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A Conversation with Karl E. Campbell

Author of *Senator Sam Ervin, Last of the Founding Fathers*

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Q: Why did you write a biography of Senator Sam Ervin, and why now?

A: I cannot think of another historical figure that is more relevant to the political crisis we face today. Just over thirty years ago Senator Ervin led the congressional counter-offensive to Richard Nixon's imperial presidency. He became a national hero when he chaired the Senate Watergate hearings which exposed the Nixon administration's "white house horrors." Because of Ervin's old-fashioned country lawyer charm, his advanced age—he was seventy-six—and his fundamental faith in Constitutional government, reporters began calling him "the last of the founding fathers."

Today another presidential administration is claiming unchecked executive power in a time of uncertainty and fear. I believe that this biography of Senator Ervin can contribute to our national debate over how to balance national security with individual freedom.

Q: Do you believe that Ervin's primary historical legacy was his role in Watergate and is that the main focus of the book?

A: Obviously Watergate represented the highpoint of Ervin's career, but that scandal emerged from a long series of constitutional battles between Ervin and the Nixon administration over executive power, secrecy, domestic spying, civil rights, and civil liberties. The book actually focuses more on Ervin's road to Watergate, and the often overlooked historical context in which the scandal emerged, than on the details of the Watergate story itself.

But there is much more to Sam Ervin than just Watergate. He served in the Senate from 1954 to 1974 and participated in many of the most important political events of the second half of the twentieth century. For instance, Ervin played a major role in bringing down Senator Joseph McCarthy in the 1950s and he fought very hard to protect the separation of church and state in the 1960s. His many crusades to defend civil liberties and personal privacy, long before the advent of Richard Nixon, are certainly important as well. But if it had not been for Watergate his greatest historical legacy would have been his consistent battle against civil rights. Few politicians contributed more to the South's defense of Jim Crow than Sam Ervin. The book gives equal attention to his record on both civil liberties and civil rights.

Q: It seems to be a contradiction that Ervin was both a defender of civil liberties and an opponent of civil rights. How do you explain this paradox?

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A: There is considerable debate about this question. Sam Ervin liked to say that it was not the civil rights of some Americans but the civil liberties of all Americans on which he took his stand. Ervin and his many defenders argued that he was not a racist but a true believer in limited constitutional government who fought against all infringements on individual freedom. Ervin's critics dismissed this intellectual defense by pointing out that he opposed every single civil rights bill proposed during his two decades in the Senate. They suggested that Ervin was a rational segregationist who hid his racism under a cloak of constitutional respectability. I believe that neither the orthodox defense of Ervin as a consistent constitutional libertarian nor the critical attack on the senator as an inconsistent southern obstructionist can withstand a close review of the historical record.

Perhaps it was Ervin himself who hinted at a more revealing way to understand his political philosophy when he told a story about a ninety-five year old man who was celebrating his birthday down home in North Carolina. When a reporter suggested that he had lived a long time and must have seen many changes, the old man answered, "Yup, and I have been against every damn one of them." Sam Ervin, too, was against change. He built a constitutional ideology that rationalized and defended the traditional southern way of life that he valued so deeply.

Q: Tell us a little about Ervin's childhood in North Carolina.

A: The world in which Ervin was born in 1896 was drastically different from the world in which he served as a United States senator between 1954 and 1974. Morganton, his hometown, was a small village located just below the Blue Ridge Mountains in western North Carolina. It was so small that Ervin not only knew the names of all the people in town but also the names of all their dogs and cats. He grew up in a time when buggy whips, pickle barrels, ice wagons, washboards, and outhouses were common items of daily life. Sam was one of ten children who lived comfortably in a big house on the outskirts of town. Indoor plumbing and electricity did not arrive at his home until he was a teenager. Firsthand accounts of the Civil War and Reconstruction filled the conversations on the front porch. His father was a lawyer who practiced in the old courthouse downtown. The Ervin family experienced several tragedies but Sam remembered his childhood as a very happy time in which "you had time to live."

Q: Where did Ervin get his education and how did it influence him?

