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# High Court Activism Abuses Justice

**"THE** tragic truth is that judicial activism has run riot among Supreme Court justices during recent years," says Sam J. Ervin Jr., former North Carolina Supreme Court justice and United States senator.

The statement is made in an article in the December 1982 issue of the American Bar Association Journal, forwarded to us by a lawyer friend. This is not a new discovery, as the claim has been made by patriots, politicians and pundits many times.

The qualifications of Sam J. Ervin Jr. lend authenticity to his stated belief that Supreme Court justices have been overstepping their constitutional limits and authority. Its publication in the ABA Journal indicates that attorneys recognize the problem.

"The provisions of Articles I and III of the United States Constitution clearly reveal that Congress has the legislative power to define, limit or curtail and appellate jurisdiction of the Supreme Court and the jurisdiction of the federal courts inferior to

it," Mr. Ervin says in his first paragraph.

He declares that the Constitution is "the most precious instrument of government ever devised by the experience and wisdom of man." He said that the Founding Fathers of this nation undertook to make Supreme Court justices "independent of all things on earth except the Constitution itself."

Even so, two members of the Constitutional Convention of 1787 opposed its ratification by the states because "it contained no provision sufficient to compel activist Supreme Court justices to obey their oaths or affirmations to support the Constitution or to prevent them from substituting their personal notions for constitutional precepts, while pretending to interpret it."

Thus, Mr. Ervin makes it clear that fears existed 200 years ago that the Supreme Court might distort its authority.

"Judicial activists are judges who interpret the Constitution to mean what it would have said if they, instead of the Founding Fathers, had

written it," the distinguished former justice writes.

He accuses members of the High Court of belittling the role of the states in federal government ordained by the Constitution, of ignoring the fact that society and victims of crime are as much entitled to justice as the accused, and of substituting personal notions for basic principles of the Constitution in cases having racial overtones.

Mr. Ervin notes that Supreme Court justices may be liable to impeachment for malconduct but suggests that this possibility, "if it exists," has had no deterrent effect on judicial activism.

Sen. David Boren has said he plans to introduce legislation for the third time when Congress convenes again in January to limit the terms of all federal judges. He first offered it in 1979.

Framers of our Constitution sought to protect Supreme Court justices from political pressures. Now there is need to protect the people from political pressures applied by Supreme Court justices.