

ANOTHER PART of the clanking, rusty machinery of the post-war "anti-subversive" drive was consigned to the junk heap the other day: at the recommendation of Attorney General William Saxbe, President Nixon—by Executive Order—did away with the notorious "Attorney General's List." Since people of a certain—tender—age will probably regard that news as being about as topical as a dispatch from the Punic Wars, a little elaboration might be in order. For some people will never forget the ordeal of which the promulgation of that list was but a part. Unlike the "enemies list" of which we have all heard so much lately, the Executive Order authorizing the Attorney General's list was official, public and far-reaching in the damage it threatened to individuals, organizations and—needless to say—the Constitution itself. Basically it comprised a grant of authority to the Attorney General to designate certain groups and organizations as "subversive"; and membership, past or present, in such a group was used as a measure of a person's fitness for security clearance and government employment. It was, of course, also used as a weapon of smear against individuals. It had features of a bill of attainder.

Like so much of the other "security" apparatus of the period, including much of the misbegotten legislation, the order authorizing the Attorney General to compile such a list ran into trouble with the Supreme Court. The Court held that organizations could not be listed by the Attorney General without benefit of due process—of a hearing. And—as it was with subsequent legislation intended to compel certain groups to register as "Communist-front," "Communist-action" and so on—the legal

effort to make this unworkable and constitutionally offensive system function proved too tiresome in the end for the enforcers.

It has been almost 20 years since any new groups were added to the list. Most of those that originally graced it have long since been defunct. Some were removed as a consequence of law suits. A few years ago, President Nixon made a pass at reviving the list and putting it in a contemporary context by transferring it to the jurisdiction of the Subversive Activities Control Board. But that didn't go anywhere: the board, at least as obnoxious an heirloom as the list, has since gone out of business itself.

No one should think these developments mark the dawn of a new day in which our civil liberties may be taken for granted. Events and revelations of the past few years have demonstrated for all who care to see that government is ever capable of devising new and different means for encroaching on the rights of individuals—just listen to the testimony in Judge Gerhard Gesell's courtroom if you don't believe that. But the unmourned passing of the postwar laws and regulations that did such violence to the nation's protected freedoms, does (like the Watergate experience) say much that is reassuring about the regenerative powers of the American people's good sense and the vitality of the Constitution. Attorney General Saxbe, whose public pronouncements—how should we say?—we have not uniformly admired, put it very well indeed: "If the list serves no other purpose now, it should continue to be a reminder that whatever we do must be fair and in full accord with the law and the protections it affords to all."