezerah shavah*”, he is still included in “Because he has despised the word of the L-rd.” **Sanhedrin 99a**

B.

(1) היסוד התשיעי: ההעתק, והוא כי התורה הזאת מועתקת מאת הבורא הש"י לא מזולתו, ועליה אין להוסיף וממנה אין לגרוע לא בתורה שבכתב ולא בתורה שבעל פה, שנאמר לא תוסיף עליו ולא תגרע ממנו . . . רמב"ם פירוש המשניות, סנהדרין פרק י'

The ninth principle is regarding the authenticity of our version of the Torah. This is the belief that the Torah as we have it is a copy of the original dictation from the Creator, may He be blessed. One is not allowed to add to it or to take away from it. This refers to both the Written Torah and the Oral Torah, as it says (Deuteronomy 13:1), “. . . you shall not add to it, nor diminish from it.” . . . **Rambam, Commentary to the Mishna, Sanhedrin Chapter 10**

(2) דבר ברור ומפורש בתורה שהיא מצוה עומדת לעולם ולעולמי עולמים אין לה לא שינוי ולא גרעון ולא תוספת שנאמר את כל הדבר אשר אנכי מצוה אתכם אותו תשמרון לעשות לא תוסף עליו ולא תגרע ממנו ונאמר והנגלות לנו ולבנינו עד עולם לעשות את כל דברי התורה הזאת הא למדת שכל דברי תורה מצווין לנו לעשות עד עולם וכן הוא אומר חוקת עולם לדורותיכם ונאמר לא בשמים היא הא למדת שאין נביא רשאי לחדש דבר מעתה לפיכך אם יעמוד איש בין מן האומות בין מישראל ויעשה אות ומופת ויאמר שד' שלחו להוסיף מצוה או לגרוע מצוה או לפרש במצוה מן המצוות פירוש שלא שמענו ממשה או שאמר שאותן המצוות שנצטוו בהן ישראל אינן לעולם ולדורי דורות אלא מצוות לפי זמן היו הרי זה נביא שקר שהרי בא להכחיש נבואתו של משה ומיתתו בחנק על שהזיד לדבר בשם ד' אשר לא צוהו שהוא ברוך שמו צוה למשה שהמצוה הזאת לנו ולבנינו עד עולם ולא איש א-ל ויכזב: רמב"ם, משנה תורה, הלכות יסודי תורה פרק ט:א

It is a matter which is clear and explicitly stated in the Torah that it is a commandment which stands forever and ever. It cannot undergo any change, neither can it be diminished nor be added to, as it says (Deuteronomy 13:1), "What ever I command you, take care to do it; you shall not add to it, nor diminish from it," and it says (Deuteronomy 29:28), "The secret things belong to the L-rd our G-d; but those things which are revealed belong to us and to our children forever, that we may do all the words of this Torah." This teaches us that we are commanded to fulfill the words of the Torah forever. Similarly it says (Leviticus 3:17, 10:9, 23:14, 23:31, 23:41, 24:3, Numbers 15:15, 18:23) "It shall be an everlasting statute for your generations . . .", and it says (Deuteronomy 30:12), "It is not in heaven, that you should say, Who shall go up for us to heaven, and bring it to us." This teaches us that now that the Torah has been given, no prophet is allowed to make any changes regarding it. Therefore, if a person arises, whether it be from the other nations or from Israel, and produces a sign or miracle and states that Hashem sent him to add a *mitzvah* (commandment) or subtract a *mitzvah*, or to explain any one of the *mitzvos* in a manner that we didn't hear from Moshe or that the *mitzvos* (commandments) which Israel were commanded were not given for all times and generations but were only given for a limited time, he is a false prophet, for he is coming to deny the prophecy of Moshe. He is put to death by suffocation because he willfully spoke in the name of Hashem that which He didn't command him, for He, may His name be blessed, commanded Moshe that this *mitzvah* (the commandments of the Torah) are for us and our children forever and the Al-mighty is not a man who would lie.
Rambam, Mishnah Torah, Hilchos Yesodei HaTorah 9:1

IV. Dr. Zacharias Frankel and the Oral Law

A.

