

Specter Raps Procedure For Revising Crime Law

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Washington, July 22—Philadelphia District Attorney Arlen Specter today recommended a basic change in the decision-making process by which the U. S. Supreme Court makes "fundamental modifications in constitutional law."

He also recommended that "many of the questions" now considered by the high court "might better be considered" by Congress.

"I have substantial doubts about the wisdom of many Supreme Court decisions," Specter explained, "but I have greater doubts about my own

personal wisdom on the same subjects.

"However, I do believe that the procedure now used for making such sweeping changes in constitutional law on original procedures are open to substantial doubt."

Testifies Before Senators

Specter made the recommendations in a statement prepared for the U. S. Senate Subcommittee on Constitutional Amendments headed by Sen. Birch E. Bayh, Jr. (D-Ind).

The committee is studying the effect on law enforcement of recent decisions of the high court liberalizing the rights of defendants in criminal cases.

Specter said he is "opposed to any constitutional amendment which would limit the authority of the Supreme Court to rule on questions of state criminal procedure."

"Rather than changing any specific (high) court decision or limiting the authority of the court generally by constitutional amendment," he testified, "this distinguished subcommittee might well consider the adoption of legislation or a constitutional amendment which would delineate procedures for future Supreme Court decisions."

Consider Basic Material

"In my view," he explained, "it would be highly desirable for the Supreme Court to conduct extensive hearings and consider much basic evidentiary material before making fundamental modifications in constitutional law."

Recognizing that the burden on the Supreme Court "would obviously be enormous" under such a proposal, Specter added, nevertheless:

"But the burden on other courts and agencies across the nation, occasioned by the Su-

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preme Court's decisions, has been enormous. As difficult as it would be for the Supreme Court to consider the wide range of questions which bear on these matters, it is my opinion that such extensive consideration is imperative before fundamental changes are made in constitutional law on criminal procedures."

Under present practice, the Supreme Court normally bases its criminal law decisions on the facts of a single or several cases and then applies its decisions to the general area of criminal law.

Lacks Relevant Factors

"It is obviously trite," Specter testified, "to say that many of the complex factors should be considered on such questions, but it may not be so obvious that the Supreme Court of the United States does not have before it all the relevant considerations."

"The confines of a single case like Mapp vs. Ohio, or a group of cases, such as were decided under the heading of Miranda vs. Arizona, provide an extremely limited forum for the consideration of such issues."

In the Mapp case, decided in 1961, the high court ruled that

evidence obtained by an illegal search and seizure could not be used in the prosecution of criminal cases in state courts.

In the Miranda case, decided last month, the high court ruled that suspects and defendants in criminal cases must be warned of both their right to remain silent and their right to counsel before being questioned by police.

Change in Emphasis

Specter said that under the high court rulings, "The search for the truth, as the essential ingredient for determining guilt or innocence, has given way to deciding whether police procedures conform to the fundamental concepts of fairness in a free society."

"Convictions are frequently reversed where there is no real doubt as to guilt because procedural safeguards have not been observed."

"In balancing these complex values, there is much to be considered beyond the facts of a specific case which may reflect unfair tactics by police."

"In my opinion, it is simply not possible to generalize usefully in the abstract about the values to the community as opposed to the rights of defendants, without considering a great many factors."