overbreadth.[776] Subsequently, in *Bush v. Lucas*[777] the Court held that the civil service laws and regulations constitute a sufficiently "elaborate, comprehensive scheme" to afford federal employees an adequate remedy for deprivation of First Amendment rights as a result of disciplinary actions by supervisors, and that therefore there is no need to create an additional judicial remedy for the constitutional violation.

The Hatch Act cases were distinguished in *United States v. National Treasury Employees Union (NTEU)*,[778] in which the Court struck down an honoraria ban as applied to lower-level employees of the Federal Government. The honoraria ban suppressed employees' right to free expression while the Hatch Act sought to protect that right, and also there was no evidence of improprieties in acceptance of honoraria by members of the plaintiff class of federal employees.[779] The Court emphasized further difficulties with the "crudely crafted" honoraria ban: it was limited to expressive activities and had no application to other sources of outside income, it applied when neither the subjects of speeches and articles nor the persons or groups paying for them bore any connection to the employee's job responsibilities, and it exempted a "series" of speeches or articles without also exempting individual articles and speeches. These "anomalies" led the Court to conclude that the "speculative benefits" of the ban were insufficient to justify the burdens it imposed on expressive activities.[780]

Government as Employer: Free Expression Generally.— For many years, the Court made a distinction between a government employee's free speech rights and the privilege of being a government employee. That distinction was famously epitomized by Justice Holmes' in the statement: "The petitioner may have a constitutional right to talk politics, but he has no constitutional right to be a policeman."[781] The Supreme Court embraced this application in the early 1950s, first affirming a lower court decision,[782] and soon

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[776] 413 U.S. at 580–81.

[777] 462 U.S. 367, 385 (1983).

[778] 513 U.S. 454 (1995).

[779] See 513 U.S. at 471. The plaintiff class consisted of all Executive Branch employees below grade GS–16. Also covered by the ban were senior executives, Members of Congress, and other federal officers, but the possibility of improprieties by these groups did not justify application of the ban to "the vast rank and file of federal employees below grade GS–16."Id. at 472.

[780] 513 U.S. at 477.

[781] McAuliffe v. Mayor of New Bedford, 155 Mass. 216, 29 N.E. 2d 517 (1892).

[782] Bailey v. Richardson, 182 F.2d 46 (D.C. Cir. 1950), *aff'd by an evenly divided Court*, 341 U.S. 918 (1951). The appeals court majority, upholding the dismissal of a government employee against due process and First Amendment claims, asserted that "the plain hard fact is that so far as the Constitution is concerned there is no