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PUBLIC ACCESS TO CRIMINAL TRIALS: RICHMOND NEWSPAPERS, INC. v. VIRGINIA I. INTRODUCTION Richmond Newspapers, Inc. v. Virginia1 is, in the words of Justice Ste- vens, a "watershed case.".

The judgment is reversed. Absent an overriding interest articulated in findings, the trial of a criminal case must be open to the public. In addition, the significant community therapeutic value of public trials was recognized: United States, U. In guaranteeing freedoms such as those of speech and press, the First Amendment can be read as protecting the right of everyone to attend trials so as to give meaning to those explicit guarantees; the First Amendment right to receive information and ideas means, in the context of trials, that the guarantees of speech and press, standing alone, prohibit government from summarily closing courtroom doors which had long been open to the public at the time the First Amendment was adopted. Moreover, the right of assembly is also relevant, having been regarded not only as an independent right, but also as a catalyst to augment the free exercise of the other First Amendment rights with which it was deliberately linked by the draftsmen. A trial courtroom is a public place where the people generally -- and representatives of the media -- have a right to be present, and where their presence historically has been thought to enhance the integrity and quality of what takes place. The right to attend criminal trials is implicit in the guarantees of the First Amendment; Page U. It was further concluded that it was not necessary to consider in this case what countervailing interests might be sufficiently compelling to reverse the presumption of openness of trials, since the Virginia statute involved -- authorizing trial closures at the unfettered discretion of the judge and parties -- violated the First and Fourteenth Amendments. JUSTICE STEWART concluded that the First and Fourteenth Amendments clearly give the press and the public a right of access to trials, civil as well as criminal; that such right is not absolute, since various considerations may sometimes justify limitations upon the unrestricted presence of spectators in the courtroom; but that, in the present case, the trial judge apparently gave no recognition to the right of representatives of the press and members of the public to be present at the trial. DePasquale, supra, was in error, both in its interpretation of the Sixth Amendment generally and in its application to the suppression hearing Page U. The narrow question presented in this case is whether the right of the public and press to attend criminal trials is guaranteed under the United States Constitution. The Virginia Supreme Court reversed the conviction in October, , holding that a bloodstained shirt purportedly belonging to Stevenson had been improperly admitted into evidence. Stevenson was retried in the same court. This second trial ended in a mistrial on May 30, , when a juror asked to be excused after trial had begun and no alternate was available. Stevenson was tried in the same court for a fourth time beginning on September 11, Present in the courtroom when the case was called were appellants Wheeler and McCarthy, reporters for appellant Richmond Newspapers, Inc. Before the trial began, counsel for the defendant moved that it be closed to the public: She had sat in the Courtroom. The trial judge, who had presided over two of the three previous trials, asked if the prosecution had any objection to clearing the courtroom. The prosecutor stated he had no objection, and would leave it to the discretion of the court. Presumably referring to Va. Later that same day, however, appellants sought a hearing on a motion to vacate the closure order. When the hearing began, the court ruled that the hearing was to be treated as part of the trial; accordingly, he again ordered the reporters to leave the courtroom, and they complied. At the closed hearing, counsel for appellants observed that no evidentiary findings had been made by the court prior to the entry of its closure order, and pointed out that the court had failed to consider any other less drastic measures within its power to ensure a fair trial. Counsel for appellants argued that constitutional considerations mandated that, before ordering closure, the court should first decide that the rights of the defendant could be protected in no other way. Defense counsel argued that these things, plus the fact that "this is a small community," made this a proper case for closure. The trial judge noted that counsel for the defendant had made similar statements at the morning hearing. The court also stated: I think that having people in the Courtroom is distracting to the jury.

