

POSTAL SERVICE ACT OF 1980

HEARINGS
BEFORE THE
SUBCOMMITTEE ON ENERGY, NUCLEAR
PROLIFERATION AND FEDERAL SERVICES
OF THE
COMMITTEE ON
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
NINETY-SIXTH CONGRESS
SECOND SESSION
ON
S. 2558, H.R. 79, and H.R. 826

APRIL 15, 16, 21, AND MAY 1, 1980

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POSTAL SERVICE ACT OF 1980

TUESDAY, APRIL 15, 1980

U.S. SENATE,
SUBCOMMITTEE ON ENERGY, NUCLEAR
PROLIFERATION AND FEDERAL SERVICES,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met at 10 a.m., in room 1202 of the Dirksen Senate Office Building, Hon. John Glenn (chairman of the subcommittee) presiding.

Present: Senators Glenn and Javits.

Senator GLENN. The hearing will be in order.

OPENING STATEMENT OF SENATOR GLENN

Senator GLENN. The Subcommittee on Energy, Nuclear Proliferation, and Federal Services begins a series of hearings today on several important postal measures pending before the subcommittee. Among these are the Postal Service Act of 1980, a bill which I plan to introduce today and a draft of which has been provided to all the witnesses. H.R. 79, the Postal Service Act of 1979, and H.R. 826, which places the Postal Service under certain provisions of the Occupational Safety and Health Act of 1970.

The merits of the various legislative proposals before us must be examined in the light of the budget cuts recommended by the President and the Senate and House Budget Committees. These recommended cuts range from a low of \$250 million by the President to a high of \$836 million by the House Budget Committee. Those are cuts. The Senate Budget Committee has recommended a cut of \$588 million. These reductions are postulated on elimination of 1 day of mail delivery. This is an extremely important policy matter—one which affects all of us—and it deserves thorough congressional consideration.

Senator Javits.

OPENING STATEMENT OF SENATOR JAVITS

Senator JAVITS. Thank you, Mr. Chairman. First, I want to take this opportunity to welcome Mr. Moe Biller, who is president of the New York Metro Area Postal Workers.

Since the early 1960's the U.S. Postal Service—formerly the Post Office Department—has experienced organizational and financial problems which on several occasions Congress has attempted to remedy through legislation. The most comprehensive and far reaching was

the Postal Reorganization Act of 1970. That act abolished the Post Office Department as a Cabinet level department and established an independent establishment within the executive branch of the Government to own and operate the Nation's postal system.

Unfortunately, it has become increasingly clear that the basic premise of the reorganization—that postal rates should enable the Postal Service to achieve a self-sustaining revenue by 1985—appears to have become an unrealistic goal.

There are, of course, a number of factors which have contributed to the operating deficit; however, inflation has undoubtedly been the greatest factor. The sharp rise could not have been foreseen when the 1970 law was enacted, and it has had a major impact not only on labor costs, which comprise 86 percent of the USPS budget, but on construction, materials and equipment, and operations in general. Also unforeseen was the relentless rise in the cost of energy. The USPS estimates that for every 1-cent increase in the cost of a gallon of gasoline, the transportation costs increase by \$3 million.

The legislation we are considering today attempts to address these problems by reinstating some measure of congressional and executive control and by making the USPS more efficient.

These hearings will also examine the safety and health policies within the Postal Service. Presently, the Postmaster General has the statutory responsibility to establish and maintain an effective and comprehensive occupational safety and health program for USPS. OSHA may inspect and survey postal facilities only at the invitation of the USPS.

The unfortunate death of Michael McDermott, at the New York Bulk and Foreign Center, and the subsequent findings by OSHA of 12 serious violations of safety standards, including the removal of a bumper guard which could have prevented the death, raise serious questions in my mind about the ability of the Postal Service to maintain an effective safety program.

Finally, Mr. Chairman, these hearings are taking place in concert with the Senate's consideration of the fiscal year 1981 budget. There has been a great deal of discussion about reducing mail delivery from 6 to 5 days in order to meet the anticipated cut in the postal budget. I am concerned that such a decision could exacerbate the current trend of mailers seeking alternate delivery systems and thus decrease further the revenues of the Postal Service. I believe we should give careful consideration to the consequences of a service cut upon both the public, the ratepayers and the postal workers. I look forward to the testimony we will receive during these hearings.

Senator GLENN. At this point in the record we will insert a statement submitted by Senator Stevens.

[The prepared statement of Senator Stevens follows:]

PREPARED STATEMENT OF SENATOR TED STEVENS

Mr. Chairman, the timing of these hearings is extremely appropriate. We not only have a number of legislative proposals before us to consider, but we must also take into consideration the future of the U.S. Postal Service. I refer to the various proposals, both in Congress and from the Administration, which would eliminate or severely reduce the amount of public service appropriations to the U.S. Postal Service.

The reduction of such funds could have significant long-range, as well as short-term impacts on the future of the U.S. Postal Service. Proposals ranging from a \$250 to a \$830 million reduction in Federal assistance to the Postal Service have been discussed. If, in fact, such cuts do take place, it will—I have no doubt—cause postal service to be cut and significantly increase postal rates. We already know that the U.S. Postal Service intends to ask the Postal Rate Commission for a rate increase to be effective in 1981. However, such cuts in Federal funding could accelerate a second request or possibly increase the amount of the imminent proposal. In either case, the major effects would be an increase in inflation. But there will be other important and perhaps irrevocable damage to the U.S. Postal Service.

Large mailers and shippers are already looking for alternative means of delivering their products. Service cutbacks coupled with rate increases could accelerate that search and use of alternative means of delivery. Such a move by large mailers will undoubtedly increase the volume of mail, thus putting added pressure on first class mail to make up for lost revenues.

I foresee ourselves caught in a very vicious spiral of decreasing volume and increasing prices. Those that will be hurt most by service cuts and increased rates are those Americans who reside in the rural parts of this Nation—individuals who do not have ready access to inexpensive telecommunication systems or who are not able to just walk to the nearest newsstand to pick up a magazine or newspaper. The Postal Service has truly been an agency that binds this country together. And I am becoming increasingly concerned that the one agency which deals with more people every day than any other arm of the Federal Government will see its role shrink—not because of a lack of need for its services, but because many misunderstand the role of the Postal Service in the everyday lives of every American.

I will be very interested to learn what our friends representing postal employees, large mailers and shippers, and those who manage the Postal Service have to say, not only about the bill before us, but on the effect of possible budgetary cuts to the U.S. Postal Service.

Senator GLENN. Since our time is short today and our witness list long, I would welcome some restraint on the part of the witnesses in terms of the length of their oral statements. Of course, any written statements will be reprinted in their entirety in the hearing record.

Our witness list today includes Hon. Tom Corcoran, U.S. Representative, State of Illinois; Hon. Howard J. Derwinski, U.S. Representative, State of Illinois; Mr. Emmet Andrews, general president, American Postal Workers Union; Mr. Dean King, president, National Rural Letter Carriers Association; Mr. James LaPenta, director, Federal Public Service Division, Mail Handlers' Division, the Laborers International Union; Mr. Vincent Sombrotto, president, National Association of Letters Carriers; and Mr. Morris Biller, president, New York Metro Area Postal Union of New York.

Our first witnesses are Mr. Corcoran and Mr. Derwinski. If you will take your seats please, we will be glad to have your statement either in summarized version or in their entirety. In either event, they will be included in their entirety.

TESTIMONY OF HON. TOM CORCORAN, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Representative CORCORAN. Thank you very much, Mr. Chairman. I do have a prepared statement which I would like to make a part of the record. I also have some comments that I would like to make about the current problem that faces the Postal Service and the Congress.

My views on postal matters are influenced primarily by two things. First of all, my experience during the last few years in serving on the

House Post Office and Civil Service Committee and, second, by the type of district that I represent.

My district, like the State of Illinois and the State of Ohio, is a microcosm of the country. It consists of a pretty good sized city, many small communities, colleges, factories, and farms. There are also many people who live in my district who work downtown in the city of Chicago and commute daily.

So I come before you this morning to reflect these two inputs—my experience on the committee and the practical association I have had over many years in connection with the area that I come from and the district that I now have the privilege to represent.

As you know, Mr. Chairman, the Public Service subsidy for the U.S. Postal Service has begun to be reduced effective this year, fiscal year 1980. The 1970 Postal Reorganization Act provided that commencing in this fiscal year there would be a 10-percent reduction per year until 1984.

Now the Budget Committees in both the House and the Senate, as well as the President, have recommended that there be sizeable cuts in the Postal public service subsidy.

Mr. Chairman, as you know, all of these proposals are offered with the best of intentions by the House, the Senate, and the President because we are all concerned about the exceptionally high level of inflation, nearly 20 percent and the effect of the budget on the rate of inflation, but I think that we should recognize that there is more involved than simply the elimination of the public service subsidy and Saturday mail delivery.

The expressed result would be that Saturday or one other day, as the chairman expressed at the outset, might well be eliminated.

It seems to me that we should consider the ramifications of the elimination of 6-day delivery and we ought to be aware of the consequences.

The greatest difficulty with all of this, however, is that it won't help in the war on inflation and it will do much more than eliminate Saturday mail. It will eliminate congressional control, even the little control that we now have, over the Postal Service.

If we reduce or cut out entirely the public service subsidy for the U.S. Postal Service, I believe that the loss would be offset by increased rates.

As you know, based on the expected deficit for the current year in the Postal Service and based on the projected deficit for fiscal year 1981, the Postal Service is going to have to make up in some way or another about \$3 billion. A penny increase in the first-class rate with proportional increases in other classes will produce somewhere between \$500 and \$600 million, so before we got to the point of any loss in the public service subsidy, the Postal Service and the Postal Rate Commission were already faced with the need to come up with somewhere around a 4-cent increase in rates, and it's my view that if we do eliminate the public service subsidy, the impact in terms of rates will be that there will be a nickel increase.

This fact is very important in relationship to the overall objective of fighting inflation by cutting down on Federal spending. The objective at the outset was to fight inflation, to take steps that would bring inflation under control.

It seems to me that if one result of a significant reduction in the postal service subsidy would be a penny increase or perhaps more on first-class rates, without any improvement in service or product, there will be no decrease in inflation pressure due to the budget reduction.

One other possibility is to improve productivity, but the Postmaster General has indicated that in the current budget they plan for a 3-percent improvement in productivity. He has testified that to expect any more would be highly dubious.

Senator GLENN. Let me interrupt for just a moment, if I could before you leave that point. It's a question of where the money is coming from. If you keep the full 6 days, the money to furnish the 6 day is going to come from some where. What you're pointing out is if we cut the subsidy, the money is going to come from an increased rate.

Representative CORCORAN. Precisely.

Senator GLENN. That's true, but in either case, the taxpayer or the people of the country will have to pay.

Is it going to come out of taxes or is it going to come out of an increased postal rate. That's really the question. Isn't it?

Representative CORCORAN. That is the question, but I think—

Senator GLENN. They are both inflationary.

Representative CORCORAN. There is a need for better public understanding of the consequences of our action. There is also the feeling that once you eliminate Saturday mail, that's the end of it, and I also question this, Mr. Chairman.

I think congressional control has a lot to do with the character of the service provided by the Postal Service. We ought to recognize that the Postal Service is a very important service to every American.

Elimination of the public service subsidy could result in an increase in rates, but there is also a very serious question about the nature of the Postal Service itself. As you know, Mr. Chairman, we have in Congress very little control over postal operations as it is now.

If we eliminate the subsidy, congressional control is jeopardized. The subsidy is the only leverage that we have on the Postal Service right now and, albeit small as it is, it still is important in maintaining the kind of character, the kind of operation of the Postal Service, which we now have.

Postal Service as a service to the public is threatened at the moment by the action that's pending in the Congress. If we eliminate the subsidy, we can kiss the Postal Service good-bye as an organization which provides universal mail delivery to every American at reasonable cost. If we eliminate the subsidy in the future the cry will be, let the user pay. The Postal Service will be fine for somebody that has a very important need for delivery and is willing and able to pay for that service.

If you look at first-class mail, 80 percent of it is business. I suspect they will look to other forms of communication, particularly electronic modes, and other forms of advertising.

Second, if you happen to live in a metropolitan area where there's a large mail volume, you're probably going to have decent service, but if you happen to live in a small community, there won't be much postal service.

I think that when we consider the budget, when we look at the Postal Service and consider the consequences of our action, there is a very

serious question about the future of the Postal Service itself which goes far beyond the question of Saturday mail.

Thank you very much.

Senator GLENN. Thank you very much. The ranking minority member of the House Post Office and Civil Service Committee, Representative Ed Derwinski, is with us.

Mr. Derwinski, we welcome your statement.

TESTIMONY OF HON. EDWARD J. DERWINSKI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ILLINOIS

Representative DERWINSKI. Thank you, Mr. Chairman. I'll be very brief. I'd like unanimous consent to introduce a full statement in the record.

Senator GLENN. It will be included in its entirety following your testimony.

Representative DERWINSKI. Basically, Mr. Chairman, I don't think that the Postal Service is in such shape that requires any major legislative overhaul. I think it needs some fine tuning and I think overall the postal reforms have worked well.

Even with its inefficiencies and the criticism it receives, I think our Postal Service is probably better than its image. The public just doesn't understand the tremendous volume that the Postal Service is required to handle. I think it's a far better service than it's assumed to be.

I believe that the issue facing the Postal Service is one that we can't really address in legislation, and that is the legitimate role that the post office should have the electronic mail field. I think if they are denied that role by either the Postal Rate Commission or the FCC, it will be to the detriment of the public and, of course, to the detriment of the postal employees who will find themselves with much less volume than they ought to be able to work with.

That's the major thrust of my statement and I dwell on that because it is my feeling that the Postal Service should not be denied the volume which it could handle in this new era of communication.

Mr. Chairman, I think you've done a good job of compiling basic provisions that will overall help the Postal Service. There are two specific sections that I would like to comment on.

One is section 5, which provides for the public service authorization. I note Mr. Corcoran went into that basic subject in some detail, so I won't repeat any special points. In my judgment, given the budget cutting sentiment prevailing on the Hill, I wouldn't be too optimistic of our ability to hold the \$828 million figure, much less the \$920 million figure. I would prefer as a rear guard action we try to hold the budget figure contained in the proposal of the President, which is to reduce the postal appropriation subsidy by \$250 million.

It is my understanding that the Postmaster General could live with that limited reduction and in the process would not have to eliminate Saturday mail delivery.

On the subject of Saturday mail delivery, I think it should be traded off, if it must, for a limit on the next postal rate increase.

I think a swap of a very minimum rate increase in return at that point starting to phase out Saturday mail delivery, might be the fair-

est procedure for the public. I don't think that arbitrarily slicing Saturday mail delivery now because of budget manipulations is the answer to the public's need as far as Postal Service is concerned.

Then the other sections, I don't find anything particularly troublesome. I think your provisions for dealing with qualifications for members of the Board of Governors and for protection of postal property and the other items are consistent with what we would really approach from the House side.

To sum up my position, I think we've got a good Postal Service and I hope we would resist any effort to overcorrect. In the spirit of cooperation our committees have had over the years, we should finally work out practical legislation which would protect the Postal Service, its customers, and of course the taxpayers. That sums up my statement, Mr. Chairman.

Senator GLENN. Thank you very much, Mr. Derwinski. Do you have any figures on the trading of Saturday mail for a minimum rate increase? I don't have any figures yet on what a Saturday mail cutout would mean in terms of dollars. We'll have testimony later on from the Postal Service itself. Also, do you have any figures on the dollar savings which would result from 5-day delivery if another day, rather than Saturday, was eliminated? What if we took a midweek day or we left it flexible for different parts of the country? Would that have any different effect?

Representative DERWINSKI. I don't have specific figures as yet, other than the general consensus that we could forego 1 cent of first-class rate increase, if the tradeoff was at that point Saturday mail service. If a day of mail delivery service has to be cut off, I think the day that would be most practical would be Saturday. My area is a typical suburban area adjacent to Chicago with heavy commercial use of the Postal Service. I think nondelivery on Saturday would be the least difficult adjustment for the public to accept.

The factor that hasn't come up, as far as I know, in budget committee considerations is the no layoff clause in the Postal Service contract. This means that the real savings claimed or anticipated couldn't be realized until there was attrition of personnel. You wouldn't have immediate savings if you eliminated a day of delivery service, because your no layoff clause would minimize the immediate savings in personnel reduction.

I think that is a practical feature we just have to live with. If we have 6 months or 1 year to work ahead to discontinuance of a day of delivery service, then you could do so with the most logical use of manpower.

Senator GLENN. I'll address this to either one of you. How do you feel we could limit the size of a postage increase when the USPS is under obligation, by law, to file rate cases that put revenues in line with costs? That's mandated by the Postal Reorganization Act.

As I see it, the \$920 million we put in originally was a reasonable figure for a permanent subsidy, but when we get down into trying to figure cost attribution for different classes of service, it gets very difficult. That's what we've spent most of the last 2 years trying to get ironed out, along with a new accounting system.

I don't know whether we will ever be able really to pin it down with any finality. We're certainly not going to get it down to the final dol-

lar, but it seems to me that since we are requiring the Postal Service to, for example, keep open additional post offices around the country which USPS or other organizations do not have to maintain, it is quite legitimate for us to reimburse beyond rates.

We're requiring many services of the Postal Service that are not required of others. It seems to me perhaps we should just make that a Government cost for mail service, with the original \$920 million or around \$1 billion as a reasonable amount.

Let me give you one classic example. How do you attribute the cost for the person who put up the flag every day in front of the post office? Does that get charged to first-class mail or to another class? How about general service areas of postal buildings that have to be maintained. The Postal Service maintains a lobby for a number of dollars per year. How much of that cost should be assigned to first-class, second-class, or third-class mail? I'm making the point that there are some general functions of the Postal Service which are required by law and by public demand that could well justify Government subsidy, quite apart from straight rate increases.

Now, having said that, it comes back to a question of whether we finance postal costs through rate increases or through subsidies from the Federal Treasury. In one case the burden falls more on the mail user; in the other, on the taxpaying public. That is the policy issue we address in these bills. Does the postal service have any option right now? They have to file a rate increase under the Postal Reorganization Act.

Representative DERWINSKI. I could completely agree with your logic in maintaining the \$920 million. My feeling is that we can't sustain that in debate on the floor of the House or the Senate.

Senator GLENN. I would tend to agree with you.

Representative DERWINSKI. Still keeping with the reality rather than the purity of the thought. That's why I made the point that if there has to be a reduction in service, which has been the targeted goal of the Budget Committee, then I think that should be used as the vehicle to limit the rate increase. If a penny reduction in the possible rate increase is the necessary trade-off under those conditions, elimination of Saturday mail delivery might at least be tolerable.

Representative CORCORAN. Mr. Chairman, if I might respond to that. I agree with my colleague that the practicalities are that it's going to be difficult to revise the Postal Reorganization Act to provide for the \$920 million, unless we make a strong effort to educate not only our colleagues in Congress, but also the American people about the issues that are involved.

You ask a very appropriate question as far as what will happen if we have the trade-off. I think that the Postal Service will simply borrow additional money to get it through the transition period.

As a matter of fact, the Postmaster General pointed out that his probable course of action would be not to add on the penny that the Saturday mail delivery would represent, but rather to file, shortly thereafter, a second-rate case to deal with the need for additional revenue, so I think that there needs to be a lot more public discussion of just what the trade-offs are here. I would be willing to accept that kind of a trade-off if I knew that in the future there was going to be a continuation of the public service programs.

The idea is apparently to phase out the Postal Service subsidy altogether. They may keep the revenue foregone for a little while longer, but the whole thrust of the current debate is to knock it out entirely.

The basic question is not just the question of Saturday mail; it's the future of the Postal Service itself.

Senator GLENN. It's very attractive to cut back on mail service at this time when we are trying to slash the budget. The Postal Service has taken pride in operating within its budget this year, but I don't think equal attention has been paid to the fact that, by all estimates, they will be back in the hole next year. I would also point out that operating in the black this year was accomplished with an \$828 million subsidy.

It's not entirely accurate to state that the Postal Service is operating in the black when that calculation includes a \$828 million subsidy. If we cut the subsidy down even further or eliminate it entirely, there's no doubt about the need for a big rate increase just to keep pace.

Representative CORCORAN. If I might, Mr. Chairman. One of the issues I raised in questioning the Postmaster General at our hearing was the wisdom of beginning this year by having a big public relations blitz about the monthly surpluses that were occurring, when in fact, for fiscal year 1980 there's going to be, according to the Postmaster General's own budget, a deficit of \$593 million.

The result is that the people on the budget committees who are not familiar with this particular issue, saw an opportunity. After all, if the Postal Service doesn't need the public service subsidy, then we can take that money and make it a part of our general budget reductions.

I think the Postmaster General and his organization made a serious mistake in that respect.

Senator GLENN. Under the reconciliation process, authorization committees are asked to align their spending bills in accordance with the budget committees' recommendations. In line with that, I believe, \$4.2 billion in cuts for Federal salaries, retirement pay, and postal service, were assigned to the House Post Office and Civil Service Committee. There are, of course, several things lumped in together. In your view, what's likely to be the House Post Office Committee response to this recommendation?

Representative DERWINSKI. Well of course the biggest figure there is the \$2.7 billion estimate on the savings from the pay reform proposal. However, the majority was opposed to this bill and they are opposed to processing the legislation. Now they are compelled to take action by the budget process. Then you'd have to have an about face by enough members of the committee to pass the pay reform proposal. Without that we couldn't come within even reaching distance of the \$4.2 billion, if it's mandated.

Senator GLENN. Mr. Corcoran, Mr. Derwinski has expressed himself with regard to electronic mail. Do you agree with him or do you have different views?

Representative CORCORAN. I agree fully with what my colleague from Illinois said. I think that the electronic mail in general provides a very important future, new source of business for the Postal Service.

The issue right now, of course, is the pending attempt of the Postal Service to get a degree of control over electronic mail so that they can enter into the business. I personally am not fully or sufficiently familiar

with the issue to decide whether or not the Postal Rate Commission was right in remanding it back to the Board of Governors and the Postal Service or not.

The thing that I would emphasize is in terms of general characteristics, I should think that we would want the Postal Service to be in the electronic mail business to the point where they could deliver electronically to the post offices out in the field the message, which then could be converted to hard copy for delivery.

Those would be the two characteristics that I think would meet a successful test of whether or not the Postal Service could be in that business.

Senator GLENN. Thank you very much gentlemen.

Representative DERWINSKI. Thank you, Mr. Chairman.

Representative CORCORAN. Thank you very much.

[The prepared statements of Representatives Corcoran and Derwinski follow:]

STATEMENT OF THE HONORABLE TOM CORCORAN
BEFORE THE SENATE GOVERNMENTAL AFFAIRS COMMITTEE'S SUBCOMMITTEE ON
ENERGY, NUCLEAR PROLIFERATION AND FEDERAL SERVICES

Mr. Chairman:

I appreciate the interest you have shown in postal issues and I am very pleased that you have responded so positively to the desire of the American people for postal reform.

In your bill, you have proposed a public service subsidy of \$920 million - an increase over present law, which provides only \$736 million in the coming fiscal year, decreasing at a rate of \$92 million a year until 1984, when the public service subsidy will amount to \$460 million. Under normal circumstances, I would come before you to stress that the Postal Service really needs a larger subsidy in order to maintain such vital services as six-day mail delivery.

Unfortunately, the prospects for more funding for crucial public services, a key aspect of postal reform, are grim. Both the House and Senate Budget Committees, as well as the President, have indicated that the Postal Service's public services are low on their list of priorities. The Committees favor elimination of Saturday mail delivery and they have recommended action to completely eliminate the public service subsidy.

Under the circumstances we are facing today, I would instead like to encourage you to hold your own against those of your colleagues who may urge you to abandon six-day delivery in order to save the federal government from deficit financing. You know and I know that the \$736 million that we would save by eliminating the entire public service subsidy amounts to a ridiculously small amount - 1/10th of one percent of the entire budget, excluding off budget entries. We are in the position of the man who says, "We have to reduce the household budget, so from now on, we won't buy any food." Why take the path that will yield the most discomfort for the most Americans? All of us are affected by postal delivery services.

Surely, we could find enough waste in the huge federal budget to save 1/10th of one percent!

Since the Postal Reorganization Act of 1970, the Postal Service has come a long way. Its financial condition has improved enormously. In order to control costs and live within its means, the Postal Service has raised rates over 150 per cent. In addition, the Postal Service has dramatically increased productivity, which is a tribute to the employees, as well as the management, of the Postal Service. Years of increasing rates and increasing productivity led to the banner year of 1979, in which the Postal Service realized a surplus of \$470 million.

But all of these improvements were not made without a cost in service, and the Budget Committees' desire to reduce delivery to five days per week by eliminating the public service subsidy sounds the death knell for service.

This proposed reduction in service and in the public service appropriation does not follow the will of the American people. In 1977 and 1978, the Committee on Post Office and Civil Service held hearings across the country, and people everywhere opposed elimination of six-day delivery. In my own district alone, 89% of the respondents to a survey favored continued Saturday mail delivery. As recently as September 7, 1979, the House voted overwhelmingly to increase the public service subsidy to \$1.1 billion in fiscal year 1980, \$1.2 billion in fiscal year 1981, and \$1.3 billion thereafter. H.R. 79, the Postal Service Act of 1979, passed the House by a vote of 350 to 14. This vote truly reflects public sentiment that the guiding philosophy of the Postal Service does not meet current public needs. We need a policy that emphasizes service and public responsibility, as well as responsible fiscal policy.

Just last year, our own Postmaster General said of five day delivery, "There's too much disruption for the amount of money we could save. We have bigger fish to fry." He went on to say, "Frankly, I don't see how we would handle the volume we now have in five days." Well, if we couldn't handle the volume in 1979, I don't see how in the world we can handle it this year, when it is reportedly increasing!

On the other hand, volume may not be a problem if we take the step of eliminating Saturday delivery, because this will drive increasing numbers of postal customers to use alternate means of delivery and communication.

I am very pleased with the fact that you have concluded that the Postal Service does need a subsidy in light of the fact that the Postmaster General has said the only way he can raise enough money to generate \$836 million, including cuts in the revenue forgone subsidy, would be by eliminating Saturday mail delivery. I have been a sponsor in the House of a bill to provide for Congressional review of proposed changes in postal service. You may want to include such a provision in this bill, so that when issues such as the continuation of Saturday mail delivery arise, the duly elected representatives of the public will have a say in the policy decisions on behalf of the American people. In case you are interested in investigating this further, the bill number is H.R. 2679.

Even without the elimination of the public service subsidy, the Postal Service is predicting a deficit of \$593 million in fiscal year 1980 and \$2,384 million in 1981! I'm afraid they crowed too long and loud about the net income of \$470 million in fiscal year 1979. What a deal we're giving America - higher rates, higher deficits, and less service; more for less! We desperately need an increase in the subsidy, and I'm glad you have addressed this.

I would also like to applaud another section of your bill. I note that in Section 5 (a) of your bill, dealing with the public service authorization and annual report, you have included a provision for public accountability for the expenditure of the public service appropriation. You would require the Postal Service to detail by function the expenditure of funds appropriated in the immediately preceding fiscal year and the proposed expenditure of funds during the fiscal year for which appropriations are requested. In both the 95th and 96th Congresses, I offered this provision as an amendment to the major postal reform bills, and it was adopted both times. It is apparent to me that we should have oversight over the expenditure of public funds, and I am happy to see this provision in the bill.

Unfortunately, you did not include a provision eliminating the Board of Governors and making the Postmaster General a Presidential appointee. I have also been the sponsor of this amendment in the House, and it has been included in the last two postal reform bills. The elimination of the Board of Governors and Presidential appointment of the Postmaster General is another step toward public accountability. The Board is expensive - \$10,000 per member per year plus \$300 per meeting day - and it is just another layer of bureaucracy between the Postal Service and the public, the President and Congress. I think we are wasting our money, and I would hope you would consider including such a provision in the bill.

Finally, I support your decision to give the Postal Rate Commission a budget independent of the Postal Service, which the Postal Rate Commission regulates. The regulator should not be subject financially to the whims of the regulated.

Thank you for this opportunity to appear before your Committee. I would be happy to answer any questions you may have.

TESTIMONY OF HONORABLE EDWARD J. DERWINSKI
TO
SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION AND FEDERAL SERVICES
April 15, 1980

Mr. Chairman and Members of the Subcommittee, I want to thank you for the opportunity to be with you once again. We share a long and continuing interest in the well-being of the U.S. Postal Service and the quality service it provides the mail-using public.

As one of the original backers of Postal Reorganization, I have maintained a special interest in postal affairs. In the decade that has elapsed since Postal Reorganization became a fact, progress has been made, but the postal operation is not problem free. Given the size and complexity of the postal undertaking, problems will persist and there always will be room for improvement.

Whether or not we succeed in forging a consensus on pending postal legislation, that, in my opinion, is not the principal issue. What is at stake and is of overriding concern to postal management and its dedicated workforce is the very existence of the Postal Service. If the Service is to survive and to continue to provide a universal mail service, it must be allowed to compete in a dynamic new field--electronic mail.

Largely because of regulatory interference and delay, nearly 18 months have elapsed since the Postal Service first proposed involvement in the electronic transmission phase of electronic-computer originated mail. Unfortunately, the outlook is for more of the same heavy-handed regulatory delay, and in the meantime there is no precise way for determining what role, if any, the Postal Service will play in electronic mail.

It has been a rather frustrating experience for the Postal Service in trying to ingest some of the regulatory nostrums prescribed by the Federal Communications Commission and the Postal Rate Commission. Instead of giving the Postal Service the green light on technology which would permit it to increase production, reduce costs and hold down rate increases, the two regulatory agencies have taken turns setting up a series of road blocks. In the meantime, the mail-using public continues to be deprived of new and dramatic services. Based on recent events, I regret the public will have to wait a little longer.

In September 1978, the Postal Service filed with the Postal Rate Commission a proposal to provide for the electronic transmission and delivery of billing and other information originated from computers. Under the Postal Service proposal, E-COM was to be established as a sub-class of first-class mail. Prior to filing its request with the PRC, the Postal Service signed a contract with Western Union which was to provide the electronic transmission facilities.

In January 1979, Western Union filed a tariff with the FCC, which was rejected in April 1979 by the agency's Common Carrier Bureau. Late in 1979, Western Union terminated its E-COM contract with the Postal Service. Western Union said its action was based on the anticipation of further protracted regulatory delays which "made it extremely difficult to foresee the time when their service would ever become a reality." The executive vice president of Western Union has said it could have begun the service January 1, 1979, had it not been for the regulatory delays.

Obviously, he had not reckoned with the action of the Postal Rate Commission. In December 1979, the PRC issued its recommended decision on the E-COM proposal. In a 3 to 2 decision which has been the subject of an on-going

controversy, the rate commission came up with a proposal crafted by an Officer of the Commission. Ambiguous at best, that proposal was clear on one point. The Postal Service's role was to be limited to data processing and envelope stuffing.

Even before the PRC came up with its decision, the FCC, in a separate ruling in September 1979, claimed jurisdiction over the Postal Service's E-COM service. The Postal Service is challenging that ruling in an action now pending before the Court of Appeals for the District of Columbia.

With the hope of obtaining a clear-cut decision which would permit the Postal Service to enter the electronics field, the Board of Governors remanded the E-COM proceeding to the PRC. Like its original recommended decision, the rate commission's second effort was built on ambiguity. It told the Postal Service it could compete with private telecommunications carriers through a contractor, but it said the Service first must obtain any needed regulatory approval from the Federal Communications Commission or the rate commission itself. In strongly dissenting opinions, two of the Commission's five members urged the Board of Governors to begin E-COM service immediately. They said the majority should have given the Postal Service permission to compete with telecommunications carriers without waiting for resolution of the FCC dispute. I agree with the dissenting views. The Postal Rate Commission majority seems more intent on hindering rather than promoting a postal service which is in the best interests of the public.

The INTELPOST proposal, pioneered and developed by the Postal Service also is engulfed in regulatory maze. In May 1979, the Postal Service sought competitive bids on the telecommunications circuits necessary to conduct a one-year experiment. When two contracts were awarded, the contractors filed tariff changes with the FCC which were rejected by its Common Carrier Bureau

last October. Seven foreign countries agreed to participate in the initial demonstration, and several more have expressed interest in joining. The Postal Service still is being held back by disputatious and disappointing regulations.

It is obvious the opposition to Postal Service involvement in electronic mail turns on two arguments. Some think the Postal Service does not have the creative know-how to compete with the high-priced talent available to private industry. Others are convinced Postal Service involvement in electronics would be underwritten by Federal subsidies.

I believe the Postal Service has the talent and professionalism to do the job. As for the second argument, Postmaster General William Bolger repeatedly has emphasized that any involvement in electronic mail will be self-supporting, and will be a co-operative effort with private enterprise.

I have dwelled on electronic mail because I think it is crucial to the survival of the Postal Service. If the Postal Service is not permitted to meet the demand for electronic service, millions of pieces of mail will be diverted to other sources. A volume loss of that magnitude would make it impossible for the Postal Service to maintain its workforce and 40,000 existing retail outlets.

What I am saying Mr. Chairman is that the Postal Service is uniquely equipped to provide the mail-using public with a universal service. I do not see anyone in the private sector willing or able to match that service. It is something the regulators better give some serious thought to before they seriously weaken the nation's postal system.

As for the pending postal legislation, Mr. Chairman, I must confess an attitude of ambivalence. I could support some of the provisions, but simple logic and consistency would force me to oppose other provisions.

Specifically, I have some trouble with Section 2, which places the Postal Service under provisions of the Occupational Safety and Health Act. To make the Postal Service subject to criminal and civil penalties really means the taxpayers cannot win for losing. In assessing the costs of separate legislation to place the Postal Service under OSHA, the Congressional Budget Office put the costs for the current fiscal year at \$1.3 million; \$3.2 million for FY 81, and \$3.9 million for fiscal 82.

Aside from the costs, I see no practical reason for creating an adversary relationship between two units of government. The Postal Service has made it clear it has no objections to unannounced OSHA inspections, and the Postmaster General is committed to improving safety in all postal facilities. Furthermore, State safety regulations permitted by the Act could subject the Postal Service to varying requirements across the country and undercut uniformity in postal programs, regulations and standards.

Section 3 of the bill would aid in combating false claims about mail-order products. It would permit the Postal Service to quickly obtain on demand a sample of the offered product which would be tested to head off widespread fraud.

Section 4 provides civil penalties for failure to pay lawful postage. This makes more sense than a criminal prosecution. Our government attorneys can be better occupied in the prosecution of more important cases.

I am overcome by Section 5, which provides for a permanent public service authorization of \$920 million. The current subsidy is \$828 million and that is scheduled to drop to \$736 million for FY 81. That latter total would be eliminated under the recommendations of the Budget Committees along with another \$100 million which would be cut from the revenue foregone appropriation.

The President's revised budget limits the reduction in postal appropriations to \$250 million. In testimony before our Committee, the Postmaster General left the impression that the limited reduction in appropriations would not result in such drastic action as the elimination of one day of mail delivery service.

With our Budget Committees committed to balancing the Federal budget, it will be extremely difficult, if not impossible, to forge a consensus for any postal legislation which calls for sustaining the \$920 million appropriation.

The cuts recommended by the Budget Committee would lead to the discontinuance of six-day mail delivery. The President's revised budget does not anticipate such a service cutback.

In my opinion, any plan to end six-day mail delivery should be held in reserve to partially offset the size of the next rate increase which will become effective early in 1981. The saving which would accrue from a cutback in service would offset about one-cent of that increase.

Section 6 would make "impact upon competition" the sole basis for determining if the Postal Rate Commission conducts the long formal proceedings now required by law or leaves classification to the Postal Service. As I read the section, it seems like an invitation to confusion.

Section 7 permits the rate commission to clear Postal Service plans for service experiments. It appears to make it more difficult instead of easier to make changes. The provision appears longer and more complex than the whole section of existing law on mail classification.

Section 8, like Section 5, has budgetary implications since it would broaden the coverage of the subsidized fourth-class library rate. When a similar provision was included as part of H.R. 79, the Congressional Budget

Office estimated the additional cost at \$38 million for fiscal year 1981; \$40 million for FY 82, and \$43 million for FY 83.

I have no problems with the sections dealing with the qualifications for members of the Board of Governors, the protection of postal property, and size and weight limits. As for the Postal Rate Commission, it might be time to take a look to see if it is justifying its existence. The rate commission has followed a pattern of obfuscation rather than objectivity and has become a haven for accountants and attorneys.

I know that you have scheduled an impressive array of witnesses. In that group will be prominent spokesmen for the various craft unions who will be arguing for increased benefits. I respect their positions and those of the dedicated employees they represent, but I would suggest their efforts are misdirected at this particular time.

With their pension funds under attack, this is the time they should be digging in and concentrating their time and energy on preserving and maintaining the pension system they now enjoy. I also am convinced the Postal Service is not in disarray. There is not another postal service in the world that can compare its record with the service provided American mail users. As I said earlier, there is always room for improvement, and I am convinced additional efficiencies and economies are possible if we get the regulars off of the backs of the Postal Service.

Senator GLENN. Other members of the committee may wish to submit questions to you. I would appreciate your reply so that we can make them a part of our committee record. Thank you for being here this morning.

The next four witnesses will appear as a panel.

Gentlemen we welcome you to our hearings this morning. Mr. Andrews we will start with your statement either in a summarized version or in its entirety.

TESTIMONY OF EMMET ANDREWS, GENERAL PRESIDENT, AMERICAN POSTAL WORKERS UNION; DEAN KING, PRESIDENT, NATIONAL RURAL LETTER CARRIERS ASSOCIATION; JAMES LaPENTA, DIRECTOR, FEDERAL PUBLIC SERVICE DIVISION, MAIL HANDLERS' DIVISION, LABORERS INTERNATIONAL UNION; VINCENT SOMBROTTO, PRESIDENT, NATIONAL ASSOCIATION OF LETTER CARRIERS

Mr. ANDREWS. Mr. Chairman and members of the committee, for the record, I am Emmet Andrews, general president of the American Postal Workers Union, AFL-CIO. I appreciate the opportunity to appear before this committee with the presidents of the other three exclusive postal employee organizations collectively representing all bargaining unit employees of the Postal Service.

I speak in behalf of more than 300,000 postal employees for whom we are the exclusive national representative for labor management relations and collective bargaining with the U.S. Postal Service. Our membership is employed in the post offices of 50 States, the District of Columbia, Puerto Rico, Virgin Islands, and Guam.

The American Postal Workers Union is an industrial union representing clerks, maintenance and motor vehicle employees, special delivery messengers and employees at all U.S. mail depositories, postal data centers, and mail equipment shops.

OK. I understand two legislative measures are the subject of these hearings, namely, H.R. 826, to place the U.S. Postal Service under the Occupational Health and Safety Act of 1970 and H.R. 79 which proposes to amend the Postal Reorganization Act of 1970 by altering the organizational structure of the U.S. Postal Service. In addition H.R. 79 proposes a modest increase in U.S. Postal Service funding which we strongly endorse.

I might add, Mr. Chairman and members of the committee, we oppose with equal vigor, the recommendations of the Senate and House Budget Committees as well as the President to sharply reduce, if not eliminate existing public service and revenue foregone appropriations and liquidate 6-day mail delivery.

Such meat-ax budget cuts would be a disaster of the Postal Service, the American public and particularly the postal workers which all of us represent as up to 30,000 jobs potentially would be terminated.

We urge this committee to favorably report H.R. 826 with an amendment to include criminal sanctions against postal management at all levels where flagrant violations of safety and health provisions of the OSHA Act result in injury or death to postal workers.

The House of Representatives approved H.R. 826 on October 22, 1979, on a voice vote. We also urged your support on H.R. 79 as overwhelmingly approved by the House of Representatives by a 350 to 14 vote on September 7, 1979.

Mr. Chairman at this point, I request that the two detailed and I hope persuasive statements which have been submitted separately to the committee, one in support of H.R. 826 and the other in support of H.R. 79 as originally introduced in the other body be included in the record.

Senator GLENN. They will be included in the record in their entirety.
[The statements follow:]



AMERICAN POSTAL WORKERS UNION, AFL-CIO

817 14TH STREET, N. W., WASHINGTON 6, D. C.

STATEMENT OF THE
AMERICAN POSTAL WORKERS UNION (AFL-CIO)
CONCERNING HR 826 BEFORE THE
SUBCOMMITTEE ON NUCLEAR PROLIFERATION AND FEDERAL SERVICES
COMMITTEE ON GOVERNMENTAL AFFAIRS
U. S. SENATE
APRIL 15, 1980

Mr. Chairman and Members of the Committee:

This statement is being presented on behalf of the American Postal Workers Union, AFL-CIO.

I speak in behalf of more than 300,000 postal employees for whom we are the Exclusive National Representative for labor-management relations and collective bargaining with the U.S. Postal Service. Our membership is employed in post offices in all 50 states, the District of Columbia, Puerto Rico, Virgin Islands and Guam.

The American Postal Workers Union is an industrial union representing clerks, maintenance and motor vehicle employees, special delivery messengers and employees at USPS mail depositories, postal data centers and the mail equipment shop.

We appreciate this opportunity to present the views of our labor union concerning HR 826 which provides that the "United States Postal Service shall be subject to certain provisions of the Occupational Safety and Health Act of 1970".

I am grateful to you Mr. Chairman for scheduling these hearings on HR 826 to bring the U.S. Postal Service completely under OSHA which will require an amendment to include criminal penalties for the more flagrant, arbitrary and dangerous violations by postal managers of the OSHA Act.

Mr. Chairman:

We are here today to testify and request that your committee favorably consider the adoption and passage of HR 826 to place the United States Postal Service under and subject to all provisions of the Occupational Safety and Health Act of 1970.

This Bill, HR 826, will amend Section 410(b)(7), of Title 39, U.S. Code and brings the Postal Service under the same safety and health obligations as private employers. Most significantly, it allows OSHA to conduct unannounced inspections of postal facilities. Also, we feel that the impositions of penalties and sanctions will result in the USPS correcting and eliminating conditions which continue to cause untold suffering and permanent harm to our employees.

It is not necessary to dwell at length on the tragic and needless death of Michael McDermott at the New York Foreign and Bulk Mail Center, however, we must for the record review the report of January 21, 1980, by Nicholas Di Archangel and George Yatsko, Subject: Report of Fatality Investigation (12/17-27/79), USPS, NYF & BMC, Jersey City, N.J., Exhibit No. 1. An investigation of the cause of the death of Michael McDermott.

We wish to refer you, Mr. Chairman, to Page 3, PROBABLE CAUSE OF ACCIDENT, B. General Contributing Factors, Items 1 through 4, which read, in part, as follows:

"(1) Attitude

. . . an attitude permeating all levels of employees that the mail must be moved and that few reasons justify stopping mail processing, including maintenance, and safety. . . ." (underscore added).

(2) Equipment Use

b. Improper and unauthorized use and/or alteration of equipment. (i.e. power panel entry by operational staff to adjust or jog equipment)

(3) Maintenance

Inadequate Maintenance: Operation of NYB & FMC is highly mechanized and complex. In our judgment, lack of proper preventative maintenance is pervasive throughout the high volume dock area and, indeed, the entire facility. (underscore added)

(4) Organizational Structure

The Safety Office is held in low esteem. (underscore added) Repeated attempts by safety staff to get corrective action have failed. The unit appears to be at an organizational level that is not conducive to direct access to decision makers." (underscore added)

It becomes obvious from a review of these findings, that the USPS has in the past and continues to pay lip service to the safety program while sanctimoniously proclaiming their great concern for their employees.

Their safety officers cannot move ahead to adequately address safety problems without going through layers of carefully constructed red tape designed to prolong and frustrate any dedicated safety officer who may be trying to correct safety hazards in their installation which is obvious from reading the report just quoted.

The attitude of never stopping productivity is also a major problem in the USPS and was a major factor in the death of Michael McDermott. The removal of the safety bumper guard at the head end of the conveyor was not just an isolated instance (see Page D-2, Item 4, and Page D-3, Item 2). Had this guard been present and connected, the conveyor would have

shut off upon being hit by the employee and the employee would have never been drawn into it. They were, however, removed because in the past these bumper guards had on occasion been struck and had slowed productivity overall in the installation. The USPS motto is, Productivity First--Safety Last.

Lack of sufficient manpower to maintain the more complicated equipment at the BMC's has always been a problem. It is a continuing problem which the USPS has tried to bury, but one which clearly was a factor in the horrendous safety conditions at the New York Foreign and Bulk Mail Center.

The maintenance of equipment on a regular required basis can only occur if the USPS is willing to have an adequate number of trained maintenance personnel available.

It is, and has always been, obvious to the Union that postal management considers the safety program like a dog looks at a flea; you know it is there, it bothers you, but you just can't seem to get rid of it and so you just tolerate it.

We have seen and proved time and time again that the USPS did not have, and does not now have, a serious commitment to safety. Oh yes, today they are worried because they don't want OSHA making unannounced inspections, they don't want to pay monetary penalties for continued violations so it's "promise them anything time" just like the dog and the flea. This attitude is in hopes that the itch will go away and, in this case, that the OSHA Bill, HR 826, will die in committee.

We ask though "where have they, the USPS, been until now?" and all evidence points to a reversion to form as soon as the heat is off. Let us for the next few minutes look at what the USPS has done in the past when informed of deficiencies in their safety program. This should give the committee a very clear picture of their so-called safety program.

We will be referring to the document entitled "Evaluation Report on The

Occupational Safety and Health Program of the U.S. Postal Service", prepared by the U.S. Department of Labor, Occupational Safety and Health Administration, Office of Federal Agency Safety and Health Programs, Final Report Issued July, 1979.

The reason we are asking the committee to consider the report is really twofold:

- (1) To see what the USPS Safety Program is really like from top to bottom, and
- (2) To show you what happens when the USPS is advised to make corrections as opposed to what would happen if they were required by law under threat of fine to make corrections.

As can be seen by this report on Page 1 ". . .95 percent of the total USPS workforce is exposed to hazards greater than those of office work". The report then goes on to list a series of hazards which postal employees are exposed to:

"Inclement, and sometimes hostile weather;
 Mechanical equipment;
 Hazardous working surfaces;
 Inhalation of dust and, in cases involving broken packages, possible toxic substances;
 Attacks by dogs and other animals;
 Automotive accidents;
 Objects with sharp points and/or edges."

In addition, we would like to point out and emphasize other items found in this report:

Page 3, Item 3, Injury/Illness Incidence:

". . . It shows that in spite of a five percent decrease in workforce size, injury, illness and lost work time incidence all climbed by a minimum of 35 percent, and in most areas showed significantly higher rates of change. . . ."

Page 3, Item 4, Employee Reports of Hazardous Conditions:

"USPS employees have filed more notices of unsafe and unhealthful working conditions directly with OSHA than have employees of any other Federal agency This means that 41 percent of all reports of unsafe and unhealthful working conditions are accounted for by USPS, which has only 26 percent of the total Federal workforce. Further, the fact that these reports are being sent directly to OSHA from USPS employees seems to indicate that employees are not obtaining corrective action through the USPS internal reporting system. . . ."

In reporting on Public Law 94-82 which legislatively brought the USPS under Section 19 of the Act, Congressman Charles Wilson stated, in part, as follows from Page 9 of the report:

". . . Obviously this will force the Postal Service to develop, promote, and adequately fund a viable safety and health program."

The report on Page 9 comes to the conclusion that Public Law 94-82 did not work and we quote:

"The passage of the legislation did not achieve the desired results. In general, the USPS safety and health program has deteriorated in both size and strength over the past several years. . . .

The size of the safety and health staff has decreased significantly. The decrease is proportionately greater than

the overall decrease in USPS employment;

The position of safety professional in the district offices has been eliminated;

The size of the headquarters safety staff has been reduced from 14 to three, two of whom are professionals;

. . . .

We believe the present headquarters safety staff is not large enough to manage an effective occupational safety and health program for the USPS. There is no industrial hygienist anywhere in the agency, and the existing employee protection program is strictly safety-oriented. Further, there has been no discernable agency-wide recognition of the existing occupational health problems.

. . . ."

These are not all, but just some of the major problems.

Further, on Page 14, under A. Employee Involvement, we quote:

". . . .

Although there is a procedure for filing notice of an unsafe condition, it does not fully meet the requirements of 29 CFR 1960.33. Form 1767, "Report of Hazard, Unsafe Condition, or Practice", is also available, on which employees may report unsafe or unhealthful conditions. The 29 CFR 1960 regulations require an assurance that an employee be able to have his name withheld from local supervision if he so desires. . . ."

The present Form 1767 requires employees to identify themselves.

Further, on Page 14, under B. Executive Support and Duties, we quote:

"Executive support, which appeared adequate upon initial

review of the numerous USPS manuals, documents, etc., is in fact lacking in many respects.

. . . .

Decrease in the number of qualified safety personnel in the headquarters staff;

Elimination of safety managers at the district level;

The failure to recognize possible occupational health problems and to hire industrial hygienists at headquarters and regional levels;

Failure to properly staff and operate a safety training center. . . .

The USPS has not published an antidiscrimination policy to meet the requirements of 29 CFR 1960.19(d)."

Further, on Page 15, under C. Safety and Health Staff and Functions, we quote:

" . . . We believe, however, that the limited staff is incapable of handling all the facets of an effective safety and health program, of inspecting the many industrial type function. . . ."

Further, on Page 17, under F. Safety and Health Training Activities, we quote:

"The USPS has extensive work-related training programs. However, the subject of safety is covered only in general ways, i.e., as it relates to specific crafts or work assignments. The only required safety training program provided is a two-hour session at the time of employment, and the only actual safety handbook is the "Supervisor's Safety Handbook" (P-13)."

E-2

Further, on Page 18, under G. Inspection and Hazard Abatement Procedures, we quote:

". . . inspections have not always been made in accordance with the announced schedules."

Further, on Page 18, under H. Recordkeeping and Reporting Procedures, we quote:

"Although USPS has responded to the recordkeeping and reporting guidelines in 29 CFR 1960, Subpart B, full compliance has not yet been achieved. . . .The USPS failure to implement this requirement is evidenced by the proposed exception to the reporting requirements of occupational illnesses or diseases. . . .Under the proposed revision it would be possible for many occupational illnesses to escape detection for years. In fact, this may already be the case, since USPS is reporting a lower incidence of occupational illness than the Federal Government as a whole, and considerably lower than that of other large Federal agencies (underscore added). The current USPS method of reporting occupational illnesses does not comply with the U.S. DOL's "Recordkeeping and Reporting Guidelines for Federal Agencies". The proposed revision of reporting will result in even greater variance from the requirements."

What conclusions can be drawn from this report?

- (1) It shows a Federal agency, the largest employer of civilians, to have a safety program deficient in almost every aspect from staffing through inspections down to corrections of unsafe conditions.

An agency that continues to come before the Congress and proclaim "We can take care of the problems ourselves, we do not need any other assistance and our problems are only minor".

- (2) It clearly shows to this committee just how concerned they, the USPS,

are about correcting the deficiencies found in this July, 1979, report. Had the USPS, as they now declare, a top-level commitment to safety and health and had they implemented the Department of Labor's recommendations then Mrs. McDermott and her nine-month-old daughter would not have to go through life without a husband and a father.

The only way the USPS will create a safe and healthful working environment for its employees will be when they are legally bound to do so under threat of fines and sanctions.

Even today after all of the pious platitudes of USPS management, we cannot get simple hazards corrected within reasonable time frames.

We are providing you with an example of one such office which, while properly conducting safety and health inspections, fails to correct and abate the violations three months after the inspection. It does little, if any, good to hold safety inspections if hazard abatement is not promptly provided. See Exhibit No. 2.

Another example which has come to our attention involves Youngstown, Ohio. We are also providing you with copies of this material as an example of the "tell them one thing, but do antoerh or better yet, don't do anything unless someone gets hurt". See Exhibit No. 3.

In the Youngstown, Ohio, case, our Union Regional Safety Officer has discussed this matter twice at the USPS Central Region and was told that the USPS Headquarters Engineering Change Board has decided that there is no need for this modification on the LSMs. Even the USPS Safety Officer concurs, but because of bureaucratic red tape, they cannot make the modification needed to protect our employees. Thus, nothing is done and the potential for serious injury continues to exist. This and the previous example are being repeated continually throughout the Postal Service today. Inspections are conducted, violations noted, but no correction of violations.

If the USPS were required, as HR 826 provides, to correct violations or be faced with fines, then and only then will we see the USPS get off of its "fat apathy" and improve the working conditions of our employees.

We would also like to point out to this committee the continued injury problems which our employees face during employment. We refer you to the table of "Injuries Reported Under the Federal Employees' Compensation Act, CY 1978. See Exhibit No. 4.

This report of FECA claims shows the USPS to have sustained 86,989 injuries during 1978. The total injuries for Federal establishments over 10,000 employees was only 201,337. Thus, over 43% of injuries reported under FECA have occurred to USPS employees. Over the past several years this figure has remained constant and we believe is a clear reflection on the inadequacies of the USPS safety and health effort.

Further, Postmaster General Bolger's testimony to Congressman Clay's Committee on March 6, 1980, reiterates his and the USPS's belief that 85% of accidents are caused by employees. Unbelievably, the USPS continues to operate under the theory that 85% of all accidents are "Unsafe Acts". They honestly and misguidedly believe that employees cause the accidents and not the conditions. It is no wonder their safety program emphasizes posters and discipline rather than training, inspections and corrections.

In fact, in the only in-depth study ever conducted by the Wisconsin Safety and Buildings Division, using the post injury investigation report (Form SD-10), it was found that unsafe conditions account for 54-58% of accidents and injuries while between 26-35% of all accidents are caused by unsafe acts. See Exhibit No. 5.

It is little wonder again why the USPS management has such an atrocious accident record among Federal agencies.

Mr. Chairman, if the USPS is allowed to continue to operate without sanctions for their repeated acts of disregard then you can expect that we will continue to chalk up unacceptable level of injury and illness and death as employees of the Postal Service.

In conclusion, Mr. Chairman, we believe that we have shown that the USPS, the largest employer of the U.S. Government, to have a safety program deficient in almost every respect.

In addition, we believe the record clearly shows that the USPS has not had in the past, and does not now have, a demonstrable commitment to safety and health in their installations. Had they had this commitment, which they so piously proclaimed to have, then Mrs. Michael McDermott and her infant daughter would not have to go through life without a husband and a father.

We asked you, therefore, Mr. Chairman, that your committee favorably report this bill HR826 with an amendment to include criminal sanctions. Thank you for your time and we would be glad to respond to any questions that you may have in regards to our testimony given today.

Exhibit #1

U.S. DEPARTMENT OF LABOR
Occupational Safety and Health Administration
Office of the Assistant Secretary
200 Constitution Avenue, N.W.
Washington, D.C. 20210

RECEIVED

FEB 20 1980

MPLS. DIV. A.P.W. II

Information Only

Attachment:

February 6, 1980

Mr. Emmett Andrews:

For your information.

Joe Velasquez
Special Assistant for Labor
(202) 523-8020

U.S. Department of Labor

Occupational Safety and Health Administration
1615 Broadway
New York, New York 10036



January 24, 1980

Reply to the Attention of: FED-9

Subj: Report of Fatality Investigation (12/17-27/79)
USPS, NYB & FMC, Jersey City, N.J.

To: Sue Nelson, Director
Policy, Legislation and Interagency Programs

This transmits subject report for your information and action.

As you know, during OSHA's testimony at the Jan 7 & 8 congressional hearings we made a promise to provide copies of photographs taken during our investigation. Copies of those photos are enclosed.

In addition, one of the enclosed copies of our final report contains the remaining color photos that should be forwarded to the Joint Congressional Committee as part of that promise.

Please advise if we may be of further service or if additional information is needed to clarify any of the items covered in our report.

A handwritten signature in cursive script, reading "Nicholas Di Archangel", is written over the typed name.

Nicholas Di Archangel
Deputy Regional Administrator
Occupational Safety and Health

Enclosures:

1. Report of Fatality Investigation NYB & FMC dtd January 21, 1980 (2 copies)
2. Photographs
3. Subject report (with color photographs)

cc: Roger Clark (w/o attachment)
Clinton Wright (w/o attachment)
J. Velasquez (w/o attachment)

U.S. Department of Labor

Occupational Safety and Health Administration
1515 Broadway
New York, New York 10036



January 24, 1980

Reply to the Attention of: FED-9

Mr. James V. Jellison
Regional Postmaster General
United States Postal Service
Northeast Region
New York, New York 10098

Dear Mr. Jellison:

The attached Report of Fatality Investigation USPS, New York Bulk and Foreign Mail Center, December 17-27, 1979 was prepared at the request of the United States Postal Service.

Please advise if we may be of further service or if additional information is needed to clarify any of the items covered in our report.

The cooperation of Postal officials and employees and members of New York Metro Area Postal Workers Union and the National Post Office Mail Handlers Union, LIUNA Local 300, during the investigation is gratefully acknowledged.

Sincerely,

A handwritten signature in cursive script, appearing to read "Nicholas Di Archangel".

Nicholas Di Archangel
Deputy Regional Administrator
Occupational Safety and Health

cc: D. Hazard - NYB & FMC
M. Biller - APWU
V. Magrino - NPO MHUNA
R. Moe - LIUNA #300

REPORT
OF
FATALITY INVESTIGATION
UNITED STATES POSTAL SERVICE
NEW YORK BULK & FOREIGN MAIL CENTER
JERSEY CITY, NEW JERSEY

DECEMBER 17 - 27, 1979

U.S. Department of Labor
Occupational Safety and Health Administration
Region II

January 21, 1980

Nicholas DiArchangel
Deputy Regional Administrator
Occupational Safety and Health

George J. Yatsko
Assistant Regional Administrator
Federal Agency Programs

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INTRODUCTION

This report is based on an investigation made at the request of the National Office of the United States Postal Service. It covers a conveyor accident that occurred around 12:15 p.m., Saturday, December 15, 1979 at the New York Bulk and Foreign Mail Center (NYB & FMC) 80 County Road, Jersey City, NJ 07097. The accident resulted in the death of mail handler Michael McDermott.

McDermott, age 25, was working alone in an outbound Atlanta van at bay 23, Bulk Mail Center, middle high volume docks. He was stowing parcels and had recently completed bricklaying a wall of parcels. Our reconstruction of the accident indicates that the deceased's right glove and hair were caught between the moving endless belt and rotating parts of extendible conveyor SR23D. He was pulled under the conveyor and received severe head and upper body injuries. There were no witnesses present.

The New York Regional Office of the Occupational Safety and Health Administration (OSHA) was notified of the accident around 9:30 a.m., December 17, 1979 by Mr. Jerry Jones, General Manager of Accident Prevention, USPS. OSHA's investigation of the accident was initiated the same date.

OSHA conducted an Opening Conference on December 17, 1979 at 1:00 p.m. See Appendix A-1 for listing of participants. The on-site "walk around" phase continued through December 27, 1979. A preliminary closing conference was held on January 4, 1980. See Appendix B for the listing of participants.

Information for this report was obtained from both verbal and written statements of Postal Officials and employees and from an investigation and reconstruction of the accident scene.

