Open Courtroom

The state's highest court has delivered a needed reminder to judges at all levels that they cannot trample on the constitutional right of free press through arbitrary prohibitions issued in the name of protecting the constitutional right of defendants to fair trial.

In ruling that State Supreme Court Justice George Postel had himself violated the Constitution by barring press and public from a 1971 extortion trial here, the Court of Appeals did not attempt the infinitely complex task of charting precise boundary lines for proper accommodation between press freedom under the First Amendment and fair trial under the Sixth Amendment.

But the stress the high court's decision did place on the vital function of publicity in guarding against miscarriages of justice and on the throttling effect of judicial censorship is bound to check the disturbing recent tendency of many judges in all parts of the country to close trials or to eliminate newsmen with threats of contempt citation.

Through most of the last decade leaders of press and bar have cooperated in efforts to work out voluntary guidelines for establishing a sound balance between the two constitutionally guaranteed rights in situations where the exercise of press freedom may infringe on the impartiality of trials.

The guidelines, never intended to operate as straitjackets, will require considerable time to perfect in practice. In the interim, judges genuinely concerned with the sound defense of both freedoms will have to exercise sensitivity of the type that permeates the high court's opinion, as distinct from the punitive arrogance of the Postel courtroom blackout.

As a result of the guidelines, the areas of trespass have been greatly narrowed to the vast improvement of the judicial process—and this with minimal abridgement of any legitimate discharge of the public's right to know, as safeguarded by the press.

Unfortunately, one offshoot of this salutary joint effort has been a disposition on the part of some law-enforcement officials, lawyers and judges to inch further and further toward outright suppression of information at the source, toward mandatory restrictions on publication of information arising outside or inside the courtroom and even toward secret trials of the type decreed by Justice Postel.

The Court of Appeals, through its Chief Judge, Stanley H. Fuld, has made it plain that loose invocation of such restraints on the free flow of information is not only capricious; it is unconstitutional as well.