



Ervin: Memories of a Supreme Court appearance

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**Improper Conduct?**

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## The Senator's 'Skeleton'

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### Washington

SENATOR Sam Ervin wears a kind of halo these days as he sits in judgment on Watergate sinners.

If he is bothered by skeletons in his own closet, the owlish 76-year-old North Carolina Democrat doesn't show it.

A touchy episode in Ervin's past was his 1965 appearance before the U.S. Supreme Court as a paid lawyer for a private client — a role termed "improper" and "questionable" by some opposing attorneys.

In 1965 Ervin showed up in the Supreme Court to represent Darlington Manufacturing Company, a chain of mills in the Carolinas, to defend it against the government's charges of unfair labor practices.

After preparing an 81-page brief, he argued for Darlington against the National Labor Relations Board and the Textile Workers Union.

"To be sure, I received compensation and it was duly reported for income tax purposes," Ervin said.

He maintained that a company has a right to close down its business — one of the points at issue in the case — and said he would defend the principle without pay, if necessary.

"We thought Ervin's participation was improper," said Tom Harris, the AFL-CIO's Associate General Counsel.

Stephen Schlossberg, Chief Counsel for the United Automobile Workers, who is friendly to Ervin, nevertheless termed it "questionable whether a sitting senator

should argue that kind of case."

The case revolved around Darlington's shutdown of a plant after employees voted to join a union. Darlington claimed economic factors forced the move, but the courts ruled the shutdown, which threw the plant's employees out of work, an unfair labor practice under certain interpretations of the law.

Ervin was retained only when the five-year legal battle first reached the Supreme Court. Ultimately, Darlington lost, several million dollars in back pay were awarded and claims

are still being processed. With Ervin now playing a key role in roasting President Nixon, some of his old foes don't seem to be mad any more.

Textile Workers attorney Patricia Eames and Irving Abramson, who worked on Darlington, is an example.

"It's hard to know what is unethical because people's standards differ," Miss Eames said.

Even Benjamin R. Fern, counsel for the senate ethics committee, which rides herd on conflicts of interest, would say nothing to offend the portly potentate of Watergate.