

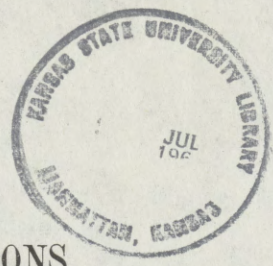
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COMMISSION ON POLITICAL ACTIVITY OF GOVERNMENT PERSONNEL

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HEARING BEFORE THE SUBCOMMITTEE ON PRIVILEGES AND ELECTIONS OF THE COMMITTEE ON RULES AND ADMINISTRATION UNITED STATES SENATE

EIGHTY-NINTH CONGRESS

FIRST SESSION

ON

S. 1474

TO CREATE A BIPARTISAN COMMISSION TO STUDY FEDERAL
LAWS LIMITING POLITICAL ACTIVITY BY OFFICERS
AND EMPLOYEES OF GOVERNMENT

MAY 10, 1965

Printed for the use of the Committee on Rules and Administration



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COMMISSION ON POLITICAL ACTIVITY
OF GOVERNMENT PERSONNEL



HEARING

REPORT THE

SUBCOMMITTEE OF

PRIVILEGES AND ELECTIONS

OF THE

COMMITTEE ON RULES AND ADMINISTRATION

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THE HEARING

SUBCOMMITTEE ON PRIVILEGES AND ELECTIONS

HOWARD W. CANNON, Nevada, *Chairman*

CLAIBORNE PELL, Rhode Island

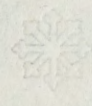
CARL T. CURTIS, Nebraska

JAMES H. DUFFY, *Chief Counsel*

BURKETT VAN KIRK, *Minority Counsel*

II

MAY 10, 1962



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3	Hon. _____, Chairman, U.S. Civil Service Commission
2	Hon. _____, Chairman, U.S. Civil Service Commission
1	Hon. _____, Chairman, U.S. Civil Service Commission

COMMISSION ON POLITICAL ACTIVITY OF GOVERNMENT PERSONNEL

MONDAY, MAY 10, 1965

U.S. SENATE,
SUBCOMMITTEE ON PRIVILEGES AND ELECTIONS,
COMMITTEE ON RULES AND ADMINISTRATION,
Washington, D.C.

The subcommittee met, pursuant to call, at 10 a.m., in room 301, Old Senate Office Building, Senator Howard W. Cannon (chairman) presiding.

Present: Senators Cannon and Pell.

Also present: James H. Duffy, chief counsel, and Burkett Van Kirk, minority counsel.

Senator CANNON. The meeting will please come to order.

The purpose of this hearing is to receive written and oral opinions concerning S. 1474, introduced by Senator Daniel B. Brewster on March 10, 1965.

S. 1474 proposes the creation of a 12-member, bipartisan commission composed of persons from Government and private life.

The Commission's duties would include a—

full and complete investigation and study of the Federal laws which limit or discourage the participation of Federal and State officers and employees in political activity with the view to determining the effect of such laws, the need for their revision or elimination, and an appraisal of the extent to which undesirable results might accrue from their repeal.

Large concentrations of Federal employees in certain metropolitan areas have given rise to peculiar problems pertaining to local governments in those localities.

Federal law prohibits Federal employees and, in many instances, State employees, from taking an active part in political activities, but the prohibition runs against partisan political activities rather than nonpartisan activities.

Consequently, organizations comprised of large numbers of Federal and/or State employees have been created on a nonpartisan basis to achieve civic reform. Membership in such organizations has reached such proportions that the political balance and structure of some communities have been affected substantially.

S. 1474 has been introduced to initiate a broad study of the overall problem and with the hope that a practicable solution may be recommended to the President and the Congress.

At this point I will ask that the text of S. 1474 be inserted in the record.

(The text of S. 1474 is as follows:)

89TH CONGRESS
1ST SESSION

S. 1474

IN THE SENATE OF THE UNITED STATES

MARCH 10, 1965

Mr. BREWSTER introduced the following bill; which was read twice and referred to the Committee on Rules and Administration

A BILL

To create a bipartisan commission to study Federal laws limiting political activity by officers and employees of Government.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

ESTABLISHMENT OF COMMISSION

SECTION 1. There is hereby established a commission to be known as the Commission on Political Activity of Government Personnel (in this Act referred to as the "Commission").

MEMBERSHIP OF THE COMMISSION

SEC. 2. (a) NUMBER AND APPOINTMENT.—The Commission shall be composed of twelve members as follows:

(1) Four appointed by the President of the United States, two from the executive branch of the Government and two from private life;

(2) Four appointed by the President of the Senate, two from the Senate and two from private life; and

(3) Four appointed by the Speaker of the House of Representatives, two from the House of Representatives and two from private life.

(b) POLITICAL AFFILIATION.—Of each class of two members appointed under subsection (a), not more than one member shall be from each of the two major political parties.

(c) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

ORGANIZATION OF THE COMMISSION

SEC. 3. The Commission shall elect a Chairman and a Vice Chairman from among its members.

QUORUM

SEC. 4. Seven members of the Commission shall constitute a quorum.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 5. (a) MEMBERS OF CONGRESS.—Members of Congress who are members of the Commission shall serve without compensation in addition to that received for their services as Members of Congress; but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(b) MEMBERS FROM THE EXECUTIVE BRANCH.—The members of the Commission who are in the executive branch of the Government shall serve without compensation in addition to that received for their services in the executive branch, but they shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

(c) MEMBERS FROM PRIVATE LIFE.—The members from private life shall each receive \$50 per diem when engaged in the actual performance of duties vested in the Commission, plus reimbursement for travel, subsistence, and other necessary expenses incurred by them in the performance of such duties.

STAFF OF THE COMMISSION

SEC. 6. (a) The Commission shall have power to appoint and fix the compensation of such personnel as it deems advisable, without regard to the provisions of the civil service laws and the Classification Act of 1949, as amended.

(b) The Commission may procure, without regard to the civil service laws and the Classification Act of 1949, as amended, temporary and intermittent services to the same extent as is authorized for the departments by section 15 of the Administrative Expenses Act of 1946 (5 U.S.C. 55a), but at rates not to exceed \$50 per diem for individuals.

DUTIES OF THE COMMISSION

SEC. 7. (a) **STUDY AND INVESTIGATION.**—The Commission shall make a full and complete investigation and study of the Federal laws which limit or discourage the participation of Federal and State officers and employees in political activity with a view to determining the effect of such laws, the need for their revision or elimination, and an appraisal of the extent to which undesirable results might accrue from their repeal.

(b) **REPORTS.**—The Commission shall submit a comprehensive report of its activities and the results of its studies to the President and to the Congress within one year after the date of enactment of this Act at which date the Commission shall cease to exist. The final report of the Commission shall contain such proposed legislative enactments as, in the judgment of the Commission, are necessary to carry out its recommendations.

POWERS OF THE COMMISSION

SEC. 8. (a) **HEARINGS AND SESSIONS.**—The Commission or, on the authorization of the Commission, any subcommittee or member thereof, may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents as the Commission or such subcommittee or member may deem advisable. Subpoenas may be issued under the signature of the Chairman of the Commission, of such subcommittee, or any duly designated member, and may be served by any person designated by such Chairman or member. The provisions of section 102 to 104, inclusive, of the Revised Statutes of the United States (2 U.S.C. secs. 192–194, inclusive), shall apply in the case of failure of any witness to comply with a subpoena or to testify when summoned under authority of this section.

(b) **OBTAINING OFFICIAL DATA.**—The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality information, suggestions, estimates, and statistics for the purpose of this Act; and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman or Vice Chairman.

Senator CANNON. Before proceeding with the witnesses this morning I would like to insert in the record a letter with attached statement from Clive L. DuVal 2d, an attorney of Washington, D.C. Mr. DuVal's statement and any others subsequently received by the subcommittee will be inserted in the record following the testimony of witnesses who appeared in person.

(The written statements on S. 1474 received by the subcommittee may be found starting at p. 48 of this hearing.)

Senator CANNON. Senator Brewster, we are very happy to have you with us today, and you will be our first witness.

You may proceed as you so desire.

STATEMENT OF HON. DANIEL B. BREWSTER, A U.S. SENATOR FROM THE STATE OF MARYLAND

Senator BREWSTER. Mr. Chairman, thank you very much for giving us this early opportunity to have a hearing on this measure, S. 1474.

This measure would establish a 12-man bipartisan Commission, 4 members to be appointed by the President, 2 of whom would come from the executive branch, and 2 from private life; 4 members by the President of the Senate, 2 from the Senate itself, and 2 from the private side of our economy; and, similarly, 4 members by the Speaker of the House.

The Commission would be completely bipartisan in that no two members of any class would belong to the same political party.

The resolution outlines that the Commission will elect its own Chairman, Vice Chairman, and seven members shall constitute a quorum; that they will reimburse nongovernmental members at the rate of \$50 per diem, but no compensation for Commission members who otherwise hold a place in Government, and it shall report back to the President and the Congress within 1 year of the date of enactment.

The broad purpose behind this resolution and the proposed Commission is to explore in detail the limitations imposed by the Hatch Act on Federal employees; and by "limitations of the Hatch Act," I, of course, mean political limitations and restrictions.

Now, in the 1930's when the Hatch Act was enacted into law, we had seen in this country a very definite increase in governmental activity in many segments of our economy and social structure. At that time we were recovering from a great depression and we had many public programs that were new and strange to the American people, like WPA and PWA, and others.

In an effort to prevent improper political pressure on this vast army of people that would be receiving for the first time compensation in some form or another from the Federal Government, the Hatch Act was very properly enacted into law, and from that date to this has been effective, in my judgment, in preventing unfair pressures, political pressures being brought on governmental employees. But it has gone further than this, and in the last decade it has unduly and I believe improperly hampered us, that is, the U.S. citizens, in the performance of their normal civic responsibilities, and has prevented them from carrying out the very fundamental right of U.S. citizens, the right to participate in government.

The weight of the limitation of the Hatch Act is extremely heavy in certain areas of my State of Maryland, in that, particularly in the suburbs of Washington, we have a heavy concentration of Government employees, in Prince Georges and Montgomery Counties. Many thousands of these employees desire to participate in government. They are not allowed to, in the usual sense of the words "political activity."

Now, I do not hear argument that the Hatch Act should be entirely repealed. I do vigorously argue that it should be carefully studied and it would be my personal hope, substantially liberalized.

The two-party system has served the political structure of our country very well for a long time. What we now see the Hatch Act doing is breaking down the two-party system. What I mean by this is that the Hatch Act does not prevent all political or public activity. It prevents partisan activity. The natural result is that a great number of citizens wish to actively participate in the affairs of their community, and instead of working through Republican or Democratic Parties, as has been the custom in other parts of the country, they have been forced to establish some third type of vehicle.

In my judgment, this serves to break down party responsibility, continuity in policy, and our two-party system.

There are in the two counties in Maryland most particularly affected these thousands of skilled, dedicated, knowledgeable people in the affairs of government that, in both parties, could make a great contribution to their parties and to their local governments, and I therefore argue that they should be allowed to do so. If that were allowed, their communities would be richer by their contributions and their own lives would be fuller and our two-party system would be stronger.

It goes without saying that in advancing the purpose of this resolution, I do it in a complete nonpartisan sense in making my argument. It will benefit the Republican Party as well as the Democratic Party and the entire political system under which we have organized our political society.

Mr. Chairman, and members of the committee, I again thank you for giving me this chance to address the committee on this subject.

Senator CANNON. Thank you, Senator Brewster for that very fine statement.

I certainly would agree that you are more aware of the problem perhaps than anyone from any other State, because of the peculiar situation here in southern Maryland that you must live with.

Do you have any estimate as to the amount of money that would be involved in the procurement of a staff for the carrying out of this study?

Senator BREWSTER. I have no estimate. The resolution does authorize a staff, and I would believe that this would be a very reasonable expenditure and should not be costly, and I should certainly hope not lengthy, inasmuch as the resolution itself directs that the report be returned in 1 year and the Commission then go out of existence.

Senator CANNON. I think that provision certainly makes it clear that this is not an attempt to establish another commission or another study group that might go on ad infinitum, which should be safeguarded against.

Senator PELL, do you have any questions of Senator Brewster?

Senator PELL. No, except to express my sympathy to Senator Brewster, who I guess has more Federal employees working in his senatorial area than most of us here.

I have my share in Rhode Island.

I have been struck by the way so many civil servants have retreated under the cloak instead of doing the amount of political activity they can do, because they can conduct certain activities which I hope Mr. Macy will explain, and I am a little concerned that on balance we may get into a period where we will go back to the old days.

Do you think there is any danger of that?

Senator BREWSTER. I do not see that as a clear-cut danger, but certainly as such it should be carefully considered by the Commission. It is certainly not the wish of the proponents, and I believe my entire Maryland delegation will join in this, this is not my wish to force anybody, to use coercion in any way on anyone to participate in any type of activity, but we believe that they should have this right, should they wish to participate.

Senator PELL. I have been struck by the civil workers in my communities, at the lack of activity, allowed activity, in which they do

engage in elections. Some of them seem to retreat to civil service as removing them from any obligation to participate, and I should like to see something done to encourage them to do more than they are doing, which is permissible under the law.

Senator BREWSTER. Thank you, Mr. Chairman.

Senator CANNON. Thank you very much, Senator Brewster, for making your presentation to us.

The committee will attempt to resolve this matter at an early date if at all possible.

Congressman Machen, representing the Fifth Congressional District of Maryland, is our next witness.

We are very happy to hear from you, Congressman.

STATEMENT OF HON. HERVEY G. MACHEN, A REPRESENTATIVE IN CONGRESS FROM THE FIFTH CONGRESSIONAL DISTRICT OF THE STATE OF MARYLAND

Mr. MACHEN. Thank you very much.

Gentlemen, I know that you all are busy. I do have a prepared statement.

Senator CANNON. If you like, you may present that for the record, and just make what comments you desire.

We have just heard from our colleague, Senator Brewster, who is the author of this bill and spoke in support of it.

You may proceed.

Mr. MACHEN. Well, I will just touch on it briefly, of course.

Coming from Maryland, particularly the suburban Washington part of Maryland, where so many of our constituents are employees of the Federal Government, we have been very interested and very concerned with the fact that so many of our suburban residents do not actively participate in partisan politics in the party of their choice, and I am very happy with the resolution and proposal of Senator Brewster.

I had earlier, on the other side, introduced a bill modifying the Hatch Act predicated upon testimony of some of the previous committees, and feeling that we would like, if possible, to have something done by next year incident to the statewide elections where every office in the State of Maryland will be up for consideration of the people.

The concern that a lot of us, not only locally, but almost nationwide, have is this disenfranchisement of so many of these people. You that are familiar with the Washington area have seen the gradual growth due to civil service regulations of the problem that the Government employees can participate in politics as long as it is on a nonpartisan basis. Actually, it is just another name for another party, and to me one of the strengths of our country is and will continue to be based upon a strong two-party system of government. Not a lot of splinter groups—certainly there is no reflection on them—a lot of them are driven into these groups because they want to participate and cannot participate. Not only do we in the metropolitan area feel very strongly about it, but we know it is true throughout the country. We know these Hatch Act rules also affect many of our State and county employees because of the use of Federal funds, and to some degree perhaps that has not been as rigidly enforced as it could be. I feel again

that the original abuses that led to the enactment of the Hatch Act no longer exist. We have a strong Civil Service Commission, we have a strong background of employment, and I feel we should have the benefit of these people in the arena of partisan political affairs.

I think in the long run it will tend to make for better government, for a government of the people, people who are helping to pay the cost of government, and believe me, gentlemen, in our suburban areas it is getting fantastic just keeping up with the Capital improvement budget.

Of course we all desire favorable consideration of this bill of Senator Brewster's for further study, but I just ask that we expeditiously do what we can to attempt to eliminate the inequities that do exist, and for the purposes of the record, I have submitted a statement, and I would appreciate your incorporating it in the testimony. I do wish to thank you all very much for having the opportunity to appear here before you and present my views on this very, very important matter to so many of us in the metropolitan area of Washington.

Thank you very much.

Senator CANNON. Thank you for appearing. We appreciate having your views on this.

Of course, if the Congress should follow the approach that Senator Brewster has proposed, it would delay it a longer period of time than what you seem to indicate will be desirable, although there is, of course, the argument made that rather than trying piecemeal to change some provisions of the act as it now exists, it would be better to have an overall study of the entire act and the entire problem, and to present it all in a package. We will certainly give consideration to the presentation you have made.

Mr. MACHEN. I appreciate that. I know it was not Senator Brewster's intent in connection with this, but serving in the Maryland Legislature, the standard way to postpone or delay an act or resolution there is to send it to a committee for further study. I know that was not the Senator's intent, but one way or another we hope that we can keep working and getting something done.

Thank you very much.

Senator CANNON. Senator Pell?

Senator PELL. I wonder if you have any reaction to my view which is perhaps a bit of the other way, instead of civil servants straining at the leash to engage in more political activity, they rather delight in the Hatch Act as an umbrella and do not do the amount of political work that they are allowed to, such as being members of political clubs, which they can; such as wearing buttons or bumper stickers, such as contributing to the party of their choice—you find as a general rule that they say, "We cannot do these things because we are under civil service," and that has been the reaction that I have had.

Mr. MACHEN. You do, I am certain, run into it, of course. Now, in my home county in my district, Prince Georges, there now is a population of 500,000, whereas 5 years ago we had 350,000, and you have a lot of people that state: "We can hide behind the Hatch Act; we are not interested in participating"; but why penalize others who really do want to. They can come to political meetings, they can join political clubs, but they cannot be an officer in a political club, they cannot actively go out and solicit funds in a fundraising activity, even within their own community.

On the other hand, they are turning around and going into municipal governments. In Prince Georges there are 29 of them that are nonpartisan, and believe me it is just as partisan politics as Democratic and Republican politics, but because it is nonpartisan, they can do it.

