

'Mr. Impeccable':

Ties That Bind

A Commentary

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The administration ostensibly brought Mr. Impeccable, Archibald Cox, down from his Harvard Law School professoriate to prosecute the Waterbuggers; but the man with the bow tie and the stiff neck seems more interested in putting Senator Sam in jail. Falling in step with Spiro Agnew and a host of other disinterested people whose only concern is justice, Mr. Impeccable contends that televising Senator Sam and his committee at work will make a speedy, fair and impartial trial impossible.

Appearances to the contrary, Mr. Impeccable isn't the administration's ally, only its unknowing tool. The Special Prosecutor is the genuine article. Those ties he wears aren't clip-ons, he knots them himself; and if he allows himself to be fashioned into the only weapon the Nixon people would dare use against Senator Sam, it's because he acts out of a prideful, brainy scorn that can't simply be attributed to a place on the Harvard law faculty.

Mr. Impeccable is so deeply read in the law and so imperiously oblivious to its reasonable application that he believes there should be no difference between the way Watergate is handled and the prosecution of a liquor store holdup. It says in the rules of criminal procedure that pretrial publicity can hamper the selection of an impartial jury, so publicity should be suppressed. Senator Sam should either suspend his hearings, or keep them secret until the last of the Watergate suspects are tried which, at the rate Mr. Impeccable and the Justice Department are moving, will be around 1981.

In the meantime, the public is to be deprived of the most important information regarding the conduct of half the upper levels of the executive branch. Setting aside the conclusion that Watergate suggests—that major changes are needed not only in our election laws but in the organization of the White House—it is also true that some of the most serious accusations made against these freebooters may not even be indictable offenses.

As unbelievable as some of the witnesses have been whom Senator Sam has quoted poetry and Bible verse to, most of the lying here in Washington hasn't been under oath. The pillaging, the polite extortions, the throwing around of hundreds of thousands of dollars,

much of the wiretapping and many of their other disreputable practices may be simultaneously legal and widely destructive.

Senator Sam knows this and that's why he's said, "It is much more important for the American people to find out the truth about the Watergate case than to send one or two people to jail."

It is one of the recurring ironies of this case that the faction which most wants the strictest rules of evidence, criminal trials and jail sentences consists of Richard Nixon and the White House crowd. They've spent hundreds of thousands of dollars paying their own people to shut up and go to jail.

Jail is the tomb of truth. McCord knew this. That's why he grew feathers and turned canary. He knew that those promises of executive clemency were worthless, that the moment they locked the doors on him in the Atlanta Federal Slam, he'd never be heard from again.

What scares administration men like Agnew is just what they say: "... When a witness testifies to what some third party told him, he frequently is then asked to elaborate on details of the hearsay statement and pressed to say whether his informant mentioned still another person."

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No testimony of that sort is allowed in a law court and rightly so; but a law court seeks to pronounce a person guilty or not guilty of a particular crime. It has no other kind of truth in mind and needs none; what we need to know is the larger, sloppier truth about the biggest and most dangerous political conspiracy in our history.

To go the other way, to satisfy Mr. Impeccable's tastes, would be to freeze the legislative branch at a time when they should be awakening from their customary torpor while also impaneling a jury of such ignorance that even a Maurice Stans might shrink from submitting himself to their judgment. Let's say Senator Sam is cut off right now and we have no more pretrial publicity. Imagine the cretins who could say at this date, a year after Watergate, that they'd never heard of the case and formed no opinion about it.

No one who looks back at the early 1950s, who remembers what Richard Nixon himself did as a congressional investigator, can feel entirely at ease about unchecked, mob-ridden senatorial inquiries.

But there are differences.

Senator Sam displays a regard for constitutional rights that Dick Nixon and Joe McCarthy didn't, and the putative culprits aren't a small bunch of disowned, isolated and universally despised Commies being pursued by the press and all three branches of government; they're the President's men accused of committing acts paid for by the richest corporations and individuals in America.