An Investigation Task Force (ITF) was established to assist OSHA in their investigation of the accident. The members were:

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

George J. Yatsko, Assistant Regional Administrator (ITF Director)
Dennis P. Gaughan, Federal Agency Coordinator

UNITED STATES POSTAL SERVICE

Jerry Jones, General Manager of Accident Prevention, Headquarters
Bernie King, Safety Officer, NYB & FMC

EMPLOYEE REPRESENTATIVES

Edward O'Neill, New York Metro Area Postal Workers Union
Stanley Quittley, National Post Office Mail Handlers Union, LIUNA #200

PROBABLE SEQUENCE OF EVENTS

Mr. McDernott's duties as a USPS mail handler required him to load parcel and sack mail from a horizontal endless belt conveyor into outbound vans.

This task involved the employee positioning an electrically controlled extendible conveyor inside the van. The normal employee position during this movement, is walking alongside the conveyor where it's control boxes are located. Once the conveyor is properly located in the van the conveyor's belt is started and the parcels are fed into the van.

The mail handler stacks the parcels in a prescribed "bricklaid" fashion. Upon completion of the first section of "bricklaid" parcels, the conveyor's carriage is moved further out of the trailer to make room for the next "bricklaid" section.

Lacking an eye witness, the investigators reconstructed the accident through photos of the scene and interviews with USPS employees familiar with the operation. The victim apparently had finished a "bricklaid" section. While located at the head of the conveyor he was either, attempting to move the conveyor carriage further out of the trailer (rearward) or was reaching under the conveyor for a parcel or other item. During the course of his activity in this area, the employee was pulled under the conveyor by the revolving rollers.

The employee's location at the front of the conveyor placed him in the immediate vicinity of the following unguarded danger points:

- (1) The underside of the head roller where the belt moved onto the snub roller. (Note: A guard designed to protect this area was missing. The intended purpose of this guard, as stated by USPS supervision, is protection of the mail. However, this guard could physically prevent a person from being pulled into the conveyor.)
- (2) The two pinch points created by the belt's movement onto the top of the head roller of the conveyor.
- (3) The sides of the snub and head rollers adjacent to the electrical control boxes.

In addition, examination of the conveyor's electrical distribution panel revealed the two jam relays designed to stop movement of the belt and carriage should a jamming condition occur had been physically removed from the circuit. Further, the electrical wiring had been improperly connected thus by-passing the jam circuit. It can be reasoned that had the jam circuit been operational it could have stopped the belts movement at the first indication of a jamming condition.

The employee's initial contact with the danger point(s) appears to have occurred when his long hair or loose fitting gauntlet work glove came into contact with and was caught between the unguarded rollers and belt. The revolving motion of the roller pulled the victim's head and body under the conveyor causing multiple injuries. See Appendix C-1 for Wound Location Chart JCPD #332705-79. The victim's denim apron was also drawn into the conveyor, however, it is our opinion that it was not a primary factor of the accident.

Photos of the accident scene, hazards, the physical conditions and the accident reconstruction are contained in Appendix D. (See D-1 through D-21)

PROBABLE CAUSE OF ACCIDENT

A. Proximate/Immediate

The extendible conveyor (SR23D) was improperly maintained, inadequately guarded and missing safety devices. These latter included safety devices that were either bypassed ("jumped-out") or otherwise inoperative.

B. General Contributing Factors

There are, in our professional judgment, significant contextual and organizational factors that contributed to this accident. Some may be interdependent and may have acted synergistically.

These factors are:

1. Attitude

There appears to be an attitude permeating all levels of employees that the mail must be moved and that few reasons justify stopping mail processing, including maintenance and safety. That attitude is hardly hidden from even a casual observer.

2. Equipment Use

a. Abuse of mechanized equipment by all levels of employees.

b. Improper and unauthorized use and/or alteration of equipment, (i.e. power panel entry by operational staff to adjust or jog equipment)

3. Maintenance

Inadequate Maintenance: Operation of NYB & FMC is highly mechanized and complex. In our judgment, lack of proper preventative maintenance is pervasive throughout the high volume dock area and, indeed, the entire facility.

4. Organizational Structure

The Safety Office is held in low esteem. Repeated attempts by safety staff to get corrective action have failed. The unit appears to be at an organizational level that is not conducive to direct access to decision makers.

FINDINGS

The following hazards were noted on extendible conveyor #SR23D at bay 23, Bulk Mail Center, middle high volume docks. Each hazard description cites the OSHA safety and health standard found in violation, its classification and abatement period.

1. The two in-running nip points at the conveyor head, were not guarded to prevent employee being caught where the belt ran onto the head roller. 29 CFR 1910.212(a)(1) and ANSI *B20.1 - 1976 (Serious) Abatement - Immediately.
2. The electrically interlocked bumper guard located at the head of the conveyor was missing from the conveyor thus exposing employees to the hazard of being drawn into the in-running nip point located on the conveyor's underside. 29 CFR 1910.212(a)(1) and ANSI *B20.1 - 1976 (Serious) Abatement - Immediately.
3. Both electrical jam relays controlling the surge overload characteristics of the conveyor belt and carriage motors had been removed and the wiring had been disconnected from the circuit thus preventing the stoppage of the motor should the conveyor experience a jamming condition. 29 CFR 1910.309(b) and ANSI *B20.1 - 1976 (Serious) Abatement - Immediately.
4. The in-running nip point and moving parts at the lower head end snub roller and conveyor belt were not guarded to prevent accidental employee contact. 29 CFR 1910.212(a)(1) and ANSI *B20.1 - 1976 (Serious) Abatement - Immediately.

FINDINGS (cont'd)

5. The rear bumper guard and interlock switch were mis-adjusted requiring the bumper to be moved completely under the conveyor before the interlock switch operated. 29 CFR 1910.212(a)(1) and ANSI *B20.1 - 1976 (Serious) Abatement - Immediately.
6. The rear housing for the front conveyor motor was missing thus exposing employees to accidental contact with the fan impeller blades. 29 CFR 1910.212(a)(1) (Serious) Abatement - Immediately.
7. The rear motor sprocket chain drive guard was missing thereby exposing employees to accidental contact with the moving chain and sprocket. 29 CFR 1910.219(f)(3) (Serious) Abatement - Immediately.
8. The rear overtravel electrical interlock switch was inoperative allowing the conveyor carriage to overtravel its prescribed rear travel limits which could thus injure any employee in its path of travel. 29 CFR 1910.212(a)(1) and ANSI *B20.1 - 1976. This coupled with the bent wheel stop could increase the hazard. (Serious) Abatement - Immediately.
9. The control switches for the extendible and feed conveyors were not marked to indicate their functions. An unfamiliar operator could, therefore, activate an incorrect button which could cause the conveyor to move in an unplanned direction. ANSI *B20.1 - 1976 (Serious) Abatement - Immediately.
10. The green light system at the exterior of the loading dock which is used to alert the truck operator that the conveyor has been removed from the trailer bed with the trailer door closed is not reliable. Recent experience has shown that conveyor operators and extendible conveyors have been inside the trailer when the trailers have been pulled away from the loading dock. These incidents could cause serious injury to conveyor operators by crushing or falls from the open rear of the trailer bed. Section 5(a)(1) of the OSHA Act (Serious) Abatement - Immediately.

FINDINGS (cont'd)

11. The inside overhead bay door (#23) was improperly secured, in the raised position, by the use of a block of wood and a "C" clamp. If this improper fastening gave way the overhead door would fall and injure any employee using the dock area. Section 5(a)(1) of the OSHA Act (Serious) Abatement - Immediately, (Note: The proper fastening method was the door chain inserted into a positive fastener.)
12. The conduit piping containing the extendible conveyor's electrical wiring was not secured to the control boxes. The weight of the conduit piping was thus transferred directly to the wiring and its connectors inside the box. This could cause abrasion to the wiring insulation and further cause live wiring to touch the metal conduit causing electrical shock. 29 CFR 1910.309(b) (Serious) Abatement - Immediately.

*ANSI B20.1 - 1976 American National Standard, Safety Standards for Conveyors and Related Equipment.

SAFETY INSPECTIONS

Safety inspections have been conducted by Postal Service staff throughout the past year. The USPS reports that during FY'79 twenty inspections including regular, special, follow-ups, and audits by the Postal Service's internal Inspection Service were conducted. Most make reference to extendible conveyor SR23D. All attest to the low priority given to correcting safety hazards and performing proper maintenance. The following select items were extracted from some reports now on hand.

<u>Date</u>	<u>USPS Staff</u>	<u>Remarks</u>
June 30, 1978	Safety Office: Special Inspection	Belt bumper guards missing on 31 extendible conveyors including SR23D. Safety limit switches missing on 46 conveyors, including SR23D.
January 24, 1979	Safety Office: Regular Inspection	Over 40 safety deficiencies reported at multiple locations, including missing bumper guard and limit switch on SR23D.
March 7, 1979	Operations Staff of two tours	52 conveyors contained deficiencies, all had multiple deficiencies, 4 reported on SR23D.
April 9, 1979	Safety Office: Follow-up Inspection	Many items detected in January 24 regular inspection remain uncorrected.
June 7-12, 1979	Inspection Service Audit USPS	See the complete report. Its safety and maintenance findings/recommendations merit high praise. e.g. (p.28) Since the on-line activation of NYB and FMC on August 13, 1973, the overall conditions of the facility, interior and exterior, have deteriorated with respect to cleanliness and safe working conditions."

SAFETY INSPECTIONS (cont'd)

<u>Date</u>	<u>USPS Staff</u>	<u>Remarks</u>
August 21, 1979	Safety Office: Union & Management Safety Inspection	113 safety deficiencies reported at multiple locations. Many items listed as "Too numerous to list, must all be replaced" or simply "All high volume docks."
December 16, 1979	Safety Captains' Inspection (as reported)	More than 53 bays inspected, multiple deficiencies at every location (none nit-picking).
December 21, 1979	Investigation Task Force (ITF) (SR23D only)	10 serious violations observed on conveyor SR23D, 1 at overhead door, and 1 at dock area. All require "immediate" corrective action.

PARCEL SORTING MACHINE (PSM) ACCIDENT

On December 28, 1979 at approximately 9:50 a.m. at the New York Bulk and Foreign Mail Center (NYB & FMC) a mail handling clerk had his apron drawn into the in-running nip point of the conveyor belt at Parcel Sorting Machine #1 (PSM) South, Induction Station - C. The apron abruptly drew the employee's upper body toward the belt resulting in injury to his neck area.

The OSHA New York Regional Office, which was at the time investigating a fatality at this installation, was alerted to this second accident. NYB & FMC officials were contacted by OSHA and advised that we wished to expand the fatality investigation to include this most recent accident. Postal officials agreed with this request. See Appendix E for details of the second accident investigation conducted by members of the Investigation Task Force.

RECOMMENDATIONSA. Equipment

1. Restore and maintain all extendible conveyor systems to their proper design specifications (including all guards).
2. Provide two substantially constructed nip point guards at the head roller and belt area.
3. Provide a fixed barrier guard to cover the snub roller.
4. Interlock front safety bumper to control the movement of both the carriage and belt.
5. Insure that only qualified personnel have access to electrical panels.
6. Prohibit equipment from being operated while operator is positioned at the front end of the conveyor head. (Insure equipment is operated from the side.)
7. Install emergency stop buttons on both sides of the conveyor head. Activation of any emergency stop control should require a manual reset or start before resumption of conveyor operations.
8. Standardize all conveyor controls. Remove/blank inoperable control devices. Insure that all controls are marked to identify their function.
9. Improve the green warning light system for the tractor and van hook up.
10. Repair overhead door operating mechanism so it may be properly secured in an upright position.
11. Long hair should be covered, guarded or otherwise protected while working on conveyors or other machinery.
12. Prohibit the wearing of gauntlet type work gloves while working on conveyors.

RECOMMENDATIONS (cont'd)**B. Policy/Organization**

Although the agency has a well documented Safety Program it contains serious flaws. See DOL's Program Evaluation dated July 1979.

1. Abatement

Present abatement process isn't working. Abatement dates must be shortened to a maximum of 30 days. Reasons for delaying the abatement should be justified in writing, by a responsible official, with an explanation of the action taken.

2. Sanctions

Sanctions for failure to abate conditions (correct hazards) is vital. Enforce current USPS instructions, e.g. Supervisor's Safety Handbook; Chapter 710, Occupational Safety and Health Program, etc.

3. Enforcement

Current agency enforcement appears to be selective. Safety rules are enforced against employees but are ignored when mail processing would be affected.

4. Safety Captains

Support the safety captain program recently initiated by the safety office at NYB & FMC and promote their daily inspection of the equipment. Enforce safety rule, Section I, Item 9 of the NYB & FMC Safety Rulebook.

5. Training

Insure that adequate training is provided as prescribed in 29 CFR 1960.20.

6. Organizational Structure

Relocate the safety office at NYB & FMC with direct access to decision makers.

7. Maintenance

All mechanical equipment, particularly conveyors, within the facility be inspected to determine their adequacy in meeting OSHA, ANSI (Industry) and Postal Service safety and health standards.

Opening Conference
Participants
December 17, 1979 - 1:15 p.m.
at
NYB & FMC Conference Room

OSHA Staff

George J. Yatsko, Assistant Regional Administrator
Dennis P. Gaughan, Federal Agency Coordinator

USPS StaffNYB & FMC

Robert F. Condon, Director Employee and Labor Relations
Bernard L. King, Manager Safety
Chester J. Bojan, Manager Plant Maintenance
J.J. D'Andria, Distribution Manager

Regional/National

Frank Manganaro, General Manager Maintenance Management
Guy C. Dempsey, Bulk Mail Engineering Division
J.W. Duchesne, General Manager, Maintenance Management
Richard Graff, Office Maintenance Management
Peter Jacobson, Director, Office of Maintenance Management
Jerry A. Jones, General Manager, Accident Prevention

Private Consultant

J. William Klotz, Dermot Reddy Company

Inspection Service

John Herrmann, Postal Inspector in Charge
John F. Neshen, Postal Inspector
Robert R. Blackburn, Postal Inspector
Neil C. Kamichoff, Postal Inspector

Employee RepresentativesNew York Metro Area Postal Workers Union

Moe Biller, President Metro APWU
Ronald Massey, Director NYB
Josie McMillian, Executive Vice President
Dorothy Campbell, Assistant Editor
Edward O'Neill, Mail Craft Representative

National Post Office Mail Handlers Union LIUNA

Ronald Moe, President Local #300
Stanley Quittley, Chief Steward
Denise Banks, Local #300
Edward Tucker, Assistant Administrator Local #300

Participants of
 OSHA Preliminary Closing Conference
 January 4, 1980 (10:00 a.m. to 11:55 a.m.)
 at
 NYB & FMC Conference Room

OSHA Staff

*George J. Yatsko, Assistant Regional Administrator
 *Dennis P. Gaughan, Federal Agency Coordinator
 Richard Wilson, Deputy Director, TECFAP**

USPS Staff

Regional

James V. Jellison, Regional Postmaster General
 Charles Scialla, Director Employee and Labor Relations
 Ronald Syslo, OSH Program Manager
 Frank Manganaro, General Manager, Maintenance Management
 Harry Nigro, General Manager, Regional Communications

NYB & FMC

Alexander Gallione, General Manager
 Philip DiChiarante, Director of Mail Processing
 Robert F. Condon, Director Employee and Labor Relations
 Nesmer Calzolari, Manager, Industrial Engineering
 Chester J. Bojan, Manager, Plant Maintenance
 *Bernard L. King, Manager, Safety
 Robert J. Pollina, Acting Manager, Production Control
 Wilfred Roy, Labor Relations Specialist

Inspection Service

John Herrmann, Postal Inspector in Charge
 John F. Neshens, Postal Inspector
 Robert R. Blackburn, Postal Inspector

National

*Jerry A. Jones, General Manager, Accident Prevention
 J.W. Luchesne, General Manager, Maintenance Management
 Howard Kaufman, Office of Labor Law

Employee Representatives

New York Metro Area Postal Workers Union

Moe Biller, President Metro APWU - Regional Coordinator
 Ronald Massey, Director NYB & FMC
 Edward Tucker, Assistant Administrator Local #300

Employee Representatives (cont'd)

*Edward O'Neill, Mail Craft Representative
Romualdo Sanchez, Administrative Aide
Jeanne Parker, Chief Steward
Neil Gohan, Steward
Dorothy Campbell, Steward

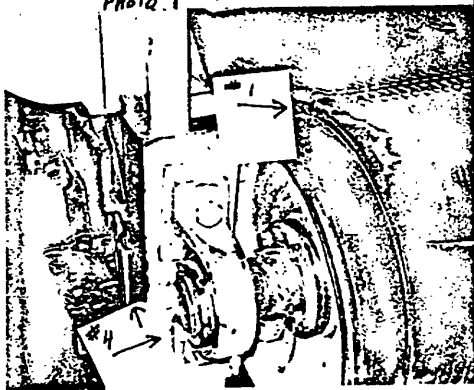
National Post Office Mail Handlers Union LIUNA

Vito F. Magrino, Regional Director
Ronald Moe, President Local #300
*Stanley Quittley, Chief Steward Local #300
Denise Banks, Local #300

- * Members of Investigation Task Force (ITF)
- ** Training, Education, Consultation, and Federal Agency Programs

NY BULK AND FOREIGN MAIL CENTER

PHOTO 1



REFERENCE

- ① ITEM # 1 NOTICE OF UNSAFE WORK CONDITIONS
 ② ITEM # 4

6 Location (Photo and Photographer)

BAY 23
 OUTBOUND-MIDDLE
 HIGH VOLUME DOCK

7 Description SR-23D

UNGUARDED IN RUNNING
 NIP POINT WHERE

HORIZONTAL BELT RAN
 ONTO REVOLVING HEAD
 ROLLER (LEFT SIDE)

③ GUARD MISSING ON SIDE
 OF HEAD ROLLER *Belt*

CONFIDENTIAL MATERIALS CONTINUED

PHOTO 2



REFERENCE

ITEM # 1

NOTICE OF UNSAFE
 WORK CONDITIONS

BAY 23

6 Location (Photo and Photographer)

OUTBOUND MIDDLE
 HIGH VOLUME DOCK

7 Description SR-23D

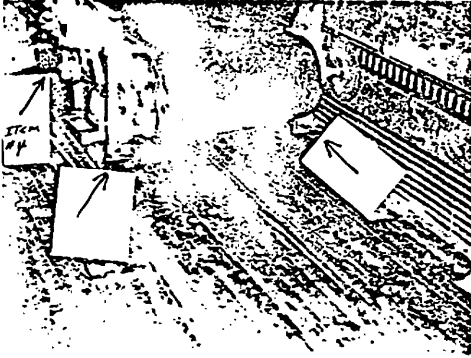
UNGUARDED IN RUNNING
 NIP POINT - (RIGHT
 SIDE)

NOTE - POOR CONDITION OF
 BELT WHICH INCREASED
 HAZARD POTENTIAL

CONFIDENTIAL MATERIALS CONTINUED

D-1

PLATE 3 NEW YORK BULK & FOREIGN MAIL CENTER



ITEM #4

REFERENCE ITEM 2:4
 NOTICE OF UNSAFE
 CONDITIONS

Location (Photo and Photographer)

BAY 23

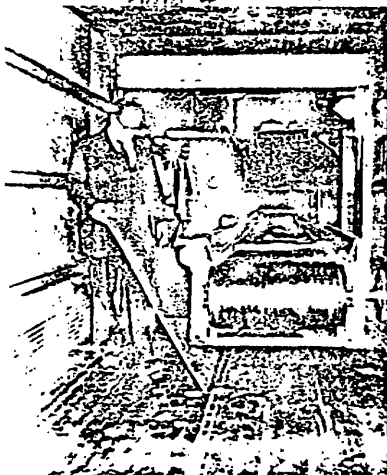
BUMPER BOUND, MIDDLE-
 HIGH VOLUME DOCK
 AREA

Description

MISSING SAFETY BUMPER
 GUARD AT THE HEAD
 END OF CONVEYOR
 SR-23D. BUMPER
 WOULD SPAN THE AREA
 BETWEEN THE TWO
 ANNOTATED BRACKETS.

CONFIDENTIAL MATERIALS CONTINUED

ITEM #4 - LACK OF SNUGGER ROLLER GUARD TO PREVENT SIDE ENTRY



REFERENCE ITEM 2
 NOTICE OF UNSAFE
 CONDITIONS

Location (Photo and Photographer)

BAY 23

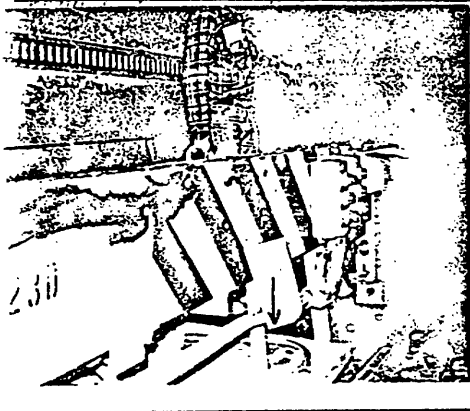
Description

UNGUARDED LOWER
 HEAD END OF CONVEYOR
 SR-23D.

POINTER INDICATES
 AREA WHERE VICTIM'S
 HEAD WAS LOCATED AFTER
 BELT STOPPED.

CONFIDENTIAL MATERIALS CONTINUED

NY BULK & FOREIGN MAIL CENTER



REFERENCE ITEM 2
ON
NOTICE OF UNSAFE CONDITIONS

6 Location (Photo and Photographer)

BAY 23
OUT BOUND, MIDDLE HIGH
VOLUME DOCK AREA

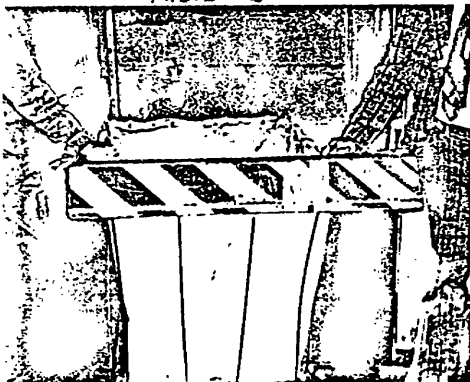
7 Description

SIDE VIEW OF CONVEYOR
SR-23D - FACING INTO
TRUCK BOX.

NOTE: 1) ELECTRICAL
INTERLOCK CABLE WHICH
WAS CONNECTED TO SAFETY
BUMPER GUARD

CONFIDENTIAL MATERIALS CONTINUED

PHOTO 6



REF. ITEM 2
NOTICE OF UNSAFE CONDITIONS

6 Location (Photo and Photographer)

MIDDLE HIGH VOLUME
DOCK AREA - BETWEEN
BAYS 24 AND 23

7 Description

A BUMPER GUARD
WHICH HAD BEEN
REMOVED FROM ONE
OF THE EXTENDABLE
CONVEYORS. GUARD WAS
FOUND ON THE FLOOR.

CONFIDENTIAL MATERIALS CONTINUED

NEW YORK BULK & FOREIGN MAIL CENTER

PHOTO 7a



NOTE: PHOTOS 7a THRU 7g ARE
RECONSTRUCTIONS OF THE
12/15/77 ACCIDENT

Bay 23

THEORY #1

7a- EMPLOYEE ATTEMPTS TO
MOVE SR-23D FURTHER
DOWN THE TRAILER BY REACHING
ACROSS THE HEAD OF THE
CONVEYOR TO THE CONTROL BOX.

PHOTO 7b



RECONSTRUCTION

Bay 23

7b- AS EMPLOYEE
REACHED TOWARD CONTROL
BOX WITH HIS LEFT HAND,
THE GAUNTLET OF HIS RIGHT
HAND GLOVE BECAME CAUGHT
IN THE INRUNNING NIP POINT
OF THE BOLT & HEAD ROLLER.

D-4

NEW YORK BULK & FOREIGN MAIL CENTER

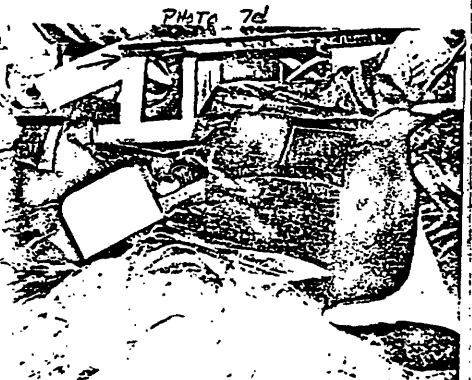


RECONSTRUCTION

Bay 23

TC THE PINCHED
PORTION OF THE GLOVE
ROTATES -- FORCING
EMPLOYEE TO THE FLOOR
OF THE TRAILER.

NOTE - VICTIMS RIGHT SIDE OF
HEAD WAS DRAWN INTO SNUBBER.



RECONSTRUCTION

Bay 23

ARROW POINTS TO
SNUBBER ROLLER WHICH

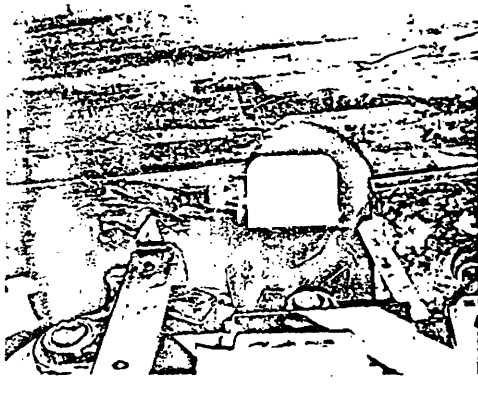
IS LOCATED BEHIND THE
HEAD ROLLER. THE VICTIM'S
SHOULDER LENGTH HAIR
WAS PULLED INTO THE NIP
POINT CREATED BY THE
SNUBBER ROLLER & BELT.

NOTE - THIS WAS EXACT POSITION VICTIMS
BODY WAS DISCOVERED

D-5

NEW YORK Bulk & Foreign Mail CENTER

PHOTO 7



RECONSTRUCTION

BAY 23

POSITION OF VICTIMS
HEAD UNDERNEATH
CONVEYOR AFTER
BELT OF CONVEYOR
STOPPED. IT IS SURMISED
THAT AFTER THE VICTIMS BODY WAS
PULLED INTO THE SAND HOLE THE
TORQUE WAS GREAT ENOUGH TO
BREAK THE BRIDE CHAIN. THE BELT
COULD STOPPED ALTHOUGH VICTIMS WERE TO
DROP TO THE FLOOR

PHOTO 7



RECONSTRUCTION

REFERENCE ITEM #4
ON NOTICE OF UNSAFE WORK
CONDITIONS

BAY 23

THE BRACKET IMMEDIATE
ABOVE THE MODELS
HEAD IS THE
WHERE THE FRONT
BUMPER GUARD SHOULD
HAVE BEEN MOUNTED.
NOTE: ITEM 6 ILLUSTRATES A NUMBER
FOR IMPROVOR

D-6

PHOTO 79

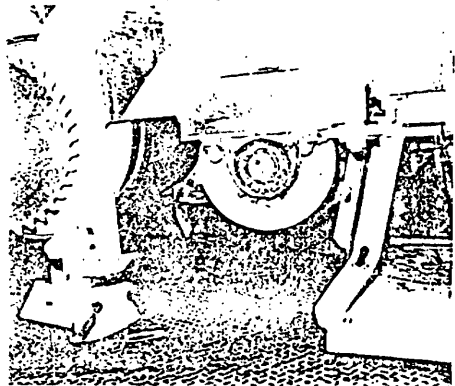
RECONSTRUCTION

BAY 23

POSITION OF VICTIMS
LEGS UPON DISCOVERY...

THE SECOND POSSIBLE
EXPLANATION INVOLVES THE
VICTIM REACHING UNDER THE
CONVEYOR HAVING THEIR PULVERISER...

PHOTO 8



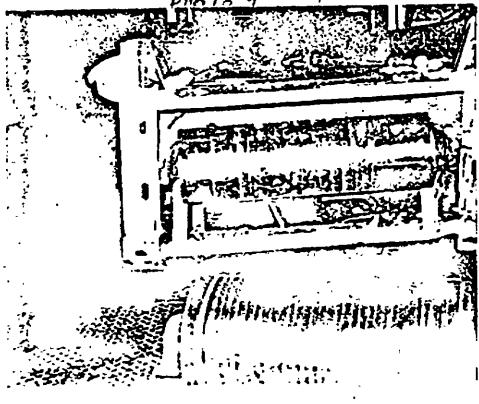
REFERENCE ITEM #4

BAY 23

PHOTO ILLUSTRATES:
1) SIDE VIEW OF SNUBBER
ROLLER (CHAIN DRIVER SIDE)

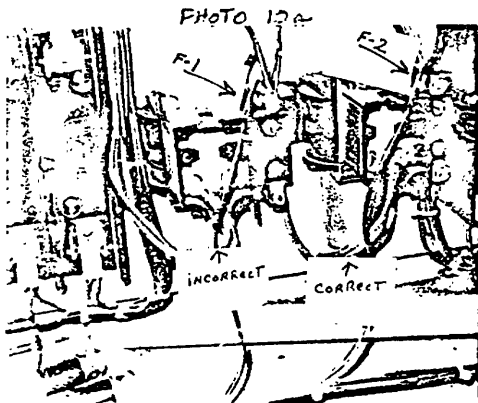
D-7

NEW YORK BULK & FOREIGN MAIL CENTER



OUT BOUND, MIDDLE HIGH
VOLUME BAY 23

DISASSEMBLY OF
SR-23D CONVEYOR:
1) HEAD ROLLER ON FLOOR
2) SNUBBER ROLLER,
WHERE VICTIM WAS
DRAWN INTO CONVEYOR,
CENTER OF CONVEYOR



REFERENCE ITEM #3
ON
NOTICE OF UNSAFE WORK
CONDITIONS

CONVEYOR SR-23D

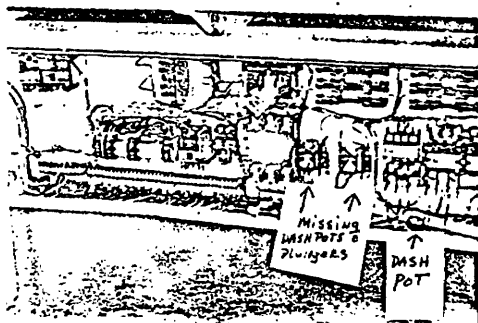
1) THE INPUT AND OUTPUT
LEADS ON JAM RELAYS
F1 & F2 HAVE BEEN CONNECTED
TO THE SAME TERMINAL THUS
RENDERING THE RELAYS
INOPERATIVE. NOTE MISSING
DASH POT ON F-1 RELAY

D-8

F2 DASH POT HAD BEEN
REPLACED BY INSPECTION
PARTY.

NEW YORK BULK & FOREIGN MAIL CENTER

PHOTO 10b

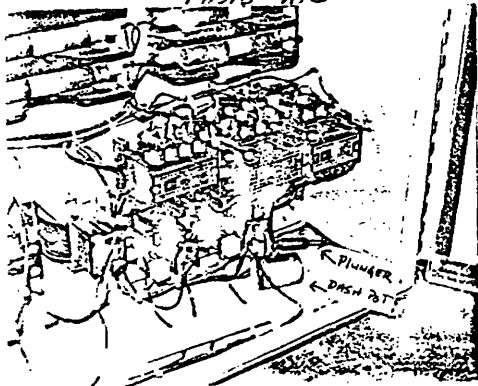


REFERENCE ITEM 3
ON
REPORT OF UNSAFE WORK
CONDITIONS

ELECTRIC DISTRIBUTION
BOX SR-23B

PHOTO ILLUSTRATES
THE TWO JAM RELAYS AS
FIRST FOUND. AT THE BOTTOM
OF EACH RELAY A "DASH
POT" PLUNGER HAD BEEN PHYSICALLY
REMOVED. THE PLUNGER WAS THE
WHICH SHUT DOWN THE EQUIPMENT
IF A JAMMING CONDITION OCCURRED.

PHOTO 10c

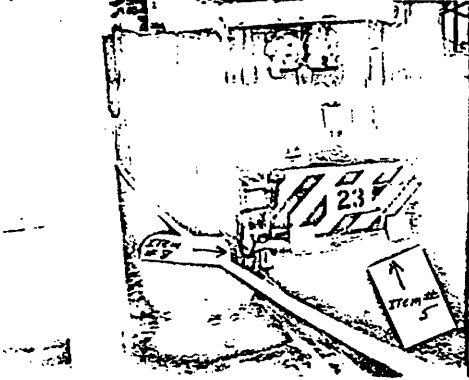


REF. ITEM 3 ON
REPORT OF UNSAFE
WORK CONDITIONS

ELECTRIC DISTRIBUTION
BOX SR-23D

DASH POT AND PLUNGER
ON THE BOTTOM OF BOX
AS FOUND BY INVESTIGATION
TEAM

PHOTO 11 NEW YORK BULK & FOREIGN MTL. CENTER



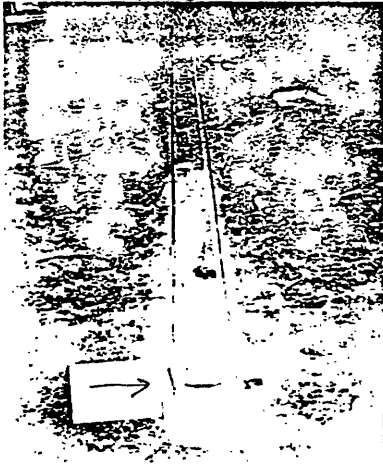
REFERENCE ITEMS # 5 & 8

ON NOTICE OF UNSAFE
WORK CONDITIONS

BAY 23

CONVEYOR SR-23D
THE REAR BUMPER SAFETY
GUARD, WHEN TESTED, HAD
TO BE PUSHED EXCESSIVELY
BEFORE IT ACTIVATED. ALSO
THE CARRIAGE REAR TRAVEL
LIMIT SWITCH WAS INOPERATIVE

PHOTO 12



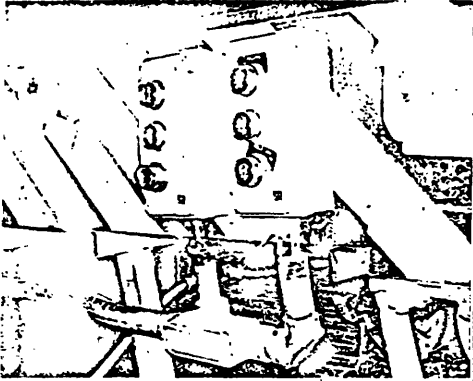
REFERENCE ITEM 8

CONVEYOR SR-23D

BENT WHEEL STOP
ON WHEEL TRACK OF
SR-23D.

D-10

NEW YORK BULK & FOREIGN MAIL CENTER

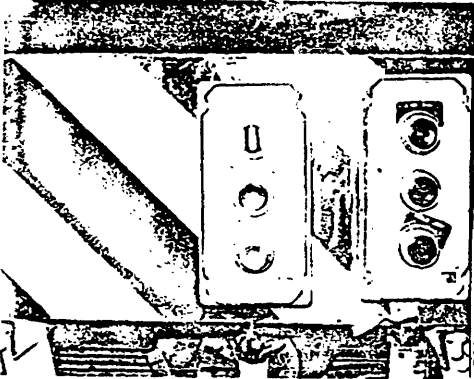


REFERENCE ITEMS
9&12 ON NOTICE
OF UNSAFE WORK CONDIT:

BAY 23 SR-23D
CONVEYOR

- 1) ITEM 9 - UNMARKED
CONTROL SWITCHES.
- 2) CONTROL BOX ELECTRICAL
CONDUIT NOT SECURED
TO CONTROL BOX

PHOTO 13b



REFERENCE ITEMS
9&12 ON NOTICE OF
UNSAFE WORK CONDITIONS

BAY 23
SR-23D

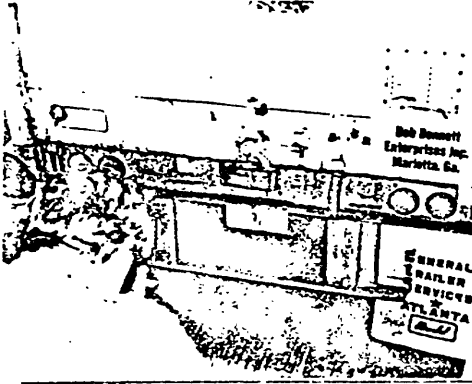
SAME AS PHOTO 13a

NOTE - WHEN OPERATORS
WERE QUESTIONED AS TO
FUNCTION OF LEFT SIDE CONTROL
SWITCHES THEY WERE UNCERTAIN.
ALSO NUMBER OF THE RIGHT SIDE
BUTTONS ON OTHER CONVEYORS HAVE
THEIR FUNCTIONS REVERSED.

D-11

NEW YORK BULK & FOREIGN MAIL CENTER

PHOTO 16

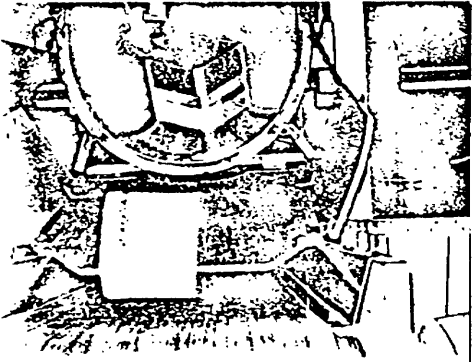


BAY 23

TRAILER INVOLVED
IN 12/15/79 FATAL
ACCIDENT

FLORIDA Lic # E-89209

PHOTO 17



BAY - 24

PARCELS BEING FEED
ONTO EXTENDABLE
CONVEYOR SR-24D
FROM UPPER CONVEYOR
BELTS.

D-13.

NEW YORK DULLES FOREIGN MAIL CENTER

PHOTO 18a



BAY 24

SIMULATED LOADING
OPERATION

NOTE: MAIL HANDLER
IS SAVING CERTAIN
PARCELS FOR HIS NEXT
"BRICK LAYED" WORK.

PHOTO 18b



BAY 24

OFFLOAD WHILE AT
HEAD OF EXTENSIBLE
CONVEYOR.

D-14

NEW YORK BULK & FOREIGN MAIL CENTER

PHOTO 19



EVIDENCE

VICTIMS TORN
RIGHT HAND GLOVE

PHOTO 30



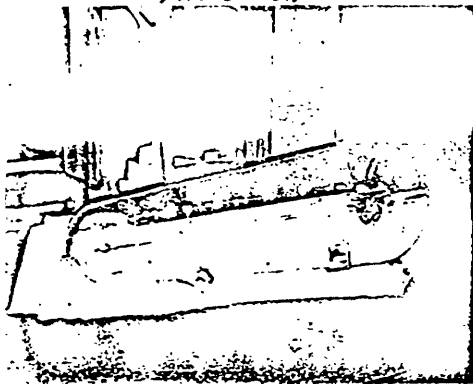
EVIDENCE

DRIVE CHAIN FOR
SR-23D WHICH
BROKE AT IT'S MASTER
LINK DUE TO HIGH
TORQUE PLACED ON
CONVEYOR

D-15

NEW YORK BULK & FOREIGN MAIL CENTER

PHOTO 21a



EVIDENCE

SR-23D

FRONT CHAIN
GUARD FROM SR-23D

NOTE DAMAGE CAUSED
BY BROKEN CHAIN

PHOTO 21b



EVIDENCE

SR-23D

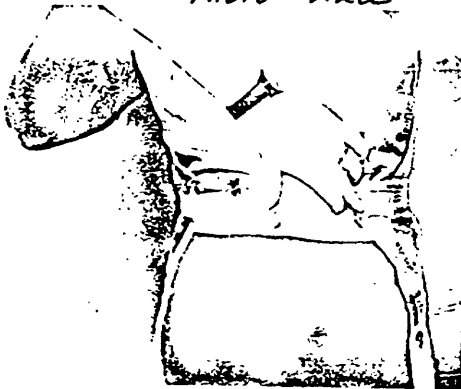
FRONT CHAIN GUARD

NOTE DAMAGE

D-16

NEW YORK BULK & FOREIGN MILL CENTER

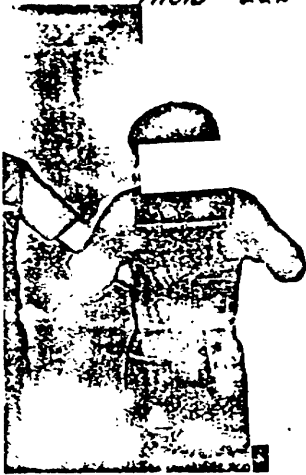
PHOTO 22a



EVIDENCE

DENIM APRON WORN
BY VICTIMNOTE: APRON TIES
WERE BOTH BROKEN AT
THE SEAM

PHOTO 22b



EVIDENCE

FRONT VIEW OF
VICTIM'S APRON

D-17

NEW YORK BULK & FOREIGN MILL CENTER

PHOTO #
23a

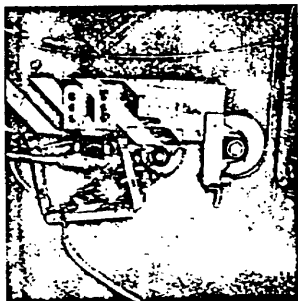
SIDE VIEW LFT FRONT

B, 23. OUTBOARD
MIDDLE HIGH VOLUME
DOCKS

SR-23D

AFTER ACCIDENT
CHAIN & ITS GUARD
HAVE BEEN REMOVED
FROM CONVEYOR. NOTE
BENT ANGLE IRON.

PHOTO 23b



SIDE VIEW RT FRONT

REFERENCE ITEMS

2, 4, 6, 9 & 12

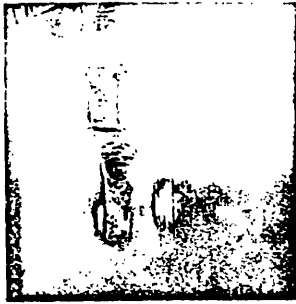
SIDE VIEW OF SR-23D

GOOD PHOTO OF EXPOSED
SNUBBER ROLLER

D-18

WORK (SAFETY) PHOTOS

NEW YORK BULK & FOREIGN M... ..



FRONT VIEW, FACING REAR,
LEFT SIDE

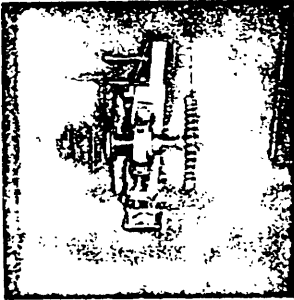
PHOTO
24a

BAY 23

SR-23D

UNGUARDED LEFT
END HEAD ROLLER
SR-23D

PHOTO 24b



FRONT VIEW, FACING RIGHT
DRIVE (RT) SIDE

BAY 23

FRONT VIEW, FACING
REAR DRIVE (RT)
SIDE

NOTE - CHAIN & SPROCKET
GUARD HAD BEEN REMOVED
AFTER ACCIDENT

D-19

25a THRU 27.

NEW YORK PULP & FOREIGN MILL CENTER

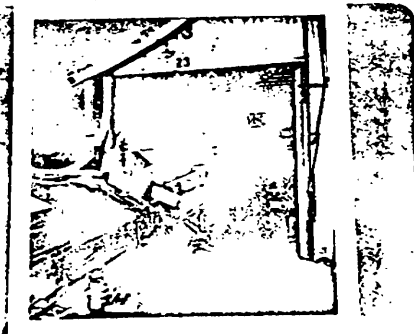
PHOTO 25a



BAY 23... OUTBOUND
MIDDLE HIGH VOLUME
LOADING DOCK W/
TRAILER

BRICKLAVED WELL
AND SR-23D AS THEY
WERE AT TIME OF
ACCIDENT

PHOTO 25b



BAY 23

SAME AS ABOVE

DISTANT VIEW

D-20

NEW YORK BULK & FOREIGN WHOLESALE TRADING

PHOTO 24



REFERENCE ITEM 6 ON
REPORT OF UNSAFE WORK
CONDITIONS

Bay 23

UNDER SIDE OF
SR-23D... PHOTO
ILLUSTRATES THE
IMPALLOR BLADES
OF MOTOR WHICH
ARE UNGUARDED.

REF. ITEM 4

PHOTO 27



Bay 23

SR-23D EXTENDED
INTO BED OF TRAILER.
RED SPOT ON FLOOR
OF TRAILER IS VICTIMS
BLOOD STAIN

D-21

ACCIDENT OF DECEMBER 28, 1979
at
NYB & FMC
Parcel Sorting Machine (PSM) #1 South

Through interview and reconstruction of the normal work procedures the incident apparently occurred in the following sequence. Mail clerk, Mr. Frank McGhee, was keying parcel mail while seated at the PSM #1 keying station. McGhee had been on duty a little less than two hours and decided to relieve his partner, Ms. Cheryl Burroughs, who was located to his rear. Ms. Burroughs was acting as a "facers" which involves the proper positioning of parcels as they pass on the belt conveyor. This allows the keying operator to read the zip codes as the parcels pass his station. As McGhee stood, his denim apron which had bunched on his lap, dropped onto the horizontal conveyor belt in front of him. Unconcerned, McGhee began to turn left toward Burroughs but felt a jerking motion at his neck. McGhee's neck and upper body were abruptly pulled down to within inches of the in-running nip point on the belt. He yelled to Burroughs for help but was unheard. With his right hand he was able to reach the stop button and stop the belt. Upon realizing McGhee's situation, Burroughs assisted him in removing his apron. Mr. McGhee reported to the facility nurse and after three hours was placed in a cab and sent to Christ Hospital, Jersey City, New Jersey.

Despite the statement provided by Mr. J. La Courte, Supervisor of Mails Dulk, Tour 2, indicating Burroughs was told by McGhee that he was using his apron to sweep debris from the belt; McGhee denies this allegation.

EQUIPMENT/OPERATION

Inspection of PSM #1 South, C Induction Station revealed the following:

Parcels are fed down a slide table onto a horizontal endless belt conveyor where the parcels are positioned by the employee acting as the "facers". The parcels travel across two transfer plates (2 1/2 inches wide) which act as a bridge between the endless belt conveyor and two short sections of endless belt conveyor. Once the parcels reaches the second short belt, it breaks a photo cell beam and stops. The keyer keys the zip code and the parcel moves away reaching a speed of 350 ft./sec. in 1 to 1.5 seconds. Meanwhile, a trailing parcel stops on the first short section of the belt. After the original parcel is keyed it moves away and the second parcel moves up for keying, etc.

The in-running nip point between the transfer plate and belt, where McGhee's apron was caught, had between 5/8 inch and 1/4 inch opening. This opening was large enough to allow any loose clothing to be pulled into the conveyor belt. In addition, the two transfer plates directly adjacent to the keyer are constructed of plastic. This material has a tendency to "bow" thus creating an even larger nip point. See photos in this Appendix.

HAZARD(S)

This condition does not comply with 29 CFR 1910.212(a)(1) or the ANSI Standard for conveyors B20.1 - 1976. The hazard would be classified as serious and should be corrected immediately.

RECOMMENDATIONS

1. Adjust all (6) transfer plates on all PSM's for a maximum nip point opening of 1/8 inch between the plate and in-running roller.
2. Replace all transfer plates that can not be adjusted to the above dimensions.
3. Prohibit the wearing of loose clothing or unsecured long hair in the vicinity of moving equipment.

INDUSTRIAL BUILT FOREIGN MODEL LIMITED



ACCIDENT OF 12/28/71

PSM #1 SOUTH
INDUCTION STATION - C

2 SIMULATION OF
A KEYER'S SITTING
AT HIS STATION W/
APRON
NOTE - MODEL'S APRON
IS NOT BUNCHED ON
LAP

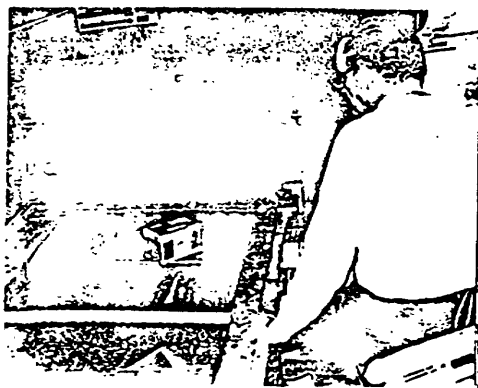


PSM #1 SOUTH

SAME AS ABOVE
ON/ MODEL IS
STANDING. PARCEL
IS AT LOCATION WHERE
ZIP CODE IS KEYPED IN -
THE SHORT BELT BEHIND IT
IS STAGING BELT

E-3

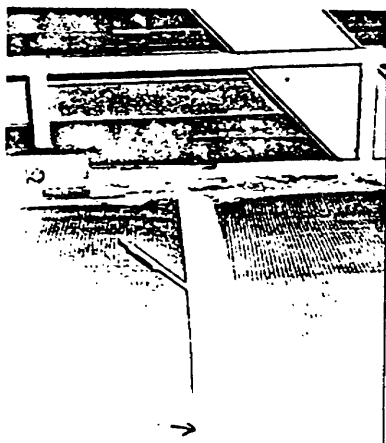
NEW YORK BULK & FOREIGN MILL STREET



PSM #1 SOUTH

C INDUCTION
STATION

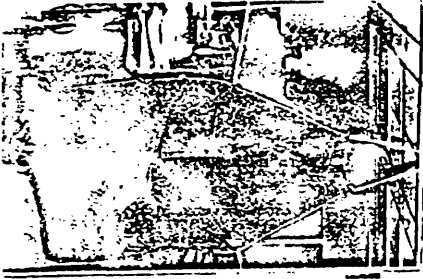
REAR VIEW OF
KEYING STATION



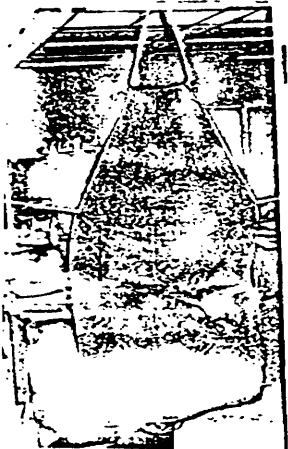
PSM #1
SAME AS ABOVE

PEN ILLUSTRATES THE
SIZE OF NIP POINT
OPENING,
APRON WAS CAUGHT
IN AREA ANNOTATED BY
ARROW

NEW YORK BULK & FOREIGN MAIL CENTER



MR. Mc GEES... APRON...



SAME AS ABOVE



DETROIT DISTRICT AREA LOCAL

American Postal Workers Union, APW-UFO

20530 Southfield Road Detroit, MI 48235 (313) 532-9305

"STRIVING TO PRESERVE PROSPERITY, DIGNITY
AND LIFE THRU UNITED EFFORT"

Exclusive Union for the Clerical, Maintenance
Special Delivery Messengers, and Letter Vehicle
Crafts in: Detroit, Southfield, Inkster, Livonia,
St. Clair Shores, Center Line, Roseville, Taylor,
Lincoln Park, East Detroit, Northville and Detroit
Bulk Mail Center, Michigan
Fraser, Monroe, Ypsilanti

March 3, 1980

Mr. Gerald Fabian
APWU's Safety Representative
c/o APWU - Pat Nilan's Office
817 - 14th Street, N. W.
Washington, D. C. 20005

Dear Jerry:

As per our discussion today, enclosed is documentation relating to the issue of Management's failure to meet the "abatement dates" as requested on the forms.

If you have any questions concerning this, please let me know.

Sincerely and fraternally,

Gerald A. Kowal
APWU's Safety Representative

GAK:ks

Enclosures

EXHIBIT No 2

**UNITED STATES POST OFFICE
DETROIT, MICHIGAN 48233**

OUR REF: Labor Relations:3.1

DATE: February 12, 1980

SUBJECT: STEP 2 GRIEVANCE DECISION

P.O.:

TO: Ms. Margaret P. Moseley
Vice President AMF
American Postal Workers Union
20530 Southfield
Detroit, Michigan 48235


RE: Grievance Appeal Rec'd: 01/25/80
Case No.: 8-DC-645
Step 2 Union Designee: M. P. Moseley
Grievant: APWU, Class Action
SS#: W/A
Location: AMF

Dear Ms. Moseley:

The subject Step 2 grievance was discussed on February 8, 1980 in accordance with Article XV, Section 2 of the National Agreement.

Based on the facts and arguments presented by the Union, my decision is as follows:

Resolved: A review of current maintenance records (work order-AMF), indicates some of the items in the Safety Inspection Checklist (PS Form 1784-C) have been corrected, and others are either in progress or scheduled for completion.


Designee

For: Alvin J. Prejean
Officer-In-Charge
Detroit, Michigan 48233

cc: Ruben Fowlkes, Director, Mail Processing
Henry Jeanmarie, Jr., Manager, Plant Maintenance
Harold K. Barnett, Manager AMF
Ms. L. Jean Rodgers, Injury Compensation Specialist
Safety & Health Committee

Cont. P14-4741649

FEB 20 1980

DATE RECEIVED _____
APWU - DETROIT LOCAL

American Postal Workers Union AFL-CIO

**STEP 2
GRIEVANCE
APPEAL FORM**

DATE	TIME
DATE	TIME

Detroit District Area Local

Striving to Preserve Property, Dignity and Life thru United Effort

1 PERSONNEL SERVICE OR ON DUTY/PROXY NAME: **C-Safety and Health** DUTY: **Clerk** DATE: **1-24-60** LOCAL GRIEVANCE #: **8-DC-443**

2 TO USE THIS FORM NUMBER NAME & TITLE: **Clarence Lee, Labor Relations Rep.** EMPLOYER/UNIT/REG. DIST./BUREAU: **GMF Detroit, Michigan 48213 (313) 226-6507** PHONE:

3 FROM: **DETROIT DISTRICT AREA LOCAL, 20830 Southfield, Detroit, MI 48226**

4 WHO'S AUTHORIZED UNION REP - NAME & TITLE: **Kayabec 'Pop' Rozalsky, AMW Vice President** PHONE OFFICE: **833-9308** PHONE OTHER:

5 LOCAL UNION PRESIDENT: **Peoples C. Bolbrook** PHONE OFFICE: PHONE OTHER:

WHERE - WHEN STEP 1 - MEETING & DECISION MET WITH

6 GRIEVANT'S NAME/TITLE: **AMW Detroit 48213** DATE/TIME: **1-25-60** WORKING UNIT/ORGANIZATION: **AMW / G. Rozalsky**

7 STEP 1 DECISION BY NAME & TITLE: DATE & TIME: SERVICE: PROCEDURE FILED: DATE OF DECISION:

8 GRIEVANT PERSON OR UNION MEMBER: **Gerald Rozalsky, AMW Safety Representative Class Action** OFFICE: DIVISION: NAME:

9 SOCIAL SECURITY: SERVICE SECURITY CARD: YES NO PIP: YES NO LEAVE: EMP: BIRTH ROOM: CIV DOB: MA BU MI NY FL

10 IS THIS LOCAL UNION MEMBER? YES NO DATE: OTHER ORGANIZATION: MEMBER IN GOOD STANDING: YES NO WITHIN: YES NO

11 Pursuant to Article XV of the National Agreement, we hereby appeal to Step 2 the following: **NATIONAL (AFL/Sec.) Article XIV Sub 1, 2, 3 and 4**

12 DETAILED STATEMENT OF FACTS/CONTENTIONS OF THE GRIEVANT

A safety and health inspection was conducted on December 13, 1959.

As the A.P.W.U. Representative on the Safety and Health Labor Management Committee, he accompanied Mr. Pressell, Sr. Jean Rogers from Safety Section GMF Detroit.

Mr. Rogers informed Harry Jeannette, Manager Plant Maintenance who was at AMW Detroit January 17, 1960 that he only had 30 days left to meet the abatement day deadline on 17646 of some 36 safety and health violations outlined in 2-18 (Supervisors Safety Handbook) and OSHA Standard under Section 19 of the William Steiger Act.

ADDITIONAL SHEET ATTACHED

13 CORRECTIVE ACTION REQUESTED

The Union requests immediate compliance with 17646 abatement dates and why January 21, 1960 abatement days were not complied with. That a WRITTEN explanation be provided at the Safety and Health Labor management meeting on 21st January 20, 1960 on the 10th floor at 1:00 p.m. thru Safety Section James Pressell and/or his designee(s).

AMW-CIO U.S.A. Form 1001
Copyright 1959
Printed in Detroit
Revised 1959

SIGNATURE: *[Handwritten Signature]*



U.S. POSTAL SERVICE
SAFETY DEFICIENCY REPORT

Post Office (PO) No. The location of this deficiency is in the room or rooms shown on the enclosed floor plan, and the deficiency is in the area shown on the enclosed floor plan. The deficiency is in the area shown on the enclosed floor plan. The deficiency is in the area shown on the enclosed floor plan. The deficiency is in the area shown on the enclosed floor plan.

INSTALLATION Airport Mail Facility - Continued	CITY, STATE AND ZIP CODE Detroit, Michigan 48247	SQUARE FOOTAGE
INSPECTION DATE 12/13/77	INSPECTOR'S SIGNATURE A. J. [Signature]	INSPECTOR'S SIGNATURE

CORRECTIVE ACTION RECOMMENDED ON SAFETY DEFICIENCIES

ITEM NO.	REFERENCE	DEFICIENCIES	STATEMENT DATE
X - 7.	P-13	Exposed pipe, broken plaster in lobby.	01/21/80
X - 8.	P-13	Door closing mechanism missing - in lobby.	01/21/80
X - 9.	P-13	New hours sign needed on lobby door.	

X denotes not complied with conditions still exist 1-23-80

OSHA - OSHA 1910.22		CITY, STATE AND ZIP CODE	
INSPECTOR'S SIGNATURE		CITY, STATE AND ZIP CODE	
INSPECTION DATE		CITY, STATE AND ZIP CODE	
12/13/79		CITY, STATE AND ZIP CODE	
SUPERVISOR'S SIGNATURE		CITY, STATE AND ZIP CODE	
12/13/79		CITY, STATE AND ZIP CODE	
ITEM NO.	REFERENCE	DEFICIENCIES	COMPLETION DATE
4.	OSHA 1910.22	Hole in floor tile - room 206B - lunchroom.	01/21/80
6.	P-13, OSHA 1910.22	Railing unstable in lunch area, E-11. Needs reanchoring.	01/21/80
X - 8.	P-13, OSHA, 1910.22	Inspector's door across from F-5 blocked.	01/21/80
X - 9.	P-13, OSHA 1910.22	Unguarded extension cord crossing aisleway in registry cage near J-11.	01/21/80
X - 10.	OSHA 1910.23	Guard rails at scale broken.	01/21/80
X - 12.	P-13	Pavement cracked in loading dock area.	01/21/80
X - 3.	P-13	Flip ramp broken - should be repaired.	01/21/80
X - 4.	P-13, OSHA 1910.42	A. Hamper noted in use with top metal rail support broken. B. String on wheels of cages, hampers.	01/21/80
12.	P-13	Handtrucks loaded too high - as observed.	01/21/80
17.	OSHA 1910.176	See Section I, Item 5	
X - 12.	MS-1	No inspection certificate on elevator.	01/21/80
X - 32.	OSHA 1910.309	A. Thermostat covers missing at G-3 and in general office. B. Thermostat damaged at J-7. C. Light switch missing - room 117	01/21/80
X - 40.	N.E.C.	Excessive use of extension cords at J-11 area.	01/21/80
X - 41.	P-13	Fan cord in poor condition - general office.	01/21/80

U.S. Postal Service
SAFETY DEFICIENCY REPORT

1. This form is to be used in a conspicuous place until the following deficiencies are corrected or Adequacy Check is performed. Reports are required to be submitted to the District Manager, Sectional Center Manager or Chief of Post Office if an accident is reported; (2) If an amount period of 30 days a progress report is required at the end of each 10 day period; (3) If an amount cannot be completed within the allotment period a report is required giving reasons why the amount could not be made.

