

# Sen. Ervin: 'I See No

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Uncle Sam, as the popular T-shirts call him now, was a little bit hot. When the audience saw that, it settled into respectful silence, the way anyone would listen to a lecture from Grandpa.

"I love my country," the old man said, with a simplicity of expression which always gathers force in his delivery.

"I venerate the office of the President," he explained. "And I have the best wishes for the success of the incumbent, the present incumbent of that office—because he is the only President this country has at this time."

So without malice, but still with strong feeling, Sen. Sam J. Ervin Jr. picked up the challenge laid down by President Nixon yesterday. As one senator on the Watergate committee is said to have remarked in their private session, where they unanimously authorized a subpoena to Mr. Nixon:

"The gauntlet has been tossed."

From his manner, you could tell the committee chairman was a little angry. At 76, Ervin is the one folk figure to emerge from the Watergate mess. The TV audience has seen him josh and cajole, posture and pontificate before. But previous performances were not quite like this.

The slight stammer, an endearing air of casvay befuddlement, was gone. The

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heavy eyebrows which jiggle haphazardly in ordinary conversation were still. The senator held glasses forward on the green-covered table and spoke to the history books.

It is not just the law, said Ervin, North Carolina's most famous student of the Constitution. It is, he insisted, a question of moral leadership.

"The President of the United States, by reason of

the fact that he holds the highest office in the gift of the American people," Ervin said, "owes an obligation to furnish a high standard of moral leadership to this nation. And his constitutional duties, in my opinion, and undoubtedly his duty of affording moral leadership to the country, place upon him some obligation under these circumstances."

Ervin framed the contest just as it will be fought, both in the courtroom where lawyers prevail and in the unpredictable realm of public opinion where every citizen has a voice.

The Senate investigating committee hopes to persuade the federal judges, probably ultimately the Supreme Court, that Mr. Nixon's doctrine of executive privilege does not protect the White House tape recordings and papers which might shed light on criminal activity. But, meanwhile, the committee chairman hopes that stimulating increased pressure of public disapproval

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al might also make Mr. Nixon's position untenable.

The audience in the Senate Caucus Room, where Ervin presides, had a pretty good idea of what was coming when the chairman strode in alone for the afternoon session. It applauded spontaneously, a commonplace reaction now when Ervin appears.

He noted in good spirit that the President was canceling their much-anticipated meeting on the Watergate business. For Ervin, that was a clear line drawn in the dust, a message that compromise was no longer a viable option, as they say at the White House.

"Well, at long last," said Ervin, "I have got something I agree with the President on in connection with this matter. If the President does not think there is any useful purpose that can be obtained by our meeting together, I will not dissent from that view. So I will not ask for the privilege of visiting the White House."

The audience laughed at Ervin's gentle figure of speech, but he quickly made clear that he was not going into any down-home number about amusing country lawyers.

After he read President Nixon's letter of explanation, Ervin addressed its content with wonder bordering on contempt.

"This is a rather remarkable letter about the tapes," he said. "If you will notice, the President says he has heard the tapes or some of them and they sustain his position. But he says he's not going to let anybody else hear them for fear they might draw a different conclusion."

Senator Ervin, who is a strict constructionist when he reads the Constitution, insisted that "separation of powers" or the doctrine of "executive privilege" which flows from it does not empower the President to "separate a congressional committee from access to the truth concerning alleged criminal activities."

Then Ervin framed the issue in a way calculated to move public opinion as well as federal judges:

"We have evidence here that, during the time the President was running for re-election to the highest office in the gift of the people of this nation, that some of his campaign funds were found in the possession of burglars in the headquarters of the opposition political party.

"And I think that high moral leadership demands that the President make available to this committee any information in the form of tapes or records which will shed some light on that crucial question how did it happen that burglars were caught in the headquarters of the opposition party with the President's campaign funds in their pockets and in their hotel bedrooms at the time?"

Whatever the outcome in the legal battle, Ervin suggested that, even if the President won in that arena, he

might still lose the other battle for public opinion.

"I don't think the people of the United States are interested so much in abstruse arguments about separation of powers or executive privilege," he said, "as they are in finding the answer to that question."

Then Ervin, the student of the Constitution, the old grandfather who remembers all the great battles, won and lost, of America's past, placed the struggle in the context of history.

"I think the Watergate tragedy is the greatest tragedy this country has ever suffered," the 76-year-old senator from the South asserted. "I used to think that the Civil War was our country's greatest tragedy, but I do remember that there were some redeeming features in the Civil War in that there was some spirit of sacrifice and heroism displayed on both sides."

Uncle Sam Ervin concluded grimly: "I see no redeeming features in Watergate."