Go right across the river into Virginia and on their county level you have the same situation. Then you find they get above that level; they have no one to go to for representation in Virginia is either Democrat or Republican. The representation in Washington here is Democratic or Republican, and I think that they lose part of their effectiveness, and part of the effectiveness of a strong two-party system of government which starts at the grassroots and goes up, and let us not let them want to hide. People like that would be an advantage to us.

Senator PELL. There are basically two problems. One is the relatively few who would look to be more active in local government, and the other is the rather general and larger problem—how to try and get across to the civil servants that they have just as much obligation to participate in partisan politics as the next citizen, with the exception of raising money and with the exception of being an officer in a political club, making a political speech, and of course running for office. But everything else they can do, and how can we get this thought across to the civil servants?

Mr. MACHEN. I don't know. That is quite a question. Again I think you have the situation within your various divisions and branches of the immediate, shall we say, immediate superior in the line of command that interprets it.

Senator PELL. Sometimes we have a job even getting civil servants to register. That is rare, but I say I think our job is trying to get civil servants to feel that they have the same political responsibility that the average citizen has, and perhaps we can work that out in the same commission.

Thank you.

Mr. MACHEN. Thank you, sir.

Senator CANNON. I would certainly agree with Senator Pell. I have seen many instances myself where the fact of the existence of the civil service regulations has acted as an excuse or provided an excuse, let us say, for the participants to be overly cautious as to things they could or could not do. As a matter of fact, I recall in the last election, on numerous instances I heard people say they would like to participate, they would like to do things, except they were covered by the Hatch Act. I had available one sheet, I don't recall whether it was put out by the Commission—I have just sent for a copy of it—but it had the cans and cannots listed as to what a person could or could not do, and—here it is right here. It covered the permitted and prohibited activities and it was surprising the lack of knowledge, presumably the lack of knowledge on the part of civil service employees as to what they could or could not engage in.

I thought this was a very helpful statement, an educational statement, and perhaps we should suggest to Chairman Macy that he try to emphasize an educational campaign a little more than we have up to this point.

However, this sheet was very, very helpful. It was helpful in providing information to those who wanted to participate and it was also helpful in providing an answer to those who, as Senator Pell

indicated, wanted to use this as an umbrella under which they would not have to do anything.

Senator PELL. I would like to read into the record, if I may, a couple of permitted activities, and make the comment, having just glanced through it, that 80 or 90 percent or at least a large number of the civil servants do not do these activities which they are already permitted to do.

Among them are: Federal employees have a right to express political opinions.

Federal employees may attend political rallies and conventions to which the general public is admitted.

Federal employees are permitted to sign nominating petitions in support of individuals whom they wish to see become candidates for office.

It is lawful for Federal employees to make voluntary contributions to a regularly constituted political organization, provided such contribution is not made in a Federal building or to some other Federal employee.

It is lawful for Federal employees to display political pictures in their homes if they so desire.

It is lawful for Federal employees to wear political badges or buttons or to display political stickers on their private automobiles.

In fact, the vast majority of civil service employees do not engage in these activities.

Mr. MACHEN. May I just not belabor the point, but you mentioned they can attend political rallies. They can help set them up, but they cannot act as master of ceremonies, they cannot sit on the platform, and many of them always have a question in the back of their minds, even though houses in my district are owned by both husband and wife as tenant, by the entirety, and ownership is considered as one, that is as close as you can get to two being one, but there is a question in their minds, if you ask the wife to have coffees and teas in the wife's name, there is that question staring at them: "Are we violating the Hatch Act?" because the husband is a Government employee? There are a lot of gray areas in there.

Senator PELL. This is gray, and that is black and white.

Senator CANNON. Thank you very much, Mr. Machen. We appreciate receiving your views.

Mr. MACHEN. Thank you.

(The prepared statement of Representative Hervey G. Machen follows:)

STATEMENT OF HON. HERVEY G. MACHEN, A REPRESENTATIVE IN CONGRESS FROM
THE FIFTH CONGRESSIONAL DISTRICT OF THE STATE OF MARYLAND

I do appreciate this opportunity to appear before this committee considering the Hatch Act. This is a matter of great interest to me as earlier in this session I introduced a bill to repeal those portions of the Hatch Act that prohibit public employees from engaging in partisan political activity.

I am very glad that the Hatch Act is again the subject of discussion thus increasing the chances for revision of this law. Senator Brewster and I are attacking the same problem from different angles. While it is certainly possible that more study is needed, I had hoped, in view of the upcoming elections, that some bill requiring action rather than study would be enacted in this session of Congress.

For example, in 1957 the House Administration Committee was authorized to investigate and study the operation and enforcement of the Hatch Act and other similar laws and regulations restricting the right of public employees to take an active part in political management or in political campaigns.

This committee reported back five recommendations. Many thousands of words later one very minor change was effected.

One of the recommendations reported was the repeal of those portions of the Hatch Act that restrict the political activity of State and municipal employees.

Sometime later, on May 14, 1959, Mr. Roger W. Jones, then Chairman of the U.S. Civil Service Commission, stated in a letter to the House Administration Committee's Subcommittee on Elections that, "We (the Commission) do not object to the repeal of the second, third and fourth sentences of section 12a which relate to activity in political management or in political campaigns."

One of the provisions of my bill calls for deletion of those very sentences.

Since the distinguished committee recommended this repeal 7 years ago and 6 years ago the Commission concurred in this recommendation I feel that this is adequate investigation and support to warrant action by the Congress.

And we can go one step further.

If it is considered proper to exempt State and local government employees from the coverage of the Hatch Act, why not Federal employees also?

Are Federal employees more prone toward corruption or more subject to political control than State or local government employees?

I don't think so and I think we insult the integrity of the employee and the effectiveness of our civil service system when we imply it.

The Federal employee is not a member of a monolithic bloc whose interests and loyalties can be commanded by an appeal to a single issue. The Federal service attracts a cross section of all America—Republicans, Democrats, Protestants, Catholics, Jews, whites and Negroes from all varying economic and social backgrounds. There is no reason to think that these people can be welded into a partisan political organization. Their opinions are influenced by the myriad of factors that affect all of us. These include our backgrounds, our families and friends and the effect of political decisions on our life and ideals. I don't believe that when someone enters the Federal service he loses his integrity or his individualism.

This committee will be hearing testimony of witnesses from the suburban counties surrounding Washington, D.C. Here in this area where partisan political activity reaches its peak, the citizens chafe under the restrictions of the Hatch Act and suffer the most from the confusion created by its varying interpretations. For example, in the Fifth District of Maryland roughly one-fourth of the working population is unable to lift a hand other than to the lever of the voting machine toward electing the candidates of their choice.

However, we have heard much discussion over the years concerning exempting Federal employees in certain impacted areas from some provisions of the Hatch Act. Bills of this nature have passed both Houses of the Congress only to be vetoed by Presidents Eisenhower and Truman. The reasons given for the vetoes were not opposition to the principle of increased participation, but rather because of the discriminatory features confining it to certain areas or to certain levels of government. Although in Prince Georges County we are sympathetic to the idea of exemption, I agree with President Eisenhower's veto message which stated: "If additional political privileges are to be extended to Federal employees it should be on a nationwide basis."

Based on the reasons I have stated I sincerely hope that this committee will report out an effective bill this session.

Senator CANNON. We are very happy to invite Mr. John W. Macy, Jr., to appear here today.

Mr. Macy, you are the Chairman of the U.S. Civil Service Commission, and I see that you have the other Commissioners here with you.

Would you like to sit here at the committee table with Commissioner Andolsek, Commissioner Hampton, and Mr. Meloy, the general counsel?

Mr. MACY. Thank you, sir.

Senator CANNON. First, let me ask—you are Commissioner Andolsek?

Mr. ANDOLSEK. Yes.

STATEMENT OF JOHN W. MACY, JR., CHAIRMAN, U.S. CIVIL SERVICE COMMISSION

Mr. MACY. Thank you very much, Mr. Chairman. We are pleased to be here as a full Commission with our General Counsel, Mr. Meloy.

This is an area of major importance to the Civil Service Commission, and we appreciate the opportunity to place on the record our views with respect to this legislation.

I have a brief statement. May I read that statement and then proceed to answer questions that you and Senator Pell may wish to address to us?

Senator CANNON. Yes.

Mr. MACY. Mr. Chairman, my colleagues and I appreciate this opportunity to present our views on behalf of S. 1474 which proposes to create a bipartisan commission to study existing Federal laws which limit the political activity of Federal and certain State officers and employees. Senator Brewster, the sponsor of this bill, has previously made known to me his interest in the Hatch Act and its application.

The question as to how strictly the Government should limit the political activity of Federal employees, and of State employees who work primarily in activities financed by Federal funds, involves issues of critical importance to the integrity of the civic service and to the efficiency of government administration. This subject calls forth issues which are as old as the Republic itself and which could affect in a fundamental way our system of representative government and the political structures which are so vitally a part of that system.

Political activity of civil servants in the executive branch engaged the attention of our first President. However, this concern did not ripen into an executive policy until the year 1801 when President Jefferson promulgated the first restrictions on the political activity of executive branch personnel. This policy was subsequently embodied in the early civil service rules which were later incorporated into Executive Order No. 8, issued by President Grant on April 16, 1872.

Our Government was nearly a century old when, in 1883, Congress enacted the Civil Service Act creating the Civil Service Commission and the civil service merit system. Congress deemed it essential to the merit system to incorporate into that act the basic policy on political activity which had been expressed in Executive orders and in civil service rules. The regulation of political activity thus became a necessary part of the duties which devolved upon the Commission in administering the Civil Service Act. It is significant that Theodore Roosevelt, who had served as a Civil Service Commissioner, found it desirable, when he was President, to expand the existing political activity restrictions which applied to the classified civil service. This he did by Executive Order No. 642, issued on June 30, 1907.

It was not until 1939, however, that Congress again acted in this area. That year, by enactment of the Hatch Political Activities Act, Congress incorporated into law the civil service rules as they had evolved over the years.

The Commission has continued to administer and enforce executive and legislative policy in this field. We therefore have extensive experience with those provisions of law which limit the political conduct of Federal employees in the executive branch and of certain defined

classes of employees in State or local government. In light of this enforcement experience, it is our opinion that the Hatch Act has measurably protected the integrity of the career civil service and materially contributed to efficient public administration in the executive branch.

Twenty-five years have passed since the enactment of this law. These have been years of unparalleled progress and growth. There have been changes in governmental programs and relationships. These changes may well have affected or altered the purposes and requirements for limiting partisan political activity of Government employees. They may have produced conditions which call for modifications in the methods and degree of such restrictions. There would be no objection to a temporary commission to assess these changes by the method, and for the purposes, set forth in this bill (S. 1474).

Since the enactment of the Hatch Act, numerous bills have been introduced to amend it piecemeal or repeal it outright. The Commission, where appropriate, has opposed these bills, principally because they failed to provide for adequate and proper consideration of the total problem involved. The present bill, in our opinion, meets this deficiency. We imply neither a stand for the status quo nor a need for change, but recognize that an objective study of this important subject will itself serve the public interest.

In the event the bill is enacted the Commission would be pleased to work closely with those conducting the study and to provide advice drawn from 25 years of experience in administering these statutes.

In short, Mr. Chairman, I should like to offer the Civil Service Commission's fullest cooperation to any study commission established under this legislation. We will be pleased at the appropriate time to give that commission the full benefit of our views and experience under the Hatch Act.

Thank you for the opportunity to offer this testimony today. My colleagues, Commissioner Andolsek and Commissioner Hampton who are here with me, and I, are available to answer any questions you may wish to raise with us.

Senator CANNON. Thank you, Chairman Macy, for your very fine statement.

I think the key to it, as I see it, is where it states at the bottom of page 3; that you recognize that an objective study of this important subject will itself serve the public interest. I think that is what we are all concerned with, as to how we can better serve the public interest, and what approach we should actually make to get to the problem involved here.

You were here when Congressman Machen testified and I am sure you heard the discussion then as to the different types of approach, as to whether you should approach these matters piecemeal or whether you should try to make a study of the entire problem.

I note in Congressman Machen's statement that he presented to us that he indicated that the bill that he had proposed this year did meet with the approval of the Civil Service Commission in that the Commission does not object to the repeal of the second, third, and fourth sentences of section 12(a), which relate to activities in political management or in political campaigns.

Does that correctly represent the views of the Commission at this time? He was quoting from a statement I believe in 1959 when Mr.

Roger Jones was Chairman of the Civil Service Commission, that Chairman Jones stated that information in a letter to the House Administration Committee, Subcommittee on Elections.

Mr. MACY. Mr. Chairman, I do not believe the present Commission has taken a position to date with respect to Congressman Machen's bill.

Senator CANNON. I see.

Mr. MACY. The view of the Commission and the administration at this point is that the legislation you are considering would be preferable to individual piecemeal amendments to the basic statute.

We believe that it is desirable to have a bipartisan group dig deeply into the act and its administration, to review it in its totality rather than take apart individual sections of the bill.

Last year legislation similar to Senator Brewster's bill was introduced and we supported that legislation, our belief being that it was highly desirable after 25 years to review all features of these two statutes. Although today the testimony has been primarily addressed to the restrictions as they apply to Federal employees, the Civil Service Commission is aware of a number of issues that have been raised with respect to the coverage of the State and local employees under section 12 of the Hatch Act. These have been questions that have been prompted by the fact that the Federal dollar now finances many activities that are conducted by State and local governments. Consequently, these restrictive provisions on political activity extend to a large number of employees at the State and local level.

Senator CANNON. I am sure that you heard the exchange we had with Congressman Machen on Senator Pell's thought that many people in civil service actually use the act as an umbrella, and I want to compliment you and the Commission for seeing that this one-sheet flyer is disseminated and made available.

I only regret that it is not disseminated more widely.

Mr. MACY. Let me say, Mr. Chairman, I was delighted to see that this notice had been called to the committee's attention.

Let me say for the record that 260,000 copies of that notice were circulated in 1964. That is roughly 1 in every 10 Federal employees, so certainly there has been no lack of effort on the part of the Civil Service Commission to make known not only the restrictions but to make known the permitted activities, and, as Senator Pell read into the record, there are a significant number of permitted activities that can be pursued by Federal employees.

It is desirable that they know of the opportunities they have to engage in activities of this nature.

I was interested in your earlier point about the use of the Hatch Act as an umbrella to protect employees from even permitted political activity. I think that Federal employees react as large numbers of other citizens do, and find that political activity is not to their choice, but that the Hatch Act is a convenient means for explaining why they are not active. I don't know that we would ever reach a point where any significant percentage of the two and a half million employees would want to engage actively in political work, but certainly it is important that they know that these opportunities to exercise citizenship do exist, and let me say that in recent years it has been the policy of the executive branch to point out to citizens who are Federal em-

ployees that this is a responsibility and that they should engage in it to the extent that the statutes permit.

Senator CANNON. I think it might be fair to say that many people covered by the Hatch Act use the information set forth in this flyer with enthusiastic reluctance. [Laughter.]

Mr. MACY. Touché.

Senator CANNON. Senator Pell?

Senator PELL. I think Commissioner Macy knows the regard that I have for the way he handles all facets of the tremendously difficult job he is now holding down.

Were you aware or are you aware of any study that has been made as to the relative percentage of registration and voting of employees to the total population at all, or would that be a proper study to be conducted by this Commission?

Mr. MACY. If such data is available, it seems to me it would be proper for a study by your Commission. I think it would be improper for the Civil Service Commission to engage in that.

I think, however, it is possible to make some rough-cut analyses of the political behavior of Federal employees by looking at registration and voting percentages in the counties immediately adjoining the District of Columbia, and in some of the precincts where there are heavy concentrations of Federal employees across the country in communities like Dayton, Ohio; San Antonio, Tex.; and others of that type.

I do not have those figures in my head. However, let me say that I feel that Federal employees do perform in terms of good citizenship. I must say that I am an enthusiastic supporter and advocate of behavior of these employees, and I feel that in this regard, as well as in others, they are fine citizens.

Senator PELL. My own recollection, in my own State, which has the highest ratio of income from military sources as opposed to civilian income north of the Mason-Dixon line, is that in those communities immediately contiguous to Federal installations, the rate of registration and voting is less than it is in the State as a whole. I will try and develop these figures for use of the Commission.

Mr. MACY. Let me say that with respect to registration, that it has been made very clear that Federal employees may participate in the process of encouraging registration as long as this is not done on a partisan basis, and in urging that registration be extended, the Federal Government has been a party.

Senator PELL. Thank you.

Senator CANNON. I wonder if any of the other members of the Commission might care to add any comments to what Chairman Macy has said. We would be glad to hear from them.

Mr. ANDOLSEK. I think that the Chairman has covered the subject pretty well.

Senator CANNON. It has certainly been a pleasure to have you take the time to give us your views on this very important matter.

Mr. MACY. May I say thank you. It is an important subject, and if there is any additional information you or your committee wish, Mr. Chairman, please do not hesitate to call upon us.

Senator CANNON. We appreciate your offer of help here in the event such a Commission should be established, because I think that

you could be of invaluable assistance to the Commission in developing this study and the review of this overall problem.

Mr. MACY. Thank you very much.

Senator CANNON. Mr. Alfred L. Scanlan, representing the Montgomery County State Central Democratic Committee, is our next witness.

**STATEMENT OF ALFRED L. SCANLAN, REPRESENTING THE
DEMOCRATIC STATE CENTRAL COMMITTEE FOR MONTGOMERY
COUNTY, MD.**

Mr. SCANLAN. Senator Cannon and Senator Pell, I have a prepared statement which I have submitted to the committee and I will not take up the time of the committee in reading it again here at the hearing, but I would like to discuss briefly one particular aspect of the problem that would be embraced by Senator Brewster's bill.

Before I do that, I certainly want to make it perfectly clear that we support the bill represented by the legislation of Senator Brewster.

As Chairman Macy put it, 25 years have passed since the Hatch Act became law, and even in the life of the Constitution of the United States, 25 years is a long time to pass without serious study being given to a revision of the document.

