

CEREMONY FOR THE PRESENTATION
OF THE PORTRAIT OF
FORMER ASSOCIATE JUSTICE SAM J. ERVIN, JR.

On January 22, 1987, at 10:00 a.m., the Supreme Court of North Carolina convened for the purpose of receiving the portrait of the Honorable Sam J. Ervin, Jr., former Associate Justice of the Supreme Court of North Carolina.

Upon the opening of Court on the morning of January 22, 1987, the Clerk of the Supreme Court sounded the gavel and announced:

“The Honorable, the Chief Justice and the Associate Justices of the Supreme Court of North Carolina.”

All persons in the Courtroom rose, and upon the members of the Court reaching their respective places on the bench, the Clerk announced:

“Oyez, Oyez, Oyez—The Supreme Court of North Carolina is now sitting in ceremonial occasion for the presentation of the portrait of former Associate Justice Sam J. Ervin, Jr. God save the State and this Honorable Court.”

The Clerk was then seated.

Chief Justice James G. Exum, Jr., welcomed official and personal guests of the Court, and recognized the Honorable Robinson O. Everett, Chief Judge of the U.S. Court of Military Appeals:

It is always an especially meaningful occasion when this Court and others close to it gather for the presentation to it of a portrait of one of its former members—in this case the late United States Senator and former Associate Justice Sam J. Ervin, Jr. We have so many distinguished guests and friends of the Court present today that I will not unduly detract from the business at hand by welcoming them all by name. All here are welcome and we are glad to have you. I would, however, like to acknowledge especially, first, the presence of our esteemed Lieutenant Governor Robert Jordan and, second, the presence of two persons who served this Court long and ably, first as Associate Justices and then as Chief Justices. They are former Chief Justice William Bobbitt and former Chief Justice Susie Sharp.

I also wish to express the Court's appreciation to all the members of the family of Sam J. Ervin, Jr., who honor us with their presence here today. I want, however, to acknowl-

edge the Honorable Sam J. Ervin, III, Judge of the United States Court of Appeals for the Fourth Circuit and son of the late Senator. I also especially welcome the Honorable Dickson Phillips, also a Judge of the Fourth Circuit Court of Appeals and former Dean of the University of North Carolina School of Law.

I now recognize the Honorable Robinson Everett, Chief Judge of the United States Court of Military Appeals and former counsel and consultant to the United States Senate's Judiciary Committee's subcommittee on Constitutional Rights, which was chaired by Senator Ervin. Judge Everett was instrumental in drafting the Uniform Code of Military Justice and is the author of the principal treatise on this subject. The Everett and the Ervin families have been close friends for several generations. It is most appropriate that Judge Everett will make the memorial address of presentation.

REMARKS OF ROBINSON O. EVERETT IN PRESENTING
THE PORTRAIT OF SENATOR SAMUEL J. ERVIN, JR.
TO THE NORTH CAROLINA SUPREME COURT
ON JANUARY 22, 1987

My last direct contact with Senator Sam Ervin, Jr., was in November 1984, when he sent me a copy of his autobiography "Preserving the Constitution." In a handwritten note at the front of the book, he referred to his friendship with my family, which had begun when he and my father were legislative colleagues in the 1923 General Assembly. As I read that note, I recalled the great fondness that father had for Senator Ervin; and how he had expressed to me his admiration of the Senator's unique career—which included distinguished service as a North Carolina legislator, a trial judge, a Congressman, and a State Supreme Court Justice.

I initially became acquainted with Senator Ervin through his judicial opinions, which I read with great diligence in preparing for the North Carolina bar examination in 1950. I realized at once that he could explain even the most complicated legal propositions in an understandable, persuasive, and often colorful manner. His autobiography mentions that he assumed his seat on the Supreme Court "with a determination to write my opinions in plain English requiring neither explanation or interpretation." That he wrote "with unmistakable clarity" was confirmed later by a

judge's tribute to him "that a person did not need to be a lawyer to understand his opinions."

During his 6 years as a justice, he was prolific; and he wrote 291 opinions for the Court, as well as some concurring, dissenting, and per curiam opinions. As an appellate judge I can recognize the significance of this accomplishment—especially since then there was no intermediate appellate court and all appeals to the Supreme Court were matters of right.

When he was appointed in June 1954 to fill the Senate seat left vacant by Senator Hoey's death, there was almost universal praise of the appointment. For example, the Winston-Salem Journal said:

By many of the criteria used in measuring the stature of public officials Sam Ervin, Jr., Associate Justice of the State Supreme Court, is one of North Carolina's biggest men. He has brains; he has integrity, courtesy, poise, tact, a never-failing sense of humor and a warm human touch which makes friends for him among his sharpest critics. Moreover, he has a broad social vision which makes him unafraid of new ideas, and an exhaustive knowledge of his State, its history and contemporary problems.

