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Interview with Sam J. Ervin

Sam J. Ervin Jr.

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**LOUISE PETTUS ARCHIVES AND SPECIAL COLLECTIONS
ORAL HISTORY PROJECT**

**Interview #123
ERVIN, Sam**

ERVIN, Sam

United States Senator, 1954-1974

Interviewed: March 7, 1981

Interviewer: John Cissell

Indexed by: Michelle Dubert-Bellrichard

Length: 00:38:26

Abstract: In his March 7, 1981 interview with John Cissell, Sam Ervin recounts his work as a U.S. Senator for North Carolina. Ervin explains his defense of Jim Crow Laws and his involvement in an investigative committee that unveiled the Watergate Scandal. This interview was conducted for inclusion into the Louise Pettus Archives and Special Collections Oral History Program.

Keywords: Civil Rights, Civil Liberties, Senator, Segregation in the South, Watergate Scandal, United States debt, federal government, Constitution

Interview Session (March 7, 1981): Digital File

Time Keywords

00:00:00 *Introduction/Question:* This is John Cissell graduate student at Winthrop College, Rock Hill, South Carolina interviewing former senator Sam J. Ervin Jr. at his office in Morganton, North Carolina on March 7, 1981 at 10:50am. Mister Ervin, you were born and raised here in Morganton. *Answer:* Yes, I, I live on a lot up yonder on which I was born. This is about 250ft from my house so I haven't got very far in this world from where I started.

00:00:43 *Question:* [Laughter] Um, as a youngster here in Morganton, what to you was the American dream? *Answer:* Well I don't know I ever thought very much about it but, um, this was a very delightful place. Whole lot smaller than it is now. I knew all the people, I knew where all the cats and dogs belonged and people, it was a very friendly community. And I thought that the best thing in that we could look forward to in this country was watching a baseball games.

00:01:18 *Question:* Yeah. Did they have a team here in? *Answer:* They always had a semi-pro baseball team back in those days [inaudible] They sometimes the boys in college players.

- 00:01:34 *Question:* That, that's interesting. Um, what made you choose a law career? Was it anything in particular, any incident? *Answer:* Well, I originally wanted to go to Annapolis and I took the examination before I finished high school and, um, they decided I didn't know enough math. If I had known enough math I'd have gone [inaudible, sounds like all sea dog.] Long ago. But I guess I'm just not. My father was a lawyer. He was, discussed law and cases and things and I guess he just like asked me, "son." I asked him one time and I think he decided to study law. He'd say "well I thought I was predestined to study law." Yeah, we have now [coughs] a fourth Sam Ervin to graduate Harvard Law School next May. That'll be the fourth lawyer in the family with the same name.
- 00:02:45 *Question:* That's great. That's great. Um, you have um, Mister Ervin you have been described and very well thought of as an expert on the U.S. judicial system. Was it ever a goal or a desire of yours to be on the Supreme Court? *Answer:* Well, I, [clears throat] Most all lawyers have a dream of being a judge and so I served on the, um, served as county judge for two years for the county general court and I served for seven years as the [unclear] judge in North Carolina and then six, over six years as Supreme Court Justice of North Carolina. I never expected to be on the Supreme Court of the United States, although the Republican leader in the Senate when I went there, William Knowland from California, told me that if there was a vacancy he was going to tell President Eisenhower to appoint me. So I don't think after President Eisenhower's day I could have been appointed or confirmed because of, I believe the Constitution means what it says and not what the judges might like to make it say.
- 00:04:02 *Question:* So you, um, you believe more or less in restrictive interpretations? *Answer:* Well, I wouldn't say that. I've been accused of being strictly constructionist, [clears throat] but I don't think I am. I think if the Constitution of the United States gives the federal government a power, that the provision given that power ought to be, uh, deliberately construed to affect the manifest that protects it. But I don't think the Constitution ought to be expressed to give the federal government the powers the Constitution denies it. If that makes me a strict constructionist I have to be guilty. I still interpret the present Constitution, I just finished [pauses] a 61-page document on why school buses is unconstitutional.
- 00:04:55 *Question:* Is that gonna be in print here? *Answer:* I don't know.
- 00:04:58 *Question:* Did you research that yourself? *Answer:* Yeah, yeah. I'm a lawyer. Wrote every word of it except what I quote.
- 00:05:04 *Question:* Here lately, there's been, um, volume after volume seems like, coming out about you and your, um, well your life, your lifestyle as a southerner. Just recently Mr. [Marshall] Frady there's a short article in his book about you. One of the chapters wasn't really? *Answer:* Yeah, right, but I didn't think much of. I

think, I don't think much of Mr. Frady.

