

When the Supreme Court Debated the Meaning of Hanukkah (Part 2)

1. Justice Harry Blackmun, *County of Allegheny v. ACLU*, 492 U.S. 573 (1989), VI

The display of the Chanukah menorah in front of the City-County Building may well present a closer constitutional question. The menorah, one must recognize, is a religious symbol: it serves to commemorate the miracle of the oil as described in the Talmud. But the menorah's message is not exclusively religious. The menorah is the primary visual symbol for a holiday that, like Christmas, has both religious and secular dimensions. Moreover, the menorah here stands next to a Christmas tree and a sign saluting liberty. While no challenge has been made here to the display of the tree and the sign, their presence is obviously relevant in determining the effect of the menorah's display. ... Although the city has used a symbol with religious meaning as its representation of Chanukah, this is not a case in which the city has reasonable alternatives that are less religious in nature. It is difficult to imagine a predominantly secular symbol of Chanukah that the city could place next to its Christmas tree. An 18-foot dreidel would look out of place, and might be interpreted by some as mocking the celebration of Chanukah.

2. Justice Sandra Day O'Connor, III

That formulation of the question disregards the fact that the Christmas tree is a predominantly secular symbol, and, more significantly, obscures the religious nature of the menorah and the holiday of Chanukah. The opinion is correct to recognize that the religious holiday of Chanukah has historical and cultural, as well as religious, dimensions, and that there may be certain "secular aspects" to the holiday. But that is not to conclude, however, as JUSTICE BLACKMUN seems to do, that Chanukah has become a "secular holiday" in our society. The Easter holiday celebrated by Christians may be accompanied by certain "secular aspects" such as Easter bunnies and Easter egg hunts, but it is nevertheless a religious holiday. Similarly, Chanukah is a religious holiday with strong historical components particularly important to the Jewish people. Moreover, the menorah is the central religious symbol and ritual object of that religious holiday.

3. bShabbat 21b

What is Hanukkah? The next year the Sages instituted those days and made them holidays with recitation of *Hallel* and special thanksgiving in prayer and blessings.

3. תלמוד בבלי מסכת שבת דף כא עמוד ב

מאי חנוכה? דתנו רבנן: נעשה בו נס והדליקו ממנו שמונה ימים. לשנה אחרת קבעום ועשאו ימים טובים בהלל והודאה.

4. Rashi, Shabbat 21b, s.v. "kavum ve-asum"

The days are not *yamim tovim* in the sense that *melakhah* is forbidden; rather, for saying *Hallel* and saying *al ha-nissim* in the thanksgiving section [of the *amidah*].

4. רש"י מסכת שבת דף כא עמוד ב ד"ה קבעום ועשאו

לא שאסורין במלאכה שלא נקבעו אלא לקרות הלל ולומר על הנסים בהודאה:

5. Rambam, M.T., *Laws of Hanukkah* 4:12

The precept of lighting the Hanukkah lamp is exceedingly precious, and one should carefully observe it in order to acclaim the miracle, ever praising and thanking God for the miracles which he has performed for us. Even if one has nothing to eat except what he gets from charity, he should borrow, or sell his garment, to buy oil and lamps and light them.

6. *Ha-Nerot Hallalu*

We kindle these lights on account of the miracles, the deliverances, and the wonders which you did work for our fathers, by means of thy holy priests. During all the eight days of Hanukkah these lights are sacred, neither is it permitted us to make any profane use of them; but we are only to look at them, in order that we may give thanks unto thy name for thy miracles, thy deliverances and thy wonders.

7. *Masekhet Soferim* 20:6

How does one bless on the first night? One who lights says three blessings, and one who witnesses [lit lights] says two: First, one says "Who commanded us to light," then one says *ha-nerot hallalu*, then *sheheyenu*, then "who performed miracles ..."

5. מ"ת לרמב"ם הלכות חנוכה פרק ד הלכה יב

מצות נר חנוכה מצוה חביבה היא עד מאד וצריך אדם להזהר בה כדי להודיע הנס ולהוסיף בשבח האל והודיה לו על הנסים שעשה לנו. אפלו אין לו מה יאכל אלא מן הצדקה שואל או מוכר כסותו ולוקח שמן ונרות ומדליק;

6. הנרות הללו

הנרות הללו שאנו מדליקין, על הנסים ועל הנפלאות ועל התשועות ועל המלחמות, שעשית לאבותינו בימי ההם בזמן הזה, על ידי כהניך הקדושים. וכך שמונת ימי החנוכה הנרות הללו קדש הם ואין לנו רשות להשתמש בהם, אלא לראותם בלבד, כדי להודות ולהלל לשמך הגדול על נסיה ועל נפלאותיה ועל ישועתך.

7. מסכת סופרים פרק כ משנה ו

וכיצד מברכין ביום ראשון? המדליק מברך שלש, והרואה מברך שתיים: "ברוך אתה ה' אשר קדשנו במצותיו וצונו להדליק נר" ואומר "הנרות האלו אנו מדליקין ..." "ברוך אתה ה' שהחיינו" ואומר "שעשה נסים לאבותינו" ...