Ohio State Journal of Criminal Law:
Experts Reflect on Warren Court and the Future of Criminal Justice System

COLUMBUS, Ohio – The Supreme Court has entered a new era with the seating of a new chief justice, John Roberts, and the nomination of Samuel Alito to replace Justice Sandra Day O’Connor. With criminal law issues occupying nearly half of the Supreme Court’s docket, and with the modern criminal justice system being subject to new scrutiny, a critical question is whether the Roberts Court might radically reshape existing criminal justice jurisprudence. The just-published Fall 2005 issue of the Ohio State Journal of Criminal Law (OSJCL) provides a timely and thoughtful perspective on these issues in its symposium entitled “The Warren Court Criminal Justice Revolution: Reflections a Generation Later.” It may be accessed on-line at http://moritzlaw.osu.edu/osjcl/eJournal_3-1.htm.

President John Kennedy, in 1962, appointed two justices to the Supreme Court within a six-month period. In the years that followed, the Supreme Court, under the leadership of Chief Justice Earl Warren, decided that state criminal justice systems were in need of far greater federal control than had been the case for the first 180 years of our country. Through a series of legendary decisions such as Gideon v. Wainwright and Miranda v. Arizona, the Warren Court shifted the law of criminal procedure in ways that have been described as a revolution.

The Fall 2005 issue of the Ohio State Journal of Criminal Law contains a retrospective on the Warren Court’s criminal justice legacy. In six articles by eminent criminal justice scholars, the authors examine the way the Warren Court changed, and didn’t change, the law of criminal justice; how some of those changes have been rolled back by later Courts; and whether different and better paths were available for greater federal control of state criminal justice systems.

Much about criminal justice is very different today than it was in 1962. Interestingly, Samuel Alito is the first nominee since Earl Warren with significant experiences as a prosecutor. Warren was a district attorney in California, an experience that the author of one symposium article argues led Warren to endorse strict limits on police. But a recently released document written by Alito in 1985 indicates that his interest in constitutional law was “motivated in large part by disagreement with Warren Court decisions particularly in the areas of criminal procedure.”

The articles in the OSJCL Fall 2005 issue provide important new perspectives on how a Justice Alito and the rest of the Roberts Court might re-examine the Supreme Court’s always evolving criminal justice jurisprudence. To subscribe to the journal, see http://moritzlaw.osu.edu/osjcl/Subscribe.htm.

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