The rule of the Court may be different under those circumstances. The prosecutor again declined comment, and the court summed up by saying: The court denied the motion to vacate, and ordered the trial to continue the following morning "with the press and public excluded. What transpired when the closed trial resumed the next day was disclosed in the following manner by an order of the court entered September 12, On July 9, , the Virginia Supreme Court dismissed the mandamus and prohibition petitions and, finding no reversible error, denied the petition for appeal. Appellants then sought review in this Court, invoking both our appellate, 28 U. We postponed further consideration of the question of our jurisdiction to the hearing of the case on the merits. We conclude that jurisdiction by appeal does not lie; [Footnote 4] however, treating the filed papers as a petition for a writ of certiorari pursuant to 28 U. This Court has frequently recognized, however, that its jurisdiction is not necessarily defeated by the practical termination of a contest which is short-lived by nature. If the underlying dispute is "capable of repetition, yet evading review," Southern Pacific Terminal Co. Since the Virginia Supreme Court declined plenary review, it is reasonably foreseeable that other trials may be closed by other judges without any more showing of need than is presented on this record. More often than not, criminal trials will be of sufficiently short duration that a closure order "will evade review, or at least considered plenary review in this Court. Accordingly, we turn to the merits. II We begin consideration of this case by noting that the precise issue presented here has not previously been before this Page U. DePasquale, supra, the Court was not required to decide whether a right of access to trials, as distinguished from hearings on pretrial motions, was constitutionally guaranteed. One concurring opinion specifically emphasized that "a hearing on a motion before trial to suppress evidence is not a trial. Moreover, the Court did not decide whether the First and Fourteenth Amendments guarantee a right of the public to attend trials, id. Stuart, supra at U. A The origins of the proceeding which has become the modern criminal trial in Anglo-American justice can be traced back beyond reliable historical records. We need not here review all details of its development, but a summary of that history is instructive. What is significant for present purposes is that, throughout its evolution, the trial has been open to all who cared to observe. Somewhat like modern jury duty, attendance at these early meetings was compulsory on the part of the freemen, who were called upon to render judgment. Holdsworth, A History of English Law 10, 12 When certain groups were excused from compelled attendance, see the Statute of Marlborough, 52 Hen. Coke, Institutes of the Laws of England 6th ed. From these early times, although great changes in courts and procedure took place, one thing remained constant: Sir Thomas Smith, writing in about "the definitive proceedinges in causes criminall," explained that, while the indictment was put in writing as in civil law countries: Smith, De Republica Anglorum Alston ed. Three centuries later, Sir Frederick Pollock was able to state of the "rule of publicity" that, "[h]ere we have one tradition, at any rate, which has persisted through all changes. Pollock, The Expansion of the Common Law Jenks, The Book of English Law 6th ed. In Virginia, for example, such records as there are of early criminal trials indicate that they were open, and nothing to the contrary has been cited. See Scott, supra at In some instances, the openness of trials was explicitly recognized as part of the fundamental law of the Colony. See also 1 B. Schwartz, The Bill of Rights: A Documentary History See 1 Schwartz, supra at Other contemporary writings confirm the recognition that part of the very nature of a criminal trial was its openness to those who wished to attend. Perhaps the best indication of this is found in an address to the inhabitants of Quebec which was drafted by a committee consisting of Thomas Cushing, Richard Henry Lee, and John Dickinson and approved by the First Continental Congress on October 26, This address, written to explain the position of the Colonies and to gain the support of the people of Quebec, is an "exposition of the fundamental rights of the colonists, as they were understood by a representative assembly chosen from all the colonies. Because it was intended for the inhabitants of Quebec, who had been "educated under another form of government" and had only recently become English subjects, it was thought desirable for the Continental Congress to explain "the inestimable advantages of a free English constitution of government, which it is the privilege of all English subjects to enjoy. This provides that neither life, liberty nor property can be taken from the possessor until twelve of his unexceptionable countrymen and peers of his vicinage, who from that neighbourhood may reasonably be

