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Editorial

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EDITORIAL RESPONSE

Following is a response to the Editor's editorial which appeared in the December, 1966 issue of the *Journal* entitled "Playing God: 5 to 4—The Supreme Court and the Police"; it was submitted by Attorney *LeRoy S. Brican* of Atlanta, Georgia:

The *Miranda* restrictions upon the police do not constitute "new" law. The "law" as delineated and interpreted by the Supreme Court has *always* been the supreme law of this country. The "newness" is primarily due to the inability or refusal of the police to abide by the law unless it suited their purpose.

Why should the fact that for years the various bar associations and commissions had been "studying" the problems deter or influence the Court from upholding the law and castigating those who violate the law and the "rights" of the people. Associations and commissions have done little except spend money.

State legislatures have been notoriously deficient in providing proper legal standards for the police. Moreover, legislation has been slanted in favor of a *denial* of citizen rights. Witness the "stop and frisk" laws.

If there is something objectionable about

the 5 to 4 decision in *Miranda*, then there would have to be objections to *Schwerber*—a 5 to 4 decision in favor of police actions.

The only other response to the "Playing God: 5 to 4" editorial was submitted by Attorney *Thomas C. Hartzell* of Rochester, New York. He stated:

For my money I am agreeable to go along with the established procedure under our constitution which allows the United States Supreme Court to make the decision and not to defer it to the American Bar Association or to some professors of law forming a committee to study what they consider to be a problem of complexity.

My great sympathy to all of these committees and research groups whose problem has been so summarily wiped out by the decision of the United States Supreme Court in *Miranda*; but I am certain that if they look around they can find some other problem in research and maybe they ought to steer away from one that is likely to be later resolved by a subsequent decision of our highest Court so that they will have something they will be assured of working on for some indefinite period of time without reaching a decision.