

A Last Hurrah for the SACB? *P. 6/10/72*

The appropriations bill for the Departments of State, Justice and Commerce, the Judiciary and Related Agencies, which contains, among other things, the appropriation for the Subversive Activities Control Board, has been reported out of Committee and will soon be taken up by the Senate. The Board has had so little to do over its lifetime that last year, its Chairman had to admit plaintively during his appropriations hearings that he and his agency had too little to do and the President felt constrained to issue an executive order of doubtful Constitutional validity in an effort to interrupt the agency's slumber. The Senate, where welfare discussions are sure to evoke numerous expressions of high principle against giving people taxpayers' money for doing nothing, will have to go through extraordinary contortions in order to justify appropriating another penny for the SACB.

The Board was created by the Internal Security Act of 1950 to identify, when petitioned by the Attorney General, three kinds of organizations: "communist action," "communist front," and "communist infiltrated," and to provide a registry of subversive individuals. In large measure, because the courts have found that the bulk of its authority was unconstitutional, the Board has done next to nothing in the 22 years of its existence. Up through the summer of 1971, Attorneys General had sent over 25 petitions suggesting the listing of organizations and it had rendered final orders in only eight of them. From 1966 to 1971 the Board held no hearings on alleged communist front organizations, then in fiscal year 1971 it heard three witnesses on two cases. So far in fiscal 1972, it has heard no cases. It has never managed to register a single subversive individual. While we would agree with the argument that, considering its obnoxious mandate, it is probably a good thing that the Board has done so little, it is a fact that it has managed to spend about \$6.7 million of the taxpayers' money, all to no purpose.

The inactivity led President Nixon to issue an executive order which seems to have been intended

to give the Board a little work to do. And nasty work it is. It transfers the function of making up the list of subversive organizations from the Attorney General to the Board, vastly and vaguely expands the types of organizations to be listed (totalitarian, fascist, communist and subversive, which seek to overthrow the government by unlawful means or advocate force or violence to deny others their constitutional rights) and it also authorizes the government to evaluate its present or prospective employees on the basis of the SACB listings.

The executive order raises three enormous problems: first, it is an attempt to amend legislation by executive fiat; second, its provisions are so broad and imprecise they could encompass any number of lawful dissident organizations including substantial chunks of the peace and civil rights movements; and finally, the order is aimed at speech alone as opposed to illegal acts—a grievous wounding of the first amendment.

The Senate has a great opportunity finally to lay this offense to the Constitution and to budget-conscious government watchers to rest, once and for all. When the money bill comes to the floor, it will carry with it Senator Ervin's amendment which would prohibit the Board from using any appropriated money to carry out the provisions of the executive order. This is a good measure, as far as it goes, we think, but it does not go far enough. On the floor, Senators Proxmire and Ervin will offer amendments deleting all appropriations for the SACB. A similar amendment was defeated by the narrow margin of 47 to 41 last year. Since then, the Board has done virtually no work even with its ugly and probably unconstitutional new powers, the very existence of which—whether they are exercised or not—demean the republic. A Senate vote for the Proxmire-Ervin amendment would be a statesmanlike exercise in an important area of pollution control and in budget trimming all in one fell swoop.