I point out, for instance, most of the landmark legislation that was enacted in the first and second terms of President Roosevelt, most of that has been studied and most has been amended, and there is no reason why we should immunize the Hatch Act from real objective appraisal and, if necessary, very substantial amendment, and I think the vehicle Senator Brewster has chosen is especially well designed for that purpose. It is a model along the lines of the Hoover Commission, which did so much in the reform of Government some years ago, and a monumental reform of our administrative process, and I think that if good can come from that objectivity, it will be along the lines that Senator Brewster's legislation contemplates.

I would now like to turn to the specific problem which I would like to lay before the committee this morning, namely, the participation of Federal employees in local elections, in Maryland and Virginia areas that are close to the National Capital, or in municipalities where more than half of the people who reside there are Government employees.

This is primarily a problem for the counties of Arlington, Fairfax, and the city of Alexandria, in Virginia, and the counties of Prince Georges and Montgomery, in Maryland.

The Hatch Act, section 16 of the Hatch Act, does permit the Civil Service Commission to grant an exemption to employees in those areas so they can participate in a local election up to the county level. I am not talking now about running for State office, like State senator, but I am talking about running for the County Board in Arlington, or the County Council in Montgomery County, and it was given that power as a result of legislation added after a debate by Senator Byrd of Virginia, and he at that time made it perfectly clear and on subsequent occasions reaffirmed his intent, that he wanted the Government employee who was given the privilege to be able to exercise that privilege through the political party of his choice, whether Democratic Party, ABC, or XYZ, and there is nothing in the statute itself, or its

language, which would indicate that there are any restrictions on his manner of participation so far as the party of his choice is concerned, once it is granted, and as I said, nothing in the legislative history indicated that this provision was to be restrictive. On the contrary, the legislative history points in the other direction.

Now, under the regulations that the Commission has passed to implement section 16, however, this has not been the interpretation afforded section 16. Under the Commission's regulations a Government employee in one of the favored localities shall not run for local office as a candidate representing a political party, or become involved in political management in connection with the campaign of a party candidate for office.

It then further requires that an employee who is a candidate for local elective office shall run as an independent candidate.

Well, all experience since these regulations in slightly different form became the Commission's rule on the subject in 1940 have shown what will happen under that sort of arrangement. I think the classic example for it is the so-called ABC in Arlington, and incidentally the story of the rise to power of that political group, perhaps in the Democratic Party, it may be in the Republican Party, it may not be in any party we know of, or even the Socialist Party, but nevertheless, it is a political party in the sense of the term for local. There has been a history of this written by Professor Fell, out in Michigan, and in his book he documents what we all know who live in this area to be a fact, that ABC conducted itself exactly like a political party, it made speeches, it attacked the opposition's policy, it attacked the opposition's leader, it fielded candidates, won elections, it organized, and today of course it is the dominant political party in Arlington County, insofar as local matters are concerned.

I want to give you an example of the unfairness of this sort of rule. Do not forget these counties. I know that Senator Pell feels that Government employees do not have the same sentiment in political participation as other citizens. I find that hard to believe. I think it depends on the economic strata, the educational strata, the opportunity to participate, and I certainly know in my county of Montgomery, where we have very highly educated Government workers, we have people very anxious to participate in local, or indeed State affairs, if they could.

I am only talking about the local affairs, because in my opinion this is something perhaps that Senator Brewster's Commission need not take up; the Commission could deal with it by itself.

The same thing with Arlington, which Professor Fell documents in his book, where they have highly trained active workers in Arlington who are shut off from political participation through normal political parties of their own choice, either Republican or Democratic.

In such a situation it was quite natural for them to turn to a third so-called independent, which is contradictory or nonpartisan, which is contradictory, as a term, a nonpartisan political organization to translate this interest in civic affairs, and as a consequence over the last few years, unless my information is totally incorrect, the Democratic Party, for instance, does not oppose the candidate of ABC in local elections, but rather it permits the Government worker, registered as a Democrat, to run under ABC, or actively support ABC candidates.

Meanwhile, the Government worker registered as a Republican cannot participate in the campaign because the Republican Party—he must stand back in silence while the ABC candidate attacks his own candidates, and we are perfectly clear that although Montgomery County's experience has not yet matured since the Commission granted the exemption—that was only a year ago this month—it is perfectly obvious that a third party in Montgomery County will attract a lot of active people, Government workers.

This is commendable. I think this is fine. I am not criticizing ABC or any party. I think they should be given the opportunity to appeal in a free contest for men's minds and votes, but I do not think the deal should be rigged, and I don't think the local political scene should be, as far as the Government worker is concerned, closed, except if he agrees to participate as a so-called nonpartisan.

That is nonsense. They are partisan. If words have any meaning, these organizations are partisan.

Again, I am not being critical; again I am calling attention to what I think is an inequity and I think an inequity created not by section 16 of the Hatch Act, not by Congress, but by the Commission itself. It is a Commission regulation. We have challenged it. The Commission has turned us down. I believe, I don't want to summarize the reasons, but as we read them they indicate that this is a matter that only the Congress can act on. We disagree with that. We think plainly they have a power to create or amend a regulation that they have created in the first instance, and we believe for them not to do so is to continue the inequitable and discriminatory situation that I have laid before the committee today, an inequity that runs against the traditional political parties and an inequity that runs against the Government worker who wants to participate in the local political affairs through the political party of his own free choice.

We regard this as an arbitrary action, regard it as a discriminatory action; we regard it as illegal and we think the Commission can rectify this. Perhaps if they won't we may move to the court and see if the courts may do so.

I want to make it clear that in laying this situation today before the committee I am not claiming that the Congress has to do it, but if we are unsuccessful in our efforts to persuade the Commission, perhaps later the court to change this discriminatory legislation, then of course it would be a matter for the Commission to be created by Senator Brewster's bill to take up.

I want to say that in the material we filed with the committee we have some proposed regulations which, if they adopted those regulations, would mean that the Commission could police this provision. It would permit the Government worker to participate in local campaigns through the political party of his choice, but at the same time the Commission would retain power to see that the two campaigns were not coalesced so that the local campaign affected a National or State election.

I thank the committee for the privilege of coming before it today to tell you this little story of one aspect of the broad problems embraced in Senator Brewster's bill.

Senator CANNON. Thank you very much, Mr. Scanlan. We are happy to have you here on behalf of the Democratic State Central

Committee, representing Montgomery County. While much of your statement relates to matters that are not specifically before us, I am sure it will be helpful for the record if the Commission is authorized to go into this entire broad problem of Hatch Act activities and study the problem in general and to make a report to the Congress.

Senator Pell?

Senator PELL. I do not know the answer. I was wondering, Mr. Scanlan, how do the registration figures compare in Montgomery County, as compared with the State of Maryland as a whole?

Mr. SCANLAN. When I first heard that asked by the chairman, I hoped that you would ask me that.

Our figures show that statewide the registration and participation in Montgomery County is slightly higher than the rest of the State. I don't think that that is unusual, Senator Pell. I think—I am sure your experience is right—that in Rhode Island, perhaps next to the shipyards, maybe participation is a little lower than those of other citizens in that area, but I think it all relates to economic status, education, opportunity, the interest in the local issues. I think it is the same sort of thing that differentiates one citizen from another.

As chairman, may I say that some people just do not like the smell of politics and to give them a respectable excuse not to indulge in something they would rather not get into, some people are frustrated, as Congressman Machen said, to go to a political meeting and to have to stand mute.

We have a democratic forum in our county and we are trying to enlist the views of all people in matters such as land use, transportation and planning, and they are in the Federal Government and I had to give an opinion to the people that asked me that these men could not come to the forum sponsored by the Democratic Party in a political atmosphere and state their views on these subjects.

It seems to me that is absurd, but I am just trying to emphasize that human beings act from different motives and I have no doubt there are Government workers that dodge their responsibilities, but there are American citizens that are doing the same thing. I don't care what you do about the Hatch Act, you can't change all of the people at one time.

Senator CANNON. Thank you very much, Mr. Scanlan, we appreciate your views.

Mr. SCANLAN. Thank you.

(The prepared statement of Mr. Scanlan follows:)

STATEMENT OF ALFRED L. SCANLAN, REPRESENTING THE DEMOCRATIC STATE CENTRAL COMMITTEE FOR MONTGOMERY COUNTY, MD., MAY 10, 1965

My name is Alfred L. Scanlan. I reside in Bethesda, Montgomery County, Md. I practice law in the District of Columbia and in the State of Maryland.

I appear today in behalf of the Democratic State Central Committee for Montgomery County, Md., to convey the central committee's endorsement, and my own personal support, of S. 1474, legislation which Senator Brewster introduced on March 10, 1965, and now before this committee for consideration. In addition, I think I transgress neither fact nor authority in advising the committee that the major point which I hope to make to the committee today represents a position also maintained by the Prince Georges County Commissioners, the Democratic State Central Committees of Arlington and Alexandria, Va., and the Republican State Central Committee of Arlington. With some confidence also, I believe that I can state to the committee that this same point of view is also held by your colleagues, Senators Brewster and Tydings, and by Congress-

men Sickles and Machen, all of whom have manifested a keen, continuing interest in the equitable application of the Hatch Act to Federal employees residing in the State of Maryland and within the respective congressional districts of the two Congressmen to whom I have referred.

THE GENERAL PURPOSE AND SCOPE OF S. 1474

The last major amendments to the Hatch Act were approved by the Congress and became law in the summer of 1940, nearly 25 years ago. I refer here to those amendments which extended the coverage of the original Hatch Act to employees of a State or local agency whose principal employment is in connection with any activity financed in whole or in part by loans or grants made by the United States or by any Federal agency (54 Stat. 767, 5 U.S.C. 118k et seq.). Thus, nearly two generations have elapsed since the Hatch Act was last subjected to really careful and comprehensive appraisal and analysis by the Congress. To be sure, of course, since 1940 there have been occasions when committees of the Congress have taken up certain aspects of the Hatch Act.¹ However, no overall study of the statute has been conducted since 1940.

Even within long and venerable history of the Constitution of the United States 25 years is a long period of time to have passed without at least some serious consideration having been given to possible substantial change or amendment of the basic document. Similarly, on the lower plane of legislation, most of the social and economic regulation reflected in the landmark statutes passed during the first two terms of President Roosevelt have been reappraised and a considerable number of them substantially amended during the years since they were first enacted into law. There is no reason, therefore, that the Congress should immunize the Hatch Act from careful study and, if justified, substantial amendment.

This, as I understand it, is the purpose of the carefully drafted legislation introduced by Senator Brewster in the form of S. 1474. I am pleased that the Civil Service Commission appears to have endorsed the general purposes of the bill. Surely, it contemplates a reassessment of the Hatch Act long overdue. Since 1940, the Congress, the employees, the agencies, and the public have all encountered situations, where either too strict, or too liberal, application of the Hatch Act, as the case may be, has produced inequitable, if not absurd, results. In many instances, the penalties for violation of the act may be too severe; in other cases, perhaps, there remain unfortunate loopholes which might permit a Federal employee in certain situations, either to influence National or State elections, or to be subjected to political pressure, in a manner at variance with the original congressional purpose underlying the enactment of the Hatch Act and the major amendments thereof adopted in 1940. On the other hand, subsequent experience may have demonstrated the need for a reassessment and revision of the congressional policy in the entire field of the permissible political activity of Federal employees.

S. 1474 appears an especially well-drafted instrument or vehicle through which ultimately to achieve, if the need for it is established, substantial revision of the Hatch Act. The bill is modeled along the lines of the Hoover Commissions, whose monumental studies of Government reorganization and reform of the Federal administrative process rank with any of the reports rendered by the famous Royal Commissions of Britain. Accordingly, it is completely without reservation that I say that Senator Brewster's bill should be adopted by the Congress, the bipartisan Commission it proposes created, and the important work assigned to the Commission promptly begun.

THE PARTICIPATION OF FEDERAL EMPLOYEES IN LOCAL, MUNICIPAL, AND COUNTY ELECTIONS

Having expressed by unequivocal support of the basic purposes to be served by S. 1474, I would like now to turn attention to one particular but very important aspect of the subject which should be considered by any Commission established under the bill and, for that matter, by the Congress itself. I refer to the problem of whether or not Federal employees residing in the Washington and Maryland environs of the District of Columbia, and in certain other areas

¹ See, e.g., hearings on H.R. 1167 and H.R. 433, before Subcommittee on Elections of the House Committee on Administration, 85th Cong., 1st sess., July 19 and Aug. 11, 1957, and S. Rept. 436, 81st Cong., 1st sess., June 2, 1949.

where they constitute a substantial portion of the permanent population, are to be permitted to participate in local, municipal, and county (but not necessarily National or State) elections. As the Washington Star recently stated in an editorial commenting favorably on S. 1474:

"The major emphasis of such a review (as proposed by S. 1474), however, should be on the need to remove the largely senseless restrictions (i.e., Civil Service Commission regulations) which now force countless Government employees concerned with their local problems, either to sit on their hands, or to find, where they exist, organizations which are 'un-Hatched,' in the name of non-partisanship."²

The Deputy Director of the Bureau of the Budget has also drawn attention to the inequitable situation, now prevailing as a consequence of Civil Service Commission regulations, whereby Federal employees in the Maryland and Virginia suburbs of Washington, D.C., can only participate as candidates, or open, active, and partisan supporters of candidates, in local, municipal, or county elections, by associating with and becoming active in so-called nonpartisan political groups or parties, such as, for example, ABC in Arlington, Va., or the "Non-Partisans for a Better Montgomery County," recently organized in my own county.³

Before discussing the regulations of the Civil Service Commission which prohibit Federal employees in the Maryland and Virginia areas from engaging in local elections through the political party of their own free choice, I would like to call to the attention of the committee those provisions of the Hatch Act on which the Civil Service Commission purports to rely in promulgating and policing such regulations. I refer here to section 16 of the Hatch Act (5 U.S.C. 118m), enacted in 1940, which provides that:

"Whenever the United States Civil Service Commission determines that, by reason of special or unusual circumstances which exist in any municipality or other political subdivision, in the immediate vicinity of the National Capital in the States of Maryland and Virginia or in municipalities the majority of whose voters are employed by the Government of the United States, it is in the domestic interest of persons to whom the provisions of this subchapter are applicable, and who reside in such municipality or political subdivision, to permit such persons to take an active part in political management or in political campaigns involving such municipality or political subdivision, the Commission is authorized to promulgate regulations permitting such persons to take an active part in such political management and political campaigns to the extent the Commission deems to be in the domestic interest of such persons." [Italic supplied.]

Quite clearly, there is nothing in the express language of the section quoted above which requires the Commission to limit the participation of Federal employees in local elections in Maryland and Virginia to participation on a so-called nonpartisan basis and to deny them the right of so participating through any political party or group, be it Democratic, Republican, Socialist, Prohibition, ABC, or WXYZ. Indeed, in the section of the statute which directly follows section 16, Congress has granted another exemption permitting participation of Federal employees in certain local elections in which it expressly prohibited such participation if State or National political parties were involved. I refer here to section 18 of the act (5 U.S.C. 118m), also enacted in 1940, which reads as follows:

"Nothing in the second sentence of section 118i (a) or in the second sentence of section 118k (a) of this title shall be construed to prevent or prohibit any person subject to the provisions of this Act from engaging in any political activity (1) in connection with any election and the preceding campaign if none of the candidates is to be nominated or elected at such 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) in connection with any question which is not specifically identified with any National or State political party. For the purposes of this section, questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character, shall not be deemed to be specifically identified with any National or State political party." [Italic supplied.]

² Washington Sunday Star, Mar. 21, 1965 (editorial page).

³ Letter of Mar. 23, 1965, from Elmer B. Staats, Deputy Director of the Bureau of the Budget, to Senator Alan Bible, chairman of the Senate Committee on the District of Columbia, and referred to in the Washington Post, Apr. 19, 1965, p. A-19, and Washington Evening Star, Mar. 25, 1965, p. A-2.

In comparing the two sections referred to above, one need not be a trained lawyer to draw the reasonable conclusions that when Congress wished to limit the scope of an exemption in the Hatch Act permitting the participation of Federal employees in local elections only on a nonpartisan or independent basis, it had no trouble using language to carry out that purpose. Conversely, the omission of such language in section 16 very strongly suggests that Congress did not intend to thus limit the participation of Federal employees in the local elections embraced within section 16.

THE LEGISLATIVE HISTORY OF SECTION 16

I will not take up the committee's time with a long discussion of the legislative history and purpose behind the enactment of section 16. We have set this forth in detail in a brief which we filed with Civil Service Commission on March 2, 1965, and a copy of which I shall be happy to file with the committee as an appendix to my statement.⁴

In short, it establishes that the original sponsor of the amendment which became section 16 of the Hatch Act, Senator Harry Byrd of Virginia, clearly intended that the exemption provided thereunder was to be one broad enough to permit Federal employees covered by its terms to participate in local political elections and campaigns, as opposed to National and State elections, in the political party of their choice, be it Democratic or Republican. See for particular documentation of this statement the exchange between Senators Byrd, Barkley, and Brown during the course of Senate debate in 1940, as found in 86 Congressional Record, 2977. Senator Byrd again reaffirmed that this was the original intention behind section 16 during the course of Senate debate in 1950 on H.R. 243, a bill to amend the Hatch Act, which passed the Congress but was vetoed by President Truman (see 96 Congressional Record, Jan. 19, 1950, p. 623).

