

## If a man shall give money or vessels to his fellow to safeguard. (22:6)

Our *parsha* presents the laws concerning people who are entrusted to safeguard someone else's property. If the *pikadon*, object (money or vessels) is lost, stolen or damaged, the liability of the *shomer*, custodian, varies according to the degree of his responsibility. For example, one who receives no compensation (*shomer chinam*) is responsible only if he had been in the position of safeguarding the article in his charge. One who receives compensation (*shomer sachar*) or a leasor (*socheir*) is responsible for loss or theft, unless it occurred in a situation beyond his control, an *oneis*. A borrower (*shoeil*) is responsible under all conditions. This *dvar Torah* concerns itself with the *shomer chinam*, uncompensated watchman, who is liable to pay only in the event that he has been negligent in safeguarding the charge entrusted to him.

A *talmid chacham*, Torah scholar, was entrusted with funds belonging to a *yesomah*, orphaned girl. He was traveling, and, during his trip, was accosted by thieves who relieved him of the girl's funds. When the incident was brought before the *rav* of the community, the *rav* asked the *shomer* (*chinam*) if he had recited *tefillas haderech*, wayfarer's prayer, prior to (or during) his trip. The scholar thought for a moment and realized that he had not. This was the first time that, due to the rush, he had neglected to recite the prayer. The *rav* listened, yet decided that the girl's money was lost due to negligence on the part of the *shomer*. "Any person who leaves for a trip must recite *tefillas haderech*. One who has in his possession funds belonging to an orphan certainly must do so. If he did not, he is negligent and must pay."

*Horav Moshe Barzam, Shlita* (grandson of the *Steipler Gaon*), relates that when he related this *psak*, *halachic* decision, to his uncle, *Horav Chaim Kanievesky, Shlita*, he concurred with the decision of the *rav*. He even added his own vignette. If the funds were held in the home of the *shomer*— and the *shomer* had a *mezuzah* that was *pasul*, declared *halachically* unfit – and were stolen, the *shomer* must pay. He was negligent, since the house did not have proper *shemirah*, safeguarding.

*Horav Yitzchak Zilberstein, Shlita*, takes these decisions one step further, based on an incident that occurred concerning the *Baruch Taam*, *Horav Baruch Frankel – Teomim, zl* (father-in-law of the *Sanzer Rav*, *Horav Chaim Halberstam, zl*). Apparently, one of the city's wealthy layman had a *din Torah*, case of litigation, before the *Rav*, and he lost. He opened up a foul mouth and audaciously refused to accept the *Rav's psak*. The *Baruch Taam* was unmoved by the man's ranting and raving. Hashem, however, took umbrage with this *mechutza*, insolent person. His journey home took him over a bridge spanning a deep river. As the litigant crossed the bridge, it broke, sending him and his carriage into the waters together with his money (that he had refused to pay).

Now, states *Rav Zilberstein*, if this insolent person had been entrusted with funds for an orphan, and he lost these funds, despite saving himself – he must pay the money to the orphan. Although

the money was lost through an incident beyond his control, he should have taken into consideration that when one is a *mechutza* to the *gadol hador*, preeminent Torah leader of the generation, he plays with fire and endangers his life. In other words, he was negligent and, therefore, required to pay.

As an aside, we derive from here the firm belief one must have that the *kedushah* of a Torah scholar is inviolate. If someone acts inappropriately to a *gadol b'Yisrael*, he is playing with his life. *Talmidei chachamim*, Torah scholars, embody the Torah. They are a living *Sefer Torah*. To impugn the integrity of their unique spiritual plateau is to undermine the sanctity of the Torah.

This idea applies even between two *gedolim*, Torah luminaries, who have a dispute. If the circumstances are such that one is undeniably greater than the other. (For example, in a case in which one is the *rebbe*, mentor, and the other is the *talmid*, student, the student must defer to his *rebbe*.) A classic case (which was written up in *Peninim* a number of years ago) involves a dialogue between the saintly *Chelkas Yoav* and his revered *Rebbe*, the *Avnei Nezer*. The *Chelkas Yoav* wrote a *chiddush*, original, novel idea, and sent it to his *Rebbe* to solicit his approval. The *Avnei Nezer* took issue with the *chiddush* and rebuffed it. When the *Chelkas Yoav* next had occasion to visit his *Rebbe*, the *Avnei Nezer* asked his student, “*Nu?*” Do you accept my ruling?”

The *Chelkas Yoav* replied, “I accept my *Rebbe*’s ruling.” The *Avnei Nezer* did not settle for this response, “I want to know how you feel in your heart.” The *talmid* replied, “In my heart, I feel that my opinion was justified. However, I am prepared to acquiesce to my *rebbe*.”

Hearing this, the *Avnei Nezer* became emotional and stood up to face his student. “Is this the meaning of: The fear (awe) one has for his *Rebbe* should parallel the fear he has of Heaven?”

If the *Rebbe* asserts an idea that is the opposite of yours, then you must alter your opinion. “Accepting” and “acquiescing” are insufficient, since accepting means, “I have a valid opinion – my *Rebbe* also has a valid opinion. Since he is the *Rebbe* and I am the *Talmid*, I must accept his opinion.” This is not what the Torah teaches. There is only one valid opinion – that of the *Rebbe*.