LOCATION Airport Mail Facility	CITY, STATE AND ZIP CODE Detroit, Michigan 48247	SQUARE FOOTAGE
INSPECTION DATE 12/13/79	SAC, SMC, ASST. SAC, CLERK, SIGNATURE <i>Robert J. Ryan</i> Chg.	

ITEM NO. Seq. #	REFERENCE	DEFICIENCIES	STATEMENT DATE
X 1.	OSHA 1910.22	<p>A. Housekeeping poor, particularly in security room #203 (door off one (1) locker, tops of lockers dusty, etc.).</p> <p>B. Strong ammonia odor in room 106. needs overall cleaning and rearranging. Remove leaking containers. Also noted on June 6, 1979 inspection</p> <p>C. Extraneous material noted in various areas; upstairs (pieces of flooring cement, oily rags), storage rooms and concourse.</p>	01/21/80
4.	P-13	<p>Tables (desks?) in H-11 area unstable - need tightening.</p> <p>A. Heavy objects top of shelves in room adjacent to 108, in room 115 and 122.</p> <p>B. Objects top of distribution cases.</p>	01/21/80
X 6.	P-13	Portion of broken guard rail (near scale) protruding from floor - tripping hazard.	01/21/80
X 10.	OSHA 1910.141	<p>A. Men's room 208 - paper roll holders broken in all four (4) units.</p> <p>B. Ladies rooms - housekeeping poor. Downstairs ladies room - latches on two (2) unit doors broken; soap dispenser broken; top of covered receptacle broken.</p>	01/21/80
X 12.	MS-1	Emergency light missing from bracket F-7.	01/21/80
X 16.	P-13, MS-39	Only two (2) of dock lights for illuminating inside of trucks, operable.	01/21/80
17.	P-13	Unauthorized electric pot in room 119 - Equipment Room.	01/21/80

U.S. POSTAL SERVICE
 SAFETY DEFICIENCY REPORT

INSTRUCTIONS: This form must be posted in a conspicuous place until the below deficiencies are corrected or 3 days, whichever period is longer. Reports are required to be submitted to the District Manager, Sectional Center Manager as follows: (1) When abatement is completed; (2) When abatement periods exceed 30 days a progress report is required at the end of each 30 day period; (3) When abatement cannot be completed within the abatement period a report is required giving reasons why the correction could not be made.

INSTALLATION Airport Mail Facility Continued	CITY, STATE AND ZIP CODE Detroit, Michigan 48242	SQUARE FOOTAGE
INSPECTOR'S SIGNATURE <i>John Radgose</i>	INSPECTION DATE 12/13/79	AGENCY/USE OF FACILITY SIGNATURE A. J. ...

CORRECTIVE ACTION RECOMMENDED ON SAFETY DEFICIENCIES

ITEM NO.	REFERENCE	DEFICIENCIES	ABATEMENT DATE
X 42.	P-13	Breaker box doors open - equipment room - 119.	01/21/80
Sec. V 8.	P-13, OSHA 1910.37	Exit near H-11 blocked.	01/21/80
16.	MS-56, OSHA 1910.157	Fire extinguishers blocked at K-1, K-11, I-5. <i>MS</i>	X 01/21/80
27.	P-13, MS-1, OSHA 1910.106	"No Smoking" signs needed in pouching areas - Foreign, Canada, etc. and in label room where cigarette butt noted. <i>MS</i>	01/21/80
X 29.	P-13	A. Combustible rags on handtruck upstairs; in oil room 123 - should be in covered metal container. B. Oily mop can uncovered in custodian room - 121.	01/21/80
Sec. VI 14.	P-13, ANSI A11.1	See Section I, Item 16	
X 1.	P-13	Nails protruding from wall where bulletin board was removed, J-13 area.	01/21/80
2.	P-13, OSHA 1910.22	Door latches and/or knobs need replacement or repair - rooms 106, 121, 123 and janitor's room.	01/21/80
X 3.	OSHA 1910.22, N.E.C.	Unused wiring over dock door should be removed.	01/21/80
X 4.	P-13, OSHA 1910.22	Dock door windows broken - suggest guard over bottom portion of windows to prevent equipment damage.	01/21/80
X 5.	OSHA 1910.22	Drain cover on fountain broken - also needs cleaning - located near AFU bulletin board.	01/21/80
X 6.	OSHA 1910.106, P-13	Duplicating fluid should be removed from stockroom 122 to a room without combustibles.	01/21/80

*Engineering City. Prod.
 Prod. Safety Council present
 attached.*

March 6, 1980

To: Gerola F. Rabian
 902 Upper Midwest Bld.
 Hennepin Ave.
 Minneapolis, Minn.
 55401

RECEIVED
 MAR 6 1980
 MPLS. DIV. A.P.W.U.

Dear Sir:

I am writing to inform you of a safety problem at the Youngstown Post Office on the LSM machines. At times the LSM machines are being operated with only one sweeper behind the machine. The union and the employees feel this is unsafe because while clearing a dropper jam on consoles number 3,4,7,8,9, and 10 a sweeper may get his hand caught in the machine and there is no possible way for him to stop the machine. Even if more than one person is sweeping, he may not hear the other sweeper yelling for help. Some kind of safety stops should be installed so the machine could be stopped from all dropper jam holes.

The following steps have been taken to try to correct this safety problem: first of all on 1-23-80 a form 1767 was filed on this safety problem and was sent to Mr. R. Stille, the Youngstown Safety Officer. A letter stating an answer was needed before 2-1-80 was sent with this form, so that further steps could be taken if needed. I waited until 2-4-80 but did not receive an answer.

On 2-4-80 a step 2 grievance was filed. At the step 2 meeting held on 2-7-80 management stated that they could not alter the LSM machine without a letter of directive from the regional office. Also, management stated the machine was designed properly and had passed OSHA standards. The union explained that the machine was not designed to have one sweeper sweeping the machine by himself. Also, until this safety problem is corrected management should not operate the LSM machine with only one sweeper because everyday this hazard is allowed to exist could mean a loss of a human limb or even a life. Management showed how little they were concerned about this safety problem by not giving an answer until after I sent a letter to management saying that the grievance would be appealed to step 3 because no answer was received on 2-20-80 (3 days past the deadline). An answer was received on 2-21-80 stating the grievance was denied.

EXHIBIT No. 3

The last attempt to correct this safety problem was on 2-22-80. I called Mr. Lobbs from OSHA to explain the problem. After I did so, he said he would call the regional post office in Chicago to inform them of the safety hazard and the Youngstown safety officer would get in contact with me. That night I did receive a letter from the Safety Section of L&LR (a copy is attached).

After waiting a few days I called Mr. Stille to find out when the LSM machine would be fixed and when management was going to stop using one sweeper to sweep the machine by himself. He told me he had promises that it could be fixed by the end of next week. He also said that management should not have one sweeper behind the machine by himself. However, on tour I management is still using only one sweeper behind the LSM machine.

I would appreciate some action on this matter as soon as possible since everyday this safety hazard is allowed to exist could mean a bad injury to some employee.

Thank you
William C. Plant
William C. Plant
Tour 1 steward
Local 443
Youngstown, Ohio
44501

U. S. POSTAL SERVICE ROUTING SLIP		SEPT. OFFICE OR ROOM NO.	APPROVAL
K. L. Plant			<input type="checkbox"/> SIGNATURE
J. L. Clark - Howard			<input type="checkbox"/> COMMENT
Tour I 44501			<input type="checkbox"/> SEE ME
			<input type="checkbox"/> AS REQUESTED
			<input type="checkbox"/> INFORMATION
			<input type="checkbox"/> READ AND RETURN
			<input type="checkbox"/> READ AND FILE
			<input type="checkbox"/> NECESSARY ACTION
			<input type="checkbox"/> INVESTIGATE
			<input type="checkbox"/> RECOMMENDATION
			<input type="checkbox"/> PREPARE REPLY
FROM: E. J. R. Safety Section			EXTENSION
2-22-80			ROOM NO.
REMARKS			
<p>Re: PS-1767 Report of Hazard dated 1-23-80 pertaining to dropper jams. Possible modification of machines is a consideration. but additional information from other installations is being gathered. The Regional Office in Chicago is aware of the condition you have called to our attention. We will keep in touch. <i>(initials)</i></p>			
FORM 0-13 Aug 1976 (formerly Form 13)		Additional Remarks on Reverse -US GPO: 1976 - 864-408	

Injuries Reported Under the Federal Employees' Compensation Act, by Establishments: CY 1978

ESTABLISHMENT	Total	No Lost Time	Lost Time	Fatal	ESTABLISHMENT	Total	No Lost Time	Lost Time	Fatal
All Federal Establishments - Total	203,370	98,733	105,140	577	Architect of the Capitol	238	19	219	-
Establishments with 10,000 or more employees	201,337	97,770	103,098	570	Civil Aeronautics Board	5	1	4	-
Agriculture	14,509	10,015	4,847	49	Commission on Civil Rights	5	3	2	-
Air Force	9,674	4,912	4,734	28	Community Service Administration	23	16	6	1
Army	16,078	8,153	8,471	54	Consumer Product Safety Commission	14	2	12	-
Commerce	1,233	572	698	3	Equal Employment Opportunity Commission	58	15	43	-
Congress	185	45	138	-	Executive Office of the President	148	95	53	-
Defense	2,258	1,085	1,159	4	Export-Import Bank	12	4	8	-
District of Columbia	2,172	362	1,810	1	Federal Communications Commission	13	6	7	-
Energy, Department of	569	316	252	1	Federal Deposit Insurance Corporation	34	13	21	-
Environmental Protection Agency	299	159	99	1	Federal Home Loan Bank Board	35	9	6	-
Federal Judiciary	95	49	46	-	Federal Mediation & Conciliation Service	9	5	3	1
General Services Administration	2,165	940	1,222	3	Federal Reserve System, Board of Governors	35	2	33	-
Health, Education & Welfare	4,226	1,152	3,069	1	Federal Trade Commission	29	3	26	-
Housing & Urban Development	403	208	194	1	General Accounting Office	39	12	27	-
Interior	8,978	6,005	2,974	19	Government Printing Office	895	64	770	1
Justice	2,764	1,463	1,286	15	International Communications Agency	53	17	36	-
Labor	1,156	879	302	15	Interrate Commerce Commission	21	7	13	1
National Aeronautics & Space Administration	455	198	256	1	Library of Congress	166	18	148	-
Navy	19,436	7,299	12,027	110	National Credit Union Administration	12	6	6	-
State	241	105	130	5	National Endowment for the Arts	7	1	6	-
Tennessee Valley Authority	4,877	3,164	1,701	12	National Endowment for the Humanities	1	-	1	-
Transportation	3,193	1,465	1,699	29	National Labor Relations Board	38	7	31	-
Treasury	3,945	1,891	2,058	16	National Science Foundation	22	9	13	-
U. S. Postal Service	85,389	42,171	44,734	84	Nuclear Regulatory Commission	37	10	27	-
Veterans Administration	14,079	5,223	9,036	20	Occupational Safety & Health Review Commission	1	-	1	-
Establishments with less than 10,000 employees	3,033	963	2,042	18	Office of Personnel Management	164	72	92	-
Action	470	332	129	9	Railroad Retirement Board	28	15	13	-
American Battle Monuments Commission	1	-	1	-	Securities and Exchange Commission	28	5	19	-
					Small Business Administration	110	37	53	-
					Smithsonian Institution	195	75	117	3
					Soldiers' and Airmen's Home	66	15	51	-
					U. S. International Trade Commission	3	1	2	-
					All Other Establishments	142	87	53	2

Source: FECA initial case file of injuries reported, CY 1978

Compiled by: Office of Administrative Management
Employment Standards Administration
U. S. Department of Labor
Washington, D. C. 20210
June 1979

**SCHOOL FOR WORKERS
SAFETY AND HEALTH PUBLICATIONS**

- "The School for Workers' Occupational Safety and Health Project," October, 1974
- "OSHA Inspection Procedure," November, 1973
- "Making Best Use of the OSHA Walkaround," November, 1973
- "Coping With Mechanical Hazards," May, 1974
- "Worker Rights and Responsibilities Under OSHA" (revised), October, 1974
- "OSHA Inspection Procedure for Construction," March, 1975
- "Making Best Use of the Construction Site Walkaround," March, 1975
- "Controlling Noise in Foundries," September, 1975
- "Employee Access to Information" (revised), August, 1975
- "A Union Library on Occupational Safety and Health," October, 1975
- "Union Procedures for Abating Safety and Health Hazards," October, 1975
- "Bargaining for Safe and Healthful Working Conditions," November, 1975
- "Use of Administrative Controls to Abate Hazards," June, 1976
- "Coping With Hazard in Logging," June, 1976
- "Priorities for a Safe and Healthful Work Environment—Forest Products," June, 1976
- "Coping With Hazards in Sawmills," June, 1976
- "Collective Bargaining and Occupational Health Issues," June, 1976
- "Coping With Hazards in the Boot and Shoe Industry," June, 1976
- "Controlling Noise in Woodworking," June, 1976

#PS016 011



OSHA

Causes of Injury in Industry— The "Unsafe Act" Theory

Why do workers injure themselves? One major school of thought contends they do it to themselves by committing "unsafe acts." The issue of accident causation needs to be explored much more carefully. If results of a 1973 study of Wisconsin injuries are to be taken seriously.

Section 123 (b) of the Occupational Safety and Health Act sets forth, among other things, that the United States Congress has intended that working men and women in the Nation should be provided safe and healthful working conditions by:

- (1) "... providing for research in the field of occupational safety and health, including psychological factors involved, and developing... approaches for dealing with occupational safety and health problems.
- (2) "... exploring ways to discover latent diseases, establishing causal connections between diseases and work in environmental conditions."

The "Unsafe Act" Theory

For the past forty or so years, explanation concerning causes of injuries and diseases in industry has been approached in terms of the "unsafe act" theory of accident causation, which in essence holds that approximately 85-95 percent of all injuries result from some unsafe acts, and only 5-15 percent of injuries result from unsafe working conditions or undetermined causes. Moving from this theory, that unsafe acts are a major source of injuries, safety and health practitioners conclude that major accident prevention emphasis should be directed at improper or unsafe human behavior, which involves use of behavioral controls such as strict safety rules, close supervision, and other authoritarian control techniques. Workers who are involved in multiple accidents are believed to be "accident prone," and proponents of the unsafe theory hold they must be terminated or moved to other jobs. Believers in the unsafe act theory point to known unsafe conditions which have never resulted in injuries, and offer these as proof that unsafe working conditions alone seldom if ever result in employee injuries. In safety and health agencies, proponents of the unsafe act theory of accident causation contend that physical safety standards, which concentrate on elimination of unsafe working conditions, will not effectively reduce injury rates. The reason, they say, is because most accidents result from improper human behavior. The theory appears to have been used as a rationalization for not enforcing state safety and health standards. This paper will describe an attempt to test the validity of the unsafe act theory of injury causation from the best available information in Wisconsin in 1973.

¹Public Law 91-506, December 29, 1970, "Occupational Safety and Health Act of 1970."

Available Accident Causation Information

Spokesmen for the Wisconsin Industrial Commission and its Industrial Safety and Buildings Division have for many years argued that safety standards which require elimination of unsafe conditions are not as effective as behavioral controls because 80-90 percent of all injuries can be attributed to unsafe employee acts. They contend that only 10-20 percent of injuries are the result of unsafe working conditions. When a state agency proponent of the "unsafe act" theory was asked for the research evidence upon which he based his argument, he cited an old study reported by H. W. Heinrich², which was drawn from an employer injury reports collected by an insurance company in Pennsylvania. In 1969, the same spokesman claimed that his conclusions were based on a small study of injuries in the southeastern corner of Wisconsin, but he later changed his statement, stating that his conclusions were based on "preliminary findings" developed in a study, which had to be laid aside to cope with responsibilities resulting from passage of the OSHA Act in 1970.³ That study was never completed. It appears that concrete evidence for the "unsafe act" theory was either drawn from employer reports, which may have been self-serving, from a small study in Wisconsin which was never completed, or from an old, discredited study of employer's first reports of injury in Pennsylvania.

A 1973 study disclosed that the workers' compensation first report of injury is a poor source of information insofar as accident causes are concerned. It is almost always filled out by a management representative, very rarely by a clerical worker with no firsthand information on the accident. The reports almost never reveal an unsafe working condition as the cause of accident, and only rarely mention an unsafe employee act. Generally, the determination of the accident cause is assigned to industrial or accident specialists. It is not until a safety specialist is assigned to investigate the accident that detailed information on accident causes is developed by the Wisconsin Safety and Buildings Division. Information is recorded on the preliminary investigation report (Form SB-10) which is filed by the Safety Specialist to determine whether a 15 percent monetary penalty should be assessed against the employer if an unsafe condition (a violation of a safety standard) was related to the accident or to the employee if a safety rule or rule was violated, where the employee was intoxicated at the time of the accident, or where the employee failed to use a safety device provided by the employer. Post injury investigation reports proved to be the best source of information available in Wisconsin for determining accident causes, since determining causation is the fundamental purpose of the investigation. While there may still be some underreporting of unsafe working conditions or unsafe acts, the result of a study of a random sample of 2,810 reports revealed no basis for the 90 percent unsafe act conclusion. Instead, unsafe conditions were found in complete or partial form 54 percent to 58 percent of causes unclassified, and unsafe acts were reported in only 26 percent to 33 percent of those cases which were investigated.

²H. W. Heinrich, *Industrial Accident Prevention—A Scientific Approach* (Fourth Edition), New York, McGraw-Hill Book Company, 1969.

TABLE I

	No of Cases*	Percentage
Unsafe Conditions		
Wisconsin safety code violation identified, 1 as involved	77	30%
Other unsafe working conditions reported by safety inspector	82	26%
Subtotal	139	54%
Unsafe Acts		
Where inspector's report indicated employee committed unsafe act or made a mistake while working	91	35%
Neither		
Where SB-10 report did not clearly indicate whether unsafe act or condition	17	7%
Both		
Both unsafe act and unsafe condition	10	4%
Grand Total	237	100%

*A 10 percent sample of the 2,810 investigations conducted in 1973 was randomly chosen and is the basis of this table. Four cases were dropped from the study because the safety specialists were unable to conduct an investigation.

A second study was done to test the reliability of findings in the first study, assuming that critics would argue that the selection of cases for inspection was non-random or possibly even skewed toward "unsafe conditions." A representative of the state inspection agency stated that all deaths were investigated by the Safety and Buildings Division, but this later turned out to be incorrect; only 19 percent of death cases were investigated. However, death statistics broke down very similarly to results of the random sampling of injuries. Table II shows findings.

TABLE II

	No of Cases*	Percentage
Unsafe Conditions		
Violation of Wisconsin Safety Codes	37	38%
Other unsafe working conditions reported by safety inspector	18	19%
Total	55	56%
Unsafe Acts		
Where inspector's report indicated employee committed unsafe act or made a mistake while working	24	26%
Where SB-10 report was unclear as to whether unsafe act or unsafe condition (includes heart attacks)		
	12	13%
Both unsafe act and unsafe condition	2	2%
Grand Total	93	99%

*Based upon all investigations made related to accidental deaths reported in 1973.

Cases Not Investigated

Certain types of accidents were exempt from investigation as a matter of department policy in Wisconsin. Area office supervisors were given additional latitude to decide which cases would be investigated. Individual safety inspectors were assigned a maximum number of post-injury investigations per month (six in 1973) with rest of their time devoted to other duties. In general, attacks, traffic and airplane accidents, overexertion or occupational disease claims, and acts of violence were seldom investigated.

-Reported hearing losses were not investigated by state safety inspectors, although they were almost always citations of unsafe working conditions.

-Approximately 35 percent of all Wisconsin workers' compensation cases involve sprains, strains, and simple overexertion injuries, most often involving lifting, pushing, pulling, or handling heavy objects or working in awkward positions. Because there was no state safety code dealing with overexertion hazards, they were not investigated.

-Heart attack cases were not investigated because of difficulty in relating the injury to safety code(s), specific acts or working conditions.

-Traffic and aircraft accidents were not referred to state inspectors because another government agency was assigned to investigate the incidents. Truck drivers thereby have been deprived of 15 percent increased compensation, even where there may have been a violation of state safety codes.

-Occupational disease cases were not investigated because the department lacked an industrial hygienist, apparently did not request assistance from the state agency that did. This policy is difficult to comprehend considering the existence of a detailed set of standards governing noise, dust and air contaminants.

-Accidents resulting from acts of violence or criminal acts go uninvestigated because police are assumed to be a separate investigation, and because the State of Wisconsin lacks a set of physical standards related to acts of violence.

The Workers Compensation Board of British Columbia used a novel approach to relate hazardous conditions to accident rates in logging, sawmilling and construction. They required safety inspectors to rate each inspected establishment on various factors, and then the WCB related the results of the ratings with accident rates for same establishments. They found a significant number of working conditions that were related to accident rates. Put another way, if an establishment was rated low or one of the factors, they were likely to report a higher accident rate. The results of the study are reported in Table III.

Kath Mason, "A Correlation Between Types of Hazardous Conditions and Accident Rates," Abstract Workers Compensation Board of British Columbia, Vancouver, B.C., December, 1973.

Exhibit No. 5

TABLE III
Relative significance of various conditions
to accident rate, by industry*

Factor	Logging	Sawmilling	Construction
Condition of work area	9	3	11
Housekeeping	6	6	9
Operating procedures	7	8	10
Adequacy of tools	4	3	3
Material handling	4	7	3
Working practices	4	6	11
Personal protective equipment	4	3	3
Guarding	10	5	10
Warning signs	10	6	3
Working pressure	13	11	3
First aid	8	3	3
Fire protection	4	3	3
Competence of workers	9	14	12
Competence of supervision	4	11	13
Future prospects (of business)	4	9	3
	100	100	100

*The higher the weight, the more significantly the factor was related to accident rate—those items weighted 4 or less were not significantly related to accident rate.

Conclusions

In summary, the study of Wisconsin accident cases which go uninvestigated should be assumed to be systematically biased in the direction of either unsafe acts or unsafe conditions in any given manner. The 15 percent increased compensation rate encourages postinjury investigations where either unsafe acts or unsafe conditions are suspected of being involved in an injury or death. The study of Wisconsin Safety and Buildings Division post-injury reports did not appear to support the spokesman's argument that unsafe acts are the major cause of occupational injuries. If anything, they showed that unsafe working conditions appear to be involved more than twice as often as employee "mistakes" or unsafe acts.

The results of this study should not be construed as supportive of a theory of unsafe acts or unsafe conditions—it is not intended to demonstrate that at all. It is more likely that accidents are caused by interaction of a variety of complex events and factors. Other studies appear to show clearly that lack of experience and job training result in injuries to newly hired workers. Physical decline associated with the aging process appears to be important; older workers suffered a disproportionate number of injuries related to impaired physical performance.⁴ Incentive systems, which encourage workers to work at high rates of speed, appear to be related to certain types of injuries, according to veteran safety inspectors in Wisconsin. Physical working conditions appear to contribute directly to some accidents. Poor machine and building design contribute to a share of death and injuries. And, it is well known that some occupations involve greater exposure to accident and injury. Psychological stress is now believed to be related to certain types of disease and injury.

⁴George Haglund, "Some Factors Contributing to Wisconsin Occupational Injuries," Unpublished Ph.D. Dissertation, University of Wisconsin, Madison, Wisconsin, 1966.

Accident causation research is not so simple that one needs only to look for an employee to "blame" or a hazardous working condition which can be held responsible in a particular accident. What is needed is more objective research into accident causes, and less dependence upon the unproven "unsafe act" theory of accident causation. The lack of a firm research foundation for conclusions made about the relative importance of unsafe acts and unsafe conditions as causes of accidents can lead to the conclusion that the theory is propagandistic and mainly intended to "blame" workers for their own misfortunes.

Future Directions of Accident Causation Research

What is needed in the field of occupational safety research is an approach to accident causation which includes careful analysis of job tasks, workplace surroundings, and human behavior which are ultimately involved in injury and death. Dependence upon workers' compensation reports alone for determining accident causation is clearly inadequate, if safety compliance officers have been trained in an enforcement philosophy which assumes that 90 percent of all injuries are related to unsafe acts, but their investigations still show that over half of the cases they investigated involve unsafe conditions, then it follows that a new approach to determining injury causes is needed. Determination of causes of industrial accidents requires systematic job analyses, a better understanding of the effects of chemicals and air contaminants on the human body, the human physique as it relates to performance of tasks, and a far more complete knowledge of the effects of job stress on human behavior. The studies in Wisconsin and British Columbia suggest that the safety compliance officer, with access to workplace records, is able to gather useful information which can be used to identify accident causes with greater precision. It is hoped that the field of health research theory may lay additional emphasis on the study of accident causation. The OSHA research program is a very relative encouragement for undertaking the above research activities.

George Haglund
Professor of Labor Education
July, 1976



AMERICAN POSTAL WORKERS UNION, AFL-CIO

817 14th STREET, N. W., WASHINGTON 8, D. C.

STATEMENT OF THE
 AMERICAN POSTAL WORKERS UNION (AFL-CIO)
 PROPOSING TO AMEND THE POSTAL REORGANIZATION ACT OF 1970
 BEFORE THE
 SUBCOMMITTEE ON NUCLEAR PROLIFERATION AND FEDERAL SERVICES
 COMMITTEE ON GOVERNMENTAL AFFAIRS
 UNITED STATES SENATE
 APRIL 29, 1980

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Mr. Chairman and Members of the Committee:

We speak in behalf of more than 300,000 postal employees for whom we are the Exclusive National Representative for labor-management relations and collective bargaining with the U. S. Postal Service. Our membership is employed in post offices in all 50 states, the District of Columbia, Puerto Rico, Virgin Islands and Guam. We are an industrial union representing clerks, maintenance and motor vehicle employees, special delivery messengers and employees at USPS mail depositories, postal data centers and the mail equipment shop.

We appreciate this opportunity to present the views of our labor union concerning H.R. 79, which is before your Committee and to amend the "Postal Reorganization Act of 1970" by altering the organizational structure of the United States Postal Service and for other purposes.

As you know, the American Postal Workers Union has maintained a continuing interest in legislation which would improve the organizational and service structure of the U.S. Postal Service. Our concern and proposals are a matter of record particularly in 1977 and 1978 as postal reform legislation identified as H.R. 7700 was considered by the 95th Congress.

Mr. Chairman, we appreciate your continuing though frustrating experiences in attempting to persuade the United States Congress and the President of the need to amend the "Postal Reorganization Act of 1970" and make the U.S. Postal Service more responsive to the needs of the American public, all users of the mail and in the best interest of postal workers. As you know we supported the bill, HR 7700 in the 95th Congress although, subsequent House and Senate Governmental Committee amendments contributed substantially to no final Congressional action in 1978.

In view of this experience, we can understand that a more modest postal reform measure, HR 79 has been approved by the House of Representatives and is being considered here today. Frankly, we like many others would prefer to have additional provisions in the legislation reflecting our special interests including but not necessarily limited to sections proposing:

- (1) the right to negotiate "union security" in our labor agreement with our employer, and
- (2) providing by law that the U.S. Postal Service shall have a monopoly not only on the processing and delivery of letter mail messages, funds etc. by conventional means but also by electronic transmission and by any other related telecommunication services.
- (3) protection against indiscriminate, unilateral and/or ill-advised closing of post offices and consolidations by the U.S. Postal Service, and
- (4) the same protection against proposed changes in level or type of service to the American public by the U.S. Postal Service.

The last two provisions were included in last year's bill, HR 7700.

However, in view of your firm position that interested persons and organizations are requested to address themselves primarily to the HR 79 proposed amendments to the PRA and of the opinion that these other matters of significant interest to all concerned will be the subjects of subsequent legislative hearings we are happy to cooperate and our testimony will be primarily concerned with HR 79 as introduced in the House of Representatives.

Mr. Chairman permit me to say that we recognize the need for amending the PRA including most of the areas provided for in the pending legislation. Any reservations or suggestions we may express are more closely aligned with how to do it and the extent it should be done rather than any substantive disagreement with your objectives as outlined in HR 79. Having said that, we offer the following comments on the relevant sections of the measure.

SECTION 2: Organization of Postal Service

At the present time the U.S. Postal Service has a Board of Governors consisting of eleven members. Nine of them called "Governors" are appointed by the President. The nine then select the Postmaster General who becomes the tenth member of the Board and the Governors and the Postmaster General select the Deputy Postmaster General who also becomes a member of the Board making up a total of eleven.

HR 7700 in the previous 95th Congress would have made the PMG a presidential appointee with a four-year term coinciding with that of the President. The P4G would appoint the Deputy PMG. Also, the PMG would have been given considerable additional authority over what

he has now and the power of the Board of Governors was correspondingly reduced. Mr. Chairman, we supported this proposal in your previous bill.

HR 79, however, follows a somewhat different approach. The power of the Postmaster General and the Deputy PMG apparently would considerably reduced rather than increased. Both the PMG and the Deputy are removed from the Board of Governors leaving a total of nine members of the Board. The President continues to appoints the Governors but he is also required to appoint a Chairman of the Board. Therefore, the Chairman becomes the powerful figure. In addition, the legislation requires that at least one member of the Board have experience in postal management and one member have experience in postal labor, which we appreciate.

HR 79 would reduce the status of the PMG to a chief executive officer only, with primary responsibilities related to "administration and daily operations" and the Chairman of the Board would become Chief Executive Officer with regard to "determinations of all policies for postal services". There would be a number of other related changes in the existing PRA concerning the Board of Governors.

Mr. Chairman the American Postal Workers Union in 1978 supported the changes proposed in HR 7700 in regard to both the Postmaster General and the Board of Governors. It appears to us that the original proposed realignment of the Postmaster General's authorities and responsibilities would provide more centralized authority and responsibility in administering and operating the U.S. Postal Service rather than the propose change in Section 2 of HR 79.

SECTION 3: Appropriations And Annual Report

The Postal Reorganization Act when it became law in 1970 and fully operative in 1971 authorized public service appropriations in the amount \$920 million a year which was approximately 10% of the amounts appropriated for the old Post Office Department in fiscal year 1971. Effective with fiscal year 1980 or October 1, 1979 there will be a 1% per year reduction in this amount of money for each fiscal year until FY 1984 when it will be reduced to 5% and remain at that figure unless or until the Postmaster General would request a different amount which it is my understanding would have to be approved by the Congress of the United States.

Mr. Timothy May, General Counsel of the Parcel Shippers Association in his testimony on March 6, 1979 presented a well documented statement to this Committee pointing out among other things that the original \$920 million authorized payment for public service has depreciated rapidly during the past eight years until now it would require almost \$1.6 billion to provide the same actual dollars for operation of the U.S. Postal Service compared to the purchasing power in 1970. The substantial reduction in public service appropriations has resulted from the tremendous increase in the cost-of-living and the devaluation of the American dollar during the past seven to eight years.

We appreciate the increased appropriation authorization proposed in HR 79 to authorize the \$1.1 billion for fiscal year 1980, \$1.2 billion for FY 81 and \$1.3 billion for FY 82. However, the questions comes to mind if this increase is sufficient to maintain the U.S. Postal Service in a financially sound operating condition.

Regardless, of the Postmaster General's press releases stating that the first-quarter operations in fiscal year 79 (October - December '78) resulted in a \$400 million dollar surplus and for the twelve months FY 79 period USPS expects a projected \$180 million surplus, it is difficult to believe that this is the actual situation in view of the well documented statements again by Mr. May before this Committee in which he refers to projections of the budget of the United States.

Therefore, Mr. Chairman and Members of the Committee it would appear that additional consideration should be given as to the final amount of public service authorizations to be provided in HR 79 which should be revised upwards if at all possible.

SECTION 4: Phasing

We support the phasing of postal rates and the extension of time for such phasing from 16 to 20 years for a non-profit organizations and from 8 to 10 years for commercial rate. We assume this section would include necessary appropriations authorizations for "revenue foregone" to cover the cost of such phasings and it would not be necessary to pay such cost out of the public service appropriations.

SECTION 5: Postal Rate Commission Budgets

It is our opinion that the proposed grant of authority to the Postal Rate Commission to prepare and submit to the President of the United States its own budget is a policy matter for the Congress and as suggested such a provision if enacted into law would give greater independency to the PRC.

SECTION 6: Cost Attribution Study

It is our opinion that the Postal Rate Commission presently has the authority to study attributable cost and all other aspects

of postal rates and allegations of cost under the existing provisions of the PRA. Frankly, this provision in HR 79 makes us uneasy and uncomfortable because of potential implications which could result on both the U.S. Postal Service and our postal worker members. The direction such an attributable study would take cannot now be predicted and therefore we suggest that this section be deleted from the legislation.

SECTION 7: Size and Weight Limits

This section provides that the Postal Service may establish size and weight limitations for mail matter in the same manner as prescribed for changes in classification under Sub-Chapter II of this Chapter. The Postal Reorganization Act at the present time provides that parcels being mailed to and from a first-class post office cannot exceed 84 inches in girth and length combined and further, such parcels be limited to 40 pounds. Conversely, if parcels are mailed from a post office that is not a first-class office, then the maximum weight limitation is 70 pounds and the size limitation is 100 inches in girth and length combined.

Section 7 in this bill would authorize the Postal Service to establish any size and weight limitations deemed appropriate and Mr. Chairman, it is our opinion either ~~all~~ size and weight limitations for USPS parcel post should be removed or at the very least, such limitations should be applied equally to all post offices, using the 70 lbs. and 100 inches in girth. We would prefer not to give the U.S. Postal Service discretion in this area.

SECTION 8: Rates For Books, Films And Other Materials

This provision is similar to the original Bill HR 7700 in that it would expand the list of items that can be mailed at the library rate. It would provide a lower rate for educational material,

catalogs of books and certain teaching aids. Since it is our opinion that this is a question more appropriately addressed by this Committee and by Congress for policy determinations, we have no position on this section.

SECTION 9: Effect On Collective Bargaining Agreements

Mr. Chairman and Members of the Committee we particularly appreciate this section being included in HR 79 as it was in its predecessor Bill HR 7700. Naturally, we are always on the alert and particularly concerned with maintaining the Collective Bargaining Rights which were enacted in the 1978 Postal Reorganization Act not only the right to negotiate but also assurances that that the U.S. Postal Service will be required to honor and pay for any and all provisions of a negotiated labor agreement.

It is important also to have Sub-Section (3) which states "any obligations entered into by the Postal Service at any future Collective Bargaining Agreements" shall not be compromised or in any way diluted by this legislation.

In conclusion Mr. Chairman, we understand that some of the more controversial amendments which were adopted on the floor of the U.S. House of Representatives prior to approving HR 7700 last year are not expected to be (or perhaps, I should say hoped not to be) a matter of controversy either within the Committee or on the floor of the House this time around. However, we recognize that it is almost impossible to predict what fate any legislative measure will eventually have in the House of Representative or the United States Senate.

As a result Mr. Chairman, we shall be constantly on the alert for any amendments which could hurt or cripple the U.S. Postal Service and particularly the well-being of our postal workers.

If this should occur, the American Postal Workers Union will necessarily have to take whatever action necessary concerning any such unacceptable provisions as the legislation is considered by the Congress.

Thank you Mr. Chairman and Members of the Committee for giving us this opportunity to present the views of the American Postal Workers Union. If there are any questions, we shall be very happy to respond and shall look forward to working with the Members of the Committee and the staff in seeking enactment of an acceptable Postal Reform Measure during this First Session of the 96th Congress.

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Mr. ANDREWS. I will then comment briefly on each measure as I understand we have been requested to hold our oral presentation to 5 minutes. I am happy to cooperate with the committee in this regard to expedite these hearings and hopefully result in an early and favorable report on both measures.

First, in regard to H.R. 826, I have submitted a separate new and well-documented statement in support of this long-overdue legislation which, I am confident, the members and staff of this committee will find overwhelmingly convincing and persuasive of the absolute need to place the U.S. Postal Service under all provisions of the OSHA Act. This statement referred to is completely different from the statement presented originally on June 6, 1979, to the House Post Office and Civil Service Subcommittee on Postal Personnel and Modernization in support of H.R. 826.

I do suggest, however, Mr. Chairman and other members of the committee and staff, that our June 6, 1979, House statement also be reviewed in support of the pending USPS OSHA legislation. Copies of this statement have been presented to the staff.

[The statement follows:]



American Postal Workers Union, AFL-CIO

817 14TH STREET, N. W., WASHINGTON, D. C. 20008

STATEMENT OF THE
 AMERICAN POSTAL WORKERS UNION (AFL-CIO)
 CONCERNING HR 826 BEFORE THE
 SUBCOMMITTEE ON POSTAL PERSONNEL & MODERNIZATION
 COMMITTEE ON POST OFFICE & CIVIL SERVICE
 U. S. HOUSE OF REPRESENTATIVES
 June 6, 1979

Mr. Chairman and Members of the Committee:

For the record, I am Emmet Andrews, General President of the American Postal Workers Union, AFL-CIO accompanied by National Legislative Director Patrick J. Nilan, Legislative Aide Edward L. Bowley and National Representative Gerald F. Fabian.

We speak in behalf of more than 300,000 postal employees for whom we are the Exclusive National Representative for labor-management relations and collective bargaining with the U.S. Postal Service. Our membership is employed in post offices in all 50 states, the District of Columbia, Puerto Rico, Virgin Islands and Guam.

The American Postal Workers Union is an industrial union representing clerks, maintenance and motor vehicle employees, special delivery messengers and employees at USPS mail depositories, postal data centers and the mail equipment shop.

We appreciate this opportunity to present the views of our labor union concerning HR 826 which provides that the "United States Postal Service shall be subject to certain provisions of the Occupational Safety and Health Act of 1970".

We are grateful to you Mr. Chairman for scheduling these hearings and also to Congressman Charles H. Wilson for sponsoring HR 826 to bring the U.S. Postal Service completely under OSHA.

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The officers and members of our union have a continuing and special concern with safety and health conditions in postal installations throughout the country. Such conditions are particularly significant to APWU because of the tremendous increase in automation and mechanization of mail processing during recent years. The result of which have postal workers within our bargaining units being the most exposed of all employees to related safety and health conditions and problems.

It is our considered judgement that the U.S. Postal Service must be placed under all provisions of the "Occupational Safety and Health Act of 1970" (29 U.S.C. 651, et. seq.). It is our opinion that since the USPS maintains itself as a quasi-independent government agency that it should be treated for purposes of its employees safety and health in the same manner as private industry is required under the OSHA law.

Myself and my colleagues come before this Committee today to explain many reasons why our membership should be placed under OSHA by law as well as providing you with some examples of the safety and health problems which confront postal employees daily and far to many postal installations throughout the country.

Statistical data for Federal Employees Compensation Act supplied by the U.S. Department of Labor, Employment Standard Administration for CY-1975-1976-1977 reveal that the United States Postal Service continues year after year to rack up an impressive percentage of injuries. A review of the statistical information shows that the USPS incurred the following percentage of injuries to all federal agencies combined.

1975:	76,246+ accidents
	45% of all injuries
	17.2% of all fatalities
1976:	93,957 accidents
	46.2% of all injuries
	19% of all fatalities

1977: 90,358 accidents
 44.5% of all injuries
 16.2% of all fatalities

It is obvious from the atrocious safety record indicated above that the U.S. Postal Service inspite of platitude and lip service to reduce work related injuries and improve its safety record have managed in three years to only reduce their percentage of accidents reported from 45% to its lowest point of 44.5% - or a grand total of .5% reduction. It is important to note these figures reflect only those accidents which were recorded on official OWCP forms. Thus, it is conceivable that many injuries may have also occurred for which CA-1's and CA-2's were not filed. Even though the U.S. Postal Service and postal workers are currently covered under Section 19 of the OSHA law which provides minimal coverage to federal agencies, the following obvious weaknesses continue to exist:

- (1) The USPS continues to refuse access to postal facilities by OSHA inspectors. This action only serves to assure postal management that they alone will control the policing and enforcement of safety standards promulgated by the Act.
- (2) Since each government agency establishes its own policy on inspections, the USPS inspection procedure provides that the installation be given reasonable advance notice of the inspection. As has been conclusively demonstrated over and over again in the private sector with OSHA inspectors, unannounced inspections of safety and health conditions are the key to proper enforcement of OSHA standards. Unfortunately, under the present system, postal management upon notification of a forthcoming safety inspection has more than adquate time to clean up (temporarily) numerous violations. The same violations which continue unabated year after year except

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during such routine inspections when permitted.

- (3) Industrial hygiene inspections are non-existent in the U.S. Postal Service and while we cannot state as a absolute fact, it is our opinion that USPS does not even have an industrial hygienist "on board". None of our regional officers are aware of any and with the amount of potential dangers which workers are exposed to from fumes, chemicals and dust, it appears almost inconceivable that an employer such as the U.S. Postal Service with over 600,000 employees could and would be so lax in not having a staff of trained industrial hygienists.

We have requested some of our local unions to examine the methodology and procedures used by the USPS in the training, handling and labeling of chemicals. In almost every case we have been advised that no formal training period exists concerning the handling and use of such chemicals. Further, that most chemicals were poorly labeled, especially in relationship to hazards for those persons using them due to exposure to either the fumes or the liquid coming in contact with the body.

Additionally, we requested that the local unions request copies of "Material Safety Data Sheet". Again in most cases they were not immediately available and had to be secured from the companies manufacturing the respective chemicals. How is a worker protected in such instances without strict enforcement of safety standards and training?

As an example of this problem with chemicals, the USPS in 1977 at the Detroit Bulk Mail Center used several chemicals for cleaning and finishing floors. One of these chemicals, Tennant Corp. #420 Urethane Finish was used improperly because there was no prior or proper training or personal protective equipment.

As a result, several postal workers became ill and were sent home. Subsequently, when the local union steward took action to stop the use of such product and exposure to postal workers he was issued a notice of proposed removal by the U.S. Postal Service.

Fortunately, after a hell of a big ruckus was raised by the union and after the employees were exposed and became ill, postal management issued a belated order to cease using the product.

A further example of the need for USPS coverage under OSHA can be cited at the former Biscayne Annex Postal Facility, Miami, Florida. Laboratory tests were conducted in 1975 and 1976 at this facility due to worker complaints of asbestos fibers being present and in the air in the work areas. Asbestos is a well known carcinogen and evidence continues to mount demonstrating that exposure is sufficient to cause or eventually cause cancer:

Test Results:

"The absestos results conform to present but not to proposed OSHA standards."

"Asbestos results do not conform to present standards and the total dust is high."

"Asbestos content is borderline to present standards...does not conform to future standards and the total dust content is excessive."

SUMMARY OF TESTS

"An asbestos fibre content exists in excess of present or proposed standards with respect to the 2nd floor of the subject building. Total dust in the area of shake out and conveyer line

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in excessive to good dust control and carries an immediate potential of health hazard."

What happened as a result of this study? Eventually - almost two years later the U.S. Postal Service built and occupied a new facility in Miami. What happened to those employees who were exposed to the asbestos? Has the USPS followed OSHA policy by providing annual and termination of employment medical examinations as required under OSHA to those employees in the private sector who may have been similar exposed? NO!

Tragically, the U.S. Postal Service continues to claim that really was no problem at all and that no safety and health conditions or violation occurred. If USPS had been under OSHA as in the private sector then we could have brought in an OSHA personnel and this asbestos issue could have received proper attention and the employees received proper protection.

It is just one more example of the old philosophy - "If it costs money and doesn't increase production - Forget it".

- (4) The U.S. Department of Labor, Occupational Safety and Health Administration, has absolutely no power whatsoever to require the U.S. Postal Service to enforce any safety or health standards. This results in the USPS being their own police force with respect to OSHA violations. One only needs to review their respective accident and fatalitie rate as reported earlier in this statement to see the results of "self-policing" by USPS.
- (5) The question must also be raised, "What about abatement of hazards found during the course of safety inspections by USPS officials at the present time. Who determines the length of abatement? Management? What can the postal worker do if he or she disagrees with the abatement; little, if anything! If, OSHA inspectors how-

ever, could set abatement dates for violations and if OSHA could fine the USPS for failure to correct such violations then perhaps USPS would "get off their big fat apathy" and make a sincere effort to improve working conditions and protect the health and safety of all postal workers.

Obviously, at the heart and soul of the 1970 OSHA act lay the penalty provisions assessed to the employers for violations of OSHA standards. Many articles have been written concerning OSHA regulations and their impact on employers. It is interesting to note that almost without exception corporations state that they were induced to improve their safety programs because of their concern over possible shut-down of unsafe equipment and potential impact of financial fines against their company. Most felt that in the long run they were better off to engage in preventive safety programs so as to avoid citation.

However, if a postal employee is hurt--he is hurt just as much as his counterpart in the private sector. If a worker loses a leg, an eye, or a hand, is he any less hurt because he works for the United States Postal Service and not United States Steel?

In fact, the government--and Congress in particular ought to have a special responsibility in protecting the health and safety of its employees. After all, the Postal Service is working for the public--for Congress and for the constituents of Congress. To deny these public servants the same protections of their health and their safety to which their fellow citizens are entitled is to work a great disservice.

This disservice is paid for in more than just dollars or legal verbiage. It is paid for in accidents, disability and death--real accidents, real disabilities, which are suffered by real people.

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However, let us look at what inducement the U.S. Postal Service has to shut down, replace or repair equipment -- the answer is none! The USPS can without fear of a fine or closure of a installation continue to operate facilities with numerous violations of OSHA standards. One has only to look at the 70-million-dollar fiasco of the USPS Morgan Station Mail Facility in New York City which clearly demonstrates the considerable number of unsafe and unhealthy conditions in a postal installation which was restructured without any OSHA inspection or apparently even without an awareness of minimal OSHA standards.

We want to personally express our appreciation to Chairman Bill Clay and his staff as well as Congressman Charles Wilson and his staff for their great efforts and diligence in forcing the USPS to correct numerous serious and potentially fatal violations which existed at the Morgan Station installation prior to it being re-opened for postal operations.

Let us digress for a moment and take a look at how the U.S. Postal Service applies "double standard" rules by requiring postal workers to comply with safety and health rules but does not comply itself by providing safe and healthy working conditions and environments.

On one hand, under the present Section 19 OSHA provisions, the USPS refuses to allow OSHA inspections if they so desire and unfortunately can not be cited or fined or have enforceable abatement dates established or conformed to.

On the other hand the USPS does not instruct its employees to "do as I do" but "do as I say" for failure to comply with the inconsistent work location safety rules and regulations. Postal management

does not hesitate to severely discipline postal workers who may deviate (or may not deviate) from such rules by suspending them from their jobs. In effect, a postal worker suspended without pay is being "fined" by the USPS employer and can suffer a substantial loss of wages.

So the "double standard" and lip service of USPS clearly demonstrates that it does not hesitate to fine its own employees by suspending them from a paid work status for alleged violations of rules and procedures. On the other side of the coin unfortunately, the U.S. Postal Service is not and can not be subject to any fines or penalties for safety and health violations.

Without OSHA inspections of postal installations with the accompanying authority to fine a postal official or close down an installation or operation and without specific established dates for abatement of violations, we have no recourse but to recognize that postal workers and their unions have nothing but a "paper tiger" for policing the second largest employer in the United States.

Until the day comes (and it must come soon) when the U.S. Postal Service is required to conform with the same safety and health standards as private sector businesses and corporations, the USPS will continue to muddle along on a bare bones budget for safety and 600,000 postal employees will continue to be exposed to needless and potential safety and health hazards.

Mr. Chairman and Members of the Committee, we believe the time has long past when postal workers should be afforded the same rights under OSHA as their brothers and sisters in private sector employment receive. It's time for the Congress and postal workers to dispense with the charade of Section 19 of OSHA which is a voluntary

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and advisory program proven to be worth little more than the paper upon which it is printed. We appeal to you Mr. Chairman and Members of the Committee to move quickly and take affirmative action through approval of H.R. 826 in order to provide postal workers with safe and healthy conditions in which to work.

Mr. Chairman, let us not permit the U.S. Postal Service to continue treating its employees as "second-class citizens" particularly where their lives, personal safety and health are concerned. It should be self-evident that one of the largest employers in the United States today -- with an accident and injury rate of over 90,000 -- shall no longer be permitted with impunity to place itself outside and beyond the policing, enforcement and abatement requirements of the Williams-Steigers Occupational Safety and Health Act of 1970. We urge this Committee and Congress to act forthrightly and approve H.R. 826 which we believe will accomplish an important milestone for postal workers.

Thank you Mr. Chairman and Members of the Committee. We will be happy to respond to any questions you may have concerning our statement and cooperate with you in every way possible to assist in having the pending legislation enacted into law.

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SEN. E.N.P.A.F.S. 4/15/80

Mr. ANDREWS. The new H.R. 826 support statement which I refer to concentrates on the unbelievable and atrocious safety and health record of the U.S. Postal Service; its lack of any meaningful or effective safety and health programs; the untimely and tragic death of postal worker, Michael McDermott, at the USPS New York Foreign and Bulk Mail Center in Jersey City, N.J., which, in our opinion, would have been prevented if USPS was under the OSHA Act and complying with its provisions; and finally, an analysis of this fatal accident including probable cause and responsibility determinations by the Department of Labor OSHA inspectors. We believe you will be convinced of the absolute need of an enactment of H.R. 826 with a criminal penalty amendment.

At this point, Mr. Chairman, I would refer you and the committee to a copy of H.R. 6913 as introduced in the House of Representatives on March 25, 1980, by Congressman William Clay. I have provided the staff with copies of the bill and also Mr. Clay's statement in support thereof.

This legislation would provide for the right of employees of the Postal Service to a safe working environment, and we request the provisions of H.R. 6193 and the statement of Mr. Clay be included in the record as part of this presentation.

Senator GLENN. It will be included.

[Copy of H.R. 6193 and supporting statement of Representative Clay follow:]

CLAY026

INTRODUCED BY: REP. WILLIAM CLAY (D-MO)

96TH CONGRESS
2D SESSION

ON MARCH 25, 1980

H. R. 6913

IN THE HOUSE OF REPRESENTATIVES

Mr. CLAY introduced the following bill; which was referred to the Committee on POST OFFICE AND CIVIL SERVICE

A BILL

To amend title 39 of the United States Code to provide for the right of employees of the Postal Service to a safe working environment, and for other purposes.

- 1 Be it enacted by the Senate and House of Representatives
- 2 of the United States of America in Congress assembled,

1 That section 1209 of title 39, United States Code, is
2 amended by adding at the end thereof the following new
3 subsection:

4 ''(d)(1) Notwithstanding any other provision of law, the
5 quitting of labor by any employee of the Postal Service in
6 good faith because of abnormally dangerous conditions for
7 work at the place of employment of such employee shall not
8 be considered a strike for purposes of this title, section
9 7311 of title 5, and subchapter II of chapter 7 of title 29.

10 ''(2)(A) An officer or employee of the Postal Service
11 may not directly or indirectly--

12 ''(i) subject any other employee of the Postal
13 Service to an adverse action; or

14 ''(ii) intimidate, threaten, or coerce, or attempt
15 to intimidate, threaten, or coerce, any other employee
16 of the Postal Service;

17 for the purpose of interfering with such other employee's
18 rights under paragraph (1) of this subsection.

19 ''(B) For the purpose of this paragraph, 'intimidate,
20 threaten, or coerce' includes, but is not limited to,
21 promising to confer or conferring any benefit (such as
22 appointment, promotion, or compensation), or effecting or
23 threatening to effect any reprisal (such as deprivation of
24 appointment, promotion, or compensation).''.

EXTENSION OF REMARKS

POSTAL EMPLOYEES' RIGHT TO SAFETY BILL

MR. CLAY (MISSOURI)

Mr. Speaker, today I introduced a bill which establishes the right of a postal employee to choose not to perform an assigned task if he or she has a reasonable belief that the workplace condition is abnormally dangerous. The bill further prohibits postal officials from discharging or otherwise discriminating against an employee who exercises the rights afforded by this legislation.

In effect, the bill makes applicable to the Postal Service the provision of the National Labor Relations Act (29 U.S.C. 143) which provides that the quitting of work under such circumstances in the private sector shall not be considered a strike. The bill further codifies and makes applicable to the Postal Service the recent decision of the U.S. Supreme Court (Whirlpool Corporation v. Marshall, decided February 26, 1980). That decision supported the right of the Secretary of Labor to issue such a regulation and determined that the regulation conformed to the objective of preventing occupational death and serious injuries.

On October 22, 1979, the House of Representatives approved related legislation, H.R. 826. That bill authorized the Occupational Safety and Health Administration to conduct unannounced inspections of postal facilities and to impose civil penalties for violations of federal safety and health laws. That bill, now under consideration by the Senate, subjected the Postal

Service to the same safety and health standard as the private employees. My bill further eliminates differential standards of health and safety between private employers and the Postal Service.

Since House approval of H.R. 826, the Subcommittee on Postal Personnel and Modernization has conducted extensive oversight hearings and on-site investigations of the safety and health program in the Postal Service. That program is deficient in several major respects. In addition, a recent accidental fatality in the New York Bulk and Foreign Mail Center was a direct result of numerous serious safety defects which were disregarded by postal management. Two weeks ago, in Bellmawr, N.J., postal employees were allegedly refused permission by postal management to vacate a burning postal facility. In Miami, Florida, the Postal Service has been sluggish in taking action to examine former employees who since 1957, were exposed to excessive levels of cancer-producing asbestos fibers in the atmosphere.

The Postmaster General, who recently appeared before the Subcommittee only under threat of a subpoena, was unconvincing in his efforts to convince the members that he was serious about taking immediate action to correct these unsafe conditions. He did support the provisions embodied in this legislation.

I want to make it clear that enactment of this bill would not authorize employees to conduct "strike with pay" over unsafe working conditions; nor would it permit malingering.

5. SEN. EN. P. & F. S. 4/15/80

NINETY-SIXTH CONGRESS

WILLIAM (BILL) CLAY, MO., CHAIRMAN

CHARLES H. WILSON, CALIF.	DELRAND DILMAN, N.Y.
WILLIAM B. FORD, MICH.	WILLIAM K. HANNENSTEIN, CALIF.
ROBERT TOWERS (JERRY)	
LEAHY, IOWA	

U.S. House of Representatives

COMMITTEE ON POST OFFICE AND CIVIL SERVICE
 SUBCOMMITTEE ON POSTAL PERSONNEL AND MODERNIZATION
 200 CANNON HOUSE OFFICE BUILDING
 Washington, D.C. 20515

STATEMENT OF HONORABLE WILLIAM L. CLAYBEFORE THESUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION ANDFEDERAL SERVICES OF THESENATE COMMITTEE ON GOVERNMENTAL AFFAIRSApril 15, 1980

Mr. Chairman, I appreciate this opportunity to express my strong support for prompt Senate approval of H.R. 826. This bill, when enacted, will authorize the Occupational Safety and Health Administration (OSHA) to conduct unannounced inspections and surveys of postal facilities and to impose sanctions for violations of federal safety and health laws. The purpose of this legislation is to reduce the frequency of job-related injuries, accidents, and illnesses by postal employees and to motivate the Postal Service to provide a safer and healthier work environment.

H.R. 826 was introduced in the House of Representatives by my distinguished colleague, Congressman Charles H. Wilson of California, and was referred to the Subcommittee on Postal Personnel and Modernization, which I am privileged to chair, of the Committee on Post Office and Civil Service. The bill was approved by the House of Representatives, under suspension of its rules, on October 22, 1979.

The first section of H.R. 826 would amend section 410(b)(7) of title 39 of the United States Code. The existing section 410(b)(7) provides that the Postal Service shall be subject only to section 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668), which sets forth the requirements of federal agencies' safety and health programs. The amended section 410(b)(7) would subject the Postal Service to all provisions of the Occupational Safety and Health Act of 1970 (and any future amendments to the Act), except section 19 and section 17(e) (the Act's criminal penalty provision).

The effect of the amendment would be to remove the Postal Service from the federal agency safety and health program and

place the USPS under the provisions of the Occupational Safety and Health Act which apply to private sector employers. The Postal Service would thus be subject to the same OSHA inspections, investigations, recordkeeping requirements, and sanctions (except criminal penalties) as are private employers.

Section 2 of the bill would amend section 410 of title 39 of the United States Code by inserting a new subsection (d) which would provide that, for purposes of section 410(b) of title 39 of the United States Code (as amended by the first section of this bill), and for purposes of the Occupational Safety and Health Act of 1970, the Postal Service shall be considered a "person" and an "employer".

Under existing law, representatives of OSHA may inspect postal facilities only upon the invitation of the Postal Service. The Postal Reorganization Act of 1970 requires the Postmaster General to maintain an effective safety and health program. However, an intensive year-long investigation by my Subcommittee revealed the sad fact that the Postal Service has failed to meet this requirement. We conducted on-site inspections, oversight hearings, and a review of postal documents. We learned that:

- * Despite its mandate, the Postal Service is the second largest employer in the United States but has the highest accident and injury rate of all federal agencies.

- * During fiscal year 1977, the rate of lost workday injuries and illnesses within the Postal Service exceeded that rate within the federal government by almost 150 percent.

- * 55 percent of all lost workdays due to accidents and injuries in the federal government were attributable to the Postal Service.

The Subcommittee was also distressed to find that the Postal Service has established a pattern of disregarding, neglecting, and minimizing allegations of unsafe working conditions. We visited Miami, Florida and learned that at the former Biscayne postal facility, the Postal Service disregarded employees' allegations of cancer-producing asbestos fibers in work areas. We visited New York and learned that at the Morgan Postal Facility, the Postal Service neglected allegations of unsafe conditions which were eventually rectified only after I personally arranged for an OSHA inspection. Throughout postal facilities, postal inspectors, who are responsible for preserving the sanctity of the mail, are subjected to unsafe conditions in their work areas. These hazards are minimized by the USPS.

The House of Representatives, in approving H.R. 826, endorsed my view that, because OSHA representatives may inspect

postal facilities only upon the invitation of the Postal Service, the Postal Service is not motivated to improve safety and health conditions. Private employers, however, are subject not only to unannounced safety and health inspections and surveys but sanctions by OSHA. Enactment of H.R. 626 would therefore subject the Postal Service to the same standards as private sector employers and motivate them to provide a safer and healthier work environment for its employees.

In June 1979, the Department of Labor evaluated the safety and health program of the Postal Service. That report, which is already available to your Subcommittee, stated in part,

"...The passage of the (postal reform) legislation did not achieve the desired results...the USPS safety and health program has deteriorated in both size and strength..."
 "...USPS reporting procedures leave management without current causal information."