THE COMMISSION'S REGULATIONS

In the years that have passed since 1940, Civil Service Commission has granted exemptions under section 16 of the Hatch Act to a number of municipalities, the majority of which are located in Maryland and Virginia within the remainder scattered among the States of Alaska, Arizona, California, Tennessee, and Washington. (With the exception of Arlington and Fairfax Counties in Virginia, and Montgomery and Prince Georges Counties in Maryland, the exempted areas are all municipalities. In granting exemptions under section 16 to the localities referred to, the Commission requires among other conditions, that a Federal employee in the areas to whom the exemption is granted "shall not run for local office as a candidate representing a political party or become involved in political management in connection with the campaign of a party candidate for office." It further requires that "an employee who is a candidate for local elective office shall run as an independent candidate."⁵

Even prior to the passage of the Hatch Act, the Civil Service Commission had granted exemptions permitting Federal employees residing in areas of Maryland and Virginia close to Washington to participate in local municipal elections. This was first done by an Executive order, dated February 14, 1912, an order which had been recommended by the Civil Service Commission. The Commission's recommendation was based upon the facts:

"* * * that a considerable number of the residents and taxpayers of the towns mentioned are employed in the Government service; that service as municipal officers in such towns should in no way involve general partisan political activity; and that the principle of home rule and local self-government justifies such participation."⁶

Over the year, similar exemptions were granted to a number of municipalities in Maryland and Virginia. The first exemption for an entire county, however, was that permitted Federal employees permanently residing in Arlington County who were allowed to "become candidates for and hold local office in such county and may participate in campaigns for election to such offices."

After enactment of the Hatch Act and the 1940 amendments thereto, the Commission continued its practice of granting exemptions to Federal employees living

⁴ Brief in support of petition, filed with the Civil Service Commission on Mar. 2, 1965, pp. 19-28.

⁵ These regulations may be found in 5 C.F.R. 733.301 (a) (2) and (3).

⁶ Information Concerning Political Activity and Political Assessment of Officeholders and Employees. Civil Service Form 1236, Oct. 6, 1913, p. 11.

in municipalities in Maryland and Virginia, provided that such participation was on a so-called "nonpartisan" basis, as required by the regulations of the Commission to which I have previously referred.

THE CONSEQUENCES OF THE COMMISSION'S DISCRIMINATORY REGULATIONS

It might be reasonably argued that no substantial unfairness or significant inequity resulted when the Commission granted exemptions to Federal employees living in a few small municipalities and where the prohibitions against membership or active support of a State or national party worked no hardship or discrimination, either upon the employee or upon such parties. However, when the Commission's restrictive exemption is applied to a large county like Arlington, Prince Georges, Fairfax, or Montgomery, quite different consequences ensue. Many thousands of Government workers reside in Arlington County and Fairfax County; approximately 40,000 of them reside in Montgomery County; and perhaps an even greater number live in Prince Georges County.

Generally, the Government employee is a person with considerable education, possessing a sincere and active interest in community and civic affairs. If he is denied the right to participate in local political campaigns and elections (unless on a so-called "nonpartisan" or "independent" basis) it is inevitable that he will be tempted to translate his interest into actions by joining a political movement or party against whom the Commission's restrictive and unfair prohibition does not run.

It is also indisputable, as all experience manifests, that these favored groups or associations of citizens, in contesting for elective office, operate in every respect as a traditional political party would conduct itself when confronted with the realities of an election campaign. This certainly proved true with respect to the political party known as the Arlingtonians for a Better County, or as "ABC."

The story of ABC's rise to become the dominant political party of Arlington County has been accurately and comprehensively stated. (Felt, *A Study of a Non-Partisan Political Organization: The Arlingtonians for a Better County (ABC)*, (University Microfilms, Inc., Ann Arbor, Mich., 1961).) In the course of a few years, as I am sure the members of this committee are aware, ABC became the controlling political party within Arlington County, so far as local public offices are concerned.

The spectacular success of ABC, while due in part I am sure, to the quality of their candidates and the organizational skill of their supporters, is also explained by the favored position they occupied in county affairs as a direct consequence of the Commission's regulations which prohibit Government employees from participating in local political campaigns as active supporters or candidates of any of the two National or State parties.

Let me give the Committee an example of just what advantage the Commission's regulations confer on the so-called nonpartisan party. For instance, if the Republican Party elected not to put up candidates in the next election in Montgomery County, Md., there would be nothing to stop Government employees who were enrolled in the Republican Party from campaigning as candidates sponsored by the nonpartisans for a Better Montgomery County, or actively supporting such candidates and publicly opposing the local candidates chosen by the Democratic Party. Conversely, the Government employees enrolled in the Democratic Party would be denied all these privileges. This is not purely hypothetical. For a number of years now, the Democratic Party in Arlington County, Va., has abstained from opposing local candidates sponsored in the local Democratic Party in Arlington were free to publicly oppose the Republican candidates in local elections, while Government workers enrolled in the Republican Party were compelled to remain silent and inactive in the face of the challenge to the candidates of their own party.

With the grant of a Commission exemption under section 16 of the Hatch Act for the Federal employees residing in Montgomery County, permission which was given by the Commission in May of 1964, came the formation of a third political party in Montgomery County. I will not belabor here the irrefutable evidence that this new group intends to operate in every respect as a political organization engaged in an attempt to seek and capture important local offices such as membership on the county council.⁷

⁷ This evidence is summarized at pages 8 to 10 of the petition which the Democratic State Central Committee for Montgomery County and four Federal employees filed with the Civil Service Commission on Mar. 2, 1965. A copy of the petition is being filed with the committee as an appendix to this statement.

A FUTILE EFFORT TO CONVINCe THE COMMISSION TO CHANGE ITS MIND

There can be little doubt, therefore, of the unfairness of the Commission's present regulations whereby Federal employees residing in localities to which the exemption permitted by section 16 has been granted can only participate in local political campaigns by associating with an allegedly nonpartisan or independent political party or group, while being denied the privilege of openly and actively participating in such campaigns as either a Democrat or a Republican.

In 1950 an attempt was made to eliminate this inequitable situation by legislation. H.R. 1243, 81st Congress, 1st session, would have amended section 16 so as to permit any Federal employee residing in Maryland and Virginia areas where 10 percent or more of the qualified voters were Federal employees to participate in local elections through any political party. (S. Rept. No. 436, June 2, 1949, pp. 2-3.) In other words, if H.R. 1243 had been enacted into law the Commission would have been shorn of all power to curb the participation by Federal employees living in those areas in local political campaigns. The legislation passed the House but was vetoed by President Truman on the ground that the privilege which the legislation would have afforded was one which "should be permitted on a nationwide basis" (Message from the President of the United States, Document No. 630, 81st Cong., 2d sess., June 30, 1950, p. 2). In addition, President Truman was disinclined to completely divest the Civil Service Commission of all authority to regulate the manner or scope of Federal employee participation in local political campaigns. (Ibid.)

In March of this year, the Democratic State Central Committee of Montgomery County and four Federal employees residing therein petitioned the Civil Service Commission to hold a hearing looking toward amendment of the Commission's regulations, previously referred to, so as to permit Federal employees residing in areas to which section 16 exemptions have been granted by the Commission, to participate in local political elections through the political party or group of their own free choice.

Against the possibility that the Commission would maintain that such permission would necessarily involve the Federal employees in those areas in National and State politics, as well as local elections, on March 22, 1965, we submitted to the Commission proposed, and very specific, regulations for consideration and approval by the Commission. The proposed regulations, if adopted by the Commission, would have allowed it to amend its present arbitrary rule so as to permit the participation of Federal employees in local campaigns and yet, at the same time, would have insured that their local participation did not lead to the involvement of such employees in National and State elections and political campaigns and thus possibly impair the fundamental purposes of the Hatch Act.

The Commission has never favored us with a discussion on their part concerning the efficacy or lack thereof of our proposed amendments to its regulations. They have turned down our request for a hearing, however. The rationale of their decision, while somewhat obscure, seems most explicitly stated in their decision denying a petition for reconsideration which we received on April 26, 1965, in the form of a letter from Chairman Macy. Apparently, the Commission is of the view that to grant our request for a change in their regulations in this area "would have ramifications affecting areas and interests beyond those involved in" our petition. The changes sought by our petition, in the opinion of the Commission, appear as exclusively, or at least "properly the province of the Congress * * *". In other words, and discounting the inherent ambiguity of the quoted language, the Commission seems to take the position that it does not have the power to change its own regulations. If this is the Commission's position, I respectfully suggest they are in error, and we intend very shortly to demonstrate that in a court of appropriate jurisdiction.

On the other hand, since the language of its recent letters to the Democratic State Central Committee of Montgomery County have an equivocal cast to them it may be that the Commission's real position is that, while they possess the necessary power to amend their own regulations, they refuse to exercise such authority, for reasons not yet disclosed. The Commission's first alternative position is wrong as a matter of law; its second position is an arbitrary abnegation of administrative power quite beyond any authority vested in them by the Hatch Act or the Constitution.

CONCLUSION

The problem which I have attempted to discuss with the committee is one which the Commission to be created under S. 1474 could deal with and one which the Congress thereafter could dispose of by appropriate legislation. However, I wish to make it very clear on this record that we do not think that legislation is needed to accomplish the equitable changes in the Commission's regulations which we have asked it to adopt and thereby to end both (a) the unfair discrimination now existing against Federal employees who may wish to participate in local political elections through the political party of their own choice, and (b) the discrimination now practiced against other political parties; i.e., the Democratic and Republican Parties, whose members are denied rights otherwise granted Federal employees in those areas where the Commission has issued exemptions under section 16 of the Hatch Act.

My clients intend to attempt to demonstrate to the appropriate Federal court that the Commission's existing regulations in this area are both unfair and unlawful. However, if they fail in that attempt, obviously only the Congress could then act to change the Commission's present rule. I earnestly hope, if the problem which I have discussed before the committee today still remains at the time S. 1474 is enacted into law, that the Commission established thereunder then take up the question and resolve it on a basis which will preserve the fundamental purposes of the Hatch Act and at the same time eliminate the patent discrimination which the Commission's existing regulations embody.

I shall be happy to file with the committee the petition and related documents submitted to the Civil Service Commission in March and April of this year and to some of which I have referred in this statement. It is possible that the committee and its staff may find them of some assistance. I much appreciate the opportunity of having appeared before the committee today. I shall be glad to try to answer any questions which members of the committee may wish to ask.

Thank you.

Senator CANNON. Our next witness will be Mr. Patrick J. Nilan, legislative director of the United Federation of Postal Clerks.

**STATEMENT OF PATRICK J. NILAN, LEGISLATIVE DIRECTOR,
UNITED FEDERATION OF POSTAL CLERKS, AFL-CIO, ACCOMPANIED BY FRANCIS S. FILBEY, ADMINISTRATIVE AID**

Mr. NILAN. Thank you, Mr. Chairman and Senator Pell. We would like to say, first, that Mr. Hallbeck, our president, unfortunately has to be away today.

Senator CANNON. Very well.

Mr. NILAN. Mr. Chairman and members of the subcommittee, in order to identify myself for the record I am Patrick J. Nilan, legislative director of the United Federation of Postal Clerks, AFL-CIO, with offices at 817 14th Street NW., Washington, D.C. Our union is the exclusive bargaining representative for the Nation's 245,000 postal clerks.

Mr. Chairman, I appear here today in support of S. 1474 by Senator Daniel B. Brewster which proposes to create a bipartisan commission to study Federal laws limiting political activity by officers and employees of Government.

The United Federation of Postal Clerks traditionally has supported liberalization of the Hatch Political Activities Act of August 2, 1939. We urge the early enactment of S. 1474 as a means of accomplishing this desirable goal.

The appointment of a 12-member bipartisan commission by the President of the United States, the U.S. Senate, and the House of Representatives, as proposed in S. 1474, would contribute substan-

tially in our opinion to an effective, realistic, and prestigious review of the Hatch Act and the obvious need for substantial modification of its present restrictions on political freedom of Government employees and officers.

Mr. Chairman, the United Federation of Postal Clerks believes section 7 of S. 1474, which defines the duties of the Commission as being concerned with "a full and complete investigation and study of the Federal laws which limit or discourage the participation of Federal and State officers and employees in political activity" will, when combined with the Commission's report on these matters to the President and the Congress, actively result in restoration of full citizenship and political action to all employees of the Federal Government.

Our organization supports amendments to the Hatch Act which would permit our membership and other Federal employees reasonable political activities without at the same time imposing an obligation on the part of the employees to engage in such activities. We believe that this is the most desirable and responsible approach to the elimination of existing Hatch Act restrictions on political activities by postal and Federal workers.

While the United Federation of Postal Clerks would prefer to see immediate enactment of such liberalizing amendments to the Hatch Act, we are conscious of the fact that legislation proposed in previous sessions of the Congress to accomplish these immediate objectives failed of enactment.

Therefore we recognize that the investigation, studies, and reporting by the bipartisan Commission proposed in S. 1474 could lead to repeal or satisfactory amendment of the Hatch Act and might actually hasten such action.

Under section 7 of the bill, the proposed Commission would have the task of determining the effect of Federal laws—

which limit or discourage the participation of Federal and State officers and employees in political activity * * * the need for revision or elimination, and an appraisal of the extent to which undesirable results might accrue from their repeal.

Mr. Chairman, I would be the first to admit that these are real problems and they are not subjects of inquiry which can be easily solved. However, it now appears it would be virtually impossible to solve these questions in any other way than by a bipartisan commission composed of people of sound judgment, representing varying shades of opinions. If agreement can be reached among such a group, and we are confident agreement can be reached, then I think it most likely the Congress and the executive branch could be persuaded to accept it and legislation would subsequently be enacted into law consistent with such an agreement.

Frankly, in our opinion, most, if not all, of the reasons for the enactment of the Hatch Act have disappeared with the passage of time. Actually, I doubt that it presently serves any useful purpose. Judging by the amount of money appropriated for its enforcement each year, it would seem to be of minor importance at best on the statute books of the U.S. Government. However, a lot of people, and certainly a large percentage of postal and Federal employees, seem to have an idea that the act restricts them from doing anything other

than casting their ballot. It is unfortunate but true that many of them would not do otherwise. There are some employees, however, who could and would make substantial contributions to community affairs if they thought it permissible and the Hatch Act, or rather their opinions of what the Hatch Act prohibits, now makes those contributions difficult, if not impossible.

For these reasons, Mr. Chairman, and members of the committee, the United Federation of Postal Clerks, AFL-CIO, endorses S. 1474 by Senator Daniel B. Brewster and hopes this committee will take such action at the earliest possible moment as may lead to enactment of S. 1474.

Thank you, Mr. Chairman, for this opportunity to appear before you and the other distinguished members of your committee. If I, or our organization can be of any further assistance to you in your deliberations, we shall be most happy to cooperate. Thank you.

Senator CANNON. Thank you very much, Mr. Nilan.

Mr. Filbey, do you have anything additional that you care to add?

Mr. FILBEY. No, I have nothing further.

Senator CANNON. Senator Pell?

Senator PELL. No questions.

Senator CANNON. Thank you. We appreciate your being here.

Mr. NILAN. Thank you, Senator.

Senator CANNON. Our next witness is former Ambassador William C. Doherty, vice president emeritus of the AFL-CIO.

Mr. Doherty, we are happy to have you appear here this morning and you may proceed as you so desire.

STATEMENT OF WILLIAM C. DOHERTY, BETHESDA, MD.

Mr. DOHERTY. Mr. Chairman, and members of the committee, let me state that I am here as a private citizen, although I am a long-time member of the AFL-CIO, and a vice president emeritus thereof. I am not speaking for the AFL-CIO, or not for the National Association of Letter Carriers this morning, nor do I speak for any postal or governmental employees or organizations.

I am a private citizen, living at 4607 Edgefield Road, Bethesda, Md. However, I spent almost 40 years in the postal service of the United States, and during the last 21 years of that time it was my honor to serve as president of the National Association of Letter Carriers.

I greatly appreciate the courtesy of being permitted to come before you today in support of S. 1474, the bill which the distinguished senior Senator from Maryland has introduced in the Senate.

I feel I have considerable, personal knowledge of the Hatch Act and I am convinced that it is high time for a searching and dispassionate investigation of its provisions. I greatly favor the formation of a commission of experts to study the problem and to make recommendations which could lead to improvements.

As you no doubt know, I was myself charged with a violation of the Hatch Act in 1960 because I exerted my undeniable right as a citizen in permitting my name to be printed in an advertisement commending the then Senator and majority leader, Lyndon Baines Johnson. I was cleared of the charges, but not before my family and I suffered

considerable mental anguish and, also, not before expending a considerable sum of money in engaging a firm of attorneys to represent me.

The point is, however, that no one has even tried to argue that those charges were not brought against me because of a personal vendetta declared against me by a member of the Eisenhower Cabinet. The Hatch Act was perverted into a political bludgeon against me because I had fought hard and successfully to gain for the people I then represented a series of pay raises which gave them a reasonably fair share of the Nation's economic wealth.

To my way of thinking, Mr. Chairman, and I am sure, to your way of thinking, there is something very wrong about a law which can be twisted into an instrument of intimidation and retribution just because I battled for the rights of those citizens who were members of the organization which I led.

And—I am not blaming anyone for this but merely blaming the conditions which were caused by the act—it is significant that the decision to exonerate me personally was carefully delayed until after the results of the November 1960 election were all tabulated and the winner was declared. Despite the fact that the charges against me had no real foundation in law, I do not like to speculate as to what would have happened if the election had gone the other way.

But, Mr. Chairman, I cite my own experience only as a symptom of the unhealthy condition which the act, in its present condition, generates throughout the entire Civil Service.

It is essential in a democracy such as ours that every citizen participate intelligently in the ordinary political affairs of his community, in his State and his Nation. It is essential, in short, that every citizen act as a citizen.

This is particularly true of the 2,500,000 Federal employees in the United States since most of these are basically highly intelligent citizens who are considerably more knowledgeable about national affairs than are men and women engaged in other pursuits.

And yet, the loose language and application of the Hatch Act have intimidated many of these citizens so they have become frightened of admitting membership in any political party at all, and they are nervous—or even negligent—about exercising their constitutional right of voting in elections.

I don't think this applies to postal employees. Speaking for the letter carriers, I know that a constant and effective campaign has been waged over the years to alert the members as to their political rights and to urge them to exercise their political rights as citizens under the provisions of the law. I think you will all agree that letter carriers, at least, are fairly sophisticated in political matters.

