

ECONOMIC OPPORTUNITY ACT AMENDMENTS OF 1967 1039

"Section 1502(a) (3) of this title does not prohibit political activity in connection with—

"(1) an election and the preceding campaign if none of the candidates is to be nominated or elected at that election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected; or

"(2) a question which is not specifically identified with a National or State political party.

"For the purpose of this section, questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character, are deemed not specifically identified with a National or State political party."

In addition to the restrictions of the Hatch Act, the 1966 amendments preclude the use of program funds, the provision of service and the employment or assignment of personnel in a manner supporting or resulting in identification of a Community Action Program with any particular political activity or any activity designed to further the election or defeat of any candidate for public office.

On December 1, 1966, the Office of Economic Opportunity issued a memorandum (Memorandum 50-A) which explained these limitations in detail. It pointed out the restrictions are imposed by the United States Civil Service Commission and that in addition to the Hatch Act requirements, applicable to Federal agencies generally, Community Action Programs were subject to statute based requirements relating to political activity. In brief, these preclude: employees from identification even on their own time with the activity of any recognized political party; use of local agency equipment for political activity; and the conduct of political activity as part of official personnel employment or assignment.

It is my understanding as a Durham resident that municipal elections such as those taking place on April 29 and May 13 are non-partisan political elections. When I voted on those days, I saw no label or designation indicating a candidate as a Democrat, Republican or the representative of a third party. I noted that the newspapers consistently referred to the election as non-partisan. But to make doubly certain that this was indeed true, I specifically checked on April 25 with both the Durham County Board of Elections and the League of Women Voters. One candidate for the City Council in the fourth ward had been active in Republican politics last fall but I am sure that he was not in any way identified on the ballot as a Republican candidate. No one has in fact provided *any* evidence that either of these elections could be construed as a partisan election within the meaning of the Hatch Act as it has been consistently interpreted by the Civil Service Commission, the agency which Congress directed to interpret the Hatch Act, or by the Office of Economic Opportunity.

I checked personally by telephone with the regional analyst of the Office of Economic Opportunity and with the office of the Inspector General of OEO; and they confirmed my interpretations of the statute. In repeated inquiries directed to these persons and to other qualified interpreters, I have always received the same positive confirmation.

In addition to these precautions, on May 11th, prior to the May 13th run-off, I issued the following memorandum to all staff members:

"This is to officially inform you that no vehicles and/or facilities of Operation Breakthrough are to be used in any way in support of any individual or slate of candidates in the General Election on May 13, 1967. This is to be interpreted as meaning that only normal Saturday program activities will be allowed on this day. It is also to be interpreted that no vehicles and/or offices can be used to get voters to the polls. It is further to be interpreted that no staff members will be reimbursed either in salary or compensatory time for election related activities on this day.

"Due to the fact that this is a non-partisan election and in compliance with CAP Memo 50-A, each staff member may, if he so desires, be involved as a private citizen according to the dictates of personal conscience."

In a further effort to avoid any misunderstanding I directed that the various offices of Operation Breakthrough, which frequently are kept open on Saturday, be closed on May 13, 1967, and I personally inspected them to insure that they were in fact closed. Furthermore, in accord with my instructions only one of