A: Ervin went to the University of North Carolina at Chapel Hill and he loved everything about it. He later told his sister that there were few things in his life that he did not relate in some way back to his schooling at Chapel Hill. But it can be argued that his education came as much from his traumatic experience in World War I as it did from the classroom. After an early failure and demotion Ervin won a silver star for heroism in battle. He returned home in 1919 recovering from both physical and emotional wounds. He soon decided to study the law at Harvard University, but his sweetheart, Miss Margaret, was not sure if she would wait for him. So Ervin took the last year of courses first, then obtained Margaret's permission to take the second year courses, and finally he talked her into waiting one more year so that he could take his first year courses and finish his law degree before they got married. Thus, Sam Ervin went

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through Harvard Law School backwards. To this day some of Ervin's critics suggest his view of the Constitution was as backwards as was his legal education.

Q: Ervin often claimed that he was “just a country lawyer.” Was that really true?

A: Yes, he really was a country lawyer, just like his father, in the sense that they served all kinds of clients, in all sorts of cases, all across western North Carolina. One of my favorite Ervin stories is about an old mountain woman who came into Ervin's office unannounced to ask for some legal advice. Ervin pulled down some law books and spent about an hour talking with the woman. When she stood up to leave Ervin asked her for five dollars. “What for?” she asked. “For my legal advice,” Ervin answered. “Well,” the old woman snapped, “I ain't a-going to take it,” and she walked out the door without paying him. Years later, Senator Ervin used this same story to illustrate why the Watergate Committee would not accept President Nixon's legal rationale of executive privilege to avoid surrendering the Watergate tapes.

Q: Ervin did not go to the Senate until 1954 when he was fifty-eight years old. What did he accomplish before that time?

A: Even as a young man Ervin distinguished himself as an outstanding lawyer and state leader. In his twenties he served in the state legislature where he helped defeat a bill preventing the teaching of Darwin's theories in the public schools. In his thirties he served the interests of the conservative businessmen who ran the state by managing several challenges to their authority, including commanding national guard troops called out to put down a textile strike, and working with the local sheriff to stop the lynching of an already deceased African American accused of raping a white woman. In his forties he served as a prosecutor and judge in criminal and the state superior courts. By the time he was fifty he was one of the most respected justices on the North Carolina Supreme Court.

Q: In the book you quote a journalist as saying that Ervin was “the most North Carolinian of North Carolinians.” What does that mean and how does it fit into your understanding of the senator?

A: Sam Ervin deeply reflected the culture, and the contradictions, of his home state. Over fifty years ago the political scientist V.O. Key called North Carolina a “Progressive Plutocracy.” He believed that a small group of businessmen and their lawyers held a tight grip on the state's government, but that they also acted in a generally beneficent manner making North Carolina the most progressive state in the South. Ervin was steeped in the values of this influential group of Christian southern gentlemen. At the core of their belief system was what one scholar has described as a “progressive mystique” based on civility, tokenism, and especially paternalism. Ervin embodied his state's progressive mystique and he was a consummate practitioner of the etiquette of civility. Thus, as North Carolina's representative in the United States Senate, he opposed civil rights with a “soft southern strategy” and respectable constitutional argumentation. But he also took his paternalistic responsibility seriously, eventually defending the civil liberties of many Americans from the intrusive power of the federal government.

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Q: Can you explain why you describe Senator Ervin’s approach to defeating civil rights bills as the “soft southern strategy”? Why you think it was so significant?

A: Ervin replaced the traditional, angry, racist rhetoric of earlier civil rights battles with a polite, legalistic approach that proved much more effective. He always found a respectable legal or constitutional reason to oppose a civil rights bill instead of attacking the goal of the legislation—to give African Americans equal rights. While most scholars have dismissed Ervin’s soft southern strategy as mere legal sophistry and focused on the more openly racist approaches of such outspoken segregationists such as Senators Byrd, Thurmond, and Eastland, many civil rights activists believed Ervin’s soft southern strategy to be a far greater threat to their movement. I agree. Indeed, I argue that Ervin became the de facto attorney general for the southern caucus in the Senate and that his legalistic approach became the South’s most successful defense of Jim Crow. I also think that his soft southern strategy foreshadowed the color-blind logic that many of today’s civil rights opponents use to undercut contemporary efforts to advance racial equality.

Q: So how did this conservative southern segregationist become the Senate’s most respected champion of civil liberties?