But, just from observation over many years, I would venture to estimate that the percentage of Federal employees who are registered with one party or another—and the percentage of Federal employees who vote in elections—is lower than the general average of political indifference throughout the Nation.

This is a great pity because we, as a nation, are being deprived of a vast pool of potential leadership because of this widespread defection from the duties of citizenship.

And, I might add, the Hatch Act today acts as a very convenient cyclone cellar down which far too many Federal employees can clamber every time an election comes up. It gives the lazy citizen on the Federal payroll a far-too-convenient excuse for his indifference. There are times when I think the law should be called the Escape Hatch Act.

I would not presume, Mr. Chairman and members of the committee, to try to analyze the defects of the Hatch Act as it now stands. I feel that this is a subject that should be studied objectively by experts in and out of Government and of both political parties. I do not advocate, at this time, that the Hatch Act should be repealed, although this could well be the recommendation of the Commission. But I do know that the act is in need of careful and extensive revision. It is having a bad effect on the attitudes of our Federal workers. It is making them into second-class citizens. It is making them indifferent to the great tides of political opinion which are determining the entire future of mankind.

I believe strongly in the bill—S. 1474—introduced by the able senior Senator from Maryland and I urge its favorable consideration.

Once again, Mr. Chairman, and members of the committee, thank you for your courtesy in permitting me to appear before you this morning.

Senator CANNON. Thank you very much for your statement, Mr. Doherty.

I am sure from what you have pointed out here that you do have a very high degree of familiarity with the Hatch Act—both favorable and unfavorable, I might add.

Mr. DOHERTY. Thank you, Mr. Chairman.

Might I ask that a copy of the charges, and reply to those charges, be made a part of the record here for the edification of the members of the committee and the staff members who will undoubtedly study this subject later on.

The charges were placed against me by Mr. Meloy who testified earlier here today, a very fine gentleman however, under date of July 21, 1960, and my reply thereto and also the vindication that came after the late President John F. Kennedy was elected to office. It is very short and I ask that it be placed in the record.

Senator CANNON. We will be glad to include those in the committee files so they will be available for the use of the committee.

Thank you.

Mr. DOHERTY. Thank you, Mr. Chairman. If I may come back at some later date to answer questions and submit myself to interrogation, please be assured that I will be available.

Senator CANNON. Thank you very much.

Senator PELL?

Senator PELL. I enjoyed your testimony very much, and I have your book which I enjoyed reviewing. I would like to get you to sign it, and I look forward to perusing it again.

Mr. DOHERTY. Thank you.

(The charges and reply referred to above will be found in the files of the committee.)

Senator CANNON. Mr. Sidney A. Goodman, president of the National Postal Union.

**STATEMENT OF SIDNEY A. GOODMAN, PRESIDENT, NATIONAL
POSTAL UNION**

Mr. GOODMAN. My name is Sidney A. Goodman, and I am privileged to serve as president of the National Postal Union, located at 509 14th Street NW., Washington, D.C. We represent over 53,000 postal employees, organized in excess of 500 local affiliates in 50 States, including Alaska, Hawaii, Puerto Rico, and the District of Columbia.

Unfortunately I was not able to have with me today our secretary-treasurer, Mr. David Silvergleid.

We sincerely appreciate the subcommittee's action in scheduling early hearings on S. 1474, introduced by Senator Daniel B. Brewster. At the outset, we wish to express our approval of the general intent of the bill under consideration, which proposes the establishment of a 12-man bipartisan commission to study Federal laws limiting the political activity of Federal Government employees.

We strongly believe that a thorough investigation and study of the Hatch Act is long overdue. While we recognize the intent of various features of the Hatch Act, we are of the belief that protection against improper political pressures can be provided without emasculating basic political rights inherent in American citizenship.

The Hatch Political Activities Act was enacted by Congress in 1939, more than 25 years ago. Supposedly, its primary aim was to protect public employees from pressures exerted upon them to engage in involuntary political activities. It was also designed to substantially remove employees in the Federal service, and those in Government-financed State-Federal programs, from the political arena. However, postal employees know that, in fact, in the absence of open competitive examinations, for higher supervisory positions in particular, politics is frequently the decisive factor and they resent the obvious hypocrisy. The time has come to put an end to second-class citizenship.

One of the major causes leading to the adoption of the Hatch Act was the conditions originating in the great depression and its aftermath. Because of the desperate economic situation, many citizens were employed by the WPA and similar Federal projects, and partially or wholly dependent on Federal funds for a livelihood. Congress felt then that the dependence of abnormally large numbers of citizens upon Federal funds could be used as an unethical political tool, to force their allegiance or support for one or another political party.

However, much water has flowed under bridges since 1939, and political thinking in our country has undergone considerable changes. There is undoubtedly a much greater public awareness and knowledgeability of political problems today than existed 25 years ago. Increased sophistication and a higher level of political activity generally, plus the fact that the number of Federal employees is no longer disproportionate to the general population, require, in our opinion, a rethinking of the entire problem.

At the present time, Federal employees are not only restricted in the exercise of proper citizenship rights by the provisions of the Hatch Act, but they are also limited by various regulations issued by the Civil Service Commission. As a consequence of the atmosphere engendered, many Federal employees appear actually afraid to express themselves in any way, or to take any action other than to vote

occasionally. Frequently, even this has taken on a surreptitious note for fear they may be in violation of this law restricting their political activity.

We are hopeful that the bill under consideration will be speedily enacted, and that we will have a similar opportunity to present our views on the Hatch Act to the Commission provided for therein. At such a time, we shall strongly urge deletion of the following sentence in section 9, paragraph (a) of the Hatch Political Activities Act of 1939, as amended:

No officer or employee in the executive branch of the Federal Government, or any agency or department thereof, shall take any active part in political management or in political campaigns.

In our opinion, the deletion of the above restriction would contribute immeasurably to proper and useful political activity on the part of Federal employees, and to the political health of our Nation. We wish to make it clear that we support retention of protection against improper political pressures, now afforded Federal employees under various sections of the Hatch Act.

Mr. Chairman, distinguished members of the committee, we are grateful for the opportunity of testifying before this distinguished committee. We hope the measure under consideration will be speedily approved and enacted as an important step in the direction of restoring long overdue political rights to Federal employees.

Thank you very much, Mr. Chairman.

Senator CANNON. Thank you, Mr. Goodman. We appreciate your appearing here and giving us the benefit of your views.

Our next witness is Mr. John F. Griner, president, American Federation of Government Employees.

Mr. Griner.

STATEMENT OF JOHN F. GRINER, PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

Mr. GRINER. Mr. Chairman, and members of the committee, for the record my name is John F. Griner. I am national president of the American Federation of Government Employees with headquarters at 900 F Street NW.

Accompanying me is Mr. Bill Voss who is my director of research.

Mr. Chairman, I would like to submit my statement this morning and just make a few extemporaneous remarks if I may.

Senator CANNON. That will be perfectly all right.

Mr. GRINER. I do not wish to take the time of this committee unnecessarily.

First, we wish to endorse wholeheartedly Senator Brewster's bill, S. 1474. We do wish to make certain recommendations for possible changes in that bill.

We note that the committee which he has outlined makes no provision whatsoever, in fact prohibits members of that committee from being Federal employees or being represented by or having on it representatives of the unions.

This organization represents about 160,000 Federal employees, outside of the Post Office Department. We are the largest organization outside of the Post Office Department and I might say that the

Federal employees as a whole over a period of time have used the Hatch Act as an excuse not to do the things that they actually could do under the act.

The Hatch Act has created a certain amount of fear within the Federal employee that has caused him not to participate as much as he could possibly participate in political activities.

We had a mandate from our convention which was held in 1964 to seek legislation which would remove the gag rule which had been placed on the Federal employees by the Hatch Act and I might call your attention to the fact, Mr. Chairman, that the Hatch Act is not the only piece of legislation which has placed a gag rule on the Federal employees.

We can go all the way back to the Civil Service Act of 1883 and we can find that part of that act has since that time been converted into the criminal codes, and we also believe that the regulations of the Commission have been too restrictive, that those regulations could have been more liberal.

We attempted to liberalize some of those regulations this past year. There were minor liberalizations but I believe there is a fear on the part of the Commission to further liberalize those regulations, without legislation which would command them to do so.

Mr. Chairman, we believe that after 25 years it is time to take a good long hard look at any restrictive legislation or regulations which affects the Federal employee in political activities. We believe that the Federal employees should be full citizens, not part citizens. They are responsible individuals. They pay taxes. They have the obligations of government. We believe they should have the full privileges of government.

We want to commend our good friend Senator Brewster for having the foresight to introduce S. 1474 and we want to thank this committee for the opportunity of appearing before it and expressing our views.

Thank you very much, sir.

Senator CANNON. Thank you. We appreciate your appearing and testifying, Mr. Griner. I might say on the proposed amendment that you suggest, I, for one, would be rather reluctant to have the committee attempt to write into the legislation that certain groups should or should not be required by law to be appointed to the Commission. I think that we would certainly have the sympathetic ear of the appointing authorities as to who should be on the Commission representing the public, but Senator Brewster's bill goes only so far, as you know. The executive and legislative branches I am sure would be aware of the interest of all of the groups, the various groups that have a very definite and specific interest in this type of legislation.

Mr. GRINER. Mr. Chairman, perhaps I misinterpreted the legislation, but as I read it, the Federal employee or governmental employee would almost be prohibited, in other words his appointment would almost be prohibited rather than possible, if it were permissive, and that was the intent of the legislation. If so, then certainly I shall withdraw my request.

Senator CANNON. I would not interpret the language in this to preclude, in referring to the people from private life. I think the term "private life" as used in the bill distinguishes between Senators or Representatives and the executive branch, so there would be two ap-

pointees from the executive branch, two from the Senate, two from the House, and my interpretation would be that the other six people would be from private life. In other words, other than those three groups, and I would not consider any employee of your organization to be within the category of the executive or of the other two branches, and therefore would be in the general category of—from private life.

Mr. GRINER. I am certainly happy that you interpreted it in that manner. We feel that the Federal employees, whether they be postal or otherwise, are people that are most interested or will be most interested in this legislation, and, of course, as representatives of those employees we have a definite interest, also.

Thank you.

(The prepared statement of Mr. John F. Griner follows:)

STATEMENT OF JOHN F. GRINER, PRESIDENT, AMERICAN FEDERATION OF GOVERNMENT EMPLOYEES

The degree of participation of Federal employees in political activity has long been a subject which has developed varying opinions. The discussion ultimately raises one of two opposing questions: Should these employees continue to be restricted or be further circumscribed in their actions, or should they be permitted to engage freely in the political activities of city, State, or Nation?

Any effort to resolve this situation should require extensive study and research. The procedure envisioned in the Brewster bill, S. 1474, apparently would assure a searching study and investigation of a complex situation. For this reason, we indorse this bill as affording definite promise of the type of inquiry which has been so greatly needed in this area.

It is not our purpose at this point to make recommendations for specific action by such a body as that which would be established by this bill for the purpose of undertaking this needed inquiry. The findings should be based on the assembling of many facts. There are, however, certain underlying considerations which should provide the bases from which the investigation should proceed.

It is our desire to make some general comment concerning these basic premise insofar as they may relate to the need for and desirability of this legislation, and for the inquiry which it will initiate. In a future hearing conducted by the Commission which is to be authorized we shall except to make specific observations as to the action which would seem ultimately desirable.

The type of machinery provided in this bill seems to be well suited for the primary objective to be accomplished, namely, to explore all aspects of the question of Federal employee participation in politics. It should inquire into the origin and need for existing statutory or administrative restrictions. It should examine these restrictions from two principal viewpoints: their effect on the body politic itself and their impact on the individual employee.

Would the conduct of political affairs of the United States, of the several States, or of municipalities be improved by the availability of Federal employees as participants in such affairs? Since these employees are concerned to an important degree with the practical operations of public agencies, are they not possessed of skills and knowledge of which the various levels of government should have available for their benefit?

We know that Federal employees are involved in a multitude of activities reflecting all the significant aspects of governmental operations. They need to be knowledgeable of these varied governmental functions to a greater or less degree in proportion to the responsibility which rests upon their individual positions.

They must be informed about taxation, budget preparation and budgetary control, public education, public health, hospital administration, public safety, investigatory techniques, and law enforcement, to mention a few of the major functions of government at any level of authority. It is evident that they are able to make a significant contribution to any effort to maintain sound government or to improve governmental efficiency.

We approve the method of approach to this complex problem which is suggested in the terms of S. 1474. Since the issue is one which relates so intimately to the very fabric of political life, it is appropriate that those who are to inspire and

direct this inquiry are persons who in their own right are holders of positions of consequence in the political life of the Nation as well as those other persons who have made their primary contribution in the business or professional community.

It is appropriate that the Commission proposed will include a goodly number of legislators, for it is likely that the body will ultimately recommend legislative remedies or the revision of existing legislation or of directives having a legislative basis.

Provision is made in the bill for the appointment of members of the Commission from private life. Inasmuch as this legislation will affect Federal employees in an important manner, it is highly desirable that they be given representation on the Commission. I would like to suggest that provision be made specifically for representation of Federal employees, and that members of Federal employee unions be included in the membership of the Commission.

Such an inquiry should be thorough. It should be conducted by trained, experienced, and informed personnel. The bill appears to make ample provision for the assembly of such a staff of capable individuals who can make an exacting investigation of the background of existing laws or directives and prepare the necessary analysis of the effects of those restrictions as well as provide the basis for an evaluation of the situation as it has developed and as it exists today.

This inquiry should be unbiased. It should be completely objective, and it should cause to be assembled such usable information that will enable the Commission to appraise the data without prejudice or preconception. It should be entirely possible to weigh the facts without any impulsion to retain or increase existing restrictions because certain violations have occurred, or to relax or remove those restrictions because under certain circumstances they have appeared onerous or for some individuals have seemed inequitable.

The very mention of the proscription of political activity on the part of Federal employees initially suggests the Hatch Political Activities Act of August 2, 1939, as amended. Yet that is only one of the statutory prohibitions against the active participation of Federal employees in politics. That act was preceded by the Civil Service Act of 1883, as amended, which is the basic law which established the civil service system and governs its operations, and which in its original form included provisions relating to political activity which later became part of the Criminal Code. Civil service rule IV, pursuant to the Civil Service Act, prohibits interference in elections and taking part in political campaigns.

Statutes which supplement the Hatch Act include laws prohibiting solicitation of political contributions from Federal employees, solicitation of contributions from recipients of Federal benefits, or furnishing lists of benefit recipients to a political candidate or his supporter. There also are other statutes forbidding discrimination on account of political contributions, payment of political contributions by one employee to another, and the solicitation or receipt of political contributions in Federal buildings.

These laws are intended to prevent dishonesty and corruption in public office and to guarantee elections free from fraudulent actions. They are also designed to protect the individual employee who otherwise could become involved in political activity which could have serious impact on his livelihood and his entire future. He might easily find himself the victim of coercion and enmeshed in a set of circumstances which could understandably have serious consequences to himself and others dependent upon him.

The history of the Civil Service Act is mute evidence of the need for maintaining a clear separation between political allegiance and public employment. Conditions within the Federal service reached a point where only drastic legislative action could restore efficiency and competence to those whose responsibility it was to perform the many functions of government.

Thus, that history of retrogression in government service and the later freedom of appointment from political subservience cannot be ignored in an overall consideration of the extent to which political activity should be permitted for those who work for the Federal Government. Overemphasis on politics has its repercussions for the individual as well as the elected officeholder who is besieged for jobs. It is a two-way street which can bring disillusionment to the politician and his constituent. For every satisfied individual who benefits from his influence, there are at least a dozen who fail to get jobs, who are disappointed, and who may well become his opponents.

The primary objective is to make certain that the Federal employee has all the freedom and rights to participate in political activity which are enjoyed by his fellow workers at other levels of government or in private industry. The

objective is a simple one to state, but it is extremely difficult to envision as an accomplished fact. That is why there is such a vital need for the study proposed in S. 1474. It will require a searching inquiry to discover the weaknesses in existing law or procedure as well as to gain certainty of opinion concerning those features which should not be discarded for the good of the Nation, the Federal Government, the taxpayers, and the Federal employee himself.

Thank you, Mr. Chairman, for the opportunity I have been given to present these comments to this subcommittee.

Senator CANNON. Mr. Lawrence A. Short, chairman of the Dranesville District Democratic Committee, Fairfax, Va., accompanied by Mr. William Durland, Mason District Democratic chairman, Fairfax County, Va.

You may proceed as you see fit, Mr. Short.

STATEMENT OF LAWRENCE A. SHORT, DRANESVILLE DISTRICT DEMOCRATIC CHAIRMAN, FAIRFAX, VA.; AND WILLIAM DURLAND, MASON DISTRICT DEMOCRATIC CHAIRMAN, FAIRFAX COUNTY, VA.

Mr. SHORT. We are here this morning, Mr. Chairman, hoping that we might be able to give you an insight into the precinct level problems that we face in northern Virginia.

My name is Lawrence Short. I am an attorney in Washington, D.C. I was formerly a Government employee. My political experience includes chairman of the Dranesville District Democratic Committee, former candidate for the Fairfax Board of Supervisors and currently a candidate for the Democratic nomination for the Virginia House of Delegates in the Virginia General Assembly.

In the interest of time, I might say that the gentleman at my side and I have prepared a joint statement which we would like to read. Before doing that, Mr. Chairman, I would like to have him introduce himself for the record at this time.

Senator CANNON. Very well, sir.

Mr. DURLAND. Good morning, Mr. Chairman. I am William R. Durland, a resident of Springfield, Va. I am speaking today as an individual voter and precinct worker in northern Virginia.

I am also a former Government employee, presently in private legal practice. Until recently I served as chairman of the Mason District Democratic Committee, the largest political subdivision in Fairfax County. I am not now a candidate for the Virginia State Legislature and in order to preserve time, I will state now that I am concurring with the statement that Mr. Short is now about to read.

Thank you.

Senator CANNON. Thank you, sir.

