one reaches where the other does not. It has been much debated, for example, whether the "institutional press" is entitled to greater freedom from governmental regulations or restrictions than are non-press individuals, groups, or associations. Justice Stewart has argued: "That the First Amendment speaks separately of freedom of speech and freedom of the press is no constitutional accident, but an acknowledgment of the critical role played by the press in American society. The Constitution requires sensitivity to that role, and to the special needs of the press in performing it effectively."[411] But, as Chief Justice Burger wrote: "The Court has not yet squarely resolved whether the Press Clause confers upon the 'institutional press' any freedom from government restraint not enjoyed by all others."[412]

Several Court holdings do firmly point to the conclusion that the press clause does not confer on the press the power to compel government to furnish information or otherwise give the press access to information that the public generally does not have.[413] Nor, in many respects, is the press entitled to treatment different in kind from the treatment to which any other member of the public may be subjected.[414] "Generally applicable laws do not offend the First Amendment simply because their enforcement against the press has incidental effects."[415] Yet, it does seem clear that, to some extent, the press, because of its role in disseminating news and information, is entitled to deference that others are not entitled to—that its role constitutionally entitles it to governmental "sensitivity," to use Justice Stewart's word.[416] What difference such "sensitivity" might make in deciding cases is difficult to say.

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[411] Houchins v. KQED, 438 U.S. 1, 17 (1978) (concurring opinion). Justice Stewart initiated the debate in a speech, subsequently reprinted as Stewart, *Or of the Press*, 26 HASTINGS L. J. 631 (1975). Other articles are cited in First National Bank of Boston v. Bellotti, 435 U.S. 765, 798 (1978) (Chief Justice Burger concurring).

[412] 435 U.S. at 798. The Chief Justice's conclusion was that the institutional press had no special privilege as the press.

[413] Houchins v. KQED, 438 U.S. 1 (1978), and id. at 16 (Justice Stewart concurring); Saxbe v. Washington Post, 417 U.S. 843 (1974); Pell v. Procunier, 417 U.S. 817 (1974); Nixon v. Warner Communications, 435 U.S. 589 (1978). The trial access cases, whatever they may precisely turn out to mean, recognize a right of access of both public and press to trials. Richmond Newspapers v. Virginia, 448 U.S. 555 (1980); Globe Newspaper Co. v. Superior Court, 457 U.S. 596 (1982).

[414] Branzburg v. Hayes, 408 U.S. 665 (1972) (grand jury testimony be newspaper reporter); Zurcher v. Stanford Daily, 436 U.S. 547 (1978) (search of newspaper offices); Herbert v. Lando, 441 U.S. 153 (1979) (defamation by press); Cohen v. Cowles Media Co., 501 U.S. 663 (1991) (newspaper's breach of promise of confidentiality).

[415] Cohen v. Cowles Media, 501 U.S. 663, 669 (1991).

[416] *E.g.*, Miami Herald Pub. Co. v. Tornillo, 418 U.S. 241 (1974); Landmark Communications v. Virginia, 435 U.S. 829 (1978). *See also* Zurcher v. Stanford Daily, 436 U.S. 547, 563–67 (1978), and id. at 568 (Justice Powell concurring); Branzburg v. Hayes, 408 U.S. 665, 709 (1972) (Justice Powell concurring). Several concurring opinions in Richmond Newspapers v. Virginia, 448 U.S. (1980), imply recognition of