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SENATOR CARL HATCH AND

THE HATCH ACT OF 1939

DAVID PORTER

THE HATCH ACT of 1939, which regulated the political activities of Federal officials, has evoked considerable comment and controversy. Thirty-three years later, in fact, a Federal Court questioned the constitutionality of the measure. Surprisingly, historians have not devoted entire works or many chapters to the original Hatch Act.¹ They have viewed the Act as a political struggle between Conservatives and President Roosevelt, but have devoted relatively little attention to the sponsor of the proposal.² Reform Democratic Senator Carl Hatch of New Mexico played a paramount role in promoting and securing approval of one of the first legislative efforts to control modern government bureaucracy.

Hatch came from a moderate socio-economic background. The son of a country hardware merchant, Hatch was born in Kirwin, Kansas, in November 1889, and attended public schools there and in Eldorado, Oklahoma. In order to earn money to further his education, he served as a clerk in his father's hardware store. He received a law degree in 1912 from Cumberland University and returned to Oklahoma to open a law office. Upon visiting Clovis, New Mexico, as an attorney for some Oklahoma clients, Hatch liked the area so much that he decided to settle there. He soon became a successful attorney, with a practice encompassing a substantial portion of eastern New Mexico.³

Hatch exhibited political aspirations at an early age, but did not receive considerable publicity. Between World War I and 1933 he held successive posts as Assistant Attorney General of New

Mexico, collector of internal revenue, Federal judge, and member of the State Board of Examiners. An humble and frequently shy individual, Hatch proved a diligent lawyer and judge and drove himself relentlessly. Defying the image of a typical politician, he tended to avoid back-room politics and clandestine meetings. He lacked popularity in political circles; he consistently injected moral standards into government service. Although he joined the United States Senate in October 1933, he remained in the shadow of other New Mexico politicians. Fellow Democratic Senator Bronson Cutting frequently stole the limelight by taking credit at the last moment for legislation that Hatch diligently had initiated. Cutting's successor, Dennis Chavez, also attracted more attention than Hatch because of his aggressive personality, and as the only Spanish-American in the upper chamber. Meanwhile, Hatch quietly pursued his role as a Senator, specializing in western and judicial problems. An avid political student, he occupied a place on the Judiciary Committee and in particular supported an investigation of the Works Progress Administration.⁴

The WPA, established in 1935, functioned as the largest relief program of the Roosevelt administration and shifted the responsibility for relief to the state and local governments. For six years it employed at various intervals practically one-fifth of the total American labor force. WPA workers engaged primarily in construction projects, but also performed community service projects. Although averaging 2.1 million workers monthly, because of a recession the WPA relief rolls expanded to 3.3 million workers shortly before the 1938 Congressional elections.⁵

By 1939 New Deal critics were making sharp attacks on the WPA program. Conservative Democrats, along with Republicans, already had denounced Roosevelt's performance, including the President's attempt in 1937 to expand the Supreme Court membership, and, a year later, to purge anti-New Dealers in the primaries. They also had criticized decisions of the National Labor Board, which ardently defended unionism. After the 1938 elections, additional controversy arose over charges by conservatives that the Democrats were utilizing the WPA relief agency for

political advantage. Hatch, who had advocated most New Deal programs, also began questioning the political activities of the WPA and agreed to serve with four other Senators on a committee to investigate charges that local politicians were using the agency's staff and funds during congressional and senatorial campaigns in 1938.

The Senate Campaign Expenditures Committee, headed by Democrat Morris Sheppard of Texas, found irregular political activity by the WPA in Kentucky, Tennessee, and Pennsylvania. In a startling report, they disclosed that WPA finances designed for needy and distressed persons had been diverted for political purposes. In the Kentucky primary, WPA employees had contributed \$24,000 to the campaign of Senator Alben Barkley. Democratic officials had solicited these funds directly, with WPA employees being canvassed to ascertain their party affiliations. In neighboring Tennessee, Senator Thomas Stewart had received substantial donations from Federal civil service and relief employees, supposedly under "intimidation" and "coercion." Pennsylvania Democrats also had solicited funds illegally by mailing letters bearing the name of Senator Joseph Guffey. WPA officials not only ordered workers to change their registrations from Republican to Democratic or face the loss of their jobs, but sold tickets at political gatherings to WPA personnel.⁶