00:05:32 *Question:* I don't know him personally, you know. I've never read any of his other works. *Answer:* Mr. Frady belongs to the school of journalism which teaches the only way to write anything interesting is to make it derogatory to the person you're writing about.

00:05:49 *Question:* Do you, um, do you think that it was, is Frady exaggerating? *Answer:* He's a, he's what I call a "muck-raiser." There's a school of journalism that says "if you can't say anything nice about a person, it won't sell." You've got to make it derogatory. And um, I think Billy Graham said something about Mr. Frady. He wrote a biography of him. I found out a long time ago that being a liar has to have too good a memory and I'm sorry to say. That I just tell people the truth as I see it.

00:07:20 *Question:* You've been, or at least from what I can gather here from what I have read, different things, that you are widely regarded as the champion of constitutional civil liberties. And especially the rights of individuals. And your record in civil rights legislation, um, you voted against certain civil rights legislation. Where do you draw the line, or where is the, um, scars, in your own mind based on what you know about the Constitution, where do the rights of individuals begin and end? *Answer:* Well, what I stand for is civil liberties that's for all men. I believe, for example, that all men of all races and classes and conditions are entitled to exactly the same rights under the law. I don't think any of them are entitled superior rights over others. And that's why I think my stand, a lot of people say it's inconsistent, but I think it's perfectly harmonious. The trouble with civil rights of modern invention is that the civil rights bills that I've opposed, virtually without exception took precious rights away from all Americans to give them to Americans who had just won the say, won the race. In other words, we got hipped in this country that the minority races are entitled to superior rights over majority races because of the fact that they belong to minority races. That is absolutely inconsistent with the theory of equal rights for all men under the law. Also, I opposed civil rights bills because they took away from the states and localities and from individuals, powers that had always been invested in the, in the localities or in the individuals. For example, the right to make a private contract is amongst individuals but now our private contracts are supervised through the federal government. For example, you have the open occupancy bills. Under the open occupancy bills, owner of the property has the right to release it or sell it to anybody he pleases as long as some man belonging to another race or another creed or another nationality doesn't want it. In case some man [clears throat] belongs to another race or another creed or another, has another national origin and wants to buy it, there's a power to determine who's going to buy it to the government under the open occupancy laws. And I think these civil rights bills

subordinate the rights of an individual, one individual, to the demands of another individual. And that makes the second individual superior to the first individual, which is a mediation of equality of right under the law. And then it transfers to a whole lot of faceless and unidentifiable bureaucrats in Washington with the power to regulate the private conduct, as well as the public conduct, of people and these people are not elected by anybody. And if you ever entrust a bureaucrat with an inch of authority, he steals a mile of it, as is illustrated by the fact that here we have the HEW and its successor the Department of Education trying to tell the University of North Carolina system why they'll teach different courses. They say that, everybody in North Carolina knows that there's no racial discrimination in the schools and then, um, the qualifying students black or white can go to any school, state school, that he wishes to go. But, we say that we haven't, um, done away with segregation because these students haven't voluntarily elected to segregate themselves in racial proportions to a bunch of bureaucrats in Washington. And you have a system, I read in the paper, it said, well this is a private judge. Well I've got a judge sitting up in the district of Columbia passing all the cases that North Carolina's not a party to between, um, the National Defense Council or the NAACP, and ACW, as HEW, has in a sense been complaining and not resisting and they issued degrees that binding here hundreds of miles away in North Carolina. For example, we've got Mount [Bussey] there that had a very heavily populated black section. And they came down and said well this is discrimination here because there are not enough white children in this [coughs]. Everybody in this school that's in this area were entitled to go. My grandchildren lived there and um, so they make them bus in from other sections and bus out.

