

Editorial

Court to rule on nativity scene

Circle has right to display nativity

The Supreme Court said Monday it will decide whether or not a community can be forced to provide public land for nativity scenes at Christmas time.

Last March the court ruled that communities could sponsor nativity scenes. The case now at hand concerns whether or not free speech is violated when nativity scenes are prohibited from public land on which other displays are allowed.

In last March's case, the court ruled 5 to 4 that a small town did not violate the separation of

church and state required by the constitution when it included a creche in its Christmas decorations.

That decision is questionable. By including a creche, the town's government condoned Christianity — it omitted the trappings of Hanukkah and the decorations of a myriad of other religions Americans belong to. Clearly, government should not display the creche. It is preferential, and the tax dollars of many different people with different religious backgrounds would support it.

The more recent case, which might not be decided until sometime in 1985, involves a public area called Boniface Circle in Scarsdale, N.Y. The community allowed a nativity scene to be displayed in the circle until growing protests from Jewish organizations and other groups convinced the village board to ban them.

Then some area residents sued the board over the ban, saying it violated their right to free speech and expression. The case has bounced around in the courts

since 1982 — hopefully it will be resolved before Christmas 1985.

The creche or Nativity scene should be allowed in the Circle. If community or church members buy it and put it up, then they aren't violating the separation of church and state, even if it is on public ground. However, in order for that to be true, any religious organization must have access to the circle. American Indians should be allowed to display any trappings of Indian religion, Jews should be able to display symbols

of Hanukkah and likewise Buddhists should have access to the ground.

This year, the order not to display the Nativity scene will stand. The Supreme Court will probably allow the scene to be displayed if their last decision was any indicator. It's unfortunate however, that the community sponsored scene will be on display this year. It's bad policy for government to sponsor religious displays anywhere, any time. Religion should be left entirely to the people.

Reagan flunkies take Mondale seriously — now

Since the Great Debates, President Reagan and Walter Mondale have traded petty slams faster than Sparky Anderson trades pitchers.

Reagan's flunkies say they've come out with their dukes up now. This is the first time in the whole campaign that they've taken Mondale seriously, they say.

So Reagan tells yuck-yucks about Mon-



Mona Koppelman

dale's makeup and challenges that young rapsallion to a wrestling match — anytime the wimp's up to it, that is.

Pretty serious stuff. But the thorniest issue in the president's side is leadership. Mondale picked up a few points in the polls this week, so it's time to drag out Reagan's flagging inspirational quotes and run them up the pole again.

He's the coach, and America is his team. If we pull together, we can beat inflation, whip communism, crush interest rates, bury unemployment.

We can win this one for the Gipper.

Well, it wasn't long before Mondale slammed back Reagan's not a coach, he's a cheerleader in this great game of Life, Mondale said. And all the rah-rahs Reagan can muster won't change the outcome.

You see, like any dimwit be-skirted cheerleader, Ronnie doesn't have the game plan.

Well, I don't know about all that, but I do think cheerleaders play a bigger role in sporting events than Mondale gives them credit for. Their cheers symbolize team spirit, determination and the coach's ultimate goal — victory.

So I thought up some cheers for Reagan that I think show his enthusiasm and overall game philosophy.

First, general all-purpose patriotic cheers:

"We are Americans, couldn't be prouder, For our team we'll yell a little louder!"

"We are the capitalists, mighty mighty



capitalists, Everywhere we go-o, people want to know-ou Who we are, so we tell them ... WE TAX THE POOR!"
Speaking of taxes, here's some cheers for more domestic problems. Like high interest rates:
"5 percent, 10 percent, 20 — foreclose, No more money? We'll take your clothes!"
Or the deficit:
"A trillion and ten, do it again!"
Or crime:
"Lean to the right! Lean to the right! Buy a handgun, fight, fight, fight!"
And for those who doubt the necessity of an arms buildup, shout these cheers

really loud and you'll be swept-up in emotion, too:
"We got missiles, yes we do. We got missiles, how 'bout you?"
"Do like the CIA, shoot 'em, shoot 'em, Do like the FBI, fink on em' fink on 'em."
"Nuke 'em high, nuke 'em low, Nuke 'em til their noses glow."
The subject of nuclear arms leads us to those great foreign policy cheers the Reagan camp knows and loves.
After arms talks:
"B-E-A-T beat 'em, beat 'em. B-U-S-T bust 'em, bust 'em. Beat 'em, bust 'em, that's our custom, My fellow Americans, you can not trust them."

"We can, we can, we can do We can nuke your grannies, too."
But let's not forget the Southern Hemisphere:
"Go, Honduras, H-O-N-D-U-R-A-S-I!"
"Marcos, Marcos, he's our man. Can he do it? Sure he can!"
But first Reagan has to win the election. Here's my little ditty for the campaign road ahead, courtesy George Bush: And if Reagan and Bush lose, well — there's the old standbys:
"Nuts and bolts, nuts and bolts, we got screwed
"That's all right, that's OK We'll bomb your old Texas Expressions anyway."

Liberal justices say colleagues lack restraint

A judge's lot is not a happy one. They find impertinent people in front of the bench. (Lord Birkenhead, testifying: "There he was, drunk as a judge." The judge, interrupting: "You mean drunk as a lord." Birkenhead: "Yes, my lord.") And, if you are a U.S. Supreme Court Justice, there are intolerable people on the bench next to you.

At least that is the testimony of Justices Thurgood



George Will

Marshall, John Paul Stevens and Harry Blackmun. They have recently discarded traditional restraints and publicly accused their colleagues (to be precise — those who disagree with them) of lacking appropriate restraint. (The American Civil Liberties Union has joined the chorus, saying, "Americans are far less free today than they were a year ago," but shrill public foolishness is an ACLU tradition.)

The three justices are liberals who have been on the

losing side a lot recently and are not taking it in good grace. Marshall and Stevens complain that rulings by the Warren Court are being undermined. However, not one of that court's landmark rulings has been overturned or more than marginally circumscribed (as in the "good faith exception" to the exclusionary rule governing admissibility of illegally seized evidence).

Blackmun complains about the court's workload, the absence of comity among the justices and that the conservatives (meaning, presumably, Warren Burger, Sandra Day O'Connor, Lewis Powell, William Rehnquist and Byron White) are going where they want to go "by hook or by crook." It is an odd complaint coming from Blackmun, who wrote the most radical and incoherent major opinion in American constitutional history, the 1973 abortion opinion. It went where Blackmun wanted to go and did so without serious grounding in the Constitution, and has generated a flood of work for the court.

The public campaign by the three unhappy justices is an example and an exacerbation of the incivility that Blackmun deplores. Tension and ill will probably are inevitable in the intense politics and intellectual conflicts

of a small, face-to-face institution like the court. Theo Lippman of the Baltimore Sun notes that seven of today's justices have been living in close confinement with each other for 13 years, a degree of "stagnation" (Lippman's word) unmatched in 170 years.

Tis said that only God can change the court. But George Washington, who was, so to speak, present at creation, nominated 11 justices in an era when the Court only had six members. FDR, who served 12 years, nominated eight Justices — seven in four years (1937-41). Taft and Jackson nominated six, Lincoln and Eisenhower five. Carter was the only president to serve a full four-year term without filling an opening on the Court.

By this election day, the average age of the court will be 70 years and 56 days. But this is only the second oldest court. On June 2, 1937, when Justice Van Devanter retired at 78, the average was 72 years and 52 days. If the current justices choose to stay on, and God defers to their choices, today's court will be as old as the 1937 Court on Nov. 2, 1986.