

Court Chips At Freedom

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Jun
6/2/78

A SMALL piece of a cornerstone of freedom was chipped away this week when the U.S. Supreme Court ruled that police may search a newspaper's offices for criminal evidence even though no one at the newspaper is involved in the alleged crime.

By a 5-3 vote the Court said police need have only a search warrant to enter, rather than the more unwieldy subpoena, which tends to slow down police action until after a formal hearing.

The case on which the decision was based arose in 1971 when Palo Alto, Calif., police wanted to search the offices of the Stanford University newspaper to find photographs of a demonstration in which several police officers had been injured.

The newspaper forced the police to obtain a subpoena. Lower courts upheld the newspaper, stating that police searches of the premises of persons not suspected of a crime are almost never justified.

The courts went on to say that newspapers, even more than other places or businesses, were entitled to protection because of the U.S. Constitution's First Amendment.

The Supreme Court said no to these ideas. It contended, in its majority decision, that the critical element in reasonable search is not whether the resident or employe is suspected of a crime, but whether there is reasonable cause that specific 'things' related to a crime are located on the property to be searched.

NEWSPAPERS SOMETIMES are accused of being crybabies or alarmists in our defense of the First Amendment.

But this week's Supreme Court decision should spread alarm in the hearts of a 'all Americans.

It threatens not only newspapers (the vehicle for many other freedoms and rights) but—by extension of the Supreme Court's ruling—other businesses and the private home as well.

Little imagination is required to envisage what can now happen if an energetic, ambitious policeman or public prosecutor wants to get his hands on evidence of an alleged crime.

By persuading a judge that

such evidence probably exists, the prosecutor can open virtually any door he wishes.

Doctors, attorneys, psychiatrists, clergymen and other professionals who sometimes become privy to information about illegal acts will now be subject to having their offices or homes searched for their notes or tape recordings, or perhaps for letters from persons suspected of having committed a crime.

Whistle-blowers—those government employes who reveal criminal or unethical conduct by persons on the public payroll—will now think twice before writing or even talking to a news reporter. Under the terms of the Supreme Court decision, the Pentagon papers would probably have never seen the light of day.

This week's court decision may give rise to a new breed of craftsman. He'll be the man who can design or build hidden wall panels or secret trap doors where evidence, no matter how innocent, can be hidden.

Another branch of knowledge that may flourish is cryptology. A reporter talking to a Mafia informer will be well advised to couch his notes in as mysterious a script as he can conjure up. As he sits writing his expose, he may find himself looking up into the stern eyes of a deputy sheriff who has just marched through the door, waving a search warrant issued by a friendly neighborhood magistrate.

Is this exaggerating the issue?

We hope so, but we're not betting on it. In this age of anxiety there exist millions of persons so frightened by life, by real or imagined dangers and by the merest hint of disorder that they would gladly turn our country over to anyone who promises to make living safe.

And always waiting to oblige are the enforcers, the opportunists, the ultra-tough law-and-order types who see a thief in every shadow and some other sort of malefactor behind every beard.

This week's court decision will appeal to such fraidy-cats and extremists. It is up to the rest of Americans to ensure that the new powers of the police and courts are used as judiciously and as seldom as possible.