

Delay in Criminal Trials Feared

ABA Delegates Debate Right Of Press to Oppose 'Gag'

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MONTREAL, Aug. 7—A proposal to give journalists advance notice and a right to object to judicial "gag orders" restricting press accounts of criminal cases was debated by lawyers and judges at the American Bar Association convention here today.

U.S. Circuit Court Judge Paul H. Roney of St. Petersburg, Fla., chairman of the ABA's committee on fair trial and free press, said news media should have a chance to tell judges in advance of trial why certain restraints on court reporting should not be imposed.

Roney said the committee was not advocating wider use of judicial restrictive rulings but was proposing that they be issued and tested in a more orderly and uniform manner.

The powers of courts to order news media not to publish criminal case information have not been finally defined by the Supreme Court. Disputes between judges, asserting the right to safeguard fairness of trials, and news media, claiming the right to print or broadcast without censorship, have sprung up throughout the United States under ground rules varying from one court to another.

Some critics of the committee proposal said they feared excessive delay in criminal trials if judges must stop and listen to press objections to orders forbidding the printing of a defendant's criminal record, the existence of a confession, or other prejudicial material.

Retired U.S. District Court

Judge Walter E. Hoffman of Norfolk, Va., called the proposal a "trap" for judges, giving journalists the right to intervene in criminal cases without ensuring that judges have wide powers to clear the courtroom and maintain at least temporary secrecy of certain trial information.

Hoffman, who presided over proceedings that led to the tax-evasion conviction of former Vice President Spiro T. Agnew, acknowledged that the stenographic record of a secret October, 1973, plea-bargaining session still is secret. The judge said he gave the secrecy order pursuant to an agreement by lawyers from Agnew and the Justice Department and it could be rescinded only by mutual consent. "I'd be happy to release it," he said. "I'm beginning to be sorry I ever kept it secret."

Under the ABA committee proposal, judges would publish

proposed general guidelines governing no-comment rules, inviting suggestions from the press' lawyers before making them final. The same procedure would be used before issuing specific orders covering particular trials where publicity might endanger a fair trial.

Both the general guidelines and the rules for specific trials would be subject to appeal by news media to higher courts, but the press would be subject to contempt citations for violating any final order.

Jack C. Landau of the Newhouse newspaper chain was the principal draftsman of the proposal, which will undergo further public hearings and a policy vote in February by the ABA House of Delegates. Landau represents the Reporters Committee for Freedom of the Press, a Washington based journalism group that combats press censorship.