

THE CONGRESS

Right Man, Right Time

"The history of mankind shows that governments have an insatiable thirst for power. This desire for power will carry them to tyranny unless it is prevented."

So says the venerable Senator Samuel James Ervin of North Carolina, denouncing the Nixon Administration with characteristic senatorial rhetoric. What makes it more than rhetoric is that Sam Ervin is the widely respected chairman of the Senate Government Operations Committee and the Judiciary Subcommittees on Separation of Powers and Constitutional Rights. As such, he is the man the Senate is counting on to lead its struggle against what is increasingly seen as presidential encroachment on congressional powers, including impounding of funds and government by decree. "Sam Ervin," says Senate Majority Leader Mike Mansfield, "is the man to watch in this Congress." Or as Hubert Humphrey put it: "Ervin is the right man at the right time in the right place."

Indeed, Ervin seems to be commanding almost every battlefield against the Administration. Last week alone:

► Ervin's bill to require congressional approval of any new Director and Deputy Director of the Office of Management and Budget was overwhelmingly passed on the Senate floor.

► He concluded five days of stormy hearings on another bill of his that would force the President to seek the consent of Congress before impounding any more funds.

► He laid plans to begin hearings Feb. 20 on a bill to protect newsmen from official interrogation about confidential sources.

► The Senate voted 77 to 0 to set up a special committee, chaired by Ervin, to investigate all aspects of the Watergate bugging case, including questions of White House ties to the conspirators. Says Ervin: "There will be no witch hunt [but] I am going to get to the bottom of this thing—and the top."

Why has Ervin, at 76, rather than more obvious leaders like Senators Mike Mansfield or Ted Kennedy emerged as the *enfant terrible* of Congress? In part, because of his seniority: his 19 years in the Senate have brought him the appropriate chairmanships. But beyond this, Ervin is known as one of the most eminent constitutionalists in the Senate, a man of such personal prestige, of such judicial temperament, that

he cannot easily be attacked. Kennedy, for instance, whose subcommittee staff has been working long and hard on the Watergate investigation, realizes his own vulnerability and has hoped all along that Ervin would take it over. "He is a man who is beyond ambition," says Kennedy.

Ervin grew up in the small mountain community of Morganton, N.C., served with distinction in World War I, went to Harvard Law School and rose to become an associate justice on the state supreme court. He was appointed to the Senate in 1954 to fill the vacancy caused by the death of Clyde Hoey, the last of the frock-coated Senators, and has remained there ever since. Fancying himself more as a constitutional lawyer than a politician, Ervin

WALTER BENNETT



ERVIN AT HEARINGS ON EXECUTIVE POWER
They're treading on our Constitution.

prefers browsing through obscure legal texts in his extensive law library to the back-room intrigue that is so popular among his brethren. Although he has acquired a remarkable book knowledge of the law over the years, he is hardly an innovative constitutional thinker. Says one Northern liberal Senator, "Sam stopped reading cases after 1938." Ervin is such a worker that he has few close friends, even in the Senate. "Sam sticks pretty close to his wife and the Constitution," says Mansfield. "He's married to both." Their three children grown, Ervin and his wife live quietly in an apartment near Capitol Hill.

Heavy-set and rosy-jowled, the picture of the trusted, white-haired country doctor, Ervin has thrown himself wholeheartedly into the mounting battle with the Administration. As a constitutional fundamentalist, he believes that the President is precipitating a crisis between the executive and legislative branches. "I feel that the Constitution

gives all legislative power to Congress," he told TIME last week. "An appropriation bill is as much a law as any other law. After an appropriation bill is passed by Congress, the Constitution gives the President only one way to express his disapproval—the veto."

As Ervin himself has made plain, he agrees that much of the money Nixon has impounded should not be spent. He voted against many of those bills. He even regards Nixon as something of a spendthrift, and he has voted against some of Nixon's own spending plans, like revenue sharing. But to Ervin, that is not the issue. "He is treading," he said, "on our Constitution. I would suggest two books that should be in the White House. One is the Constitution of the United States, and the other is Dale Carnegie's book *How to Win Friends and Influence People*."

Last week as his subcommittee interrogated newly appointed Deputy Attorney General Joseph Sneed, Ervin demanded to know—waving a copy of the Constitution like a Southern revivalist with a Bible, his eyebrows twitching with indignation—where the Constitution gave the President the right to impound funds. Despite an embarrassing hole in the Administration's argument—a memorandum written by Supreme Court Justice William Rehnquist when he was an Assistant Attorney General, stating that neither "reason nor precedent" gave the President constitutional powers to decline spending appropriated funds—former Duke Law School Dean Sneed replied, "We rest on Articles I, II and III." They outline the duties and powers of three branches of government. "I can't reconcile that conclusion with what the words say," Ervin countered. "Well," Sneed replied weakly, "I've tried." At this, Ervin's eyebrows flashed with particular amusement. "You put up the best defense possible," he said grandly, "for a guilty client."

WOMEN

Trouble for ERA

Equality of rights under the law shall not be denied nor abridged by the U.S. or by any state on account of sex.

The wording of the equal rights amendment (ERA) to the U.S. Constitution was not considered very controversial when the proposal passed the Senate last March. If anything, the bill seemed to be a simple doffing of the legislative hat in recognition of a battle already won. By the time the state legislatures recessed at the end of the year, 22 states had already ratified ERA, leaving only sixteen more needed for a three-fourths majority.

