

And the citizen says, "Well, I am just a member of the electorate, and I want the information."

And the court is going to say, and may say what it says to a taxpayer, "You have no interest in this information apart from that of the great mass of people in the country, and if we recognize that as standing to sue, we would have an infinite number of lawsuits to decide, and we are going to rule that you have no standing to sue unless you have some particular personal interest in what you seek."

Mr. Moss. Supposing that John Q. Citizen says, "Well, in a couple of months we are going to have an election, and I'm going to have to cast a vote for President. I haven't been able to make up my mind, and I won't until I am able to form a judgment as to whether the Justice Department has acted properly in handling this matter. I need the information to make that judgment."

Mr. SCHLEI. Well, I—

Mr. Moss. It is probably farfetched, but it is possible.

Mr. SCHLEI. It certainly is possible.

I think a court could say, "This man is trying to exercise his franchise. He needs that information. We have been given no concrete reason why he shouldn't have it." And proceed.

Or it might say, "Well, if they won't give it to you and they refuse to satisfy you on this basis, your remedy is to vote against the administration and get an administration in there that will answer for treatment of prisoners."

Mr. Moss. The remedy might be that he should vote for whomever is able to run the Government better—not against something but for something.

Mr. SCHLEI. That is usually a sound philosophy, Mr. Chairman. I would hope that the person who could best run the Government—I would think that usually it would be a person who could recognize the advisability of making available information to the maximum extent consistent with doing the job.

Mr. Moss. You know, talking of inherent rights, Dr. Harold Cross, who worked with this subcommittee back 8 to 10 years ago, had the novel conviction that inherent in the right to speak and the right to print was the right to know. The right to speak and the right to print, without the right to know, is pretty empty—to know about Government or about anything else that an inquiring mind might want to know about.

Mr. SCHLEI. I think there is some truth in that, Mr. Chairman. They are obviously related. They are related rights.

Mr. Moss. Continue.

Mr. KASS. Mr. Chairman, in that connection, I do not know how novel Dr. Cross' statement was, because Cooley on "Constitutional Limitations" way back in the 19th century stated at page 886, regarding the first amendment, freedom of speech and press, that:

The evils to be prevented were not censorship of the press merely but any action of the Government by means of which it might prevent such free and general discussion of public matters as it seems absolutely essential to prepare the people for an intelligent exercise of their rights as citizens.

The Supreme Court has not yet taken that position, but they have not gone the other way yet, Mr. Schlei; have they?