00:12:30

Question: The um, bussing situation that you were talking about is, there's starting to be a change in direction in that isn't there? *Answer:* I hope so because I've always maintained, and I've written my 61-page document here, to prove that bussing is not only, um, bussing for immigration purposes, is not only not required by the Constitution, but it's prohibited by the very sections that the Supreme Court relies on to justify it, and that is equal protection clause. The equal protection clause says that no state shall deny any person within its jurisdiction the equal protection clause. That is the most salutary principle in the Constitution because it's put in there to make state governments and their agencies like school boards treat, in like manner, every person in like circumstances. Now when the, um, federal court, um, issues a [inaudible] decree, it compels the state to violate that equal protection clause in two ways. First, it says that you must divide the children in this attendance zone or district in two groups. You can let one group attend the neighborhood school but you must deny the other group the right to attend the neighborhood school. Now that is a clear violation of the equal protection clause because it treats in a different manner two groups of children similarly situated and that disparity with the equal protection clause which was

put in the Constitution to forbid that. And then they say that it violates, they say the reason you can't let um, the um, second group of children attend the neighborhood schools is because you must put them in busses and take them to schools elsewhere, either to decrease the number of children of that race in the neighborhood schools or to increase the number of children of that race in schools elsewhere. And again, that is basically just as plain as the noonday sun in a cloudless sky that is denying the children who are bussed the right to attend their neighborhood school solely on the basis of their race and that's exactly what the Supreme Court said the schools in the desegregation case was unconstitutional. There's another thing about these decrees: the legal protection clause only applies to state actions. It does not apply to actions of individuals. And yet these school buses decrees are violations of actual individuals because while the judges in the government are still snug in their beds, the parents of the children that are affected by them have to get up at an unearthly hour, they have to rouse their children from their slumbers, give them their breakfasts, send out in the outdoors to await the arrival of the school buses which transport them away from their neighborhood schools to schools in other places. Sometimes the, the Supreme Court said in this one case "only 75 minutes required for that bus, 35 minutes each way." And it doesn't count the time that they're waiting for the school buses, sometimes in the ice and snow and the rain at both ends of the journey. And that time could be much better spent receiving instruction in the neighborhood schools. And though it applies to individuals, and obviously the equal protection clause doesn't, as is illustrated out in Louisiana a short time ago when the judge said that, he threatened to punish three white girls for contempt of court, teenagers, because they continued to go to their neighborhood schools instead of getting on the bus and riding miles away to another school. I think that's the greatest tyranny ever perpetrated upon society in a supposedly free country. Another point on that is this: the reason they give the school bus, and this can be proven, can be reduced to two. The first is an insult to blacks as well as the south, and that is that a black child cannot absorb a [inaudible] education unless he has enforced the worst companionship of white children while he's going to school. The second is that, um, all schools in, um, black neighborhoods are inferior academically and those in white neighborhoods are superior academically and that a black has a right to equality of opportunity, education, and therefore it is necessary for a black to bus him out of an inferior school in a black neighborhood to a superior school in a white neighborhood. But those people don't explain why, if a black has a right to be bussed out of an inferior school in a black neighborhood to a superior school in a white neighborhood, why don't white children have a legal constitutional right not to be bused away from a superior schools and required to attend inferior schools?

00:17:55

Question: It really is. Um, I know that in the last few years you spent a lot of time and you, you answered many, many questions about the Watergate hearings in the

Senate. Now that that thing is six or seven years behind us, what are your reflections on the whole? *Answer:* I think that the Watergate affair is a, a great tragedy. Um, unlike the Teapot, the Teapot Dome was a perpetrated because of men love money. And so a lot of people have an itching palm and they want some money to solve the [inaudible]. Watergate was not done for money, but there's another destructive force and, which, which causes corruption, and that is love of power. Um, George Washington said, "speak of the people [inaudible] in his farewell address said, "[inaudible] must love power and are prone to abuse it." Now the people who are perpetrated in Watergate on the American people, a handful of them. And the significant thing about it is that not a single one of them who was convicted of the conspiracy, was um, had never had any political or governmental experience apart from his association with President Nixon. That is a very significant thing. I have frequently said, and I'll say it one more, the first thing that if President Nixon had entrusted his campaign for reelection to the Republican National Committee, they should suppose the men and women who were experienced in politics and government that there would have been no Watergate because they know that some things are outside of the political field. But um, he trusted a bunch of amateurs who knew nothing about government or politics apart from their association with him. And um, I think he did this for two reasons, in the first place he wanted to control enormous amounts of money for his reelection that's being raised for him, and he also wanted to divorce his campaign from that of the Republicans. Now he, um, the man who perpetrated Watergate knew that the campaign's limitations, which is very beautifully and sadly illustrated by the story of me. But the temptation never comes to us in a hideous form. It's always a beautiful in its appearance. Eve looked at the forbidden fruit and started [inaudible] and she'd been told by the serpent that it would make men wise knowing good and evil like the gods. And she wanted to benefit her body and expand her intellectual horizons so she did evil, that is disobeyed the word of the Lord, and ate the forbidden fruit because she wanted to have [inaudible]. And that's exactly what people in Watergate did. They thought that the reelection of President Nixon was the most important thing in the universe at the time and they wanted to ensure his reelection by a landslide margin and so they perpetrated Watergate on the American people; they did evil, in the hope and expectation that what they conceived to be good, mainly the reelection of President Nixon, would emerge from it.

