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A HATCH ACT FOR NEW MEXICO?

R. M. Botts

MY FRIEND Don Wilson said he would be as impartial as possible. My own thought is that when those in charge of the program asked three active Republicans to discuss New Mexico's need for a Hatch act they must not have been seeking impartiality. I readily admit that my viewpoint is not impartial and I mention that fact so that you may not be misled in valuing my remarks.

If I understand Mr. Wilson's position, it is that a state Hatch act would not accomplish enough to make it worth while; that the abuses aimed at by a state Hatch act would be remedied more effectively by limiting elective state officeholders to a single term of four years. Without going into the merits of the single four-year term, I do not believe that it will serve to prevent the abuses at which the Hatch Act is directed. Don feels that this would remove the incentive for perpetuation in power. However, re-election to the particular office one holds is not the only compensation a political organization has to offer in return for "playing ball with the boys." An officeholder may aspire to some higher elective office, or to some appointive office—after all, the highest paid office in New Mexico is not elective—and even if he does not plan to continue drawing paychecks from the state, there have been occasional rumors to the effect that there are rewards in the business world for the faithful. Human nature being what it is, I do not believe you can prevent an officeholder from playing politics in office as long as he stands to gain by so doing.

Would a state Hatch Act do enough good to make it pay? In spite of the previous speaker's flattering assertion that everyone is familiar with the meaning attached to this act, I found myself driven for the first time to reading it in its entirety. For the purpose of this discussion, I have arbitrarily divided the act into two parts: that dealing with

political activity by certain public employees, and that limiting contributions and expenditures. I propose to take up first that portion prohibiting political activity. In view of a number of important differences between the organization of the federal and state governments, it is difficult for me to fit the Hatch Act into New Mexico's problems. In other words, a great deal of cutting and adding would have to be done to make such an act workable here. Its feasibility in New Mexico depends, to a great extent, on how that cutting and adding is done. For example, the President's Cabinet, and a number of other officers are exempted from the political activity part of the act. Would some corresponding exceptions be made in a state act and what would they be? I believe it is fair to say that a number of high party officials now hold appointive offices and draw salaries from the state for activities that inure primarily to the benefit of the party rather than the public. Conceivably, a state Hatch act would effect some financial saving by eliminating such persons from the state pay roll. On the other hand, it is quite possible that such an act would be drawn to except offices reserved for party workers. Should that be true, of course, one could not cite economy as a reason for a state act.

On the whole, the act seems to me to have more effect on factional struggles within the party in power than on those between the two major parties. The relative strength of the jobholders is considerably greater when they are only up against other members of their own party than when they also face the other major party. At the time the act was passed, there was considerable opinion that it would have a very noticeable effect on the approaching Democratic National Convention. I believe it would have, had it not been for the decision of Mr. Roosevelt to accept the nomination for the presidency. Some people might even think that it was responsible for that decision, but that is not within the limits of our discussion today. Certainly it had a profound, though not conclusive, effect on the Democratic primary race for Senate in New Mexico, although I frankly confess I do not know whether Mr. Hatch and Mr. Dempsey knew at the time the act was passed that Mr. Dempsey was going to enter the primary against Mr. Chavez. However, I am told that Mr. Chavez had considerable strength among the WPA employees here, and the fact that the Hatch Act was on the books when Mr. Dempsey entered the primary improved the latter's chances considerably. Bearing in mind the tremendous advantage held by the officeholding faction of the party in power when some other faction tries to get control, it appears to me that you would be more likely to reach

the choice of the rank and file members of the party if this advantage were reduced by a state Hatch act. I readily grant that the passage of such a law would not eliminate that advantage, but, unless the law were filled with jokers, the advantage would be reduced. Although Mr. Wilson's point on the difficulty of enforcement is well taken, the mere fact that prosecution is a possibility will serve as a deterrent to open and widespread violations. It is my impression that the Hatch Act served that purpose during the recent primary and election.

Though I hate to disagree with Don Wilson, I believe that a state act, properly drawn to correspond with the political activity portion of the Hatch Act, would be of some benefit to New Mexico. I have in mind, of course, a state law restricting political activities of non-elected state officeholders and employees.

With reference to the limitation of contributions and expenditures, other questions arise. In the first place, such a limitation gives the party that is in power a tremendous advantage over the party that is out and trying to get in. For example, getting the electorate acquainted with a candidate and building up good will for him, in a word, selling him to the public, is just as important in the field of politics as are advertising and good will in the field of business. A public official who is in office and is seeking re-election, or who is aspiring to some other elective office, or a man who is being groomed for office by those who are in power, will find many opportunities to have his name brought before the public. He can dedicate buildings, open a new section of highway, go to picnics and barbecues and issue statements to the press, all accompanied with considerable publicity. The outsider trying to break in must pay to have his name called to the public attention. In the field of good will, a personal experience will illustrate my point. Last spring we had to begin setting another place at the table in our house, and a few days after the blessed event I received through the mail a franked envelope from the office of our senator whose term was then to expire. Its contents were a booklet put out by the Department of Labor on child care—available to the general public at a cost of ten or fifteen cents—and a personal letter of congratulations. Two days later I received another franked envelope containing the same booklet and sent with the compliments of our then congressman. I began to get interested, and not entirely to my surprise, three days after that, there came one from the author of the Hatch Act. By then I realized that my son had been born in an election year. Now, if Don Wilson decides he wants to run for office and feels that he must build up good will in that way, it

will cost him fifteen or twenty cents for each person reached. That may not be so much, but multiply it by several thousand and you will see that it would cost him a great deal of money to put himself on an equal basis with his potential adversary. Other examples could be furnished if time were available, but I trust that what I have said will demonstrate why I feel that a limitation on expenditures is unfair to the party out of office.

I am not unaware of the general impression, created by a well organized and smoothly run publicity campaign, that the wealth of the nation is controlled by members of only one of the major parties. If this were true, of course, a limit on campaign spending would tend to equalize the position of the two parties. However, in spite of some of the lurid literature on the subject, I have a sneaking hunch that the incomes of the Democratic Philadelphia Biddles and the presumably Republican DuPonts, Atlanta's Chip Roberts and Pennsylvania's Joe Hew, Bernard Baruch and Tom Girdler, Howard Hopson and Tom Tondergast will probably balance off fairly well. The same thing, I believe, can be said of the incomes of the local members of the two parties. A good deal might be said along this line if time permitted, but I believe I have made my point clear, that the lack of a limit on spending or contributions will not work any undue hardship on either of the major parties.

If such a limitation could be enforced, it might tend to promote the so-called sanctity of the ballot. However, we have adequate laws now directed against bribery of voters and election officials, and I cannot see where a spending limit would materially improve the morals of our elections.

In conclusion, let me repeat that I believe a law restricting the political activities of non-elected state officials and employees would be of service to New Mexico, but, because of its unfairness to the party out of power, I do not believe a law limiting expenditures is wise.