supposed to be acquainted with his character and the characters of the witnesses, upon a fair trial, and full enquiry, face to face, in open Court, before as many of the people as chuse to attend, shall pass their sentence upon oath against him. This is no quirk of history; rather, it has long been recognized as an indispensable attribute of an Anglo-American trial. Both Hale in the 17th century and Blackstone in the 18th saw the importance of openness to the proper functioning of a trial; it gave assurance that the proceedings were conducted fairly to all concerned, and it discouraged perjury, the misconduct of participants, and decisions based on secret bias or partiality. Jeremy Bentham not only recognized the therapeutic value of open justice but regarded it as the keystone: Recordation, appeal, whatever other institutions might present themselves in the character of checks, would be found to operate rather as cloaks than checks; as cloaks in reality, as checks only in appearance. Bentham Rationale of Judicial Evidence Foreign observers of English criminal procedure in the 18th and early 19th centuries Page U. They marveled that "the whole juridical procedure passes in public," 2 P. The publicity of their proceedings is indeed astonishing. Free access to the courts is universally granted. The nexus between openness, fairness, and the perception of fairness was not lost on them: This observation raises the important point that "[t]he publicity of a judicial proceeding is a requirement of much broader bearing than its mere effect upon the quality of testimony. Even without such experts to frame Page U. When a shocking crime occurs, a community reaction of outrage and public protest often follows. Weihofen, The Urge to Punish Thereafter the open processes of justice serve an important prophylactic purpose, providing an outlet for community concern, hostility, and emotion. The crucial prophylactic aspects of the administration of justice cannot function in the dark; no community catharsis can occur if justice is "done in a corner [or] in any covert manner. It is not enough to say that results alone will satiate the natural community desire for "satisfaction. Looking back, we see that, when the ancient "town meeting" form of trial became too cumbersome, 12 members of the community were delegated to act as its surrogates, but the community did not surrender its right to observe the conduct of trials. The people retained a "right of visitation" which enabled them to satisfy themselves that justice was, in fact, being done. People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing. When a criminal trial is conducted in the open, there is at least an opportunity both for understanding the system in general and its workings in a particular case: Not only is respect for the law increased and intelligent acquaintance acquired with the methods of government, but a strong confidence in judicial remedies is secured which could never be inspired by a system of secrecy. See also 1 J. Bentham, Rationale of Judicial Evidence, at In earlier times, both in England and America, attendance at court was a common mode of "passing the time. With the press, cinema, and electronic media now supplying the representations or reality of the real life drama once available only in the courtroom, attendance at court is no longer a widespread pastime.

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Chapter 2 : Richmond Newspapers, Inc. v. Virginia - oi

JUSTICE STEWART concluded that the First and Fourteenth Amendments clearly give the press and the public a right of access to trials, civil as well as criminal; that such right is not absolute, since various considerations may sometimes justify limitations upon the unrestricted presence of spectators in the courtroom; but that, in the present case, the trial judge apparently gave no recognition to the right of representatives of the press and members of the public to be present at the trial.

Named the 9 fastest growing education company in the United States. Thank you for your support! Defense counsel brought a motion to exclude the public from the trial. The prosecution did not object, and the trial judge closed the proceedings to the press and public. Rule of Law Alert The rule of law is the black letter law upon which the court rested its decision. To access this section, please start your free trial or log in. Issue Alert The issue section includes the dispositive legal issue in the case phrased as a question. Holding and Reasoning Burger, C. Alert The holding and reasoning section includes: A "yes" or "no" answer to the question framed in the issue section; A summary of the majority or plurality opinion, using the CREAC method; and The procedural disposition e. What to do nextâ€¦ Unlock this case brief with a free no-commitment trial membership of Quimbee. Quimbee is one of the most widely used and trusted sites for law students, serving more than 97, law students since Some law schoolsâ€”such as Yale, Vanderbilt, Berkeley, and the University of Illinoisâ€”even subscribe directly to Quimbee for all their law students. Read our student testimonials. Quimbee is a company hell-bent on one thing: Read more about Quimbee. Written by law professors and practitioners, not other law students. The right amount of information, includes the facts, issues, rule of law, holding and reasoning, and any concurrences and dissents. Access in your classes, works on your mobile and tablet. Massive library of related video lessons and high quality multiple-choice questions. Easy to use, uniform format for every case brief. Written in plain English, not in legalese.

Chapter 3 : "Public Access to Criminal Trials: Richmond Newspapers, Inc. v. Virgini" by Christopher C. Spe

A fourth trial was conducted and the Appellants, Wheeler and McCarthy reporters for Richmond Newspapers, Inc. (the "Appellants"), were in attendance. The defendant moved for the trial to be closed to the public.