After the Sheppard Committee investigation, Hatch launched an intensive personal campaign to strike at political corruption. An idealist, he drafted legislation to prohibit the intimidation of voters and thus prevent a recurrence of the 1938 WPA activities. In particular, the 1938 New Mexico incident, which *Time* described as "the hottest WPA scandal of the year," had prompted Hatch to seek political reform. In October 1938 an Albuquerque Grand Jury had indicted 73 WPA employees for engaging in unethical political activities. Although only five agency persons were ultimately convicted, the conscientious Hatch seized the opportunity to launder the dirty linen of New Mexico politics. He drafted a bill to prevent assessment or solicitation of funds from those receiving relief benefits and to prohibit

denial of WPA assistance because of political affiliations. The Senator's emphasis on this portion of the bill created the impression that the measure was designed almost exclusively to prevent the exploitation of relief workers in political campaigns.⁷

Hatch attached another major provision, which received surprisingly little attention at first. The Senator proposed preventing Federal officials from using their positions to interfere in Presidential or Congressional elections, thus hoping to decrease the influence of the rival Clyde Tingley-Dennis Chavez Democratic faction upon New Mexico politics. Besides resenting the enormous publicity received by the Tingley-Chavez organization in the mass media, Hatch particularly denounced their WPA political activity in the 1938 Congressional campaign. Fred Healy, former WPA state administrator and close friend of Tingley, and the son-in-law, sister, cousin, nephew, and secretary of Senator Chavez were accused in 1938 of political malpractice with regard to relief workers. Hatch, who apparently avoided involvement in the New Mexico incident, desired legislation to limit the control by Federal officeholders or factions over state politics. With this provision, though, the Senator would increase the potential influence of local bosses, rural legislators, and labor unions over state political parties and merely exchange one type of rule for another.⁸

Before introducing the measure, Hatch consulted briefly with Senator Sheppard. Hatch had drafted a statement describing the proposed legislation and, to give it greater political clout, asked permission to add Sheppard's name to it. The Texas Democrat not only had chaired the WPA committee investigating, but carried considerable authority as the fourth member in seniority of the upper chamber and as head of the increasingly prominent Military Affairs Committee. Sheppard, who had not read the Hatch bill in its entirety, apparently assumed that it merely sought to prevent political coercion of WPA relief workers and agreed to endorse a statement supporting the legislation. At this point, he did not realize that the bill also prevented all minor executive employees from participating in Presidential or Congressional elections.⁹

The Hatch proposal, in fact, encountered scant opposition initially. Roosevelt Administration officials and Senators, like Sheppard, considered it an attempt to eliminate political corruption. Roosevelt, for example, had advocated improving WPA election procedures even before Hatch had drafted the comprehensive bill. In appealing for additional WPA funds in January, Roosevelt had urged that Congress impose "rigid statutory regulations and penalties" to eliminate "improper political practices" and recommended punishing violators within and outside the WPA. Few Administration officials or United States Senators had read the entire proposed legislation, and hardly noticed the section restricting the political activities of numerous Federal employees. In fact, Senators raised so few objections that the upper chamber held very limited debate and on April 13 unanimously approved the Hatch proposal.¹⁰

Shortly after the Senate action, the Roosevelt administration began to suspect the real intentions of the measure. They finally recognized that the bill not only attempted to remove political corruption within the WPA, but also contained broader political ramifications. Charles Michelson, Publicity Director for the New Deal programs, advised Presidential Assistant Stephen Early on April 17 that conservatives intended to use the Hatch bill "to hit the President himself." Michelson warned that the section prohibiting political activity by Federal workers could be applied to Roosevelt, cabinet officials, and members of Congress, and he urged the administration to examine the measure very carefully before taking any final action. The White House soon alerted Democratic Representative Emmanuel Celler of New York, who promptly induced his Judiciary Committee colleagues to pigeon-hole the proposal for several weeks.¹¹

Hatch naturally disliked these latest developments. The New Mexico Democrat conferred with President Roosevelt on May 31, urging the chief executive to intervene in expediting House Judiciary Committee action on the bill. But Roosevelt, exhibiting increased anxiety, preferred that Hatch rewrite the section prohibiting all Federal officials from participating in political campaigns.

