

CONTROLLING LEGAL PRINCIPLES

Free Exercise Clause Decision – The “Contemplation of Justice” Olmstead v. United States, 277 U. S. 438, (1928)



MR. JUSTICE BRANDEIS, *dissenting*. Page 277 U.S. 485

Decency, security and liberty alike demand that government officials shall be subjected to the same rules of conduct that are commands to the citizen. In a government of laws, existence of the government will be imperiled if it fails to observe the law scrupulously. *Our Government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy.* To declare that, in the administration of the criminal law, the end justifies the means -- to declare that the Government may commit crimes in order to secure the conviction of a private criminal -- would bring terrible retribution. Against that pernicious doctrine this Court should resolutely set its face.

The protection guaranteed by the Amendments is much broader in scope. *The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness.* They recognized the significance of man's spiritual nature, of his feelings, and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. *They conferred, as against the Government, the right to be let alone -- the most comprehensive of rights, and the right most valued by civilized men.*

This Court has always construed the Constitution in the light of the principles upon which it was founded.

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