Terrance Adams, Associate Analyst You asked for a summary of case law concerning the relationship between the First Amendment of the U. Constitution and freedom of information FOI laws. Supreme Court precedent, access to government records is a policy question to be decided by legislative bodies; it is not a constitutional question. The primary Supreme Court case concerning a constitutional right of access to government records is Houchins v. The plurality opinion noted that, while previous Supreme Court cases upheld First Amendment rights to communicate information, those cases did not construe the First Amendment as providing a right to obtain information from the government. Since Houchins, other Supreme Court cases have discussed the lack of a First Amendment right to government records. United Reporting Publishing Corp. Similarly, in the McBurney opinion cited above, the Court noted that there is no constitutional right to obtain records under FOI laws. In an appellate court case, the U. Court of Appeals, District of Columbia Circuit, citing Houchins, held that the First Amendment did not compel the government to release information about individuals detained after the September 11 attacks i. This report addresses access to government records only. What this means in the context of trials is that the First Amendment guarantees of speech and press, standing alone, prohibit government from summarily closing courtroom doors which had long been open to the public at the time that Amendment was adoptedâ€¦we hold that the right to attend criminal trials is implicit in the guarantees of the First Amendment id. After Houchins the county sheriff denied the request, KQED filed a lawsuit 1 alleging a deprivation of its First Amendment rights and 2 seeking preliminary and permanent injunctions to prevent the jail from excluding KQED personnel and equipment from jail facilities. The jail subsequently implemented a program of six monthly public tours, which media members were welcome to attend. However, the tours covered only certain parts of the jail and prohibited 1 photography and tape recordings and 2 interviews with inmates. The Ninth Circuit Court of Appeals sustained this order, concluding that the public and media had First and Fourteenth Amendment rights of access to prisons and jails. Chief Justice Burger wrote a plurality opinion, joined by Justice White and Justice Rehnquist; Justice Stewart filed an opinion concurring in the judgment. This Court has never intimated a First Amendment guarantee of a right of access to all sources of information within government control id. For example, he found that, in two of the cases Grosjean v. The chief justice also quoted from another case, Zemel v. There are few restrictions on action which could not be clothed by ingenious argument in the garb of decreased data flow. The right to speak and publish does not carry with it the unrestrained right to gather information Houchins, supra at 12, quoting Zemel, emphasis in original. Justice Stewart filed a concurring opinion in which he agreed with the plurality that there is no First or Fourteenth Amendment right of access to government-generated or â€"controlled information. However, Justice Stewart wrote that equal access for the public and media did not necessarily mean identical access: He agreed with the District Court that, to keep the public informed, the media needed access that was more frequent and flexible than the regularly scheduled tours. He also agreed that the media needed cameras and sound equipment to properly do its job. These provisions, he wrote, are not compelled by the Constitution. This case involved a California law that limited the purposes for which public records could be sought. A federal district court permanently enjoined enforcement of the statute, and the Ninth Circuit Court of Appeals affirmed, holding that it was facially invalid because it unduly burdened commercial speech. The Supreme Court reversed the decision, holding that the statute was not subject to a facial challenge. This is not a case in which the government is prohibiting a speaker from conveying information that the speaker already possessesâ€¦The California statute in question merely requires that if respondent wishes to obtain the addresses of arrestees it must qualify under the statute to do so. Respondent did not attempt to qualify and was therefore denied access to the addresses. For purposes

of assessing the propriety of a facial invalidation, what we have before us is nothing more than a governmental denial of access to information in its possession. California could decide not to give out arrestee information at all without violating the First Amendment Los Angeles Police Dept. In , the Court ruled unanimously in McBurney v. Young that states may exclude out-of-state residents from the access to public records provided by their FOI laws. Court of Appeals, District of Columbia Circuit, held that the government did not have to release information about individuals detained after the September 11 attacks i. The petitioners made several arguments for releasing the information, including a claim that it was required by the First Amendment. It also noted that Houchins, not Richmond Newspapers, is the applicable Supreme Court case concerning the constitutional right of access to government information outside the criminal trial context: Indeed, there are no federal court precedents requiring, under the First Amendment, disclosure of information compiled during an Executive Branch investigation, such as the information sought in this case id.

Chapter 4 : Richmond Newspapers v. Virginia Case Brief - Quimbee

In Richmond Newspapers Inc. v. Virginia, it severely limited the defendant's right to a closed courtroom by holding that the First and Fourteenth Amendments guarantee the right of the public (including the press) to attend criminal trials. This case began with the fourth murder trial of a defendant whose earlier trials had been reversed or.

