



## Rabbi Weiner's January 2007 Bulletin Article

Oh, the law of unintended consequences. Just when it seemed we might all escape the recent holiday season without too many distractions from the real message of the Chanukah season, a strange news story made headlines around the country.

The backdrop to this story is the growing number of *Chanukiyot* (Chanukah Menorahs) that have been placed in highly visible public spaces over the last 15 years. By and large, rather than being the collective expression of the needs of the larger Jewish community, these large public *Chanukiyot* have been a project of the Chabad-Lubavitch Chasidic movement. Whether or not I approve or disapprove of such public displays (I don't) is for the moment, insignificant. What is significant about them is that however desirable they may or may not be, there is no Mitzvah that is being fulfilled when a Menorah is lit at a City Hall, a downtown shopping district, or in this particular case, the Seattle-Tacoma International airport.

Weeks before Chanukah this year, a local Seattle Rabbi, Rabbi Elazar Bogomilsky petitioned the Port Authority of Seattle for permission to set up a large *Chanukiyah*. After failing to receive a timely response to his request, he threatened to sue. In response, after being advised by their legal consultants that they might need to provide space for many different religious symbols, the airport authorities removed all Christmas trees and other seemingly Christian holiday symbols. Patricia Davis, head of the Port Commission said, "We didn't have other cultures represented and rather than scramble around to find representations of other cultures at this late date, we decided to take them down and consider it later." While Rabbi Elazar Bogomilsky was being unfairly and irresponsibly dubbed as the "Grinch who stole Christmas" and while one can similarly criticize what seems as a severe overreaction by the Seattle Port Authority, it is certainly reasonable to ask whether these public Menorah lightings are in the best interest of the Jewish community, and whether the price of victory is worth the effort. I submit they are not.

Several recent decisions legal rulings have sown confusion regarding this issue. The legal vacuum created by this very confusion has resulted in too many questions regarding the placement of religious symbols in the public square being settled by lawsuits, or the threat of them, rather than solid legal principles and clear expressions of the Establishment clause of the Constitution. Perhaps

for our discussion, *County of Allegheny v. ACLU Greater Pittsburgh Chapter* (1989) is most instructive. The Court's decision in this case permitted the placing of a Menorah alongside a Christmas tree, but disallowed a crèche, viewing the tree and the Menorah as a part of a more secular-holiday celebration than a specifically religious expression (which is somewhat offensive considering that such Menorahs are always accompanied by blessings and prayers, *specifically Jewish ones recognizing a specifically Jewish understanding of our religious heritage.*) The court's decision asserted that only if a Menorah could be contextualized to convey a non-specific Jewish message could it pass Constitutional hurdles—a pyrrhic victory at best. Other cases seemed to confirm this ruling, and frown upon too specific a religious message.

There is no doubt that for many, the sight of a giant *Chanukiyah* in the public square, standing next to a Christmas tree or other holiday decoration sends a powerful message of inclusion, a feeling of pride, or at least a sense that Jews have “made it” in this great nation—a good use of the religious freedoms granted to by this great nation that we are proud to call our home. Yet in truth, no one was ever inspired by such a public display to commit themselves more fully to the Jewish tradition. And given the public sensitivities regarding religious symbols, especially on the part of those who have supported issues of great concern to the Jewish community, the question is not can we, but rather, should we, devote such a vast array of communal resources to this. Is it equality we are after, or rather, something else.

If we are really concerned with the Mitzvah of “making known the miracle of Chanukah” as the laws of Chanukah command, there are many private places to do so, and the law allows and encourages us to do so. After all we, take great pride in our synagogue's rather large and visible *Chanukiyah*. But to insist on such public displays, which we do not insist upon for any other holiday seems to be making a rather negative statement about our holiday. After all, if we keep insisting to our neighbors and friends and local school boards that Chanukah is not the Jewish Christmas, why are so many invested in acknowledging them so similarly?

*Azehu Chacham*—who is wise, asked our rabbis. *HaRe'eh et HaNolad*—the one who sees the consequences of his actions. I have no doubt as to the sincerity of those who believe that such public displays are a good idea. But given the constitutional difficulties, the lack of communal consensus and the ways that the essence of Chanukah is lost through such actions, what do we gain by them?



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