(1) והנה מלבד אלה המאמרים הראויים לאומריהם לא נמצאו הלכות ודברים הבאים במדרש התורה לאנשי כנסת הגדולה. כי הגדולים האלה הם בעצמם הסופרים אשר פירשו המצוות וחיברו פירושם אל המקרא. ולא כל איש ואיש מלבו הוציא מלין כי המלאכה זאת היא יקרה וגדולה עד מאוד וצריכה לחקירה רבה ולהסכמת חכמי הדור כי בזה פירשו המצוות להלכה ולמעשה. והוא עיקר תורה שבעל פה ואיך ישלוט בזה כל איש כרצונו? אבל הפירושים אלה נאמרו במועצות ודעת מפי אנשי כנסת הגדולה, ואחר כך נתפרסמו להעם מפי המורים ברבים בדרך אשר זכרנו למעלה והיה המצוות והפירוש לאחד בפי התלמידים והעם לא יתפרדו ולכן נשתקע שם מוציאי הפירוש ומלאכתם נשארה לעד. דרכי המשנה לדר. זכריה פראנקל עמוד ה'

Except for these three three statements, worthy of their authors (אבות א:א) the Mishneh contains no other laws or statements based upon an exposition of the Torah by the Men of the Great Assembly. For these great men are identical with the sages known as the

Soferim, who interpreted the Law and appended their interpretations to the Scriptural text.

These interpretations were not the product of any one of these men as individuals, for this task [of textual interpretation] is extremely great and complex and needed painstaking research and the consensus of all the contemporaneous sages, for through this they interpreted the law both in theory and in practice. **This is the essence of the Torah sheBaal Peh (the Oral Law).** How, then, could such a work be the product of the whims of any one individual? Rather, these interpretations of the Law were stated by the Men of the Great Assembly after due deliberation and discernment. Then they were spread amongst the people through public instructors in the manner which we discussed above so that the Torah and its interpretation came to be regarded as one and inseparable by their disciples and the people. For that reason the names of the authors of these interpreters of the Torah were lost. Their work, however, has survived forever. **Darkei HaMishna p. 8, Dr. Zacharias Frankel**

2) . . . But we who believe without reservations that the traditional explanations of the Law go back to Sinai and are of Divine origin, we say to your master [Dr. Frankel] that his basic views cut him off from the Jewish community and permit him no portion in Israel. . . . **R. Gottleib Fischer, Published in Jeshurun, December, 1860**

3) “ . . . My friend, I do not believe any more than you do that the traditional explanations of the Law go back to Sinai. I agree with you that they are only of human origin and that not the slightest trace of Divine character attaches to them. At the same time, you are aware that the belief in the Divine origin of the tradition is still so deeply rooted in the minds of some of our people that they would be willing to suffer martyrdom for this belief. Therefore it would not be wise to attempt to uproot by storm, all at once, a belief that has been entrenched in minds for centuries. If we did that, we would have to expect stubborn resistance from these obstinate individuals. Therefore the wise neologist must proceed **במועצות ודעת**, with circumspect deliberation and caution. He must speak their language; he must revile the Sadducees and praise the wisdom of the **אנשי כנסת הגדולה** to the skies. In this manner he will win their attention and their hearts until, gradually, their own inborn intelligence will tell them, ‘If the Men of the Great Assembly were the Sages who explained the commandments of the Torah, they could have done so only within the context of their own times and of the conditions which then prevailed. Why should we today lag behind them? Why should we not follow in their footsteps and use our own intelligence to interpret the laws of the Torah from the vantage point of our own era and of the conditions prevailing in our own day?’ If we proceed in this manner, we will attain our goal by peaceful means and there will be peace in Israel.” **R. Gottleib Fischer, Published in Jeshurun, December, 1860**

B.