The judgment is reversed. Absent an overriding interest articulated in findings, the trial of a criminal case must be open to the public. In addition, the significant community therapeutic value of public trials was recognized: United States, U. In guaranteeing freedoms such as those of speech and press, the First Amendment can be read as protecting the right of everyone to attend trials so as to give meaning to those explicit guarantees; the First Amendment right to receive information and ideas means, in the context of trials, that the guarantees of speech and press, standing alone, prohibit government from summarily closing courtroom doors which had long been open to the public at the time the First Amendment was adopted. Moreover, the right of assembly is also relevant, having been regarded not only as an independent right but also as a catalyst to augment the free exercise of the other First Amendment rights with which it was deliberately linked by the draftsmen. A trial courtroom is a public place where the people generally--and representatives of the media--have a right to be present, and where their presence historically has been thought to enhance the integrity and quality of what takes place. The right to attend criminal trials is implicit in the guarantees of the First Amendment []; without the freedom to attend such trials, which people have exercised for centuries, important aspects of freedom of speech and of the press could be eviscerated. It was further concluded that it was not necessary to consider in this case what countervailing interests might be sufficiently compelling to reverse the presumption of openness of trials, since the Virginia statute involved--authorizing trial closures at the unfettered discretion of the judge and parties--violated the First and Fourteenth Amendments. JUSTICE STEWART concluded that the First and Fourteenth Amendments clearly give the press and the public a right of access to trials, civil as well as criminal; that such right is not absolute, since various considerations may sometimes justify limitations upon the unrestricted presence of spectators in the courtroom; but that in the present case the trial judge apparently gave no recognition to the right of representatives of the press and members of the public to be present at the trial. DePasquale, supra, was in error, both in its interpretation of the Sixth Amendment generally, and in its application to the suppression [] hearing involved there, and that the right to a public trial is to be found in the Sixth Amendment, concluded, as a secondary position, that the First Amendment must provide some measure of protection for public access to the trial, and that here, by closing the trial, the trial judge abridged these First Amendment interests of the public. The narrow question presented in this case is whether the right of the public and press to attend criminal trials is guaranteed under the United States Constitution. The Virginia Supreme Court reversed the conviction in October , holding that a bloodstained shirt purportedly belonging to Stevenson had been improperly admitted into evidence. Stevenson was retried in the same court. This second trial ended in a mistrial on May 30, , when a juror asked to be excused after trial had begun and no alternate was available. Stevenson was tried in the same court for a fourth time beginning on September 11, Present in the courtroom when the case was called were appellants Wheeler and McCarthy, reporters for appellant Richmond Newspapers, Inc. Before the trial began, counsel for the defendant moved that it be closed to the public: She had sat in the Courtroom. The trial judge, who had presided over two of the three previous trials, asked if the prosecution had any objection to clearing the courtroom. The prosecutor stated he had no objection and would leave it to the discretion of the court. Presumably referring to Va. Later that same day, however, appellants sought a hearing on a motion to vacate the closure order. When the hearing began, the court ruled that the hearing was to be treated as part of the trial; accordingly, he again ordered the reporters to leave the courtroom, and they complied. At the closed hearing, counsel for appellants observed that no evidentiary findings had been made by the court prior to the entry of its closure order and pointed out that the court had

