

Mr. SCHLEI. Well, I have certainly seen many examples of the quick production of information at the request of a congressional committee that was not forthcoming perhaps at the request of someone else earlier.

My experience has been that the pressure exerted by such bodies as this committee is very effective and is very salutary and helpful and healthful to the process of government.

But when there is a collision, what is occurring is something that occurs not infrequently in our system of separation of powers. There are legislative prerogatives that the executive may not touch and that the judicial branch may not touch.

The judicial branch will refuse to entertain a challenge to the qualifications of a legislator, for example, although he may be clearly unqualified to take his seat in terms of standards in the Constitution and perhaps in the law of his State. Congress is made the sole judge of the qualifications of its Members by the Constitution, and the other branches may not meddle.

There is a remedy for misuse of executive prerogative and legislative prerogative and judicial prerogative, which is to go to the people and to use the political process as a remedy against such abuses.

I think that the political process within the three branches of the Government corrects many abuses. And the forum that there is—and it is a highly effective one—for any abuse of prerogative that is not reachable by that process is to go to the people, and the press will be quick I think to bring to the attention of the public abuses in the field of public information.

Mr. MOSS. Would you yield at that point?

Mr. MONAGAN. Yes.

Mr. MOSS. On this matter of the courts not being willing to look at the qualification of a legislator, have not the courts in the last few years opened a very broad new area where historically, from the very beginning of the republic up until the time of the Tennessee case before the Court, *Baker*—

Mr. SCHLEI. *Baker v. Carr*?

Mr. MOSS. Yes. The courts would not look to a matter of apportionment of a legislature. But they did.

Mr. SCHLEI. That is true, sir.

Mr. MOSS. Have they moved into the legislative area then by expanding their authority? Or have they expanded their authority? What have they done?

Mr. SCHLEI. Well, if you ask for my personal view, Mr. Chairman, it has been my opinion since I became a lawyer and first studied these matters that the Supreme Court made a great error and refused to discharge its constitutional function when it refused to hear the suit of a voter who was denied an effective right to vote by malapportionment.

And that wrong decision, what I considered a wrong decision, was in effect for some 25 years, during which time—I think it was about that period of time—the Supreme Court and other Federal courts did not look into apportionment matters.

My view is that the 14th amendment should have been enforced with respect to apportionment matters all the time. And the Court has now returned to what it should have been doing.