(1) ומלבד ההלכות אשר יצאו ממדרש המקרא ומן המדות הנזכרות נמצאות עוד הלכות אשר אי אפשר לעמוד על טעמן. והן מקובלות ונקראות הלכה למשה מסיני. ובמשנה מצינו ב' פעמים הלכה למשה מסיני (פאה פ"ב מ"ו, ידים פ"ד מ"ג). ולפעמים נאמר סתם הלכה (יבמות פ"ח מ"ג, נזיר פ"ז מ"ד) והכוונה ג"כ לפי' הש"ס על הלכה למשה מסיני. ובגמרא נמצא הרבה פעמים הלכה למשה מסיני, והרמב"ם בהקדמתו לס' זרעים מביא הרבה מקומות שנאמר בהם הל"מ. ועוד יש להוסיף עליהם. ובענין הלכה למשה מסיני עיי' רא"ש ה' מקואות ס' א' וז"ל: אימר ר"י שלא מצינו בשום מקום הל"מ בפסול מקוה ואם ישנו בשום מקום יש לפרשו כמו הל"מ: עמוך ומואב מעשרין מעשר עני בשביעית (ידים פ"ד מ"ג) שאינה אלא כלומר דבר ברור כהלכה למשה מסיני, וכך: כל באמת הלכה היא, שאומר בש"ס גבי מילי דרבנן, כההיא דפרק קמא דשבת (י"א). לא יקרא לאור הנר באמת

אמרו החזן רואה וכו', ומפרש ר"ת התם כל באמת הלכה כתוב בירושלמי הלכה למשה מסיני. אע"ג דאיסור לאור הנר מדרבנן, אלא דבר ברור כהלכה למשה מסיני נאמר ע"כ. ויש להביא ראייה ברורה לזה מהא דאיתא בתוספתא, פאה פ"ג על פלוגתא דב"ש וב"ה שם פ"ו מ"ב וז"ל: אמר ר' אילעאי שאלתי את ר' יהושע באלו עומרין היו ב"ש וב"ה חולקין אמר וכו' וכשבאתי ושאלתי את ר' אליעזר אמר לי וכו' וכשבאתי והרציתי את הדברים לפני ר' אלעזר בן עזריה אמר לי הברית הן הן הדברים שנאמרו לו למשה מסיני (והובא בר"ש שם בשינוי מעט) והיך שייך לומר על פירוש פלוגתא דבית שמאי ובית הלל שהוא הל"מ, אם לא כדברי הרא"ש, שהוא דבר ברור כאלו נאמר למשה מסיני. והנראה עוד שלפעמים קראו הלכה ישנה, אשר נתפשטה מימים ושנים קדמונים בישראל ונשתקע שם אומרם, בשם הל"מ. ומזה הענין הם רוב הלכות של באמת אמרו. דרכי המשנה לדר. זכריה פראנקל עמוד כ'

Besides for the laws (*halachos*) which are derived from the exposition of Scripture (מדרש) and from the aforementioned rules of exposition (מדות) there are other laws (*halachos*) which one cannot possibly understand their rationale. They are received knowledge [from previous generations] and are referred to as, "*halacha l'Moshe m'Sinai*" (laws handed down to Moses from Sinai). In the Mishna we find two instances of "*halacha l'Moshe m'Sinai*" (Peah 2:6, Yadaim 4:3). At times such laws are referred to as simply "*halacha*" (Yevamos 8:3, Nazir 7:4). According to the Talmud this term ("*halacha*") is indicative of its being a "*halacha l'Moshe m'Sinai*". The Talmud is full of instances where laws are referred to as being a "*halacha l'Moshe m'Sinai*" and Maimonides in his preface to the Mishna cites many examples of laws which he refers to as being "*halacha l'Moshe m'Sinai*" and there are even more that can be added.

Regarding [the definition of] "*halacha l'Moshe m'Sinai*" see the Rosh, Hilchos Mikvaos, Paragraph 1: The Ri (Rabbainu Yitzchak) said that we don't find anywhere [the term] "*halacha l'Moshe m'Sinai*" in regards to invalidating a *mikveh*. If it does exist, one can explain the term to mean that it is akin to being a "*halacha l'Moshe m'Sinai*" [similar to its usage in the Mishna:] . . . *halacha l'Moshe m'Sinai* Amon and Moab separate the tithe of the poor (*maaser oni*) in *sheviis* - in the seventh year. (Yadaim 4:3) It doesn't actually mean that it was given to Moshe at Sinai (*halacha l'Moshe m'Sinai*) but rather it is as clear [reliable] as if it were a *halacha l'Moshe m'Sinai* (given to Moshe at Sinai). Similarly, [in Shabbos 92b and Bava Metzia 60a]: It was taught: Every [statement of] "*b'emes omru*" - "in truth they said [etc.]" is [the] (a) halachah. [That phrase "*b'emes omru*"] is [also] used in conjunction with rabbinic law, for instance in the first chapter of Shabbos (11a): In truth it was said ("*b'emes omru*"), "the hazzan may see where the children read, but he, himself, must not read." Rabbainu Tam in his explanation of that passage of the gemora (Shabbos 11a) quotes a Yerushalmi that states that everywhere that the phrase ["*b'emes omru*"] is used it means that it is a "*halacha l'Moshe m'Sinai*". [Rabbainu Tam stated this] even though the prohibition of [reading by] the light of a lamp is only rabbinical. Obviously it means that it is as clear and reliable as a "*halacha l'Moshe m'Sinai*".