failed to consider any other, less drastic measures within its power to ensure a fair trial. Counsel for appellants argued that constitutional considerations mandated that before ordering closure, the court should first decide that the rights of the defendant could be protected in no other way. Defense counsel argued that these things, plus the fact that "this is a small community," made this a proper case for closure. The trial judge noted that counsel for the defendant had made similar statements at the morning hearing. The court also stated: I think that having people in the Courtroom is distracting to the jury. The rule of the Court may be different under those circumstances. The prosecutor again declined comment, and the court summed up by saying: The court denied the motion to vacate and ordered the trial to continue the following morning "with the press and public excluded. What transpired when the closed trial resumed the next day was disclosed in the following manner by an order of the court entered September 12, On July 9, , the Virginia Supreme Court dismissed the mandamus and prohibition petitions and, finding no reversible error, denied the petition for appeal. Appellants then sought review in this Court, invoking both our appellate, 28 U. We postponed further consideration of the question of our jurisdiction to the hearing of the case on the merits. We conclude that jurisdiction by appeal does not lie; [note 4] however, treating the filed [] papers as a petition for a writ of certiorari pursuant to 28 U. The criminal trial which appellants sought to attend has long since ended, and there is thus some suggestion that the case is moot. This Court has frequently recognized, however, that its jurisdiction is not necessarily defeated by the practical termination of a contest which is short-lived by nature. If the underlying dispute is "capable of repetition, yet evading review," Southern Pacific Terminal Co. Since the Virginia Supreme Court declined plenary review, it is reasonably foreseeable that other trials may be closed by other judges without any more showing of need than is presented on this record. More often than not, criminal trials will be of sufficiently short duration that a closure order "will evade review, or at least considered plenary review in this Court. Accordingly, we turn to the merits. II We begin consideration of this case by noting that the precise issue presented here has not previously been before this [] Court for decision. DePasquale, supra, the Court was not required to decide whether a right of access to trials, as distinguished from hearings on pretrial motions, was constitutionally guaranteed. One concurring opinion specifically emphasized that "a hearing on a motion before trial to suppress evidence is not a trial. Moreover, the Court did not decide whether the First and Fourteenth Amendments guarantee a right of the public to attend trials, id. Stuart, supra, at , "[the] problems presented by this [conflict] are almost as old as the Republic. A The origins of the proceeding which has become the modern criminal trial in Anglo-American justice can be traced back beyond reliable historical records. We need not here review all details of its development, but a summary of that history is instructive. What is significant for present purposes is that throughout its evolution, the trial has been open to all who cared to observe. Somewhat like modern jury duty, attendance at these early meetings was compulsory on the part of the freemen, who were called upon to render judgment. Holdsworth, A History of English Law 10, 12 When certain groups were excused from compelled attendance, see the Statute of Marlborough, 52 Hen. Coke, Institutes of the Laws of England 6th ed. From these early times, although great changes in courts and procedure took place, one thing remained constant: Sir Thomas Smith, writing in about "the definitive proceedings in causes criminal," explained that, while the indictment was put in writing as in civil law countries: Smith, De Republica Anglorum Alston ed. Three centuries later, Sir Frederick Pollock was able to state of the "rule of publicity" that, "[here] we have one tradition, at any rate, which has persisted through all changes. Pollock, The Expansion of the Common Law Jenks, The Book of English Law 6th ed. In Virginia, for example, such records as there are of early criminal trials indicate that they were open, and nothing to the contrary has been cited. See Scott, supra, at In some instances, the openness of trials was explicitly recognized as part of the fundamental law of the Colony. See also 1 B. Schwartz, The Bill of Rights: A Documentary History See 1 Schwartz, supra, at Other contemporary writings confirm the recognition that part of the very nature of a criminal trial was its openness to those who wished to attend. Perhaps the best indication of this is found in an address to the inhabitants of Quebec which was drafted by a committee consisting of Thomas Cushing, Richard Henry Lee, and John Dickinson and approved by the First Continental

Congress on October 26, This address, written to explain the position of the Colonies and to gain the support of the people of Quebec, is an "exposition of the fundamental rights of the colonists, as they were understood by a representative assembly chosen from all the colonies. Because it was intended for the inhabitants of Quebec, who had been "educated under another form of government" and had only recently become English subjects, it was thought desirable for the Continental Congress to explain "the inestimable advantages of a free English constitution of government, which it is the privilege of all English subjects to enjoy. This provides, that neither life, liberty nor property, can be taken from the possessor, until twelve of his unexceptionable countrymen and peers of his vicinage, who from that neighbourhood may reasonably be supposed to be acquainted with his character, and the characters of the witnesses, upon a fair trial, and full enquiry, face to face, in open Court, before as many of the people as chuse to [] attend, shall pass their sentence upon oath against him. This is no quirk of history; rather, it has long been recognized as an indispensable attribute of an Anglo-American trial. Both Hale in the 17th century and Blackstone in the 18th saw the importance of openness to the proper functioning of a trial; it gave assurance that the proceedings were conducted fairly to all concerned, and it discouraged perjury, the misconduct of participants, and decisions based on secret bias or partiality. Jeremy Bentham not only recognized the therapeutic value of open justice but regarded it as the keystone: Recordation, appeal, whatever other institutions might present themselves in the character of checks, would be found to operate rather as cloaks than checks; as cloaks in reality, as checks only in appearance. Bentham, Rationale of Judicial Evidence Foreign observers of English criminal procedure in the 18th and early 19th centuries [] came away impressed by the very fact that they had been freely admitted to the courts, as many were not in their own homelands. They marveled that "the whole juridical procedure passes in public," 2 P. The publicity of their proceedings is indeed astonishing. Free access to the courts is universally granted. The nexus between openness, fairness, and the perception of fairness was not lost on them: This observation raises the important point that "[the] publicity of a judicial proceeding is a requirement of much broader bearing than its mere effect upon the quality of testimony. Even without such experts to frame [] the concept in words, people sensed from experience and observation that, especially in the administration of criminal justice, the means used to achieve justice must have the support derived from public acceptance of both the process and its results. When a shocking crime occurs, a community reaction of outrage and public protest often follows. Weihofen, The Urge to Punish Thereafter the open processes of justice serve an important prophylactic purpose, providing an outlet for community concern, hostility, and emotion. The crucial prophylactic aspects of the administration of justice cannot function in the dark; no community catharsis can occur if justice is "done in a corner [or] in any covert manner. It is not enough to say that results alone will satiate the natural community desire for "satisfaction. Looking back, we see that when the ancient "town meeting" form of trial became too cumbersome, 12 members of the community were delegated to act as its surrogates, but the community did not surrender its right to observe the conduct of trials. The people retained a "right of visitation" which enabled them to satisfy themselves that justice was in fact being done. People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing. When a criminal trial is conducted in the open, there is at least an opportunity both for understanding the system in general and its workings in a particular case: Not only is respect for the law increased and intelligent acquaintance acquired with the methods of government, but a strong confidence in judicial remedies is secured which could never be inspired by a system of secrecy. See also 1 J. Bentham, Rationale of Judicial Evidence, at In earlier times, both in England and America, attendance at court was a common mode of "passing the time.

