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Ervin Denounces Nixon Revival of Subversives Board

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WASHINGTON, Oct. 5—Senator Sam J. Ervin denounced today President Nixon's order reviving the Subversive Activities Control Board, terming it unconstitutional and illegal.

Assistant Attorney General William H. Rehnquist and the chairman of the control board, John W. Mahan, defended the order as an excellent contribution to national security, contending that it safeguarded the rights of individuals more fully than previous orders regulating the board.

The exchange took place at the opening of hearings on the order before the Senate Judiciary Committee's Subcommittee on Separation of Powers.

President Nixon's order on July 2 amends an order issued by President Eisenhower in 1953 to establish loyalty and security requirements for Government employment. The Eisenhower order was based on the Internal Security Act of 1950, which had created the S.A.C.B. and required compul-

sory registration of individuals belonging to organizations designated as subversive.

The Internal Security Act and successive attempts by Congress to revive it were struck down by Supreme Court rulings.

Senator Ervin, Democrat of North Carolina, is chairman of the subcommittee and one of the Senate's leading authorities on constitutional law. He argued that the White House effort to breathe new life into the nearly defunct control board was unconstitutional because it violated First Amendment freedoms and illegal because it usurped the rights of Congress.

It invaded the Congressional domain, he said, by expanding the functions of the control board, a creation of the Congress, without any authority from Congress.

Beyond these points the Senator maintained that the President had rescued the control board from oblivion for a political reason that went far beyond the Federal Govern-

ment's need to screen job applicants and thus made the order a fraud.

It would, the Senator said, "empower the board to brand the organizations and groups specified in it as intellectually or politically dangerous to the established order."

In so doing, he continued, the order would "place a political or social stigma" on thousands of individuals who were not seeking Federal employment but who happened to be members of or merely to have associated with the stigmatized groups.

The hearings represent a second attempt by Senator Ervin to block the Presidential order. A rider that would have had this effect was attached to the appropriations bill and was accepted in the Senate but rejected in the House. When the conference report of the two houses came back without this rider Senator Ervin moved to reject the report and lost by only two votes.

Senator Edward J. Gurney, Republican of Florida, argued that far from infringing on the

constitutional rights of Americans the Presidential order offered notable new safeguards.

He said that under the new regulations affiliation or membership in a subversive group must be "knowing" before it constitutes a negative factor in considering a person's fitness for employment.

Another improvement, he said, would bar the Attorney General from placing any organization on the list unless the control board found, after public hearing, that such organization fell within precise definitions.

Finally, he said that the new executive order insured the accused the right to counsel.