

See also Legis.

## First Test By Burger Court

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The Supreme Court agreed yesterday to make its first review of the Warren Court's controversial *Miranda v. Arizona* decision on confessions since President Nixon's four nominees joined the court.

The 1966 *Miranda* ruling held that suspects must be advised of their rights before interrogation or their confessions may not be used in court. The decision has often been cited by Mr. Nixon as one that should be overturned because it unduly favors the "criminal forces" in society.

Yesterday the Burger Court granted an appeal that the justices could use as a vehicle for a thorough reconsideration of the *Miranda* case, but the posture of the lower court decision makes it most likely that the case will be decided on a narrow interpretation of one aspect of the *Miranda* ruling.

### JUSTICES

Only two justices who joined the 5-to-4 *Miranda* decision, William J. Brennan Jr. and William O. Douglas, are still on the Supreme Court. Two dissenters, Potter Stewart and Byron R. White, remain on the court, and President Nixon has added Warren E. Burger, Harry A. Blackmun, Lewis F. Powell Jr. and William H. Rehnquist—all of whom are considered law-and-order conservatives.

The appeal granted yesterday was brought by prosecutors in Philadelphia, objecting to a decision of the Pennsylvania Supreme Court in favor of Paul D. Ware, who confessed to four murders in 1963.

His trial was delayed for years by mental incompetence.

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tency, and when he recovered sufficiently to stand trial in 1970, the State Supreme Court held that the *Miranda* decision precluded the use of his confessions. The prosecutors' assertion is that the *Miranda* rule should not be applied to invalidate voluntary confessions given long before the rule was announced, but not used until later because of "fortuitous" circumstances.

### CONGRESS

As a second argument, they contended that the *Miranda* rule should be abandoned because Congress declared in the 1968 omnibus crime control act that voluntary confessions should be admitted as evidence in federal trials, whether "*Miranda*" warnings were given or not.

Because the Ware prosecution is in state court, this argument was rejected by the state high court. The prosecutors urged the Supreme Court to hold that the law expresses Congress's intent that the "*Miranda*" warnings are not necessary to protect suspects' constitutional rights.