

C.L.U. ACTS TO OPEN TRIAL OF PERSICO

Union Joins Press in Move to Force Public Hearing

By LESLEY OELSNER

The New York Civil Liberties Union, acting on behalf of a reporters' association here, is joining the legal fight to force State Supreme Court Justice George Postel to reopen the trial of Carmine J. Persico to the public—even though the union agrees with Justice Postel that press reports mentioning such items as Persico's prior record are unjustified.

The civil liberties group said yesterday that it was representing the Newspaper Reporters Association of New York City in the effort because "the right to a public trial is too precious and too crucial to be tampered with."

However, the organization said, it is "unalterably opposed" to publication during trial of "allegations about the defendant's reputed connections with the underworld," of "information about prior arrests, trials or convictions," of "derogatory nicknames," and of "information about co-defendants."

All four types of information, the union noted, were "widely published" in the Persico case. "Such statements by the press," the civil liberties group said, "can serve only to prejudice the right to a fair trial." The public's interest in knowing such items, it said, could be served just as well by "a wrap-up story" after the jury has given its verdict.

Justice Postel banned the public from Persico's extortion-conspiracy trial last Monday at the request of the defense. It contended that if the trial was open, the press might continue to publish the type of information referred to by the Civil Liberties Union, and that as a result the jurors might see it and prejudge the case.

His action drew extensive criticism from the media as well as from constitutional ex-

perts. The Civil Liberties Union position, however, is somewhat different from the criticism heard so far most of the critics including the organization's client—contend that the First Amendment guarantees the press the freedom to print the material in question.

Other Briefs Expected

Ira Glasser, executive director of the Civil Liberties Union, said that his group would seek to intervene on Monday, either as co-plaintiff or as amicus curiae—friend of the court—in a suit brought against Justice Postel by five local reporters, asking that the trial be reopened. The Times, The Post, Columbia Broadcasting System, National Broadcasting Company and the Radio-Television Directors Association are filing an amicus curiae brief together on the reporters' behalf; The News will file a separate amicus brief.

The Manhattan District Attorney's office and Persico's attorney are also expected to file some type of briefs in the case.

Yesterday, The Post published an account of the Persico trial stating that Justice Postel had declared one of the prosecution's star witnesses, Mrs. Sylvia Winograd, a hostile witness, and thus subject in effect to cross-examination by the prosecution. This was verified by The Times from other sources. The Post article included material that Justice Postel has previously termed prejudicial.

Asked in an interview if he would take any action as a result of The Post article, Justice Postel said yesterday afternoon that he would await the results of a meeting to be held by the local section of the New York Fair Trial Free Press Conference. The meeting is scheduled for Tuesday, on the subject of press coverage of trials.

"And when I am advised of what their determination is," Justice Postel said, "then I will be able to know how to proceed."