The deplorable safety and health policies and practices within the Postal Service were dramatically brought to public attention when, on December 15, 1979, a postal employee, Michael McDermott, was accidentally killed when he became entangled in an extendible conveyor at the New York Bulk and Foreign Mail Center (NYF&BMC) in Jersey City, NJ.

After public hearings were scheduled in Jersey City, the Postal Service asked the Department of Labor to conduct safety inspections at each of the 21 Bulk Mail Centers. Significantly, however, the recommendation of both Congressman Benjamin A. Gilman and myself, that no extendible conveyor be operated at that facility until it was certified safe, was not accepted by the USPS because to do so might make it difficult for them to move the mail.

In the hearings which followed, sworn testimony before my Subcommittee revealed that:

* According to OSHA, employee safety does not have the full support and commitment of top management at the Postal Service.

* In order to increase productivity, emergency safety switches were disconnected and safety guards were removed by postal employees.

* The accident investigators shared my conclusion that the Postal Service places the safety of its employees secondary to its efforts to move the mail with dispatch.

* OSHA attributed Mr. McDermott's death to twelve serious

safety hazards. Contributing factors were a pervasive attitude of moving the mail at all costs, disrespect and abuse of equipment, a pervasive lack of preventive maintenance and equipment, and an organizational structure in which safety officials are ineffective in getting remedial action for safety violations.

* If the Postal Service were a private employer, the situation would be referred to the Department of Justice for consideration of charges of willful neglect of employee safety.

* Numerous safety inspections which identified unsafe conditions were disregarded by postal management and postal managers were not disciplined for disobeying postal safety policies.

The Deputy Secretary of Labor for OSHA, Basil Whiting, testified under oath that nearly 95% of postal employees are exposed to safety hazards greater than office workers; each year about 15 postal employees die in work-related accidents; as of June 1979, the 420 full-time postal safety officials spent about half their time processing workmen's compensation claims.

A June 1979 audit of the NYB&FMC by the Postal Inspection Service reported that, "...the emphasis on safety is frequently disregarded in favor of completing the mail processing mission."

There is an understandable tendency for concerned persons to ask, "Who killed Michael McDermott", and to focus on resignations, reassignments, personalities, and conflicting institutional interests. Perhaps if safety hazards at the NYB&FMC were unique, we could afford that luxury. But such preoccupations are shortsighted. Tragic as it may be, those conditions are not unique.

My Subcommittee has ample documentation that unsafe conditions exist throughout the Postal Service. They are a matter of public record and are available for your review. The "blame" for these unsafe conditions - if one must place "blame" - rests with an institution which responds to the imperative of safety only in a crisis. Our Subcommittee files are filled with reports of on-site inspections, employee complaints, and internal postal documents which show that in the USPS employee safety is secondary to mail processing.

H.R. 826 will help correct these deficiencies. H.R. 826 will motivate the USPS to obey our nation's laws.

Incidentally, Mr. Chairman, if the Postal Service were more cooperative with the oversight efforts of this Subcommittee, our task would have been facilitated considerably. Instead, the Postal Service comes forth with information only when pressed

to do so. Usually on those occasions, the Subcommittee is given the barest of information. Many of these responses can charitably be described as paternalism in its rankest form.

While the number of postal employees is declining, the cost of injuries and the number of lost workdays are increasing. Over 880,000 workdays were lost last year because of accidents and injuries.

Aside from its moral implications, we also know that unsafe working conditions cost money. Last year, they cost the USPS over \$165 million...money which could be used to increase the efficiency of mail delivery.

The draft Executive Order which is being circulated among interested parties is not at all acceptable in terms of motivating the Postal Service to comply with the Postal Reorganization Act of 1970. That Order would only authorize OSHA to conduct unannounced inspections and surveys at the invitation of employees or their representatives. It implicitly places the burden of safety upon the victim - the postal employee. I frankly don't think that that makes any kind of sense. In addition, the draft Executive Order contains no provision for the imposition of sanctions upon violators of the law. Thus offending agencies are not motivated to comply with laws which already apply to private employers.

Let me now turn to the issue of sanctions...the imposition of civil penalties upon the Postal Service for violating federal safety and health laws. The disastrous state of postal safety programs convinces me that without some form of enforcement - sanctions - postal employees will never have a safe work environment. Indeed, given the circumstances of Michael McDermott's unnecessary death, I can say with certainty, that were H.R. 826 the law of our land, Michael McDermott would be alive today!

Some have minimized the significance of imposing fines upon the USPS as merely transferring funds between Governmental agencies. If the USPS was like other Governmental agencies, there might be some validity to that point of view. But the Postal Service is different from other Governmental agencies in that it derives most of its revenue from operational services. Thus, Mr. Chairman, the imposition of civil penalties upon the USPS would be felt where it hurts most - in its pocketbook.

Private employers who repeatedly and flagrantly violate federal safety and health laws, are subject to monetary sanctions. Their management is held accountable by their stockholders. Why should the Postal Service be treated any differently.

There are those who ask, "Why should the Postal consumer have to pay for violations of federal safety laws by the USPS?" Well, the fact of the matter is that they already are paying for these violations - to the tune of over \$165 million annually in workmen's compensation costs. Enactment of H.R. 826 will help reduce those costs which are being borne by the public.

The imposition of civil penalties upon the USPS would also be a means by which responsible postal managers are held accountable for violations of federal safety and health laws. As I stated earlier, my Subcommittee has found no evidence that postal managers who violate postal safety policies and federal statutes are disciplined.

Criminal sanctions were considered and rejected in the drafting of H.R. 826 because the severity of those penalties might make adjudicatory authorities reluctant to impose them. In addition, I also would be reluctant to see the Department of Justice become involved in safety and health issues.

Therefore, Mr. Chairman, enactment of H.R. 826 - with reasonable civil penalties for repeated and flagrant violations of existing federal safety and health laws, is not simply a moral imperative. It is an economic imperative. It will save money for the American public as well as save lives of its postal employees. It makes good business sense.

H.R. 826 is a moderate piece of legislation. It is fair. It is a balanced approach to a serious national problem. Its need has been amply documented. Its sanctions - without which this bill would be virtually meaningless - have been carefully considered.

H.R. 826 is in the public interest. Its enactment is already long overdue.

I hope that the Senate will approve H.R. 826, as it passed the House of Representatives, without delay.

Mr. ANDREWS. We will also request the committee to consider favorably and include in the language an amendment to H.R. 826 or the section of the chairman's bill which places the U.S. Postal Service under the OSHA law.

In regard to H.R. 79, the postal reform measure, my union endorsed the legislation as reported by the House Post Office and Civil Service Committee. Even though the House of Representatives did make a number of changes in the reported bill prior to its overwhelming 350 to 14 approval, we can support the legislation as pending before the committee.

In view of the recent recommendation by the respective Budget Committees of the House and Senate to reduce USPS public service and revenue foregone appropriations by \$836 million in the House and \$583 million in the Senate with the proposed disastrous reduction of 6-day mail delivery to 5 days a week, we cannot urge this committee too strongly to retain all provisions of section 4 of H.R. 79, which would increase public service funding of USPS and retain 6-day mail delivery.

The President, in his most recent revised budget for fiscal year 1981, proposed a reduction of \$250 million in USPS appropriations, but did not recommend any reduction in 6-day mail delivery. Even this proposal, in our opinion, would create chaotic postal service and employee problems. The American Postal Workers Union opposes all reductions in USPS appropriations and requests that this committee favorably report H.R. 79 with section 4 intact and an amendment guaranteeing retention of 6-day mail delivery, protection of continued mail service by smaller post offices, and all other services presently available to the American public, as a minimum.

In conclusion, Mr. Chairman, we understand that you may be introducing legislation incorporating postal reorganization funding and placing the USPS under the Occupational Safety and Health Act. Regretfully, a copy of the bill was not available as the deadline to complete this summary and other statements we have requested be included in the hearing record. Assuming you do introduce such a bill, we will be happy to submit an additional statement concerning it as an addendum to our position statement.

Thank you, Mr. Chairman and members of the committee, for this opportunity to present these views of the American Postal Workers Union on H.R. 826 and H.R. 79.

Senator GLENN. Thank you Mr. Andrews. Mr. Dean King, president of the National Rural Letter Carriers Association. Mr. King?

Mr. KING. Thank you, Mr. Chairman.

My name is Dean King and I am president of the National Rural Letter Carriers' Association. Our organization, which has more than 61,000 dues-paying members, represents the interests of the rural letter carrier craft within the U.S. Postal Service. I am pleased to have this opportunity to present our views about the postal reform legislation, H.R. 79 and H.R. 826, pending before this subcommittee.

You will find, as an addendum to the remarks I am making before you today, additional testimony which amplifies our position on both pieces of legislation being considered by the subcommittee.

Our support for both these bills is as complete, as unwavering today as it was when they were originally approved by the House of Repre-

sentatives. However, the recent recommendations of the House and Senate Budget Committees to severely reduce annual public service appropriations to the U.S. Postal Service and eliminate Saturday mail delivery compel me to address these bills within the context of these recent budget developments.

I ask that our additional statement, marked addendum, be included in the permanent record as part of our presentation.

Senator GLENN. It will be included into the record at the conclusion of your testimony.

Mr. KING. We strongly oppose the recent recommendations of both Budget Committees of the Congress. Though the public service subsidy reduction levels vary between the two committee reports, they both effect the same results: a serious reduction in public service programs and the elimination of Saturday mail delivery. We recognize that the ultimate decision about the program cuts will be made by the Postmaster General, but his decision surely will reflect congressional action on these budget proposals.

We believe that the elimination or reduction of essential public services, like Saturday's delivery, is not in the public interest and is at odds with the economies that the Congress hopes to achieve in the areas of energy conservation and administrative efficiency. Let us explain why.

Some 56 million persons live in rural America. The Nation's rural letter carriers serve approximately 13.8 million households and businesses, offering not just mail delivery service, but also many of the diverse functions assigned post offices. In 1979, rural carriers drove some 2.2 million miles per day and delivered approximately 18 percent of the Nation's total mail volume. As you know, rural carriers operate as a post office on wheels, providing the rural customer with the very same service that he would receive if he went to a post office.

In so doing, we provided essential services and promoted energy conservation alternatives that would otherwise have been unavailable to patrons living in sparsely populated areas.

Most rural residents are dependent upon rural carriers for daily delivery of everything from magazines, parcels, and letters to local newspapers. Time-sensitive financial mail, like social security checks, are expeditiously delivered 6 days a week to rural customers who would otherwise have to seek these services out on their own.

From an energy conservation standpoint, then, loss of Saturday delivery replaces a rural carrier providing services to hundreds of families, with a hodgepodge of customers trying to replicate those services on their own, all the time using much-needed gasoline in an inefficient, duplicative way.

Elimination of Saturday delivery will only exacerbate rather than improve personnel costs. Overall mail volume will remain the same even if Saturday delivery is curtailed. Its elimination merely places an additional burden on carriers for casing and delivery. Doubtless this will impede mail delivery well into the following week and necessitate significant overtime payments—hardly a viable means of reducing Federal personnel costs.

We believe this commentary about the proposed budget cuts is not unrelated to consideration of the bills pending before the subcommittee today. It was in large part because of the concern about the

absence of congressional controls over Postal Service policymaking and the declining public service subsidy that the House overwhelmingly approved H.R. 79.

In so doing, the House recognized that serious postal problems exist which require immediate congressional action. However, should the Budget Committee's proposals be approved and the public service subsidy allowed to decline or be severely reduced, many unprofitable and public service oriented postal functions will be lost. Comprehensive rural delivery service could be one such case in point.

To illustrate that possibility, I need only cite the February 1980 Congressional Budget Office background paper entitled, "Reducing the Federal Budget: Strategies and Examples." Quoting from the report, pages 55 and 56:

Opponents of 6-day mail delivery argue that those who live in remote areas are no more entitled to full mail service than they are to full fire protection at public expense.

If such an observation seriously reflects the thinking of the Congressional Budget Office staff members, we must wonder what additional reductions in rural postal services congressional budget cutters can have in store.

H.R. 79 made great sense to us last fall when it was passed by the House, and it makes even greater sense to us today. We ask that you preserve the public service funding authorizations prescribed in H.R. 79. Should that prove impossible, however, we endorse the \$920 million appropriation levels provided in Chairman Glenn's soon to be introduced postal reform bill.

It seems to us that what is at issue here is more than just timely decision about trimming Federal expenditures or the appropriate level of public service appropriations to the U.S. Postal Service. The central issue confronting this subcommittee and the Congress is whether or not a universal postal system should be preserved and national public service needs met. We believe they should be, and thus urge the subcommittee's approval of H.R. 79 as passed by the House of Representatives.

[Addendum to Mr. King's testimony follows:]

"ADDENDUM"

TO THE REMARKS OF
NRLCA PRESIDENT DEAN KING
ON H. R. 79 AND H. R. 826
BEFORE THE
GLENN SUBCOMMITTEE
APRIL 15, 1980

As you know, the genesis of the current debate about Postal Service Reform may be traced to the Postal Reorganization Act of 1970, and the fundamental changes in postal service operations and structure which it implemented. Under the provisions of the 1970 Act, postal operations were removed from direct political controls and a public corporation was established to provide improved, cost-effective postal services. Through the adoption of a profit-orientated, quasi-corporate postal service, Congress hoped that mail services would be improved and spiraling operating costs would be thwarted.

We believe that many of the goals enumerated by the 1970 Act have been realized. During the nine-year period, from 1970 to 1979, employee productivity gains were made, payrolls reduced, and annual mail volume significantly increased. Much of the credit for these achievements should rightly go to the present Postmaster General, William F. Bolger, under whose dynamic leadership the USPS has made important advances.

However, this same period has provided Congress, the postal community, and the general public with an opportunity for critical review and evaluation of the 1970 Act. While the USPS has made significant strides toward achieving the goals set for it in 1970, we believe that certain aspects of those reforms should be re-evaluated. We urge this not as a reproach of the USPS or of its present leadership, but rather out of a frank awareness of changing fiscal circumstances and public service needs. We now realize that some of those reforms were mistakes, and that many of the most salient problems associated with developing a comprehensive national postal policy remain unsolved.

Among the most unfortunate consequences of the 1970 Postal Reorganization Act was the acceptance of the myth that the Postal Service could and subsequently should attempt to financially break even. We believe that the 1970 Act established an unrealistic and unattainable goal when it made the USPS a quasi-corporation, predicated upon private sector profit motives. The Postal Service is a public service, whose historical, non-profit orientation precludes it from ever attaining such a goal. Unfettered access to a universal postal system operating at reasonable rates has been a long agreed upon national policy. Had cost effectiveness been a national postal objective, comprehensive rural delivery services, free mailings of items for the blind and handicapped, special rates for library services, and other public spirited projects would never have been adopted.

Let me elaborate on that last point by addressing rural delivery services for a moment. Some 56 million persons live in rural America. The Nation's rural letter carriers serve approximately 13,8 million businesses and households, offering not just mail delivery service, but also many of the diverse functions assigned post offices. In 1979, rural letter carriers drove some 2.2 million miles per day and delivered approximately 18% of the Nation's total mail volume. Many of our patrons live on farms and ranches in sparsely populated areas. Regular, comprehensive mail services for these people would seem financially unprofitable and at odds with a break-even business philosophy. Yet the Postal Reorganization Act of 1970 made special note of the importance of preserving effective and regular postal services to rural America. Comprehensive rural postal services continue to this day, because generations of Americans decided that access to non-preferential postal services should be an American birthright. Continued adherence to the break-even philosophy mandated for the USPS by the 1970 Act may one day place that birthright in jeopardy.

In 1978, Congress began to re-evaluate the Postal Reorganization Act. In that same year, H. R. 7700 was approved by the House of Representatives. The thrust of that legislation was to provide the President and the Congress with a greater voice in the establishment of postal policy and to increase Federal subsidies for postal services.

As the Chairman of this Subcommittee will recall, he introduced interim postal legislation of his own in the 95th Congress.

When S. 3229 was first introduced, Senator Glenn gave us clear evidence of his insight into USPS problems when he declared:

"This legislation recognizes that the 1970 bills' goal of postal service financial self-sufficiency has proven unattainable given present economic realities. My bill eases the Postal Service off that target, but not at the expense of providing management with an easy source of additional appropriations as a substitute for efficiency."

You will recall that our Association lauded you at that time for encouraging closer financial scrutiny of public service appropriations. Your legislation failed to receive full Senate consideration and so no postal reform legislation was enacted by the 95th Congress.

Because of growing concern about the absence of Congressional controls over Postal Service policy making and the declining public service subsidy, Postal Reform legislation was again considered by the Congress. As you know, on September 7 of this past year, the House approved and sent to the Senate, H. R. 79 which addresses both of these concerns. That legislation is today pending before this Subcommittee.

We believe that the House acted correctly in expeditiously and overwhelmingly reporting H. R. 79 out to the Senate. Serious postal problems exist which require immediate Congressional action. For the short run, the central issue confronting Congress is the declining public service subsidy. If the public service subsidy

is allowed to decline there exists the strong possibility that there will be a concomitant decline in many unprofitable but public service oriented postal functions. Immediate Congressional action is needed lest these services be eroded or discarded. As we view it, however, the larger issue confronting this Subcommittee is the role Congress should play in developing and setting national postal policy. Let me elaborate on each of these points in some detail.

In November of last year, the Postmaster General announced a surplus for FY 1979 of 469.8 million dollars. We believe that figure to be misleading, particularly when by his own admission, the USPS will suffer a deficit of more than 600 million dollars in FY 1980. At its December, 1979 annual meeting, the Postal Board of Governors made its projection for FY 1981 known to the public. The Board anticipated a 9% increase in the Consumer Price Index and a 12% increase in the wholesale price index. By conservative estimates, these are modest projections which if in error could only increase the amount of the projected deficit for 1981. Based upon these facts and figures, we believe that additional public service appropriations are necessary and that debate about the size of future postal deficits only obscures the real issue confronting Congress. Two vignettes from last year's House Postal Subcommittee hearings on H. R. 79 proved illuminating in this regard.

The Administration has testified that it believes that increased postal efficiency can be achieved without increasing public service subsidies, and without reductions in customer services. Through business oriented incentives, the Administration is

convinced that efficiencies and economies in USPS operations can be achieved. Yet when questioned by Subcommittee Chairman Charles Wilson about how such efficiencies and economies could be realized without making cuts in public services, OMB Associate Director Franklin Raines was unable to pinpoint any solutions. Mr. Raines could only assure the Chairman that such economies and efficiencies had worked for private sector corporations.

An even more illuminating exchange was the one between PMG Bolger and Subcommittee Chairman Charles Wilson. Quoting from the hearings:

Mr. Wilson: Mr. Bolger, in light of the entire financial situation, including the debt you're carrying, do you have any idea about when, if ever, you will come up to the Hill so support public service funding?

Mr. Bolger: Mr. Chairman, I'm going to say this, I'm going to defer again; I think that the proper way, as long as we don't get the rates out of hand, to get income for the Postal Service and to meet its expenses is to have users pay the bill.

That in a nutshell, Mr. Chairman, is the essence of the whole public service appropriation question. We think that it is doubtful that this or any future Postmaster General will ever come before the Congress to ask that additional public service monies be allocated, so long as present law mandates continued USPS

adherence to a break-even financial philosophy. If additional appropriations are to be made, they will only be authorized when Congress had rid itself of the Postal Service's prevailing break-even mentality. Once and for all, we believe that the Congress must acknowledge the Postal Service's truly public service foundation.

The USPS has adopted the philosophy that users should foot the bill for postal service costs. We think that the Postal Service is a public service, and should be underwritten as needed by Congressional appropriations. In order for the Congress to make meaningful decisions about future public service appropriations, we agree with the Chairman that it needs to be better informed about how such monies are spent.

We recall with great satisfaction Senator Glenn's interest in developing greater USPS accountability for public service appropriations. As he put it when he introduced S. 3229 in 1978:

"Provided the Congress knows by function, how the money is to be spent and has evidence that it is needed for bona fide public service activities, I would not prejudge the need for increased public service payments in the future."

We agree with that philosophy. Accordingly, we propose that the Senate incorporate into the thinking of H. R. 79, a public policy statement whereby Congress would require the USPS to identify by function the public service elements of its operations.

Let me turn my attention now to the hierarchical changes proposed by H. R. 79. Our Association supports direct Presidential appointment of the Postmaster General. We believe that such a direct appointments process will make the Postal Service more responsive to both the will of the President and the Congress. In so doing, it is our hope that future administrators of the Postal Service might one day rid themselves of the "break-even" philosophy which currently pervades Postal Headquarters.

There seems no sure process for selecting a quality PMG. The present selection process, much like its predecessor, the political appointments route, have both produced their share of competent and not so competent PMG's. Earlier in my testimony you will recall that I lauded the current Postmaster General, William F. Bolger, for his dynamic and progressive leadership of the USPS. Mr. Bolger's success as a PMG can, I believe, be traced to his long career association with the Postal Service. Having risen through the ranks, Mr. Bolger has brought to the Postmaster Generalship a unique sensitivity to the often conflicting interests of postal management, labor, and business concerns.

From this experience the Congress might well draw useful parameters for the direct appointment of a PMG by the President. Our Association urges the adoption of a provision which would require that prospective Postmaster Generals have substantive postal experience as either a career postal employee or as a private sector individual involved in postal matters. A provision of this nature when coupled with the political prohibitions

contained in Title 39 of the U. S. Code should help prevent patronage abuses and insure a quality appointment to the Postmaster Generalship.

I should also mention our support for Section 12 of H. R. 79 as approved by the House of Representatives. As you know, Section 12 states that nothing in the Act would affect any collective bargaining agreement in effect on the date of enactment, or impair the Postal Service's authority to bargain collectively, or impair any future collective bargaining agreement. We urge that this provision be incorporated in H. R. 79 if it is enacted into law.

It seems to us that what is at issue here is more than just hierarchical changes in the structure of the United States Postal Service or timely decisions about the public subsidy issue. The central issue confronting this Subcommittee and the Congress is whether or not our universal postal system should be preserved and national public service needs fully met. We believe they should, and thus urge this Subcommittee's immediate and favorable consideration of H. R. 79.

We would also like to endorse another important piece of postal legislation, H. R. 826, pending before this Subcommittee. As you know, the bill would amend Section 410 (b) (7) of Title 39, U. S. Code, and bring the Postal Service under the same health and safety regulations as private employers. Additionally, it would permit the Occupational Health and Safety Administration (OSHA) to conduct unannounced inspections and surveys of postal facilities, and to enforce federal safety and health laws.

Under existing law, OSHA representatives may inspect postal facilities only at the invitation of the Postal Service. H. R. 326 would remove the special status enjoyed by the Postal Service, and make it subject to the same penalties and regulations as any private employer. Though it is the second largest employer in the United States, it is a lamentable record to note that the Postal Service has the highest accident and injury rate of all federal agencies. We think that this legislation represents a much-needed step forward in the fight to create a safe working environment for postal personnel, and urge its enactment into law.

This concludes our written comments. I would be pleased to answer any questions Members of the Subcommittee might have about our presentation. Again, thank you for allowing me to appear before you today.

Respectfully submitted,

Dean King
President, National Rural
Letter Carriers' Association

Senator GLENN. Thank you Mr. King. Mr. James LaPenta, director, Federal public service division, mailhandlers' division, Laborers International Union, Mr. LaPenta?

Mr. LAPENTA. Thank you for the opportunity to make an oral presentation and submit a lengthier statement for the record. I believe you have both.

Senator GLENN. The entire statement will be entered.

Mr. LAPENTA. I am James J. LaPenta, mailhandlers' division, Laborers' International Union of North America. Our union has 600,000 members; 100,000 of those members are in the Federal and public postal sectors.

The Postal Reorganization Act is now 10 years old. I've labeled the first 6 years under the act as the upside down era. During that time period the Postal Service and the American people suffered through three Postmasters General from big business—Blount, Klassen, and Bolger—who brought with them the private sector's product line concept and gave us higher postal rates, less postal service, and a negative equity of some \$2.5 billion.

Some 4 years ago, amendments were passed to the 1970 act that were minor except for the \$1 billion bailout amendment. So here we are again, looking, I hope, to the major areas that need attention:

One: To make the ratemaking procedure expeditious;

Two: To liberalize mail classification procedures;

Three: To allow experimental mail services, without bureaucratic bungling or interference from the Postal Rate Commission;

Four: To allow the Postal Service to offer electronic mail as a universal service. We want an electronic mail service under the direction of the USPS. We want service provided on a universal nationwide basis. We want access to the electronic mail service system by all potential customers and we want the USPS ability to market it without interference by the FCC;

Five: To stop the Federal Communications Commission's attempts to expand its influence over the Postal Rate Commission and the Postal Service;

Six: To stop the Postal Rate Commission's negativism and interference with Postal Service management, as evidenced by interminable delays to ratemaking cases and later a 15-month delay in the Ecom proposal;

Seven: To define the public service aspects of the Postal Service and to continue the subsidies for these classes; and

Eight: Safety for postal workers as evidenced by passage in the House and the Senate of H.R. 826 and companion legislation now in the House called the Postal Workers' Safety Bill of Rights.

We have received a copy of your draft proposal, Senator, and we think your draft bill has a number of helpful administrative improvements. We don't think your safety proposal goes far enough and, while you have authorizations for additional appropriations and rate subsidies and some mail classification and ratemaking procedural amendments, here again we think they are not strong enough nor do they go far enough to do some of the things that I've talked about in my statement, mainly to delineate what role the Postal Rate Commission should play in classification and ratemaking and keep them out of trying to manage the Postal Service. Hopefully we would get the House and the

Senate to do something about this usurping of power on the part of the FCC. Your bill is a start in the right direction and we hope you will beef it up a little bit.

Even as I speak here today, however, about these needed areas of postal reorganization, there are more moves afoot that may well reorganize the U.S. Postal Service right out of existence. I'm referring of course, to the proposed cutbacks in mail deliveries from 6 days to 5 days.

The proposed cutbacks will trigger the eventual dismantling of the Postal Service's unique physical delivery apparatus. If these proposed actions by President Carter and the Congress are successful, our country's first national service industry, the U.S. Postal Service, will be on its way to the scrap heap. In its place will be a private mail carrier, whose criterion for selecting markets will be the amount of profits that can be made.

Ironically, the governmental cost of this dislocation will contribute to inflation. The cutback in delivery will not make the Postal Service the partner in the fight against inflation, the fight that the White House is predicting. The real fight against inflation in which the Postal Service could play a major role would take place if the President and the Congress took action to bring an immediate end to the fight between the Postal Rate Commission and the Federal Communications Commission, the net effect of which has been to delay the Postal Service into the entry of the electronic mail market.

Full entry of the Postal Service into the electronic mail market would be an extremely effective weapon against inflation in the 1980's, because electronic mail has the potential to reduce first-class postage rates by a third, to 10 cents a message.

The provisions in the Postal Reorganization Act call for a 10-percent per year reduction in the \$920 million a year subsidy the Postal Service receives. Those cutbacks are supposed to begin this year.

It escapes us why the President and the Congress would not let this method lower the Federal budget rather than its meat-ax approach. These meat-ax cuts do not represent the same thing to the Postal Service that they do to the Departments of Health and Welfare, Housing and Urban Development, and Labor. Those agencies will have to cut social services and will be able to restore many of these services when the inflation crisis is over.

The Postal Service will not be so lucky; it will not be easy to restore the Postal Service. It very likely will be impossible.

In the more traditional areas of postal reorganization, it should be pointed that the current Postmaster General has improved traditional service; provided mailers with new and needed postal services; increased postal volume by some 8 billion pieces; and has also increased postal employment by some 20,000 jobs.

Postmaster General Bolger had a surplus recently, the first one since World War II. These are no minor accomplishments, and yet they stand a chance of being wiped out entirely by delivery cutback proposals that make no sense from any point of view.

Senator GLENN. Thank you Mr. LaPenta. Mr. Vincent Sombrotto, president, National Association of Letter Carriers of Washington, D.C., Mr. Sombrotto?

Mr. SOMBROTTO. Mr. Chairman, members of the committee, my name is Vincent R. Sombrotto, president of the National Association of Letter Carriers, AFL-CIO.

The National Association of Letter Carriers, a labor organization consisting of more than 230,000 members, is the exclusive bargaining agent of city delivery carriers employed by the U.S. Postal Service. Consequently, we believe that it is one of our essential functions to represent our members in all matters affecting their employment with the Postal Service and in all matters affecting the continued economic vitality of the service itself.

We appreciate this opportunity to express to the members of the subcommittee the views of the NALC concerning H.R. 79, the Postal Service Reorganization Act of 1979, H.R. 826, the Occupational Safety and Health Act of 1970, and your legislative measure, Mr. Chairman, which I understand has been, or will be, introduced today.

The National Association of Letter Carriers supported, and still strongly supports, the underlying purposes and goals of H.R. 79, however, we recognize that the very emotional budget-cutting reducing environment we are living in today militates against Congress passing and the President signing H.R. 79 into law. Be that as it may, we view H.R. 79 as a lean trim piece of legislation which recognizes the importance of improving postal service, efficiency, and the accountability of the Postal Service.

H.R. 826 brings the U.S. Postal Service under almost all of the substantive provisions of the Occupational Safety and Health Act of 1970. We consider H.R. 826 an extremely important piece of legislation and we commend you and your subcommittee for including H.R. 826 as part of these hearings.

Let me begin, Mr. Chairman, by stating the magnitude of the problem H.R. 826 is trying to rectify. With 575,000 bargaining unit employees and a total work force of almost 700,000, the U.S. Postal Service is the largest industrial work force not protected by the statute which the Congress has deemed necessary to safeguard the general American work force—that is the Occupational Safety and Health Act of 1970. Of even greater importance than the size of the work force is the number of injuries which H.R. 826 is designed to reduce.

Labor Department statistics show that for compensation year 1978, postal employees suffered over 86,000 reported injuries, which is almost 43 percent of the total numbers of injuries reported by all Federal workers and which represents one injury for approximately every six figures.

When compared with the similar industries in the private sector, the Postal Service's injury frequency rate is approximately four times as great as that of similar industries in the private sector.

The problem is clear. Yet postal management has steadfastly refused to implement a meaningful and viable safety program. Only if the Postal Service is brought under the full protection of the Occupational Safety and Health Act of 1970 will the Postal Service be compelled to establish a comprehensive safety and health program which will lead to a reduction in the shockingly high injury rate I have just discussed.

Mr. Chairman, I will now discuss your measure, the Postal Service Act of 1980. Because of time constraints, I will limit my oral remarks to three sections of your measure, sections 2, 5, and 10.

Postal Service Act of 1980, section 2—occupational safety and health. Section 2 of your measure, Mr. Chairman, brings the USPS under the provisions of the OSHA Act. This section goes even further than H.R. 826, in that it includes criminal sanctions, which H.R. 826 excluded. It also requires a report to be submitted to the Congress and allows the Postal Service to hire its own attorneys to conduct its own litigation inquiries under the provisions of the Occupational Safety and Health Act. As with H.R. 826, we strongly support this provision. However, Mr. Chairman, we would prefer that this provision be treated as a separate legislation because we could be caught in a legislative box if comprehensive postal legislation were amended to the point that the NALC would be forced to oppose the amended legislation.

With OSHA included in such a bill, NALC would be in a position of opposing comprehensive postal legislation, even though it contains an OSHA provision, thereby losing both postal reform and OSHA in a legislative Catch-22.

Section 5, public service authorization. As with H.R. 79, we support at the very minimum a continuation of the \$920 million Public Service appropriation. We would prefer to recommend the moneys contained in H.R. 79, but as noted earlier, that does not appear to be realistic, given the present climate.

We do commend you, Mr. Chairman, for including \$920 million in public service funding in your legislation. We assume that you are opposed to the recommended postal budgetary cuts that are contained in the Senate and House budget resolutions. We encourage your opposition to these counterproductive, devastating cuts in postal appropriations and we pledge our support to your effort.

The Postal Service must have these funds to continue the services the American public has grown to rely on, such as small post offices, door-to-door delivery, corner collection boxes, and, most importantly, 6-day mail delivery.

The National Association of Letter Carriers is extremely concerned about the retention of the 6-day delivery. We consider this a critical issue both because of its impact on our members, the working letter carriers of the United States, and the impact on the American public.

If 6-day mail delivery is scrapped in a way being discussed by some, eliminating mail delivery for different days of the week in different sections of the country, urban America will be pitted against rural America, one region of America will be pitted against another region of America and, most critically, postal services to all Americans will deteriorate.

In regard to this vital issue, we respectfully recommend that you amend your bill in subsection 5(a) where you state that public service money should be used to provide a maximum degree of effective and regular postal service nationwide by adding specific reference to 6-day mail delivery.

Section 10, qualifications of governors and commissioner. While we support your attempt, Mr. Chairman, to insure a more responsive, responsible, and experienced Board of Governors by outlining some areas of qualifications, this is not, in our opinion, a substitute for the provision in H.R. 79 which would have the Postmaster General appointed by the President and would abolish the Board of Governors.

Mr. Chairman, as you know, this organization has for some time called for the abolition of the Board of Governors. Our attitude, at the

present time, is this: The Board of Governors as it presently exists has no purpose. As for the question of direct appointment of the Postmaster General by the President, we support this change because we believe that the Postal Service must be directly responsible to the public. Only by direct appointment by the President of the Postal Service's chief executive officer will this be possible.

In summary, Mr. Chairman, we hope that as soon as possible you will move some form of postal reorganization legislation which will guarantee basic nationwide postal services that the American public demands, such as 6-day delivery, and that you will also quickly move separate legislation that will bring the U.S. Postal Service under OSHA.

I would at this point like to request that I have the opportunity to submit to the subcommittee additional observations and materials in relationship to your proposed legislation.

Senator GLENN. We'd welcome those comments.

Mr. SOMBROTTO. I will be glad to respond to any questions that you or any member of the subcommittee would like to address to me. Thank you.

Senator GLENN. Thank you very much. Your last comment with regard to direct appointment of the Postmaster General by the President, would this include appointment of postmasters down at the local level.

Mr. SOMBROTTO. Well, we haven't discussed that in the bill. We primarily targeted the appointment of the Postmaster General by the President. I'm sure that could be a natural extension of that position. Whether or not we would want to get into that, that's something that we would take some time—

Senator GLENN. You would advocate return then to a completely political post office.

Mr. SOMBROTTO. Excuse me.

Senator GLENN. You would advocate then a return to a completely political post office, top to bottom.

Mr. SOMBROTTO. No. We just want accountability to the public and we feel that the appointment of the Postmaster General by the President would create that atmosphere for accountability. I would point out that the act itself, H.R. 79, specifically prohibits the appointment of lesser postmasters on a local level by the President or the Congress.

Senator GLENN. The reason I asked, and I would welcome comments by anyone else, too, is that this sounds very attractive. We're going to make the Postal Service more responsive to the American public. To do this, we say we're going to appoint the Postmaster General who is accountable to the President, supposedly. But he doesn't do these things by himself. He's got to have a whole hierarchy of people to execute the President's wishes.

It's always been a puzzle to me where the political level would end. If you're going to make the Postal Service truly politically responsive, and the way you're talking, you want every public desire met, it's got to be reflected in the political selection of a PMG then. It seems to me you could have political appointments right down the line, clear to the bottom.

Now, if that's not the case, then where do you cut political appointments off. You don't just appoint a PMG, keeping all the old people

right in place, and suddenly have a politically responsive post office. There has to be some level of control. Would it be the regions, the districts, or only major post offices. I've asked this question at hearings before and I've never gotten a satisfactory answer from those who advocate the political appointment of the Postmaster General. It seems to me that, if we're going to a political post office, then that will be down through the whole post office system.

I don't see that just making a Postmaster General a political appointee accomplishes what you're advocating. Do you have any further comments?

Mr. SOMBROTTO. Well, there are two elements of the accountability factor. If the Postmaster General is appointed by the President, policy would be set by the Postmaster General and would be followed through and enacted by those subordinates below the Postmaster General's office.

Also the fact of the question of public subsidy. The Congress having some control over how that money is appropriated to the Postal Service adds a measure of accountability to the Congress itself. No, we're not in favor of a total political entity as a postal service. What we want is more accountability to the American public through its elected representatives.

We think that could be accomplished.

Senator GLENN. In what ways do you feel the Postal Service is not being responsive to public needs now?

Mr. SOMBROTTO. In many areas, but—

Senator GLENN. Could you make a list of them for me?

Mr. SOMBROTTO. To be specific, the Postmaster General can and does in the Postal Service, is the biggest violator of the health and safety standards of any employer in the Nation. They do it with total impunity. They regard the fact that they are above the law.

I point out another issue that when you asked the question sort of. The question of the violations under the Fair Labor Standards' Act under which they can stonewall some 600,000 employees out of their just and rightful payment of previous violations. When they can stonewall the Department of Labor and its solicitors and can fight the courts and use every tactic to deny employees their rights under the law is an indication of the type of attitude that prevails in the Postal Service under the present system, we feel.

If the President had appointed the Postmaster General, (a) we would have had a better safety situation within the Postal Service and, (b) they would not be violators of the law and feel that they have the right to violate the law with impunity.

Senator GLENN. I don't want to spend all our time on this.

Mr. LAPENTA. But I'd like to make a comment on that because this is a very important issue.

Senator GLENN. Fine.

Mr. LAPENTA. You've hit one of the core subject matters which has been discussed before the Congress in every session since the passage of the 1970 Postal Reorganization Act. You are on the right track, raising the right kind of question.

Setting personality aside, because I happen to think the current Postmaster General in the field of operations and traditional services has been excellent. I've got some beefs with him about a couple of other

things in the personnel policy and labor relations area, but in due course I'll take those up with him. When we go to the bargaining table for example, that's where we do that business, not behind his back. We take him on when it's time to take him on.

But the Postal Reorganization Act is weak by not providing for some accountability and responsibility by having the Postmaster General appointed and abolishing that Board of Governors which hasn't done a damn thing. In retrospect for example, Senator. The current situation we're involved in, if we did go down the line. If, because we are vehemently opposed to it, and you did get the consensus of the Congress and the President that we would eliminate 1 day delivery. Under that Postal Reorganization Act, the President would have to sit around and stew away, and so would you while the Postal Service went through all the provisions of the Postal Reorganization Act; gone before that Postal Rate Commission and getting a decision before they could cut that 1-day delivery service.

That's what me and my colleagues have tried to point out to the Congress all these years. The Postmaster General and that Board of Governors are not accountable or responsible to anyone. Neither is the President or the Congress of the United States. That has to be changed and that can be changed. That's a fundamental change that is necessary and it can be changed without making the Postal Service a political animal again.

Senator GLENN. Who else would like to comment? Mr. Andrews?

Mr. ANDREWS. I'd like to comment on that political animal. In 1969, the Republicans were in charge of the post office and all the appointments, yet if you think there's no politics in the post office, they knocked out about 1,000 people in the upper strata and the politics existed then. It still exists.

That's why we say the Postmaster General should be appointed by the President to forego any of these things.

Senator GLENN. Would anyone else like to make a comment?

Mr. Andrews, in your written testimony, you claimed the postal safety officers cannot move ahead to adequately address safety problems without going through layers of carefully constructed redtape designed to prolong and frustrate anyone who may be trying to correct safety hazards. That's a pretty serious charge.

Why do you feel the Postal Service is so insensitive to the health and safety of postal workers?

Mr. ANDREWS. Well, the things that are happening at the present time. I know I went with Congressman Clay down to Miami to check out the asbestos problem they had down there. It has existed for some time. That asbestos situation was a bad one and people down there just didn't do anything about it.

It could affect 10,000 workers. The situation that happened in Bulk, and a record of situations where there is a reduction of nurses, there's reduction of safety people in the Postal Service. They've relegated that basically just to some supervisory personnel who are designated to be supervisor of safety. That's what we claim hasn't been adhered to in the actual layout in the post office in the first place.

Senator GLENN. Does anyone else want to comment? Mr. LaPenta?

Mr. LAPENTA. Senator, the Postal Service safety program is basically flawed. It's a failure because it does not have the basic com-

ponents that any safety program, for example in the private sector like the kind the DuPont Co. has or the steel companies have. A program made up of three E's, engineering, enforcement and education.

The Postal Services program is hyped high on education and not tough enough on engineering and enforcement. As many of these companies in the basic industries, the automobile and steel industry will tell you, you've got to engineer job safety. You, of all persons ought to know that, being an astronaut.

You know you make a particular piece of machinery or a vehicle fail-safe. That's what has to be done. Also enforcement, as Brother Andrews has tried to point out. You can't have a safety program if a safety official can't shut down a job. If he can't tell an operations guy to shut that unsafe job down, you don't have safety enforcement.

That's basically the flaw in the Postal Services program. Until they give as much emphasis to safety engineering and safety enforcement as they do safety education, those figures won't be turned around. Initially it's going to cost them a lot of money. I can't sit here and tell you that it won't cost money. Engineering costs money.

Senator GLENN. Mr. King, in your testimony you mentioned that, if Saturday delivery is curtailed, it will necessitate significant overtime payment by the Postal Service. Can you describe the basis on which you make this claim, and do you have an estimate of what these overtime payments would be?

Mr. KING. I would not have an estimate as to what the overtime payments might be, but I think we all realize that if you eliminate the Saturday delivery, there's going to be extra mail to sort and deliver the first of the week.

Recognizing we have a number of Monday holidays as well, we'll not only have the Saturday and Sunday mail piling up, but you'll have the Monday mail as well. When you have a backlog of mail, you will have, in all probability, some overtime payments to make in order to get that mail out.

The alternative is to have some more backlog of delivery the rest of the week to try and get that week's mail out. By that same token, with the time standards of delivering mail, you'll probably have some other alternate delivery methods taking mail volume away from the Postal Service to where we won't have the viable postal system we have today.

Senator GLENN. You, too, support, I believe, the appointment of the Postmaster General, by the President.

Mr. KING. Yes.

Senator GLENN. Is that correct?

Mr. KING. Yes; I do. I think Mr. LaPenta has articulated that position very well. When you talk about politics within the Postal Service, I think you can have the internal politics just as much as the external, but we still feel there has to be a greater accountability to the general public.

Senator GLENN. You pointed in your testimony to some of the gains that have been realized since the Postal Reorganization Act of 1970. You mentioned employee productivity gains, reduced payrolls, and increased annual mail volumes.

In view of all that, if we went back to a Postmaster General appointed by the President, how far down would you go with the political appointment process.

Mr. KING. It could go all the way, if you wanted to. You could address that however you want to. As I said, we have the internal politics in the selection of some of the postmasters now. I think we all recognize, while we don't have the external politics, a selection that is made is usually made on the approval through the sectional center. So we have politics involved in it one way or another.

I do believe that at least we need the Postmaster General at the top level appointed by the President and the responsibility to the general public.

Senator GLENN. I don't disagree that in any selection process there's going to be some, I suppose, political consideration given. We don't just put names in a hat and pull them out. There's going to be qualification criterion and somebody has to do the selecting. So I don't see how we are ever going to eliminate entirely that kind of consideration.

It's still not clear to me, how far down you would go to make this effective.

Mr. Sombrotto?

Mr. SOMBROTTO. If I may.

Senator GLENN. Sure.

Mr. SOMBROTTO. Just as other appointments, whether it be in the Cabinet or other department, Federal departments, the President selects a head of that agency or department and then the agency head selects his subordinates and then the lower levels of employees are selected on a merit system. Career employees gravitate up through the system based on the merit system.

We don't see that the Postal Service should be any different in that regard than any other department of the Government.

Senator GLENN. Mr. LaPenta, do you disagree with the basic premise of the Postal Rate Commission decision on ECOM that there should be full and free competition for the electronic transmission portion of ECOM with access to the postal delivery network available to all on a nondiscriminatory basis?

Mr. LAPENTA. The postal rate, first of all our basic problem with the Postal Rate Commission is the length of time that it takes to come forward with some proposals and also what we see to be an attempt by them to get beyond mail classifications or in mail classification decisions. Trying to tie mail classification decisions into operational and management types of programs.

We think they did that there in the ECOM proposal. We think the basic thing wrong with their ECOM proposal, first of all they made it experimental; second, you've got a situation where they don't provide for a universal electronic mail setup. I think the third thing that was involved there was the division of responsibility.

Senator GLENN. You want to go to a full, permanent ECOM right off to bat.

Mr. LAPENTA. Yes, it's absolutely essential. If you look at the other postal systems in the Western world and you look at what Great Britain's done with PRESTEL, for example, and France has done with VIEWDATA and what the Canadian system provides. In order to protect a universal mail system which we have in all of the Western countries, the Postal Service has to get into this right away and has to stay into it.

Electronic mail, now I'm not talking about telecommunications, per se, but electronic mail. To me, electronic mail, ECOM is nothing but a subclass of first-class mail. That's how I view ECOM as a subclass of first-class mail and as such it should come under the full purview of the Postal Service and the Postal Rate Commission, if you decide to keep a Postal Rate Commission and the FCC should have nothing to do with this.

Senator GLENN. When we've talked about this with the postal authorities the indication has been they could not be certain what kind of acceptance or use this would have. That was the reason for going the experimental route. It's a very expensive system to put in and operate. But, will business, for instance, take some of that 80 percent of the mail that is business first class? Would 5, 10, or 50 percent of that be worth the additional ECOM speed or would it not? I think that's been the holdup and that was the reason they wanted to put it on an experimental basis. That's the reason we've been given. We will be getting testimony on that later on.

Mr. LaPENTA. Fine. That's why Senator, I think you ought to be kicking these guys in the tail and getting them to really get into this kind of business and that's what should have been done during the period of the 1970's. There should have been more done as far as research and development was concerned.

Here again is this business of lack of responsiveness and responsibility. I mean, other administrations, postal administrations would be responding to what you were thinking or what the Congress was thinking and they would have gotten into this. But they can just sit back there and play it anyway they want.

Senator GLENN. Let me follow through here in another area, Mr. LaPenta. Could you be more specific as to your recommendations to reduce the role of the PRC in managing the USPS? That is, would you prevent the PRC from considering any alternative proposals in a mail classification case, except for those submitted by the USPS?

Mr. LaPENTA. That's what I'd like to see. I don't think—

Senator GLENN. You'd like to eliminate them period?

Mr. LaPENTA. That's correct. I think the wherewithal for developing rates and developing classes and subclasses of mail, the real expertise lies over there in that Postal Service. That's a national institution. It's been around for 200 years and they've got plenty of people over there that can do that kind of a job. The Postal Rate Commission is something that's been set up and it's only 10 years old, the people who are political appointees. Your bill provides for an attempt to make those people more qualified. So there must be something wrong there, otherwise why would your bill speak to that.

It seems to me it doesn't make sense. In no other kind of situation in America do we have it. Where you set up a regulatory body to regulate one company. The ICC doesn't just regulate one company, nor the FCC, nor any of these regulatory bodies. But here we have a Postal Rate Commission and the only thing it regulates is the Postal Service and that leaves an awful lot of room for mischief. The record is clear. They've tried to manage the Postal Service in some of these decisions.

Senator GLENN. Mr. Sombrotto, in your testimony you state that the Postal Service injury rate is approximately four times greater

than that of similar industries in the private sector. What similar industries are you referring to in that claim, and do you have any documentation?

Mr. SOMBROTTO. Well, the record will show that and we'll provide that documentation for the committee. A similar industry would be United Parcel Service or any service connected industry that delivers, that has a delivery at the end of it.

Senator GLENN. Is the Postal Service's injury rate four times greater than that of United Parcel?

Mr. SOMBROTTO. Yes, I would say it is, if it's not 4, it's 3½ percent or maybe even more. But on the average—

Senator GLENN. Could you provide us some documentaion?

Mr. SOMBROTTO. We will provide you with that documentation.

I might add that two-thirds, 43 percent of all injuries in the Federal sector, as we pointed out, are in the Postal Service. Two-thirds of those injuries are in the letter carrier craft. We have a vital stake in the question of health and safety within the postal establishment.

Senator GLENN. What type of injuries are we talking about which are four times as great?

Mr. SOMBROTTO. They are every type of injury. They run from trips, slips, and falls, all types of injuries.

Senator GLENN. Let me pin this down because it's fairly drastic to claim that one industry has four times the injury rate of any other comparable industry. Now you represent the letter carriers. If we're talking about slipping on ice or dog bites, I don't know if an OSHA program can help that kind of difficulty, but when we're talking about safety in the post office's themselves, I think it can. To say that is comparable to other industrial situations and has a fourfold accident rate is a tremendous charge. I'd like to get additional information on that.

Mr. SOMBROTTO. Sure and I'll give you some logic as to why that is a fact. The ecology of the work place for postal employees is one of danger and hazard and that's compounded by the fact that the Postal Service feels no accountability to anyone in terms of those conditions.

They use the function under the premise that the delivery of mail is the most important factor and we subscribe as employees of the Postal Service. That is a very, very important factor. The delivery of mail and the processing of the mail.

We also would point out it's not to be done at the expense of creating hazardous conditions. Conditions that create and result in employees being injured. The record speaks for itself.

Senator GLENN. Well, does it? That's my point, if you have figures to back up what you claim, I would like to have them for the record because I have never looked at the post office as being that much different from other types of factories, where there's often lots more hazardous equipment.

If the post office has four times the accident rate, then I'd like to know why. Any information you can give me on that, I'd appreciate.

Mr. SOMBROTTO. I think the most dramatic example of the philosophy of postal management of the conditions employees work under and the tragic results is the question of the New Jersey mail bulk facility where the record shows.

The record shows that management, in response to their own needs to process mail at a more rapid rate, took away any precautions of

safety that were built into the system to facilitate more expeditious processing of mail.

Senator GLENN. Does anyone on the panel have a reason why the post office is four times more dangerous to work in than other industrial concerns?

Mr. ANDREWS. Money.

Senator GLENN. What?

Mr. ANDREWS. Money.

Senator GLENN. People aren't wounded by money. That's not an answer.

Mr. ANDREWS. That's what it costs. Anytime you want to put safety—

Senator GLENN. Mr. Andrews, would you agree that the accident rate at the post office is four times what it is outside?

Mr. ANDREWS. Yes.

Senator GLENN. Can you document that?

Mr. ANDREWS. I'll associate with my colleague, Mr. Sombrotto.

Senator GLENN. From your observation would you agree, Mr. King?

Mr. KING. I don't have figures on that as far as whether it's four times as great. In the rural area naturally whenever there is an accident, it's a very serious—

Senator GLENN. Mr. LaPenta, would you agree?

Mr. LAPENTA. Well, I'd have to expand on that just very slightly. The record will show, Senator, you look at the data, during the period of the 1970's, and before that, too. The Postal Service accident frequency rate, until they changed the manner in which they filed the figures, the accident frequency rate when it was computed on a basis of for every million, an injury for every million man-hours of work, that accident frequency rate was 14. It stayed about 14. It went up a little bit, came down a little bit. It stayed that way for 8 or 9 years.

Now, in comparison with private industry and the rest of the Federal Government during that period, there was only the construction industry and maybe one other industry was about the same as the Postal Service or a little bit higher. Most of the other industries, like steel and auto, were about four and five and the Federal Government, the agency that was closest to the Postal Service was the Navy and they only had a five as compared to the Postal Service 14.

In other words, five injuries for every million man-hours worked against the Postal Service 14. Now you are absolutely correct in saying because the Postal Service is so big you do have to watch these figures carefully. There are some of these injuries that are caused by their environmental situations. When you're outside working in the rain, the snow, or the ice, and that kind of thing, and then you have the inside injuries.

The facts of the matter are while the Postal Service was a labor intensive industry you did have these trips, slips, falls, hernias, back injuries and all of that and you're still having those injuries. Compounding that, now that they've become mechanized, you have the tragic situation in New Jersey. Your accident severity, not only your accident frequency, but your accident severity is getting worse.

I think we could supply you with some figures if we can—

Senator GLENN. I'd like to have them. I didn't intend to make this the major issue this morning, but I was so startled by that accident

rate. That's a figure far beyond anything I had ever heard before. I support extending certain of the OSHA provisions, as indicated in the legislation.

Of course I'm trying to cut out every possible injury, but that sounds like such a great difference from other industries that I am very surprised by it.

Mr. SOMBROTTO. We will be happy to supply the committee with that information, but we'll further shock you before we do. The bulk mail facility in Chicago is 22 percent higher than that and comparable.

Senator GLENN. I'd be glad to have information on them, any specific areas like that.

The Postmaster General announced that the USPS will fully comply with Executive Order 12196 on the Federal employee occupational safety and health program. This is the Executive order that provides for some OSHA coverage of Federal agencies. Do you feel that this action by the Postal Service is adequate or is it still necessary to pass legislation to mandate OSHA coverage?

Mr. ANDREWS. I think you'd have to pass legislation because the Executive order doesn't fulfill our expectations for a safe place to work in.

May I refer back to one question?

Senator GLENN. Sure.

Mr. ANDREWS. The President appoints the Board of Governors, they elect the Postmaster General.

Mr. LAPENTA. Senator, OSHA investigations and OSHA onsite drop-ins are not all that's needed here. You need to have the Postal Service come in compliance with the Supreme Court decision and the law, the recent Supreme Court decision.

In order to get the Postal Service to comply with that Supreme Court decision, you've got to cover postal workers under the law, under S section 123 of the National Labor Relations Act. I think those two measures, H.R. 826, and having the postal service covered in S section 123 of the National Labor Relations Act would go a long way toward providing a safer work place for postal workers.

You see, we've got to make the Postal Service understand, Senator, that they've got to let people be able to go home at night, uninjured and unharmed, instead of shipping bodies home at night.

Maybe the Postal Service will have to do as the space industry did. You know the most important thing despite all the fine equipment and everything they had when they sent you up into space that the most important role or mission was to get you back here safe. That's what the Postal Service has to do.

Senator GLENN. Mr. Andrews, in your testimony you mentioned a specific example of a problem with health and safety involving postal workers in Youngstown, Ohio.

Can you provide a few more details to this problem? Just for the record.

Mr. ANDREWS. I'm not familiar with it at this time, but will provide the information for you.

Senator GLENN. All right. If you could provide that for the record, I'd appreciate it. I'd like to have a more complete rundown of that situation. Thank you.

[The information referred to follows:]



American Postal Workers Union, AFL-CIO

817 14TH STREET, N. W., WASHINGTON, D. C. 20008

May 5, 1980

Senator John Glenn, Chairman
 Subcommittee on Energy, Nuclear
 Proliferation, Federal Services
 Governmental Affairs Committee
 6206 Dirksen Senate Office Building
 Washington, D.C. 20510

Dear Chairman Glenn:

When General President Emmet Andrews testified before your Subcommittee on April 15 concerning Postal Reform legislation and our efforts to have the U.S. Postal Service included under the Occupational Safety and Health Act of 1970, you requested additional information concerning a part of our statement in which we referred to unsafe working conditions of the Youngstown, Ohio Post Office.

In an effort to cooperate with you and the Committee, I contacted our National Representative for the Clerk Craft, Gerald F. Fabian in Minneapolis, Minnesota who prepared the original material for our statement.

Please find enclosed the letter which I received from Mr. Fabian dated April 24, 1980 and I hope this additional information will be helpful to you. If we can assist in any other way concerning our testimony, please don't hesitate to contact us.

With best wishes, I am

Sincerely yours,

Patrick J. Nilan
 Patrick J. Nilan
 National Legislative Director

PJN/pd

APR 28 1980



American Postal Workers Union, AFL-CIO

817 14TH STREET, N. W., WASHINGTON, D. C. 20005

GERALD F. FABIAN
NATIONAL REPRESENTATIVE
CLERK CRAFT

903 LUMBER EXCHANGE BUILDING
FIFTH STREET AT HENNEPIN AVENUE
MINNEAPOLIS, MINN. 55401

TEL. 812 334-1858

April 24, 1980

Patrick J. Milan, Leg. Dir.
The American Postal Workers Union
817 14th Street N.W.
Washington, DC 20005

Dear Pat:

You asked me to respond concerning the safety problem with the LSM machines in Youngstown, Ohio.

As you are aware, the employer USPS was reluctant to correct the condition complained of because of some obscure bureaucratic postal service committee called the Engineering Change Board.

After I received the letter from our Youngstown, Ohio Local, I called the Regional Safety and Health officer and reported the problem. This would have been on the 10 of March. He said he would get back to me.

About five or six days later, I was informed by the regional safety officer that the safety switches requested for the LSM machines could not be put on the machine. Because the USPS Engineering Change Board would not approve such a modification and besides "the installation of the switch would not prevent an accident".

I of course, disputed this statement because if a persons hand was caught trying to clear a dropper jam, the machine should be immediately stopped to prevent the employees arm from being drawn further into the machine. This could only be accomplished if the safety shut off switches were positioned at each dropper site on the back of the LSM or if a single rope was drawn across the entire length of the sweep side of the machine and attached to a shut-off switch.

The problem in Youngstown, Ohio and I suspect many other offices, is that there are only three shut-off switches on the sweep side of the machine, and that these switches are positioned so that an operator could not reach them with their other hand, if one hand was clearing mail at the dropper and an accident occurred. I am enclosing a diagram of the sweep side of an LSM to demonstrate the problem.

I have identified by diagram the present method and the proposed. As you can see by the proposed, even an employee working alone can correct the problem.

Page 2

When the Regional Safety Officer, Mr. Rodriguez informed me that no change could be made I informed him that I was sure that this information would be of interest to the senate committee that will be handling the safety and health testimony on placing USPS under OSHA. I left the conversation hanging at that point and closed off.

About three or four days later I got a call back from Mr. Rodriguez and he informed me that the stop switches were available and they would be installed in Youngstown.

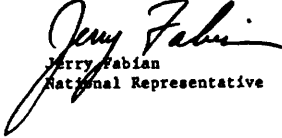
I have subsequently contacted Bill Plant from Youngstown, and he has informed me that both LSM machines now have an emergency stop cord across the entire length of the machine. They were installed around April 7, 1980.

I hope that this information is sufficient to explain the problem and corrections. I might point out, however, that this corrects the problem only for Youngstown, Ohio.

Should you have any additional questions, please feel free to contact me.

With kindest regards.

Sincerely and fraternally,


Jerry Fabian
National Representative

JF:mm

Enc.

2. After modification with pull-rope cut-off

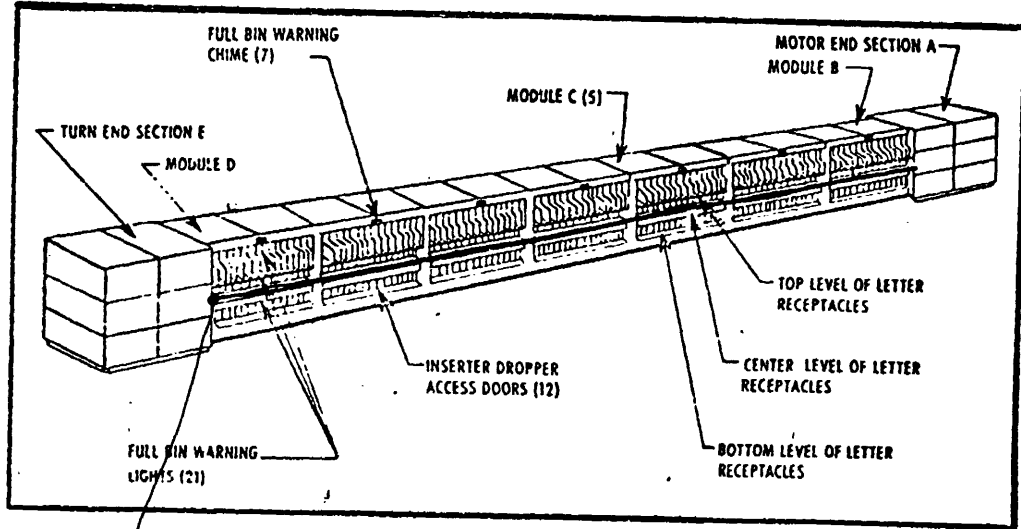


FIGURE 4. MULTIPOSITION LETTER SORTING MACHINE MODELS 120 & 121 12 POSITION SWEEP SIDE

→ Safety stop switch attached to pull-rope which extends across back of entire machine.