00:21:15 *Question:* Yes. So, um, how has or how had the, um, how did Watergate change you in your career? *Answer:* Well, Watergate made me one of the most [inaudible] characters, because um, I had to be there before the television week after week and I got pretty well-known all over the country unfortunately, but the environment ... people all over the country recognized me, which makes it bad because you have to behave where you go because you can be identified.

00:21:55

Question: That's good. [Pause] In the first few months of the, um, Richard Nixon, um, where do you think, where do you think they're going domestically on, outside of foreign affairs and everything else. What direction do you think the country is taking? *Answer:* Well I hope that we were going toward fiscal sanity. We've been straying from fiscal sanity for almost fifty years, given the last fifty years, the budget has only been balanced only seven times, and then only by narrow margins. The federal government has gone into a lot of things where it has no business. By doing so, it's dissipated its resources. For example, government has, is very committed to public health. If we could, and to education. If we could concentrate on how [inaudible] how it makes the government on things like that, but instead of that we these economic developments under which the government is financing and building hotels and factories throughout the United States, private businesses, which is none of the government's business. And the result of it is, we've went and bolstered the, the interest rates and inflation that's headed to the skies. Our national debt's up since I went to the Senate, it's been at least over 750 billion dollars, it's now almost a trillion dollars. The interest on last year's debt alone is approximately 90 billion dollars a year and um, the trouble is that when anybody gets money from the government they soon come to think that they have a vested right and you can't ever cut it off. And then you have your politicians and um, Congress has supported perforating money it didn't have. Presidents have recommended the appropriation of money we didn't have and um, we've been going, well our dollar's fell. Sometimes the goal is, somebody wrote a letter to the Charlotte Observer in which they protested the rate increase in hospital costs [inaudible]. And the doctor in charge wrote a reply [coughs]. He said it's not that the cost of hospitalization and medical treatment has gone up, it's because the value of the dollar has gone down. And it takes two or three times as many dollars to pay now for the same thing you got a few years ago for just one dollar. And so our dollar has declined, and it's about time for us to call a halt. But unfortunately, until the last year I was at the Senate, the average Congressman had no way of knowing til the end of the session how much they had appropriated. They had no Congressional budget, and they had to wait til the end of the session and add it up before they found out what they'd done. But the last year I was in the Senate, we got a Congressional budget bill through which requires they set the amount of the budget and um, they have the difficulty of, to, to enforce that getting away from that amount. And anybody who wants to increase that amount has to justify it. And so although it hasn't been absolutely effective, it's done some good.

00:25:45

Question: The um, the budget, I know there's been a lot of talk about certain programs, especially social service programs being cut. Do you see any problem with that? *Answer:* Well I think it's fairly ridiculous to establish a social program and then provide that it automatically increases with inflation. And then for Congress, at the same time do everything it can to make inflation increase just as fast as possible. The trouble is, if we don't stop it we're like to go out on the old

German, Germany, when they said that inflation got so bad that for if German wanted to buy a packet of cigarettes he had to put his wheelbarrow full of paper money and all the groceries to buy a pack of cigarettes. Now, yeah, that was, there was two, after the Second World War. Or the First World War.

00:26:55 [no question] Is there, something... There's something fundamentally dishonest. In the ...or government making debts it has not present intention of paying. And that's what we've been doing in the United States for almost fifty years. Now of course, in the times of great depression, back in the early 30s, you have to spend more than you take in. But there's no excuse; this government today takes in anywhere from about 20 to 70 percent of the earnings of the American people. That is fiscatory. Edmund Burns of South Carolina said that the congressional system oil in a different state. Had the American way anywhere between fourth to 55-60% of this town goes to the federal government. Now, in addition to the congressmen having no way to know how much they are appropriating as they get along, they also have a, everybody in the United States putting in, some of them for good programs, some for bad programs, some for programs that had no connection whatever with government al affairs but want something out of the federal treasury. And of course if Congress provides it to its constituents, and so what Congress thought, Congress found out they could take the tax payers' money and tax payers' credit and buy the votes from people that wants something out of the federal treasury.