Above all, Roosevelt insisted that the measure not apply to himself, cabinet members, Senators or Representatives. During early June Hatch did not acquiesce to the President's requests because he considered rewriting unnecessary. In drafting the bill, Hatch had stressed that he was merely extending to other Federal workers the restrictions already applicable to civil service personnel. To refute claims that the bill contained "absurdities" and "monstrosities," he insisted that an 1871 act had prohibited civil service workers from engaging in political practices, and he added that "this language has been tested for more than fifty years." In a phone call to the President and in a letter to the White House in mid-June, Hatch gave assurances that the measure would not be applied to Roosevelt, his cabinet, or Congress, and would merely outlaw the political activity by "administrative and supervisory employees of any Federal agency." Hatch's verbal pledges failed to allay the President's fears. Roosevelt insisted that this understanding be mentioned explicitly in the bill. A temporary deadlock developed when Roosevelt still refused to intercede and the House Judiciary Committee still pigeonholed the bill.¹²

Hatch pursued new tactics which prodded the House Judiciary Committee into considering his measure. While the Senate was debating legislation to finance relief agencies, Hatch, on June 22, threatened to attach his bill as an amendment. Although hoping that such action would "not be necessary," the New Mexico Democrat saw no other alternative in order to break the impasse in the House Judiciary Committee. The House Committee finally reported the bill in late June, but to Hatch's dismay, allowed District Attorneys, tax collectors, and other unspecified Federal officials to serve as campaign managers for any candidate. Visibly disturbed, Hatch immediately protested that the committee amendment had virtually "emasculated" his bill.¹³

The committee's action, coupled with Roosevelt's criticisms, eventually forced Hatch into a more flexible position. In early July Hatch redrafted his measure so as to exempt "policy-making officials and employees" from provisions of the bill and thus to enable the President, his cabinet, and members of Congress to

continue to participate in political activities. Hatch intended to have his revision offered as an amendment on the House floor, and hoped that the alterations would make the bill "perfectly clear and definite" so that it would capture unequivocal endorsement from the President.¹⁴

To enhance the prospect for these changes, Hatch again appealed directly to the President in early July. The New Mexico Democrat preferred to discuss his measure personally with Roosevelt, but the President was preoccupied with monetary and neutrality legislation.¹⁵ Hatch therefore wrote to Roosevelt on July 8, making the following fervent appeal:¹⁶

Knowing your record of opposition to 'bossism' and machine control of party politics, and believing these reforms to be in keeping with the principles of our party, I have hoped that your influence could be thrown behind the bill in its entirety, and that you and our party might have credit for a very substantial improvement of party and political affairs. I shall continue to hope that this may be accomplished at this session.

But Hatch's latest overtures also failed.

During July several Democratic Representatives offered more vocal resistance to the Hatch bill than before. Celler of New York led the opposition, assisted by John Coffee of Washington and a few other New Dealers. Republicans and conservative Democrats, they protested, designed the measure to retaliate against President Roosevelt for attempting to enlarge the Supreme Court and for seeking to purge anti-New Deal Senators. Coffee of Washington denounced the "intrigue and machinations of the [Vice-President John] Garner group," while Kent Keller of Illinois charged that supporters of "the Hatchet bill" were motivated by "hatred and fear of one Frank Roosevelt." Some New Dealers also feared that the legislation would weaken the Democratic Party structure by restricting the rights of members to attend political functions and by discouraging campaign contributions. Congressman Frank Hook of Michigan asserted that the measure would lead to "a lack of interest in government," and Representative

Richard Duncan of Missouri expected "constant charges of activities by our political enemies for the sole purpose of discrediting those occupying political jobs."¹⁷