1. Present Problem - Before modification

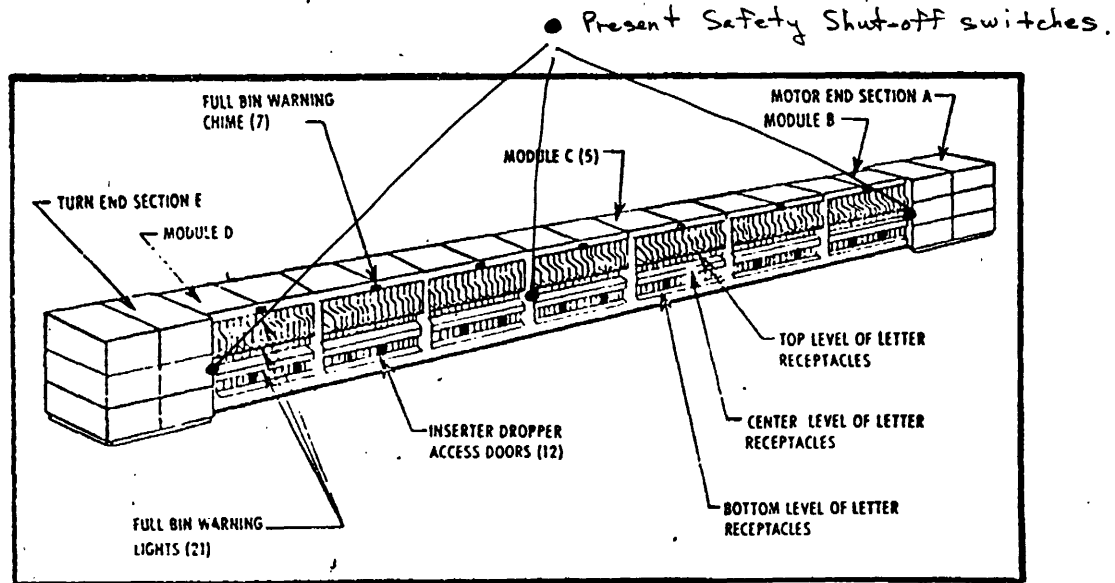


FIGURE 4. MULTIPosition LETTER SORTING MACHINE MODELS 120 & 121 12 POSITION SWEEP SIDE

Senator GLENN. Thank you gentlemen. I appreciate it. We may have additional requests for information from other committee members. We'd appreciate your response to that so that we could include it in the hearing record.

[The prepared statement of Mr. LaPenta, follows:]

ANGILO FORCO
General President

ARTHUR E. COHA
General Secretary-Treasurer

ROBERT J. CONNERTON
General Counsel

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Statement of

James J. LaPenta, Jr., Director
Federal-Public Service Division
Laborers' International Union
of North America, AFL-CIO

Before

The Committee on Governmental Affairs
Subcommittee on Energy, Nuclear
Proliferation & Federal Services

April 15, 1980

Mr. Chairman and Members of the Committee:

I am James J. LaPenta, Jr. My statement today is on behalf of the Mail Handlers' Division of the Laborers' International Union of North America, AFL-CIO. Our Union has 600,000 members, 100,000 of whom are employed in the postal, federal and public sectors.

Mr. Chairman, I am here today to give you our Union's thoughts on two legislative issues that are vitally important to our members. One of the issues is also, or should be, vitally important to all Americans.

Action Congress takes on the first of these issues, the broad one of postal reorganization, will help determine whether this nation has a viable universal postal system by the end of the current decade. The other issue concerns itself with the on-the-job safety of 600,000 postal workers, the nation's second-largest work force. If Congress acts appropriately on the safety issue, it will have taken a major step towards helping to reduce the terrible maimings and even deaths postal workers now experience.

I'll address the issue of postal reorganization first. I want to get into this with some dispatch, because even as I speak, there are moves afoot that may well "reorganize" the United States Postal Service right out of existence. And these moves, Mr. Chairman, are not addressed by your Bill or by H.R. 79, the House Postal Reorganization Bill.

I'm referring, of course, to the two body blows the Postal Service has received in recent weeks - the Postal Rate Commission's decision to tie the hands of the Postal Service so it cannot effectively compete for telecommunications business and the White House/House Budget Committee/Senate Budget Committee proposal to eliminate six day mail delivery.

I don't think one has to be clairvoyant to predict the result of these two events - together they will "reorganize" the Postal Service to a degree that even its strongest critics would eschew.

The proposed cut to a five day delivery standard is merely the tip of the iceberg.

The cut would have a major impact on the Postal Service's unique physical delivery apparatus.

While some major mailers do not need six day delivery and are more interested in predictability of service (getting their huge quantities of mail into the system on a given day and having delivery on a given day) and in pricing (getting discounts for doing their own mail preparation and sequencing to five or seven digits), many other mailers and mail receivers will be unhappy and underserved, and will look towards alternate means of delivery.

They won't have to look far. Alternatives already exist and the choices seem to increase daily. Consider some of these examples:

1. Newspaper and Magazine Publishers

Many newspapers traditionally have had several ways other than the mail to get their product to their customers, at least in the major markets. Newspaper routes and newsstands account for a major portion of circulation in the big cities.

Rural newspapers and those in smaller markets and many weekly papers are more dependent upon the Postal Service. Elimination of Saturday delivery will certainly create chaos for them.

Magazine publishers, of course, also avail themselves of newsstands, and many are now experimenting with private delivery services.

2. Local Density Advertisers

Retailers are increasing their use of density advertising, especially radio and television, and are far less dependent upon mailing circulars than they used to be. Electronic media is almost instantaneous. If delivery days are cut back to five, we would expect retailers to use even less direct mail.

Now there may be some who might applaud the possibility of receiving less advertising mail, but you won't find our members in that category. They know how badly the Postal Service needs the revenues from advertising mail.

3. First Class Business Mailers

Some 80 percent of first class mail is business mail. This total is equally divided between business money transactions (the payment and receipt of bills and the sending and receiving of invoices and statements) and business-to-business mail and business-to-household mail.

A cutback to five day delivery will open the flood gates for these heavy business mailers to accelerate their entry and use of the services provided by electronic fund transfer and electronic message transmission. The office products industry already is offering word processing services between distant

offices via satellite. Computers talk to each other via satellite. In Europe, systems like Prestel, View Data and Cable TV are already providing informational and educational services directly into homes and offices, and furnishing data on telephone listings, airline and railroad schedules, sales at local department and food stores and many other services.

Interestingly, the Prestel system in England was developed by the British Postal Service. Hundreds of hardware and software companies took advantage of the British Postal Service's leadership and developed competing terminals and software packages in a government and private sector coordinated effort to open new markets. Conversely, in this country, the Postal Service is hampered at every bend in the road by the White House, by competing federal agencies, e.g., the Postal Rate Commission and the Federal Communications Commission, and by giant private sector corporations who want to keep the Postal Service out of telecommunications.

4. Specialized Delivery Services

A major beneficiary of the proposed cutback to five day delivery will be the purveyors of time-sensitive delivery services, such as Federal Express, Emery and Purolator. These corporations and new service industries will continue the pressure for further relaxation of the Private Express Statutes because a five day delivery schedule and its concomitant adjustments will simply not meet the needs of many mail users.

The erosion of the Private Express Statutes and the dismantling of our unique postal physical delivery network will leave

the American people without a universal postal service with uniform rates. The Postal Service will be left with mail the "cream-skimmers" won't or can't handle - low volume subsidized non-profit mail and mail to remote places not easily serviced. The result will be greatly increased postage rates for the mail the Postal Service retains or greatly increased subsidies.

Thus, not only will a vital national service - the United States Postal Service - be headed towards the scrap heap, but in its place will be a large number of private mail carriers seeking profitable high density markets with profit-making, not service, the goal.

The byproduct of this transition will be a tremendous amount of social and political pressure brought about by the unemployment and underemployment of a hundred-thousand postal workers.

Ironically, the governmental cost of this dislocation will contribute to inflation. The Postal Service will not be a partner in the fight against inflation; it will be a significant contributor, White House and Congressional pundits notwithstanding.

It is the belief of our Union that none of these factors was considered seriously when the White House and the House and Senate Budget Committees decided that one way to reverse inflation was to start the destruction of the Postal Service.

There may be a way, however, to salvage the situation or at least postpone its impact. That would be to let the Postal Service jump into telecommunications with both feet as the Postal Service itself has proposed.

The path, however, is blocked by Carter Administration's domestic policy advisers and by the inability or unwillingness of the Postal Rate Commission to assert itself and keep the Federal Communications Commission off its turf.

The Postal Service offered a reasonable proposal for entering the telecommunications market. It proposed to offer nationwide services in which private communications carriers would become agents of the Postal Service, responsible to the Postal Service and the people.

The Postal Rate Commission, embroiled in a jurisdictional battle with the Federal Communications Commission over electronic transmission rates, rejected the Postal Service's proposal and came up with one of its own. It was offered as a compromise to resolve its dispute with the Federal Communications Commission.

What the Postal Rate Commission's proposal really did was to state that it had decided to roll over and play dead and not fight the Federal Communications Commission.

The FCC is leading the Postal Rate Commission around by the nose; it assumed the PRC's jurisdiction as a result of the Carter Administration's "know nothing" telecommunications policy announced last summer. The White House left unclear the jurisdictional authority perimeters of the two regulatory agencies.

Congress now has the opportunity to beat back the FCC and get it out of postal regulatory affairs. This nation cannot afford the FCC playing footsie with the PRC in a battle for control over the Postal Service.

Now, on to some specific comments on the need for Postal Reorganization, and here I mean reorganization in the traditional sense.

There have been no major changes to the Postal Reorganization Act since it was passed 10 years ago, other than a subsidy bill passed a few years ago.

There has been some minor fine-tuning, but it has not been enough. Some major Bills have been introduced in the House and sent to the Senate, but nothing really has happened on the Senate side.

So, here we are, back again, and looking to do something about the major areas that need work.

These areas are not difficult to identify, nor does it take a long narrative to describe what needs to be done.

The first can of worms is the entire rate-making process. I don't see the need to enter a list of "horribles" into the record. It should be sufficient to state that the rate-making process is complicated beyond belief, takes entirely too long and is prohibitively expensive.

Next is mail classification. The question here is, "should, or should not, the Postal Rate Commission be involved in mail classification proceedings?" Our Union believes it should not. We have publicly called for the abolition of the Postal Rate Commission, and we stand with that statement. We see the PRC as a major impediment to the efficient operation of the Postal Service.

Third is the area of so-called "experimental" postal services. We think they should be encouraged. We have to praise the current Postmaster General for his efforts to improve traditional postal services and to plan, develop and offer new services.

For most of the preceding decade, we had Postmasters General who were hell-bent on destroying the Postal Service as a service organization. Their goal seemed to be to offer less postal service at higher prices. The current Postmaster General has reversed that trend, and we think he and his management should be encouraged.

Another category needing attention is the public service appropriation. It may be futile to argue for a billion dollar subsidy in the face of a political atmosphere calling for austerity to help resolve inflation, but argue for it we will. It is vitally necessary and its existence means a viable postal service.

Finally, we believe Congress should address itself to developing a concise policy on telecommunications and how it can be best used to help ensure the survival of the Postal Service. We've addressed that topic previously.

The second part of my testimony today deals with the necessity for passage of the Senate's version of H.R. 826, the Bill that would bring the Postal Service in under the Occupational Safety and Health Act of 1970.

Mr. Chairman, on behalf of the Mail Handler's Union and its tens of thousands of members, I would like to thank you for including the OSHA Bill in these hearings. As you may know, it was a member of our craft and our Union who was tragically killed last December 15th at the New York Bulk and Foreign Mail Center in Jersey City, New Jersey.

While I hope the official report concerning the death of Mail Handler Michael McDermott will be presented to this Subcommittee, I think it important to point out right now just how this young man was killed. Mr. McDermott was crushed by a United States Postal Service conveyor belt while he was loading packages on a truck.

I would like the Subcommittee to take a minute and reflect on this young man's death. He was killed while working at his job at a facility of the United States Postal Service.

Now, when Mr. McDermott got his job as a Mail Handler, I'm certain that he did so with the knowledge that his work involved accepting certain risks. A Mail Handler performs difficult and tiring work, and because most Mail Handlers work with mechanized equipment, packages, parcels and heavy bags, a cut finger once in a while or an occasional bump or bruise or muscle aches come with the territory.

But I am just as certain that Brother McDermott never thought for a moment that he could be killed on the job. Firemen get killed on the job - policemen get killed on the job - coal miners and construction workers - they get killed on the job. But a postal employee inside a postal facility? NEVER!

And yet - it happened. And I can practically guarantee it will happen again. Serious disabling injuries take place all the

time at postal facilities, and it is only a matter of time until another worker is killed.

This should not be news to anyone here, however. Our Union has been telling you, other members of Congress, the United States Postal Service, independent investigators - just about anyone who would listen - about the hazardous nature of postal work, and we have been telling you for years. Yet, little has been done.

Last June, I told the House Subcommittee on Postal Personnel and Modernization once again that the U.S. Postal Service had by far the highest rate of disabling injuries among any federal civilian work force. In this particular race, being the winner means you are a loser.

That testimony last year was in support of H.R. #26, the Bill and its Senate version we are discussing today. In its wisdom, the House endorsed my testimony and that of many others and approved the Bill. It still awaits action here in the Senate. Perhaps Mr. McDermott's death will help prod the Bill along here - I certainly hope so.

But, as I pointed out at that time, those of us who represent postal workers are not naive. We are not living under the delusion that OSHA coverage for postal workers will work an overnight miracle on the hazardous conditions under which our members toil. We know that it will take far more than government regulations and unannounced inspections to make postal jobs as safe as they should be, MUST BE.

OSHA, in fact, will provide only one of the three "Es" our Union believes are necessary to optimize worker safety:

THE "E" OF ENFORCEMENT

The other two "es" are Engineering and Education.

By Engineering, we mean human safety engineering; the kind of engineering that makes it virtually impossible for a worker, even through carelessness, to be injured by equipment at the place of work.

By Engineering, we mean guards and safety devices on conveyors that make it impossible for this equipment to snag fingers, gloves, aprons, clothes or legs. And, not only must these safety devices work properly, but, they must also be installed in a way that will make conveyor equipment inoperable if they are removed or disabled for anything other than maintenance.

We probably should go even farther here. We believe postal supervisors who force workers to use equipment on which the safety devices have been disabled should be subject to criminal prosecution. The prosecution of a few overzealous supervisors would do wonders in improving job safety. In fact, the threat of prosecution should extend up the chain of command, so that line supervisors who observe unsafe conditions can stop mail processing without fear of reprisal from their bosses.

By Engineering, we mean the kind that goes far beyond just conveyors. All motorized equipment must be provided with absolute, fail-safe devices so that these vehicles can be stopped dead in their tracks in a split second.

By Engineering, we also mean workspaces with permanent, substantial overhead protection so it is impossible for debris, mail or machinery to fall on postal employees. We want fully operational bumper limit switches, shin plates, safety guards, properly working doors and ramps, emergency switches, rail guards, chain guards. We want adequate lighting at the workplace, and more than barely adequate ventilation. We want noise and dust control. And we want procedures which would make it impossible for our Mail Handlers to be forced to carry sacks that weigh more than the legal 75 pounds.

Mr. Chairman, we know this safety engineering can be accomplished. We are not asking for technological improvements that are still on the drawing board. If the Postal Service's plant and industrial engineers can't - or aren't allowed - to do the job, then force the Postal Service to hire outside experts. Just make sure these experts know their responsibility is to the workers, and not to postal management.

The third "E" we discussed in our testimony last June was Education.

By Education, we mean mandatory, continuous programs on the job and on the clock for all workers and management. Many, many corporations in the private sector have extensive job safety programs totally supported by management and labor, and the result of these has been the virtual elimination of most work-related injuries. If the Postal Service needs to study a "model" worker safety education program, it need only contact the DuPont Chemical Corporation, the industrial company whose plants are among the safest in the nation.

Mr. Chairman, some of the preceding testimony was presented to Congress nearly a year ago. Seven years ago, we presented much the same information to the House Subcommittee on Postal Facilities, Mail and Labor Management. Not coincidentally, the subject that day was also OSHA. Let me briefly quote from that testimony:

"If this Committee does its work well, it will be saving human lives.

"The statistics show that the U.S. Postal Service has the worst safety record of any federal agency. In fact, no other federal agency even comes close. The U.S. Postal Service had almost one-half of all disabling injuries in the entire federal workforce:
 17,466 for the Postal Service, and
 36,300 for all other federal agencies."

In that same year, 1973, and shortly after I testified before that House Subcommittee, I sent the following short memo to the National Director of the Mail Handler's Division, and to the National Officers, the Policy & Steering Committee, the Regional Directors, National Field Organizers and all Local Union Presidents:

"I strongly recommend that the leadership of the Mail Handler's Union, at every opportunity presented, e.g., labor-management meetings, discussions with postal management, grievance investigations, etc., vigorously pursue this business of postal management's allowing unsafe and unhealthy conditions to exist. There is no defense on the part of postal management to these conditions, and you should bear down heavily on this matter."

Just a couple of years later, in further testimony before a House Subcommittee, I told Congresswoman Pat Schroeder that the Postal Reorganization Act should be amended to at least conform with Section 502 of the National Labor Relations Act, which provides:

".... the quitting of labor by an employee or employees in good faith because of abnormally dangerous conditions of work at the place of employment of such employee or employees shall not be deemed a strike under this Act.

"It is worth pointing out that private sector workers have had the right to stop working in the face of dangerous conditions for more than 30 years. Postal workers still do not have this protection."

Four years later, postal employees still do not have this protection. If a postal employee at the New York Bulk Mail Center, or anywhere else, refuses to work off of an unsafe conveyor, he can be severely disciplined. In most instances, that employee will decide to take his chances and get on with his job.

That's where we are right now - getting on with the job. In this instance, testifying about bringing the U.S. Postal Service in under OSHA.

To explain the need for this action, we ought to take a close look at the New Jersey facility and, indeed, at all the Bulk Mail Centers.

The history of the New York Bulk and Foreign Mail Center stands out like a sore thumb, even in the company of the other Bulk Mail Centers. Its history has been one of revolving-door management, stone age labor relations and political controversy.

Controversy, in fact, has plagued that facility since its inception. The very site itself was the center of a major controversy because of the large quantities of methane gas found underground there.

Then you have to mix in the tens-of-millions of dollars of cost overruns. The facility was supposed to cost \$60 million; it ended up costing \$120 million.

It was the prototype of the other Bulk Mail Centers and, as such, was the subject of much madness and hysteria on the part of postal management to make it work. Every aspect of the New York Center was embroiled in controversy:

1. The concept.
2. The feasibility.
3. The capitalization.
4. The research and development.
5. The systems and methods.
6. The equipment and machinery.
7. The cost effectiveness.
8. The projected improvements in service.
9. The human and labor relations impact.

All of these were bent out of shape to make this jerry-built Bulk Mail Center work. The attitude on the part of the Postal Service's Board of Governors and former Postmasters General Blount and Klassen can be categorically described as arrogant and stubborn. They closed their eyes and shut their ears to criticism from any source. They stonewalled the Congress, the General Accounting Office, independent bodies, witnesses and fact-finders, all of whom gave devastating evidence about the problems the Bulk Mail Centers would bring and how this facility in particular was ill-conceived and mismanaged.

Even now, at this late date, despite the death of a Mail Handler, the management of the New York Bulk Mail Center, and the other Bulk Mail Centers, has not changed its attitudes. Their operational character is still one of push-push, production-oriented, move-the-mail and to hell with everything else.

Everything not concerned with production has been tossed out the window. Among the concepts that have not been important at the New York Center are employee morale, good labor relations, maintenance of machinery and maintenance records. Heavy equipment is run 22 hours a day, and we've been hearing rumors that proper maintenance records have not been kept for the last 18 months. We've also been told by our members that of the 93-odd conveyors in the facility,

only 11 have had safety bars. You would think the death of a worker would have shocked management into making changes. This has not happened - a few weeks later another worker was snagged by a conveyor.

Or consider this: when the OSHA investigators were compiling information about the death of our Brother McDermott, a postal supervisor came up to the group of workers being questioned and asked them when they were going back to work.

The mail must go through, no matter what, not even the death of a postal employee can stop it!

I'd like to include in my testimony today quotes from the press coverage given the death of Brother McDermott. I believe some of the information the media has uncovered about the accident will be extremely valuable to this Subcommittee.

In a December 18, 1979 article by Mary Jo Patterson of the Star Ledger:

"Harry Nigro, a spokesman for the Postal Service, confirmed reports that so-called 'limit' switches on the sort of belt McDermott was operating had malfunctioned regularly at the plant. Limit switches control the movement of the belt.

"Nigro said plant officials admitted the switches were 'usually not working,' during joint labor-management safety meetings in April and October, 1978 and January, 1979."

In an article by Patrick Clark (date and paper not marked):

"McDermott was working alone Saturday, December 15, loading an Atlanta-bound package when his apron apparently got caught in the conveyor belt. He was alone because it was the lunch hour. The Center operates 24 hours a day, five days a week. On weekends mail handling operations are reduced."

In an article by John Watson of the Jersey Journal:

"The investigation of a mail handler's death in Jersey City has produced testimony indicating that a cut-off

switch had been deliberately disconnected on the conveyor belt that caused Saturday's fatal accident at the bulk mail center."

"The switch was disconnected, according to the testimony, because management officials did not want their production lowered by frequent shutdowns caused by parcel jams."

In another newspaper story, Watson stated:

"Records delivered to the Jersey Journal yesterday showed that a mail handler was suspended for 14 days last month for refusing to work in a truck which did not have a stabilizer bar.

"The records are signed by Supervisor Robert Rivera, who concedes that the mail handler cited safety violations for not working in the truck. The worker was cited for failing to obey a direct order."

It is also interesting to note that when Brother McDermott was discovered to be seriously injured (and perhaps already dead), a technician working on the dock was forced to call Bulk Mail Center Security for help.

The technician called Security, a postal manager's report stated, because "the Medical Unit was closed." The one nurse on duty was at lunch and the unit was unattended.

Hopefully, you've already seen the reports of the OSHA investigations into the accident. They point the finger of blame exactly where it belongs - at postal management.

Mr. Chairman, our members, and all postal workers, need this Bill and they need it now. They do not need another Executive Order like the one President Carter issued a few weeks ago. They need protection that carries the weight of law, and not administrative whim.

We would like to tell our members that the Congress of the United States agrees with them - that the Congress believes they are first-class citizens, and entitled to the full protection of all federal laws, just like virtually every other working American.

Thank you.

ANDRÉ POCCO
General President

ARTHUR E. COIA
General Secretary-Treasurer

ROBERT J. CONNERTON
General Counsel

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Union Leader Predicts
Death of Postal Service

15 April 1980
For Immediate Release

WASHINGTON, D.C.--The United States Postal Service is facing a certain death warrant unless Congress acts quickly to remove the threatened cut-back to five-day mail delivery and the restrictions on the Postal Service's immediate entry into the growing telecommunications market.

That prediction came today from James J. LaPenta, Jr., director of the Federal-Public Service Division of the Laborers International Union of North America, AFL-CIO. LaPenta was testifying on behalf of the Laborers' Mail Handlers Division before the U.S. Senate Subcommittee on Energy, Nuclear Proliferation and Federal Services.

"Though I'm here today to testify on the traditional areas of postal reorganization," LaPenta said, "there are moves afoot that may well 'reorganize' the United States Postal Service right out of existence.

"I'm referring to the proposed cutbacks in mail deliveries from

six days to five. This proposal from the White House and the House and Senate Budget Committees is just the tip of the iceberg; it may well be the event that leads to the eventual sinking of the Postal Service."

LaPenta said many mailers would be left unhappy and underserved by the proposed cutbacks.

"These mailers, LaPenta testified, 'will look towards alternate delivery services. Such services are already available and range from the extremely simple to the extremely sophisticated.

"The new technology of electronic fund transfer and electronic message transmission will literally open the flood gates for major mailers who currently originate some 80 per cent of first class mail. About half of that mail is adaptable to electronic message transmission. The use of electronic message transmission by these mailers will be hastened by a shorter delivery week.

"A shorter delivery week will also be of great assistance to the 'for-profit' corporations who make up the office products industry. Their increasing use of space satellites to electronically connect word processors and computers will be hastened by a shorter delivery week. And we need only look to England and Europe to see what is coming next. The British and many European nations already have in place systems like Prestel and Viewdata and cable TV to provide informational and educational services received directly into the place of business or home. These services now include phone, airline and rail listings, shopping information from supermarkets and department stores and much more.

"It is interesting to point out that the Prestel System now being marketed in England is a 'child' of the British Postal System. The postal service there was encouraged to develop the hardware technology and hundreds

of private companies got their 'piece of the action' by developing and marketing terminals and software packages.

"In this nation, we've got a White House that is discouraging the Postal Service's entry, a Federal Communications Commission that is attempting to shove its way into jurisdiction of telecommunications, a Postal Rate Commission that is rolling over and playing dead in the face of pressure from the FCC and dozens of major corporations who don't want the Postal Service involved."

LaPenta said the proposed delivery cutback would also play into the hands of the private corporations providing time-sensitive delivery, like Federal Express, Purolater and new companies now entering the market.

"These deliverers," LaPenta said, "will continue the pressure for further relaxation of the Private Express Statutes.

"These erosions of the Private Express Statutes and the dismantling of the Postal Service's unique physical delivery system will leave the American people without a universal postal service with uniform rates. The Postal Service will end up handling only low volume, subsidized non-profit mail and mail to places, like rural and inner city America, where the 'cream-skimmers' feel volume is too low to generate substantial income."

Ironically, LaPenta said, the governmental cost of the dislocation will contribute heavily to inflation.

"The proposed cutbacks in delivery," LaPenta said, "will not make the Postal Service the partner in the fight against inflation that the White House and Congressional pundits are predicting.

"The real fight against inflation, in which the Postal Service could play a major role, could take place if the President and Congress took action to bring an immediate end to the fight between the Postal Rate

ommission and the Federal Communications Commission, the net effect of which has been to delay the Postal Service's entry into the electronic mail market.

"The full entry of the Postal Service into the electronic mail market would be an extremely effective weapon against inflation in the 1980s, because electronic mail has the potential to reduce first class postage rates by a third, to 10 cents a message!"

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For further information, contact:

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Laborers International Union
(202) 737-8320

Senator GLENN. Our next witness, Mr. Moe Biller, president, New York Metro Area Postal Union, of New York City.

Senator JAVITS. Mr. Chairman, if I may?

Senator GLENN. Senator Javits.

Senator JAVITS. I'd like to introduce Mr. Biller to the committee. I've known Mr. Biller for at least 25 years, perhaps 30, as the leader of this particular union, and have had a great deal to do with him and made it a very special point to be here this morning to hear him. I know of no labor leader in this field who has closer and more intimate contact with his workers or is better able to communicate to us, what they really want and what they really need, both.

Nor who has had a more judicious attitude in terms of reasonable objectivity. Bearing the needs of the public in mind for service, uninterrupted service, and also the need of the workers for justice at the hands of Congress. I'm very honored and pleased to introduce, Mr. Biller to the committee.

Senator GLENN. Thank you Senator Javits. Mr. Biller?

TESTIMONY OF MORRIS BILLER, PRESIDENT, NEW YORK METRO AREA POSTAL UNION, NEW YORK CITY

Mr. BILLER. Thank you Mr. Chairman. I appreciate the kind comments of the Senator from my State. I'm going to be very brief and certainly not read this entire statement, although I made that brief.

My name is Morris Biller. I am a resident of New York City and am privileged to represent, in addition to the New York Metro Area Postal union, more than 70,000 members of the American Postal Workers Union in the northeast region of the United States, including Puerto Rico and the Virgin Islands.

Today is exactly 5 months since mailhandler Michael McDermott, aged 25 and father of an 8-month-old daughter, was crushed to death. He was sucked into a conveyor belt in the New York Bulk and Foreign Mail Center in Jersey City on December 15, 1979.

At that time I asked for an emergency meeting at the regional level of the Postal Service. What they seemed to be concerned about at the regional level was that workers "better get on with the work," and "things aren't that bad, just because somebody was killed." This was on December 21, 1979.

On December 28, 1979, Frank McGhee, a parcel sorting machine operator caught his apron in a parcel sorting machine. That apron was supplied by the Postal Service; rather than work clothes. Today we have work clothes.

His body was jerked toward the machine's belt. Fortunately, he was able to activate a reachable stop button and with the aid of a coworker, successfully free himself from a near-death grasp. He suffered a bruised head and twisted neck and was on compensation for 3½ months. I don't know whether he finally got back to work. He had tried several times, but had to be sent home.

Since these occurrences, congressional hearings were held before members of the House Post Office and Civil Service Committee on March 6, 1980. The Postmaster General gave testimony concerning his 14 point safety program.

The first three points deal solely with the activities in the 21 bulk mail centers in the United States. The entire proposed program comes in the aftermath of what took place in the New York Bulk and Foreign Mail Center. It really adds up to a showcase display rather than a program.

Recently, on March 26, 1980, I attended and participated in the OSHA Closing Conference on the findings in the New York Bulk and Foreign Mail Center. Their written report should be available within 2 more weeks. At that time OSHA said it would take 2 to 4 weeks for its preparation. In it are the facts that five OSHA teams uncovered in that Bulk and Foreign Mail Center which employs nearly 4,000 workers. OSHA found 2,190 safety violations. Admittedly, some of them are not of a serious nature. Although I have itemized in my notes numbers of violations, I think they perhaps deal with questions that were raised here before.

In any event, management contends that it corrected 653 violations. Of course that still adds up to 1,537 violations. Would you not agree that this is a figure which boggles the mind?

Picture these figures in the private sector and the type of reaction they would invoke. We speak of Postal management's insensitivity toward workers and we'll find the same insensitivity toward the public.

The OSHA team pointed out that the maintenance mechanics have to work on their knees on unprotected ladders and catwalks where there are no railings and where they could fall as much as 30 or 40 feet to the ground. These areas are so unguarded that it is a miracle that more employees have not been seriously injured.

I complained about the Bulk Center before they built it because the land it was built on was loaded with methane gas. The congressional records are filled with documentation of this. I complained about the Morgan General Mail Facility in New York City, not because I like to complain; but of necessity and regard for the safety of postal workers. Fortunately, with the aid of Congressmen and others, OSHA was brought into that facility before it was opened up. Because of their inspection, the opening of that \$70 million fiasco was delayed nearly 8 months. Thanks must go to OSHA's detection of numerous safety hazards. But the hazards and problems continue. OSHA's final inspection of Morgan has been delayed because they have been inspecting other bulk centers now and OSHA itself doesn't seem to have enough inspectors to carry on. They must return to Morgan to see that there are problems such as trays continuing to fall from moving, overhead conveyors.

On February 23, 1980, a bag of mail weighing 14 pounds fell from an overhead conveyor belt—it could have been 40 pounds. It fell a distance of about 8 feet. The bag struck Ms. Suzie Pryor on the head, throwing her to the ground and causing a concussion.

This is long after the McDermott case; this is long after all of the other talk. On the transportation deck, which is a very busy place, to be able to work, employees must remove the safety rails from around the dump holes because the rails are too close to the loading area. This is in Morgan, a newly opened, renovated facility which was gutted by fire 12 years ago.

As a matter of fact, prior to OSHA's visit, it was detected that Morgan's fire alarm system was not connected to the New York City Fire

Department; but rather it was connected to Wells Fargo. OSHA made them correct that immediately.

I can go on this way. Friday, March 21, 1980, several large pieces of concrete fell from Morgan's rooftop cooling tower 12 stories to the street. These rocks [two rocks were held up and shown] are not from the Moon or another planet, Senator, but rather they are parts of the pieces that fell. The pieces that fell are the size of two-thirds of any of these windows. As you can see in my written testimony, some rocks hit a parked car. Fortunately, nobody was in there. Ironically, it was a new car that belonged to a postal inspector who was doing his own surveillance around there.

In the Boston South Postal Annex, which is in my region, an asbestos problem has been discovered. I can bring you documentation on that. Management is still stalling as to whether this is asbestos in a form that's going to harm people. Studies have been made, but the results are not all in yet.

I am familiar with the President's Executive Order 12196, but I point out it cannot be a substitute for legislation. I refer specifically to H.R. 826, which would be fine if it included the criminal sanctions that you have—the criminal penalties which you have included as a provision of your proposed legislation.

Just as the others who have testified here today, I also think it's important that we have OSHA coverage as separate legislation—as in H.R. 826.

Michael McDermott cries out from his grave on behalf of his colleagues. He does not wish to remain just another cipher. He should be memorialized through statutory action so that other postal workers will not suffer his tragic fate. That's why I urge that type of legislation.

Some brief words on the budget. I'd like to give a totally different point of view. As I point out, it's quite obvious that a major surgery job is planned for the U.S. Postal Service. I realize that there are real problems. Nobody is running away from them. Whether we have the solutions, I do not know; nor do I propose that I have all of the solutions.

But what disturbs me is what appears to be an almost military, three-prong pincer attack to surround and ultimately destroy the postal system. I have gone through all the figures given by the various agencies, both the House and Senate Budget Committees, and the President of the United States. While the President is proposing only a reduction of \$250 million in fiscal 1981, I point out that, at least to my knowledge, he proposes a greater reduction in fiscal 1982 of some \$644 million and some \$552 million in fiscal 1983. The obvious result of any of these cuts would be a reduction in postal service rendered to the American people. Despite the fact that plenty of service is sadly lacking even now.

Just 1 year ago the House of Representatives almost unanimously voted to retain 6-day delivery. The Postmaster General himself supported it. But now he finds he must accommodate. To the best of my knowledge, his statement is—even if the President's proposal of \$250 million is accepted or becomes the law, then he would still have to wipe out 6-day delivery.

There has been harsh criticism over the years about our poor postal service. In the mind of the public, it's the 600,000 postal workers who unfortunately bear the brunt. I think this is unfair. The public is unaware of the real facts and the difficult conditions under which postal employees labor; particularly today with so much mechanization.

As you can see in my written report, I point out that the Morgan General Mail Facility is an obstacle course. I would love the Postal Service to open Morgan up immediately—at least the ground floor and the first floor—for everybody to see this brandnew expensive facility. I think you would be shocked out of your wits.

It's clear that everybody is looking now at this new panacea—but, how do we reduce the mail delivery to 5 days a week? This would only continue the downhill slide—the destruction of a universal postal service.

I'd like to point out that in 1947 a Postmaster General thought he had the magic key. He reduced service then—from 3 and 4 deliveries a day to 2; and ultimately to 1 a day. Subsequently, some other so-called reforms were instituted; and that's why we have no special delivery service today, though the public pays for it.

The examples that can be cited are endless. The conclusions are simply as expressed above. Budget cuts mean service cuts. Service cuts mean cuts in quality of performance. This means less business. It's no different than in a private sector organization.

There have been active forces throughout the years who have sought to move the Postal Service away from Government and deliver it to the private sector as a profitmaking venture. That would skim the cream off the top. Five-day delivery now could mean 3-day-a-week delivery in residential areas later. This has been projected.

The name of the game today is, and I don't say this to be disrespectful, to reduce the quality of life for the average person. Therefore, we find convenient excuses and convenient and perhaps over-simple answers.

It has been estimated that even with budget cutting or balancing, the inflation rate would be reduced, by the end of the year, by 3/10 or 4/10 of a percent; and that would be like a ripple in the ocean.

On my way here today I read the U.S. News and World Report business magazine, which literally said the same thing. It said the best impact that the budget cuts would have is perhaps a psychological impact. I don't doubt that that's important, but I think we should weigh it against what else we face.

The Carter Administration is presently proposing to change the retirees' cost of living allowance to once a year. Originally it was quarterly. It had a kicker in it. Then it became twice a year; now the proposal of once a year. Whose money is it? After reducing it to once a year, I suppose the next logical move, as we go on, is to wipe out the retirees' cost of living allowance entirely. It's really taken off the backs of elderly people who have led productive lives and now wish to enjoy in later years some of the fruits of their labor.

Yet, the Government doesn't mind subsidizing major aircraft companies. We have seen their struggles in recent months. I myself don't object, but I don't know why the Government has to differentiate when it comes to Government or postal workers.

Gentlemen, postal and Government workers are taxpayers as well as everybody else and we should not forget it. It is high time to stop stonewalling or scapegoating us. For three decades or more, postal workers were at the bottom of the rung of the economic ladder. People would say, "I wouldn't take this job" and, "it has a revolving door."

We don't intend to permit ourselves to be pushed around; and surely not without a struggle. I don't believe that knowingly or willingly the people in the Congress of the United States would really want to destroy postal workers or postal services. Reductions in postal services are not the answer. I'm not certain that the budget mania that has pervaded the thinking in Government and business circles is the answer either. The results of the presently proposed budget cuts for the Postal Service can only mean further deterioration of all postal services for all Americans.

With this in mind, I strongly urge the restoration of these necessary funds. I've listened today and heard decent people say that this is impractical; and they'll do the best they can. But we talk of a \$920 million subsidy that was started in 1970. What is that subsidy worth today?

In terms of 1970, I think that's important. As postal workers, we're willing and able to render and continue to render 6-day complete service to the American people and we would hope that Congress would not deprive us of the necessary tools to do the job. I do wish to thank you for the opportunity to testify. I did not get into the electronic mail issue or anything else. Not because I haven't studied it, but because I didn't want to take your time. I do agree that it is imperative for the Postal Service to be in the field of electronic mail delivery. It is necessary to develop and continue universal postal service.

I don't think it's a matter of the Postal Service competing. But rather, if this is the way Postal Service is going to be in the future, I think it's an area that we must go into.

Incidentally, regarding safety, I have with me my own notes in case you have any questions. I had noted them at the time—March 26, 1980—that we had the closing conference on OSHA. They will all appear in the ultimate report. But, from the notation I have here, you will be able to see a totally different type of post office; my notes show what kind of safety hazards are in the New York Bulk and Foreign Mail Center. Thank you very much once again.

Senator GLENN. Thank you. Mr. Biller you heard the earlier testimony about the accident rate being four times greater in the Postal Service than in comparable industries. Do you think that's accurate?

Mr. BILLER. To be frank with you, I would not know. I do know that the Postal Service has a greater injury rate than probably all of the other nonmilitary governmental services combined. I do know that we're very high up in the injury rate area. I can't give you those figures now, but I will try to obtain them.

Senator GLENN. Why do you think that is? Is there anything inherently dangerous, or has there been a lack of attention to safety procedures?

Mr. BILLER. There are several reasons. There were some injuries even when you had only a manual mail sorting system, but the move into mechanization on a very large scale has increased the dangers and therefore the injury rate. As a matter of fact I've been critical of some of the mechanization too. I think there's been an over-emphasis

on capital investment in the Postal Service. It's like a lot of other things that have been done in the past. They've kind of made a fetish out of it. The machinery is very expensive to maintain; consequently, they don't maintain it.

As a matter of fact, it was the OSHA teams in the New York Bulk report that were highly critical of (a) no real preventive maintenance program. When you have machinery that cost \$200,000 and \$250,000, if it's not going to be given preventive maintenance it's going to break down; it's going to be harmful; (b) They pointed out another problem; that on safety matters, there is no direct access to the decision-makers. Esteem for the safety officers is at a very low level. Incidentally, this continues. I had a regional meeting 3 weeks ago and I told the Postal Service the same thing.

Nothing has really changed in the area of safety. Let me give you some examples. In terms of some of the items that the OSHA team found in the Bulk Mail Center, you're familiar of course with the various conveyor belts on which the guards were removed. In addition, all 90 dock plates are without guards against shearing. So, when a worker stands near that dock plate, there is the problem of cutting his/her knees, leg, or whatever.

Other hazards are: Improper stacking, 55 instances; unguarded ingoing nip points, 30 instances; unguarded ingoing pinch points—these are all on very large machines.

When you go out of the Bulk Mail Center, and you come into the areas where the people are sitting and sorting mail on the letter sorting machines, workers are unprotected when they have to get up and pull mail out of the rear, or sweep-side of the machine. I know when we talk of a machine, people think of a machine the size of a sewing machine. Now, I explain it to people.

We're talking about monsters. The letter sorting machines are about a city block long, and about 20 feet high. They have 12 consoles and 12 operators; other people are moving about them all the time doing other related functions. Incidentally, the speed of these machines is regulated by management, not by the worker. There has been tremendous neglect in this entire area; also when it comes to preventive maintenance.

As I pointed out, it is very expensive to maintain machinery. But at the same time, if running them is what you're going to do, then there has to be a way to maintain them properly.

More violations: Twenty unlocked electrical boxes; cases of oxygen and acetylene being stored right next to each other when they should be 20 feet apart; no backup brakes on various machines that should have them. Falling parts or hazards still continue. The same in the Morgan General Mail Facility. Now they're setting in electronic eyes. They've been talking about them for a long time, but they're not yet fully installed. When they are, we will have to see if they really work.

For example, even on a simple type of thing where they have TV cameras for the purpose of watching that people will not be hurt, you have 46 instances of improper coverage. Lack of direction signs to exits. You can see that violations range from very simple types of things to correct to very complicated areas.

Open live electrical parts. Mr. McGhee, who was caught in a parcel sorting machine, was explaining to me that for months before he was

hurt there was a little electrical box near him with loose wires which was completely open. He was threatened with suspension any number of times because of complaining about the open box. Finally, some supervisor must have gotten the message and he placed a piece of cardboard above that open electrical box.

OSHA pointed out that because of the nature of the operation, postal people tend toward confrontation on unsafe conditions for the following reasons:

There is no viable apparatus on the work floor for the complaint of a worker. The worker will complain. His steward may go to his supervisor or he may go directly to the safety officer. The supervisor will say, "Look, I declare this place safe, no matter what. If you don't work there, my friend, you'll be suspended or you can lose your job."

This was brought to a very dramatic pitch when the manager of the Jersey City Bulk Center testified on January 6, 1980, in Jersey City before the congressional committee. He stated that he made inspections himself, every morning. They asked him why he didn't observe this machine—conveyor 23D—and see that it had a guard missing. The manager said he did mostly housekeeping and wasn't an engineer. Now, if the supervisor who has to make decisions on safety is not an engineer, then the worker's point must be heard. In private industry this is the case because of the recent Supreme Court decision on a worker's right to refuse to work under unsafe conditions. However, in the Postal Service, we cannot rely on that.

Perhaps some of these are areas for collective bargaining; but again, even in the national agreement it says that management is responsible for workers' health and safety and that they will follow OSHA specifications.

Senator GLENN. Mr. Biller, are you satisfied with the actions of USPS in response to the death of Mr. Dermott?

Mr. BILLER. No, absolutely not.

Senator GLENN. Have the conditions at the New York Bulk Mail Center improved?

Mr. BILLER. The only improvement—and I'm not going to take away and be totally negative—you have continuous work by mechanics. Mechanics were brought in to correct the various deficiencies found by OSHA. But by management's own admission, there are still some 1,500-odd outstanding. They said about 3 weeks ago they were going to give me an itemization of exactly what was corrected and what's still outstanding. I don't have it yet.

But I say this—that when I meet at the regional level, and I met recently with the regional safety and health committee, you just sit with a group of tired people. I should have brought the agenda here and quickly gone over it with you. You would have found that everything that was complained about in the previous quarter had a notation that, "we are looking into it." That's what keeps going on.

More than that, if an item to be corrected is a big expense item—then I say to you sincerely I don't want to take the regional postmaster general off the hook, but—I charge that you've developed a monolith type of approach in the Postal Service administration right now, from headquarters on down.

For example, every manager was removed from that bulk center in New Jersey. They are now all acting people except the top manager.

They're all new. Yet the unsafe conditions were there when that place opened up. The regional postmaster general at that time was Mr. Bolger, who is now the Postmaster General. I know some people think we've a personal vendetta. It's not a fact of life. We got along personally very well when he was in New York.

But I charge that he is the greatest cosmetic surgeon that ever ran a governmental agency. He has done the same in terms of service to the public. If you had the time, I wouldn't say just that, I would give you a description of all that happened in New York City, where he held a town meeting at the behest of two Congressmen in January.

Senator GLENN. We won't have time to go into all that this morning.

Senator JAVITS. It was my understanding, Mr. Biller, that you've dealt with this matter very fully on the questioning so far and with the submission of the additional material, I think you present a very strong record, but it is my understanding that in the OSHA investigation to which you are referring of Michael McDermott's tragic death that the situation appeared to be one in which the safety feature on that conveyor belt had been purposely removed to keep the mail moving.

In other words, people knew what they were doing, but as you said a minute ago about the need for getting the job done and the huge console that in this case, too, whatever guard there was had been removed to make the mail flow. Otherwise it would have been interfered with. Now is or isn't that so?

Mr. BILLER. That's absolutely so. But more than that, anybody who is familiar with the mechanization that was placed into that facility knew then and knows now—because the managers there have told it to me—and that is that the machinery and equipment that was placed in there cannot produce whatever the original claims were.

For example, when the bulk opened up, they stated that there'd have to be at least 8 to 10 hours a day when the machines were shut down. Because they couldn't get the work out of those machines on that schedule, they ran those machines 22 hours a day.

They removed many of the electrical guards and the front bumper safety guards from those machines and those conveyors. That is absolutely true.

Senator JAVITS. The other question is, it is true as you said there were hundreds of violations that remain, some 1,500, but we understand that there was a finding of a relatively small number of serious safety violations, to wit, 12 by the OSHA inspectors.

Can you give us a rundown of what's happened to those from your notes?

Mr. BILLER. The claim is that those 12 were corrected. But let me say this. Those 12 and the discovery of them at that time, were merely on that 1 conveyor belt—belt 23D. Now you have 90 of those types of conveyors in the facility; and at least 50 others had had the same problems. Those were practically all corrected; they are still working on them.

As a matter of fact, mechanics had to be imported from areas in many parts of the country, working overtime in order to correct these conditions. I should be able to get the information from management.

Senator JAVITS. One last question and that is: I gather that from what you said about the supervisor's action, respecting covering the circuit box with cardboard, that it is a fact that there is intimidation of employees from reporting unsafe conditions because of the danger of suspension or losing the job. Is that correct?

Mr. BILLER. Absolutely. As a matter of fact, for some 3 to 4 weeks following the McDermott death, there was a totally different attitude and approach and the workers were listened to. You had, other than the aftermath and the horror, the beginning of something harmonious.

But very quickly that was turned around and back to the other way; and that is still going on yet.

Senator JAVITS. Thank you very much.

Senator GLENN. Thank you Senator Javits. We appreciate all the witnesses being here this morning and appreciate their response to any additional questions that may be submitted by staff or other committee members.

Mr. BILLER. Thank you very much.

[The prepared statement of Mr. Biller follows:]



American Postal Workers Union, AFL-CIO

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April 15, 1980

TESTIMONY OF MORRIS BILLER

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PRESIDENT, NEW YORK METRO AREA POSTAL UNION

before the

U.S. SENATE SUB-COMMITTEE ON

ENERGY, NUCLEAR PROLIFERATION AND GOVERNMENTAL AFFAIRS

Mr. Chairman: My name is Morris Biller. I am a resident of New York City and am privileged to represent more than 70,000 members of the American Postal Workers Union in the Northeast Region of the United States, including Puerto Rico and the Virgin Islands. I am also the President of the New York Metro Area Postal Union, the largest single postal local union in the world. I wish to express my appreciation to you for your invitation permitting my participation in these important hearings.

Today is exactly 5 months since Mailhandler Michael McDermott, aged 25 and father of an 8-month-old daughter, was crushed to death. He was sucked into a conveyor belt in the New York Bulk & Foreign Mail Center in Jersey City.

On December 28, 1979, Frank McGhee, a parcel sorting machine operator, caught his apron in a parcel sorting machine. His body was jerked toward the machine's belt. Fortunately, he was able to activate a reachable stop button and, with the aid of a co-worker, successfully freed himself from the near-death grasp of the machine. He suffered a bruised head and twisted neck and was on compensation for 3½ months.

Since these occurrences, Congressional hearings were held before members of the House Post Office and Civil Service Committee on March 6, 1980. The Postmaster General gave testimony concerning his 14 point safety program. The

first 3 points deal solely with activities in the 21 Bulk Mail Centers in the United States. The entire proposed program comes in the aftermath of what took place in the New York Bulk & Foreign Mail Center. It really adds up to a showcase display rather than a program.

An OSHA Closing Conference on the findings in the New York Bulk & Foreign Mail Center was held in New York City on March 26, 1980. The written report should be available within 2 more weeks. Here are the facts that five OSHA teams uncovered in the NYB&FMC, which employs nearly 4,000 workers. The OSHA teams found 2,190 safety violations. Management contends that it corrected 653. Not all of these may be of a critical nature, nevertheless, simple arithmetic tells us that there are still 1,533 violations. Would you not agree that 1,533 violations is a figure which boggles the mind? Picture what such a revelation would mean in a private sector company.

The OSHA teams pointed out that Maintenance Mechanics have to work on their knees on unprotected ladders and catwalks where there are no railings and could fall as far as 30 to 40 feet to the ground. These mechanics could easily qualify as tightrope walkers in a circus. These areas are so unguarded that it is a miracle that more employees have not been seriously injured.

The Morgan General Mail Facility in New York City was originally scheduled to open February 8, 1979. The opening was postponed to September 1, 1979 - thanks to OSHA's detection of numerous serious safety and health hazards. Many of these safety hazards still exist in the Morgan General Mail Facility, which employs about 6800 workers. Trays continue to fall from moving overhead conveyors. On February 23, 1980, a bag of mail weighing 14 lbs. fell from an overhead conveyor belt, a distance of about 8 feet. The bag of mail struck Ms. Suzie Pryor on the head, throwing her to the ground and causing a concussion.

On the transportation deck, which is a beehive of activity, employees must remove the safety rails from around the dump holes because the rails are too

close to the loading area. There is not enough room to move in the required cutting truck. Furthermore, to open the dump hole, the employee has to straddle the dump hole plate and lift it by hand. The result--numerous back and other serious injuries to employees. The entire Facility is an obstacle course.

On Friday, March 21, 1980, several large pieces of concrete fell from the rooftop cooling tower 12 stories to the street. Luckily, nobody was hurt. A parked car was demolished. Ironically, it belonged to a postal inspector. More concrete later fell through the window into the 4th floor Ladies Room. Must we wait until others are killed?

In the Boston South Postal Annex, an asbestos problem has been discovered. Up to this point, other than complaints from the Union and a study made by Management, nothing has really been done.

Executive Order 12196 was issued by President Carter in February 1980. While this is better than what exists, it cannot be a substitute for legislation. HR826, which would permit OSHA to make unannounced inspections of postal and federal facilities, passed the House of Representatives some time ago.

Michael McDermott cries out from his grave in behalf of his colleagues. He does not wish to remain just another statistic. He should be memorialized through statutory action so that other postal workers will not suffer his tragic fate. I urge passage of HR826 with criminal penalties for negligence.

I would like to add some additional remarks regarding the proposed budget cuts for the U.S. Postal Service. Because of the economic problems facing our nation, there has been more pressure placed on budget cuts this year than in many years. It is quite obvious that a major surgery job is being planned for the U.S. Postal Service. Presently, there is a three-pronged attack upon this vital communications system. The House Budget Committee has proposed a reduction of \$836 million dollars. The Senate Budget Committee has proposed to slice \$493 million dollars from the U.S. Postal Service. The Carter Administration

in a "benevolent" mood proposes a reduction of \$250 million in Fiscal 1981, \$644 million in fiscal 1982 and \$552 million in fiscal 1983.

The obvious result of any of these cuts will be a reduction in services rendered to the American people and to our business community. Just one year ago, the House of Representatives voted almost unanimously to retain 6-day mail delivery. The Postmaster General, who until recently supported the 6-day delivery as vital to a universal postal service, now seems to support 5-day delivery. He states that if any of the above cuts are imposed he would have no other choice.

There has been some harsh criticism over the years about poor postal service. In the minds of the public, they hold the 600,000 postal workers responsible. That's because they are unaware of the real facts and of the difficult conditions under which postal employees labor.

It is clear that the immediate "panacea" is to reduce mail delivery from 6 days a week to 5 days a week. This would continue the downhill slide toward the destruction of the universal postal service. This deterioration was triggered as far back as 1947 when mail delivery was reduced from 3 and 4 delivery trips daily to 2 and finally to 1. Subsequently other so-called "reforms" were made which resulted again in poorer service. Special delivery mail was centralized so that there is no real special delivery service today, although the public pays for it.

I can cite endless examples. This would be too tedious to listen to and too time consuming. The conclusions are simply as expressed above. Budget cuts mean service cuts. Service cuts mean cuts in quality of performance. This means less business, just as it does in the private sector. There are active forces who seek to move the postal service away from government and deliver it to the private sector as a profit making venture. They would skim the cream off the top. Five-day delivery now could well mean 3 day-a-week delivery in real-

dential areas in a short while. The name of the game today is really to reduce the quality of life for the average person. Therefore we find convenient excuses and convenient answers.

It is frankly admitted that even with all the budget cutting or balancing, the 19% inflation rate would be reduced about .3 or .4% in a year—a ripple in the ocean.

The Carter Administration is also proposing to change the retirees' Cost of Living Allowance to a once a year deal from the present twice a year. It claims that this will save \$1 billion dollars. That's a lot of money. But, whose money is it? It belongs to the elderly; to those who led productive lives and now wish to enjoy in later years some of the fruits of their labor. After reducing this Cost of Living Allowance to once a year, the next logical move is to wipe it out. How cruel can we be?

Government doesn't mind subsidizing major aircraft companies, automobile companies, or whatever in the private sector. It's perfectly all right for the taxpayers to carry the burden when a major private company's existence is threatened. Gentlemen, postal and government workers are taxpayers as well. It is high time to stop stonewalling or scapegoating postal and government workers. For three decades or more postal workers were at the bottom rung of the economic ladder. We will not permit ourselves to be pushed down again; surely not without a struggle.

Reduction in postal services are not the answer. The budgetmania that has pervaded the thinking in government and business circles is not the answer. The results of all presently proposed budget cuts for the Postal Service can only mean further deterioration of these services for all Americans.

It is with this in mind that I strongly urge the restoration of the ~~the~~ ^{necessary funds} so that the American people can receive the quality of service to which they are entitled. Postal workers are willing and able to render this service. Don't let the Congress deprive us of the necessary tools to do the job.

I wish to thank you again for the opportunity to testify before you today.

Mr. GLENN. We stand recessed. We'll reconvene the hearing tomorrow at 10 o'clock. We will hear from the mail users. We're not sure of the committee hearing room yet. That will be announced later today. [Whereupon, at 12:14, on Tuesday, April 15, 1980, the hearing adjourned to reconvene at 10 Wednesday, April 16, 1980.]

POSTAL SERVICE ACT OF 1980

WEDNESDAY, APRIL 16, 1980

U.S. SENATE,
SUBCOMMITTEE ON ENERGY, NUCLEAR
PROLIFERATION AND FEDERAL SERVICES,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met at 10 a.m., in room 1202 of the Dirksen Senate Office Building, the Honorable John Glenn (chairman of the subcommittee) presiding.

Present: Senator Glenn and Dr. Leonard Weiss, subcommittee staff director.

Senator GLENN. The hearing will be in order.

The Subcommittee on Energy, Nuclear Proliferation and Federal Services continues its hearings today on S. 2558, the Postal Service Act of 1980, H.R. 79, the Postal Service Act of 1979 and H.R. 826, which places the Postal Service under provisions of the Occupational Safety and Health Act of 1970.

Yesterday we received testimony from various representatives of the postal labor unions which focused on the importance of providing OSHA coverage for postal workers and on the importance of maintaining an adequate level of public service subsidy for the Postal Service.

Today we will hear from representative of users of the mails and that means everyone who contributed to the 99 billion pieces of mail that were handled by the Postal Service last year.

In order to make the hearing manageable this morning, we have divided the witnesses into two panels. The first will consist of representatives of first- and third-class mail users. That will be followed by a panel of second- and fourth-class mail users.

Among the issues to be explored today, besides the various pieces of legislation before us, are the recommended cuts in the Postal Service public service subsidy in the Senate and House Budget Committees as well as the administration. These cuts are being directed toward the elimination of Saturday mail delivery.

As I said yesterday, this is an extremely important policy matter and it deserves thorough congressional consideration. Because of the length of our witness list today, I'd appreciate it if oral statements could be kept reasonably short. We will include any statement you have, of course, in its entirety in the record at the end of the panel testimony.

Our first panel this morning consists of three persons.

Gentlemen, welcome to our hearings. Mr. Day, perhaps you could lead off for us.

TESTIMONY OF EDWARD DAY, GENERAL COUNSEL, ASSOCIATED THIRD-CLASS MAIL USERS; NORMAN HALLIDAY, EXECUTIVE VICE PRESIDENT, NATIONAL ASSOCIATION OF GREETING CARD PUBLISHERS; AND RICHARD BARTON, VICE PRESIDENT, DIRECT MAIL MARKETING ASSOCIATION

Mr. DAY. Thank you Senator. I'll make this very brief.

My name is J. Edward Day. I'm a lawyer in general practice.

Senator GLENN. If I could interrupt for just a moment. Will all the witnesses pull the mikes up close. This is a big room, and everyone wants to have the benefit of your testimony.

Mr. DAY. Is that better, Senator?

Senator GLENN. That's fine.

Mr. DAY. I've been representing Associated Third-Class Mail User's and other mail user groups since the so-called postal corporation re-organization plan was first being talked about back in 1968.

Over the years, in testimony before this subcommittee and it's predecessor, ATCMU has spelled out in detail why the public service appropriation to the Postal Service should be substantially increased rather than frozen at its original inadequate level or allowed to decline.

This is still very much our position. My remarks today are not meant as any softening of that position. However, we do not live in a dream world. Much as it is justified in any budgetary or economic climate, we realize that the likelihood of an increase in the Postal Service public service appropriation this year is not promising.

If the public service appropriation could be increased even modestly, as proposed in H.R. 79, or frozen at \$920 million as proposed in your bill, Senator, that would be better than nothing. If such minimum relief is not forthcoming, we urge that Saturday delivery be discontinued.

We have one important condition which we advocate if it is discontinued and that is that businesses and others who think they need their mail or do need their mail on Saturday should be able to make arrangements to go to their post office or postal station and pick up their mail. They don't have to have a lockbox to do that. You can arrange to pick up your mail on Saturday without it being delivered to you if the Postal Service will see that it is cased and processed.