00:29:22 *Question:* He's gonna try to. Do you think that the Democrats and the Congress will go along with that? *Answer:* I hope they will because all the time I was in the Senate I said that, um, Congress ought to do one of two things. They ought to balance the budget. And, um, the way to balance the budget would have been to do one of two things both of which are intelligent. The first is, to add enough taxes to cover what is appropriated but if they done that then taxpayers would vote and some of them would have been thrown out of office. The other was to refuse to have appropriations to fit the amount of revenue they had, but also folks who demanded something out of the federal treasury would have thrown some of them out of office. So they didn't take either intelligent courses. In other words, if an individual who didn't have. If an individual didn't have the taxing power to pursue the, um, the course of the federal government, then he'd be bankrupt in just a few weeks. But the trouble of it is, is this has tremendous sense. We have government financing, which means that the government goes out into the market, in addition to confiscating so many of the earnings of the American people and the American industry by taxes, and goes out to borrow money in competition with those industries who need to borrow money to keep their machinery, but um, the devastating thing, we tried to nullify the laws of economics but the laws the economics cannot be nullified because I think they established good laws.

00:31:30 *Question:*What do you think the chances are of Reagan's? *Answer:* I think the people in the last election showed they were tired of this. I ...[inaudible] of all they did. But I think the people are tired of all this fiscal irresponsibility. And they want government that will exercise restraint and moderation just like every other person and every individual has to do.

00:32:15 *Question:* Well I, you know, when I was going through your mind after reading through your books and things, you, you pick up questions here and there, but, um, is there anything for the students that, um, at Winthrop College that you would like to say for them in Rock Hill? *Answer:* Well, I would say incidentally, um, Winthrop College is a wonderful institution to learn in [inaudible] in South Carolina, in the south United States, and in the country. I would say that the best thing for any student, if I was dictator of the United States, I would require the teaching of, um, of history. I would require the teaching of something about government and Constitutional history, and political science, because in a country where, at least theoretically, according to the Declaration of Independence, all the powers of the government derive from the consent of the people, and the people have a voice in the government. I think it's essential for Americans to understand our system and um, I, frequently I've been asked whether there'd have been more Watergates. I said "yes, unless the Americans are very careful about the men and women they entrust with political power and governmental power." No person ought to be entrusted with political power who doesn't recognize that Grover Cleveland told the truth when he said that "public office is a public trust" which he didn't say this, but I always add "which must never be abused for private advantage." I think that that's the fundamental thing and I think that no person should have political power or political office unless he has an understanding of the fundamentals of our system of government. I don't mean trying to understand the Constitution but the basic principles. And not only that, but they must be devoted to them. And in addition to that, must have the personal integrity which is reason and good character. The trouble with people in Watergate, involved in Watergate, was that they didn't understand our system. President Nixon didn't understand. He thought that the president was superior to the Constitutional laws and was not accountable to them. And most of the people who worked with him involved in Watergate thought the same thing. For example [Assistant to President Nixon John] Ehrlichman testified that the president had the power to suspend the Fourth Amendment and to have, to commit burglaries whenever he thought that national security was involved, which is very dangerous because it was very difficult, if not impossible, for President Nixon to distinguish between national security and the political security of President Nixon. And um, I think that Americans would understand and um, I'd say that the Supreme Court ought to understand that as the Supreme Court itself said, in Ex Parte Milligan that "no doctrine involved in more pernicious consequences was ever invented by the wit

of man than any of its provisions can constitutionally be suspended at any time.” And so people have got to be willing, the American people ought to know enough about the Constitution to insist, as Chief Justice Marshall said in *Marbury Versus Madison* “that public officials, including Supreme Court Justices, should, shall accept as their absolute guide for their official actions.” [pause] Apart from the faithful purpose of the Constitution by the people entrusted with political power, we have no protection in this country against anarchy on one hand or tyranny on the other. So I would say to college students at Winthrop and everywhere else to [inaudible]

00:38:14 *Question:* Well, Mister Ervin, is there anything else? *Answer:* I don't know anything. Enjoyed you being here.

00:38:26 *End of interview*