

meaning which I think it was intended to have, and which I am afraid in the *Olmstead* case the majority of the Court was unwilling to give it. That is, the fourth amendment isn't merely a protection against material invasions or the taking of tangible expressions of one's thought and mind, it is a means of protecting the right to be let alone, the right to determine what part of your life will be shared with others.

I think that a recent Supreme Court decision, even in the search and seizure field, seems to point in this direction and I would be very surprised if in the next decade or sooner that the Court doesn't accept the position which Brandeis set forth in the *Olmstead* case.

Mr. ROSENTHAL. Professor, may I interrupt for a moment?

Mr. BEANEY. Surely.

Mr. ROSENTHAL. I think most of the community and all of us concern ourselves with the main thesis, the question of how do you strike a balance between individual rights and community interest, particularly in the field of law enforcement and national security?

Mr. BEANEY. This is the great question that underlies all questions of lawmaking, I assume, that impinge on individual rights. We have had the problem with our first amendment issues as we know. Most of us do not think rights are absolute, although Mr. Justice Black has stated on several occasions that the rights of the first amendment are absolute.

What I would suggest as a brief answer to a very pressing question and a very significant question is that in striking the balance, in determining how the equation should be used and what should be the answer in the given case, is that we must make sure we get the privacy values on the other side of the scales from the side on which we place law enforcement or the desire of government for information or to know more about recruits for the military service or whatever. Too often we leap only to the obvious conclusion that the interest in law enforcement or the interest in getting information should prevail, and we tend not, I think, to put on the scales the privacy interests.

It seems to me one of the values of what your committee is doing and undertaking to do is to give us a much clearer picture, or for the first time a picture, since I don't have the data which will allow me to speak effectively to the questions that were raised with the letter that came from the chairman, that is, we must know what the practices are and what the alleged justification or claimed justification is for the governmental practice or for the practice of a business or private institution that impinges on privacy.

My argument would be, we must bring this out into the open, if there are obvious reasons for pressing on someone's privacy, we should know what those reasons are. It should be possible then for reasonable men to sit back and weigh the relative interests that are involved.

As I see it, the trends of the past 20, 30 years in this country, and to a high degree all over the world, are simply to go on unthinkingly to assume that more information about any subject is a good thing and this is understandable. If you are responsible for fulfilling some function, whether in government or universities or private business, it is always nice to have lots of data in the file. If you have to deal with other human beings, you try to find out enough about them so you can deal effectively. If you have to pass on their promotions,