

It's not enough to open a proceeding and records only to litigants and their counsel. Dr. Cross stressed this as one of the basic defects of the act when he wrote—

It is far from clear that the act adequately takes into account the matter of public information in the sense of the right to know, which ought to be stressed in the general public, that mass of citizens who may not meet the description of persons properly and directly concerned in administrative proceedings in that public's chosen organs of information.

That appeared, as I say, in the book published in 1953. In 1959, when he took a new look, he concluded, "Whatever its usefulness to parties to administrative proceedings and their attorneys or to a few specialists or lobbyists, it is an abject failure as a means of freedom of information for the public."

In this respect, I think it might be noted that the Federal Government is trailing far behind the States in this kind of "right to know legislation." Public records legislation, as we see it on the books today, dates back only to about 1945 in the States. That is roughly the time that the Administrative Procedure Act came into being, but today 37 States have open record statutes of some kinds on their books.

Finally, I would say that we agree with Mr. Schlei that of course it is difficult to define precisely, to set out in specific language, in complete detail all the Government information that should be divulged and all that may properly be withheld.

We are not wedded to the specific language of this bill. We appeared in testimony before the Senate committee when similar legislation was being considered there. We know the objections that were taken into account. We know that this committee has heard various views on modifications which might be made. We recognize that even when language which these committees can think would take care of these situations as comprehensively as possible is written, there are going to be situations which still have not adequately been prescribed for in every detail. But, as I indicated earlier, there are provisions in this legislation for resolving those questions by a third party and while it is not possible to legislate in every detail the kind of language that would tell you exactly and precisely what is to be withheld and what is to be divulged, we do think it's possible, as Mr. Wiggins has said, in his book on this subject, to describe the spirit, the climate, the atmosphere that ought to pervade the government of a country that is democratically ruled. "All the employees of government, elected and appointed, ought to be imbued with the feeling that the government does indeed belong to the people who therefore have a right to know about all its transactions except for those expressly reserved to accredited persons by law or regulations."

In the belief that legislation with the intent of this before us would encourage such a climate, I encourage its favorable consideration.

Thank you.

Mr. Moss. Well, thank you, Mr. Black. And I want to say that I am not wedded to the language of this bill, but I am wedded very strongly to the objectives of the bill. We are going to attempt to get the views of all interested parties, proponents and opponents, and those in the middle, and see if we can't come up with something that represents substantial progress in recognizing a public need. At this time I will recognize Congressman Rumsfeld.