

HIGH COURT INTEGRATES NEWS MEDIA

- Oklahoma court of appeals says radio, tv are as free as press
- Bar association's ban against radio-tv in courts held not binding
- Decision will be tough for anti-broadcasting lawyers to ignore

Broadcasting won a historic victory last week in its uphill fight to obtain access to courtrooms. The Oklahoma Criminal Court of Appeals held that:

- Canon 35 of the American Bar Assn. is obsolete and unrealistic, and
- Radio and television are entitled to the same courtroom rights as the press.

Oklahoma became the second state to give high-court sanction to electronic reporting of court proceedings when a three-judge appellate tribunal handed down its opinion Sept. 3. Two years ago the Colorado Supreme Court broke down longtime prejudices against broadcast coverage of trials by discrediting Canon 35 and its visual-aural bans.

The Oklahoma decision provided the second break for broadcasting in a fortnight. A week earlier the American Bar Assn., through its House of Delegates, had ordered a special nine-man committee study of Canon 35 and the effect of visual-aural reporting [TRADE ASSOCIATIONS, Sept. 1].

In its decision the Oklahoma appellate court ruled on an appeal involving the rights of an individual who had been found guilty of burglary. The Colorado decision had been based on demonstrations and investigations by that court of radio and tv courtroom techniques.

Leaders in the long-range effort to report court proceedings with electronic tools joined Oklahoma broadcasters in hailing the decision as one of the most significant forward steps in broadcast journalism (see story next page).

Oklahoma has been the pace-setter in electronic reporting of trials. For several years it has been routine for broadcasters to cover trials and most district judges grant coverage permission unless defendants or jurors object. Broadcast personnel have an informal code of conduct and the arrangement has been generally satisfactory, with radio-tv coverage of newsworthy trials permitted in most of the courts.

Last week's precedent-making decision was written by presiding Justice John A. Brett and concurred in by Justices John C. Powell and Kirksey Nix. The three-judge court unanimously affirmed the 15-year burglary conviction of Edward Lee Lyles, 27, of Oklahoma City. The defendant had

appealed his conviction on the ground that film shots taken of him by WKY-TV Oklahoma City had violated his constitutional rights of privacy and Canon 35.

The WKY-TV film had been shot in the Oklahoma City District Court during a recess before the jury was selected. The defendant claimed a mistrial and appealed. His counsel had claimed prospective jurors in the courtroom at the time of the shooting might have been influenced by the incident. Scott Berner, WKY-TV cameraman, had taken the film in the court of Judge W. R. Wallace Jr.

Judge Brett's opinion quickly disposed

of the Canon 35 argument in this language: "The adoption of the canons of ethics by the courts did not give the canons force of law. They are nothing more than a system of principles of exemplary conduct and good character. . . . They are subject to modification in keeping with the constitutional rights of the people."

In holding the defendant had no right of privacy in the case, the court said: "When one becomes identified with an occurrence of public or general interest, he emerges from his seclusion and it is not an invasion of his right of privacy to publish his photograph or to otherwise give publicity

IN THE WORDS OF THREE HIGH JUDGES



JUSTICE BRETT



JUSTICE POWELL



JUSTICE NIX

Freedom of the press as guaranteed by the state and federal constitutions is not confined to newspapers and periodicals, pamphlets and leaflets . . . but these provisions of free press extend to broadcasting and television. . . . The courts do not belong to the lawyers but are institutions by, of and for the people. . . . [The courts] must be open to the press and its prying eyes and purifying pen to report courtroom abuses, evil and corrupt influences which de-spoil and stagnate the flow of equal and exact justice. . . . Basically, there is no sound reason why photographers and television representatives should not be entitled to the same privileges of the courtroom as other members of the press. ☺☺