One can bring a conclusive proof [of this usage] from a Tosefta in the third chapter of Peah in regards to the argument between Bais Shamai and Bais Hillel (Peah 6:2): Rabbi Ilayi stated, "I asked Rabbi Yehoshua, 'Which sheaves are the subject of the disagreement between Bais Shamai and Bais Hillel?' . . . When I came and asked Rabbi Eliezer he said to me . . . and when I came and told this over to Rabbi Elazar ben Azariah, he told me, "By the covenant! These are the very words which were stated to Moses at Sinai (*halacha l'Moshe m'Sinai*)."

(This is quoted in Rabbainu Shimshon of Sens' commentary to the Mishna in a slightly altered form.) Now how is it possible to say that a certain explanation of the argument between Bais Shamai and Bais

Hillel were handed down to Moshe from Sinai? It must mean that it is as clear and reliable as a *halacha l'Moshe m'Sinai*, similar to the Rosh's explanation. Furthermore, it seems that on occasion they referred to a widely accepted law in Israel which was of ancient derivation and whose authorship was long forgotten as being a *halacha l'Moshe m'Sinai*. Most of the halachos referred to by the phrase, "*b'emes omru*" are of this type. **Darkei HaMishna p. 20, Dr. Zecharias Frankel**

2) . . . Again with this notion, that all the הלכות למשה מסיני in the Talmud are only of human origin, Frankel has once again placed himself into categorical opposition to everything that has always been accepted as true and authoritative in Torah Judaism. Thereby he has once again joined the ranks of those who deny the binding character of the tradition. . . . It is clear from all of rabbinic literature that the רבנים and חכמים, גאונים, all the classical rabbinical authorities understood הלכה למשה מסיני as literally halachah handed down to Moses at Mount Sinai. Nevertheless, given the present state of Jewish scholarship and the naive, self-confidence with which Frankel has set on paper the words 'ה' מקואות ס' ובענין הלכה למשה מסיני עיי' רא"ש ה' מקואות ס' א, it does not appear superfluous to cite a few pieces of evidence from rabbinic literature in support of the true meaning of הלכה למשה מסיני. . . . **R. Gottlieb Fischer, Published in Jeshurun, January, 1861**

C.

(1) יותר ממה שסמכו ההלכה אל המקרא הוציאו והרחיבו אותה באור שכלם, והוא עיקר ההלכה המופשטת ולמען לא תהיה האמת נעדרת הציגו כללים, והם נקראו מדות, ועל פיהם התורה נדרשת. והלל הוא הראשון אשר קיבצם והעמידם על מספר שבעה. . . . וכל המדות הן ע"פ דרך ההגיון, ואך להגז"ש לא נמצא לדעת רוב המפרשים עזר כי אם ע"פ הקבלה. כי עיקר הגז"ש הוא במלות הדומות, ואין בזה עיקר שכלי. וגם בהנחה זאת לא יסורו הרכסים, והמפרשים הראשונים והאחרונים נדחקו הרבה למצוא מענה. והנראה, עיקר הגז"ש אינו לבד בשיווי התיבות וביתרונים, כ"א בשיווי על פי דרך הגיוני (בעגריפסאנאלאגיא) ובזה הגז"ש הוא כעין גילוי מלתא. והראשון אשר מצינו לו גז"ש הוא הלל. דרכי המשנה לדר. זכריה פראנקל עמוד י"ט

