

TAKING THE CRECHE TO COURT

To Erect a Creche



This Nativity Scene set up in Boniface Circle by the "Christmas Creche" committee including representatives from the Community Baptist, Congregational, Grace Lutheran, Immaculate Heart of Mary, St. James the Less, Our Lady of Fatima, St. Pius X, and Trinity Lutheran Churches, has been visited constantly during the past week and singing groups have made visits to the Christ Child to carol his coming so many years ago. It is expected that the committee will continue this welcome innovation in the Circle at Christmas.

To Erect Creche

Permission to erect a creche in Boniface Circle during the Christmas season was granted by the Village Board on Tuesday night. The request was made in letters from several village churches.

Scarsdale Inquirer - November 16th, 1956

The nativity scene at Boniface Circle was first erected in 1956.

The Creche at Boniface Circle in 1957, the second year it was on display there, through the sponsorship of the Christmas Creche committee. - Scarsdale Inquirer, 12-27-1957

400 at Hartsdale Protest School Ban Of Nativity Creche

Special to The New York Times.
HARTSDALE, N. Y., Dec. 21 —Four hundred residents here today protested the Board of Education's banning of a crèche depicting the Nativity scene on the grounds of the Hartsdale Junior High School.

They signed a petition demanding that the board reverse itself. Many of the objectors said they would protest in person when the school board met tomorrow night.

Dr. Nicholas A. Di Salvo, head of the Orthodontic Department at Columbia University's School of Dentistry, said he would lead the delegation of objectors.

For the last twenty years here school boards had permitted a crèche on the school grounds in the Christmas seasons. The school is beside busy Central Park Avenue.

New York Times - December 22nd, 1960

While Scarsdale was just beginning its creche tradition in 1960, Hartsdale was experiencing controversy. A creche had been permitted on the grounds of the Hartsdale Junior High School on Central Avenue since 1940. The School Board decided to ban the nativity scene.

"The principle of the separation of church and state is violated by the presence of religious symbols on school grounds." - Hartsdale Board of Education, 1960

TAKING THE CRECHE TO COURT

Religious Rumblings

Creche Complaint

In another letter, the American Jewish Committee's Scarsdale branch protested against a creche on village property.

The group had protested last year the creche at Christmas time in Boniface Circle. Since then the board studied the situation and called in local clergymen, the American Jewish Committee, local representatives of the National Conference of Christians and Jews and other interested groups. Permission for this year's creche was granted on the basis of this study.

**Scarsdale Inquirer - January
17th, 1963**

In 1962 and 1963, the American Jewish Committee's Scarsdale branch protested the Boniface Circle creche, arguing that it shouldn't be on village property. In response the board studied the situation by consulting local clergymen, the American Jewish Committee, and others. They concluded that the creche should remain. Ten years later, in 1973, the issue reemerged when board member George Szabad abstained from voting on the creche. He expressed concern that the creche on public land violated the separation of church and state. He was joined in 1975 by trustee Jeanne Richman, who voted no instead of abstaining.

The board also granted, with one abstention, the request by the Scarsdale Creche Committee to erect a nativity scene at Boniface Circle in the village during the Christmas season. The abstaining member George Szabad asserted that the considered the matter "a clear-cut violation of the principal of church and state."

**Scarsdale Inquirer - November
29th, 1973**

Creche Request

Trustee George Szabad, who in previous years has been alone in not voting permission for the erection of the Nativity scene at Boniface Circle, this year was joined by first year Trustee Jeanne Richman. Sharing Szabad's view that the use of public land for the creche is a conflict of church and state, Mrs. Richman voted against the request from the Scarsdale Creche Committee. Szabad, as he had done in the past, abstained. The resulting vote at last week's meeting was four to one, one abstaining, to grant the permit.

**Scarsdale Inquirer -
November 27th, 1975**

TAKING THE CRECHE TO COURT

Leonard Rubin Objects

Things came to a head in 1976 when Scarsdale resident Leonard Rubin, a New York Civil Liberties Union attorney, sued the Village for the removal of the creche. Rubin sued along with plaintiffs from Mamaroneck and Larchmont, where other creches were also being challenged. Rubin received abusive calls after filing his suit. On December 4th, 1976, he received a bomb threat at his home. The suit was dismissed by the court for lack of jurisdiction. Beginning in 1976, the Village Board placed a sign next to the creche indicating it was put there by the Creche Committee. Leonard threatened another suit in 1977, but it does not appear to have been filed. The creche remained on display, but the controversy was just beginning.