Mr. Short.

Mr. SHORT. Mr. Chairman, our appearance this morning is prompted because in our opinion a rank discrimination against a large segment of the citizens of nearby Virginia exists. This discrimination results from the unreasonable limitations and interpretations of the Hatch Act whereby Federal employees may not fully participate in partisan political activity at the local and State level.

The Civil Service Commission has in our opinion engrafted a provision into section 16 of the Hatch Act which is not there. Thus, the Commission has granted Federal employees in the metropolitan area

the right to participate in local elections but only upon the strict condition that they do so on behalf of an independent or nonpartisan candidate.

We believe if Congress had intended this restriction, it could have and would have so stated in unequivocal terms. It did not do this, and we submit that the Commission has erroneously interpreted the act.

The net effect of the Commission's ruling, Mr. Chairman, is to deprive the Federal employee of a very basic freedom—the freedom of choice.

And to the extent that Congress fails to act in amending the Hatch Act, it too must be held responsible for denying this freedom of choice.

Let's examine the very practical results of this discrimination at the precinct level. We can assure you that in most if not all of the 50-plus precincts in our separate districts, we have 3 or more Federal employees living in each and every block. All are good friends, intelligent, and well-informed citizens. They all have children in the public school system and they want to insure that the school system continues in an excellent manner.

In this situation one belongs to the Republican Party, another to the Democratic Party, and the third to a so-called nonpartisan party. We will also assume that each of these three parties has a candidate running for a local office. What happens?

Well, the two employees who belong to the Democratic and Republican Parties must stand helplessly on the sidelines while the so-called nonpartisan employee can participate in his party's convention, platform, and go out and actively campaign door to door in his neighborhood for his candidate. This is partisan activity because, to the extent he supports the independent candidate, he is working against the Democratic or Republican candidate.

Thus, the Civil Service Commission and Congress have "forced" the Federal employees to join third parties in order to be active citizens. This, we believe, strikes a serious blow at the very foundation of our great Nation and its democratic process—because it creates splinter parties.

We hasten to add that if the Hatch Act is amended to permit Federal employees to engage in partisan political activity on the local level through national parties, it would not mean necessarily the abolition of any independent group because as we have stated before the principle which we advocate is freedom of choice for the Federal employee, Republican, Democratic, or Independent.

Apart from the patent discrimination which exists, we believe that a comprehensive review of the Hatch Act is overdue. Twenty-five years have elapsed since the last amendment to the act, and much confusion exists in the minds of many as to what is or is not permissible. We both have contacted persons in various precincts to ask for their support in a particular local election. Frequently the reply is that they cannot since their husband is a Federal employee. And even if you explain that a wife is completely free to do as she pleases, her reply will be that she does not wish to jeopardize her husband's position.

Frankly, if you look at the act and the regulations issued thereunder, it is difficult if not impossible to understand what is and what is not permissible. Not until I had read the act did I know that it

also applies to certain State employees. I wonder if the State employee is aware of this.

Finally, we believe the act should be reviewed because it totally prohibits partisan participation by Federal employees in State elections. We believe that the Federal employee should be permitted to work for the election of State legislators, and to do so through any political organization.

The actions of the State legislature have a most direct impact upon our local affairs in Fairfax County. For example, the issue of better schools is directly affected by the amount of money received from the State, and this is controlled by the legislature. Also, a State legislator is elected from and represents a limited local area in the legislature.

Therefore, we believe the Hatch Act should be amended to permit this limited State activity as well.

In conclusion, while we would prefer to have immediate results, we recognize the complexities of the problem, and we, therefore, give our complete support to Senator Brewster's bill. Furthermore, we hope that this committee would make its position known to the Congress and the Civil Service Commission by a "ringing declaration" that all Federal employees should have a freedom of choice to actively participate in the election of local and State officers.

We thank you for allowing us the opportunity to appear before you and to express our opinion.

Senator CANNON. Thank you, Mr. Short and Mr. Durland. We appreciate your views on this matter.

Mr. SHORT. Thank you, sir.

Senator CANNON. Our next witness will be Congressman Carlton Sickles from the State of Maryland.

STATEMENT OF HON. CARLTON SICKLES, A REPRESENTATIVE AT LARGE FROM THE STATE OF MARYLAND

Mr. SICKLES. I appreciate your extending me the courtesy to testify at this time, but unfortunately my wires got crossed and I almost did not appear.

I do appreciate the opportunity to express how strongly I feel on the subject of the passage of S. 1474.

One of the first bills I introduced 3 years ago when I first came to Congress was identical to this. It has been reintroduced this session. The reasoning was simply this: There were many suggestions as to how we should modify the Hatch Act that there seemed to be a general consensus that something should be done. There was a substantial part of the population that felt that they were second-class citizens and I feel this way too, and felt that their right to participate was being curtailed either by the law or administrative interpretation or sometimes by a personal interpretation because of their concern for what might happen if they do something they were not sure whether they should do or not. I felt this approach to the problem would be best; that is, the creation of a bipartisan group who would study the problem.

No one wants to injure the Federal employee and take any of his basic protections from him. We must have a good sound merit system so that he cannot be penalized by virtue of his political activity, but

by the same token, we feel that he is just as much a citizen as the rest of us and he should participate in as high level and inasmuch as he possibly can. To the extent that this cannot be solved by the passage of legislation here and there, the commission approach could bring a solution to the problem.

I think this really is basically what I have to say, but let me give you some personal experience that led to that conclusion.

I am a product not of political, but of civic background. I entered politics in Prince Georges County by virtue of becoming president of a local civic organization. I am not telling tales out of school when I say that the attitude of many of the political figures toward civic organizations is such that although they are treated with respect, it is not the same attitude they have toward members of their own party and their own political organization. We found this was true when we tried to get some improvements in our community and the very normal and natural thing occurred whereby a civic organization changed its form into a political organization. Then the same political leaders who were shy at coming to appear before us were beating on our doors because they wanted to participate, thinking in terms of the next election. I think this is an important thing that is taken away from the Federal employee. He can participate up to becoming president of a civic organization on one evening but the next night when the same gang gets together and now it is a political club, he must then sit back and many times he doesn't like it.

We don't turn him in, but it is normal if you are interested in the community activities, there is a feeling afterward—"Did I say too much last night?" Many a next morning I have received a call from a Federal employee asking did I think he was out of line when he said such and such.

There is another way of doing it, and that is to have a meeting for 5 minutes and then adjourn and have talks around the coffee pot, so then you're not talking in terms of a meeting.

So, we have learned to live with the law and learned how to become politically effective and I find myself in Congress as a result of these activities.

I would like to put these problems before the Commission and have them study the situation and try to guarantee the rights of employees and also the rights of all citizens. I would strongly urge the passage of S. 1474.

Senator CANNON. Thank you very much. We appreciate your statement, Congressman Sickles. It will be very helpful to the committee.

Our next witness is Mr. Walter Maloney, representing Prince Georges County (M.d) Civic Federation.

Mr. Maloney.

STATEMENT OF WALTER MALONEY, REPRESENTING PRINCE GEORGES COUNTY (MD.) CIVIC FEDERATION

Mr. MALONEY. Mr. Chairman, my name is Walter Maloney and I live in Prince Georges County, Md. I am classified as a Federal employee subject to the provisions of the Hatch Act and I appear here this morning gratefully and with gratitude to this committee for the

purpose of endorsing with one modification S. 1474 which is Senator Brewster's bill.

On this occasion our federation, Prince Georges County Civic Federation, would like to take this opportunity to express our gratitude to our Senator, Senator Brewster, for his courtesies in taking the leadership in this matter on the Senate side.

Our County Civic Federation in Prince Georges County is composed of 92 citizens' associations, one of which Congressman Sickles who appeared here happened to be a member and president of, many, many years ago.

The County Civic Federation is composed of over 10,000 people living in the Metropolitan Washington area in Prince Georges County.

The county now has 500,000 people in it. It is growing at the rate of 800 people a week, and our best estimate is that there are something in the neighborhood of 30 or 35 percent of all employed people in Prince Georges County subject to the provisions of the Hatch Act, since they are Federal employees, and this creates an acute local problem with respect to government, especially on the local and State level.

In 1962 a letter from the then president of the County Civic Federation was addressed to the Chairman of the Civil Service Commission asking for specific exemption from section 16.

It asked the Commission to promulgate regulations permitting Federal employees to become candidates for all countywide elective offices in Prince Georges County, and asked that they be allowed to run as Democrats and Republicans as well as on a nonpartisan ticket.

The Civil Service Commission decided not to grant this exemption, although under the provisions of Senator Byrd's amendment to the original Hatch Act, they might do so.

We would like to impress upon the committee here our sense of urgency in this matter.

I have here a set of hearings by the House Committee on House Administration with respect to the Hatch Act going back as far as 1957. This is one of several hearings that have been held on the subject of a proposed revision of the Hatch Act. Here is one, House Resolution 1167, going back to 1957.

Here is another hearing by the House Committee on Administration in 1958, and a third hearing here, by the House Subcommittee on Elections, H.R. 696, in 1960; another hearing on House Resolution 12163 in 1963 and a very favorable report of the House Special Committee to Study the Hatch Political Activities Act in 1959 which contains extensive research charts and so forth on this subject throughout the United States.

So, we do hope that the committee here will approach this subject with a certain sense of urgency and in that respect, we would respectfully request that the report of the Commission to be set up by this committee would return its findings to the Congress no later than the 1st of January 1966, rather than 1 year from the date of enactment so that Congress would be in position to take action with respect to any suggested amendments or liberalization prior to the 1966 general election which, in Maryland, is the election at which all State and county offices are filled.

In this regard, Mr. Chairman, we suggest that there is ample precedent, both in the act and in the situation which exists for using the Metropolitan Washington area as a pilot program or pilot project to see how the Hatch Act as liberalized could actually work, because it is in this area that the problem is most acute, and even if the Congress or even if the committee were not so disposed elsewhere to extend a liberalization elsewhere, and we hope they are so disposed, that nevertheless there is ample precedent and ample reason why it could and should do so in the Metropolitan Washington area, in the Maryland and Virginia suburbs.

I don't want to sound parochial or provincial. Our motivation was best stated by our former president to the Civil Service Commission as to why we really want a liberalization of the Hatch Act in this area. We fully appreciate the desire of the Civil Service Commission to protect Federal employees from partisan attacks upon their career status. We do not believe that the revisions we request will result in any such detriment.

We cannot believe that Congress anticipated this likelihood when it provided permissive exemption for the Hatch Act to the metropolitan area. We do foresee in this area a continuation and aggravation of many existing local governmental evils, if the Commission continues to prevent Federal employees from protecting themselves and advancing their legitimate interest in local matters in the Metropolitan Washington area.

The Commission cannot protect Federal employees from haphazard zoning practices, inadequate police protection, mismanagement of local revenues, mediocre schools, unsafe, poorly constructed roads, and other deficiencies which arise from time to time in local government. These factors must surely have a real and a substantial impact on employee morale and on the willingness of persons to serve the Federal Government in this area.

The experience of 20 years has demonstrated to us conclusively that we cannot hope for a marked improvement unless and until the Commission or the Congress permits those who are most numerous and most capable among our residents to assume the responsibilities of bringing about effective improvements.

Now in Prince Georges County, this amounts to some 30 or 35 percent of the potential electorate. With respect to Senator Pell's question earlier in the morning as to whether or not Federal employees would like to participate in politics or whether they merely use the Hatch Act as a convenient umbrella, I can only cite our own experience in probably the most densely populated Federal employee area in the United States.

In the past election in 1964 and also in 1962, there was a referendum question on the ballot calling for a reconstruction or a reorganization of the county government. Federal employees were eligible to participate actively on this referendum question under the provisions of the existing Hatch Act. They were also allowed to endorse and work for a slate of charter-writing candidates for a proposed home rule charter in Prince Georges County. The charter committee was able to man 79 polling places, largely with Federal employees.

Federal employees in Prince Georges County actively participated in ringing doorbells, doing all of the things that a normal, politically

active individual would do, but for the provisions of the Hatch Act this was only because of a special exemption now in the act, and is only because what they were addressing themselves to was not the normal filling of an elective post, but a referendum question concerning the reorganization of the county government.

I think our experience should be very, very helpful to this committee, and I think that this committee should be congratulated, and our senior Senator should be congratulated for putting this revision or proposed revision, liberalization, in a posture where it actually promises to have some meaningful effect. I want to thank you, Mr. Chairman, for allowing us to be heard today.

Senator CANNON. Thank you, Mr. Maloney. We are very happy to have had your views.

Senator Pell?

Senator PELL. You said Federal employees manned 79 of the polling places. How many polling places were there in the county, sir?

Mr. MALONEY. Seventy-nine.

Senator PELL. They manned all 79?

Mr. MALONEY. Yes, sir; every one of them.

Senator PELL. Every polling place was manned?

Mr. MALONEY. Practically every one; that is correct. They also served as precinct chairmen, went around ringing doorbells, disseminated literature, raised funds, spoke at meetings, and so forth. This happened to be nonpartisan, and required them to be nonpartisan.

Senator CANNON. Mr. John A. McCart.

STATEMENT OF JOHN A. McCART, OPERATIONS DIRECTOR, GOVERNMENT EMPLOYEES' COUNCIL, AFL-CIO

Mr. McCART. Mr. Chairman, we have supplied the subcommittee with a copy of our prepared statement. With your permission I would like to have it entered into the record, and I would like to proceed extemporaneously and briefly.

Senator CANNON. That will be done. The statement will be made a part of the record. You may proceed as you desire.

(The prepared statement referred to is as follows:)

STATEMENT OF JOHN A. McCART, OPERATIONS DIRECTOR, GOVERNMENT EMPLOYEES' COUNCIL, AFL-CIO

Mr. Chairman and members of the subcommittee, the Government Employees' Council, representing 31 AFL-CIO unions with members in the postal, classified and wage board services of the Federal Government, desires to endorse the proposal under consideration authorizing appointment of a commission to review the Hatch Act and offer recommendations for its revision.

We are grateful to Senator Daniel B. Brewster for his introduction of S. 1474 and to you and the members of the subcommittee for arranging this hearing on a matter of vital concern to Federal and other public employees as citizens of our democracy.

The merit system was established in 1883 to eliminate an individual's political affiliation as a consideration in appointment and retention of a Federal job. Known as the Civil Service Act, the 1883 statute prescribes the steps to be taken by the Civil Service Commission in filling positions by examinations and the appointment of applicants achieving the highest grades in such tests.

The act prohibits any requirement of a political contribution or political service and assures that Federal employees will encounter no adverse effects by refusing to participate in such political activities. It states further that no individual

may use his official position in the Federal civil service to coerce another in political action.

This, then, is the origin of the civil service system of our National Government as it was designed to eliminate the "spoils system" in effect prior to that date.

It is unnecessary to dwell at length on the advantages of the 1883 enactment, because American history describes the purchase of Federal jobs, political contributions required of even the lowliest Federal officeholders and the disruption of Government activities which occurred when a new administration was elected at the Federal level.

On several occasions in the years following approval of the Civil Service Act, Presidents of the United States promulgated Executive orders on the application of the no-politics provisions of the statute in local elections.

In 1925, Congress enacted the Federal Corrupt Practices Act. Basically, the law was designed to exercise controls over the expenditure of funds by political candidates. One of the sections forbids anyone receiving compensation from the U.S. Treasury to solicit political contributions from any other person paid from that source.

Some 50 years following approval of the Civil Service Act, Congress enacted another statute designed to insure the political purity of the Federal service and thus enhance its effectiveness as a public service.

Commencing with the Emergency Relief Appropriation Act of 1936, considerable concern was expressed in Congress that politics was being used in conjunction with the Works Progress Administration program. A Special Senate Committee to Investigate Unemployment and Relief was established. The committee did not report on political activities.

In June 1938, the Senate instructed its Special Senatorial Campaign Expenditures Committee to undertake an inquiry into the use of relief and work-relief funds for political purposes. In the election campaigns of 1938, the effect of politics in the relief program was highly publicized.

The committee presented its report to the Senate in January 1939. From this report developed what is now known as the Hatch Act.

The rationale of the law was that dependence of so many citizens upon Federal relief and work projects during the severe economic distress of the 1930's would make them prey of politicians who might desire to use their power to control these relief beneficiaries. From a policy standpoint, the act was intended to guarantee the integrity of the civil service system and to reinforce the ban against political favoritism in filling Federal positions.

Later, it was extended to workers in States and municipalities whose work is financed from Federal funds.

Exercising its authority under the Hatch Act, the Civil Service Commission from time to time exempted Federal workers from the prohibition against holding office in certain communities populated predominantly by Federal employees. However, even in these cases the political participation must be non-partisan.

Thus, today we find an abundance of laws and regulations controlling the political activities of Federal and other public employees. This situation alone warrants a serious review of the existing statutes and rules.

But the justification for such a study is even more basic. The Hatch Act became law in a period of great economic and social ferment. Millions of individuals found it necessary to accept Federal grants to eke out a bare existence. Certainly, conditions today contrast sharply with the situation in the 1930's.

Hopefully, our citizens, including public employees at various levels, are more conscious of their political rights and obligations than they were 25 years ago. The time has come for a searching analysis of the political status of Federal, State, and municipal workers in our democracy.

The council believes that S. 1474 provides the appropriate vehicle for such a review.

There are several particularly advantageous features of the Commission established by the measure. First, it will be bipartisan. Second, it will represent the legislative and executive branches of the Government. Third, the public is assured membership also.

However, the council believes that the bill could be improved by providing for representation on the Commission for the employees affected.

The point implicit in S. 1474 is that we have come to realize that the necessity for impartiality in our civil service program must be balanced against the right and obligation of public employees to participate as freely as possible

in the political life of our country. Such equilibrium will be difficult to achieve. However, we are convinced that it is possible. Designation of the Commission prescribed in S. 1474 provides the machinery for reaching this solution.

Mr. Chairman, the council is happy for the opportunity to comment on the highly significant bill under consideration today. We recommend early, favorable action on the proposal.