Beyond that the fact that they attached the halacha to Scripture, they derived and expanded it through the enlightenment of their rational faculties. This is the essence of the abstract halacha. And for truth's sake it must be said that they established hermeneutic rules called מדות, and through them the Torah was expounded. Hillel was the first to compile them and to arrange them as seven in number. . . . All of the מדות hermeneutic rules are based on logic. However, in regards to גזרה שוה (the principle of two subjects of the Torah having a common halacha through the usage of common words or phrases) they couldn't find, according to most commentators, any support for it other than through citing a [Mosaic] tradition, for the essence of the גזרה שוה is through the commonality of phrases or words, and [seems] not [to be based] on any logical common theme. Even this assumption is not without its difficulties and the early and later commentators were very strained as to find some solution. It seems to me, however, that the essence of the גזרה שוה is not based only upon the commonality of their words but rather on the commonality of their meaning. In a sense, the גזרה שוה is rather a revelation that the meaning of these words are actually the same. The first one who we find to have used the גזרה שוה is Hillel. **Darkei HaMishna p. 19, Dr. Zecharias Frankel**

2) . . . We have learned from Frankel's publication that he is indeed imparting to his students an untrue, unfounded doctrine by teaching them that the **מדות** rules by which the Torah is interpreted did not originate from Sinai but are rules which human beings have formulated for themselves. According to **סנהדרין צט.**, anyone who disseminates such notions is **'בוזה דבר ד'**. . . . If one listens to Frankel, we are, in all these things, completely at the mercy of unfounded inventions devised by men. **R. Gottlieb Fischer, Published in Jeshurun, July, 1861**

D. . . . And yet there is no doubt that religious ordinances clarifying or supplementing the Law must have come into existence already long before the Maccabean era. . . . Josephus tells of ordinances which were already current prior to the reign of Antiochus Epiphanes and which on closer examination are revealed as derivations from other religious laws of far earlier origin. But all these institutions came into being without fanfare. They evolved gradually and were viewed not as elucidations but as natural outgrowths of the Law. Hence, as the Mishnah itself notes in connection with those early days, these [new] ordinances did not become the subject of disagreement. And so, since the ordinances in question were viewed as inherent in the original Law itself, the names of their authors were soon forgotten. Moreover, many a law may have evolved into a [religious] norm without official sanction from a higher authority, but developed from ordinary, everyday life, from practices which folk piety had elevated to the status of guidelines, and once they had taken such roots, they attained binding force. . . . **Dr. Zachariah Frankel, Preliminary Studies on the Septuagint (Leipzig, 1841) Preface, p. xii**

E. Primarily in the case of the laws pertaining to priesthood and sacrifices, which form a substantial part of Leviticus, it would seem that a great deal of the related legal material should be regarded not so much as a result of deliberate speculation but as rules evolving from custom and eventually elevated to the status of law, and therefore obviously of great antiquity. For since these functions form the content of the lives of the priests, of their primary occupation, it was only natural that there should develop from them many explanations of obscure Scriptural passages relating to the priestly service and that these rules should be the basis for many interpretations that came to be accepted as authoritative for practical observance. By the same token, many a practical observance that had become hallowed by time evolved into a legal norm. **Dr. Zachariah Frankel, On the Influence of the Palestinian Exegesis on Alexandrian Hermeneutics (Leipzig, 1851) p. 133**

F. . . . We have demonstrated that the whole structure of the "Methodological Introduction" [authored by Dr. Frankel] is based on the premise that the Oral tradition is not of Divine origin. . . . The "Methodological Introduction", which specifically seeks to teach the historical beginnings of Halachah, claims that the whole process began with the Soferim. It does not contain a single word to the effect that the Halachah was revealed at Mount Sinai and not even the slightest hint . . . that the work of the Soferim was to develop and explain the Oral tradition only "in cases where the tradition was no longer discernible at all." The interval between the Sinaitic origin of the Tradition and the questions that supposedly arose as early as the era of the Soferim would involve nothing less than a millenium in the history of the Halachah. Could a scholarly presentation of the genesis of the Halachah really have passed with utter silence over such a significant period and such significant developments (which in fact would have been the sole justification for the activities of the Soferim)? . . . **HaRav Shamshon Raphael Hirsch, Collected Writings Vol. 5, p. 290**