Rubin Sues But Creche Is Erected

As promised, Leonard Rubin filed suit this week against the Village for the removal of the creche placed in Boniface Circle. Rubin, a local resident and a New York Civil Liberties Union attorney, filed the complaint in District Court in New York City on Tuesday. On Wednesday morning, the Scarsdale Creche Committee, erected the Nativity scene for the 19th consecutive year. Beside it this year the committee placed a sign reading: "Creche erected maintained by the Scarsdale Creche Committee, a private organization."

Rubin is seeking a declaratory judgment of unconstitutionality from the court and an order from Judge Robert Ward to the Village to have the creche removed. According to Rubin, the authorization by the Village Board to have public land used for a sectarian religious display constitutes establishment of religion and violates the First and Fourteenth Amendments to the Constitution.

Arguments on the case are likely to be heard by the judge next week. It is uncertain how long he will take to rule in the case.

The suit has the support of the NYCLU which is also backing similar complaints filed Tuesday by residents in Larchmont and Mamaroneck.

**Scarsdale Inquirer -
December 16th, 1976**



LAW SUIT OR NOT, the Scarsdale Creche Committee erected the creche last Wednesday at Boniface Circle as it has each Christmas since 1957.

Nathan photo.

Scarsdale Inquirer - December 23rd, 1976

TAKING THE CRECHE TO COURT

Case Closed

Trustees sued for barring creche display

By DAVID KIRKWOOD

A dozen Scarsdale residents, headed by Kathleen McCreary, have gone to court to force the Village Board to permit the display of the creche on Boniface Circle.

The group filed suit Monday in U.S. District Court in Manhattan, then had summonses served on Mayor Jean Stone and the six village trustees, as they entered Rutherford Hall for Tuesday night's regular Village Board meeting.

According to the 12-page complaint, prepared by attorney Vincent Gilmore, the plaintiffs were deprived of their freedom of speech and free exercise of religion, which are protected by the First and Fourteenth Amendments of the U.S. Constitution, when the Village Board last year denied requests to erect a creche on Boniface Circle.

The complaint seeks a permanent injunction requiring the village to make Boniface Circle available for display of the creche. It also asks for the award of an unspecified amount of damages "to certain plaintiffs for past deprivation of civil and constitutional rights," and calls on the court to require the village to pay the plaintiffs' legal costs in this action.

Shortly after the summonses were

served, Mayor Stone announced that the village intends to retain former U.S. District Court Judge Marvin Frankel as special counsel in the case. Judge Frankel, who from 1963 to 1978 presided in the same court where the suit was filed, is known as an expert on First Amendment rights and has taught Bill of Rights issues at Columbia. He said that the defense in the case will be that the Village Board's action regarding the creche "was necessary, or at least justified, under the Constitution."

The mayor expressed regret that the suit had been filed, but added that she hoped that it will result in a clear ruling on the legality of the creche display.

At least some of the four trustees who voted against the four creche requests that were made last December expressed doubt about whether permitting a religious display to be placed on public property is consistent with the First Amendment principle of separation of church and state. Of the three who voted to grant the request, two said they believed that the village has the discretion to permit or deny such a request, while Trustee William Glendon argued, much as the plaintiffs are doing, that the village has no right to bar religious display from its property.

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Scarsdale Inquirer -
Feb. 10th, 1983

VILLAGE UPHELD IN CRECHE SUIT

U.S. District Court Judge Charles E. Stewart Jr. found that it was "proper and necessary" for the village to bar the display of the creche on Boniface Circle.

In a decision released this afternoon (Thursday) Judge Stewart dismissed as being "without merit" the contention of the Scarsdale Creche Committee and a second local group that filed suit against the village, that they had been deprived of their First Amendment right of free speech when the Village Board last Christmas refused to permit the Nativity display to be erected on public property.

