

Editor, jurists debate press restrictions

By SHIRLEE IDEN

"We can't plead for special immunity. But we have a citizen's right to gather the news."

"Broadcasting in a courtroom makes it difficult for witnesses, lawyers, defendants, plaintiffs, jurors and even the audience."

"It is not the devices we need be concerned with, the TV cameras or tape recorders, but what is being done with the information."

Opinions above were expressed by one journalist and two judges. The occasion was a panel discussion on "Right vs. Write" during the recent Central District Convention of the National Council of Jewish Women at the Hyatt Regency House in Dearborn.

Delegates from 11 states and 38 sections, including the Detroit Section headquartered in Southfield, took part. About 200 of them attended the panel discussion on press freedoms and press restrictions.

Should our society demand that the

printed word be withheld in trials was one question debated. Another was: Can the media prejudice prospective jurors?

In 1979, the Supreme Court in the Gannett Decision ruled that reporters can be banned from the courtroom, a ruling that gave judges everywhere the precedent they might need to close their courtrooms.

CAN JUSTICE survive inside walls of silence? — the NCJW women also asked.

After all, the First Amendment to the U. S. Constitution says "No law shall abridge freedom of speech."

Joe Stroud, editor of the Detroit Free Press, said the Constitution guarantees not just freedom press, but a number of other rights.

"We're trying to balance all of them," he said. "These rights are not absolute. Our problem is how to prevent erosion of the rights of a free press."

Stroud said there are several dangers to press freedom that have be-

come apparent in recent years.

"First, our news gathering processes are being endangered," he said. "The barrier of prior restraint may be eroding, and the confidentiality of sources is being challenged."

Stroud pointed out that some states have special shield laws to safeguard press freedom, but even with these, there are questions.

"It's impossible to draw up a shield law that will work," he said. "I'll take my chances with the First Amendment."

Stroud noted that due process under the 14th Amendment should guard against unlawful searches in newsrooms and against reporter's notebooks being impounded by the courts.

"IT'S DANGEROUS for us to have press servers in the newsroom."

"We can't plead for special immunity, but we have a citizen's right to gather the news."

Stroud said the Gannett Decision has led to a round of trial closings and other restrictions on newsgathering.

"Five high court justices have tried since the decision to explain what they were saying," he said. "In Michigan, we have a strong law on public trials, yet there's a temptation to close the courts. 'It's the easy way out.'"

Stroud said the ultimate danger is prior restraint (censorship).

Pointing to the Pentagon Papers case where the court deliberated so long that the New York Times published anyhow, Stroud said: "In our business timeliness is essential. The power to delay can be the power to censor."

RICHARD D. DUNN, chief judge of the Wayne County Circuit Court, said the televising of trials touches on both the First and Sixth Amendments, freedom of speech, and the right to a fair trial, as well as the 14th Amendment, the right to due process under the law.

"Television in the courts is now permitted in 23 states," he said. "And arguments over cameras in the courtroom erupted in the trial of Bruno Hauptmann in the Lindbergh kidnap case."

"That trial became a total circus." Judge Dunn said that Canon 33 to bar cameras or broadcasts in courtrooms was adopted 33 years ago, but it has been softened in recent years.

"Broadcasting in a courtroom is difficult for witnesses, lawyers, defendants, plaintiffs, jurors and even the audience," he said. "An introverted witness will have difficulty and an extrovert will have a stage. The Sixth Amendment guarantees a public trial,

but not a trial in a stadium or public arena."

He recalled that the trial of Billy Sol Estes, once a crony of presidents, was televised, leading the Supreme Court to throw out Estes' conviction later.

NORMAN KRIVOSHA, a native Detroit and now the chief justice of the Supreme Court of Nebraska, said if he could do it on his own, he would revoke Canon 33.

"Today a photographer can take a picture and leave very quickly with little disturbance," he said. "I prefer this to the court artist who sits in the courtroom four or five hours and everyone watches every stroke."

Krivosha said courtroom are not public places and it is not cameras, tape recorders or even television equipment that bothers him.

"It is not the devices we need be concerned about, but what is being done

with the information," he said.

Krivosha contends that allowing newsmen and devices in the courtroom, and even televising trials, will help the public learn more about the legal process.

He said people in courtrooms are always nervous and that cameras and other equipment won't make a noticeable difference.

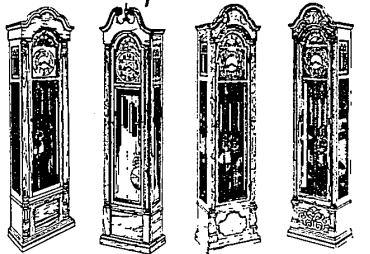
"My concern is how well a reporter can take six hours of a trial and then abstract it into six inches of print," he said. "In a fire, a building burns and that's it. It doesn't unburn. But a trial changes constantly."

"The public has a right to know and I submit the press is not letting them know."

He said newsmen have to comprehend the anatomy of a trial and the processes of the law.

"Just stop beating me over the head with the First Amendment," he pleaded, "and just sit down and talk to me."

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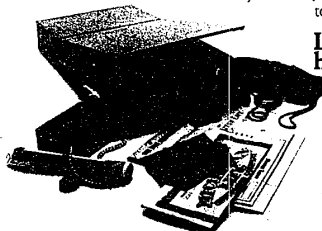
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