Senate trying for new court rules on evidence

After a classical civil liberties debate, the Michi-in Senate passed a bill to permit more kinds of idence obtained by search warrant to be submit-

evidence obtained by search warrant to be submit-ted in court.

"Tals will make it more difficult to throw out evi-dence on technical violations of procedures," said Sen. Doug Cruce, R-Troy, sponsor of Senate Bill 380.
"As high as 7 percent of drug defendants get off because of the liberal attitude of courts on search-and-schure cases. That's too high. These are serious offenses."

THE SENATE last week passed Cruce's bill 25-7 and sent it to the House. Supporting it were Republi-cans Cruce, Robert Geake of Northville and Rudy Nichols of Waterford. Other backers were the State Police Department and the Prosecuting Attorneys Association of Michigan.

Association of Michigan.

Opposed were Democrast Jack Faxon of Farmington Hills and Patrick McCollough of Dearborn. So was the state Appellate Defenders Office.

Absent were William Faust, Dewestland, and Richard Fessler, R-West Bloomfield.

"If police had no restraints at all," Faxon said in the debate, "we'd have a police state. Evidence should be gathered legally, Nothing prevents a police officer from seizing evidence with a search

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warrant obtained from a magistrate."

Added McCollough, whose district spreads from western Detroit to Garden City: "We don't want to encourage fishing expeditions into people's casties. You (supported want anybody to be able to give an end of the control of th

or octendanta."

Senato Judiciary Committee Chairman Alan Cropsey, R-DeWilt, said law enforcement officials still must apply to a magistrate for a search warrant. "The judiciary of this state is accountable. Sooner or later the judiciary faces the wrath of the voters." he said.

sooner or later us justicary lates the wrate of the voters," he said.

Cropsey summed up the bill's intent: "The (search) warrant is OK unless law enforcement people or the magistrate runs afoul of certain things:

Are there safeguards Very definitely."

CRUCE'S BILL provides that otherwise admissible evidence, obtained with a search warrant, couldn't be suppressed by a judge — unless the judge found one or more of these defects:

The magistrate issuing the search warrant was misled by information which the law enforcement officer knew was false (or should have known was false except for his reckless disregard of the truth). The false information must have been the probable

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cause for issuance of the search warrant

The magistrate Issued the search warrant under circumstances such that any reasonably welltrained official couldn't rely on search warrant under the country of the country

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"exclusionary rule."

Advocates of tougher law enforcement contend there should be "good faith" exceptions to the exclusionary rule — where a police officer reasonably relies upon a search warrant that later proves defective. These advocates say the truth-finding process is interfered with by a court's over-reliance on technicalities.

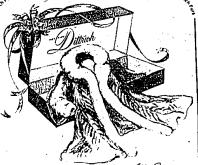
Crossey and Once paint as

technicalities.

Cropsey and Cruce point to a 1934 Supreme Court decision in the zo-called Leon case. The court limited the exclusionary rule to cases where the magistrate was reckless in issuing the warrant, or the warrant was facially deficient in failing to spell cut when there is to be eitzed. The senators said the Cruce warrant was facially deficient in failing to the things to be selred. The senators said bill was based on the high court's language.

violations of procedures.

--- Sen. Doug Cruce R-Tray



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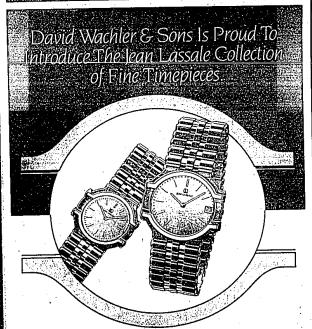
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