A: Ervin inherited a deep respect for the rule of law from his father, and he grew up with a distrust of the federal government shared by many white southerners after the Civil War and Reconstruction. In the early 1960s he became chairman of the Senate Subcommittee on Constitutional Rights and he surprised many of his critics by expanding its agenda to defend the constitutional rights of several previously neglected groups such as the mentally ill, military personnel, and Native Americans. A few years later he pushed for bail reform, privacy legislation, guaranteed legal services for indigent defendants, and the right of anti-war protestors to demonstrate peacefully against the government. By the time Nixon came to the White House Ervin had evolved from a conservative civil libertarian into an activist champion of every individual’s right to privacy.

Q: What was Ervin’s position on the Supreme Court’s ruling against mandatory school prayer?

A: Ervin was outraged when he heard that the Supreme Court had ruled that school prayer was unconstitutional. He liked to tell a story about an elementary school teacher who entered her classroom to find several students down on their knees in a corner. When she demanded to know what they were doing, the students responded that they were shooting craps. “That’s ok,” the relieved teacher said, “I was afraid you were praying and that is against the rules.”

But after studying the issue in more depth Ervin changed his mind and decided that the separation of church and state prevented any government official, even a teacher, from requiring prayer. When Senator Everett Dirksen proposed an amendment to overrule the Court’s prohibition against school prayer, Senator Ervin surprised many of his friends and constituents by rising to speak against it. In one of his best speeches he called on the Senate to protect the freedom of religion by allowing every citizen to worship their own god in their own manner without government interference. The Dirksen amendment was defeated. It is rare to find a politician who is willing to put the consistency of their constitutional

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ideology above political expediency. The *Washington Post* called Ervin “an authentic hero.”

Q: What did Ervin think of Nixon when he ran for president in 1968 and did his opinion change over the next few years?

A: Ervin had never liked, or trusted, Richard Nixon, although the two men had not had many dealings with each other before Nixon became president. As conservatives they agreed on most of the major issues of the campaign. But Ervin and Nixon repeatedly clashed over civil liberties and the separation of powers during the president’s first term. Ervin held hearings to challenge Nixon’s impoundment of funds, doctrine of executive privilege, restriction of newsmen’s privileges, strengthening of the Subversive Activities Control Board, and other executive actions based on the president’s claim of “inherent Constitutional powers.” Watergate was the logical culmination of this progression.

Q: In a chapter titled “Rehearsal for Watergate” you discuss Ervin’s hearings into the Army’s domestic surveillance program in 1971. How did these hearings foreshadow Watergate?

A: It is actually an amazing story. For several years the U.S. military spied on the American people and kept secret computers filled with information about their lawful activity. The Army even kept notes on American politicians, which should scare anyone who understands our country’s historic distrust of military interference in a democratic society. When Ervin led an investigation into this clearly unconstitutional domestic spying many of the same people on both sides of the hearings made the same arguments about presidential power and individual freedom that they would make two years later during Watergate. Although the Nixon administration did not directly defend the military’s domestic surveillance during the hearings it lied to Congress about the program, withheld important documents by claiming executive privilege, and argued that national security trumped civil liberties whenever a president thought that it should. These hearings not only served as a rehearsal for Watergate, they foreshadowed the debates we are having today about how to conduct the so-called War on Terror.

Q: How do you explain Ervin’s tremendous popularity during Watergate?

A: Part of his appeal came from his appearance. Ervin was a nightmare on television, but his bobbing eyebrows, ample jowls, southern drawl, rambling quotations, and corny cracker barrel stories made him seem all the more real compared to the slick media-savvy bureaucrats from the Nixon administration. Another part of his popularity came from his obvious love of the Constitution and his almost naive faith in our system of checks and balances. He seemed like a voice from the distant past reminding us of our nation’s history and heritage. As one college student explained, “he says he’s just ‘an old country lawyer,’ but when he talks about the Constitution he makes you want to stand up to pledge allegiance.”

Q: Are there any historical lessons to be drawn from Ervin’s road to Watergate?

A: Historians are reluctant to suggest that we can draw conclusive lessons from the past, but Ervin did remind us that freedom is a precious gift that must be defended not only from external attacks but from

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internal threats as well. Like the founding fathers to whom he was so often compared, Ervin argued that unchecked executive power will inevitably lead to corruption. One can only hope that this central tenet of the American constitutional tradition will not be forgotten today.

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