The Celler forces also attacked the bill as unconstitutional and as a violation of civil liberties. Limiting the right of administrative or supervisory Federal officials to express their opinions on political subjects, they contended, violated the right to free speech guaranteed by the First Amendment. Opponents also warned that denying Federal officials the right to engage in political activity deprived them of the prerogatives and advantages of full citizenship and violated the due process clause of the Fifth Amendment. Congressman Frank Buck of California, for example, protested that the measure "goes far beyond what Congress should enact in the way of limiting free speech and the inherent rights of the American citizen's political activity." The Celler forces, in addition, criticized the measure as an undemocratic step contravening American traditions. Assistant Democratic whip Lex Green of Florida asserted "this bill is conceived of everything which is inimical to democratic success and democratic government," while colleague James O'Connor of Montana denounced the legislation as "Un-American."¹⁸

Opponents also claimed that Congress should not interfere in state politics and insisted that the measure contained weak enforcement provisions. Several New Dealers suspected that Hatch had drafted it merely to purify the New Mexico political structure and denied that the Senate or House should intervene to settle state disputes. "I can see no reasons," Representative Charles Faddis of Pennsylvania interjected, "why the Congress should have been required to wash the dirty linen of the New Mexico political set-up." Congressman Guy Moser, also of Pennsylvania, charged that the sponsor "spawned and hatched the iniquitous pernicious political activity bill" after Senator Chavez had "the disclosure of his nepotism revealed to the nation with the indictment of his family circle." In addition, critics doubted that the Hatch bill could be enforced uniformly. "The head of a Department is supposed to dismiss an underling for political activity,"

Celler of New York remarked, but observed "There is no penalty if he does not."¹⁹ New Dealers had unleashed some formidable ammunition, but gained relatively little headway in the lower chamber.

Despite the resistance by the Administration and New Dealers, the House of Representatives still rallied to Hatch's defense. Conservative Democrats, along with Republicans, even added further restrictions, attaching amendments prohibiting executive employees from interfering with or affecting the results of Presidential primaries and elections and also refusing to exempt the President, cabinet officials, Senators, or Representatives from the provisions of the bill. To Hatch's delight, the House on July 20 resoundingly approved (242-133) the comprehensive measure.²⁰

Hatch hoped to avoid a Senate floor fight on the amendments. In an emotional floor speech on July 21, he called up the bill for Senate concurrence and moved for its adoption. Complaining that his proposal was the target of "many unwarranted, unfair, unjust and unreasonable criticisms," Hatch insisted that the House action "if anything, has made it better legislation." Staring directly at New Deal Democrats Sherman Minton of Indiana and Guffey of Pennsylvania, Hatch charged that "Some people are trying to kill this measure by sending it to conference" and particularly denounced their "maneuvers" on the Senate floor. Putting the bill in conference, Hatch warned, meant "a vote to send it to the graveyard." With enormous zeal, he advised "Let there be no hiding behind pious declarations that we favor the bill and then send it to conference to die." Hatch's speech apparently made a profound impact because Minton soon asked the New Dealers to accept the bill. Thus, the Senate on July 21 consented "without opposition" to the House amendments.²¹

Roosevelt faced a major dilemma regarding the Hatch measure—to sign or not to sign. Although he favored political reform, the President disliked some aspects of the Congressional version of the bill. He easily could have vetoed the legislation and risked stimulating further charges from conservatives that the administration was making political use of relief. At least fourteen Sen-

ators and Representatives personally wrote letters or sent telegrams to the President urging him to veto the Hatch bill. Congressman Keller of Illinois requested that Roosevelt reject "this outrageous measure," while Representative William Nelson of Missouri remarked: "It is the hope of many of us who did our best to defeat the Hatch-Dempsey bill that you will veto this vicious measure." Celler of New York, along with several other New Dealers, canvassed the House members and contended that "a veto of the Hatch Bill would be sustained beyond question."²²

At the last minute Hatch persuaded Roosevelt to sign the bill. In a letter to the President dated July 28, the New Mexico Democrat gave assurance that his measure would not restrict any Federal employees from engaging in *voluntary* political activities except campaign speeches. According to Hatch, Federal employees still could attend Jackson Day Dinners and make voluntary political contributions. He also reiterated the nonrevolutionary nature of the bill, claiming that Congress intended "to make exactly the same rules which now apply to employees under the classified service applicable to those in the non-classified service."²³

