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SACB

Governmental Blacklists

With Sen. Sam Ervin getting ready to challenge it in Congress, the President's recent Executive Order 11605 expanding the scope of the Subversive Activities Control Board has just been challenged by the American Civil Liberties Union in the courts. Both lines of attack seem to us justified and, indeed, imperative. The executive order would empower the SACB, in effect, to blacklist any group or association of Americans by deciding that it is "totalitarian, fascist, communist, subversive" or otherwise offensive to the powers that be. What the order does, specifically, is to revive that ancient dragnet, the so-called "Attorney General's list," and confer the power to continue it on the idle and virtually defunct SACB.

Senator Ervin's attack is primarily concerned, as it naturally should be, with the executive order's intrusion on the legislative functions of Congress. The SACB was created by Congress to do one thing; the President, without so much as a by-your-leave or a request for an amendment of the law, has told the SACB to do something quite different. If the President can devise agencies and assign them duties without reference to any legislative authorization, he really doesn't have any need of a Congress at all. He could just let the Department of Justice write the nation's laws—or the SACB—and let the Congress write its songs.

The ACLU attack also deals with this disregard of the tripartite nature of the American government but aims more directly, as one would expect, at the incursion of the executive order on rights

guaranteed by the First Amendment. The executive order is unconstitutional, the ACLU contends because it abridges freedom of speech, freedom of assembly and freedom of association. Who could feel free to join an organization if an agency of the United States Government has branded it "totalitarian, fascist, communist or subversive?"—and especially if anyone belonging to it is automatically ineligible for a government job or a job in any plant doing defense work for the government? The power to blacklist, if we may paraphrase an old legal axiom—is the power to destroy.

But the government of a free country doesn't destroy voluntary associations of citizens because of what they believe or what they advocate. It attacks them only if they break the law; and then it does so through the normal processes of indictment and trial in a court of law. What the President has authorized the SACB to do under his executive order amounts, in truth, as the legal director of the ACLU has charged, to a "scheme of political thought control."

What makes an organization "subversive?" The term is so vague as to enable the SACB to blacklist any group it doesn't like, any group which advocates ideas disapproved by the administration. If individuals acting singly or collectively commit sabotage or espionage or arson or any other crime, they ought to be prosecuted, of course, to the full extent of the law. But to let the government proscribe them for their aims and ideas is to undermine the very foundation of freedom.