Mr. McCART. Mr. Chairman, the Government Employees' Council represents 31 AFL-CIO unions. Its members work in the postal, classified, and wage board services of the U.S. Government. We want to express our appreciation to Senator Brewster for his sponsorship of S. 1474, and to you and your colleagues for allowing us to make these appearances.

There is an abundance of laws, rules, and regulations governing and limiting the political activities of Federal, State, and municipal employees who are financed through Federal funds. These laws, as the Chairman of the Civil Service Commission noted earlier, date back to the very genesis of our Republic, and they have accumulated, and they are not confined to the Hatch Act, but include the Federal Corrupt Practices Act and numerous regulations that have been promulgated by the Civil Service Commission interpreting basic law. So at this point there is new justification for reviewing these statutes, reviewing the rules and regulations to find out just exactly where we stand.

Secondly, and most important, the time has come now to review and determine the political steps of Federal employees and their fellow workers at the other levels of government whose jobs are financed through Federal funds. Certainly we in the government trade union field who have been in this business for a good many years want to protect the real principle embraced in the Civil Service Act of 1883. At the same time we want to make certain that Federal employees are permitted and encouraged to take their rightful responsibility in the field of political affairs, just as other citizens of America.

I would simply like to offer an observation with respect to the membership of the 12-man panel that was alluded to earlier by Mr. Griner of the American Federation of Government Employees. I would not go so far as to suggest an amendment to the bill, but I certainly think it would be well for the authorities to keep in mind that the employees involved, millions of them, should be represented somewhere on the Commission.

With respect to the bill itself, I would like to suggest a very small amendment. On page 4, in section 7(a), which outlines the duties of the Commission, it refers to "a review of Federal laws" with respect to Federal and State officers and employees. I would simply like to suggest that that language be amended to include political subdivisions of States, because there has been testimony here relative to the status of municipal employees under the Hatch Act, and I suppose county employees as well.

Senator CANNON. I think that the reference to municipal or to State employees is a direct result of the Federal act though, because of the expenditure of Federal funds, so I don't think it would necessarily involve a study of the respective State laws. If you are going to get into that, you would get down to municipal ordinances and you certainly would be extending the study of the Commission, I believe, to attempt to broaden it as much as you suggest here.

Mr. McCART. Mr. Chairman, I am afraid I did not make my point clear. I was only suggesting that the language be revised to include subdivisions of States where positions are financed through Federal funds. I am not suggesting a review of the city ordinances nor county regulations nor the State laws themselves. But only those positions that are financed through Federal funds.

For example, I suspect that with the enactment of urban renewal legislation, there are some employees of cities whose positions are financed from the Federal Treasury, and who therefore could be included under the language of the Hatch Act, and it is only to those positions I am suggesting this inquiry be extended.

Senator CANNON. Those people would already come under this study as authorized here, because section 7 provides:

The Commission shall make a full and complete investigation and study of the Federal laws which limit or discourage the participation of Federal and State officers and employees in political activity with a view to determining the effect of such laws.

Now the Federal law involved is section 12, which reads as follows, section 12(a):

No officer or employee of any State or local agency whose principal employment is in connection with any activity which is financed in whole or in part by loans or grants made by the United States or by any Federal agency shall—

And then goes on to cover the prohibiting provisions. So I think this is clearly covered within the authority of the Commission as defined in the act now, to get into the problem that you have raised here.

Mr. McCART. I am happy to hear your comment on that point, Mr. Chairman, and if this is the opinion of you and the subcommittee, this is fine, so long as these employees are not excluded from the inquiry that is undertaken by the Commission.

Finally, I think the matter of balancing the equities between the merit program, as embraced in the 1883 Civil Service Act, and the Hatch Act, and related laws, is a very delicate one, but it is one that must be looked into. It can be achieved, and these employees will still have the right to exercise the full political activities within the ambit of the Civil Service Act. Again, Mr. Chairman, I want to thank you and the author of the bill, Senator Brewster, and to urge your early favorable consideration of S. 1474.

Senator CANNON. Thank you very much, Mr. McCart. Senator Pell, any questions?

Senator PELL. No questions.

Senator CANNON. Mr. Lamar E. Kemp, spokesman for Oxon Hill Democratic Club, Oxon Hill, Md. Mr. Kemp, we are happy to have you here this morning.

**STATEMENT OF LAMAR E. KEMP, SPOKESMAN, OXON HILL (MD.)
DEMOCRATIC CLUB**

Mr. KEMP. Thank you. I have a copy of my statement for the record. I would like to read it.

Senator CANNON. Very well, sir.

Mr. KEMP. Mr. Chairman, distinguished committee members, and fellow citizens interested in equal justice to all U.S. citizens, it is a distinct honor and pleasure to appear here in behalf of Federal em-

ployees in the Oxon Hill district of Maryland who feel they are not enjoying full citizenship by being denied the right to participate in partisan politics due to the restraints of the Hatch Act.

The reason that I was requested to appear here is that I am typical of Federal employees who wish to exert leadership in bettering their local communities and States and are asked to stand for public office but are not allowed to do so because of the Hatch Act. For example, I have been president of my church's men's club, trustee of a local school, president of the local civic association, and helped to organize three area civic associations, the Southern Prince Georges County Congress of Civic Associations, the Indian Head Highway Area Action Council, and the Oxon Hill Recreation and Cultural Council, as well as acting as an officer in other area organizations from time to time. When Mr. Charles Blumenthal, the president of the Oxon Hill Democratic Club, asked me to serve as legal and legislative committee chairman of the club, I had to refuse because it is not allowed by the Hatch Act. This is what precipitated the correspondence I have here between Mr. Blumenthal and the Hatch Act section of the Civil Service Commission.

The same authorities had previously granted an exception to allow me to accept a State Department appointment, if proffered, when the reapportionment bill passed. My present agency had agreed to a leave-without-pay status during whatever period remained of the 70-day session of the State legislature. But the bill did not pass during the session. It may pass at a special session to be called by the Governor. The authorization did not preclude my running for the office for a second term, after accepting an appointment, but suggested that a letter be written asking for permission when that point was reached. This would indicate that the Civil Service Commission may find that it has discretion to interpret the Hatch Act to allow such participation, but only as an independent candidate. When an independent runs in a campaign he does not have the financial and other support of a political organization, which leaves him at a disadvantage.

I was also requested to appear here as a typical example of a career civil servant who has had several malexperiences with Federal agencies due to the Hatch Act or misapplied implications connected with the atmosphere created by it. For example, it was necessary for me to resign my Federal position in 1962 in order to help try to rectify the political situation in Prince Georges County by securing a home-rule charter and to put into office progressive legislators such as Senator Brewster and Congressman Sickles, who had the interest of the people at heart and not private or special-interest gain. True, the Civil Service Commission made an exception to the Hatch Act in June of 1962 for those Federal employees who wanted to work on home-rule charter, but I had already resigned in March, before the primary. I was not able to get back into the Federal service until mid-October, that fall.

It is also true that I resigned because of a bad deal the Air Force Systems Command handed me and my wife, which caused her heart attack and death. But the fact remains that I had not and probably would not get proper consideration without engaging in political activity, particularly of a partisan nature. The position with ARDC

(AFSC) had been obtained through the good offices of Senator Butler who insisted that I change registration to Republican before acting in my behalf through the Air Force Secretary's Office. A letter from the Democratic Central Committee got me back into the Federal service.

The night before President Kennedy was assassinated I proposed to the national convention of the Federal Professional Association that a professional employee problem study journal be published, carrying analyses and recommended solutions to some of the perplexing problems faced by Federal employees, both military and civilian. You will remember the guy who assassinated President Kennedy was a military grievance case. He felt that he had not received proper consideration.

I offered to act as copy editor for an editorial board of social scientists qualified in the respective areas. I was editor of the FPA Newsletter at that time. I compared the current human relations "climate of hate" situation—you will remember after the assassination that is the term the newspaper boys used—with 1881 when President Garfield was shot, which precipitated the formation of the Civil Service Commission.

But today's situation demands such a bold new step as completely rethinking and reorganizing all handling of Federal personnel matters, both military and civilian, or a worse calamity than the assassination of the President may happen.

We can begin by assuring Federal civil servants that they need not be repressed into mediocrity—that is President Johnson's term—by denial of their rights as citizens.

Once a Hatch Act study commission has been activated, a scientific collection and analysis of what Federal employees think and want can be made through what is known as employees attitude surveys, adapted to the purpose. Survey teams composed of representatives from the Civil Service Commission, the Senate and House Civil Service Committee staffs, the principal agency involved, and either an employee organization or a private industry consulting firm could compose and analyze the findings, processed by data-processing techniques. With all the facts in hand, proper decisions could be reached. Also, interesting sidelight information will be discovered, invariably, during such surveys, which will be revealing.

I mention that because I have conducted such surveys for various agencies, including the Civil Service Commission, and it is surprising what comes out in some of these surveys.

I also would like to make several other suggestions which I wouldn't want to take the time of the committee here on, but such as a study of the British system, the Swedish system, and as to what they have done in meeting such a problem, and even offer my own personal services for staff, for further testimony on my own personal experiences, some of which I haven't related here.

Thank you.

Senator CANNON. Thank you very much, Mr. Kemp. We appreciate your appearance.

Senator PELL?

Senator PELL. I would commend your suggestion that we ought to see what other countries have done as well. This would make a fitting

area of study for the Commission when it is created. I trust it will be created.

Mr. KEMP. Thank you.

Senator CANNON. Mr. Julius U. Hoke. You may proceed, sir.

STATEMENT OF JULIUS U. HOKE, PRESIDENT, NONPARTISANS FOR A BETTER MONTGOMERY COUNTY, MONTGOMERY COUNTY, MD.

Mr. HOKE. Mr. Chairman and members of the committee, I am Julius U. Hoke, president of the Nonpartisans for a Better Montgomery County, with post office address in Rockville, Md. My residence is on Musgrove Road, Rural Box No. 3, Silver Spring. I am a registered voter in Montgomery County. I am also, incidentally, an employee of the Federal Government.

The nonpartisans of Montgomery County have, I believe, a unique relationship to S. 1474. Without exaggerating our influence we think it possible that we were part of the original motivation for the introduction of the bill.

In fact, the bill may partly have been drawn up in a spirit of countervailing action to the origin and growth of the nonpartisans in Montgomery County. If that be true, let me be quick, on behalf of the nonpartisans, to declare our noncombativeness. As I will detail later, we are glad the bill has been introduced, and favor its passage. We support the idea of participation by Federal employees in local governmental affairs. We have never claimed any exclusive prerogative for nonpartisan activities. An objective study by a well-chosen commission is the way to draw up any rules that grant the rights and yet protect against the pitfalls of local political activity by civil servants.

The citizens who join with me in our nonpartisan effort are dedicated persons who have long worked together in civic, school, and similar groups for the betterment of local government. We did so without regard for our party allegiances. It was a natural next step to try to put our ideas into effect, and achieve concrete progress, by joining to elect local officials who represent our viewpoint. Thus were the nonpartisans born. It is noteworthy that we joined hands not in opposition to political parties, but without regard to party distinctions.

Because some of our group are employees of the Federal Government we sought an exemption from the Civil Service Commission under section 16 of the Hatch Act. It was granted. We were only the last of several similar groups in the Washington area to be allowed such exemption, and, we believe, the 46th nationally. Federal employees may now be candidates for public office in Montgomery County, running as independents after nomination by petition.

Formation of the new nonpartisan organization was announced January 5 of this year. Within a few weeks S. 1474 and several other related bills were introduced. If the bills are a recognition of the influence of the nonpartisans in their community and of their determination to be a positive force for a better county, we take this as a high compliment.

The intent of S. 1474 as we see it is to authorize an impartial, objective study of the existing laws and regulations which define and

limit political activities on the part of Federal employees. A further intent, we believe, is to recommend those prudent changes which would permit greater participation by the Federal employee in the affairs of government, presumably at all levels.

The nonpartisans believe that every citizen, whether Federal employee or not, should take the maximum practicable interest in his local government. The nonpartisan movement provides precisely that opportunity to all citizens, including the Federal employee, in Montgomery County.

We support S. 1474 because the intent of the bill and our convictions coincide. Moreover, we support it because of the objectivity and impartiality of the study that is to be made following its enactment.

As this is only a bill for a study, it is inappropriate to comment at length on how the study might be undertaken, or on its possible outcome. Nevertheless, the legislative history can be significant. We therefore express the hope that among the six members of the Commission appointed from private life there would be at least one person with nonpartisan orientation. Nonpartisan elections for local office are becoming increasingly prominent in the United States. For example, elections are now nonpartisan in two-thirds of all municipalities in the Nation. Many thousands of citizens have had experience in practical nonpartisan political activity. A number of university scholars have made academic studies of nonpartisanship. From these qualified persons it would seem desirable and possible to select at least one member for the Commission.

We hope that the study would be carried out with full regard to, and respect for, nonpartisanship as a vehicle for political activity. We do not build our case for nonpartisanship on any comparison or contest with partisan activity. The most we claim for ourselves is a capacity to deal effectively with local issues that are not implicitly partisan in character. We lack many of the organizational methods employed by political parties. At the same time, by its very nature nonpartisanship is freer of the dangers to Federal employees that the Hatch Act was designed to guard against. But irrespective of all that, the case for respecting nonpartisanship rests solely on the ground that it is an entirely proper vehicle by which persons can exercise their rights and responsibilities of citizenship. It belongs in the repertory of American political institutions. We trust that the Commission study, if undertaken, will not begin from any prejudgment assigning any kind of priority to partisan as against nonpartisan political participation.

Various nonpartisan groups could provide valuable information to the Commission and its staff, should the bill be enacted into law. We would like the privilege of doing so ourselves. We think we could contribute ideas derived from our experience. We would also like to comment at the appropriate time during the Commission's study on considerations in legislative proposals. While we advocate the active interest of the citizen in his government, we believe too that certain minimum safeguards must be retained in behalf of the Federal employee and in the interest of the operation of the Federal Government itself.

We appreciate the opportunity to appear before you today, and we are pleased to support S. 1474.

Thank you.

SENATOR CANNON. Thank you very much, Mr. Hoke, for your statement.

Are there any questions, Senator Pell?

SENATOR PELL. No questions.

SENATOR CANNON. That will conclude the hearing this morning. Some statements have been submitted to the chairman with the request that they be included in the record. They will be. The record will be kept open for 1 week for the submission of additional statements that may be presented on the part of any other groups or individuals.

The committee will stand in recess.

(Whereupon, at 12:15 p.m., the subcommittee was adjourned.)

(Additional statements on S. 1474 received by the subcommittee are as follows:)

STATEMENT OF CLIVE L. DUVAL 2d, ATTORNEY, WASHINGTON, D.C.

WASHINGTON, D.C., May 7, 1965.

HON. HOWARD W. CANNON,
*Chairman, Subcommittee on Privileges and Elections,
Committee on Rules and Administration, U.S. Senate.*

MY DEAR SENATOR CANNON: I was pleased to learn that you have scheduled a hearing on S. 1474 for Monday, May 10, since the question of the extent to which the political activities of Federal employees should be restricted is a most important one and one in which I am deeply interested.

I understand that many more witnesses have already asked to be heard before your subcommittee than you can accommodate. Therefore, since I want my views presented to the subcommittee, I should like to submit the statement enclosed herewith for the subcommittee's consideration and inclusion in the record of the hearing.

Sincerely,

CLIVE L. DUVAL.

Mr. Chairman, I appreciate this opportunity to present my views to the subcommittee.

I wish to express my complete support for S. 1474 to create a bipartisan commission to study the Federal laws restricting the political activity of Federal employees.

I believe such a study will show that we can have a strong civil service based on merit without depriving citizens of many political rights simply because they work for the Federal Government, or are paid with Federal funds.

As a citizen of Fairfax County and a Democratic candidate for the Virginia House of Delegates from Fairfax County, Falls Church City, and Fairfax City, I am particularly concerned about the political health of these jurisdictions and the rights of their citizens.

In every one of these jurisdictions, Federal employees comprise a large and important part of the population.

It is important both to the Federal employees and to the communities in which they live that these employees should be able to participate fully in their local governments.

Government employees, like all other citizens, should have the right to express their views and interest through all of the aspects of the local political process—not only by voting but by participating in political campaigns and party politics.

Without the participation of Federal employees, the representative nature and vitality of local politics and government suffer. The communities should not be deprived of the contributions Federal employees can make to the common good through full entry into political activities on the local level.

And once permitted to participate in local politics and government, Federal employees should not be restricted in their choice of parties, but should enjoy the full freedom of choice of other citizens.

As you know, under the exception to the general provisions of the Hatch Act provided in section 16 (5, U.S.C.A. 118m), the Civil Service Commission has

permitted Federal employees living in Fairfax County to participate in local politics, but only through nonpartisan parties.

This rule actually bars them from any meaningful part in local government in most of Fairfax County, since there are no active nonpartisan movements in six out of seven of the county's magistrial districts through which they can participate.

There is a case to be made for nonpartisan politics on the local level. A number of cities, towns, and other forms of local government require their political activities to be conducted in this manner. But the rules of the Federal Government should not force communities willy-nilly into this mold.

I believe the Commission's investigations and study will show that a liberalization to allow citizens employed by the Federal Government to participate in local politics through the party of their choice can and should be made.

This liberalization of current restrictions can be accomplished without diminishing the protection civil servants must have from undesirable political pressures on them in the performance of their Federal duties. Indeed, the liberalization should be accompanied by steps to strengthen civil servants' protections from subtle pressures and political bias.

I hope the Commission will consider recommending strong enforcement measures and severe sanctions against anyone who tries to inject partisan politics into the administration of the Federal Government. In particular, the Commission should consider measures to better protect Federal workers from being placed under pressure to contribute to the fundraising activities of any party.

With ingenuity, we can give back to Federal employees their rights in local government and politics without introducing any of the evils of the spoils system.