Stewart, judge in Federal District Court in Manhattan, drew a distinction between citizens' rights personally to speak on public property and for a religious display to be erected and maintained on public property for 10 days.

The 43-page decision agreed with the village's defense that permitting the display of the creche "would contravene the establishment clause" and thus would be unconstitutional. In reaching his decision that the public display of the creche is a violation of the principle of separation of church and state, Stewart cited the U.S. Supreme Court decision in Lemon v. Kurtzman, which stated that "religion must be a private matter for the individual, the family and the institutions of private choice and that while some involvement and entanglement (of church and state) are inevitable, blinds must be drawn."

Although the two groups that brought the creche suit may appeal Stewart's ruling, his decision apparently means that this Christmas, for the third year in a row, the creche will not be on display in Boniface Circle.

A full story on the decision and on reaction to it will appear in next week's Inquirer.

Scarsdale Inquirer -
Dec. 8th, 1983

McCreary filed her suit in February, 1983. The case was heard by U.S. District Court Judge Charles E. Stewart, Jr. In December he ruled in favor of the Village, agreeing that permitting the creche "would contravene the establishment clause." However, the Circuit Court ruled unanimously in June, 1984, that the Board had violated the 1st amendment rights of the Creche Committee. The ruling relied on the 1984 Supreme Court ruling Lynch v. Donnelly. In that case the high Court ruled 5-4 that the creche had "legitimate secular purposes" and its display on public land posed no threat of establishing a secular state. When the Village appealed the case to the Supreme Court, the Circuit Court decision was upheld 4-4, per curiam, with Justice Powell, the 5th vote in Lynch v. Donnelly, not taking part while recovering from surgery.

U.S. Circuit Court
says village must
permit creche
Scarsdale Inquirer -
June 28th, 1984

Supreme court rules creche is permissible

By DAVID KIRKWOOD

The United States Supreme Court cleared the way for the return of the creche to Boniface Circle next Christmas when it announced Wednesday morning that it had upheld by a four-four vote a ruling by the United States Court of Appeals for the Second Circuit that the Village Board acted unconstitutionally when it prohibited the display of the Nativity scene from the public park in downtown Scarsdale.

The Supreme Court was deadlocked because Justice Lewis F. Powell Jr., who had missed the oral arguments in the case on Feb. 20 due to illness, did not participate in the decision. The tie