I was working in Washington at that time and I recall how, even as a Junior Senator, he immediately made a significant contribution by serving on the Special Committee which conducted the McCarthy hearings and ultimately recommended censure. Soon, he became a prominent member of the Judiciary Committee and the Armed Services Committee of the Senate; and for a number of years he chaired the Subcommittee on Constitutional Rights of the Judiciary Committee. I testified as a witness before that subcommittee and later served as a counsel for it from 1961 to 1964, and so I had an excellent vantage point to observe his deep devotion to the Constitution and his determination that the rights guaranteed Americans by that document must not be abridged. The hearings conducted by the Subcommittee on Constitutional Rights under his chairmanship made important contributions to protecting the rights of the mentally ill, defendants in federal criminal trials, American Indians, and many others. He perhaps was the first legislator to appreciate fully the danger to privacy that was being created by new technology for surveillance and data retrieval. His efforts led to bail reform and to speedy trial legislation; and with equal vigor and success, he fought against preventive detention, as proposed by the Nixon administration.

I was especially involved in his subcommittee's hearings on the rights of military personnel. Thus, I am well aware that millions of Americans who have served in the armed forces over the past two decades owe Senator Ervin a great debt because of his leadership in devising the Military Justice Act of 1968. That Act greatly enhanced the fairness and efficiency of courts-martial and reconciled the demands of justice with those of discipline. Currently, as Chief Judge of the Court of Military Appeals, I see daily the benefits that have resulted from this important legislation.

Of course, every North Carolinian can take pride in Senator Ervin's leadership in bringing our Government through the constitutional crisis of Watergate. Like him, I am a Presbyterian; and perhaps for this reason, I tend to believe that his important role at that crucial time was divinely ordained. Certainly, he was the right man in the right place at the right time.

His performance as a Senator on that occasion and many others exemplified the courage which he demonstrated throughout his life. Indeed, his valor was attested early in his life by numerous decorations he received for his service during World War I. Also, it is reflected by his resigning his officer's commission so that he could immediately reenlist as an enlisted man and thereby obtain combat service.

Senator Ervin was his own man. He would vote against a bill that he thought was wrong, even if he might be casting the only negative vote; and likewise, he would support persistently any measure he thought was right. For example, the Military Justice Act of 1968 was the result of a 6-year struggle on his part. The Speedy Trial Act of 1974 was enacted by Congress, almost as a personal tribute to him, after many years' effort on his part to obtain such legislation.

Many think of Senator Ervin as a conservative; and in many ways he fits that description. He sought to conserve and protect the values enshrined in the Constitution and the Bill of Rights. However, I also view him as a liberal in the tradition of political thinkers like John Locke, who believed that governmental interference with private citizens should be reduced to the minimum. Senator Ervin always was concerned with preserving individual freedom against undue concentration of power in Government—especially in the Federal Government. His views in that regard were sometimes unpopular in many quarters—as when he opposed the proposed equal rights amendment to the Constitution and the prayer-in-the-schools amendment. However, his positions

were consistent with the premise that governmental intervention in private affairs, even for desirable ends, is dangerous. Under no circumstances would he tolerate governmental interference that was not clearly authorized by the Constitution—for which his reverence was second only to his reverence for the Bible.

I have heard that a documentary about him may be produced under the title "The Last of the Founding Fathers." That title would be quite appropriate, for Senator Ervin was probably more attuned to the ideals of the draftsmen of our Constitution and Bill of Rights than any other person in public life since the early days of our Republic. Indeed, in view of his dedication to the Constitution, it is especially fitting that his portrait is being presented to this Court in this bicentennial year.

Senator Ervin had a deep faith in God, a keen mind, a unique ability to communicate, a great sense of humor, and touching humility. Also, he was blessed with the love and support of a remarkable and devoted wife and a fine family and the affections of his fellow citizens.

The members of this Court can take pride that he once served here as a Justice. The citizens of our State can feel proud that he represented us in the United States Senate. All the people of our Country can be grateful that he was one of us. Therefore, with great pleasure, and in behalf of his family, friends, and his innumerable admirers, I present to this Court the portrait of its distinguished former Justice, Senator Samuel J. Ervin, Jr.

The Chief Justice announced the unveiling of the portrait by Dr. Jean Ervin, sister of the former Associate Justice.

[UNVEILING OF PORTRAIT]

The Chief Justice then made his remarks accepting the portrait:

On behalf of the Court, let me say thank you to the Ervin family for the gift of this impressive portrait and to Judge Everett for his informative address. Both go a long way toward capturing the essence of the great man whom they memorialize. Judge Everett's address will be spread upon the minutes of this Court and will be printed in a volume of the North Carolina Reports. The portrait will be hung in an appropriately prominent place on the third floor of this building. There it will serve to remind those who enter and serve here of Sam J. Ervin, Jr.'s profound and enduring contributions to the law of this State. Of all the living

members and former members of this Court, only former Chief Justice Bobbitt actually served here with Justice Ervin, but all of us knew Justice Ervin to be a man of uncommon eruditeness and skill in both speaking and writing the English language. All of us have read after him and thereby have learned from him. His portrait will remind us of these things and will be a source of strength and encouragement to us and our successors for many years to come.

The Clerk then escorted the Ervin family to their places in the receiving line. Members of the Supreme Court, official guests of the Court, and special friends proceeded through the receiving line until all had so proceeded. The ceremony was thereupon concluded.