

## To “Re-Hatch” Public Employees or Not?

### ABSTRACT

Until recently, one of the distinguishing features of modern public employment (as represented by the 1939 Hatch Act) was the merit system and the neutral competence of the civil service safeguarded from political pressures, cronyism, sycophancy and corruption. The Act’s 1993 Amendments, which are consistent with New Public Management and current civil service reforms, are seen by proponents as a way to re-energize the bureaucracy. Employees have little need of restrictions because modern law provides adequate protection and employers are generally honorable and rarely engage in egregious behavior. The Amendments are viewed by opponents as a first step to the return of the spoils system, a step that needlessly places one of the finest civil service systems in the world at risk. These risks are heightened today, as evidence mounts documenting politicization of the civil service, increasing the angst of those who have concerns about the efficacy of legal protections or the honorable intentions and actions of elected officials and their appointees.

This paper, as part of a larger empirical study, seeks to contribute to the literature by providing an initial conceptual, normative qualitative ethical analysis of the Hatch Act derived from extant literature. This is useful because the long term effects of the 1993 Amendments are uncertain, and the current shift from the guardian model of public employment to the politico model, and the controversies that it has spawned, continues.

The study, then, examines the ethical content of legislation that regulates political activities of civil servants. The analysis is done using the “ethics triangle,” a tool that

encompasses the interdependence of results-based utilitarian ethics, rule-based duty ethics, and virtue-based character ethics. Thus the central section investigates the values at stake. The conclusion provides a synthesis of the findings, explores the implications of the study, and attempts to answer the question posed in the title of the paper. On balance the Hatch Act Amendments of 1993 permit harm without cause by undermining the greatest good for the greatest number, fairness and duty, and the role of the community in reinforcing personal integrity. There is a need to reconsider the balance between civil servants' interest in engaging in partisan political activity and the goal of government to promote efficiency and neutrality.

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