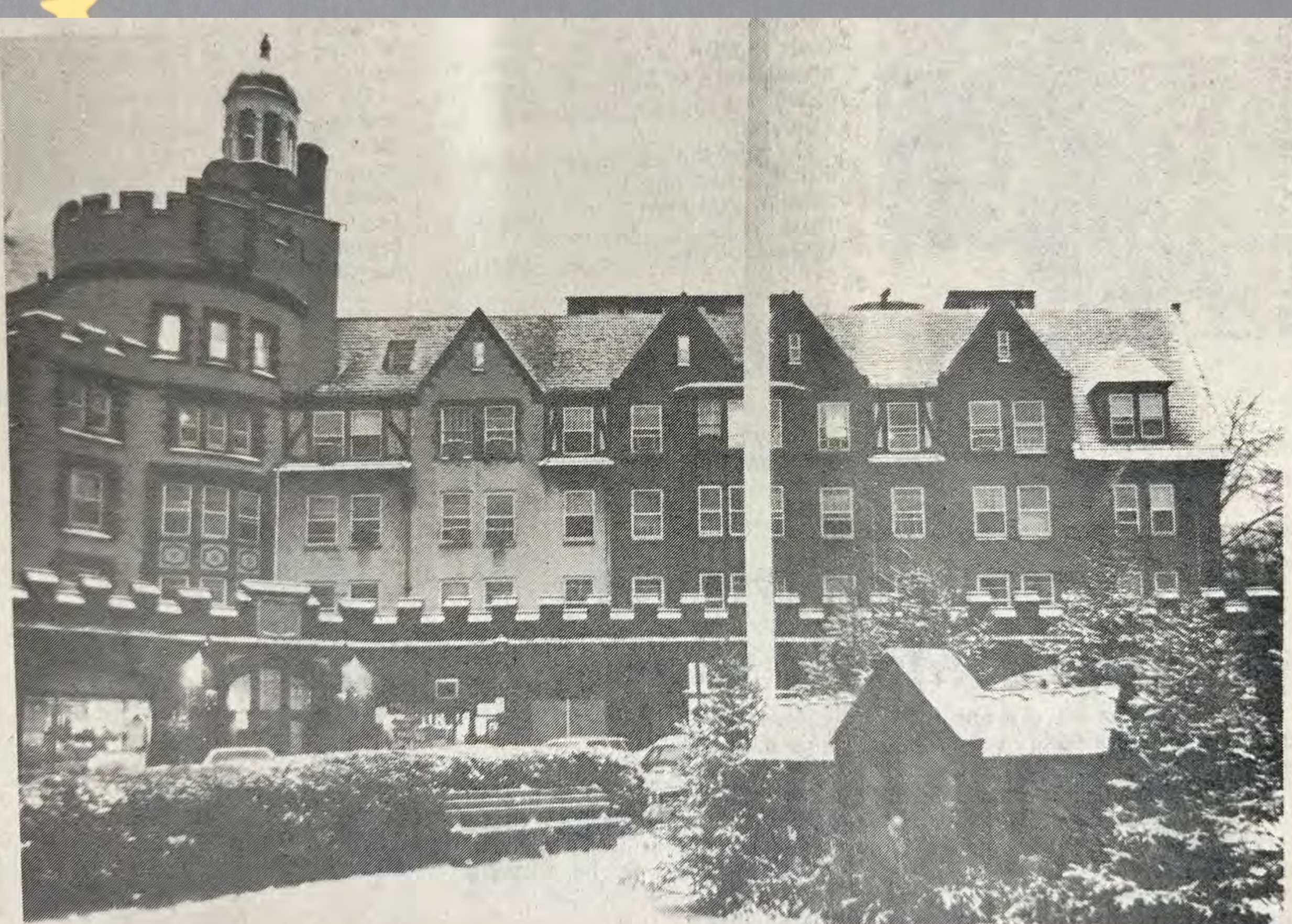
vote leaves standing the unanimous (3-0) lower court decision of June 21, 1984 and apparently brings the legal battle over the creche to an end more than two years after the citizens committee headed by Kathleen McCreary and the Scarsdale Creche Committee first sued the village, charging that their First Amendment right of free speech had been denied them.

As it often does when a deadlock occurs, the Supreme Court issued only a very brief statement—a procuriam—saying, "The judgment (of the Circuit Court) is affirmed by an equally divided court." The court did not reveal how the individual justices had voted or their reasons.

The rather anti-climactic conclusion to the case did not dim the victors' satisfaction over its outcome. Patricia Curran, chairman of the Creche Committee that displayed the creche in Boniface Circle every Christmas from 1957 until 1981 when the Village Board first voted down its request, said, "I'm absolutely elated. The bottom line is that we won. How could anybody who has been involved in a case of this magnitude be anything but elated?"

Mrs. McCreary also stressed that "It's a victory. Obviously we would have preferred the vote to be five-four. It's too bad Powell wasn't there because it's quite clear he would have

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The creche in Boniface Circle -- subject of an appeal to the United States Supreme Court.

Scarsdale Inquirer - July
12th, 1984

Scarsdale Inquirer - March 29th,
1985

TAKING THE CRECHE TO COURT

The Creche Today



The creche on display at Boniface Circle in 2022. Photograph courtesy of Msgr. Luke Sweeney of IHM.



**Scarsdale Inquirer -
December 24th, 1992**

Today, the Scarsdale Creche Committee continues to put the creche on display at Boniface Circle. It hasn't been clean sailing the whole way. In 1991 Irving Sloan raised the issue again, arguing that the Board should consider other ways to keep the creche off of Village land. In 1992 the Board okayed the creche "under protest," saying that they had no legal recourse to deny the request. By 1998 a menorah was also on display when both it and the creche were vandalized.



**Scarsdale Inquirer - January 2nd,
1998**

The menorah was similarly vandalized in 1995, and in 1994 a swastika was scrawled at its base in Chase Park. More recently the creche has shared space with the Light the 'Dale celebration.

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