I believe the measures I have suggested would be in the best interest of democracy and of a sound civil service system.

I hope the Commission on Political Activity of Government Personnel proposed under S. 1474 will soon be considering possible reforms in our present laws and rules.

STATEMENT OF DON R. KENDALL, CHAIRMAN, REPUBLICAN STATE CENTRAL
COMMITTEE FOR MONTGOMERY COUNTY, MD.

My name is Don R. Kendall. I am chairman of the Republican State Central Committee for Montgomery County, Md.; in other words, the Republican county chairman.

At the outset I believe I should explain that I support S. 1474 which proposes a study be made of the political activity restrictions on employees of the Federal Government as set out in the Hatch Act and civil service regulations.

I am in favor of such a study, but I would add immediately that I caution against any hasty or wholesale eliminations of the provisions of the Hatch Act which provide protection, as well as restriction, to Government employees and to the public in general.

It is worthwhile, I believe, to ask what has precipitated the present bill, and especially the apparently great interest in these restrictions on political activity. From my vantage point in Montgomery County, Md., I have some pertinent observations.

Last fall, the Civil Service Commission granted to Federal employees in Montgomery County the right to participate in local government elections on a nonpartisan basis. It is fair to say that this decision and certain actions pursuant to it threw the Democratic Party in Montgomery County into a panic.

Earlier this year, a Non-Partisan Citizens for Montgomery County was established. It evidently is the fear of the local Democrats that this party will draw largely from their normal strength (which, I might add parenthetically, is approximately 8 to 5 over the Republican strength.) Such a challenge was very unwelcome to them, and they have initiated a number of responses of which this bill is, I believe, a ramification.

The Democratic State central committee for Montgomery County petitioned the Civil Service Commission to broaden its permissive order to allow U.S. employees to participate freely in local elections on a partisan or more specifically on a "party" basis—even to the point of running as candidates on a party ticket. The Commission denied this petition, and the committee is now pursuing the matter in the courts.

Other actions have followed. Before the House of Representatives is H.R. 4959, introduced by Representative Hervy Machen, of Maryland. It would virtually eliminate restrictions on political activity by Federal employees—even to the point of allowing them to run as candidates with party labels. The bill before this subcommittee proposes merely a study, but I believe it is obvious by the statements made before the subcommittee that the purpose of many of those supporting it is to revise to the point of extinction the present restriction.

As a further indication of the reaction of the Democrats in Montgomery County, one of their legislators proposed in the general assembly to do away with similar restriction on political activity by county employees. This was despite the unanimous recommendation of the county personnel board against such legislation.

My point, gentlemen, is that this legislation comes to you under a cloud of petty and partisan self-interest, despite protestations of being in the interests of others.

I should like to make clear the position which I represent. If Government employees are to be free to engage in local political activity on a nonpartisan basis, I think they should be just as free to participate on a party basis.

In my opinion the error lies in the original determination of the Civil Service Commission that local political activity on a nonpartisan basis is proper and within the limits proposed by the Hatch Act.

It is a bad decision on the following grounds:

- (1) It is discriminatory.
- (2) It is inconsistent.
- (3) It is unnecessary.

It is discriminatory because it is patently unfair to allow government employees whose inclinations are toward a nonpartisan group to fully participate but to deny such activity to those whose interests lie within one of the established parties. Government employees who might wish to help the Republican or Democratic Parties should not be discriminated against in favor of their colleagues whose interests are outside of those two parties.

The bill is inconsistent because there is a great difference between nonpartisan and nonparty activity. To talk of a nonpartisan party is almost a contradiction in terms. Merely divorcing political activity from the major parties does not make it automatically virtuous, correct or proper.

One of the abuses which the Hatch Act set out to correct was the use of official position in behalf of specific candidates in elections. The mailman, the social security worker, or any other Federal employee can misuse his position in behalf of a nonpartisan candidate just as clearly as he could in behalf of a Democratic or Republican candidate.

Another purpose was to protect the employee from undue pressure from his superiors. Here again, abuses could occur just as easily on a nonparty basis as on a party basis.

Finally, this change is unnecessary. There has been no demonstration that the community is poorly served because of such restrictions on those of its citizens who are employed by the Federal Government. Moreover, it has not been proved that the majority of Government employees find these restrictions burdensome; nor that those who wish to participate in the community life are unduly prohibited from doing so.

I would point out that in Montgomery County there is a very high level of citizen interest in various nonparty groups and associations which play an important role in the government of the county. I refer to Parent-Teacher Associations, civic groups, citizens associations and related organizations. There are more than 150 citizens associations in the county. Many are very active, with well-attended and informative meetings, and their officers frequently take a leading part in debating public issues before the county.

Interest in the schools offers another outlet. In addition to the PTA's there are other organizations. One State Department employee has become a familiar figure in the papers because of his extensive, if not excessive, activities in the educational field.

The board of education is elected on a nonpartisan basis, and one of the present members is a regular employee of the Atomic Energy Commission.

So, in these many ways other Government employees living in Montgomery County can and do take a leading role in the life of the county. The suggestion that Government employees do not exercise considerable influence in the county's affairs is ridiculous.

It would be my hope that the Civil Service Commission upon review would find its earlier decision unwarranted and rescind it. Or if a Commission is formed pursuant to the bill now before this subcommittee that it would recommend against this unfair discrimination.

I do not suggest that the Hatch Act as presently interpreted is beyond improvement. From various instances about which I have heard it would seem to me that present interpretations of the act may be unduly harsh, arbitrary and capricious.

I would suggest that an effort be made to more precisely define the act's restrictions as follows: (1) with an eye to stressing what can be done rather than what cannot be done; and (2) to eliminate the shadow areas of uncertainty as much as is possible.

It is my contention, however, that wholesale revision of the Hatch Act is unnecessary, unwanted and unwise.

It is unnecessary for the reasons listed above, which indicate its restrictions are not as burdensome as some people would have this subcommittee believe. It is not proved that there is any substantial loss to the community by these restrictions; to the contrary, there would seem to be great gains.

It is unwanted by the great majority of Government workers who are more interested in preserving the protections afforded by the act than they are in amending the permissible area of political activity. An honest survey of the desires of average Government employees might well confirm that it is only a small number who are "itchy" to get into direct political activity. Many enjoy their immunity from political pressure.

Finally, I believe massive changes in the act would be unwise on at least five counts:

(1) Allowing party activity solely for local office implies that it can be separated from party activity for State and national office. Such activities cannot be segregated. When you are in a campaign on the same ticket there can be no clear division as to what helps or hurts one another. It would be like trying to unscramble an egg.

(2) Even if such a separation could be made, it does not guarantee freedom from abuses. Emotions often run high in local elections and the temptations for abuse might be stronger in local campaigns than in national.

(3) The civil service will suffer if those in it are subjected to demands for political contributions from their superiors, or if they find advancement going to those who most actively support the political interests of their superiors. Government employees might find that despite increased freedom to participate in politics, their lives and careers would be more restricted than they are at present.

(4) The public as well should be cautious about throwing out the Hatch Act. One of its major purposes was to prevent an entrenched political machine from perpetuating itself in office by improper use of that office. The present-day behemoth of the Federal Government, were it turned into a political machine bent upon staying in power, would be virtually impossible to defeat.

(5) In this connection, major changes in the act would be particularly unwise at this time when the Government is embarked on a massive antipoverty program. It should be remembered that the original Hatch Act grew out of charges of political abuses in the relief agencies of the 1930's. We have recently heard very distressing reports of political favoritism in New York, Chicago, and Cleveland in the war on poverty programs already underway. As these antipoverty programs expand, the possibilities of misuse also multiply and adequate safeguards are all the more needed.

If the Congress wishes to add additional burdens to the war on poverty, making those who wage it fight on yet another front, then it can remove the Hatch Act restrictions. The American people will not tolerate for long a cynical debasement of such a program with cheap political payoffs.

On the other hand, the maintenance of careful restrictions along the lines of the Hatch Act requirements will improve the potential effectiveness of the antipoverty program.

In closing, I would urge any commission formed under the provisions of this bill to:

(1) Make careful and prudent changes in the act and in its interpretations, retaining the protection it affords Government employees.

(2) Ascertain the true desires of rank-and-file Government workers concerning opportunity for freer political activity.

(3) In all cases, be guided by the overall public interest which is the major purpose of the legislation in this field.

With such goals before it, I believe such a study commission would serve a very useful purpose.

STATEMENT OF HAROLD McAVOY, NATIONAL PRESIDENT, POST OFFICE MAIL HANDLERS, WATCHMEN, MESSENGERS, AND GROUP LEADERS

Mr. Chairman, my name, for the record, is Harold McAvoy. I am national president of the Post Office Mail Handlers, Watchmen, Messengers, and Group Leaders, AFL-CIO.

We are members of the American Federation of Labor-Congress of Industrial Organizations and the Government Employees' Council.

Again, for the record, I want you to know that our national organization fully endorses S. 1474. We feel that our people have been sort of "second-class citizens" for a long time. Your bill will be a giant step in the right direction.

The establishment of a 12-man bipartisan Commission to study Federal laws which limits the political activity of our people, has, in my opinion, been long outmoded.

If your Commission spells out what kind of political activity we will be allowed to undertake, at all levels, local and State, I repeat, this would be a giant step forward, as the skills of same have long been dormant.

I sincerely hope the Commission will look at our overall picture.

Thank you for the privilege of giving you the thinking of our people, and I hope that in the very near future your bill S. 1474, will be enacted into law.

STATEMENT OF JAMES H. RADEMACHER, VICE PRESIDENT, NATIONAL ASSOCIATION OF LETTER CARRIERS

Mr. Chairman and members of the committee, my name is James H. Rademacher and I am vice president of the National Association of Letter Carriers, with headquarters at 100 Indiana Avenue, NW., Washington, D.C.

I want to express my appreciation for being permitted to testify in favor of S. 1474, the bill introduced by the senior Senator from Maryland, Mr. Brewster, which would create a commission to study the provisions of the Hatch Act and make possible recommendations for changes.

The 44th Biennial Convention of the National Association of Letter Carriers, meeting in Miami, Fla., last year, passed a resolution (No. 144) mandating their national officers to seek revisions in the Hatch Act. A copy of that resolution is appended to this statement.

We feel very strongly, Mr. Chairman, that the Hatch Act, as it now stands, is a rather ambiguous law. It is not clearly understood by postal and Federal employees, and it has been somewhat erratically interpreted by management.

The Hatch Act was originally intended to protect Federal employees from undue political pressures. Yet as recently as 1960 we saw an attempt to use the act as a weapon of reprisal against the president of our own organization, Mr. William C. Doherty, because he opposed the policies of the then-Postmaster General. This is not a unique case, unfortunately. It has happened to others.

For lack of complete clarification, many postal and Federal employees are afraid to exercise their undeniable rights as citizens, lest they run afoul of the Hatch Act. There are thousands upon thousands of postal and Federal employees who evidently believe that safety is the best policy and therefore hesitate to join either of our great political parties, or, in many cases, even to register and vote. They feel that if they happen to register as a member of one party and then that party should be beaten in an election, their job security and their hopes of promotion would be severely threatened.

I know you will agree that this is all wrong. It is always the ideal in a democracy such as ours that all eligible citizens should participate in all elections, and should have a freeman's voice in the determination of how the business of their Nation, their State and their community should be conducted.

It is especially important that all eligible citizens should vote in these days when men and women confined in those bleak meridians behind the Iron Curtain are living in degradation and slavery because they have been denied any voice whatsoever in the conduct of their political affairs.

It is especially important today when the right to vote is such an issue in parts of our own country.

The Hatch Act, as it stands today, curtails the right of free speech among Federal and postal employees. It restricts them to almost minimal participation in the political affairs of the Nation. In many cases, it deprives the political parties of the wisdom and the advice of knowledgeable and highly-skilled public servants who know the workings of their Government more intimately than ordinary citizens because they are a living part of that Government.

And, of course, the Hatch Act as it stands today serves as a convenient shield behind which the apathetic citizen in the Federal service can hide himself. Thousands of Federal and postal workers use it as an excuse for doing nothing whatsoever at election time.

Mr. Chairman, the late and greatly-loved Speaker of the House used to tell the story of a newly-appointed postmaster in his District of Texas who told him he could no longer help him at election time because of the laws against political activity. "Young man," the Speaker growled, "as a postmaster you can get into a lot more trouble by political inactivity!"

I feel this little story is applicable to the Nation as a whole. The United States of America could get into serious trouble because of the political inactivity of its citizens. Our record of participation in elections is the worst of any first class democracy in the world. Even in Presidential election years, less than 60 percent of our eligible citizens bother to vote, as opposed to an average of 88 percent in West Germany; 83 percent in France, and 79 percent in England.

Although there are no statistics available to prove my contention, I believe the percentage of Federal workers who shirk their duties of citizenship is far greater than the percentage of ordinary citizens. The Federal workers are either afraid of the Hatch Act, or they are using it as an excuse for their inertia.

I want to make it clear, Mr. Chairman, that the National Association of Letter Carriers does not want to go further than the letter and the spirit of S. 1474. We are not seeking outright repeal of the Hatch Act. We do think, however, that the act should be carefully studied by a nonpartisan commission; that its provisions should be clarified, and that its restrictions should be softened in such a way as to encourage postal and Federal workers to take a more active part (within specified limits) in our political affairs, rather than be discouraged by the law, as they are today.

Once again, Mr. Chairman, and members of the committee, I want to express the appreciation of the officers and members of the National Association of Letter Carriers for permitting us to make our views known on this very important subject.

Thank you very much.

RESOLUTION No. 114—REVISION OF THE HATCH ACT

Whereas the Hatch Act is a law intended to regulate the political activities of Federal employees; and

Whereas there are provisions in the Hatch Act which are beneficial to the country as a whole, such as limiting political contributions by any citizen or group of citizens, prohibiting contributions by business organizations; and

Whereas there are restrictions within certain clauses of the Hatch Act that infringe upon freedom of speech and other activities by the civil service employees; and

Whereas the first amendment of the U.S. Constitution specifically prohibits Congress from enacting any law abridging freedom of speech and of the press, or the right of its citizens to peaceably assemble and petition the Government for redress from its grievances; and

Whereas such restriction imposed upon civil service employees by the Hatch Act are clearly out of harmony with the spirit and letter of the first amendment to the Constitution: Therefore be it

Resolved, That we, the delegates, assembled in convention of the NALC in Miami Beach, Fla., in August 1964, do hereby go on record as disapproving those clauses of the Hatch Act and instruct our national officers to seek removal of these clauses which restrict and limit the fundamental rights of civil service employees.

Branches: 36, 157, 294, 3218.

State Associations: New York, Pennsylvania.

Approved by the committee.

STATEMENT OF ROBERT R. STONE, JR., ARLINGTON, VA.

My name is Robert R. Stone, Jr. I am a private citizen living at 1471 28th Street North, Arlington, Va. Since 1961 I have served on the Arlington Republican Committee, and have long been active in politics at the local, State and National level including 4 years as a national officer of the Young Republican National Federation. Presently, I am a Republican candidate for the House of Delegates, to the Virginia General Assembly.

I appreciate the opportunity of presenting this testimony on S. 1474, the bill introduced by the distinguished Senator from Maryland.

My experience in traveling across the United States and particularly my experiences in politics in northern Virginia convinces me that a large number of citizens in my home county of Arlington, and in nearby Virginia and Maryland are "unduly" shackled by grossly unreasonable limitations on their rights of participation, as citizens of their community and State by interpretations of the Hatch Act.

The net result of the Hatch Act is not only discriminatory, but defeats the goal of citizen participation in the basic choice of who will serve in local and State government elective offices.

In Arlington County the problems caused by the present construction of the Hatch Act are complex and numerous. Most damaging of all is the trend toward so-called "nonpartisan" political organization—the Arlingtonians for Better Community (ABC) Party—which acts "hand in hand" with the Democratic Party—to the degree that the local Democratic Party no longer chooses to field local candidates.

Thousands of Arlington citizens—Federal employees—are forced to decide between active participation in the ABC Party, or to very limited participation in the Republican Party. Under these circumstances it is no wonder that many choose to lend their efforts to this "splinter" party—and to weaken the traditional safeguards of American democracy—a strong two-party system of government. The end result is often the same which would be reached if the Congress were to openly discourage governmental employees from expressing views—because he who cannot work for the things in which he believes often loses interest.

The tragedy of this result is the loss of participation in local politics of many of the finest and best-educated citizens. We cannot build strong, effective local and State governments without utilizing all the very best talent. Yet, in many cases this is what both political parties are faced with doing.

Twenty-five years have gone by since any serious amendment to the Hatch Act has taken place. Clearly the time has come to devote serious attention to the changes which have taken place—and to clarify the many confusing regulations.

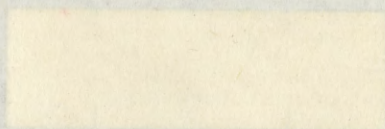
Certainly, in making any changes in the law, care must be taken to protect Government employees from possible pressure tactics to support the party in power. I believe this can be accomplished through diligent effort by a top-level Commission, which hopefully would be created by passage of this bill.

Speaking as one who sincerely hopes to serve my county and State in the legislature, I urge that serious consideration be given to the need for total participation of all citizens in finding solutions to problems in State government. Certainly, the actions of the Virginia General Assembly directly affect local affairs. I urge that the right of working for both local and State candidates through any of the political parties be given to Federal employees.

Looking at the immediate needs of Virginia—and concerned about the lack of participation—I would be inclined to suggest immediate action to right this wrong against Federal employees.

However, in recognition of the difficulties involved in finding the right solution, I add my support to the proposal to establish a 12-man bipartisan Commission to study Federal laws limiting the political activity of Government employees.

I am grateful for the opportunity of presenting this testimony and hope that action will soon be taken to give Federal employees the same standing in working for good government at the local and State level that other citizens have. The Federal Government asks its employees to give a great deal. The Congress can and should act to give back to these employees the basic right to work for the candidate of their choice in local and State elections.





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