As a result of these assurances, the President on August 2 signed the political reform bill. Far from overjoyed, he approved the measure with the understanding that Federal employees still could attend political meetings and make unsolicited political contributions. Besides affirming the constitutionality of the legislation, he also considered the Hatch Act "a step in the right direction" toward establishing "decency in political campaigns." Nevertheless, he warned that major judges should not make the measure "a gag act." Hatch, fearful that the President would veto the bill, praised Roosevelt's actions and immediately telegraphed "THANK YOU!"²⁴

The 1939 Act was the crowning achievement of Hatch's political career. Hatch undoubtedly played the most prominent role in securing Congressional regulation of political activity of Federal employees. Desiring to reform the WPA relief program and to lessen the influence of the Tingley-Chavez organization, he eagerly participated in the Senate Campaign Expenditures Com-

mittee investigations and helped to write a comprehensive measure to regulate political practices of Federal workers. He actively sought Presidential intervention when the House Judiciary Committee pigeonholed the measure and altered the bill in an attempt to correct various weaknesses. Hatch's floor speech in late July averted the possibility of a conference committee deadlock, while his subsequent understanding with the President prevented a likely veto. Above all, Hatch had initiated one of the first major attempts to regulate modern federal government.

During the next year, Hatch expanded the scope of his legislation. The Hatch Act of 1939 restricted only the political practices of Federal workers, but state and local government employees still could participate actively in Federal elections. State and municipal officials, who far outnumbered Federal personnel, theoretically could still influence or coerce the voting behavior of WPA workers. Therefore Hatch proposed applying the act to state and local government officials and preventing individuals or groups from contributing over \$5,000 to any political party or candidate in Federal elections. Since 1940 was a Presidential election year, Hatch's measure provoked extensive debate in Congress. But Hatch triumphed again by late summer and significantly increased the impact of the original measure.

NOTES

1. For brief descriptions of the Hatch Act of 1939, see William Leuchtenburg, *Franklin D. Roosevelt and the New Deal* (New York, 1963), p. 270; Bascom Timmons, *Garner of Texas: A Personal History* (New York, 1948), p. 259; Elmer Schattschneider, *Party Government* (New York, 1942), pp. 166-68; James MacGregor Burns, *Roosevelt: The Lion and the Fox* (New York, 1956), p. 418; Basil Rauch, *Roosevelt: From Munich to Pearl Harbor* (New York, 1950), pp. 189-90; and James Patterson, *Congressional Conservatism and the New Deal* (Lexington, Ky., 1967), pp. 315, 318, 328.
2. There is no biography of Senator Hatch available yet, and the Hatch Papers still are not open for historical research. I am indebted to William H. Pickens who provided me with many valuable insights about the Senator and about New Mexico politics in the New Deal period.
3. Mrs. Carl Hatch to author, March 6, 1968; U. S. Congress, *Biographical Directory of the American Congress, 1774-1961* (Washington, 1961); Lynell Skarda to author, Feb. 27, 1968.
4. *Biographical Directory; Congressional Directory*, 76th Cong., 3rd sess. (Washington, 1940). For the insights about Hatch and New Mexico politics, see Clinton P. Anderson, *Outsider in the Senate* (New York, 1970), *passim*; and Jack Holmes, *Politics in New Mexico* (Albuquerque, 1967), pp. 198-218.
5. David Shannon, *Twentieth Century America*, 2nd ed. (Chicago, 1969), p. 343.
6. *Ibid.*, p. 344; Escal Duke, "The Political Career of Morris Shepard, 1875-1941," (Ph.D. dissertation, University of Texas, 1958), pp. 477-84. For earlier conservative disenchantment with President Roosevelt, see Joseph Alsop and Turner Catledge, *The 168 Days* (New York, 1938); Patterson, pp. 250-87; Harry Millis and Emily Brown, *From the Wagner Act to Taft-Hartley* (Chicago, 1950), *passim*.
7. *Time*, Oct. 31, 1938; *Santa Fe New Mexican*, Oct. 20, 21, 1938; Ernest Fincher, "The Spanish Americans as a Political Factor in New Mexico," (Ph.D. dissertation, New York University, 1950), *passim*; *New York Times*, April 14, 1939.
8. *Ibid.*, April 14, 1939; *Santa Fe New Mexican*, Oct. 21, 1938; Leuchtenburg, p. 270.
9. *Congressional Directory*; Charles Michelson, *The Ghost Talks* (New York, 1944), pp. 205-06.