Yet the amendment has recently begun to encounter some strenuous opposition, much of it organized by a well-financed lobby called Stop ERA. Its

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tion. The event drew 1,400 delegates from 48 states—government officials, editors, legislators, blacks, Chicanas, young and old, housewives and students. They came in everything from boots to buckskin, from outsized overalls to a flowing Indian sari. They were searching for a common program toward common goals, but at times they lost their way in partisan disputes between Republicans and Democrats. At the end, though, the convention had established a far broader base and brought attention to new talent.

Worth. The old stars—Gloria Steinem, Shirley Chisholm, Bella Abzug and Betty Friedan—willingly turned the podium over to some fresher faces. Among them: Philadelphia Councilwoman Dr. Ethel Allen ("I'm what's known as Philadelphia's fat Shirley Chisholm"), Colorado's new Democratic U.S. Representative, Pat Schroeder, 32, the mother of two preschoolers, and Baltimore Councilwoman Barbara Mikulski, who made a strong and witty plea that the convention not forget the blue-collar woman.

The woman who threw down the strongest challenge to the opponents of ERA, and who drew the heaviest applause, was Jill Ruckelshaus, 36, mother of five children under twelve and wife of Nixon's director of the Environmental Protection Agency. Mrs. Ruckelshaus addressed herself to "the hundreds of thousands of women in this country who aren't here, who don't want to be here, who don't understand why they should be here. We need to help those women, to raise their sense of worth." The question was whether the members of the Caucus could reach those women in time to convince them that equal rights would mean an opportunity rather than a threat.

Shirley Chisholm underscored the delicacy of that difficult task. "Some people wrongly see the Caucus participants as being 'anti-male, anti-children and anti-family,'" she cautioned. "Very frankly, there have been some excesses in movement thinking. Children are more than a pile of dirt and diapers; families have provided love. This Caucus should not be the cutting edge of the women's movement, but the big umbrella over all."

LABOR

Happy Birthday, Jimmy

When Teamsters Union President Jimmy Hoffa was serving a 13-year term in Lewisburg penitentiary for fraud and jury tampering, some of his friends claimed that he wanted a parole not to resume his rambunctious union ways but simply to lead a quiet life—"teaching and lecturing," as New Hampshire Publisher William Loeb put it. The parole board quite clearly did not believe him.

Hoffa became a model prisoner, du-



LEO TOUCHET

BETTY FRIEDAN ADDRESSES NATIONAL WOMEN'S POLITICAL CAUCUS CONVENTION IN HOUSTON
"We need to help those women, to raise their sense of worth."

principal argument is that ERA would abolish many legal safeguards that, in the past, have established and protected the woman's place in the home: the requirement that men support their families, Social Security benefits that widows receive from a husband's job and that, if a marriage fails, the wife gets alimony and child support.

Dim. One woman in particular who does not share the desire for equal status is Phyllis Schlafly, founder and prime mover of Stop ERA. The wife of a wealthy lawyer in Alton, Ill., and the mother of six children, Mrs. Schlafly first came to public attention in the 1960s with a right-wing treatise in support of Barry Goldwater's presidential candidacy, *A Choice Not an Echo*, and stayed there with a fiery monthly newsletter named *The Schlafly Report* (cost: \$5 per year). With no lack of capital (she insists that her effort is financed from the proceeds of her newsletter), she has been flying about the country, appearing on talk shows, speaking before women's clubs, buttonholing old Republican contacts, testifying before legislators and quietly enlisting the support of local Roman Catholic lay groups and labor unions.

Mrs. Schlafly's tactics seem to be working. Of the states that have voted on ERA in 1973, Minnesota, Oregon, Wyoming and South Dakota have ratified it, but North Dakota, Oklahoma and Utah have defeated it outright, and at least five others have struck it down by more subtle means—Montana, Arkansas, Missouri, Mississippi and Virginia. Kansas and Nebraska, both of which passed it last year, are reconsidering their decisions. In short, the momentum of the amendment has been stopped, and it now seems dubious whether the 38 ratifications can be won this year. If the issue drags on into 1974, the prospects may become even dimmer.

Aside from Mrs. Schlafly's earnest

arguments, various mixtures of props and propaganda have been marshaled against ERA. In Ohio, anti-ERA women handed legislators silver bullets to illustrate their conviction that they can take care of themselves without a constitutional amendment. In Minnesota, opponents tried to bat ERA away by handing out red fly swatters to legislators. In Oklahoma, Democrat John Monks helped defeat the bill by preaching from the Bible. "The good book says a woman should serve her husband," he told his colleagues. Arkansas State Senator Guy Hamilton ("Mutt") Jones put the matter a little differently: "Women are put on this earth to minister to the needs of miserable men," he argued. Marion Olson, chairwoman of a right-wing political party in Minnesota, offered yet another objection: "We don't want to turn our daughters into tigers and our sons into pansies. Nature did not intend men and women to be equal."

To combat such views and to map strategy for a new political action, activists in the feminist movement met in Houston last week for the first National Women's Political Caucus conven-

STOP ERA FOUNDER PHYLLIS SCHLAFLY