In other words, we oppose closing down the postal system on the weekends. But we favor a shift to 5-day delivery.

Letter carriers are protected in their jobs by their contract. However, attrition would eliminate enough carrier slots to effect a major dollar saving which would increase over the years. Because of inflation, which seems bound to continue indefinitely at a high rate, the dollar amount of the annual cost avoidance of dropping Saturday delivery would in real terms increase year by year.

Third-class mailers do not need Saturday delivery. If we could get an increase in the public service appropriation, we would be satisfied with that. But we are likely instead to get a decrease. And any decrease is almost certain to be permanent. So, as matter of hardheaded business necessity, we advocate dropping Saturday delivery.

Even though addressed advertising circulars have been held to be subject to the postal monopoly, you can lead a horse to water, but

you can't make him drink. It is no problem for advertisers who find direct mail advertising postal rates skyrocketing to shift over to other means of advertising, particularly independently printed supplements inserted in newspapers. As all this volume is drained away from the Postal Service, it can mean only one thing—higher and higher rates for users of first-class mail.

Just one-half minute more on other points contained in one or the other of the pieces of legislation.

The position of ATCMU now is that the present system for selection of the Postmaster General by the Governors should be left as it is.

But I'd like to mention that if we should follow the proposal in H.R. 79, to have the Postmaster General appointed by the President, there has been a misconception that that would turn the post office into some kind of political cesspool. If that change were made, there is still a provision that would remain in the law which would prohibit political interference or even political recommendation or political communication about appointments to other positions in the post office, high and low.

So there's no chance for going back to the old system of having postmasters and rural letter carriers subject to political appointments, not that that system was so bad as some people try to make out.

The second point is that we think classification issues should no longer be in the jurisdiction of the Postal Rate Commission.

Third, we agree that the Mail Classification Schedule should not include instructions or procedures concerning postal operations or administration.

We think the statute should be amended to define attributable cost in realistic terms so that we can get back to what Congress originally intended.

We favor the sections in your bill requested by the Postal Service relating to false representations and civil penalties for failure to pay lawful postage. We think that where there's been a legitimate oversight in failure to pay lawful postage, that situation should not be subjected to such penalties.

Finally, we oppose committing research funds to electronic mail. We feel there is no objective proof of public demand for a postal service presence in the electronic mail area. And we don't want to end up with another expensive white elephant like the Bulk Mail System. Thank you.

Senator GLENN. Thank you, Mr. Day.

Our next witness is Mr. Norman Halliday, executive vice president, National Association of Greeting Card Publishers.

Mr. HALLIDAY. Thank you Mr. Chairman, I would like to submit my prepared testimony for the record and just make a short comment.

Senator GLENN. That will be fine. The testimony will be included in the record in its entirety at the end of the panel testimony.

Mr. HALLIDAY. I must admit that as I looked at this panel of witnesses, I wondered what I was doing here with a former Cabinet member and a former member of the Arlington County School Board. Then I realized that the three of us represent those classes of mail, first class and third class, which are the only ones that pay their way.

I had some comments prepared, but in order to expedite the hearing I shall merely submit my statement for the record and open myself for questions.

Senator GLENN. Thank you. Our next witness is Mr. Barton, vice president of the Direct Mail Marketing Association.

Mr. BARTON. Thank you, Mr. Chairman. I appreciate having the membership of the school board placed in the same class as the Postmaster General. Some in the school board used to think it was higher, but other than that I get along with Mr. Day.

I too, would like to ask permission to keep the record open for further comments which we are developing now on the bill and also that of our testimony on H.R. 79 be included as part of the record of the hearing. The testimony on H.R. 79 before the House Committee goes into a lot more detail on some of these issues that we have right now in our oral statement.

Senator GLENN. Fine. That will be included in the record.

Mr. BARTON. Many of the issues contained in your bill upon which we are testifying today have been broached in H.R. 79, which I have asked to be placed in the record.

The key issue in your bill as far as we are concerned is section 5, which is public service authorization and annual report. Our position on public service funding has been clear throughout the years. We are in favor of it, and we believe that current levels of funding are unrealistically low.

The Postal Service conducts business in a way that no purely private business would. It's fair and proper that it does so, since it is the one agency of the Government which serves the entire population on an almost daily basis. However, the business mail user should not be solely responsible for paying for public services which are not strictly needed in a business sense. In other words, public service funding should not be viewed as a subsidy to mailers, as it is in many newspapers, but rather as a payment, a payment from the Treasury for services performed by the Postal Service for the public at large.

This is not a position held exclusively by the mail industry, however. Virtually every major study of the Postal Service in the past few years has come to this conclusion in one form or another. The Commission on Postal Service in 1977, for example recommended annual public service funding amounting to 10 percent of postal expenditures. The House of Representatives has consistently supported increased public service funding.

Our concern as business mailers is simple. We believe that it's much easier to cut budgets than it is to cut services. Thus, we shudder at the prospect of Congress cutting out public service funding and later making it extremely difficult for the Postal Service to reduce service commensurately. This would add substantially to the already irresistible pressure for higher postal rates and thus, we believe, directly fueling inflation.

We are extremely disappointed with the current level of debate about various proposals from both houses to cut or eliminate this funding in the fiscal year 1981 budget. Actually it is a nondebate since it appears that very little thought and certainly no understanding about postal realities graced the internal budget committee discussion of this issue.

Therefore, we deeply appreciate the opportunity to discuss this issue with you as the expert on postal affairs.

Therefore, we're looking to this subcommittee for support of your bill. We would like to have more, but we appreciate the bill and will reaffirm the importance of public service funding for the Postal Service.

In regard to the remainder of the Glenn bill, we have no specific objections to any of it and will be happy to answer questions on the specific sections.

I would like to make one comment on section 3 which is false representations, investigation and civil penalties. The DMMA is actively engaging right now in a wide-ranging program of fighting unethical practices, and we are expanding every day our activities in this area. So we support this part of the bill and support the Postal Service in its efforts to strengthen its fight against mail fraud.

We support the section in principle, we are still studying the administrative procedures proposed by the legislation and don't see any serious problems with it, but we would like to submit comments later on in the week in the record when our lawyers get finished studying them.

Thank you, Mr. Chairman, for inviting us to testify and I'll be happy to answer any questions.

Senator GLENN. Fine. Thank you. I would appreciate knowing about any different approaches that you may have to the problem of mail fraud. That's a difficult one for us to deal with. It was difficult to work out legislative language. There have been an increasing number of incidents. A year or so ago, in my home State of Ohio, a place just a couple of miles from where I live was being used as a headquarters for some of these activities.

I don't mean to put a provision in the bill, just because we had a problem in Ohio. It's a general problem all over the country, as you are aware. This is one approach to it. If you have any other approach or any other ideas about how to control this problem, we are very open to suggestions.

Mr. BARTON. We will.

Senator GLENN. Mr. Day, in your testimony, you say classification should no longer be in the jurisdiction of the Postal Rate Commission. What do you feel the Postal Rate Commission should do besides act on formal rate cases? Should that be its only activity?

Mr. DAY. Well they have miscellaneous jurisdiction such as holding hearings on any contested closing of a small post office. There are always a half a dozen of those cases going on. They have jurisdiction on an advisory basis on anything that has to do with a nationwide, or practically nationwide, change in service.

For example, if there were to be a decision to drop Saturday delivery that would have to go to the Postal Rate Commission to hold such hearings.

We feel on classification that the Postal Rate Commission is trying to reinvent the wheel. The classification system that exists has worked for decades. We would like to see the four existing classes of mail enacted into law. We don't think it's necessary to have all these millions of dollars spent by people who are largely ivory tower types studying how all mail should be reclassified by shape or some other

impractical proposal. In a recent case, a straightout effort to try to get a presort discount was turned by the Postal Rate Commission into a classification case with a lot of highly controversial proposals of their own and, as a result, that case is now 18 months old and still going.

Senator GLENN. Do you feel, Mr. Day, that the concept of a Postal Rate Commission is erroneous to begin with or is the problem with it the type of people who have been chosen to serve on it? The reason I ask that in our bill, we require certain qualifications and checks on qualifications. That's quite different from the question of whether we should have a PRC to begin with.

Would you favor doing away with the Postal Rate Commission entirely?

Mr. DAY. Well, not anymore because I don't think there is any practical alternative. In our usual unselfish way we used to propose abolishing the Postal Rate Commission and have postal rates go up, not more often than annually, with the Consumer's Price Index. The Consumer Price Index is going up so fast, we're dropping that unselfish proposal of ours. And we can hardly expect, as a practical matter, that Congress is going to get back into the postal rate setting mess.

So the Postal Rate Commission undoubtedly has to stay around. As far as their Commissioner personnel is concerned, there's certainly a 1,000-percent improvement over what they were when they started 10 years ago. It's getting a little better all the time, despite the quite unattractive antagonism, recently getting to a vitriolic stage, among members of that Commission. They are at least people with their heads screwed on right and I think they're trying to do a good job.

Senator GLENN. Mr. Halliday, do you have any comment? Do you think the PRC should be kept or altered, or given different responsibilities or eliminated?

Mr. HALLIDAY. In our statement we state that we think the power of the Commission should be limited, if not substantially reduced. I might even go so far—I'm not quite sure how you would handle rate proceedings other than by congressional veto—as to say that the PRC budget is one you could cut and it would not be missed.

Their over involvement in ECOM, in the classification cases and their desire to look far behind all the Postal Service figures, I think puts the Postal Service in a rather precarious position.

Senator GLENN. How would you establish rate cases? Would you just let the Postmaster General and his staff make recommendations and put them into effect?

Mr. HALLIDAY. I don't think so. I think that at one point there was a suggestion that the Congress have the right to veto rate packages. If I remember correctly, the original—

Senator GLENN. Yes. I am beginning to shy away a bit from all these congressional vetoes and congressional approval. There is hardly a bill put through the Congress anymore without a 30-day, or 45-day, or 60-day approval or disapproval of one House, two Houses, or some House. It is getting so everything has to be submitted back up here to go through scrutiny again, which I think is just adding bureaucratic complexity.

I have been in favor of most of these measures, so I am part of the problem, I guess. But I am beginning to shy away from congressional

vetoed and approvals on every bill we send through. After all, we always have the right to pass a new law, if we don't like something that is going on.

There are too many of these congressional veto or approval laws on the books. A lot of people agree with me. We have overdone this.

Mr. HALLIDAY. I agree 100 percent. It is merely, I suggest, that this was one suggestion. I think there was another suggestion, in earlier consideration of postal reorganization, that they establish a postal-rate panel at the Postal Service which would be a review panel from which you could appeal to the courts. But, there must be some other way. The Postal Rate Commission is unusual because it is the only regulatory Commission I know that regulates only one company. Its whole business is the Postal Service. In fact, in the early days—

Senator GLENN. Isn't the PRC supposed to be sort of an independent regulator for that one business, albeit, a great big and very important business for the country?

Mr. HALLIDAY. No question. But, in the earlier days of the Commission, several commissioners quit because there wasn't enough to do.

Senator GLENN. Mr. Barton, do you have any comments on the PRC? Would you keep it or alter it, or what?

Mr. BARTON. I tend to agree with Mr. Day. I think that we have gone too far down the line to get rid of it, although I think probably if we were doing it again, we would do it in a different way. But, I don't think we should eliminate the Commission. I do agree, 100 percent, with Mr. Halliday and Mr. Day that, in fact, the Commission has gotten involved so deeply in so many issues of the Postal Service which really should be issues that are decided by management in conjunction with its mail users and consumers that it is beginning to seriously hinder the Postal Service in some of its activities.

And, I think that we can find ways to direct the Commission and to give it a more precise mandate about what it can do. One of them is, and we would favor this at least tentatively until we have looked at the language, taking classification out of the Commission purview. We are involved in a situation in a case which is still pending before the Board of Governors, which Mr. Day mentioned, which has taken 18 months. It is going to be a simple classification case. We ended up spending four times our budget trying to comment on an extensive number of different proposals on rate structure, and then in the end we got a proposal out of the Postal Rate Commission in a simple classification case which proposes to raise our rate. That strikes fear in our hearts. We are afraid that you could take any minor classification case, spend \$200,000 talking about it, and have your rate raised. We think that is going too far.

Senator GLENN. Mr. Halliday, your objection to inclusion of the Postal Service under OSHA appears to be based on the notion that the Postal Service is being singled out from all other Federal agencies and departments. The President has issued an Executive order, the effect of which will be to place Federal agencies under OSHA standards as far as health and safety is concerned, under somewhat different rules and regulations from those applied in the private sector.

We had testimony yesterday that the Postal Service has 43 percent of all the accidents that occurred in Federal agencies with a frequency rate record that is claimed to be four times that of comparable indus-

tries in the private sector. With that record, what would you propose that we do if we don't go under OSHA?

Mr. HALLIDAY. I hate to be in the position of saying that I am against health and safety, but you have to realize that the Postal Service operation is one of the few operations in Government which is an industrial operation as opposed to white-collar operations.

The figures, therefore, may put the Postal Service far above the rest of the Government. Also, to my recollection—when I was at the Postal Service—there were a number of years when the Postal Service was singled out for safety awards for its outstanding record.

I am merely saying that it, if my recollection serves me correctly, that the Senate Labor Committee is now looking at the whole OSHA picture. Legislation has been introduced which reviews the whole concept of OSHA and where it should go in the future. I am saying that probably that is the proper jurisdiction for the question of how far the law should go to cover the Federal Government.

Senator GLENN. Mr. Day, do you have any comments on that? When you were involved with the Postal Service was this a major problem? Is this something that has come to pass since the Postal Service became more mechanized, or what is the problem?

Mr. DAY. Well, Senator, postal operations are basically more fraught with danger than working over in HEW—unless you fall off your desk chair over there or something. But, with all of these pallets, forklifts, conveyer belts, heavy sacks, and often, no matter what you do, crowded conditions, it is bound to have the potential for a great deal more in the way of accidents.

Now, the Postal Service recently hasn't been functioning completely insulated from OSHA. OSHA has been giving all kinds of attention to the situation up at the bulk mail facility in New Jersey and, I think, they can get in the act. But I think OSHA will have to be realistic about what the expense aspect is. There is a tradeoff there. The Postal Service is already squeezed to death for money and if OSHA issues a lot of blanket edicts about astronomically expensive changes that have to be made in facilities all over the country, they have, in my opinion, got to have it paid for out of general revenue and not by the mail users.

Senator GLENN. The comparison yesterday was made not only with other Government agencies, but with outside industry, too. The claim was that there is four times the accident rate in the USPS as comparable or similar industries in the private sector. That is a rather horrible rate. Do you think that's a valid statistic?

Mr. DAY. Well, I don't know what those other industries would be. But, I can certainly see that a stamping mill or a place where you use a lot of cutting equipment and so on, would have a bigger accident rate than the rate at the Postal Service. But, I don't think it is because of lack of interest or concern with the problem. It is because it has been very hard to keep the facilities up to the best standards possible because of money squeezes and there has been overcrowding.

There is a terrible problem at all postal facilities of size and also as far as availability of room for the trucks to get up to the loading docks. There is great potential danger because of that kind of traffic. I do think, and I don't know whether it has been discussed here earlier, I do think that it is a mistake to have the States in the act also if OSHA

is going to have this jurisdiction. The Postal Service is a national, Federal organization and I think it ought to be regulated by OSHA only and not by each of the individual States with possibly inconsistent regulations.

Senator GLENN. Thank you.

Mr. DAY. Back for just a minute to the Postal Rate Commission. It has been talked of as independent, but it should be realized that actually the Postal Service has no independence as to a decision by the Postal Rate Commission on rates today. The Postal Service has to take a rate decision and swallow it, no matter how bad it is, because by the time the decision arrives and with the effect of COLA and other expense increases that are going on, the Postal Service has to have that increase. Their temporary rate authority is going to run out very soon, so they have to take whatever the Postal Rate Commission dishes up to them.

I think there would be a great deal of advantage in either making the Postal Rate Commission more of an advisory body to conduct all the hearings and bring it all out in the open, or to give the Postal Service a chance, possibly within some percentage limits, to modify at once what the Postal Rate Commission does on rates. Because as of now, the Postal Service has no independence. They have got to swallow it.

Senator GLENN. Mr. Halliday, on page six of your testimony, you state the Postal Service estimates that the provision on reduced postage rates will amount to about \$10 billion in lost revenue. What is the basis for that figure?

Mr. HALLIDAY. If it says \$10 billion, it is a typographical error. It should be \$10 million. That came out of the testimony of the Postmaster General before this committee, I believe.

Senator GLENN. Oh, all right. We will correct that in the record. Thank you. Isn't the citizens' rate proposal simply a proposal to establish permanently a separate and distinct new class of mail?

Mr. HALLIDAY. I would think so, yes. It could be considered a subclass of first class. This is not unusual. I think in second class, you have some 23 subclasses of mail.

Senator GLENN. Are there any estimates as to what this would do to volume? Volume is going up steadily after predictions some years ago that it was leveling off or going down. We are up over \$100 billion a year now where we thought we were leveling off at \$80 billion back just a few years ago.

Mr. HALLIDAY. What we are trying to do with the citizen's rate is to encourage the use of the mail by citizens. We are talking about a rate which in fact would do that. There has been tremendous inroads into the 20 percent of mail that the citizens send. The telephone has replaced a great part of it. And, what we are trying to say is that there has got to be some criteria rather than economic criteria to set rates.

Senator GLENN. Well, do you feel that the citizen's rate would carry its own as far as expenses of handling that mail are concerned?

Mr. HALLIDAY. No; the problem that we have run into is that if you break the citizen's mail out of the mainstream, it costs more than the regular first-class letter costs to handle. We are saying that somewhere in the structure of the Postal Service, Congress must dictate that there

has to be some room for factors other than economic to determine what rates should be.

The same consideration which has been given to publications historically in this country—that there is some value to the enhancing of communications and to the dissemination of information. Economically how do you determine this? You can't. The criteria we look at in rate cases, though, are strictly economic criteria.

Senator GLENN. We have tried for the last couple of years to get as much information on attributable costs as possible, so we could know exactly what we wanted to subsidize and what we didn't. That has been a difficult task. I think we do have a little better handle on it now than we had some time back. A citizens' rate would throw a slightly new equation in there. We are trying to figure up what the amount of subsidy the USPS should have. We would like to know as much as possible about what is going to be attributed to that subsidy. We also need to know if it is going to be a general subsidy for a Government service because we do have to maintain post offices which are not effective, and so on. These are very difficult determinations and I wonder if the citizen's rate wouldn't add to the complexity of that problem instead of helping to cure it?

Mr. HALLIDAY. It possibly would. You know, prior to postal reorganization the law provided that public service included category of appropriations we now call revenue foregone. Those were considered public services at that time. And, the more that I think about it the more that I realize that probably that is true. What is the value of dissemination of information to the public? Certainly you can't put any economic value on it. So, at some point you do have to say that there are certain values to certain pieces of mail that you can't place a dollars-and-cents figure on.

Senator GLENN. As I mentioned the other day to some people, it is difficult to put a value on what it means to have a post office in the middle of a town where the town takes great pride in that post office being there. It is almost a symbol of being part of that country, in some areas. How do you place a value on the expense of keeping a post office open in places where straight business considerations might dictate that you would close it?

One persons testimony indicated that there are 90-some post offices open in the Washington area as opposed to three UPS facilities.

Mr. HALLIDAY. I can't question your judgment as to which post offices should remain open and should not. All we are saying in our testimony is that if Congress decides to keep small post offices open, they should pay for those post offices. I am saying that whenever you determine that public service is necessary—that service which ratepayers shouldn't have to pay for—Congress should pick up the bill for that service. The taxpayers pay for that service. To date, you have paid less. Up to now, you, Congress, has paid \$920 million, out of an estimated \$2.8 billion of public service. And the ratepayers have had to pick up that extra \$2 billion. In fact, in first class it means that if we didn't have to pay that \$2 billion we would most likely have a 13-cent stamp today.

Senator GLENN. I think a 1-cent change in first class is estimated to raise somewhere around \$800 million on the current volume. So, a \$920 million subsidy, even if you applied the whole works to first class, wouldn't make more than a 1-cent or a 1¼-cent difference.

Mr. HALLIDAY. But there are roughly \$2 billion worth of public service costs that the ratepayer is picking up. In other words, Congress is only picking up a small share of the total public service cost. What we are saying is that logically that cost is not a cost the ratepayer should pick up. You can never reach the true economic cost of a service provided to us if you are going to load it with \$2 billion of public service cost. And by doing that, the dilemma is that if you put this public service cost on ratepayers, you have a cost for rates which is not a true economic cost. And you are going to drive mailers out of the mail system. We have already seen this happen in second class.

Senator GLENN. I don't know whether you have had time to go over the legislation I introduced yesterday. You may want to study it. I know you all favor a higher subsidy and would like it to be higher than the \$920 million that I proposed in the bill.

On balance, do you favor the bill or are you against it?

Mr. HALLIDAY. In our testimony, we go selectively through each section of your bill. As far as I am concerned, putting that \$920 million public service subsidy in there is a profile in courage, particularly in light of what the Budget Committee is doing to the public service subsidy.

Senator GLENN. Well, I don't know how well we will succeed in holding that. I wouldn't guarantee it being upped, I know that.

Mr. HALLIDAY. It is going to be tough, we realize that.

Mr. BARTON. I can say, on balance, that we would favor the bill.

Senator GLENN. Mr. Day, do you favor the bill?

Mr. DAY. Yes; we favor it, Senator. As I say, we see the facts of life as far as all the pressures to try to cut down the Federal budget. On the other hand, there is about \$100 billion in the total Federal budget for various subsidies of one kind or another and we don't believe that this postal appropriation should properly even be referred to as a subsidy. It is to take care of just a part of the cost the Postal Service incurs in providing services it would not provide if it were a private profit-oriented institution. We think your bill is much better than having no bill at all and that it has many positive features in it that are quite helpful. And, particularly, we are anxious to, as a minimum, see the annual decrease in the public service appropriation halted and to have it frozen where it was back when the bill was passed in 1970.

Senator GLENN. Thank you very much, gentlemen. I appreciate your being here. If you have any additional comments that you wish to make, we would be glad to have them submitted for the record. We would appreciate your responding to any additional questions the staff or the other committee members may have after they have reviewed the record this morning.

Thank you very much for being here.

Messrs. DAY, BARTON, and HALLIDAY. Thank you, Senator.

[The prepared statements of Messrs. Halliday and Barton follow:]



**THE NATIONAL ASSOCIATION
OF GREETING CARD PUBLISHERS**

STATEMENT OF
NORMAN S. HALLIDAY
EXECUTIVE VICE PRESIDENT
NATIONAL ASSOCIATION OF GREETING CARD PUBLISHERS
BEFORE THE
SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION, AND FEDERAL SERVICES
OF THE
UNITED STATES SENATE
COMMITTEE ON GOVERNMENTAL AFFAIRS
ON THE PROPOSED
"POSTAL SERVICE ACT OF 1980"

April 16, 1980

Thank you, Mr. Chairman and Members of the Subcommittee on Energy, Nuclear Proliferation, and Federal Services, for the opportunity to present our views on the proposed "Postal Service Act of 1980".

INTRODUCTION

I am Norman Halliday, Executive Vice President of the National Association of Greeting Card Publishers (NAGCP), the national trade Association of the greeting card publishing industry. Our members produce about 85 percent of the over five billion greeting cards mailed annually in the United States. These cards are distributed through a retail network of about 150,000 outlets located throughout the 50 states.

As most of Congress seems to be avoiding substantive postal issues as if they were a plague, it is encouraging that you, Mr. Chairman, have come forward with proposed postal legislation. Your willingness to explore the problems of the Postal Service and develop solutions to those problems is commendable. While the Postal Reorganization Act of 1970 did make massive changes in the old Post Office Department, the bulk of which were for the better, the experience of the past ten years has nonetheless shown that some mid-course corrections are necessary.

All proposed legislation contains some good points, some bad points, and sometimes avoids entirely real areas of concern and need. With this in mind, the balance of my comments shall address your proposed bill section-by-section. Before beginning that critique, however, I would be remiss if I failed to mention that my organization is disappointed that your legislation does not contain some language

which addresses the concept of Citizen's Rate Mail. I shall have more to say on that issue at the conclusion of my testimony.

SECTION 2 -- OCCUPATIONAL SAFETY AND HEALTH

It is difficult to oppose this section because in doing so it might be assumed that we oppose safety and health. That, of course, is not the case. We do not believe the Postal Service should be singled out from all other federal agencies and departments to be included under OSHA's jurisdiction.

The track record of the Occupational Safety and Health Administration over the almost ten years since its inception does not inspire confidence. According to the Agency's own figures, the rate of serious injuries is up 25%, the severity of these injuries is up more than 34% and the Agency is conducting fully half of its inspections without even issuing a single citation. Of course, the injury rates for the past ten years may well have been much higher had it not been for OSHA, but the fact remains that, prior to the Agency's inception, serious injury had been on the decline.

Unquestionably, a double standard does exist: there is one set of rules for industry and another set for the government. However, it is our belief that the entire question should be examined by the Senate Committee with the appropriate jurisdiction. In the interim, we oppose inclusion of the Postal Service alone under OSHA.

SECTIONS 3 AND 4 -- FALSE REPRESENTATION AND CIVIL PENALTIES

It is our understanding that these two sections, along with Section 12, Protection of Postal Property have been included in this

bill to deal with particular problems confronting the Postal Service. We support all three of these provisions.

SECTION 5 -- PUBLIC SERVICE AUTHORIZATION

After the meat ax micro-surgery performed by the House and Senate Budget Committees on the public service appropriation of the Postal Service, your proposal to increase and level off the public service authorization at \$920 million is indeed refreshing. No one area of the Postal Reorganization Act is so little understood by Congress and in no one area has Congress so steadfastly failed to meet its responsibility. Congress has historically assigned the bulk of the estimated \$2.8 billion public service costs unfairly to the postal rate payers. They should not be. The principle beneficiary of public service is the public. It should either pay the costs of these services or be willing to forego them.

In the Washington metropolitan area alone there are over 90 postal outlets, some located through informed marketing techniques, others through political persuasion. In the same area, the highly successful United Parcel Service maintains only three outlets. This excess of postal outlets exists solely for the benefit of the public and as such should be paid for out of public funds. Mr. Chairman, your proposal to increase public service funding is a step in that direction, even if only a small first step.

We are not advocating that Congress fund the estimated \$2.8 billion cost of present public services. We are suggesting that Congress determine, in cooperation with the management of the Postal Service, what public services are essential to the principle mission

of the Postal Service, i.e. service; and pay for those services out of public funds. Non-essential services could then be eliminated and the resulting savings passed on to the taxpayers or more appropriately, to the ratepayers, who now foot the bill for the bulk of such services with no say in their maintenance or elimination.

It may well be that the sixth day of delivery in this country is no longer necessary. But that determination should be made on the basis of its impact on service, not on the fact that the cost of a sixth day of delivery happens to be a convenient amount to cut from the budget.

If Congress were logically to approach the problem of public service and its funding, two additional areas should be evaluated. Prior to reorganization, under title 39 of the United States Code, those items which now are generally classified as "Revenue Foregone" items were considered public services (former 39 USC Sec. 2303 (a) (1)). We feel that such items fall more logically into the public service category and ~~should be~~ considered as such by Congress. In the process it may develop that some items, such as Free Mail For The Blind, should rightfully appear in the budget for the Department of Health and Welfare. That agency could then reimburse the Postal Service for the cost of such mail. We are not advocating the discontinuation of free mail for the blind. We merely feel that it is not an appropriate Postal Service budget item. Of course, this action will not reduce the overall government outlay, but it would allow the Postal Service budget to more adequately reflect its major mission, postal service, and not social service.

... If Congress should eliminate all public service appropriations for the coming fiscal years, leaving the rate payers to pay the remaining and major portion of those costs, would the attorneys for those rate payers, in the next rate case, be obliged to propose the elimination of certain public services since these services and their costs impact the rates they will ultimately pay? Or is Congress saying that these costs will be borne by rate payers ad infinitum without their having any say as to their amount or necessity? If the latter is true, then Congress is only escalating the exodus of mailers from the Postal Service and accelerating its demise.

ANNUAL REPORT

Congress, as the representative of the stockholders, the owners, of the Postal Service, has the right and the obligation to review and examine USPS operations in whatever detail it believes necessary. However, such oversight should be exercised in a manner that does not become overburdensome or of little benefit in relation to the cost involved. In addition, Congress should not involve itself in the day-to-day operation of every phase of postal life. The past record of Congressional overinvolvement is best demonstrated by Section 510 of former title 39, which by law allowed the Postmaster General to dispose of wastepaper.

SECTIONS 6 AND 7 --MAIL CLASSIFICATION AND COMMISSION DECISIONS

While the full impact or need of these two sections is not readily apparent, it does seem that their effect is to enlarge the powers of the Postal Rate Commission. We strongly oppose any such enlargement. In fact, we would suggest that the present questionable

areas of power of the Commission be more clearly defined and more fully limited.

In most of the recent decisions of the Commission, we have seen a desire to become more fully involved in the decision making powers which rightfully belong to the Postal Service Board of Governors. In the E-COM case the Commission not only rejected the USPS recommendation, but substituted its own proposal for the Governor's. We do not believe that decision making powers should be separated from the responsibility for those decisions. The Commission role is and should be no more than to ensure that a recommendation from the Postal Service is neither arbitrary nor capricious and that the USPS proposal is reasonable in light of the facts before it. The Commission should not be allowed to replace the judgment of the USPS management, unless and until it similarly assumes the full responsibility for executing that decision. In short, the PRC role should be one of calling the "balls" and the "strikes".

SECTION 8 -- REDUCED POSTAGE RATES

Based on Postal Service estimates, this provision will amount to about \$10 billion in lost revenue. While the merits of this proposed change are noteworthy, the monies involved might be more productively used by adding them to the public service funds proposed in Section 5.

SECTION 9 -- POSTAL RATE COMMISSION BUDGET

We have no objection to this long requested change in the law.

SECTION 10 -- QUALIFICATIONS OF GOVERNORS AND COMMISSIONERS

For some time the qualifications for both the Governors and Commissioners have demanded more clear definition. Too often we have seen prior administrations use these positions as a political dumping ground. However, the proposed qualifications do cause us some concern. Why, for example, consider "the management of large public service organizations" as a necessary skill, but when addressing "major enterprises" consider only the "financial guidance"? Your proposal is headed in the right direction, but should be changed to provide greater consistency of criteria.

SECTION 11 -- SERVICE OF GOVERNORS UNTIL SUCCESSOR QUALIFIES

This change in the law is necessary and we support it.

SECTION 12 -- PROTECTION OF POSTAL PROPERTY

With the assumption that this provision will aid the Postal Service in the more efficient operation of the service, we support this proposal.

SECTION 13 -- SIZE AND WEIGHT LIMIT

This, more than any other provision in postal law, demonstrates that Congress should leave the day-to-day operations of the Postal Service to postal management. At almost every congressional hearing on the parcel post business, USPS management has been criticized for its failure to hold or recapture its parcel post business. At the same time, Congress has done nothing over the past ten years to remove the archaic size and weight limits to allow the Postal Service to operate

efficiently and effectively. This provision has been in almost every postal bill and has yet to become law. The present limits in the law are ridiculous, spawned in a bygone era by a company which is no longer in existence. If the time for any idea has come, the enactment of this section is long, long overdue.

CITIZEN'S RATE MAIL

As you know, Mr. Chairman, this Association has been involved for some time in an effort to obtain a postal rate which would encourage individuals to use the mail. We have met with Congressmen, with the Postal Service management and rate technicians, with just about anybody that is willing to meet and discuss this concept. Today, we still do not have such a rate, and without some form of Congressional directive, the future is indeed dim.

Today, every Postal Service effort is directed toward the mass mailer and the economies of scale. The individual is benefited less and less by the delivery system which was originally established to encourage citizen communication. We do not want to see the individual mailer in the same position as the farmer in the thirties. At that time, the price of phones and electricity was prohibitive in rural areas because of economies of scale in the utility industry. Had it not been for government intervention and the establishment of cooperatives, many farmers today would still be without those services.

This is not a defense of cooperatives, that is another issue. Rather, it is an attempt to point out to this subcommittee and hopefully to Congress, that the economies of scale envisioned by the Postal Service will not benefit the individual, but will eventually force him to other means of communication. It is time for Congress

to say that this should not happen, that modern hard copy delivery methods should be priced within the reach of the average citizen.

In the past, Congress has encouraged publishers to use the Postal Service with the idea that the dissemination of information develops a more informed and enlightened citizen. Is an individual letter or card from one person to another any less important to this nation than a mass-produced consumer publication? We believe not. And we believe the Postmaster General is of the same opinion. A copy of his remarks at the First-Day-Of-Issue Ceremony for the Letter Writing Stamps is attached to our testimony. He states that "Letters are truly a treasury of our lives." Should we allow them to become relics of the past? We hope that this Congress will not allow the trend towards economies of scale to price individual written communication out of the marketplace and our lives. We urge you to consider additional rate and classification criteria which will remove economics as the sole rate setting criteria and add criteria to encourage the continued use of the mails by the individual citizen.

RATEMAKING METHODOLOGY

Perhaps no one area is of greater concern than the proposed changes in the Postal Rate Commission's rate making methodology. Even though your proposed bill does not address this subject, I feel certain that most of the witnesses appearing before you will comment on this area which is of such import to them. In your consideration of the economic theories they or anyone else might advance, I urge you to bear in mind that after all the "inverse elasticity of demand" and "short term variable" and "long term variable" dogma is scrapped away, all that remains is an economic

theory advanced by each party to provide the most advantageous postal rates for his own group of mailers.

We do not oppose reasonable rates for the benefit of other mailers or competitive Postal Service pricing. We do oppose any system of accounting which will load the costs of other classes onto the first class mailer, who has no other means of delivery. Any system of rate making methodology can only be considered fair and reasonable if it is fair and reasonable to all the parties using the Postal Service.

CONCLUSION

Thank you, Mr. Chairman, for this opportunity to testify. I shall be happy to answer any questions you might have.

REMARKS
WILLIAM F. BOLGER
POSTMASTER GENERAL
FIRST DAY OF ISSUE CEREMONY
LETTER WRITING STAMPS
WASHINGTON, DC
FEBRUARY 25, 1980

Thank you and good morning, ladies and gentlemen. I am delighted to share this occasion with you, primarily because I know the colorful, happy-looking letter writing stamps we are dedicating will be a source of delight to millions of Americans throughout the country.

These miniature works of art -- these traveling billboards -- will help us remind everyone of the importance and the fun of writing and receiving letters.

The Postal Service is proud to issue these stamps. And we are happy to cooperate with the National Council of Teachers of English to promote National Letter Writing Week.

It is also most fitting that this ceremony take place here at the Library of Congress, one of the outstanding educational institutions of the world. Within its buildings, it houses magnificent collections of books, manuscripts, music, prints, maps, and, of course, letters. This Library serves not only those who cherish the achievements of the past, but those who will contribute to the accomplishments of the future.

We are sponsoring National Letter Writing Week, and issuing these stamps, because letter writing is a special way of communicating with one another. The telephone is a valuable instrument of communication, one that is absolutely essential today. However, the fact remains that there are things a letter can do that nothing else can, and many things it can do more effectively.

I particularly like the description written during the late 1800s by Dr. Charles Eliot, then President of Harvard University and edited later by President Woodrow Wilson. The words are inscribed on our Washington, DC Post Office. This is how they go:

"Messenger of sympathy and love,
 Servant of parted friends,
 Consoler of the lonely,
 Bond of the scattered family,
 Enlarger of the common life.

Carrier of news and knowledge,
 Instrument of trade and industry,
 Promoter of mutual acquaintance,
 Of peace and of good will among men and nations."

Another one I like is that of Sir Walter Raleigh. He wrote: "This is the triumph of letter-writing, that it keeps a more delicate image alive and presents us with a subtler likeness of the writer than we can find in more formal achievements of authorship."

And in the letters of Heloise to Abelard, we find probably the most poetic description of all. ... "What cannot letters inspire?" Heloise wrote. "They have all the tenderness and the delicacy of speech and sometimes even a boldness of expression beyond it."

But, a letter to be valued need not always be poetic. In fact, as we emphasize in these stamps we are dedicating, letters are to be valued because they -- perhaps more than any other form of communication -- lift spirits, shape opinions, and preserve memories.

As part of our participation in National Letter Writing Week, I wrote to a number of prominent personalities and asked them to let me know how much they value letter writing. I received many encouraging responses, and I would like to share some of these with you.

The one response which best illustrated the power of letters to lift spirits was actually not written by the sender but dictated. It came from Darryl Stingley, the New England Patriots wide receiver who was paralyzed in the 1978 football season.

He said: "I am convinced that the feelings expressed in letters can be as helpful as any medicine or therapy in aiding someone recovering from an injury . . . the encouragement, hopes, and prayers I received in the mail from my fans all over the country have given me the strength to progress toward my goals.

"It's amazing how one letter from a stranger can be more rewarding than the cheers of thousands in a stadium."

Bob Keshan, known better to our children as "Captain Kangaroo," also stressed how uplifting it is to receive a letter. He wrote: "Think what it means to a grandmother in another city to discover a mailbox with a letter from her granddaughter. For a son away at camp, in the American Forces overseas, or at college to get a letter from home. . . Letters become a part of everyone's personal history. . . A letter can last a lifetime."

Perhaps this letter from E. B. White, the famous writer and philosopher, says it best:

"Dear Mr. Bolger:

A writer who has had books published receives many letters. A few are memorable and give him courage to go on. . . I will give you a recent example -- a letter from a young farmwife in the midwest. I have never met her. I have heard from her a few times, and she knows I am old and have lost my wife. She closes her letter with these words:

"Your books have seen me through many things and even when they will no longer rest on the shelf, when the shelf is torn down and this old house no longer stands, they will be with me -- wherever I am. . .I hope that life at 80 holds many things dear for you -- that the sun pushes you out of bed in the morning, that sleep comes easily at night and that dreams are sweet. That winter brings more than cold and that your heart is warm. I wish everything that is good for you in 1980. Love."

White goes on to say: "Such an expression, simple and genuine, sustains a writer, lifts his flagging spirits. . .letters are important. Sometimes I dread opening my mailbag, but I always do. . .and I know I would miss it if it failed to arrive."

Letters are also a formidable means of shaping opinions and, indeed, of even changing the course of human events. In the latter regard, you will recall perhaps that it was a letter written in 1939 by Albert Einstein to President Roosevelt that resulted in a commitment of government funds to nuclear research and thus ushered in the nuclear age.

Finally, in these stamps we speak of the ability of letters to preserve memories. And what a marvelous value that is!

Like most parents, my wife and I have saved practically every letter and card from our two daughters, from their first painfully scratched notes and Mother's or Father's Day cards, to their letters from camp, to the notes from school, to the ones that truly reflected their blooming adulthood.

Many families cherish such collections of old letters and post cards, some so old they are our only link to ancestors long dead.

Congratulatory letters bring back memories of exciting times: graduations, weddings, new babies. And letters of condolence speak of those who took the time to say they understood, sympathized, and wished to comfort.

Yes, letters are truly a treasury of our lives. In closing, I want to quote from one last letter. To me, it is the most beautiful and powerful letter ever written. The letter is that of St. Paul to the Corinthians.

"If I speak in the tongues of men and of angels," wrote St. Paul, "but have not love, I am a noisy gong or a clanging cymbal. And if I have prophetic powers, and understand all mysteries and all knowledge, and if I have all faith, so as to remove mountains, but have not love, I am nothing. . .

"Love is patient and kind; love is not jealous or boastful; it is not arrogant or rude. Love does not insist on its own way; it is not irritable or resentful; it does not rejoice at wrong, but rejoices in the right. Love bears all things, believes all things, hopes all things, endures all things.

"When I was a child, I spoke like a child, I thought like a child, I reasoned like a child; when I became a man, I gave up childish ways. For now we see in a mirror dimly, but then face to face. Now I know in part; then I shall understand fully, even as I have been fully understood. So faith, hope, love abide, these three; but the greatest of these is love."

Can you imagine what the world would have lost if men like Paul had not written such letters?

* * * * *

Now it is my pleasure to present albums containing the new Letter Writing stamps to the following distinguished persons:

The first, by tradition, goes to the President of the United States, and Mr. Carter's will be delivered to the White House.

**TESTIMONY OF RICHARD A. BARTON, VICE PRESIDENT/GOVERNMENT AFFAIRS
THE DIRECT MAIL/MARKETING ASSOCIATION**

Mr. Chairman,

My name is Richard A. Barton and I am Vice President for Government Affairs of the Direct Mail/Marketing Association. The Direct Mail/Marketing Association is a trade association consisting of more than 2,000 companies engaged in all forms of direct response marketing. As such, we have a broad interest in all classes of mail and the maintenance of a strong and efficient Postal Service.

Many of the issues contained Senator Glenn's bill, upon which we are testifying today, have been broached in H.R. 79 which is also pending before the subcommittee. Therefore, in the interest of brevity and time, I am including a copy of our testimony on H.R. 79 before the House of Representatives Subcommittee on Postal Operations and Services and ask that it be included in the record of your hearing.

The key issue in Senator Glenn's bill, from our own perspective, is Section 5, Public Service Authorization and Annual Report. Our position on public service funding of the Postal Service has been clear through the years. We are in favor of it and believe current levels of funding are unrealistically low.

The Postal Service conducts business in a way that no purely private business would. It is fair and proper that it do so, since it is the one agency of government which serves the entire population on an almost daily basis. However, the business mail user should not be solely responsible for paying for public services which are not strictly needed in a business sense. In other words, public service funding should not be viewed as a subsidy to mailers, but rather a payment

from the Treasury for services performed by the Postal Service for the public at large.

This is not a position held exclusively by the mail industry, either. Virtually every major study of the Postal Service has come to this conclusion in one form or another. The Commission on Postal Service, for example, recommended annual public service funding amounting to 10% of Postal expenditures. The House of Representatives has consistently supported increased public service concern.

Our concern as business mailers is simple. We believe it is much easier to cut budgets than it is to cut services. Thus, we shudder at the prospect of Congress cutting out public service funding and later making it extremely difficult for the Postal Service to reduce service commensurately. This would add substantially to the already irresistible pressure for higher postal rates, thus fueling inflation.

We are extremely disappointed with the current level of debate about various proposals from both Houses to cut- or eliminate- this funding in the F.Y. 1981 budget. Actually, it is a non-debate since it appears that very little thought and certainly no understanding about postal realities graced the internal committee discussions of the issue.

Therefore, we are looking to this subcommittee to support Senator Glenn's bill and reaffirm the importance of public service funding for the Postal Service. To keep the record straight, however, it must be emphasized that we strongly support an even higher authorization.

In regard to the remainder of the Glenn bill, we have no specific objections. In particular, we support the principle underlying Section 3, False Representations: Investigation and Civil Penalties. Direct Mail/Marketing Association is actively engaged in a wide ranging program fighting unethical practices. We support the Postal Service in its efforts to strengthen its enforcement authority

against mail fraud. We are studying the administrative procedures proposed by this legislation and a similar bill in the House of Representatives. We will be happy to submit these comments to you when they are completed within the next two or three weeks.

Thank you, Mr. Chairman, for inviting us to testify on this important bill. I will be happy to answer any questions.

TESTIMONY OF RICHARD A. BARTON, VICE PRESIDENT/PUBLIC AFFAIRS
THE DIRECT MAIL/MARKETING ASSOCIATION

Mr. Chairman:

It is a pleasure to testify before the Subcommittee on Postal Operations and Services on legislation of importance for the future of the United States Postal Service.

I am Richard A. Barton. I am the Vice President for Public Affairs for The Direct Mail/Marketing Association. The Direct Mail/Marketing Association consists of more than 2,000 member corporations involved in all areas of direct response marketing, including the use of the mails.

Our members use all classes of mail. Therefore, the approach of the association is one of support for a strong, nationwide postal system which serves all customers in an efficient and economical way.

We believe in the maintenance of a postal rate structure which is not only fair to all users but which is also designed to maximize volume for the postal service.

We believe that the public has a substantial need for a universal nationwide postal system which must be financed, in part, from public funds.

We believe that, within the legitimate constraints placed upon it by its function as a government service, the Postal Service should be operated in as business-like a manner as possible.

Thus, we support the general concepts contained in H.R. 79, as we have supported the general concepts contained in prior postal legislation sponsored by you and Rep. James M. Hanley over the past several years. We do, however, have some specific comments about the various sections of the bill.

CHAIRMAN OF THE BOARD OF GOVERNORS AND POSTMASTER GENERAL

Section 2 of the bill provides that the Chairman of the United States Postal Service Board of Governors will be appointed by the President of the United States and confirmed by the Senate, that the Board of Governors will receive a small staff, and that the Postmaster General be removed from the U.S.P.S. Board of Governors.

The Chairman of the Board would be designated as Chief Executive Officer for policy matters, and the Postmaster would be C.E.O. for administration -- essentially, a Chief Operating Officer.

It has long been the position of The Direct Mail/Marketing Association that the organizational structure of the Postal Service is secondary in importance to other policy issues such as the size and nature of public service subsidies and the philosophy underlying the establishment of postal rates.

We continue to hold this view. The structure of postal management should be one determined by Congress in conjunction with the administration and the Postal Service. We recognize that many in Congress believe strongly that the present structure of the Postal Service causes it to be relatively unresponsive to the public and its elected leaders. Regardless of the structure of postal management, we believe, as does Congress, that the Postal Service should be very responsive to the public it serves. Any structure which serves that purpose should be encouraged.

First, the designation of the Chairman of the Board of Governors as Chief Executive Officer is confusing. It is clear that the bill intends to make the top officer of the Postal Service a political appointee. However, in industry a Chief Executive Officer is a full-time person who actually runs the business of which he is C.E.O.

H.R. 79 does not accomplish this, since the Chairman of the Board of Governors continues to operate on a part-time basis. We doubt very seriously if a well qualified individual will be found who will be willing to take on the title and responsibilities of a Chief Executive Officer on a limited, part-time basis. Even if this is possible, a part time C.E.O. would probably be ineffectual.

Second, the separation of the Postmaster General from the Board of Governors may, in fact, do nothing but guarantee that no one with first class management capabilities will agree to serve as Postmaster General. Such diminution of the power, influence and authority of that position should be considered carefully by Congress before it decides to take this step. Any business needs a strong manager at the top. H.R. 79 bifurcates and dilutes management responsibility. In other words it appears that instead of strengthening the top management of the Postal Service, such a change will weaken it to the detriment of the Postal Service, and ultimately, its customers.

PUBLIC SERVICE APPROPRIATIONS

One of the most significant segments of H.R. 79 is Section 3, which would in essence eliminate the "break even" concept under which the Postal Service now operates. The elimination of this concept is in itself a valuable step forward. The goal of the Postal Service essentially to break even has always been a misguided one. If the Postal Service were actually a private business it would be laudatory to require it to break even, and perhaps show a profit. But the very nature of the Postal Service as a government operated service requires it to provide various services which are not economical and which businesses would not, and could not, provide. No business in America could afford to deliver to every household and business six days a week. Universal

six-day delivery should be considered, at least in part, a public service. The Postal Service maintains almost 40,000 outlets, of retail stores if you will. No business could afford to maintain that kind of infrastructure, and yet we keep these small post offices open as a public service. Many, many other services and functions would be cited. On top of that, the very existence of a government owned communications network touching the lives of every American is in itself a public service of inestimable value.

The important thing to recognize is that the businesses and individuals who use the Postal Service should not be expected to pick up the tab for public service costs - be they explicit or implicit. Chairman Wilson is to be lauded for recognizing this basic fact and for providing for a permanent public service authorization to the Postal Service. However, the amounts included in this bill are woefully inadequate.

Given the current drive for austerity in the government, perhaps it is all that can be expected. However, less than \$200 million increase in the public service authorization for 1980 is an inadequate recognition of the public service functions of the Postal Service, as are the slightly greater increases for 1981, and beyond.

As we have testified many times in the past, the public service appropriation should more closely appropriate about 20% of the Postal Service budget. This is supported by work done by this subcommittee, by analysis of past postal funding, and by a Postal Service study itself which suggested in 1975 that the appropriate level for public service funding could, under reasonable definitions, be as much as \$2.6 billion.

The Commission on Postal Service, established by legislation coming from this subcommittee in 1975 estimated that approximately 10% of the Postal Service budget should be authorized for public service costs.

This would mean a public service authorization of at least \$1.8 billion for 1980 rather than the \$1.1 billion authorized in H.R. 79.

Regardless which calculations might be adopted, there is a strong opinion among postal users, and in Congress itself, that public service appropriations are necessary and beneficial to the Postal Service. In view of this widespread belief, it is disturbing to find that there has been almost no progress along these lines during the last 8 years.

There has been progress, however, in increasing postal rates. This progress is causing many mailers to look seriously outside the Postal Service for alternative forms of delivery. If the Postal Service cannot pare down its operations to the point that a business would, (and we are not recommending that), then we must develop a realistic formula for paying public service costs of the Postal Service.

The debate over whether or not to subsidize has been raging since the beginning of mail delivery in the country. Regardless of which side was winning at the time, the general history of the Postal Service has been one in which public service functions have been recognized and were provided from the public treasury.

There are good arguments against attempting to specify the exact nature of public service costs. The foundations of the arguments are that the Postal Service in itself is a public service and that various functions cannot conveniently be identified as being public service or not being public service. The task of defining and listing public service functions was assigned to the Commission on Postal Service in 1976.

The Commission concluded that it should not and could not be done. However, since this argument is uncomfortable for many because it lacks specificity, we would urge that the subcommittee again attempt to identify and define what public costs are and to provide the money to cover them.

Last year Rep. Corcoran introduced an amendment to H.R. 7700 on the floor of the House of Representatives which had this identification as its goal. The Corcoran amendment granted an unlimited authorization for public service costs identified annually by the Postal Service. The amendment was fundamentally defective in that it left the identification of public service costs to the Postal Service and, therefore, gave the Postal Service rather remarkable control over the Congressional authorization process. However, Rep. Corcoran was moving in the right direction. If public service functions are to be identified, however, Congress should take this burden on itself. If Congress is unwilling to do so, at a very minimum, the level of authorization in H.R. 79 should be raised substantially.

POSTAL RATES - PHASING AND COST ATTRIBUTION STUDIES

The philosophy behind and structure of postal rates are touched by two sections of the bill, Sections 4 and 6.

Section 4 would extend the phasing policy contained in The Postal Reorganization Act of 1970 and extended by The Postal Reorganization Act Amendments of 1976. In 1970, there was recognition that the new system for establishing postal rates would cause rates to increase substantially for non-profit mailers and for regular rate mailers in second, third, and fourth-class special rate categories. The Postal Reorganization Act gave five years for regular rate users to reach full, unphased rates, and ten years for non-profit categories. The 1976 amendments extended phasing to 8 years for regular rate users, excluding third class regular rates, and 16 years for non-profits. H.R. 79 would extend those dates even further, to ten years for regular rate and twenty years for non-profit categories.

The Direct Mail/Marketing Association suggests this extension of phasing. While it was recognized in 1970 that rates would increase for second, third and fourth-class mail as a result of postal reorganization, no one in their wildest imagination predicted the kind of increases which we have suffered since then. At the most it was suspected, for example, that magazine rates might go up approximately 100%. Rates have now gone up more than 400% and of course, will go up even further. Non profit mailers have been even more severely affected. Extension of the phasing period is a realistic approach to help the Postal Service maintain its volume and to provide for a time reasonable rates for magazines, newspapers, books and non-profit materials.

It must be emphasized, however, that the phasing provisions in the Postal Reorganization Act of 1970 were never implemented for third-class regular rate mail. This is the category that includes the vast bulk of our advertising mail. While phasing was authorized in the Postal Reorganization Act, appropriations for implementation were never recommended by the administration nor voted by Congress. The 1976 amendments specifically excluded third class regular rates from their provisions. This bill also excludes third class regular rate material. We are not proposing inclusion, but it should be made clear that the rate category which covers most commercial advertising mail has always paid its full unphased rate and has returned a good profit to the Postal Service.

As desirable as an increase in phasing is, it is merely a bandaid temporarily covering a far more serious problem. For some time, we and many other postal customers have been testifying about the inequity of the Court of Appeals decision in the so-called Greeting Card Case. Our position on this case has been extensively documented, and we do

not intend to reargue our positions in this testimony. We refer the Members to our testimony on H.R. 7700 before this subcommittee in 1977 and before the Senate Subcommittee on Energy, Nuclear Proliferation and Federal Services in 1978.

Suffice it to say that the Court of Appeals decision contains within it the seeds of the destruction of a postal rate structure which is fair to all users and which is essential to the maintenance of postal volume. If this decision is allowed to stand untouched, there is an extreme danger that the resulting increase in rates in second, third and fourth-class matter will drive valuable business from the Postal Service and will ultimately mean an even greater increase for first class mail. It will also mean a tremendous increase in the rates paid for non-profit mail and thus a decline in funds raised by charitable organizations which can ultimately be used for charitable purposes.

The ultimate issue is whether or not the intent of Congress in the passage of the Postal Reorganization Act is to be honored. That Act was designed to provide a realistic basis for reflecting actual costs in the rate structure. But, it also recognized that it was falacious to pretend that a straight line could be drawn between all costs and fluctuations in the volume of one or another class of mail. The costs which could not be directly related to fluctuations in mail were defined as institutional costs, and the Act requires that they be allocated among the various classes by using some non-cost related principles such as the value of the mail service provided each class or type of mail service, the effect of rate increases upon the general public, and the degree of preparation of mail for delivery into the postal system performed by the mailer.

Congress should not allow this important area to be pre-empted by either the courts or the Postal Service. It is therefore a disappointment that H.R. 79 does not include the language that was contained in H.R. 7700 approved by the Committee in 1977. This language was developed by the Commission on Postal Service in 1977 and was one of its major recommendations. We would strongly urge that the subcommittee develop language similar to that contained in H.R. 7700.

Following from this is our belief that the Postal Rate Commission study called for in Section 6 is unnecessary. The issue has already been studied. First, it was studied by the Koppel Commission in the late 1960's - leading to the rate language contained in the Postal Reorganization Act of 1970. Then it was studied by the Commission on Postal Service in 1976-1977, with heavy Postal Service participation. (The Postmaster General was a member of the Commission). This led to the language contained in H.R. 7700. On the other side of the issue, the Court of Appeals has also studied the issue.

Also, it is our understanding that the subcommittee will consider the cost attribution process in other hearings. The proposed P.R.C. study should, therefore, be dropped from H.R. 79. The necessity or lack of it, of such a study can be determined after the subcommittee deliberations.

While the matter is highly complex and very difficult for most laymen to understand without substantial study, the issues are known. It is up to Congress now to make a decision.

Another rate-related section of H.R. 79 is Section 8 which would give the fourth class library rate to teaching aids, catalogues of books and eligible educational material. DMMA supports this provision. It is similar to a provision in H.R. 7700 which passed the House last year.

It is designed to perfect language contained in The Postal Reorganization Act Amendments of 1976. A provision of that Act granted the library rate to books sent to and from libraries. Previously the library rate applied only to books and related materials mailed between libraries. The Postal Service chose to interpret the language of the Act very narrowly to include only books.

INDEPENDENT BUDGET FOR THE POSTAL RATE COMMISSION

Section 5 would give the Postal Rate Commission a budget independent from the Postal Service. The Postal Reorganization Act of 1970 established a quasi-independent Postal Rate Commission. While the conduct of its internal affairs could not be controlled in any way by the Postal Service, the funds for its operation were to be taken out of the Postal Service Fund. Therefore, the Board of Governors was given the power to approve, disapprove, or alter the Postal Rate Commission budget.

Although the Board of Governors cannot veto specific items of the Postal Rate Commission budget, it does have life and death power just the same. This power has seldom caused a problem. The Postal Service has generally approved the Postal Rate Commission budget as submitted with one fairly major exception in 1975. Although the Postal Service has acted responsibly in the past, the possibility of future abuse exists. It has always been something of an anomaly that the regulated entity (the Postal Service) has financial control over its regulator.

Also, the Postal Rate Commission serves the general public by reviewing Postal Service rate proposals to make sure the proposals are fair to the public. This we view as a function which should be funded from general revenues rather than from the postal funds. Therefore, we support Section 5.

SIZE AND WEIGHT LIMITATIONS FOR MAIL MATTER

DMMA supports the proposal that the Postal Service may establish size and weight limitations for mail matter after having received a recommended decision from the Postal Rate Commission.

Since the Postal Service has broad authority to establish mailing criteria, it does not appear to be efficient or necessary to make maximum size and weight limitations subject to law. The requirement that the Postal Service use the procedures for classification changes in Chapter 36, Subchapter II, title 39, U.S. Code, should provide sufficient safeguards against arbitrary action.

Again, Mr. Chairman, DMMA appreciates the opportunity to testify on H.R. 79. We have purposely kept the testimony brief, because most of the subjects have been fully covered in testimony before this subcommittee in the past. We stand ready however to provide any further explanation or clarification the Members of the subcommittee might desire.

TESTIMONY OF RICHARD A. BARTON, VICE PRESIDENT/GOVERNMENT AFFAIRS
THE DIRECT MAIL/MARKETING ASSOCIATION

My name is Richard A. Barton. I am Vice President for Government Affairs of the Direct Mail/Marketing Association. The Direct Mail/Marketing Association is an international trade association consisting of 2,000 companies and 3,500 individuals involved in every form of direct response marketing.

Founded in 1917, DMMA has consistently maintained an intense interest in promoting and enforcing ethical practices in the industry. We have developed an extensive code of ethics for all forms of direct response marketing, including mail, telephone and broadcast advertising. A copy of our code of ethics is included at the end of this testimony.

Another example of our commitment to ethical activity are our Mail Preference Service and our Freedom to Mail programs. DMMA's Mail Preference Service provides an opportunity for people to remove their names from mailing lists if they wish to stop receiving unsolicited advertisements. The association broadly advertises this service in major national magazines and newspapers and some radio and television advertising.

Our Freedom to Mail Program urges companies which rent their mailing lists to give customers an opportunity to be taken off their lists before the lists are rented. A large percentage of our member companies which rent their mailing lists now participate in this program.

In addition, the association is developing a similar program

for telephone marketing which is now in its planning stages.

While these programs are not directly related to the subject matter included in HR 6307, they do emphasize DMMA's strong commitment to promoting ethical practices.

More to the point is DMMA's Mail Order Action Line (MOAL). Essentially, MOAL is a bureau within the association which handles complaints about unfair or fraudulent activities in the direct response industry. During the past year we have handled over 55 complaints nationwide. Most of these complaints are handled simply by contacting the company involved and working out mutually satisfactory arrangements. The more difficult complaints undergo rigorous study and investigation by the structure established by DMMA to promote ethical practices and resolve problems within the industry.

To this end, DMMA has established a fully staffed, professional, ethics department. It is headed by a Director of Ethical Practices. The Director is responsible for liason with Better Business Bureaus, The Postal Inspection Service, consumer affairs groups, and other agencies and organizations which may be involved with fraud or false representation in direct response marketing. He also manages a DMMA task force on companies which generate a substantial number of complaints. He also conducts preliminary investigations of alleged unethical practices and uses his office to attempt to resolve the complaints before they are sent on to our Committee on Ethical Business Practices.

