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James Dickson Phillips Jr.

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SAM J. ERVIN, III: A TRIBUTE

JAMES DICKSON PHILLIPS, JR.*

Sam Ervin's life—as good man and good citizen—gladdened many contemporary hearts: those of family and close friends, a string of Presbyterian preachers, fellow legislators and judges, and a host of general admirers of a life so well led. Recently, reading about our Constitutional Convention, it occurred to me how much his life would have gladdened the hearts of the Founders of our country. I take that as the special theme of my tribute.

When that remarkable group rose from the finished task of designing our form of government, it did so with mixed emotions. There was pride and considerable awe at the achievement. But there also was considerable wonder about how it would all turn out. The wisest among them were sure of one thing: the structure alone—no matter how strong its design—could not forever hold things together. Something more would be necessary. James Madison, chief architect, put it bluntly. Extolling the design's merit to the Virginia Ratifying Convention, he nevertheless confessed that “[t]o suppose that any form of government will secure liberty and happiness without any virtue in the people is a chimerical idea.” And old Ben Franklin famously expressed a similar sentiment—though more piquantly. Asked just what the Constitutional Convention had produced, he answered, “a republic,” but then added a kicker, “if you can keep it,” by which he too implied that in the years ahead it all depended on what Madison called the people's “virtue.”

We are not told in these early observations just what those indispensable virtues were understood to be. But it would be a sure bet that for these literate gentlemen they included those secular virtues that, by general consensus of the moral philosophers, had come to be considered the “cardinal” ones: prudence, temperance, fortitude, and justice. It would also be a sure bet that given the heft of these virtues and the Founders' obvious understanding of human frailty, they could not realistically have hoped for much more virtue of this quality than would suffice to leaven the whole bumptious loaf.

* Senior Circuit Judge, United States Court of Appeals for the Fourth Circuit.

In our time, Sam Ervin, III has been a matchless member of that blessed company in whom the Founders' hopes for a sufficient leavening of such virtue have been realized. In both his private life—as faithful and devoted husband and father, as committed churchman, as good citizen always on station—and his public life—as state legislator and state and federal judge—he was a very model of prudence and temperance, of fortitude and fairness. The homely, familiar metaphors of virtue fit him like a glove: “straight as a die,” “solid as a rock,” “clean as a hound’s tooth,” “good as gold.”

The result was a supremely attractive and gracious nature that commanded respect and warm affection and invited emulation. Among its more admirable and endearing features was the openness and integrity of his character. Sam Ervin, III was the same person to everyone and in all conditions. He wore no masks; a man without guile, he was a stranger to the arts of dissimulation and sly evasion. While never one to curry favor with those of high station, he never rejected a proffer of friendship from high or low. With him it was literally the case that you got exactly what you saw—in all times and all circumstances. Closely related was his habitual courtesy and civility to everyone in equal measure, whatever their stations in life. He related to a harried waitress at the end of a long hard day and to the Chief Justice of the United States with the same unflinching courtesy.

The same virtues that ordered his private life ordered his distinguished public career as soldier in wartime and in peacetime, as state legislator, state superior court judge, and United States Circuit Judge, earning him the same affection and respect. His even temperament, his fortitude, and his steady commitment to fairness made him a marvelous chief judge of the Fourth Circuit—universally respected by the judges of this court and by the federal judiciary at large.

Finally, a closing personal note. The qualities of mind and heart and spirit—the virtues—of Sam Ervin that would have gladdened the hearts of the Founders also served to make him the perfect friend—unconditionally loyal and supportive, unconditionally tolerant of foibles and forgiving of failures, infinitely kind and generous, unselfish, a boon companion full of wit and good humor at work and at play. The capacity for such friendship is itself a virtue worthy of praise and fond remembrance. It was my great good fortune to be its beneficiary for the last twenty years of this good and noble life. For that I am eternally grateful.