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Ervin Rules Out Inquiry Into F.B.I. Now

By CHRISTOPHER LYDON
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WASHINGTON, April 18— Senator Sam J. Ervin Jr. said today that he would not make the Federal Bureau of Investigation a target of his inquiry into Government surveillance unless he saw some evidence of illegality first. He said he had not found such evidence in nearly three years of search.

Senator Ervin is chairman of the Senate Subcommittee on Constitutional Rights, which brought the Army's domestic intelligence operation to public attention last month. He said he would order a staff review of reports that the F.B.I. moni-

tored Earth Day activities around the country last year and had used an electronically equipped informant to question Representative John Dowdy in his office.

But in both of these instances, he said, he has not yet seen evidence that the F.B.I. exceeded its authority.

"I abhor their conduct in the Dowdy case," said Senator Ervin of North Carolina, a Democrat and former judge, who is a conservative on many issues, including race, but an outspoken defender of the individual liberties in the Constitution's Bill of Rights.

"Frankly I don't like for

them to send in an informant with an electronic device on him," he continued, "but that's just my personal feeling. It's reprehensible, but I'm not sure it's illegal.

With respect to the surveillance of Earth Day, brought to light last week by Senator Edmund S. Muskie of Maine, Senator Ervin appeared to accept the Nixon Administration's explanation that there had been potentially dangerous individuals among the wide spectrum of speakers.

"Surveillance of people of the character of Rennie Davis," he said, referring to one of the antiwar leaders convicted of crossing state lines with intent to incite riot during the Democratic Convention at Chicago in 1968, "is probably the duty of the F.B.I."

Boggs Evidence Awaited

Responding to a charge by Representative Hale Boggs, the Democratic leader in the House, that the F.B.I. had tapped Congressional telephones, Mr. Ervin said, "I'd be glad to hear from Representative Boggs on that." But he insisted that he had seen no supportive evidence so far.

The quick succession of revelations and charges regarding the F.B.I. has prompted the first high-level discussion of a general Congressional review in the bureau's history.

Senators John V. Tunney of California and Edward M. Kennedy of Massachusetts, both Democrats and members of the Judiciary Subcommittee on Constitutional Rights, have proposed an inquiry into F.B.I.

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procedures. And, after the investigation of Representative Dowdy was confirmed, Senator Mike Mansfield on Montana, the Democratic leader, urged that Senator Ervin and his subcommittee "look into it."

But Senator Ervin insisted today that, while he would not be intimidated by the bureau, he would not be rushed into an investigation. And Senator Mansfield said he had never meant to ask for an inquiry at all.

Political Obstacles Cited

Senator Ervin observed that there would be political obstacles to an investigation of the F.B.I. The subcommittee, he said, would be "very much divided, on ideological lines," about such a project.

He added: "I wouldn't ask the subcommittee to go any further without some hard evidence that the F.B.I. had exceeded its authority. And after two and a half years, I haven't heard any of that evidence."

Although he was particularly disturbed by the case of Mr. Dowdy, a Texas Democrat, held Congress responsible for authorizing eavesdropping. The fact that the subject of this investigation was a Congressman is immaterial, he said. "Personally, I don't think there's any difference between tapping the phone of a Congressman and any other citizen," he said. Congressmen are not entitled to any exemption from laws that apply to other citizens."

Senator Mansfield, who first dismissed the complaints against the F.B.I. as "a tempest in a teapot," but then seemed to change his mind yesterday, said today that he had meant to put the burden on the F.B.I.'s critics to take their evidence before the appropriate

committee of Congress, in this case Senator Ervin's subcommittee. He was not assigning Senator Ervin the responsibility of opening an investigation, he said.

Kind Words for Hoover

Senator Ervin, who will be 75 years old in September, had only kind words for J. Edgar Hoover, the F.B.I.'s 76-year-old director, whom Senator Muskie and other Democratic contenders for the Presidential nomination have said they would retire.

"I'm under the impression that Mr. Hoover's done a very good job," Senator Ervin said. "Just because of age and length of service—and I've had a good deal of both—I don't believe you ought to be putting a man out of office just because he's lived a long time. But maybe I'm not objective about that."

Meanwhile, Senator Robert J. Dole of Kansas, the chairman of the Republican National Committee, charged Senator Muskie with a purposeful effort "to hurt the F.B.I. and the job it has done."

In a speech released today for delivery tomorrow at a meeting of Republican Governors at Williamsburg, Va., Senator Dole said Mr. Muskie, himself a participant in Earth Day activities here, had spoken of 40 to 60 F.B.I. checks on Earth Day when, according to Senator Dole's investigation, there had been only four.

"Now why was the F.B.I. watching even four of these events?" he asked. "It was not to maintain surveillance of the event or of the Senator, but cause certain radical revolutionary individuals were expected to attend."