Chapter 5 : FREEDOM OF INFORMATION LAWS AND THE FIRST AMENDMENT

holding in the case of Richmond Newspapers, Inc. v. Vir- ginia. 2 In Richmond Newspapers the Court held that trial courts could not close full trials to members of the press and.

After a series of inconclusive and confusing earlier decisions on the right of access to criminal trials, Richmond Newspapers, Inc. Virginia announced that the public and the press have a First Amendment right to attend criminal trials. This landmark Supreme Court decision left other issues open, however, some of which have since been resolved. United States, , or whether obtained in open court Nebraska Press Association v. Having established that the press could publish what they knew, the Supreme Court then faced the question of whether the press was constitutionally entitled to access to criminal court proceedings. DePasquale , a newspaper reporter challenged the court-ordered closure of a pretrial hearing on suppression of evidence in a murder case. On appeal, the Supreme Court upheld the exclusion of press and public from pretrial hearings on the ground that only the accused has a Sixth Amendment right to demand an open trial. The Gannett decision was close 5 to 4 , fragmented five separate opinions , and ambiguous in its scope whether this ruling on pretrials would extend to trials over the application of the First Amendment to the issue of access which the Court did not decide and over the findings needed to justify closure. Despite this uncertainty, Gannett gave new power to trial judges who increasingly granted motions to close all types of criminal proceedings. Representatives of the news media protested Gannett and urged the Court to reconsider and affirm a public right to access to court. The Court did so the next year. In Richmond Newspapers Inc. This case began with the fourth murder trial of a defendant whose earlier trials had been reversed or declared mistrials. Richmond Newspapers challenged the order and sued for access to the trial. The Supreme Court affirmed the First Amendment right of access in its 7-to-1 decision. The majority view in Richmond Newspapers was expressed in six different opinions. Chief Justice Warren Burger wrote for the Court, emphasizing the long history of criminal trials at common law and their presumption of openness. Burger concluded that the press exclusion must be overturned since the trial judge had not pursued alternatives to courtroom closure nor had he made specific findings to support the order. Justice White, a dissenter in Gannett, simply noted that this case would have been unnecessary had the Court found a Sixth Amendment right to courtroom access in the earlier decision. Justice Stevens, in his concurrence, extended the principle to prohibit arbitrary governmental restrictions on access to other important and newsworthy information.

Chapter 6 : Richmond Newspapers v. Virginia ()

It is not crucial whether we describe this right to attend criminal trials to hear, see, and communicate observations concerning them as a "right of access," cf. Gannett, supra, at (POWELL, J., concurring); Saxbe v.

