LAWRENCE A. KOBRIN
540 MADISON AVENUE
NEW YORK, N.Y. 10022

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Rabbi Norman Lamm
131 West 86th Street
New York, New York 10024

Dear Rabbi Lamm:

This letter is addressed to you in your role as consulting editor for Ktav on the law and ethics series. It is intended to furnish some specific examples of a line of inquiry in public discussion which we have occasionally discussed in general terms, but without specific illustration. While I am not exactly certain as to the appropriate method for following up these ideas, I wanted to share them with you.

The pedagogy of Talmud is, for a variety of reasons, frequently "self-centered", in the sense that it is presented as an all inclusive and self-contained system, rather than as a jurisprudential effort to deal with ongoing business, human relations, or similar problems. The refinementsof textural analysis and logical deduction frequently exclude any consideration of the actual application of legal rules to practical business for fact situations. The text of atonement and the practice of the authors of Responsa literature demonstrate that this was not the original intention of the masters of halacha. Presumably, it is only contemporary divorcement of halachic literature from practical application that leads to this result.

As a result, the teaching of Talmud may frequently be unnecessarily difficult. For, if the student must be convinced that some particular discussion is important for its own sake, it might be easier to engender interest in thought where a discussion was related to

a contemporaneous problem, still posed in courts and legal literature.

Some recently reported decisions of the New York Court of Appeals (the highest court in this state), all of them coincidentally by a narrowly divided court, relate or may be considered analogous to matters discussed extensively in the Talmud. The fact that these problems are still current serve to demonstrate that the jurisprudential problems posed in the Talmud are still very much with us and that the solutions found there may be helpful in dealing with contemporary life, however commercial and complex it may be.

Attached are summaries prepared for a lawyer's newsletter of three decisions. The full texts of these decisions will shortly become available in printed advance reports.

Long Island Trust v. Rochman, dealing with the delivery of a promissory note and oral understandings, would indicate that the definition and treatment of such instruments and situations reviewed extensively in Ketubot has not even been settled by the Uniform Commercial Code.

Kraut v. Morgan is not quite the same as the discussion in Baba Metzia concerning subrogation to recovery rights after proceedings to enforce their liability, but it is certainly analogous.

Prinze v. Jonas covers the situation of infant disability which is very analogous to similar treatment in Talmudic literature.

I am not suggesting that any case is an application of Talmudic law nor that the Talmud offers the solution for any of these decisions. Instead, the cases represent to me an illustration of the continued vitality and applicability of the underlying analysis and inquiry as specifically applied to business life and commercial conditions, of Nalachic discussions. These are only some decisions selected quite by accident from a single newsletter report. My letter is intended to raise the question with you as to whether such additional research and presentation might be interesting to the general Jewish public in this country.

Sincerely yours,

at
Enclosures

Lawrence A. Kobrin