This committee consists of 15 DMMA members and meets eight times a year. Its job is to handle persistent complaints which

cannot be resolved immediately by staff. This is essentially done through peer pressure since members of the Committee on Ethical Business Practices are prominent in our industry. In particularly difficult cases, the committee will refer cases to the Federal Trade Commission or the Postal Inspection Service if the situation warrants.

Finally, DMMA has recently established an Ethics Policy Committee consisting of seven members who meet six times a year. This committee develops general ethical policy for the association. For example, one of its major projects is working out the legal details to allow member companies to use the DMMA logo as a symbol of ethical practices.

These are only brief descriptions of some of DMMA's activities to promote ethical practices. We would be happy to supply the subcommittee with further detailed information about any of our programs or activities.

DMMA strongly supports the general thrust of HR 6307 and the efforts of the Postal Service to strengthen its efforts against misleading and fraudulent practices in the mail order industry. We believe these practices hurt the industry and that a concerted effort to eliminate them will be of great benefit to us all.

One of the reasons that these fraudulent practices hurt the industry is that there seems to be a greater tendency on the part of the public to blame fraudulent practices on the mail order industry as a whole. This has not happened for example in retail marketing. If a particular store is accused of shady practices,

it does not occur to the public to blame retailing in general. But all direct mail marketers get a black eye when one of their numbers engages in fraudulent activities.

Although we support the general thrust of the bill, we have several comments to make about the specific provisions. HR 6307, gives the Postal Service the authority to demand any article or service that a person offers for sale by mail. Failure to comply with such a demand constitutes probable cause to believe that the law pertaining to false representations has been violated.

Under existing law, the Postal Service then may issue an order directing the Postmaster of the post office at which the mail arrives to return such mail to the sender marked as in violation of the law. Before the Postmaster may do this, the person suspected of violating the law is first notified and given reasonable opportunity to be present at the receiving Post Office to survey the mail before the Postmaster returns the mail to the sender.

The bill also provides that any person who evades or attempts to evade the effect of the order issued pursuant to the section pertaining to false representations and who continues or resumes conduct proscribed in the order, is subject to a civil penalty of \$10,000 for each violation.

We favor this approach as we would probably favor any statute or regulation that would deter fraudulent mail order operators. Assisting the Postal Service to help bring a halt to the use of schemes and devices used by marketers for obtaining money through the mail by means of false representations has long been, and continues to be, a primary function of this association. Thus

we can wholeheartedly support the provisions of this bill that impose civil penalties to wrongdoers.

I must raise one warning, however. Our attorneys have raised the question as to whether the Postal Service as an "independent establishment of the executive branch of the United States Government" has the authority to assess civil penalties without the approval of a judge. While we have not studied the issue closely, we would suggest that the subcommittee be assured that the Postal Service would not be subject to legal challenge in this area.

Subsection (f) of the proposed addition to section 3005 provides for "due process" to be followed in determining the amount of any penalty. We support these provisions and in particular support subsections (f) (2), (3) and (4) as necessary to any acceptable legislation in this area. We would suggest that in subsection (f) (3), the notice should alert one to the opportunity to request the hearing provided in (f) (4).

Subsection (f) (6) provides for appeal to the Court of Appeals of any decision of the Postal Service in this area. We certainly agree with this right of appeal; however, we do question the provision of the subsection which prevents the Court of Appeals from examining the facts underlying the decision to impose civil penalty. This in essence shifts the fact finding functions from the judiciary to the Postal Service. In this case, the shift does not appear to be necessary to the Postal Service's ability to carry out the law effectively. We see no reason why Federal Court should not retain the opportunity to review the underlying supportive

facts as well as the decision rendered by the Postal Service. Giving the court authority to conduct a trial de novo would be an added protection against arbitrary and capricious action.

Finally Mr. Chairman, we would like to offer a non-legislative proposal to the Congress and to the Postal Service. We would be happy to offer the services of our Committee on Ethical Business Practices to you and the Postal Service whenever is believed that a violation of the relevant law has occurred. If the appropriate documentation were provided us, our Committee on Ethical Business Practices would fully investigate the matter in the ordinary course of its administration. If the committee felt that a violation had occurred, it would turn over its entire investigative files since the committee conducts its business under strict confidentiality rules. We believe that the expert opinion of our Ethics Committee would be a valuable tool for the Postal Service in fighting false representations in mail order advertising.

In summary, DMMA supports the general provisions of HR 6307. We would make two recommendations for changes in the legislation.

1. Subsection (f) (3) should require the Postal Service to inform the person against whom the penalty is being assessed of the opportunity for a hearing pursuant to subsection (f) (4).
2. Subsection (f) (6) should allow the Court of Appeals to review the facts underlying a decision of the Postal Service to assess civil penalties should such a decision be appealed.

Thank you very much for this opportunity to testify on this important piece of legislation.

Senator GLENN. Our next panel will be Mr. George Larie, chairman, postal committee, Association of American Publishers; Mr. Timothy J. May, general counsel, Parcel Shippers Association; Mr. Art Sackler, general counsel, National Newspaper Association, and Mr. David Dear, American Newspaper Publishers (together); Mr. Kent Rhodes, president, Magazine Publishers Association; Mr. Robert Saltzstein, general counsel, American Business Press; Mr. Alan Caplan, Religious Press; and Mr. John J. Daly, Washington representative of the Recording Industry Association of America.

Gentlemen, we know that this is a large panel this morning, but we thought that the problems of the second- and fourth-class users which you all represent would be best expressed if we had you all here together so we could share your views among the whole group.

Your statements will be inserted at the end of the panel testimony. Mr. Larie, would you lead off the testimony, please.

TESTIMONY OF GEORGE LARIE, CHAIRMAN, POSTAL COMMITTEE, ASSOCIATION OF AMERICAN PUBLISHERS; TIMOTHY J. MAY, GENERAL COUNSEL OF THE PARCEL SHIPPERS ASSOCIATION; ARTHUR B. SACKLER, GENERAL COUNSEL, NATIONAL NEWSPAPER ASSOCIATION, ACCOMPANIED BY DAVID DEAR, PRESIDENT OF DEAR PUBLICATIONS, WASHINGTON, D.C.; KENT RHODES, PRESIDENT, MAGAZINE PUBLISHERS ASSOCIATION; ALAN CAPLAN, CIRCULATING AND MARKETING DIRECTOR OF THE JEWISH EXPONENT; ROBERT A. SALTZSTEIN, GENERAL COUNSEL, THE AMERICAN BUSINESS PRESS, INC.; AND JOHN JAY DALY, WASHINGTON REPRESENTATIVE, RECORDING INDUSTRY ASSOCIATION OF AMERICA

Mr. LARIE. Thank you, Senator. I am George Larie, president of the personnel division of Doubleday and Co., and chairman of the Postal Committee of the Association of American Publishers. Our association applauds your committee's decision to take up consideration of remedial postal legislation. The need for change in the postal laws to produce and preserve a viable nationwide postal system is greater now than it ever has been before.

In the interest of time, I will condense our written comments, but I respectfully request that the full text be included in the official record of the proceedings.

There are two points that I would particularly like to emphasize. First, the public service authorization should not only be preserved, but increased. To only maintain the authorization at its present level is tantamount to cutting it. Accepting the concept of public service requires accepting the fact that if the overall postal costs increase, public service costs increase also.

The notion that the Postal Service can provide an effective regular nationwide service without the public service authorization is wishful thinking. The Postal Service's highly publicized profit last year includes the funds it received from Congress. Take away the Government appropriation and you have a deficit operation that is in the red by well over a billion dollars. We urge you to reject the false claims

that this public service funding fuels inflation. It's simply specious to regard the public service authorization as inflationary. The only alternative is higher rates and possibly less service.

Speaking of rates, the costs of mailing typical books are now 450 percent of what they were in 1970 when the Postal Reorganization Act was adopted. Since books are strictly user supported, book buyers are directly affected by postal-rate increases. In return for getting a product unencumbered by nonrelated advertising, the book buyer becomes the sole source of postal dollars. The rate spiral which will ensue if public service funding is permitted to decline will do far more harm to book buyers and to the small local book retailers and to the economy than will continuation of this relatively modest, vitally needed support for the nationwide mail system.

The House has recognized these considerations. H.R. 79 calls for modest increases in the public-service appropriation. We are disappointed in the Senate's bill which merely proposes a freeze of the public-service appropriation at existing levels. Undenably, S. 2558 is an improvement over existing law. But the Postal Service, our industry, and the American public would be better served by adoption of the position overwhelmingly endorsed by the House of Representatives.

Second, the provisions of the act dealing with costing principles to be applied in ratemaking and with classification procedures are in dire need of reform. As a result of the decisions by the court of appeals and determination by the Postal Rate Commission, the rate-making standard enacted by Congress in 1970 has been twisted beyond all recognition. The consequences are rates and a rate structure which are unbusinesslike and insensitive to the needs of mail users and the Postal Service itself. The intent of Congress has been frustrated. Corrective measures are clearly required.

No less disturbing are the cumbersome and unwieldy procedures complicating even the simplest changes in mail classification. The Postal Service is burdened with a bewildering array of technical requirements which relate to size, shape, permissible enclosures, definition of mail types and the like. The origins of these requirements are obscure. They clearly serve no purpose today; yet, these requirements cannot be changed unless long, drawn out, and very often fruitless, proceedings are first held before the Postal Rate Commission.

The Postal Service cannot even undertake experiments in offering new or revised service without PRC approval. The cost to mailers, to the Postal Service, and to the public, both in terms of dollars and of innovation, is exorbitant. Although we firmly believe in the need for checks and balances, we equally believe that the provisions of the act relating to mail classification need to be streamlined. We are disappointed, frankly, that neither H.R. 79 nor S. 2558 fully address these matters. The resolution of these problems does not seem to be difficult and formulations of provisions which meet them will not delay this badly needed legislation.

Mr. Chairman, we submit that remedial postal legislation is urgently needed. We are concerned about the distribution of educational, cultural, scientific, and informational matter to our country. We are also very concerned about the Postal Service. About whether it can, or even should, be expected to make ends meet. And whether it can operate,

hobbled by unnecessary and antiquated management restrictions. We believe that a good bill can be developed based on your bill and H.R. 79. A bill that will ease the genuine crisis which we in the book industry and the Postal Service now face. And, to that end, we are prepared to cooperate with this committee and its staff in achieving that goal.

Thank you.

Senator GLENN. Thank you very much, Mr. May.

Mr. MAY. Thank you, Mr. Chairman. If I may, I will submit our statement for the record and summarize its points.

Senator GLENN. Fine. It will be included in its entirety at the end of the panel's testimony.

Mr. MAY. First of all, what we regard as some of the minor but important provisions of your bill. We note in the provisions on OSHA you do grant the Postal Service the right to defend itself in court or to litigate on its own behalf without the consent of the Attorney General. We think that is helpful. In fact, we would like to see that provision broadened to give the Postal Service the power to represent itself without going through the Attorney General in any matter. We think it is utterly contradictory to call the Postal Service an independent agency, and yet at the same time prohibit them from pursuing their legal rights in court unless the Attorney General complies. We just had the absolutely ludicrous situation where the Postal Service wanted the Supreme Court to review the last court of appeals decision on rates and yet the Solicitor General opposed the position of his own client. That just can't go on any longer, Mr. Chairman. We applaud, at least, this partial remedy.

Second, in the false representation section, as much as we all deplore these scurrilous operators who give a black eye to the whole industry, as is often the case in the exercise of police powers to capture the guilty, we are afraid that the net is going to catch the innocent as well. As I read this provision, this would grant to the Postal Service the unbridled power to demand and gain access to any books, records, documents, that they deemed relevant in the hands of any advertiser. And, I mean anybody, any reputable company in this country that advertises through the mail, the Postal Service, under the provisions of your bill, would be able to demand access to all books, documents, records, anything the Postal Service believed to be relevant to the advertising claim. And, provisions that do not make any distinctions between the guilty and the innocent, we feel like this could simply cause grave harm to the public and to the mail order industry, and are unwarranted.

I happen to know a fair bit about the false representation section and believe, in fact, that it is being vigorously pursued and successfully enforced by the Postal Service. I don't believe that they need this kind of power, particularly when it could be easily directed at any innocent mail order company where the Postal Service, on a fishing expedition, wanted to get any kind of information it could. I have no trust from one day to the next that the Government can be trusted with this kind of power.

Third, the so-called double damages provision relating to failure to pay postage. This provision does not require that the Postal Service prove that the person knowingly or willfully did not pay the correct amount of postage before they are visited with double damages. Again,

the Postal Service would promise that they would temper this with mercy. Again, I don't feel like leaving the fate of my clients to the whim of whoever happens to be representing that office at any given moment. The fact of the matter is that I have represented numerous mailers in cases where there have been deficiencies of postage and I can tell you that, in the majority of the cases, the postage that was paid was paid on the advice and agreement of the local postal official, who more often than not understands even less than the mailer does of the complexity of the rules and regulations the Postal Service uses to determine rates.

So, I just think that it is unwise to permit the Postal Service to exact this double damage even when there is no suggestion that the nonpayment was willful or the result of negligence on the part of the mailer. I have even had the post office tell me that it is irrelevant whether the local postmaster approved of and told the mailer that that was the correct amount of postage. That doesn't get you anywhere even today with the post office. So, I just think that this is again a case of overreaching.

Another provision that your bill deals with is the qualifications of Governors and Commissioners for the Board of Governors and the Postal Rate Commission. Again, Mr. Chairman, you quite rightly, I think, emphasize the need for qualifications in people who serve in those capacities and yet your bill prohibits anyone from serving in that capacity until 5 years after he has left either the post office or the Postal Rate Commission. These are precisely the people who are most likely to have the kind of competence that you call for in other parts of your legislation.

I think it singles this out—this particular category of employees—and is unfair and is unwise. And if this is a good policy to direct to the Governors and to the Postal Rate Commission, then it ought to be a policy that is adopted for the entire Federal Government. I don't see why the Postal Service and Postal Rate Commission have been singled out.

Last, you have a size and weight provision which is long overdue and we are very grateful for its inclusion. It would permit, as all other classification changes are handled, the Postal Rate Commission to issue a decision on what should be the proper size and weight. The present law is an anachronism and I think that almost everybody agrees to that.

To get to the real meat of your bill, Mr. Chairman, like everyone else, we are grateful that you have proposed a permanent \$920 million authorization. Like everyone else, we believe that that is far short of what the true costs of the public service are, and yet we are cognizant of the times that we are in and the great difficulty that we will have, as a matter of fact, in even getting that amount of money. But, I would point out, Mr. Chairman, that this is merely an authorization. That does not mean that there is an appropriation that will be forthcoming.

The fact is that we are all expecting that we will not even get the current authorized appropriation. Nevertheless, the authorization language is an expression of public policy and merely because there are exigencies right now that perhaps will dictate that everybody has to give up a little something in this particular time, does not mean that

we should alter our view or that the Congress should alter its view as to what the public policy should be toward the Postal Service. And, therefore, the mere fact that perhaps we cannot get an appropriation of \$920 million in inflationary times like this is no reason not to authorize it. In fact, there is no reason not to authorize an even greater amount if the Congress believes that as a matter of public policy, when times permit it, that a larger amount than that should be appropriated. I might also say that the class of mail which will be most severely harmed by any cut in this appropriation, is first-class mail.

The manner in which the appropriation has been applied in the past has dictated that more than one-half of it has gone to keep lower first-class rates. Mr. Chairman, your language also does provide for an annual report by the post office in the budget to the Congress in which they identify how they spent the public service appropriation or which services they spent it on in the past year and what services they propose to spend it on in the future year. And, it must specifically identify what postal functions were, in effect, subsidized. I'm afraid that this betrays an unawareness or misunderstanding of just how the public service appropriation has been applied. And, I think that the Postmaster General is somewhat off base himself in suggesting that the only why he can save money is to cut 1 delivery day.

The fact of the matter is that almost all delivery functions today are, in fact, paid for directly by rate payers. They are attributable costs or service-related costs and, as such, are allocated to particular classes of mail. Under the present mechanism, if 1 delivery day is eliminated, all the cost attributable to that 1 delivery day will be removed from the rate base of the different classes of mail and those classes of mail should correspondingly have rate reductions because they have less costs assigned to them. It simply continues the confusion to pretend that there are some huge blocks of service that are accomplished by this public service money.

In the first place, the public service money is so inadequate there isn't any major service that it could possibly operate. And the way it has been applied in the past is to pay for what you could call network costs. These are costs of running a national postal service which cannot be on any accounting or cost-causality basis assigned to any particular class or subclass of mail. Those are the costs that are defrayed by the public service appropriation.

There is one large category of costs that could be avoided in any new rate case to make up for \$250 million to \$400 million cut in appropriations. In each rate case they have filed the last several times, the Postal Service has asked for what amounts to a gargantuan amount of money in the rate base in order to recover prior year's losses to restore their equity. This is a recovery not to pay debt that they have borrowed, but this is designed to recover the Postal Service's beginning equity. And, in the next rate case that amount of money will run anywhere from \$400 million to \$450 million. This is money that is not earmarked for any postal function or postal operation or cost, it is money designed to simply put back into the post office's pocket the consumption of its equity in the past. And, if we are in these austere times as we are preached at from both ends of Pennsylvania Avenue and everybody has to give up something, then I suggest that the Postal Service, for at least 1 year, can very easily give up the restoration of its lost equity.

That would be a perfectly valid source from which to recover the cuts in appropriations that we all anticipate. I am very troubled by the fact that the White House's budget statement that they sent up deals not only with fiscal year 1981, where we are in this great crunch, but it also looks at the 2 out years after that and shows practically zero appropriations for public service. Meaning that the White House, although they don't want to admit it in an election year, that the White House has come to the conclusion that we don't need 6 days of delivery in this country anymore. And, my clients are not ready to see that day come, particularly when they believe they have been paying for that delivery service. Not all of our members need 6-day delivery service, but some of them do, have been prepared to pay for it, and have been paying for it.

For a basic service to the American people, such as 6-day delivery, to be done away with in a backhanded way, with nobody willing to admit that they are the ones doing it, with the budget committee hiding one way, the White House pretending that it has nothing to do with it, is simply unconscionable. And I hope, Mr. Chairman, that your committee can do something about that to preserve that 6-day delivery system. And, preserve it in such a way that does not result, very frankly, in extra costs. That very simply means that the Post Office will have to give up the recovery of some of their equity for a year and it also means that we should be able to expect the Congress to come through and honor the commitment to the public service in better times.

And, better times may be in the out years.

Another major subject dealt with in the legislation is the classification provisions, Mr. Chairman. I would like to say something in defense of the Postal Rate Commission. Very frankly, as far as classification is concerned, the only class of mail that has so far been severely damaged by the Postal Rate Commission is parcel post, which we represent. I put it to you that no other class of mail has yet had really harsh final treatment dealt to it by the Postal Rate Commission, and yet I note that they are all ready to see its abolition. I am reminded of the fact that it is the Postal Rate Commission that prevented the Post Office and the White House from getting enacted into law the citizen's rate which would have been extremely damaging to all business users of the mail. All my clients would now be paying 16 cents for first-class mail rather than 15 cents had that gone through.

The Postal Rate Commission has done many good things. I would again remind everyone it was not the Postal Rate Commission that came up with the crazy rate-making system that we have; it was the court of appeals in this circuit that did that, and you can't blame the Postal Rate Commission for that. They have, since those court of appeals decisions, merely followed the dictates of the court of appeals, as has the Postal Service itself. What needs to be done is that the law has to be changed.

We think the courts have misconstrued the law but they are the final word on it and therefore we can't complain about the Postal Rate Commission merely for following the law. So, I think they are getting an undeserved bad rap there.

There are some real problems in classification. We do not think this legislation you have offered addresses those problems, Mr. Chairman, and I have identified the reasons for that in my written statement.

In the time that I have, I would like to just very briefly outline what I think does need to be done in classification and it relates directly to the problems alluded to by Postmaster General Day and Mr. Barton for the third-class mailers.

For example, they have had a third-class classification case pending for 18 months. Well, there is a problem when the Postmaster General sends to the Postal Rate Commission a classification proposal and he can't get a decision on his proposal. Instead, the Postal Rate Commission dreams up its own proposal and says that is what we want. I think the Postmaster General is entitled to get an up or down decision from the Postal Rate Commission on the proposal that he made. Then, if the Postal Rate Commission has its own proposals that it wishes to make, it can also send those to the Board of Governors.

There is a nice system of balance and checks here. The Postal Rate Commission cannot shove down the throat of the post office any classification system that the post office does not want. The post office simply says we reject your decision and that is the end of the matter. On the other hand, the Postal Service cannot, over the objections of the Postal Rate Commission, implement a classification scheme of its choosing. So, there are nice balances, except that in this case we seem to have a standoff with the user in the middle. So, I think that if the language were amended to require the Postal Rate Commission to issue a decision, yes or no, on the proposal made by the post office itself, that would go a long way toward curing many of these problems.

A second problem is the position of blackmail which the Commission is able to be in vis-a-vis rate proceedings when the post office files for a general rate increase. As other witnesses have noted, the post office pretty much has to take whatever decision comes from the Postal Rate Commission because if they don't they don't get the money. A very simple change would solve a lot of that problem, and that is, in a general rate case, the Postal Rate Commission would have no authority to make a classification change or a rate design change.

Now, this is the problem that we have been facing—the post office being compelled to accept classification changes and rate design changes effected by the commission in rate cases because to reject it would mean that they reject all the revenues that go along with it.

The experimental services provision of your bill, I think, goes a long way in the right direction. However, I think it is unfortunate that you do spell out that the Postal Rate Commission can demand information and data for the purposes of determining whether—the proposal is really experimental. I fear on the basis of past form that that could very well lead to utter stalemates.

There seems to be an unappeased appetite for information and data on the part of the Postal Rate Commission. It should be curbed.

Thank you, Mr. Chairman.

Senator GLENN. Thank you, Mr. May. Mr. Sackler.

Mr. SACKLER. Thank you, Mr. Chairman. With me this morning is David Dear who is president of Dear Publications here in Washington and a member of the postal committee for the American Newspaper Publishers Association.

In the interest of expediting things here, I would like to submit our statement for the record and only briefly summarize the points of interest.

Senator GLENN. The statement will be included in its entirety at the conclusion of the panel testimony.

Mr. SACKLER. When we see what has happened in terms of postal rates and costs over the past decade, we think that it is becoming increasingly imperative to return to a greater recognition of the public service concept in the Postal Service instead of the increasingly strict reliance on cold figures that the court of appeals has mandated and the Postal Rate Commission is following, as Mr. May has indicated.

On top of this, we are now faced with the very real possibility of further cuts in the public service subsidy. We are frankly at a loss to see how we can have the Postal Service continue to be consistent with the public service role that has been assigned to it by the American people over the past 200 years with a further subsidy cut. That is why we very much appreciate the position you have taken in this bill with respect to the public service subsidy.

Postal costs have more than quadrupled in the past decade and I think it would be illustrative if I could just ask Mr. Dear to outline a graphic example of how this has an impact on newspapers.

Mr. DEAR. We have a group of small city daily and weekly newspapers around the country. And one is in Sedalia, Mo. Our records indicate that 10 years ago, we had 6,000 mail subscribers and a total postal bill ranging from \$3,000 to \$3,500 a month, depending on the weight of the paper. This year we have 4,500 mail subscribers and the cost is \$7,500 to \$11,000 a month. Again depending upon the weight of the paper. We have to use motor routes or alternate modes of delivery to get better service.

Mr. SACKLER. Newspapers are able to pass some of these costs along which in itself is inflationary. However, newspapers must absorb most of the costs which result in reduced mailing and a number of newspaper readers are being deprived of that source of information.

Turning to your bill, I would like to offer a few specific comments. With respect to section 4, we think that piling penalties on top of substantial postage due in the case of mistakes, without imposing some accountability on the U.S. Postal Service for incorrect advice is just totally unjust. We think that one way to ameliorate that would be to impose some criteria for determining fault and then accept a determination of fault in full mitigation of incorrect postal charges.

Turning to section 5, again we are very appreciative of your position on the public service subsidy and we think it is very important to hold the line at the \$920 million.

In section 6, we favor a better definition of the different jurisdictions of the Postal Rate Commission and the U.S. Postal Service, and we would also like to urge that in any classification proceeding whether the Postal Rate Commission is involved or not, that there be an APA-style hearing. We wouldn't want to see that restricted just to those cases having implications for competition.

Turning to H.R. 79, briefly, we, of course, favor the public service provision in that bill, but we recognize that the circumstances of today might make that a little bit unrealistic to obtain. We also think that the phasing extension in that bill would greatly help the smallest among our group, smallest newspapers, that is.

Next is the 6-day delivery situation under which we may face a cut to 5 days of postal delivery as a result of the proposed cuts in the sub-

sidies to the Postal Service. We think that this is not well-considered at all. We think that it will increase inflation and cause higher rates and, of course, reduce service. And, as we indicated before, it would interfere with some newspaper readers receiving their news. Other problems could be a further loss of volume to alternative delivery. This, of course, would cause escalating rates for the balance of the volume in the Postal Service.

I might add that the potential cut in revenue foregone subsidies that the House Budget Committee is recommending is even more crucial for our people because again it impacts on the very smallest newspapers and rural areas. It might deprive people of their only source of information.

That sums up our position. We appreciate the opportunity you have given us to comment upon your bill. Thank you.

Senator GLENN. Thank you, Mr. Sackler. Mr. Dear, did you have a separate statement?

Mr. DEAR. No; I just have one personal observation. This is an energy subcommittee of the U.S. Senate and it is my belief that the soaring energy costs and the diminishing supply of energy are the main factors that would justify maintaining Saturday delivery. Citizens need newspapers and newspapers must be delivered and additional gas will be consumed by vehicles which are forced to duplicate postal routes to make deliveries.

Senator GLENN. Thank you, Mr. Rhodes?

Mr. RHODES. Mr. Chairman, I would like to submit my statement for the record and I can brief it, sir.

Senator GLENN. Fine.

Mr. RHODES. There are two subjects I would like to talk about today. The first is public service appropriations about which we have heard a good deal this morning and yesterday. Our association believes that public service appropriations should be increased. They should not be decreased. They should be increased to cover the cost of services which the Postal Service provides in response to the general public need. These are services which most mail users do not need or want, services over which they have no control, and services about which mail users aren't even consulted. In fact, most of these services are for the benefit of the recipient of the mail and not the mail user who is the sender of the mail.

Examples of such services are the 40,000 postal installations maintained across the country. Delivery right to the door, your front door, and frequent delivery to remote and sparsely populated areas. These are typical of the services which the American people have made clear to you, their elected representatives, that they, the people, want maintained. Those services should be funded in part, at least, through the public service appropriation.

In fact, the biggest one of those services is the one that Mr. May mentioned, the network concept, the readiness to serve. That the postman is going to go by your door every day whether he has any mail for you or not. He is going to pick up the mail in some cases. The level and quality of postal service is now at an absolute minimum. And as you know, there has been always a public outcry if efforts are made to cut service below existing levels.

The 1970 Reorganization Act, initially authorized an appropriation of \$920 million which was 10 percent of the Postal Service's operating expense. Inflation has so eroded the value of that \$920 million that in 1977 it represented only 6 percent of total operating expense.

The Commission on Postal Service in 1977 concluded that there was solid justification for public service appropriations. It recommended that in each year through fiscal 1985, the public service appropriation be increased so as to equal 10 percent of the previous year's fiscal operating expense. If the Congress had accepted that recommendation, the public service appropriation for 1981 would be \$2.1 billion. The Congress did not act on that recommendation. We think that was a mistake. Instead, under the 1970 act, the authorization for public service for fiscal 1981 is only \$736 million or 3½ percent of total postal operating expense.

Mr. Chairman, on page 3 of my formal statement, I have a chart which shows the astonishing decline in the public service authorization. And, this is as Mr. May said, an authorization. The authorization for 1981 is \$736 million against an operating expense of \$21 billion. As you can see, that is 3½ percent of total expense. You should note that in the beginning year, 1971, there were 87 billion pieces of mail. And, in the concluding year, as you said this morning, there are 104 billion pieces of mail. In addition to that, in the beginning year, 1971, there was over a billion-dollar deficit in addition to the \$845 million public service authorization.

So, on a total expense of \$9 billion in the last year of the old Post Office, it was a \$2 billion appropriation—call it subsidy if you wish—but it was taxpayer money going directly to a Government department. We are now talking about \$736 million and they are 50-cent dollars compared to what a dollar was worth in 1971.

So, we think that the public service appropriation should not be cut further. We think it is at rock bottom now. It is at the barest minimum. It should be established on a permanent annual basis of \$920 million which would be 4.3 percent of 1981 postal expenses.

Further, future Congresses should review the issue to determine when the appropriation can be raised so that Government will be paying its appropriate share of the cost of operating the Postal Service.

Now, the only other subject that I have time for today is to urge you to change the law with respect to postal ratemaking. MPA believes that another and major critical issue facing the Postal Service is the pricing of its services. In the initial draft of this bill which was circulated by the staff of this subcommittee, a section addressed this problem, but it has since been dropped. And we don't know why.

We urge that appropriate language dealing with ratemaking be included in the form of an amendment to this bill at the time of the markup. We think that the law should be changed. For the benefit of some of you who may not be familiar with our postal ratemaking concerns, let me review them very briefly.

This year the Supreme Court denied our petition for certiorari wherein we had sought Supreme Court review, and we hope reversal, of recent decisions of the Court of Appeals for the District of Columbia. Those court decisions construed the Reorganization Act as requiring that postal prices be determined almost exclusively on the basis of cost accounting principles and left no discre-

tion in the Postal Service or the Postal Rate Commission to apply the noncost criteria of the act.

You will recall that in all four rate cases since the passage of the act, the Postal Service and the Postal Rate Commission were in complete agreement that the Congress intended first, that each class and subclass be required to pay rates sufficient to cover their volume variable cost. Those volume variable costs are the nonfixed costs of the Postal Service. Second, it required that the fixed-cost except for those paid out of a continuing appropriation be allocated among the for-profit mail users by applying the noncost criteria of the act.

That fundamental interpretation of the act was concurred in by the impartial Commission on Postal Service in 1977. That Commission in its recommendation stressed that unless noncosts factors such as the value of service, relative demand, competition in the private sector, and the relative importance to the recipient of the various types of mail matter—unless all those things were given significant consideration in setting postal rates, the Postal Service could not compete with delivery services in the private sector and important public policy goals could not be met.

The Supreme Court did not grant our petition, but the appeal did provoke the filing, which Mr. May has mentioned, by the Solicitor General of a remarkable document. Your staff has been given copies of our petition in that document. In it the Solicitor General of the United States says that the Postal Service agrees in every respect with our views, but that the Government could not support Supreme Court review of this case because the Postal Service had argued before the court of appeals that the rates established in the last rate case were lawful under the District of Columbia Circuit Court's interpretation of the act.

In the document, the Solicitor General states that the Postal Service believes that the National Association of Greeting Card Publishers decision was wrongly decided and, most importantly, that the analysis of legislative history of the 1970 act contained in our petition was correct. And he went on to say that USPS believes this history demonstrates that the court of appeals in the NAGCP misconstrued the act.

So, now we are living with the court setting postal prices, not the Postal Rate Commission. Notwithstanding, this unambiguous Postal Service position, the Solicitor General declined to support the Supreme Court review and he concluded, importantly,

Although the Postal Service continue to believe that the methodology dictated by NAGCP it is not the only methodology the statute allows and that it and the Commission should be free to utilize the discretion that Congress entrusted to them, it sees no reasonable likelihood that the court of appeals, in future rate proceedings, will retreat from the principles it announced there and reiterated here. The Postal Service is thus faced with two equally unattractive alternatives. It may continue to set rates in accordance with principles that it finds unacceptable—albeit lawful—or it may set rates that will almost certainly be struck down by the court of appeals, thus jeopardizing a complex and comprehensive postal rate scheme that involves billions of dollars annually. Whatever course the Postal Service may choose in the future, however, the fact remains that the rates petitions challenge are lawful, and the Government therefore cannot acquiesce in petitioners' suggestion that this court review and, ultimately, overturn them.

We think that is a cruel and intolerable position for the Postal Service to be in. Either they have to come forth with a rate filing

which they don't really agree with or they have to come forth with a right filing which they are sure will go to the courts.

The only solution to that, Mr. Chairman, is congressional action. And we think, along with the Postal Service that that is imperative. Otherwise, postal rates will be established on the basis of arbitrary cost allocations which have no relationship whatever to cost causality or to value of service. If that happens, the Postal Service will suffer and we and other mail users will suffer and so will the general public.

Thank you, Mr. Chairman.

Senator GLENN. Thank you, Mr. Rhodes. Mr. Caplan.

Mr. CAPLAN. Good morning, Mr. Chairman. My name is Alan Caplan. I am circulation and marketing director of the Jewish Exponent, a publication of the American Jewish Press Association. I appear today as a spokesman on behalf of the Catholic Press Association, Associated Church Press, Evangelical Press Association, and American Jewish Press Association.

We are delighted for the opportunity to comment on certain of the provisions of the chairman's bill and, specifically, to urge an amendment thereto which is close to the hearts and pocketbooks of religious tracts, papers, magazines and like material.

I would like to place the remainder of our testimony in the record.

Senator GLENN. It will be included in its entirety following the panel testimony.

Mr. CAPLAN. Thank you.

I would also like to comment briefly on a couple of points.

Senator GLENN. Fine.

Mr. CAPLAN. Freedom of the press and religion are fundamental rights. What good are the rights, however, if the costs of disseminating our news for our various agencies are being hampered and even crippled by escalating postal costs. We found that until 1970, there was a consideration given the religious press in its endeavors to keep its members and readership informed. However, since the 1970 Postal Reorganization Act, although our Congress attempted to protect the special postal status of such publications, this protection has been gradually stripped away by court interpretations and Postal Rate Commission decisions.

Today we find a net increase to a full one-third of our postal costs compared to regular rate publications. Before 1970, we, the nonprofit religious press, had benefits of paying half of regular second-class publications. We find that, accordingly, postal costs tables and our costs will increase 60 percent to 70 percent within the next 16 months. Our hands are now tied by court decisions and we feel that we must appeal to Congress to protect the church publications and other nonprofit publications throughout the United States.

We urge the Postal Service to expend from its public service authorization proposed in the bill at \$920 million annually such amounts as are necessary to sustain and maintain 6-day delivery. The crisis created if our churches can no longer depend on Saturday delivery of the Sunday religious materials will be chaotic. Such material is time valued. Delivery on Monday will do no good. I would point out to this committee that earlier House legislation, H.R. 7700, was designed to require just such an expenditure of the public service appropriation in the event of consideration of 5-day delivery.

Last, we urge that the Congress place a ceiling on the total cost to be paid by preferred mailers under the act. We urge a 55- to 60-percent ceiling cap on the postage paid by regular nonprofit mailers. If we are unsuccessful in convincing you of our financial plight, we face a problem of disastrous proportions. Most nonprofit organizations will have to tell many of their health and welfare agencies they regularly support monetarily as well as editorially that cutbacks on both financial and editorial support are inevitable. They must understand that the continuing rate increases by our country's postal system have helped create this crisis. For example, many agencies served by our associations aid the elderly, severely handicapped, broken families, and orphaned children. Because of the unbelievable inflation spiral, including increased postal rates, we would be forced to substantially cut back on support of these agencies.

The agencies would be faced with termination of programs deemed totally essential by professionals, physicians, social workers, therapists, and paramedical personnel. Faced with this problem, these health and welfare agencies would have little alternative but to turn to the Federal, State, and local governments for additional funding. The end result, which comes through crystal clear, would be a substantially larger cost to government at every level, much larger than the extra dollars which might be derived through higher mailing costs.

Alternative delivery systems which are currently being researched by many organizations might also play a strong role in keeping postal costs at a tolerable level—at the expense of our postal system.

We assess the situation in this way. Many Americans are engaged in the tremendous struggle just to survive serious illness and handicaps and/or poverty, physical and financial problems. The nonprofit religious press helps to serve as their fundraisers through our many publications. We are able to make funds and personnel and housing available through contributions which would otherwise have to come through governmental agencies' subsidies. If stopgap legislation is enacted as a result of your committee's decisions, and by the way, we are endorsed in our asking for a 55- to 60-percent attributable cost ceiling by the National Rural Electrical Cooperatives Association, the International Labor Press Association, and the AFL-CIO, we feel that we will all be able to breathe a much-needed sigh of relief and have a feeling of significant accomplishment. Thank you.

Senator GLENN. Thank you, Mr. Caplan. Mr. Saltzstein.

Mr. SALTZSTEIN. Mr. Chairman, if I may submit our full statement of the American Business Press to the record.

Senator GLENN. Fine. It will be included in its entirety.

Mr. SALTZSTEIN. I would like to make a couple of comments and then reserve whatever time we have to answer any questions.

Senator GLENN. Fine.

Mr. SALTZSTEIN. We would like to simply say that either we are going to cut the budget or we aren't going to cut the budget. Now, we think the \$920 million should stay in this bill. If it isn't going to stay in the bill, then there should be further cuts along the line. This would have to include the \$600 million for nonprofit publications. This would have to include elimination of the Javits-Randolph bill which provides for children's magazines and smaller circulation periodicals which this committee passed and the Senate passed.

Now, either we are going to do it, or we aren't going to do it. We don't think it is a halfway proposition. The post office is on the horns of a dilemma. The Postmaster General comes and he says we can accommodate this cut that the White House talks about with a 5-day delivery schedule without specifying which day. Understandable. Now, maybe it can be done and maybe it can't be done. If it is done, we would certainly hope that there would be a 7-day mail stream operation so that we wouldn't be backed up on the days when the mail wouldn't be there.

The second point to which I would like to allude is the necessity for further clarification about ratemaking. When the Postal Reorganization Act passed, it was never intended that cost and cost alone would be the sole factor by which postage rates would be set. Mr. May referred to that, Mr. Rhodes referred to it, and we endorse that portion of what they say.

We also appealed that case to the Supreme Court and we have the same comment about the Solicitor General's curious brief. The post office should be able to handle its own court appeals, not only there, but in all other instances. We can't—we just can't live for a long time with a situation where only cost, and not the eight other factors which Congress legislated, is determined. And, that can only be corrected by legislation. We do regret that that section was deleted from your bill and hope that it will be reinserted.

Second, as to one other comment on the bill. We think if the Postal Rate Commission gets a classification case and it makes a preliminary decision that there is no competitive effect and then it sends it back, that that is a snare and a delusion. After all, in the last analysis, everything has a competitive effect. In that kind of a situation, we are continuing what we have.

So, if there is a desire for change, we regret to give you our opinion that that provision does not change it.

I have no further comments at this point, Mr. Chairman, and if you do have any questions for us, we would be glad to answer them.

Senator GLENN. Thank you, Mr. Saltzstein. We appreciate your comments. Mr. Daly.

Mr. DALY. Thank you, Mr. Chairman. I have the same request granted the other witnesses that our testimony be inserted as if read.

Senator GLENN. It will be included.

Mr. DALY. I would call particular attention to the chart that was associated with our testimony, in particular the reference to Mr. Day's earlier comments that the Consumer Price Index was running far ahead, certainly in the case of special fourth-class and the first-pound case as that chart dramatically emphasizes.¹ This is not at all the case, and again, it is something that one would hardly believe until you begin to dramatize it in such a way over an extended period of time.

The other considerable fear that the Recording Industry Association is concerned with—and we associate ourselves with the remarks of Mr. May and Mr. Rhodes relating to the untenable situation of the Postal Service vis-a-vis the court situation—and this is also the case relating to the growth of alternative deliveries. Those mailers who are able to use alternative delivery programs are finding it more and more

¹ See p. 326.

attractive, we think, to the ultimate detriment of the Postal Service, and to the American public, because they are, for many cost reasons and other factors, turning to alternative delivery systems. Alternative delivery clearly is on the rise in many areas and this goes against the idea of having a one, single, universal, national physical delivery service relating to the benefits that accrue to the American public itself.

In saying this, and looking back over a number of years, I am reminded of the "Epitaph to a Hypochondriac": "I told you I was sick."

And, these things do happen over time and there obviously were sufficient kinds of warnings about the decimation of the one, universal postal service that we are aware of. Who points the finger of caution? I do, but in respect of your time, I will close my comments since my written statement is to be included in the hearing record also.

Senator GLENN. Thank you, Mr. Daly. I thank all you gentlemen for your comments this morning. Before we get into questions as we have time for them this morning, I would like to mention that I hope you would each respond to additional questions or comments, or requests for comments, from the staff, from other members who could not be here this morning, and from me, as I will not be able to get to all of them this morning because of our time limitations. Perhaps we bit off more than we could chew in a short period of time by having all of you here together. We thought this would be the most constructive way to do it, but it does take a long time for statements even when you have summarized them. I do have to be at a meeting at 12 o'clock. I know there won't be time in 20 minutes to get through everything that we want to get through.

Mr. May, you opposed giving the Postal Service the ability to assess civil penalties for failure to pay correct postage. Mr. Sackler also commented on this. Civil penalties unless—and assuming I understood your testimony—the Postal Service could prove willful failure to pay the requisite postage. Of course, trying to assess what is in the mind of someone is a very difficult thing indeed, but we have provided for written notice of charges, for opportunity for hearing and judicial review of any postal decision to impose penalties. Don't you feel that is sufficient protection for anyone who might be charged for failing to affix lawful postage? It would have to be a pretty flagrant violation. This just wouldn't be used on a little whim of the Postal Service, as we envisioned it.

Mr. MAY. No, I don't believe your language does provide, Mr. Chairman, for any standard for judicial review. It gives judicial review but there is nothing for the court to determine except whether the Postal Service was correct when the Postal Service ruled that there was a deficiency. Beyond that, there is no standard for them to test. The Postal Service is given total discretion to determine whether they will impose a penalty and, if so, how much. But there is no standard for review that a court could follow to reverse any such finding.

Senator GLENN. We have provided for written notice, for opportunities for a hearing, and then for review even after that. I don't know that there is much more that we could do.

Mr. MAY. Well, as I said, the thing that you could do, Mr. Chairman, is provide a test that the Postal Service must establish factually at any such hearing, that is, that the person who did not pay the requisite postage was at fault.

Senator GLENN. The bill states that the Postal Service shall take into account, (1) the nature of circumstances and the extent of gravity of such violation; (2) the degree of culpability, history or prior offenses, ability to pay, and any good faith efforts to avoid violation of this section; and (3) such other matters as justice may require. That is pretty full investigation of it, it seems to me.

Mr. MAY. It's a full investigation. And it says that you ought to consider all of these things, but it in no way circumscribes the decision the Postal Service ultimately makes. You give them full power to make any decision they wish, once they have taken these matters into consideration. And since it is a discretionary stance, it is nonreviewable.

Senator GLENN. OK, I don't want to dwell only on this provision of the bill.

Mr. SALTZSTEIN. Mr. Chairman.

Senator GLENN. Mr. Sackler, you commented on that in your testimony, I believe.

Mr. SACKLER. I agree substantially with what Mr. May has had to say. I think we would like to see some kind of standard imposed to require the Postal Service within their review to make the determination of who is more at fault, the Postal Service or in our case, the publisher, or in any other case, another mailer, because as we detail in our written testimony there are a number of instances where publishers have to rely on determinations of their postmasters and do so very much in good faith. Yet, up until now, the Postal Service has not been exceptionally amenable to hearing that kind of story as a justification for mitigating substantial postage due. We think that by imposing a penalty on top of it, you are severely exacerbating that kind of situation.

Senator GLENN. Let me say now that it was not our intent to punish the fellow who forgets to put a stamp on a letter once in a while. We are trying to catch flagrant violators. They create a problem which we are trying to address. It has been pointed out to us by USPS that it is a problem and they felt that this authority would be a considerable help.

Was someone else going to comment on this?

Mr. Saltzstein.

Mr. SALTZSTEIN. Mr. Chairman, I may not agree with my colleagues about this. I think the provision is a fair provision. I think there are many more important things in that legislation than this provision. And, I would hope that in the remaining time, with your consent, we could devote our attention to them.

Senator GLENN. One other thing that does relate to this was a comment Mr. May made with regard to the fraud provision. That was one that we had a little testimony on earlier today. Just as a very brief statement of some of the situations that we have run into, though, some estimates place the cost of mail-order health schemes alone at \$150 million a year. That doesn't even take into consideration the human cost when people delay proper medical attention or are delayed by some fraudulent product. The Federal Trade Commission, which shares jurisdiction with the Postal Service in cases involving mail fraud, states that efforts to police and prosecute on any systematic basis are difficult and it defers to the Postal Service in many cases especially involving smaller perpetrators many of whom are hit and run types.

About 8 years ago, one operator was selling alleged aphrodisiacs from an ever-changing series of addresses in Chicago, Alhambra, Beverly Hills, Gary, and New York City, and still managed to evade being shut down. The Postal Service in one 2-year period found 20 addresses involved in the operation. Finally, in 1977 a criminal mail fraud conviction was obtained, but many people were cheated during this period. People don't understand that the Postal Service does not police mail-order advertising. They also do not understand that advertising in reputable publications need not be legitimate. Finally, some people just don't distinguish very well between advertising matter and other published material.

There are major abuses taking place. I do not share your concern that the Postal Service would abuse its authority if we gave it power to control this problem.

Do you want to make any further comment on that?

Mr. MAY. Well, Mr. Chairman, I don't understand why they need to be able to gain access to the documents and books of every single advertiser in the United States irrespective of the record of that advertiser or the nature of his program.

Senator GLENN. This would only be if there were some reason to believe that fraud was being perpetrated or there were a number of complaints on a particular product.

Mr. MAY. But, Mr. Chairman, you hope that the Postal Service would exercise this power only under those circumstances. Again, they are given a plenary grant of the power to go after any advertiser in the United States without making any preliminary finding that can be tested as to whether there is probable cause to believe that there is a violation. Even the police have to have probable cause before they can get a warrant to come into your house to search for contraband. But the Postal Service would have an absolute writ to visit upon any advertiser in the United States a demand for any information that they, the Postal Service, believed to be relevant. I think that is overly broad and I think that you could tailor the solution much more to what the problem is.

Senator GLENN. Perhaps there might be some additional language that you could suggest to us that would tighten up the provision.

Mr. MAY. I would be happy to work with your staff.

Senator GLENN. We are not trying to give the Postal Service an unlimited hunting license. But we do want them to have authority where there is cause to believe that something wrong is going on. We want them to be able to get to the heart of it and to prove it.

Mr. MAY. So do I.

Senator GLENN. We want to protect everybody involved. Subpena power is utilized in other governmental situations. I would think that we could use it here.

Mr. MAY. I agree. I think we could work—

Senator GLENN. Mr. Saltzstein, at the bottom of page four of your testimony you refer to a meeting under Postal Service auspices, presumably for the purpose of working out some costing language, to replace the original paragraph. I don't wish to pass judgment on the propriety of such meeting. But I think when the public learns about meetings of this sort, perhaps they feel much more comfortable about having an objective commission which includes an officer who repre-

sents the ordinary taxpaying mail user. Would you have any comment on that?

Mr. SALTZSTEIN. Yes; Senator. That meeting to which you referred took place—there were several meetings in which all the diverse points of view were expressed, just as they are at this table. And, much of it was devoted to this problem of cost. We would say this in any forum, public, private, or any place else. That when we supported postal reorganization in 1970, we never thought that cost and cost alone would be the sole determinant. And, in an attempt to work with its customers, I think the post office properly met with people who are substantial customers of that service. I think that the meeting was productive.

Senator GLENN. Let me comment generally on the \$920 million subsidy.

As you are all aware, the \$920 million subsidy was put in as a transition figure. It was to cover a transition time period in which, hopefully, the post office was supposed to become self-sufficient, or as close to it as it could be. In retrospect, that was obviously a very fine and laudable goal and one which we hate to give up on. At this point, I think that it is probably not reasonable to assume that the post office is going to be able to make its way alone, with the rising costs, and maintain the service that we would like to have.

That is the reason that I put the subsidy in at its former \$920 million amount. I share your views on that subject. But, I would be less than candid with you if I gave much hope for holding that this year. Although, we will try.

I don't know where the post office goes next year unless there is a subsidy. It is going to be very difficult because, as you are aware, Mr. Bolger has talked about the surplus this year. I agree that he has a surplus this year but that was only achieved because there was a subsidy. With the 10-percent reduction that has gone into effect, of course, they are down to \$828 million. It will be \$736 million for next year.

This means that if we continue to scale down the subsidy, next year when the PMG is already predicting he will not be able to make ends meet, we will throw the Postal Service even further into the red. I don't want to do that. But whether we can hold the line this year or not is going to require the best efforts of an awful lot of people. We can be almost sure that we cannot go as high as the original House legislation. I looked at my \$920 million as a compromise between those who were suggesting a much larger subsidy and those who would eliminate a subsidy altogether.

We are going to need a lot of effort in this regard. Mr. Rhodes, you have your hand up.

Mr. RHODES. Yes. I would like to just add to that, Senator, that when the \$920 million was put in there was a breakeven concept for the Postal Service.

Senator GLENN. That is right.

Mr. RHODES. There are advocates of that. But, those very same advocates assume that business management practices and the kind of thing that they thought they were installing into postal reform—continuity of Postmasters General, for example, which didn't come about, non-political services, and so on—they thought expenses were going to be reduced by 20 percent.

Senator GLENN. Yes.

Mr. RHODES. And, that is clear in the record. Now, it is one thing to provide 10-percent subsidy on a declining basis and say, well, that is all right, keep your shirt on, boys, expenses are going to go down 20 percent.

That didn't happen very, very clearly, and contrariwise we are told yesterday or here that the Postmaster General has a 3-percent productivity increase already set in his figures for fiscal 1981. His own annual report shows a 1.3-percent productivity increase last year and those figures are very suspect as I could prove to you.

Mr. DALY. Senator, that point that Mr. Rhodes made relating to the 20-percent savings, comes from the Kappal report which was the landmark report of 1968 and it said that at least 20-percent saving. People grabbed onto that in the hope that this would happen, but there were many a witness that said that this was unrealistic given the nature of the Postal Service and the public service appropriation.

Senator GLENN. Well, it is no secret as to what has happened to the Postal Service budget. As I recall the figure, labor costs are some 86 percent of the total budget and we all know what has happened to the cost of living and to the employees of the Postal Service. So that is the biggest problem that could not have been foreseen back when the legislation requiring the Postal Service to become self-sufficient was enacted. At that time the \$920 million was supposed to be a transitional, temporary measure to give the USPS funding during the interim period.

I believe the only one of you who commented on keeping the subsidy on a nonaccountable basis was Mr. May. I disagree very, very strongly with you on that.

To toss nearly a billion dollars to any Government agency as a subsidy and not require a full accounting, flies in the face of reason. You can't have some great, magic slush fund out there. I don't think, Mr. May, you can just float nearly a billion dollars over to the USPS and not require them to come back with some type of accounting for that expenditure. We don't do that with any other function of Government that I know of. And, I'm sure not for doing that with the Postal Service anymore than I would be for giving it to Congress or you or DOD or anybody else. When we put out nearly a billion dollars worth of funds, it has to be accountable. And, if it went to pay the person who puts the flag up in the morning, OK, flag putter-upper, that's the cost. Something has to be there, whatever it may be.

If it is general post office maintenance, if it is for cleaning out the lobbies, whatever it is, it seems to me there has to be some justification for that money or I can guarantee that it won't come out of Congress in the future.

Mr. MAY. Mr. Chairman, it is spent for every single function that the Postal Service performs. And, if they were to give you an itemization, the itemization would be as long as the identification of every single expenditure made by the Postal Service. It pays for part of it. That's the way that it works.

Senator GLENN. Put it in, then.

Mr. MAY. If you wanted to ear-mark it, that's one thing. But, I really also question whether or not you seriously intend to give to the Post Office the discretion to single out one particular function or

service and on their own say that is where they are going to spend it and simply report it to you. Because that isn't the way that it has been working in the past.

Senator GLENN. Well, if they want to say that a certain percentage goes to first class, a certain percentage goes to fourth class, a certain percentage goes to maintenance of buildings, or a certain percentage goes to maintaining post offices which would otherwise be eliminated, that's their prerogative. But I certainly think that any accounting system should be able to detail what the money was spent for. Otherwise, why do we even have a budget? Why don't we just throw billions out which nobody ever accounts for and all go merrily into the future, just increasing the budget. It just doesn't make sense to me to do it that way.

Mr. MAY. But, Mr. Chairman, the record is replete with evidence as to how it has been spent. In every rate commission filing it is laid down.

Senator GLENN. But, that doesn't explain how it should be done in the future. The fact that nobody has accounted for it in the past, doesn't mean that we shouldn't do so in the future.

Mr. MAY. But, they do account, Mr. Chairman, when they file with the Postal Rate Commission, they show, in the past, the \$920 million as going for all of these functions which are not allocated on an accounting or cost-causing basis to particular classes of mail and there is an identification for everyone of those functions. The records are there.

Senator GLENN. Yes, Well, we are trying to account for every federal dollar spent, obviously. And we will continue those efforts. Every department has contingency funds to take care of matters that are not really budgetable in advance. So do businesses and offices. But, I think that a billion dollars is a lot of contingency. And, I think it is more than we are willing to accept.

I am going to have to go here because I am due at another meeting.

We have another hearing on Monday. The witness list at that time will include representatives of the Postal Rate Commission. We will also have Mr. Basil Whiting, Deputy Assistant Secretary of OSHA; Mr. Eugene B. Dalton, president of the National League of Postmasters; Mr. Donald Ledbetter, president, National Association of Postal Supervisors; Mr. James Syers, president, National Association of Postmasters of the United States.

Gentleman, I am sorry we don't have more discussion time this morning. I appreciate your being here. I would appreciate your response to questions the staff and other members' of the subcommittee may submit.

Thank you very much for being here this morning.

[The prepared statements of panel members follow.]

Statement of George Larie
Before United States Senate Subcommittee
On Energy, Nuclear Proliferation and
Federal Services on Postal Legislation

Mr. Chairman, members of the Committee, I am George Larie, President of the Personnel Division of Doubleday and Company, Inc. and Chairman of the Postal Committee of the Association of American Publishers. Our Association is pleased that this Committee has recognized the need for remedial postal legislation. We appreciate the opportunity you have offered us to present our comments on the legislation before you.

The Association of American Publishers is a non-profit organization with a membership of over 320 publishing organizations. Its members include trade book publishers, both large and small, school and college text book publishers, book clubs, university presses, and the publishing departments of religious denominations.

Our society has long recognized the unique and important role of books as an educational, cultural and political resource. The United States is by far the largest producer of books in the world in absolute terms and, until now, has led in the per capita consumption as books as well. We are also the largest exporter of books in the world. Although large in comparison with book publishing in other countries, the U.S. book publishing is in fact relatively small and intensely competitive. At \$4 billion per year, sales of the entire book publishing industry are smaller

than the annual sales of many individual U.S. corporations in other fields. Thus, the importance of books and book publishing to our society is not a function of sales but of the central role which books play in the dissemination of educational, cultural, informational and scientific information to the Nation.

The vital relationship which exists between book publishing, book sellers and Postal Service is equally clear. If books are to fulfill their role, they must be readily available in all sections of the country at reasonable rates. The Committee should know of the impact of current rates on book stores. I quote from an open letter to President Carter from G. Royce Smith, Executive Director of the American Book Sellers Association:

"Retail bookselling in this country is comprised primarily of small businesses. These small businesses have been placed in jeopardy, not by competition or inflation or mismanagement, but by the U.S. Postal Service. Indeed, the latest increases have brought bookstores face-to-face with their most severe economic crisis since the Great Depression." 1/

Congress, and in the past the Executive Branch of the federal government, have recognized the importance of a viable, reasonably priced postal system for the dissemination of books. Although preferential book rates are -- as a result of misguided decisions by Courts and the Rate Commission -- all but extinct, the social policy which gave rise

1/ Letter of July 18, 1979.

to those preferential rates remains unassailable. That policy is designed to assure that access to books is not limited to the wealthy or to citizens in certain geographic locations. Congress has perceived that we need an efficient, viable nationwide postal system which offers service at reasonable prices so that a citizen, a school or a library in Washington state, California, Alaska or Hawaii is obliged to pay no more for a book from the publishing centers of the East and Midwest than does the suburban resident outside of New York City or Chicago.

If this policy is to be preserved, remedial postal legislation is urgently required, indeed overdue. This Committee now has before it essentially two bills designed to restore and maintain a viable postal network: H.R.79 which passed the House of Representatives by an overwhelming majority in June of last year; and the discussion draft recently prepared by your Committee staff. Our Association supported the concepts underlying H.R.79 because we believed that, in general terms, that bill would aid in the maintenance of the postal system, and would further the flow of educational, cultural and scientific materials to the people of this country.

At the same time, there is much in the discussion draft which merits attention; and there are, unfortunately, matters of great importance to the maintenance of an effective postal system which have been omitted from both H.R.79 and the discussion draft.

Perhaps, we can be of greatest assistance to this Committee, in discharging its important public responsibilities, by commenting on the discussion draft, by showing when appropriate why H.R.79 is to be preferred and by pointing out the important omissions from both pieces of legislation. We will do this on a section-by-section basis:

We take no position on Sections 2, 3, and 4 of the discussion draft.

Section 5 of the discussion draft deals with the public service appropriations. Under current law, the public service appropriation will decline by 10% per year for each of next five years beginning in fiscal 1980. Section 5 of the discussion draft freezes the public service appropriation at its current level of \$920,000,000. The public service authorization should not only be preserved, but increased. To only maintain the authorization at its present level is tantamount to cutting it. Accepting the concept of a "public service" requires accepting the fact that if overall Postal Service costs rise, public service costs rise, too.

By contrast, H.R.79 increases the public service appropriation in modest, incremental stages for each of the next three years up to a maximum of \$1.3 billion. We believe that the House treatment of the public service authorization

is to be preferred over the discussion draft. This is especially true because the discussion draft makes no provision for extended phasing of rates for preferential classes (such as Library and Special Rate Fourth) as does the House bill.

At the very least, we urgently submit that the existing law must be changed so that the current levels of public service appropriations are not cut. The maintenance of at least existing levels of public service appropriations is absolutely indispensable if an effective, nationwide postal system is to be achieved. We say this with full knowledge of the debate now raging before the Congress and the country concerning the need to cut federal spending, to balance the federal budget and to create a surplus as anti-inflation measures. We, no less than this Committee, are well aware of the clamor to cut Postal Service budgets generally and the public service authorization in particular as an easy first step in the budget slashing process. But, those who urge that elimination of or reductions in the public service appropriation to combat inflation are misinformed and misguided. The fact is that, compared to the alternatives, maintenance of the public service appropriation is itself anti-inflationary.

Those who claim that the Postal Service can function effectively even if the public service authorization is reduced rely upon the supposed fact that the Postal Service was "in the black" in FY 1979. But, this simply ignores the fact that this "profit" included the monies which the Postal

Service received from Congress as public service appropriation. The Postal Service is a deficit operation. If that appropriation had been taken away, the Postal Service in fact would have shown a deficit of well over one billion dollars!

