Although the Court's decision rapidly became highly controversial and the source of much political agitation, including playing a prominent role in the 1968 presidential election, the Court has continued to adhere to it,[337] albeit not without considerable qualification. Nevertheless, the constitutional status of the *Miranda* warnings has remained clouded in uncertainty. Had the Court announced a constitutionally compelled rule, or merely a supervisory rule that could be superseded by statute? In 1968, Congress enacted a statute, codified at 18 U.S.C. § 3501, designed to set aside *Miranda* in the federal courts and to reinstate the traditional voluntariness test.[338] The statute lay unimplemented, for the most part, due to constitutional doubts about it. Meanwhile, the Court created exceptions to the *Miranda* warnings over the years, and referred to the warnings as "prophylactic"[339] and "not themselves rights protected by the Constitution."[340] There were even hints that some Justices might be willing to overrule the decision.

In *Dickerson v. United States*,[341] the Court addressed the foundational issue, finding that *Miranda* was a "constitutional decision" that could not be overturned by statute, and consequently that 18 U.S.C. § 3501, which provided for a less strict "voluntariness" standard for the admissibility of confessions, could not be sustained. Consistent application of *Miranda* warnings to state proceedings necessarily implied a constitutional base, the Court explained, since federal courts "hold no supervisory authority over state judicial proceedings."[342] Moreover, *Miranda* itself had purported to "give concrete constitutional guidance to law enforcement agencies and courts to follow."[343] The two dissenting Justices in *Dickerson* maintained that the majority's characterization of *Miranda* as providing concrete constitutional guidance fell short of holding that custodial interrogation not preceded by *Miranda* warnings was unconstitutional, a position with which the dissenters pointedly disagreed.[344] Eleven years after Dickerson, in the 2011 case *J.D.B. v. North Carolina*, the number of Justices asserting that *Miranda* was not a con-

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[337] *See, e.g.*, Rhode Island v. Innis, 446 U.S. 291, 304 (1980) (Chief Justice Burger concurring) ("The meaning of *Miranda* has become reasonably clear and law enforcement practices have adjusted to its strictures; I would neither overrule *Miranda*, disparage it, nor extend it at this late date.")

[338] Pub. L. 90–351, § 701(a), 82 Stat. 210, 18 U.S.C. § 3501. See S. Rep. No. 1097, 90th Cong., 2d Sess. 37–53 (1968). An effort to enact a companion measure applicable to the state courts was defeated.

[339] New York v. Quarles, 467 U.S. 549, 653 (1984).

[340] Michigan v. Tucker, 417 U.S. 433, 444 (1974).

[341] 530 U.S. 428 (2000).

[342] 530 U.S. at 438.

[343] 530 U.S. at 439 (quoting from *Miranda*, 384 U.S. at 441–42).

[344] 530 U.S. at 444 (Justices Scalia and Thomas dissenting).