

See also story by Robert M. Smith,
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Senate Votes Funds for Red Inquiry

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WASHINGTON, Aug. 3—The Senate approved late today by a margin of two votes a conference report that upholds an expansion in the power of the Subversive Activities Control Board sought by the Administration.

By a vote of 46 to 44, the Senate approved a \$4-billion money bill for the Commerce, State and Justice Departments, including \$450,000 for the control board.

The Senate version of the appropriations bill would have barred the control board from using any of the money to implement new authority conferred on it by President Nixon through an Executive order.

A conference committee deleted the Senate's restriction, and the Senate was faced today with either sending the bill back to conference, with the chance that the appropriations measure might not pass before Congress recesses Friday, or bowing to the will of the House. Reluctantly, and more on the ground of necessity than of philosophy, it chose the second course.

Order Held Repugnant

Before the vote, Senator Sam J. Ervin Jr., Democrat of North Carolina, spoke against the bill for an hour and 15 minutes and characterized the President's Executive order as "repugnant to the First Amendment."

The order gave the Subversive Activities Control Board, now almost moribund, the power to hold hearings to assist in determining what organizations should be classified as subversive by the Attorney General.

The board is an independent, semijudicial agency that was created in 1950. Over the years,

as the result of adverse court decisions, its work has fallen off to almost nothing.

Mr. Ervin advanced three reasons why his colleagues should reject the conference report.

First, he argued, "the executive order is unwise as a matter of policy because it is alien to the spirit of American Government, because it is based on unjustified fear and because it reflects the spirit of McCarthyism."

Ervin Gives Reasons

Second, he said, the order is unconstitutional. And third, "The order constitutes an attempt by the President to usurp the legislative powers of Congress."

Mr. Ervin said, "The board has proved itself to be totally useless during the 21 years of its life, and still they propose to extend its power and allow it to stigmatize any one of 200 million Americans who may belong to what they characterize as fascist or totalitarian organizations."

For the most part, the Senator's speech, drawing heavily on Supreme Court decisions and learned commentary, avoided partisan reference.

At one point, however, the Senator put his law books and notes down and said quietly,

"There are some people in high places—I hate to say this—in the executive branch of the Government who indicate by their recommendations that they do not like the Bill of Rights."

McClellan Rebuttal

Senator John L. McClellan, Democrat of Arkansas, who is chairman of the Appropriations Committee, speaking in rebuttal, began by saying, "In many respects, I agree."

But he said he was unable to pass on the constitutionality of the expansion of the board's power, arguing that "the courts are going to have to resolve the issue." He stressed the practical consequences of not passing the bill.

The consequences, he said, would be to delay until September \$29-million in new appropriations needed by the three departments.

"The rejection of this conference report," he asserted, "may well be an exercise in futility. That is my best judgment."

Other Senators who spoke in favor of adopting the report took much the same tack. Those voting for the report included the Senate majority leader, Mike Mansfield of Montana. Those voting against included the minority leader, Hugh Scott of Pennsylvania.