October 21, 2008

CONFERENCE INVITATION

RETHINKING THE LAW GOVERNING THE STRUCTURE AND OPERATION OF THE SUPREME COURT

George Washington University Law School
Jacob Burns Moot Court Room
2000 H Street NW Washington DC

November 20, 2009 – 9am-4pm

There has been a great deal of writing and talking about the Justices of the Supreme Court, their legal philosophies, and their decisions, but very little discussion about the laws governing the structure and operation of the Court. This conference, which is the next step in the work begun by Professors Paul Carrington and Roger Cramton, is designed to fill that void and to encourage the political branches to take a serious look at those issues for the first time since the 1920s. They have been assisted in planning this conference by Daniel Meador, Judith Resnik, George Liebmann, and Alan Morrison.

The focal point of the conference is a set of four proposals that can be found on the conference’s website, [http://www.law.gwu.edu/Nov20_SupremeCourtConference] with separate panels for each, as shown on the enclosed program. For each proposal, the discussion will center on the policy issues of whether there is a need for the change and whether the proposed change would meet that need. Briefly stated, here are the four proposals and their rationales:

- Some Justices serve for a very long time, and there is no system for periodically appointing new justices comparable to that for electing Presidents and Members of Congress. The proposed solution is to create a regularized appointment system for the Justices, with future Presidents having one appointment every other year; after 18 years, a Justice would move to Senior status and would be available to sit on cases if there were a recusal or a vacancy.
- Largely because of mandates imposed by Congress, the Chief Justice has been given very significant powers, beyond deciding cases, that are not held by other Justices. The proposal would set a limited term for future Chief Justices, of something like the seven years that the chief judges of the courts of appeals and district courts have.
- The current certiorari process gives the Justices almost total control over both the number of cases that they hear each year and the subjects that they choose to
consider. The proposal would assign most certiorari decisions to a body of experienced circuit court judges, that would be directed to grant a minimum number of cases each Term, with the Court retaining the ability to select other cases for review.

- At various times, Justices have become physically or mentally unable to perform the full range of duties of their offices, but there is no statutory mechanism to deal with that situation. The proposal would require that the Chief Justice take appropriate action if another Justice becomes unable to perform her or his duties.

Each panel will start with a short presentation outlining the reasons for the proposal and how the proposal responds to those needs. Other panel members will agree or disagree, and there will be ample time for audience participation in the form of comments or questions. The conference organizers recognize that there are constitutional issues surrounding some of these proposals, and they have arranged to include papers on those issues on the conference website, along with other papers related to the proposals. This program, however, is designed to focus on the policy issues surrounding these proposals, with questions of how to achieve these goals to be considered in the future.

The program will be held in the Jacob Burns Moot Court Room at the George Washington Law School and space is limited. To be sure that you will be able to be in that room and not have to sit in the overflow room, please respond through the website or by contacting Dan Ngo at 202 994 4692 or dngo@law.gwu.edu. If you have any questions about the program, please direct them to Alan Morrison, the Lerner Family Associate Dean for Public Interest & Public Service at 202 994 7120 or abmorrison@law.gwu.edu.

There is no charge for the conference which is being sponsored by the Law School. Unfortunately, it has no funds for travel for invitees. We have, however, arranged to have the program simultaneously webcast and then put on the website for future viewing.

There are two hotels that are only a short walk from the Law School. The George Washington University Inn (824 New Hampshire Ave NW – 800-426-4455 or 202 337 6620) has a preferred rate of $179 per night, which you can get by calling by October 23rd and using the Booking ID of 239951. The other is the One Washington Circle Hotel (One Washington Circle, 800 424 9671) for which the rate is $209 and for which there is no deadline. I look forward to seeing you at what we believe will be a very exciting and important event.

**THIS CONFERENCE IS OPEN TO THE PUBLIC AND SO PLEASE SHARE THIS INVITATION WITH OTHERS IN YOUR OFFICE AND OUTSIDE OF IT.**

Frederick M. Lawrence, Dean

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