Virginia Richmond Newspapers Inc. Virginia occurred because journalists sued after a murder trial that had gone through three previous mistrials was closed to the public after all parties consented. It was argued that there could not be a fair trial if it was open to the public. The journalists covering the case objected to this decision and challenged it in the State Supreme Court. The ruling was limited to criminal trials, but it is implied that civil trials would also likely be protected by this precedent in future cases. The court reached a decision with Powell abstaining from the case. The majority opinion was formed with Burger writing the majority opinion joined by White and Stevens. They argued that the United States has a strong tradition of open courts. The First and Fourteenth amendment protect the right to open trials. They stated that there can be interests to keep it private, but this is about a statue that gives judges large amounts of discretion, and it should not be allowed. Stewart and Blackmun concurred in a third separate opinion stating that the right to a public trial is in the Sixth amendment. Rehnquist dissented by writing that it does not violate the Constitution and the federal government does not have the power to interfere with this state decision in which all parties consented. Tribe argued that closing the courtroom was unconstitutional. He argued that the closing of the courtroom was defended under the state statute, and this application of the law was not valid under the Constitution under the First, Sixth, and Fourteenth Amendments. There is a debate of whether the Sixth only protects the rights of the accused, which consented to the private trial. He says the first amendment is a stronger case because the government is preventing public access to a public matter. He also argued that there must be a compelling need to prevent public access. He argued that it is an unusual case with a limited scope. He highlighted the issues with the three public trial attempts. There was a concern that the public who had heard the case before would converse with the jury. The justices highlight author remedies, but Coleman argued that all parties consented. There is then a discussion of whether there is a constitutional barrier to closing trials if all parties consent. Coleman says there is no constitutional issue, but it should not be a frequent occurrence either. Virginia In the article, the author makes the case for public access of government proceedings. The author notes that the ruling is only for criminal cases, but the judges not the tradition of open criminal and civil cases. The bigger question is whether it should apply to pretrial proceedings, something that was not directly addressed in the ruling. However, it is likely this freedom can likely be expanded to pretrial proceedings. A Public Dimension In the article, the authors broadly discussed the right to public access of trials. In terms of Richmond, it dissects opinions of the ruling and why the judges believe that an audience to a trial is a necessity. One of the reasons the authors mentions is the optics of the situation. It would look bad if the judicial process was closed to the public because of the opportunity for an exploitative government. The article also highlights the argument that a small town means the jury is more likely to be influenced and is a reason this particular case should be closed. Access to Judicial Proceedings: To "Richmond Newspapers" and Beyond The author discussed the impact that this case has set for legal precedent. It is considered a major case involving access for the press to legal actions. It discusses the major cases that helped lay the framework that was set for the Richmond decision. Despite the ruling, the opinion did not give much of a framework to judge future decisions. It is considered a largely narrow opinion. The basis was largely rooted in tradition and as a policy reason. Class activity There is an overview of the facts of the case. Plaintiffs argue why they have the right hear the case in question and whether the right to a public trial is absolute or if there are limits for 7 minutes. Defendants argue why it should be close and what test is used to be determined if it should be closed for 7 minutes. Plaintiffs question defendants for 5 minutes. Defendants question plaintiffs for 5 minutes. Judges question both sides for 7 minutes. Judges meet for 7 minutes privately reach a decision that is announced and explained to the class. Tribe, who argued for the plaintiffs in the case, discussing the case and

its importance until the 2: Oyez has an audio recording of the oral arguments that can be played alongside the transcript, which helps follow along with the discussion the justices, plaintiffs, and defendants. Works Cited Dockry, Kathleen A. Michael; Koley, James L. To Richmond Newspapers and Beyond. United States Supreme Court. Tribe Part Two Case Law.

Chapter 7 : Richmond Newspapers Inc. v. Virginia

Richmond Newspapers, Inc. v. Virginia occurred because journalists sued after a murder trial that had gone through three previous mistrials was closed to the public after all parties consented. It was argued that there could not be a fair trial if it was open to the public.

Chapter 8 : Richmond Newspapers, Inc. v. Virginia :: U.S. () :: Justia US Supreme Court Center

Note: Richmond Newspapers, Inc. v. Virginia: A Demarcation of Access Several months after this symposium, the Supreme Court announced its decision in Richmond Newspapers, Inc. v.

Chapter 9 : A. The First Amendment presumption of access | Reporters Committee for Freedom of the Pre

RICHMOND NEWSPAPERS, INC. v. VIRGINIA, () No. Amendments clearly give the press and the public a right of access to trials, civil as well as criminal.