

for other purposes." Once enacted this bill will constitute another significant step forward in this nation's battle against poverty.

Although eminently desirable, such measures do not fall within the purview of our organization. In testifying today, I will therefore limit myself to those provisions of the bill which, in our opinion, raise civil liberties questions.

A. PROVISIONS OF THE ACT THAT LIMIT THE POLITICAL ACTIVITIES OF OEO EMPLOYEES UNCONSTITUTIONALLY INFRINGE THEIR RIGHT OF FREE EXPRESSION.

The Hatch Act, first enacted in 1939, prohibiting governmental employees from engaging in political activities, was conceived with the most laudable of intentions, and was based on a sound philosophy of government. The original Act, and those provisions of the Economic Opportunity Act, as amended, and H.R. 8311 that deal with partisan political activities, are designed to safeguard the political independence of federal employees and prevent them from becoming subject to political coercion.

However, we believe that some of these provisions raise serious and fundamental civil liberties questions that demand comprehensive modification. It is our strong belief that these provisions infringe on the constitutional rights of Office of Economic Opportunity employees, and even those who are not government employees who work for private delegate organizations. These restrictions are far out of proportion to the pressures they were designed to mitigate.

Because of those provisions, the vast majority of employees covered by the above provisions elect to remain completely detached from any involvement in political activities, although some limited political activities are allowed. The American political system is therefore deprived of the contributions that could be made by many well-informed, interested citizens who are intimidated by the existence of these provisions.

As Senator Daniel Brewster of Maryland has said in regard to the Hatch Act itself, in hearings before the Senate Subcommittee on Privileges and Elections 89th Congress, 1st Session:

"[The] Act has gone from preventing improper political pressure on governmental employees, which is desirable, to hampering United States citizens in the performance of their normal civic responsibilities and has prevented them from carrying out their fundamental right as United States citizens, the right to participate in government."

Justice Black recognized this situation when he stated that:

"Certainly laws which restrict the liberties guaranteed by the First Amendment should be narrowly drawn to meet the evil aimed at and to affect only the minimum number of people imperatively necessary to prevent a grave and imminent danger to the public. Furthermore, what Federal employees can or cannot do, consistently with the various civil service regulations, rules, warnings, etc., is a matter of so great uncertainty that no person can even make an intelligent guess."¹

We state our unequivocal support of the fundamental concept of the Hatch Act, contained in § 107 of the Economic Opportunity Act, as amended, that "no officer, employee or enrollee shall use his official position or influence for the purpose of interfering with an election or affecting the result thereof."² It is essential to retain this flat prohibition on any employee being subject to political coercion by his superiors, and on use of government time or facilities for any partisan purpose.

However, we emphatically disagree with the requirement that "no officer, employee or enrollee of the Corps shall take any active part in political management or in political campaigns"³ and the interpretations given this provision in memorandum 50-A of the Office of Economic Opportunity.⁴ We believe that this provision is repugnant to the constitutional guarantees of the First Amendment.

Deletion of this section from H.R. 8311, coupled with continued vigorous

¹ Justice Black dissenting in *United Public Workers v. Mitchell*, 330 U.S. 75, 110 (1947).

² This provision modelled on the first sentence of § 9 of the original Hatch Act (5 U.S.C. § 1181) is preserved without change in § 118b of H.R. 8311.

³ This provision modelled on the second sentence of § 9 of the original Hatch Act (5 U.S.C. § 1181) is contained in § 107b of the Economic Opportunity Act, as amended, and is included in identical form in § 118b of H.R. 8311.

⁴ Memorandum No. 50-A of the Office of Economic Opportunity, December 1, 1966, constitutes the official interpretation regarding restrictions on political activities to OEO operations under Titles II-A and III-B. Although § 107b of the Economic Opportunity Act, as amended, covers only Title I, these interpretations are based on U.S. Civil Service Commission Poster, Form 1982, March 1964, and as such constitute the Hatch Act restrictions designed to cover all governmental employees.