

## Sec. 2—Powers, Duties of the President    Cl. 2—Treaties and Appointment of Officers

ate, . . . from requesting, giving to, or receiving from, any other officer or employee of the Government, any money or property or other thing of value for political purposes.”<sup>526</sup> The validity of this measure having been sustained,<sup>527</sup> the substance of it, with some elaborations, was incorporated in the Civil Service Act of 1883.<sup>528</sup> The Lloyd-La Follette Act in 1912 began the process of protecting civil servants from unwarranted or abusive removal by codifying “just cause” standards previously embodied in presidential orders, defining “just causes” as those that would promote the “efficiency of the service.”<sup>529</sup> Substantial changes in the civil service system were instituted by the Civil Service Reform Act of 1978, which abolished the Civil Service Commission and delegated its responsibilities, its management, and its administrative duties to the Office of Personnel Management and its review and protective functions to the Merit Systems Protection Board.<sup>530</sup>

Until 1993, § 9(a) of the Hatch Act<sup>531</sup> prohibited any person in the executive branch, or any executive branch department or agency, except the President and the Vice President and certain “policy determining” officers, to “take an active part in political management or political campaigns,” although employees had been permitted to “express their opinions on all political subjects and candidates.” In *United Public Workers v. Mitchell*,<sup>532</sup> these provisions were upheld as “reasonable” against objections based on the First, Fifth, Ninth, and Tenth Amendments. The Hatch Act Reform Amendments of 1993,

<sup>526</sup> 19 Stat. 143, 169 (1876).

<sup>527</sup> *Ex parte Curtis*, 106 U.S. 371 (1882). Chief Justice Waite’s opinion extensively reviews early congressional legislation regulative of conduct in office. *Id.* at 372–73.

<sup>528</sup> 22 Stat. 403 (the Pendleton Act). On this law and subsequent enactments that created the civil service as a professional cadre of bureaucrats insulated from politics, see *Developments in the Law: Public Employment*, 97 HARV. L. REV. 1611, 1619–1676 (1984).

<sup>529</sup> Act of Aug. 24, 1912, § 6, 37 Stat. 539, 555, codified as amended at 5 U.S.C. § 7513. The protection was circumscribed by the limited enforcement mechanisms under the Civil Service Commission, which were gradually strengthened. See *Developments, supra*, 97 HARV. L. REV., 1630–31.

<sup>530</sup> 92 Stat. 1111 (codified in scattered sections of titles 5, 10, 15, 28, 31, 38, 39, and 42 U.S.C.). For the long development, see, *Developments, supra*, 97 HARV. L. REV. at 1632–1650.

<sup>531</sup> 53 Stat. 1147, 1148 (1939), then 5 U.S.C. § 7324(a). The 1940 law, § 12(a), 54 Stat. 767–768, applied the same broad ban to employees of federally funded state and local agencies, but this provision was amended in 1974 to restrict state and local government employees in only one respect: running for public office in partisan elections. Act of Oct. 15, 1974, Pub. L. 93–443, § 401(a), 88 Stat. 1290, 5 U.S.C. § 1502.

<sup>532</sup> 330 U.S. 75 (1947). See also *Civil Serv. Comm’n v. National Ass’n of Letter Carriers*, 413 U.S. 548 (1973), in which the constitutional attack was renewed, in large part based on the Court’s expanding free speech jurisprudence, but the act was again sustained. A “little Hatch Act” of a state, applying to its employees, was sustained in *Broadrick v. Oklahoma*, 413 U.S. 601 (1973).