

5th Amendment Change Is Sought by Sen. Ervin

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Sen. Sam J. Ervin (D-N.C.) offered an amendment to the Fifth Amendment yesterday and the top prosecutor in Philadelphia promptly counselled against its approval.

Ervin placed his amendment in the hopper and urged the Constitutional Amendments Subcommittee to help him undo the effects of recent Supreme Court decisions on the use of confessions in criminal cases.

Philadelphia District Attorney Arlen Specter then urged the Subcommittee to reject any constitutional change designed to work partial repeal of one or two unpopular Supreme Court decisions.

Last month the Court held that in-custody police questioning is inherently coercive and outlawed confessions obtained without effective warning to prisoners on their constitutional rights. The Subcommittee is studying the ruling's impact.

Ervin called for a return to a confession test that excluded only "involuntary" statements extracted from suspects under physical force or threats.

The amendment would uphold trial judges' findings of voluntariness if supported by "any competent proof." The Court, which said psychological pressures rendered brute force obsolete, put the burden of proof on the prose-

cution in disputes over trial use of dangling statements.

Ervin said policemen had been "handcuffed" by the Court. Chairman Birch Bayh (D-Ind.) told Ervin, who is Chairman of the Subcommittee on Constitutional Rights, that his amendment would be "carefully considered" at hearings expected to last several months.

Specter, who served as a staff lawyer with the Warren Commission, investigated the assassination of President Kennedy, said there was "danger in case-by-case amendment" of the Bill of Rights.

If an unpopular ruling is allowed to lead to partial repeal of the protection against self-incrimination, another reaction could abridge the equal protection guarantee or the First Amendment's speech, press and religion freedoms, Specter said.

Specter conceded that the June 13 ruling, *Miranda v. Arizona*, had made the prosecutor's job more difficult. He added that from talks with crime victims and trial witnesses, "it is my opinion that many people believe that the rights of the law-abiding citizens are being ignored by the Court."

The 35-year-old prosecutor said the Court, "historically, has been a great force for good. The question is whether we want to tamper with the institution of the Court or accept some disadvantages."