

3024 ECONOMIC OPPORTUNITY ACT AMENDMENTS OF 1967

enforcement of the second provision of the first sentence of §107b (§118b in H.R. 8311), barring use of official positions to interfere with or affect elections, would be sufficient to continue the present situation, under which misuse of government authority to influence elections has been negligible.

The interpretations of Hatch Act activities deprive a large segment of the population of their fundamental American right and responsibility to participate actively in the operations of government. We find it deplorable that these regulations proscribe many voluntary leisure-hour pursuits carried on away from government property, such as:

1. Be a candidate for or delegate to a political convention.
2. Act as an officer of, or prominent participant in, a primary meeting, caucus, or mass political convention.
3. Hold office on a political committee, club, or organization, or be a member of a committee of a political party, organization, or club.
4. Act at the polls as an accredited checker, watcher, or challenger of any party or party faction.
5. Solicit votes, or help to get out votes on election day.
6. Distribute campaign literature, badges, or buttons.
7. Publish or edit a partisan political newspaper or newsletter.
8. Express opinions in public in such a way as to constitute taking an active part in a political campaign.⁵

When coupled with the vigorous enforcement of the prohibition against using official influence in connection with any of these activities, these activities by themselves cannot be considered detrimental to the fulfillment of the federal employee's responsibilities.

While we favor widespread liberalization allowing political action on the part of Office of Economic Opportunity employees, we recognize that there may be exceptional cases where some restriction is necessary. Such exceptions would have to be worked out after detailed study of individual situations.

We strongly support the dissenting opinion of Mr. Justice Black in *United Public Workers v. Mitchell*:

"Legislation which muzzles several million citizens threatens popular government, not only because it injures the individual muzzled, but also because of its harmful effect on the body politic in depriving it of the political participation of such a large segment of our citizens. Forcing public employees to contribute money and influence can well be proscribed in the interest of 'clean politics' and public administration. But I think the Constitution prohibits legislation which prevents millions of citizens from contributing their arguments, complaints and suggestions to the political debates which are the essence of our democracy; prevents them from engaging in organizational activity to urge others to vote and take an interest in political affairs; bars them from performing the interested citizen's duty of insuring that his and his fellow citizens votes are counted. Such drastic limitations on the right of all the people to express political action would be inconsistent with the First Amendment's guaranty of freedom of speech, press, assembly, and petition. And it would violate, or come dangerously close to violating, Article I and the Seventeenth Amendment to the Constitution."⁶

B. THE OATH REQUIREMENT CONTAINED IN §106C SHOULD BE DELETED

Section 104d of the Economic Opportunity Act, as amended, whose wording is retained without change in §106C of H.R. 8311, provides that:

"Each enrollee (other than an enrollee who is a native and citizen of Cuba described in §104(a) of this Act) must take and subscribe to an oath or affirmation in the following form: 'I do solemnly swear (or affirm) that I bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States against all its enemies foreign and domestic.' The provisions of §1001 of title 18, United States Code, shall be applicable to the oath or affirmation required under this subsection."

This oath is identical with that required under the National Defense Education Act and the National Science Foundation Act. The 1st session of the 89th Congress wisely repealed the negative disclaimer oath required by the original Economic Opportunity Act, Pub. Law 88-452, 78 Stat. 1069.

However, we believe that many of the objections presented against the original oath still remain true even with the oath as amended. Although it is true that governmental benefits can be withheld altogether, it is not true that they can be

⁵ Office of Economic Opportunity, Memorandum No. 50-A, December 1, 1966.

⁶ 330 U.S. at 111.