10. *New York Times*, Jan. 6, 1939; *Congressional Record*, 76th Cong., 1st sess., 84, April 13, 1939, pp. 4191-92.
11. Stephen Early memorandum for Rudolph Forster, April 17, 1939, Franklin D. Roosevelt Papers, Franklin D. Roosevelt Library, Hyde Park, N.Y., Official Files (OF) 252; *New York Times*, June 1, 1939; Carl Hatch to Col. Edwin Watson, June 17, 1939, Roosevelt Papers, President's Secretary's File (PSF), Box 54.
12. *New York Times*, June 1, 1939; Hatch to Watson, June 17, 1939.
13. *New York Times*, June 23, July 6, 1939; U.S. Congress, House, Committee on Judiciary, Rpt. no. 994, "Suppression of Certain Subversive Activities," June 29, 1939 (Washington, 1939).
14. Hatch to Roosevelt, July 8, 1939, Roosevelt Papers, OF 252, Box 3.
15. Hatch to Roosevelt, July 8, 1939, *ibid.* For silver and neutrality questions, see Allen Everest, *Morgenthau, The New Deal and Silver* (New York, 1950), pp. 69-75; Robert Divine, *The Illusion of Neutrality* (Chicago, 1962), pp. 276-85.
16. Hatch to Roosevelt, July 8, 1939, Roosevelt Papers.
17. Emmanuel Celler Press Release, July 29, 1939; Celler to Watson, July 31, 1939; Coffee to Roosevelt, July 24, 1939; Keller to Roosevelt, Aug. 1, 1939; Hook to Roosevelt, July 24, 1939; Duncan to Roosevelt, July 25, 1939. *Ibid.*
18. Hook to Roosevelt, July 24, 1939; Buck to Roosevelt, July 27, 1939; Green to Roosevelt, July 24, 1939; O'Connor to Roosevelt, July 26, 1939. *Ibid.*
19. Faddis to Roosevelt, July 26, 1939; Moser to Roosevelt, July 23, 1939, Aug. 1, 1939. *Ibid.* Celler Release, July 29, 1939.
20. *New York Times*, July 21, 1939. For floor debate and amendments, see *Congressional Record*, July 20, 1939.
21. *New York Times*, July 22, 1939. For Senate action, see *Congressional Record*, July 21, 1939.
22. *New York Times*, July 25, 1939. Keller to Roosevelt, Aug. 1, 1939; Shannon to Roosevelt, July 26, 1939. Roosevelt Papers. Celler Release, July 29, 1939. Along with Senator Alva Adams of Colorado, Representatives Frank Buck of California, Emmanuel Celler of New York, John Coffee of Washington, Eugene Cox of Georgia, Richard Duncan of Missouri, Charles Faddis of Pennsylvania, Thomas Ford of California, Lex Green of Florida, Frank Hook of Michigan, Kent Keller of Illinois, Guy Moser of Pennsylvania, William Nelson of Missouri, James O'Connor of Montana, and Joseph Shannon of Missouri, all wrote personal notes to the President urging a veto of the Hatch bill. For messages, see Roosevelt Papers, OF 252.

23. Hatch to Roosevelt, July 28, 1939, Roosevelt Papers, PSF, Box 54.
24. Samuel Rosenman, ed., *The Public Papers and Addresses of Franklin D. Roosevelt*, vol. 8 (New York, 1941), pp. 410-15; *New York Times*, Aug. 3, 1939; Hatch to Roosevelt, Aug. 2, 1939, Roosevelt Papers, PSF, Box 61.