

# Ervin Lectures Dean—and

6/29/73

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Next to maybe the Bible, the old man from North Carolina holds strongest to the U.S. Constitution, an old friend that goes with him everywhere.

He was a judge before he was a senator, and Sam J. Ervin is not the least embarrassed about opening the book and reading from the Founding Fathers over network television:

"The right of the people to be secure in their persons, houses, papers and effects against unreasonable searches and seizures shall not be violated . . ."

That's the part which protects citizens against White House burglars or a wiretap on their telephone without a proper search warrant.

Usually, whenever Senator Ervin brings up such elemental matters, he is in-

dulged affectionately around the Senate, with occasional snickers. It's a nice touch, having a lovable old man who quotes the Bible and the Constitution.

But yesterday, the words had a certain fierceness when Ervin read them. He was ostensibly interrogating John Dean, the former presidential counsel, but really he was lecturing the nation on what the Watergate hearings are genuinely about.

"And I will ask you, as a lawyer, if you do not think that surreptitious entry or burglary and the electronic surveillance and penetration constituted a violation of the Fourth Amendment?"

John Dean, whose own sense of constitutional values is less esteemed, could only consent. "Yes sir, I do," he said cooperatively.

From the Fourth Amendment, the 76-year-old Senator from Morganton, N.C.,

worked his way through several federal laws which he thinks have been ignored or breached. He paused again to savor the First Amendment, then on to Article II, and concluded with a short lecture on English common law. The net effect was a powerful statement, even an ominous one for President Nixon, because it reflected most clearly Ervin's own disgust with the revelations of White House abuses.

Dean, a garrulous witness for four days, could do no more than play obliging foil for Ervin's points. Yes, he agreed that the White House back in 1970 had approved a domestic intelligence plan which breached the constitutional safeguards. No, Dean agreed, there was no clear documentary evidence that Mr. Nixon had ever rescinded the plan.

Ervin's words were law-

yer-like and direct. It was his face which made the damning comments. His great jowls wobble and the

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mouth moves like an old snapping turtle. The eyebrows flutter like exclamation points.

"Don't you think," Ervin asked, as if only a scoundrel could disagree, "there was an intellectual fear prevalent at that time . . . among some people in the White House about Americans who undertook to exercise their First Amendment Right to petition for regress of grievances?"

"I think that is correct," Dean replied, "when you put it in the political context."

"Well," the senator flattered, "all of this was in the political context, was it not?"

# the Nation—on Constitution

In particular, the senator seemed aroused by the idea of a "political enemies" list at the White House, singling out people who spoke against the President's position on various public issues. Ervin singled out the name of Samuel M. Lambert, executive of the National Education Association, who was listed because the public-school organization opposes federal aid to parochial schools.

"Here is a man listed among the opponents to enemies," Ervin said with wonder, "whose only offense is that he believed in the First Amendment and shared Thomas Jefferson's conviction, as expressed in the Virginia Statute for Religious Freedom, that to compel a man to make contributions of money for the dissemination of religious opinions he disbelieves is sinful and tyrannical. Isn't that true?"

Dean replied obediently: "I cannot disagree with the chairman at all."

Ervin summed it up for those who might have lost the string of his thoughts: "So we have here plans to violate the Fourth Amendment, which were approved by the President according to Mr. Haldeman. We have people being branded enemies whose mere offense is that they believed in enforcing the First Amendment as proclaimed by the Supreme Court of the United States just about a week ago."

"That is correct," said Dean.

"Yes," said Ervin. The way he said "yes" was like slapping the table.

Then the senator sent a message to the President, via TV, in the form of a short lecture on English common law and the credibility of witnesses. The White House has been at-

tacking Dean's credibility all week, including a lawyer's memorandum from J. Fred Buzhardt which asserted that the President had been seeking eagerly to get all the facts out.

The way Senator Ervin reconstructed events, with the corroboration from Dean, the President did not sound like a man eager to bring out the truth. Ervin recalled that Mr. Nixon had invoked "executive privilege" to bar any testimony by White House officials.

That, he noted, was "about a month after Mr. Buzhardt says that the President was anxious for all the facts to be revealed. Do you know how facts can be revealed except by people who know something about those facts?"

Dean laughed with the audience. "No sir, I do not," he said.

What about Article II of

the Constitution, Ervin wondered, and its commandment that a President "shall take care that the laws be faithfully executed?" Did Dean see anything like that when he worked at the White House?

"Mr. Chairman," Dean demurred, "I have given the facts as I know them . . . I would rather be excused from drawing my own conclusions on that."

Ervin wasn't waiting on an answer anyway. Loud enough to be heard in San Clemente, the senator summoned up "the experience of the English-speaking race." Doesn't it demonstrate, Ervin asked, that only when a witness submits himself to public cross-examination can his testimony be believed? Dean has, the President has not.

"That is correct," the witness agreed.