The alternative -- and the only alternative -- to the public service authorization is higher postal rates for less service. It is a matter of public record that the Postal Service will seek rate hikes within the next few weeks to take effect sometime in 1981. If the public service appropriation is permitted to decline, the increases the Postal Service will need to remain viable will be even greater, and cutbacks in service levels may also be required. Since the adoption of the Postal Reorganization Act of 1970, book rates are now 450% of the 1970 rate levels. Royce Smith, the Executive Director of the American Booksellers Association, has pointed out: This rise in rates is borne by consumers, whether they buy books through the mail or at their local bookstore. The president of the American Booksellers Association has linked the rise in postal rates to a drop in retail bookstores' profits, and has warned that postal legislation has "cut booksellers off from their source of supply"^{1/} and that "it is entirely conceivable that within the next five years the only bookstores in this country will be large, general in nature, and located in heavily populated areas."^{2/}

^{1/} Royce Smith, as quoted in "Publishers Weekly," 8/13/79

^{2/} Ibid.

If public service funding is permitted to decline, as the law now requires, the continued spiraling of these already staggering rates is inevitable. The rate spiral which will ensue will do far more harm to the economy than continuation of this relatively modest, urgently needed support for the nationwide mail system. It is thus specious to regard the public service authorization as inflationary. We urge this Committee to vigorously reject such false claims by adoption of Section 3 as it appears in H.R.79.

Section 6 of the discussion draft deals with mail classification changes. We applaud your staff's determination to address the problem of procedures applicable to mail classification changes and experimental services; H.R.79 is silent on these matters. Unfortunately, however, we believe that Section 6 of the discussion draft fails to satisfactorily resolve the problems which now exist. We cannot support it in the present form.

That there is a need for legislation to streamline and improve the procedures applicable to mail classification changes cannot be disputed. The Postal Service is burdened with a sometimes bewildering array of technical requirements concerning eligibility of mail for particular classes, size, shape, permissible enclosures and the like. These rules are not even centralized: They are to be found in former Title 39, in the Domestic Mail Classification Schedule adopted by

the Postal Rate Commission and in the Postal Service's own manual.

The existing law purports to provide a mechanism by which changes in these rules can be made, new services can be introduced and requirements which have lost their meaning can be eliminated. It is a matter of irreducible fact, however, that the existing procedures simply do not work. We will not burden this Committee with a detailed recitation of the many cases which support this conclusion. Two modest examples may suffice. For many years the Postal Service has had a rule which limits the number of order forms permitted to be enclosed in a book package. The rule -- the origins of which are lost in the mists of time -- provided that no more than two order forms were permitted. Our Association and other publishers sought to liberalize the rule. After nearly four years of hearings before the Postal Rate Commission in which hundreds of thousands of dollars were expended, the Rate Commission finally increased the number from a total of two order forms to a total of five.

Another illustration, even worse, involves the enclosure of Statements of Account with books. Under existing Postal Service rules a publisher is permitted to enclose an invoice or bill but not a statement of account. For ten years our Association has sought to get this rule changed. Our efforts to date have been fruitless and it is impossible

to calculate the cost which we have incurred in this unsuccessful effort to eliminate a rule which have long since lost any meaning in the real world.

These relatively modest examples and other major classification changes which have gone awry under the existing law make it possible to identify the reforms which are needed to make the classification process an efficient and effective one, one which serves rather than hinders the public interest. First, the existing law fails to distinguish between rule changes which can be made by the Postal Service unilaterally and those which require Postal Rate Commission approval; the result is that virtually all changes, no matter how minute or obscure, must be submitted to the Rate Commission and subjected to the costly and cumbersome hearing processes which that agency requires. Secondly, the existing law fails to distinguish between classification matters and rate matters; the result is that relatively simple rule changes become enmeshed in major ratemaking proceedings to which they are wholly unrelated and the cost burden of affecting simple changes becomes grossly disproportionate to the benefits which the rule change will yield. Third, there appear to be sharp ideological differences between the Rate Commission and the Postal Service. As a consequence, changes which the Postal Service and all affected mailers want too often encounter resistance if not outright rejection in the hands of the Postal Rate Commission. The disputes over ECOM and Third Class Carrier Presort

Discounts are prime examples of this problem. Lastly, as the result of court decisions construing the existing law, the Postal Service cannot even institute experimental changes in service without Postal Rate Commission approval -- another obstacle to sorely needed postal innovations.

Regrettably, Section 6 of the discussion draft fails to adequately address any of these issues. Subsection (a) purports to differentiate between operational matters over which the Postal Service has exclusive control and classification matters which require Postal Rate Commission approval. It is simply too vague. Subsection (b) continues the failure of existing law to sharply distinguish between rate matters and classification matters; and this is calculated to perpetuate the difficulties which the existing law now creates. Subsection (c) continues the practice of requiring full hearings before the Postal Rate Commission without regard to the magnitude of the classification change involved; it will continue to hamper the efforts of the Postal Service and others to modernize Postal Service mailing requirements. Moreover, Subsection (c) is somewhat obscure: it suggests that the test for determining whether a change can be made without hearings is its "substantial and immediate adverse impact upon competition." Assuredly this is not or should not be the sole basis for challenging a classification change or in determining whether or not a change in classification

without hearing is in the public interest. Finally, although Subsection (e) affords the Postal Service the right to institute experimental services, this right is restricted by Section 7(b) of the draft which requires PRC determination that the service is indeed experimental and which, therefore, opens the door to direct PRC regulation of experimental services.

Our Association does not believe that the Postal Service should be given unilateral authority in classification matters. A system of checks and balances is obviously required to protect mail users, competitors and the public. At the same time, the Postal Service does need to be given greater flexibility and freedom of movement in its initiation of classification changes. We believe that this flexibility can be achieved by placing initial decision-making authority in the hands of the Postal Service, subject to review by the Rate Commission or some other independent disinterested panel. We believe that provisions of the discussion draft are too restrictive and will fail to accomplish the desired goal. At the same time we believe that language which strikes the appropriate balance can be easily drafted.

On a related matter, we are deeply disappointed that neither the House nor Senate bills deal with the costing principles to be applied by the Postal Rate Commission and the Board of Governors in ratemaking proceedings. As the

result of decisions by the Court of Appeals and determinations by the Postal Rate Commission, the ratemaking standard enacted by Congress in 1970, and embodied in Section 3622(b) of the Act has been twisted beyond all recognition. In 1970, the Congress specifically decreed that it was impermissible to base postal rates on a Fully Distributed Cost methodology. The Congress recognized that the Postal Service is not a utility in the same sense as a gas company or an electric company. Rather, the Congress recognized that the Postal Service is a social institution in which marketing considerations and the value of mail to recipients should play an important role in the determination of rates for each of the several classes and sub-classes.

The court decisions and the determinations of the Postal Rate Commission have virtually eliminated these social considerations from the ratemaking context. Economic purists might be able to maintain that the standard now being applied by the Postal Rate Commission is not a Fully Distributed Cost method. But, for all practical purposes it leaves no room for consideration of noncost factors such as the value of mail in the hands of the recipient and of the marketing needs of the Postal Service. If the current standard is not, as a matter of economic theory, a fully distributed cost it certainly is one as a matter of fact.

This is not what Congress intended in its enactment of Section 3622(b) in 1970. And, this is not the standard which, as a matter of sound social policy, should apply to the establishment of postal rates. The fact is that the Postal Service is a social as well as an economic institution; it is not the same as a gas company or an electric utility engaged in the provision of fungible, undifferentiated service. The irony is that postal rates are increasingly being determined on the basis of fully distributed costing principles at a time when the regulatory agencies responsible for rates for other utilities are beginning to increasingly abandon that policy. We have seen, in recent years deregulation of airline rates, of rates for railroads, and a significant move to relax rate regulation of truckers. In the communications field, which is perhaps most similar to the Postal Service, the Federal Communications Commission has increasingly relaxed its rules in order to permit communications common carriers to base their rates upon marketing considerations, demand and nondistributed cost factors. The ratemaking method which the Postal Rate Commission and the courts have imposed upon the Postal Service is, even in the conventional utility fields, out of date.

Clearly, remedial legislation is required to restore the original intent of Congress. We do not believe that the

drafting of an appropriate ratemaking standard is overly difficult or unduly complex. We do believe that a reaffirmation by Congress of its original intent with respect to ratemaking is imperative if the Postal Service is to survive as a viable, nationwide information distribution service.

Although we support Section 8(a) of the discussion draft in principle, we believe that three changes should be made to this section in order to clarify its intended effects. This provision, which is the counterpart of Section 9(a) of H.R.79 is intended to eliminate an anomaly in the present law. As the House Report explains, the existing law permits publishers and distributors to mail books, films, sound recordings and some types of educational materials to schools, libraries and nonprofit organizations at the library rate rather than at the higher fourth-class book rate. However, the existing law does not permit these educational institutions to use the library rate when returning these materials to the publisher or distributor. Section 8(a) of the discussion draft, and Section 8 of H.R.79 rectify this anomaly by permitting the shipment of these educational materials "to and from" the pertinent educational institutions. To this extent, we believe that the Section is in the public interest because it will make the lower library rate available to educational and learning institutions which operate on extremely limited budgets.

However, our association believes that Section 8(a) of the discussion draft needs clarification in three modest but significant respects. First, we believe that the public interest will clearly be served by permitting "catalogs" as well as teaching aides, guides and maps to be mailed to and from educational institutions and institutions of learning at the library rate. We note that the House bill specifically includes "catalogs" among the eligible material. The discussion draft is unclear on this point. We believe the text should be amended to specifically include catalogs among the eligible material. We note that the section-by-section analysis specifically includes catalogs, and this omission from the text of section 8(a) seems inadvertent.

Secondly, we would ask that the term library be defined to include all libraries which are open to any segment of the public or are at least operated on a nonprofit basis. Unfortunately, the Postal Rate Commission has interpreted the term library to be limited solely to "public libraries." It thereby denies the benefits of this rate to libraries operated in conjunction with parochial schools or such institutions as the Folger Library which serve a most useful public function but which are not public libraries in the conventional sense. We believe that this limiting interpretation imposed by the Postal Rate Commission is contrary to Congress' original intention. It should be rectified.

Third, as drafted, Section 8(a) only amends Section 3626(a) of the Act, which provides for extended phasing of Library Rates and which expires in 1987. We believe that Section 8(a) should be treated as an amendment to the Title. Otherwise, the change effected by Section 8(a) may be construed to expire when phasing expires. Clearly, this is not intended.

We have little comment on the substance of Sections 9, 10 and 11 of the discussion draft. Our association stood in opposition to the Postal Reorganization Act of 1970 because we felt then, as we do now, that the concept of an "independent" postal corporation operating on a "break-even" basis is unsound as a matter of policy and unworkable in practice. We were concerned then that the creation of an institution which is not accountable to the elected representatives of the people (either legislative or executive), would lead to grave difficulties. And, although some strides have been made under the current Postmaster General, the overall direction of the Postal Service in the past ten years compels the conclusion that we were correct. In our view, neither the House bill nor the discussion draft come to grips with the fundamental problem -- the issue of accountability. The House bill abolishes the Board of Governors but, concomitantly, greatly increases the authority and jurisdiction of the Postal Rate Commission so that it may be doubted whether true accountability has been achieved. The discussion draft merely makes

cosmetic changes in the composition of the Board of Governors and does not, in our review, significantly enhance the ability of the Congress and the Executive Branch to require the Postal Service to account for its actions and its service to the public.

Although the issue of the proper organization of the Postal Service is undeniably of importance, we urge this Committee not to address it, in the context of the present legislation. We are fearful that this debate will detract from, or otherwise defeat, urgently needed remedial postal legislation. We believe this Committee's first priorities should be to the questions of restoration and increase of the public service authorization and resolution of the important problems relating to mail classification and ratemaking procedures. We submit that, unless these problems are resolved in the current session of Congress, the Postal Service and mail users will be confronted with a genuine crisis. The problem of reorganizing the Postal Service so that it is accountable to the American public is one with which we have lived for more than a decade. It should not be permitted to delay or defer legislation on these narrower but far more urgent matters.

Mr. Chairman and members of this Committee, we submit that remedial postal legislation is urgently needed. We are concerned about the distribution of educational, cultural, scientific, and informational material in our country. We

are concerned about the Postal Service -- about whether it can, or even should, be expected to make ends meet, and whether it can operate hobbled by unnecessary and antiquated management restrictions. We believe that a good bill can be developed based on your discussion draft, and H.R. 79: a bill that will ease the genuine crisis in which we in the book industry and the Postal Service now face. We are prepared to cooperate with this Committee and its staff in achieving that goal.

TESTIMONY OF

Timothy J. May
General Counsel of

The Parcel Shippers Association

Presented to

Subcommittee on Energy, Nuclear
Proliferation, and Federal Services
of the
Senate Governmental Affairs Committee

April 16, 1980

My name is Timothy J. May, General Counsel of The Parcel Shippers Association. I am accompanied here today by David A. Bunn, Executive Vice President of the Association. The Parcel Shippers Association is an organization of approximately 200 members, primarily small businesses, who use the Postal Service to deliver small parcels to their customers. Our members are also heavily reliant upon the Postal Service as the principal means for soliciting sales from their customers; and these customers in turn use the Postal Service to place orders for merchandise, and to pay their bills for that merchandise. A large number of our members are also extensive users of the United Parcel Service as well as the Post Office for delivery of parcels.

The Parcel Shippers Association is very pleased to have this opportunity to comment upon S. _____, postal legislation introduced by Chairman Glenn.

Section 2(c) of the bill, dealing with OSHA, provides that the Postal Service can litigate OSHA related

matters on its own behalf without securing the consent of the Attorney General. We believe that this is a desirable change; in fact, we would hope the bill would go further and permit the United States Postal Service the true independence that the authors of postal reform claimed they were granting to the Postal Service: the freedom to litigate in all matters without the consent of the Attorney General. We would hope then that we would never see the ludicrous situation that recently occurred in which the Solicitor General of the United States filed a pleading before the United States Supreme Court opposing a request of the United States Postal Service that the Supreme Court certify a matter for review, while serving at the same time as the attorney for the United States Postal Service -- a classic conflict of interest.

Section 3 of the bill attempts to strengthen the Postal Service's efforts to deal with unscrupulous mail order operators who are conducting schemes to obtain money through false representations. We certainly applaud the intentions of this section and, generally, support all efforts to rid the mail order industry of these types of shady operators which give an undeserved black eye to the entire industry. However, we must raise a cautionary note. Section 3(f) appears to give what are, in effect, subpoena powers to the Postal Service to gain access to inspect and copy books and other documents which the Postal Service determines to be relevant

to "any advertising claim, expressed or implied, for any product or any service offered for sale by mail." As so often happens when the police powers are exercised to apprehend the guilty, the rights of the innocent can be infringed. As we read this section, anyone engaged in the mail order business could be visited with a demand from the Postal Service to turn over for inspection and copying any documents or books in their possession which the Postal Service deemed to be relevant to any advertising claim. Furthermore, the subsection provides that a refusal to comply with such a demand constitutes probable cause to believe that the false representation section of the Act is being violated. We believe such a power is far too searching and would inevitably result in abuse; therefore, unless seriously circumscribed in its application, we must regrettably oppose this provision.

Section 4 of the bill provides that the Postal Service can assess civil penalties for failure to pay the correct amount of postage up to an amount equivalent to the postage owed -- a so-called "double damages" section. We believe this is overreaching on the part of the Postal Service, since there is no requirement for scienter on the part of the mailer, nor any requirement that the Postal Service, as a condition to imposing the penalty, find that there was a willful failure to pay the requisite postage. The correct calculation of

postage is often a rather complex matter which is as little understood by the local postal officials themselves as by the mailer. I have represented numerous mailers in such matters and have found that, more often than not, the incorrect amount of postage was paid upon the advice and agreement of local postal officials who, it turned out, were at least as equally ignorant of the regulations that would determine the correct postage as the mailer himself.

Section 5 of the legislation we regard as perhaps the most important provision, even though it may seem bad timing given the fiscal austerity that is preached from both ends of Pennsylvania Avenue. This section amends section 2401(c) to provide that there would be a permanent appropriation for public services of \$920 million. As the Chairman and the members are aware, the public service appropriation continues to decline by 10% per year. The amount authorized for the next fiscal year, even if it should be appropriated (an unlikely prospect) would constitute only some 3% of the total budget of the United States Postal Service for the next fiscal year. The public service appropriation has always been substantially inadequate for the purpose for which it was intended. The \$920 million that would be authorized under this provision is itself grossly inadequate, but it is more than welcome and perhaps is all that can be prudently sought in these times.

This section further amends the language to make it far clearer what the purposes of the appropriation are, that is, to ensure the continuation of a comprehensive nationwide postal system that is of value not only to the nation but to all recipients of the services.

This section also amends Section 2401(d) to require the Postal Service to report annually in its budget to the Congress how the \$920 million was spent in the preceding year and how it is to be spent in the forthcoming year, with the further requirement that the Postal Service must allocate these expenditures by postal function. This language betrays an unawareness of the way in which the public service appropriation has traditionally been applied by the Postal Service. There are no particular functions, as such, which could properly be said to be the fit subject for a public service appropriation. The public service exists for the maintenance of a nationwide system which performs services which a purely business organization would not perform because they were not profitable. In the past these appropriations have, in effect, been spread over all network costs of the system which could not be specifically allocated under costing or accounting procedures to any particular class or subclass of mail. We believe it would be a mistake to change that methodology. Moreover, it would be the exercise of purely arbitrary and unguided discretion by the Postal Service to select any particular function or functions to which to allocate the public service appropriation.

Perhaps the most significant changes effected in this legislation are those contained in Section 6, dealing with mail classification. We regret to say, that we cannot support most of the provisions in this section because we believe they are unworkable, incomprehensible, and perhaps even self-contradictory.

Section 3623(a) provides that in the classification schedule which is to be adopted the schedule should not include instructions or procedures concerning postal operations and administration. While this language is still somewhat vague, we believe that it might be helpful in clearing up matters of serious contention between the Postal Service and the Postal Rate Commission as to the proper borderlines of their respective jurisdictions, often with the using public being caught in the middle. A very good example currently in dispute between the Postal Service and the Postal Rate Commission is whether the Commission can dictate to the Postal Service the sacking requirements for bulk mail. As users we prefer that the Postal Service have the operating flexibility to decide what makes most sense about how much mail has to be put in a sack to make up a sack, and how the contents of that sack are to be tied out. We, therefore, do not believe that to be a fit subject for adjudication by the Postal Rate Commission.

Section 3623(c)(1) provides that the Postal Rate Commission is to establish expedited procedures for the

review of Postal Service proposals for changes in classification. This section is silent as to what procedures are to apply in the case of proposals by the Postal Rate Commission itself or by an interested party other than the Postal Service. This subsection does provide that the procedure should make a public hearing available to an interested party if that party so requests it within 30 days after the Postal Service has noticed the change.

Section 3623(c)(2) then provides that the Postal Rate Commission must, within 90 days, rule as to whether the requested classification change "is likely to result in a substantial and immediate adverse impact upon competition in the provision of postal services." While the section is silent on the matter, we presume that those members of the public who have indicated an interest in a hearing would be allowed to have their hearing within this 90 day period. If, after the 90 days have passed, the Postal Rate Commission makes a negative finding under this section, then the Commission shall notify the Governors who may then proceed to adopt the classification change. Apparently, this change may be adopted irrespective of the wishes of the users of the mail. In other words, while the Commission may make a correct finding that the change does not cause an immediate adverse impact upon competition in the provision of postal services, whatever that means, the classification change may be quite damaging to mail users in

many other respects. Apparently all other normal criteria presently in use for determining the lawfulness of a classification are to be done away with in these circumstances. We cannot protest strongly enough against this particular provision of the bill. Moreover, I defy anyone to give a common sense definition of just what is meant by "a substantial and immediate adverse impact upon competition in the provision of postal services." I have been of the impression that no entity other than the United States Postal Service, provides postal services as such. There are some private entrepreneurs who do provide some services that the Postal Service also provides, but they could not be called "postal services."

In the event, however fanciful, that the Rate Commission would make a positive determination, that is, that such adverse impact upon competition in the provision of postal services would result, then, and only then, does the Postal Rate Commission review the proposed classification change in accordance with the classification criteria of the Act.

Section 3623(e) provides for the first time for the implementation by the Postal Service of experimental services. The Postal Service is authorized to propose experimental mail classifications accompanied by experimental rates and fees ". . . for services not otherwise available under the domestic mail classification schedule." A procedure is provided whereby the Postal Service will submit such a request for an experimental change to the Postal Rate Commission which then must determine within 60 days whether the experimental change is properly experimental

according to some rather common sense criteria:

1. The novelty of the new service;
2. The availability or lack of availability of data relating to the service; and
3. The scope and magnitude of the change.

If the Postal Rate Commission finds, according to that criteria, that it is properly an experimental service, then the Postal Service can implement it for a period of two years.

We do believe that the Postal Service needs to have the authority to try new things without being tied in knots by the Postal Rate Commission or, what has more often proved to be the case, by certain Federal District Courts. However, the section also provides that the Postal Rate Commission can require the Postal Service to submit information that it believes is necessary in order to make a judgment about these three criteria.

If past form is any guide to the future, then we fear that the information demands of the Postal Rate Commission will be so extensive that the usefulness of this provision to the Postal Service and to the public will be entirely lost. After all, the principal justification for allowing the experimental service is that the Postal Service simply does not have the kind of data and information that it would need in order to make a request for a permanent change. It seems

somewhat contradictory to permit the Postal Rate Commission to demand all variety of data and information about an experimental service, when the principal reason for it being an experimental service is that it does not have the data and information.

More to the point, we cannot imagine the Postal Service ever trying to seek an experimental change if the provisions of new Section 3623(c) were to be adopted. It seems to us that it is a far easier and less cumbersome task to achieve the adoption of a permanent classification change, where the sole question to be determined by the Postal Rate commission is whether there is an adverse impact upon competition in the provision of postal services, than an experimental service, where there are three criteria which must be examined, and possibly voluminous information and data supplied.

We also note that both Sections 6 and 7, dealing with these classification changes, are themselves an experiment which would presumably lapse after three years. We are puzzled by that. If these provisions make sense they should not be enacted for such a limited period of time. Of course, as we have already noted, we think they largely do not make sense.

Section 3624(c)(2) is amended to provide that the Postal Rate Commission cannot capriciously add on large lumps

of time to the 10 month limit for postal rate hearings, but rather are held to the much stricter standard which we believe the Congress intended in the first place. The Postal Rate Commission must make a finding that the Postal Service failed to respond to a lawful order within a reasonable time; it must make a finding as to what a reasonable time would have been; and then it can only extend beyond 10 months by the lesser of:

1. One day for each day of unreasonable delay; or
2. One day for each day of the Postal Service's failure to respond beyond a reasonable time.

We believe this change in the law is absolutely essential, given the very serious past abuse of this power by the Postal Rate Commission.

Our last comment deals with the provisions in Section 10 that disqualifies for membership on the Board of Governors of the Postal Service or as Commissioners of the Postal Rate Commission those who have been in the employ of the Postal Service or the Postal Rate Commission for a period of five years after leaving that employment. This seems to us terribly wrong headed and unfair. While the legislation calls for all kinds of expertise and qualifications on the part of those who would serve in those capacities, the legislation then deprives both institutions of the services of those who might most likely possess the knowledge, experience and

background to be of use as a Governor or a Commissioner.

We understand Mr. Chairman that the legislation that you have introduced has been largely designed to elicit comments and suggestions. We find this legislation to be only the most tentative beginning at addressing the very serious problems that afflict the Postal Service. We trust that we shall have the opportunity over the next several weeks to work with the Committee Staff and other interested members of the public in evolving a piece of legislation which will truly answer some of the problems faced by a modern Postal Service.

STATEMENT OF THE NATIONAL NEWSPAPER ASSOCIATION
AND THE AMERICAN NEWSPAPER PUBLISHERS ASSOCIATION

Good morning, Mr. Chairman, my name is Arthur B. Sackler, and I am General Counsel to the National Newspaper Association. With me this morning is David Dear, President of Dear Publications, Washington, D.C., and a member of the Postal Committee for the American Newspaper Publishers Association.

We are pleased to have the opportunity to discuss postal reform with you, focusing principally upon the draft bill which you have circulated and H.R. 79, which is currently pending before this subcommittee. We also appreciate the opportunity to comment upon another issue crucial to our members -- reduction of mail delivery from six days to five.

NNA and ANPA support principles of postal reform which will permit the Postal Service to maintain both service and rates at levels consistent with two hundred years of tradition and formal government policy. Current judicial decisions and the fall-out from inflation are interfering with this consistency and greatly escalating the necessity for legislated reforms. For this reason, we endorse certain provisions of your bill, but feel we are not prepared at this time to do so with other provisions. We support the basic provisions of H.R. 79.

For the record, allow me to describe briefly the composition of both organizations and then refer to an individual member newspaper.

The National Newspaper Association is a national trade association representing some 5,000 weekly newspapers and about 500 small city daily newspapers. NNA was founded in 1885 as the National Editorial Association and has had a deep interest in newspaper use of the mails for many years.

The American Newspaper Publishers Association is a trade association of 1,370 member newspapers that represent more than 90 percent of the daily and Sunday newspaper circulation in the United States. Many non-daily newspapers are also members.

We would also like to describe the situation of a typical mailed newspaper, the Yankton Daily Press and Dakotan, Yankton, South Dakota. This is a six-day per week evening paper with 10,800 circulation. It was founded in 1861. Approximately 4,500 subscribers receive their copies by mail. This is down from approximately 5,500 as recently as three years ago when the overall circulation was less than 10,000. At that time, 70 percent of the paper's subscribers relied at least in part on the Postal Service for their daily newspaper. Since 1972, the cost for a mail subscription within the paper's primary service area has risen from \$18 to \$36 while the percent of this cost allocable to postal rates has risen from 18.3 percent to 33 percent during the same period.

Newspapers and the Mail

Before commenting on specific sections of the bills, we would like to highlight for the Committee some of the background of weekly and daily newspaper interest in the U.S. mail. That interest goes back two centuries and strikes at the heart of what makes the First Amendment such a national treasure.

It is the U.S. mail which historically has "bound the nation together" and it is the newspaper which has provided the basis upon which an informed electorate has been able to sustain our democratic system for so long. While it is true that those who live in urban areas do not normally associate their daily newspaper with the U.S. Postal Service, such is not the case for those urban readers who have special needs and for the great bulk of our population which resides in suburban and particularly rural areas. It is also not the case

for those who wish to receive printed news from distant places. Allow me to treat each one of these points separately.

Newspapers recognize that many of their subscribers have special situations -- such as being handicapped, elderly, having some other physical limitation, or simply living in those sparsely settled areas of the country -- which from a newspaper circulation standpoint require special treatment. Private carriers are sometimes able to fill these needs through individual arrangements for the distribution of newspaper copies to these subscribers. Often, however, the best way to serve these readers is to use the U.S. Postal Service to deliver copies along with other mail. Although not as much of the time as we would like, this procedure usually results in relatively speedy and convenient delivery to those important readers. The expense, however, is substantially greater to provide this specialized service.

Residents of suburban areas of the U.S. often have found themselves caught between conflicting rural and urban interests. For newspapers -- both weekly and daily -- these readers are some of the most important.

Suburbs around the country are extremely varied. Some are almost urban while many are essentially rural in appearance. For the resident of these areas who wishes to read a newspaper regularly, he or she often will be able to receive copies by carrier delivery -- because many publishers reach readers in urbanized areas more efficiently outside the USPS. For more rural suburban readers, however, the Postal Service offers the best means to receive a paper regularly. That efficiency continues to be threatened each year that postal rates increase -- both through "phasing" and through other rate increases.

The rural resident historically, and still today, is the most important user of the U.S. mail to receive newspapers regularly. It is the person separated by miles from an urban or suburban center who is forced to rely on the Postal Service for the delivery of any newspapers. The past eight years have witnessed a dramatic increase in the amount of a newspaper subscription price allocable to postal costs. The prospect of cutting off newspaper contact with a nearby town or even a city -- because of the expense of a U.S. Postal Service-delivered newspaper subscription -- is not a pleasant thought. A nation which values its rural residents as highly as does the United States must be very careful about governmental action which makes information dissemination within these areas financially untenable.

Finally, for the reader who wishes to remain informed about developments in his or her distant home town or home city, the U.S. Postal Service remains the only option. In a society with the tremendous degree of mobility that we have experienced in recent years, this matter becomes even more important. Does it truly serve to bind us all together if we must sever day-to-day or week-to-week contact with our home communities because of the high cost of continuing to receive newspapers from home? Mr. Chairman, we are sure that you see here in Washington many of the newspapers published in your home state of Ohio. Does not the economical receipt of those newspapers, promptly, and in good condition, here in Washington, facilitate your understanding of your constituents back home? Is it not in the highest national interest to make that process as widely available as possible for all people at the lowest possible cost?

Senator Glenn's Draft Bill

Mr. Chairman, NNA and ANPA recognize that your draft bill encompasses many postal issues. The interests of our members do not extend to all those issues and the provisions dealing with them. Therefore, our comments will be confined accordingly.

Section 4 of your bill is an effort to put some "teeth" into the Postal Service's capacity to enforce lawful payment of postage. NNA and ANPA certainly do not disagree with the concept of improving the Postal Service's ability to obtain the payment of lawful postage. However, the thrust of this section does give us cause for some concern.

Newspapers typically have a fairly involved process in determining appropriate postage, with the usual formula of weight and pieces complicated by determining the precise ratio of editorial to advertising matter. This inevitably leads to good faith mistakes as to postage due on the part of the newspaper and on the part of the Postal Service through its local and regional representatives. Although the local postmaster cannot, by law, bind the Postal Service to his determination, the publisher -- or other mailer -- will in practice frequently rely on that determination. The Postal Service, though willing to compromise the amount owed, in some egregious financial circumstances, generally does not view fault on the part of the local postmaster -- or other official -- as mitigating the underpayment of postage. As an example, in one recent instance, the Postal Service imposed a charge of more than \$13,000 in postage due from the publisher of The Trapper, Sutton, Nebraska, despite the fact that it acknowledged the fault of local postal officials, and despite the fact that the publisher cannot afford that sum. It declined to accept a symbolic offer of settlement -- premised on a mitigation theory -- as "unrealistic(ally)" low.

Another common example of the problems posed by this section involves advertising supplements properly inserted into newspapers under existing regulations. Publishers often have to question the postmaster at the local level as to whether a particular supplement is acceptable. If the postmaster approves the supplement, the publisher carries it on good faith that the postmaster knew what (s)he was talking about. However, a postal inspector may later find that the publisher carried an unacceptable supplement, which should have been mailed at third-class rates. The publisher then faces a deficit postage charge for the third-class postage which, according to the Postal Service, should have been paid on that supplement at the time of mailing. Even though the publisher had requested a postal official to examine and determine whether that insert was acceptable to be mailed in the second-class newspaper at second-class rates and that the approval was given, the publisher must pay the deficit. Section 4 would cause him or her to pay up to 100 percent of the postage paid as a penalty and may cause a loss of the second-class mailing permit. This is a harsh penalty indeed to pay for following the postal official's advice. NNA and ANPA oppose such stringent penalties, at least for those violators who do not intentionally and knowingly underpay the Postal Service.

It would simply be unjust for publishers and other mailers to be so heavily penalized when they are not clearly at fault; in fact, it is wrong to make them even pay postage due under those circumstances. One way to assure that they would not be to require the Postal Service to make a fault determination and then to accept the fault of a postal official or employee in full mitigation of any penalties and postage due. We favor amending the bill to provide that reliance on advice of Postal Service personnel should in no case lead to the imposition of penalties, and properly should relieve mailers of any obligation to pay postage due.

Section 5 of your bill provides, in part, that the annual public service appropriation to the Postal Service be maintained at \$920 million. NNA and ANPA strongly support this proposal. We recognize in this time of intense interest in cost-cutting to achieve a balanced budget, that appropriations to the Postal Service are under prime consideration to be reduced or eliminated. For reasons we will discuss in our comments upon terminating the sixth day of mail delivery, we do not believe that this is a prudent approach to attain this objective. In any event, we are indeed grateful to you for introducing this provision at this time because it unmistakably demonstrates your understanding of the public service concept in the Postal Service.

We believe, along with you, that the Postal Service is first and foremost a public service. Continued congressional recognition of this is essential if the U.S. is to maintain the best universal system of mail service in the world.

The level of appropriation which you have included is reasonable, but clearly more than a mere token contribution. It is an effort to bring what was the intent of Congress in 1970 into more reasonable terms for the inflated dollar of fiscal year 1981.

There is indeed another important reason why continued public service appropriations are so important to newspaper subscribers. Without it, the people who live in rural and remote areas might have to accept greatly reduced service and therefore lose their ability to remain informed, in depth, about developments in their community, the nation and the world. A mail subscription to a newspaper for a rural American is one of his or her most valuable possessions. Those of us who publish the newspapers that these people read want to make sure that the price of that subscription is reasonable and that the speed and certainty of delivery are at their very best.

With respect to that part of section 6 of your bill which amends the mail classification provisions, we will offer comments only upon subsection 3623(a) bearing on the Domestic Mail Classification Schedule. We neither endorse nor oppose the rest of the mail classification provisions, urging only that a hearing be provided in any classification proceeding.

We believe that subsection 3623(a) constitutes a positive step toward appropriately bringing into equilibrium the respective jurisdictions of the Postal Rate Commission and the Postal Service. The Postal Service is in need of flexibility in its operations and should not be unnecessarily required to participate in a process which by its very nature must consume time and will contribute toward reduced flexibility. More adequately defining classes and subclasses under the Domestic Mail Classification Schedule will aid in more clearly delineating which issues are properly within the authority of either agency. It will maintain PRC involvement in congressionally mandated areas, yet offer the Postal Service a freer hand by more carefully excluding matter clearly inappropriate for classification proceedings.

H.R. 79

As we indicated, NNA and ANPA support the fundamental provisions of this bill. In our view, these provisions are: the public service subsidy; and the additional phasing of in- and out-of-county rates.

For the reasons we enunciated relating to section 5 of your bill, we even more strongly support the public service provisions of H.R. 79. The gradual increase in the appropriation provided by this bill bespeaks a concern on the part of the sponsors and the members of the House not only of the need of the Postal Service subsidy, but also of maintaining its level in real dollars in the face of severe inflation. However, again, the mood of the nation and of the Congress is to balance the

budget, and holding a level line on this appropriation, as you propose, may well be a more realistic possibility under today's changed circumstances.

At a time when this country is doing its best to stem the tide of inflation, it is unfortunate that newspaper publishers were required to absorb a 16-24 percent second-class rate increase last July. H.R. 79 would substantially soften that impact.

The bill would extend phasing for an additional two years for regular rate publications -- for whom, the impact last year was most severe, and the need from an inflationary standpoint, most pressing.

H.R. 79 also would extend phasing for publishers who mail their newspapers within county to local -- and oftentimes rural -- subscribers. It would also extend to readers of newspapers with fewer than 5,000 copies mailed outside of county. It is these people who depend on their mail-delivered newspaper for the news of their local community while it is also their window on local affairs that affect their daily lives. If our national commitment to the swift and economical flow of news and commercial information applies anywhere, it surely covers the hometown weekly and daily newspaper subscriber. It is for him or her -- the subscriber -- that this is all important.

We should point out that one of the reasons why postal issues have become so important for newspapers recently is for the first time, many publishers have had to recognize the expense of distributing by mail. In most cases, this has been newspapers which distribute primarily by carrier or mail in-county and which had had a very modest postal bill in the past. With the quadrupling of postage bills for many newspapers, however, what had been a modest amount has become a significant figure.

What has happened to this added expense? While a number of publishers have been able to absorb some of the added cost, more and more are finding it necessary -- and only fair -- to pass on this cost to mail subscribers. Unfortunately, for many of these subscribers, alternative delivery is not a real choice. With the last out-of-county rate increase phased in this past July, and in-county rates increasing again this July, those rural subscribers are going to find themselves faced with the unfortunate choice of a higher-priced newspaper or no newspaper at all. Mr. Chairman, this provision of H.R. 79 would help solve at least a portion of that problem, and assure that we have a mail system truly able to serve the informational needs of our urban, suburban and rural citizens.

Six-Day Mail Delivery

Both NNA and ANPA are deeply concerned with the recommendation of the Senate Budget Committee to reduce federal subsidies to the Postal Service by approximately \$600 million.

NNA and ANPA support the principle of balancing the budget, but only by way of reasoned, deliberate spending reductions. In our opinion, reduction of the Postal Service subsidy in this way, however well-intended, would not so qualify because it would fuel inflation, encourage higher postal rates, cause poorer service and deny many newspaper readers -- especially those in rural areas -- the continuing supply of detailed news and information necessary to a free society.

A reduction in appropriations of the magnitude proposed by the Budget Committee would leave the Postal Service with little choice but to reduce delivery from six days to five (the Postmaster General officially recognized this at a public Board of Governors meeting in Baltimore on April 1).

There are several foreseeable deleterious effects that withdrawal of the subsidy and cutbacks in delivery would have. Mail users would be forced to find alternate means of delivering their products on days when the Postal Service cannot. The higher cost of such delivery would be passed on to the consumer, which is inflationary and would also increase fuel usage.

Those users bound by the Private Express statutes would renew efforts to gain exemptions from the statutes since the Postal Service itself has said repeatedly that if it cannot provide the necessary service, users should be able to go elsewhere. This inevitable exodus with its resulting drops in mail volume would force the Postal Service to further cut services and raise prices inhibiting its ability to remain a viable universal delivery service throughout our country.

Mr. Chairman, we are also very much concerned at the prospect of reduction in the "revenue foregone" appropriation which the report of the House Budget Committee suggests as one likely source of savings. This could force a rate increase of almost 100 percent on the country's smallest newspapers and their readers. We hope that you will join us in seeking to limit any postal service appropriation reduction to public service appropriations only. The "revenue foregone" appropriations must remain at their present levels.

The effect upon newspaper readers would be substantial. In all communities, but especially in rural areas and smaller cities, where electronic media access, if any, is limited, newspapers alone or predominately perform the essential public service of news and information dissemination. Readers in these communities depend heavily upon reliable delivery of their newspapers. This is especially true on Saturdays when farmers, on their typically lone day in town, will look for sales and other information in their newspapers. Conversely, they

will look to timely advertise the sale of their commodities. Also, in many communities, even those served by electronic media, the newspaper is the only source of truly local news. Consequently, in these communities, the public service provided by newspapers could go unperformed on the day with no delivery.

Mr. Chairman, we urge you and the other members of this subcommittee to scrutinize this proposed subsidy reduction for the Postal Service to see if it would truly serve the public interest. Although we have no doubt of the good faith implicit in this measure as an effort to balance the budget, we believe that a careful consideration of its impact along with the cold figures will demonstrate its imprudence in the broader context.

Mr. Chairman, both NNA and ANPA very much appreciate this opportunity to appear before you on these pressing postal matters. Mr. Dear and I will be glad to take any questions you may have.

PREPARED STATEMENT OF KENT RHODES, PRESIDENT, MAGAZINE PUBLISHERS ASSOCIATION

Mr. Chairman and Members of the Committee:

I am Kent Rhodes, President of the Magazine Publishers Association.

I am pleased to be a member of this panel and to have this opportunity to express MPA's views on postal issues of importance to all mail users.

MPA currently has 176 members who publish 625 magazines. These magazines account for over 60 percent of total audited magazine circulation as reported by the Audit Bureau of Circulation - about 165 million copies per issue. MPA's members also account for over 80 percent of total magazine advertising revenues, as reported by the Publishers Information Bureau. Our members are major customers of the Postal Service and most are dependent on USPS for both the marketing and distribution of their products to the American public. A financially healthy, service-oriented postal establishment has always been and will continue to be, vital to their success.

Public Service Appropriations.

MPA believes that public service appropriations should not be decreased, but rather should be increased substantially to cover the costs of services which the Postal Service provides in response to the general public need. These are services which most mail users do not need or want, services over which mail users have no control, and services about which mail users are not even consulted. In fact, most of these services are for the benefit of the recipient of the mail, not the mail user who is the sender of the mail. Examples of such public services would include:

- The 40,000 post offices and stations maintained by the Postal Service
- Delivery to the door
- Frequent delivery to remote and sparsely populated areas.

These are typical of services which the American people have made clear to you -- their elected representatives -- they want maintained and that should be funded, in part, at least, through the public service appropriation.

The level and quality of service is now at an absolute minimum and as you well know, there has always been a public outcry when efforts to cut service below existing levels are proposed.

The 1970 Postal Reorganization Act initially authorized an appropriation of 10 percent of the Postal Service's operating expense. That amounted to \$920 million. But inflation alone so eroded the value of the \$920 million that in 1977 it represented only 6 percent of total operating expense.

The Commission on Postal Service in 1977 supported "the historical policy that the Postal Service does have public service aspects and that the public's stake in these justifies public service appropriations." It recommended that in each year through fiscal 1985 the public service appropriation be increased so as to equal 10 percent of the previous fiscal year's operating expense. If the Congress had accepted that recommendation the public service appropriation for 1981 would be \$2.1 billion. The Congress did not act on that recommendation. We think that was a mistake.

Instead, under the provisions of the 1970 Act, the authorization for public service for fiscal 1981 is only \$736 million or 3.5 percent of total postal operating expense as the chart indicates:

Public Service Authorizations as a Percent
of Total Postal Operating Expenses

FY 1971 - 1981

(\$ millions)

	<u>Total Postal Operating Expenses</u>	<u>Public Service Authorization</u>	<u>Percent of Total</u>
Post Office Dept.			
FY 1971	\$ 8,955	\$845	9.4
U.S. Postal Service			
FY 1972	\$ 9,585	\$920	9.6
FY 1973	9,926	920	9.3
FY 1974	11,295	920	8.1
FY 1975	12,578	920	7.3
FY 1976	13,923	920	6.6
FY 1977	15,310	920	6.0
FY 1978	16,220	920	5.7
FY 1979	17,596	920	5.2
est. FY 1980	19,009	828	4.4
est. FY 1981	21,314	736	3.5

The public service appropriation should not be cut further - it is at rock bottom now. At the barest minimum, it should be established on a permanent annual basis of at least \$920 million which would be 4.3 percent of 1981 postal expenses. Further, future Congresses should review the issue to determine when the appropriation can be raised so that the government will be paying its appropriate share of the cost of operating the Postal Service.

Postal Ratemaking.

In addition to public service funding, MPA believes another major and critical issue facing the Postal Service has to do with how postal services are priced. We were pleased to find that in the initial draft of this bill that was circulated by the staff of this subcommittee, a section addressed this problem but it has since been dropped. We urge that appropriate language dealing with ratemaking be included in the form of an amendment to this bill at the time of markup.

For the benefit of subcommittee members who may not be familiar with our postal ratemaking concerns, a short review may be in order:

On January 7th the Supreme Court denied the Petitions for Certiorari filed by MPA and other mail users which sought Supreme Court review and, we hoped, reversal of recent decisions of the Court of Appeals for the District of Columbia. These had construed the Postal Reorganization Act as requiring that postal prices be determined almost exclusively on the basis of cost accounting principles, leaving virtually no discretion in the Postal Service or the Postal Rate Commission to apply the non-cost criteria of the Act.

You will recall that in all four rate cases since passage of the Act in 1970, the Postal Service and the Postal Rate Commission were in complete agreement that Congress intended (1) that each class and subclass be required to pay rates sufficient to cover their volume variable costs, i.e., the non-fixed costs of the Postal Service and (2) that the fixed costs, except for those paid out of the continuing appropriation, be allocated among the for-profit mail users by applying the non-cost criteria of the Act. That fundamental interpretation of the Act was concurred in by the impartial Commission on Postal Service in 1977. That Commission in its recommendations stressed what the Postal Service, the Postal Rate Commission and the Congress already know: that unless non-cost factors -- such as value of service, relative demand, competition in the private sector and the relative importance to the recipient of the various types of mail matter -- were given significant consideration in setting postal rates, the Postal Service could not compete with delivery services in the private sector and important public policy goals could not be met.

Although the Supreme Court did not grant our petition, the appeal did provoke the filing by the Solicitor General of a remarkable document. We have provided your staff with copies of our Petition and the government's response. In essence, the Solicitor General stated that the Postal Service agrees in every respect with our views, but that the government could not support Supreme Court review because the Postal Service had argued before the Court of Appeals that the rates established in the last rate case were lawful under the D.C. Circuit's interpretation of the Act. In the document the Solicitor General states that the Postal Service believes that (1) the NAGCP I decision "was wrongly decided",

(2) the analysis of the legislative history of the 1970 Act contained in the Petition filed by MPA and Time Inc. was correct and (3) "this history demonstrates that the court of appeals in NAGCP I misconstrued the Act." Notwithstanding this unambiguous Postal Service position, the Solicitor General declined to support Supreme Court review and concluded that:

"Although the Postal Service continues to believe that the methodology dictated by NAGCP I is not the only methodology the statute allows and that it and the Commission should be free to utilize the discretion that Congress entrusted to them, it sees no reasonable likelihood that the court of appeals, in future rate proceedings, will retreat from the principles it announced there and reiterated here. The Postal Service is thus faced with two equally unattractive alternatives. It may continue to set rates in accordance with principles that it finds unacceptable (albeit lawful), or it may set rates that will almost certainly be struck down by the court of appeals, thus jeopardizing a complex and comprehensive postal rate scheme that involves billions of dollars annually. Whatever course the Postal Service may choose in the future, however, the fact remains that the rates petitioners challenge are lawful, and the government therefore cannot acquiesce in petitioners' suggestion that this Court review and, ultimately, overturn them."

That is a cruel and intolerable position for the Postal Service to be left in. Congressional action is in our view, and we believe the Postal Services' view as well, imperative. Otherwise, postal rates will be established on the

basis of arbitrary cost allocations having no relationship to cost causality or to value of service. The Postal Service will suffer, we and other mail users will suffer. And so will the general public.

S. _____

STATEMENT OF THE
CATHOLIC PRESS ASSOCIATION, ASSOCIATED
CHURCH PRESS, EVANGELICAL PRESS ASSOCIATION
AND AMERICAN JEWISH PRESS ASSOCIATION
TO THE U. S. SENATE
ENERGY, NUCLEAR PROLIFERATION AND
FEDERAL SERVICES SUBCOMMITTEE

April 16, 1980

Mr. Chairman, my name is Alan Caplan, Circulation and Marketing Director of the Jewish Exponent, a publication of the American Jewish Press Association. I appear today as a spokesman on behalf of the Catholic Press Association, Associated Church Press, Evangelical Press Association and American Jewish Press Association.

We are delighted for the opportunity to comment on certain of the provisions of the Chairman's bill and, specifically, to urge an amendment thereto which is close to the hearts and pocketbooks of the publishers of religious tracts, papers, magazines and like material.

Before directing my attention to the bill and our suggested amendment, permit me to introduce our four publisher organizations: the Catholic Press Association, the Associated Church Press, the Evangelical Press Association and the American Jewish Press Association represent some 700 non-profit religious publications or publishers. The total per issue circu-

lation of our member publications is approximately 70 million, of which about 20 million is attributable to newspapers and about 50 million attributable to magazines. Member religious publications deliver over one billion pieces of mail, read by several billion subscribers and others.

Our publishers stand at a very critical juncture in their obligations to disseminate to the wide spectrum of readers -- families, congregations, institutions of religious study, etc. -- items of news and articles of thought of religious orientation. In this secular world, our publications are in the forefront of those seeking to counter materialistic and hedonistic inroads into our culture and into our religious fibre. Freedom of the press and freedom of religion are fundamental rights in our society with which we and this Congress should brook no tampering. What good are rights, however, if the mechanism and means for enjoyment thereof are not also available? It does little good to have a Postal Service and to at once price it out of the access of those who would be users thereof but for the cost.

Traditionally, since the very earliest days of the United States Postal Service, recognition was given by this Government to the invaluable contribution of the religious-oriented press to the very fabric of our society. Always, there was a special niche carved out in the postal rate structure for publishers of

philanthropic, religious, labor, veteran, agricultural and scientific media to assure their place and availability among this country's readership. In enacting the Postal Reorganization Act of 1970, Congress once again attempted to spell out criteria designed to protect and enhance the special postage status of such publications. Congress, however, has been thwarted in this effort by court interpretations and Postal Rate Commission decisions.

Today, the position of non-profit publications has deteriorated a net one-third vis-a-vis regular-rate publications; that is, taking into consideration all postal rate increases, those of the non-profits have increased fully one-third more than those of regular-rate publications. Even worse examples abound and the worst is still clearly ahead of us: the Postmaster General is expected to shortly propose a substantial rate increase which will go into effect in March, 1981. That means that the present first class stamp costing 15 cents will probably cost 18 cents as of that date. Similar price increases are expected in all classes of mail.

Most of our members are second class non-profit mailers. They will experience their annual rate increase of 18-25 percent this coming July 1 and a similar increase on July 1, 1981. In round numbers, this means increases totalling 60-70 percent during the next sixteen months.

Our only path to relief leads to Congress; the Postal Rate Commission's hands are now tied by court decision. Congress must step back into the picture to protect the very livelihood of church and other non-profit publications throughout the United States. If this is not done, the alarming trend toward cessation or abbreviation of publications will accelerate -- and we will all be the losers!

Turning our attention to the Chairman's bill, we offer the following specific comments:

First, we urge that the Postal Service expend from its public service authorization -- proposed in the bill at \$920 million annually -- such sums as are necessary to sustain and maintain sixth-day delivery. The chaos which will be created if our churches, synagogues and bible schools can no longer depend on Saturday delivery of their Sunday religious material will be of crisis proportions. Such material is time-sensitive, to say the least. Slipped or late delivery to the following Monday will do no good. Press deadlines, in many cases, will be pushed to the preceding week to meet a Friday delivery a week later -- hopelessly dating any current material. Can you imagine the religious press' coverage of the Pope's recent visit: he would have come and gone in the time span which the accelerated press deadline would have

required. We must have sixth-day delivery -- and point out to this Committee that earlier House legislation (H.R. 7700) was designed to require just such an expenditure of the public service appropriation in the event of 5-day delivery.

Secondly, we urge the imposition by Congress of a ceiling on the total costs to be paid by preferred mailers under the Act. Specifically, we urge an amendment to the Chairman's bill to provide that the postage paid by preferred mailers shall not exceed 60 percent of the postage paid by regular-rate mailers. A draft proposal incorporating this recommendation has been submitted to the Committee staff. In that regard, we attach hereto a copy of a letter from the United Parcel Service endorsing this proposal and urge that it be adopted.

The reasons for such an amendment are obvious and have been spelled out hereinabove. Costs charged to publishers of preferred publications have escalated from 50 percent of total costs in 1970 to approximately 67 percent today. If the courts are successful in requiring the Postal Rate Commission to fully distribute all costs wherever possible, publishers of preferred postage rate publications can expect to see their costs rise to 80 or 90 percent of total costs within the very near future. This would be tantamount to silencing the religious

press -- something which we are sure this Committee would not want to see. Only a very few of the most successful non-profit publications could survive such a cost onslaught. Unless the door is closed firmly now, it will be more difficult to hold the line at the next rate increase.

We thank you, Mr. Chairman, and will be glad to respond to any questions you may have.

Respectfully submitted,

CATHOLIC PRESS ASSOCIATION,
ASSOCIATED CHURCH PRESS,
EVANGELICAL PRESS ASSOCIATION
AND AMERICAN JEWISH PRESS
ASSOCIATION

September 27, 1979

Charles Emmett Lucey, Esq.
McDermott, Will and Emery
Suite 1201
1101 Connecticut Ave., NW
Washington, DC 20036

Dear Mr. Lucey:

We have reviewed the proposal you have suggested to benefit non-profit mail users which you discussed with Art Hill.

You have proposed that Congress amend Section 3626(a)(1) of the Postal Reorganization Act of 1970 by inserting the phrase "... 60% of total postal cost of such class or kind;" after the word, "exceed", and striking the rest of the existing phrase up to the semi-colon.

Our main concern with postal legislation is, and always has been, the preservation of fair methods of ratemaking for competitive services. The specific change would not affect the present method of ratemaking for parcel post and other competitive services which are contained in Section 3622 of the Act. Therefore, a proposed change in the Postal Reorganization Act of this specific nature would not be opposed by us in the Congress.

We appreciate your counseling with us on this proposed change and giving us the opportunity to comment on it.

Sincerely,

Robert E. Smith,
Vice President

RES:lmh

TESTIMONY OF ROBERT A. SALTZSTEIN, ESQ. ON BEHALF OF
THE AMERICAN BUSINESS PRESS, INC. BEFORE THE SENATE SUBCOMMITTEE
ON ENERGY, NUCLEAR PROLIFERATION & FEDERAL SERVICES

Senator Glenn, members of the Subcommittee: my name is Robert Saltzstein of the law firm of Wyatt and Saltzstein. I am General Counsel of the American Business Press (ABP). With me today are my colleagues, Stephen Feldman of Wyatt and Saltzstein, and David Henderson of the law firm of Cook, Purcell, Hansen and Henderson, and former Chairman of the House Post Office and Civil Service Committee.

ABP is an association representing publishers of approximately 550 specialized trade, technical and professional journals published by some 115 companies. These publications disseminate vital economic, industrial and technical information to business, engineers, managers and scientists in all 50 states, and abroad.

Here are a few examples of the types of publications which ABP members publish:

Aviation & Space Technology, published by McGraw-Hill, Inc., New York;

Forest Industries, published by Miller-Freeman, San Francisco, California;

Machine Design, published by Penton-IPC, Cleveland, Ohio;

Laser Focus, published by Advance Technology, Inc. in Newton, Massachusetts,

Microwaves, published by Hayden Publishing, Rochelle Park, New Jersey, and

Advertising Age, published by Crain Communications in Chicago

These 550 periodicals are smaller circulation, averaging about 45,000 copies per issue. They rely almost exclusively on the Postal Service for delivery. A reliable nationwide system of distribution at a reasonable price is a necessity for these periodicals, and for the United States.

Section 5 of the proposed act would authorize a \$920 million public service appropriation. This recognizes that USPS incurs expenses in providing necessary postal services which are not properly chargeable as rate revenue. These are services like smaller post offices and universal delivery, which are public services.

Under present legislation, the original \$920 million public service appropriation authorized by Congress is steadily declining. It currently stands at \$828 million per year. Despite the present annual rate of inflation of 20 percent, the appropriation is scheduled to decline to \$460 million by FY1984. The appropriation was \$920 million in 1971 and it was never adjusted for inflation. Even if the \$920 million be restored, it would be far less, in today's dollars, than the original appropriation was. And cost reductions certainly have not compensated for inflation.

As part of the major budget cuts to balance the budget, the House Budget Committee has proposed eliminating the public service appropriation in FY 1981. The Senate Budget Committee would eliminate \$600 million in FY 1981. The President has proposed eliminating \$600 million in FY 1981.

The Postmaster General has stated in testimony before the House Post Office Committee that if the public service appropriation is cut, he can make up the funds by eliminating one day of delivery. He has also told that Committee that the mail will be processed seven days a week and that bottlenecks can be avoided.

We submit that if there is to be budget-cutting-which includes a reduced frequency of delivery and elimination of the public service appropriation, then the nonprofit appropriation of over \$600 million ought to be eliminated as well. There is no reason why advertising and solicitations for the Journal of the American Medical Association, or travel brochures for vacation trips sponsored by colleges, should be subsidized by taxpayers when six day delivery may be cut. If reduced postal appropriations are to be used to balance the budget, then appropriations for nonprofit publications and advertising should be eliminated.

If the nonprofit appropriation is to continue, on the other hand, then there is every reason for Congress to complete the passage of the Javits-Randolph bill, S. 1110, which the Senate has passed and which is now before the House for consideration. This bill would provide that children's magazines and smaller circulation periodicals under 250,000 copies would receive the equivalent discounts accorded mass circulation periodicals. The point we make is that if there is to be budget cutting, it should not be half-hearted.

In 1978 the House, this Subcommittee, and the full Senate Government Affairs Committee passed H.R. 7700. It did not become law because of Congressional adjournment. That bill contained language which would have overcome the unfortunate effects of an Administrative Law Judge decision in the 1974 rate case, subsequently reversed by the Commission, and then reinstated by the U.S. Court of Appeals. As you know, there are nine criteria by which postal ~~rates are~~ to be set. But as a result of the opinion of the Administrative Law Judge, in actual practice only one is really applied: cost. The U.S. Supreme Court declined to review the Court of Appeals decision.

Had H.R. 7700 as passed by the House and this Committee in 1978 become law, that decision would have been changed to comply with the original Congressional intent in enacting postal reorganization, to the effect that a number of criteria, not just cost alone, be considered in establishing postal rates.

The American Business Press supported postal reorganization. Had we known that the statute we backed would subsequently be misconstrued, so that cost, and cost alone would become the major criterion, we would not have been ardent supporters of what was then called "postal reform."

Prior to the introduction of this legislation, under Postal Service auspices, a meeting of diverse groups of publishers and mailers was held at USPS. There was general agreement on the following costing language to replace the originally passed §3622(b)(3):

Except as provided..., each class or subclass of mail or type of postal service shall bear the postal costs that are attributable to that class, subclass or type. Attributable costs of a class, subclass, or type shall be those which vary with the volume of the class or subclass of mail or type of postal service over a period of not more than 3 years.

This language does not cost the Government even a Susan B. Anthony dollar. It will simply allocate different rate formulae among different mailers.

As to other matters contained in the legislation, we will be prepared to answer any questions which the Subcommittee may have.

We very much appreciate this opportunity to appear before this Subcommittee.

TESTIMONY OF
JOHN JAY DALY, WASHINGTON REPRESENTATIVE,
RECORDING INDUSTRY ASSOCIATION OF AMERICA,
BEFORE THE SUBCOMMITTEE ON ENERGY,
NUCLEAR PROLIFERATION & FEDERAL SERVICES
OF THE U.S. SENATE
AT A HEARING ON POSTAL OVERSIGHT LEGISLATION
Wednesday, April 16, 1980

My name is John Jay Daly, a Washington Representative of the Recording Industry Association of America (RIAA), whose headquarters are at 1633 Broadway, New York City. Our offices here are in The World Center Building. RIAA's 66 record company members account for nearly 90% of the phonograph records and pre-recorded tapes produced and sold in the United States.

Our particular concern centers around the needs of those RIAA member companies that operate record and tape clubs to provide millions of Americans with the convenience of buying by mail. The two largest companies involved provided nearly \$58 million in direct revenues to the Postal Service and created transaction mail totalling over \$19.31 million in 1979.

We appreciate the opportunity of appearing before this subcommittee to state our views on a key matter of mailer's concern, for as you know, the U.S. Postal Service provides a national physical distribution network offering inestimable value to all Americans -- not just business users. We're pleased this panel is considering how this service might be strengthened.

-2- RIAA TESTIMONY TO SENATE PANEL OF APRIL 16, 1980

Three years ago, the recording industry celebrated the centennial of the invention of the phonograph record by Thomas A. Edison. In the years since 1877, sound recordings have brought entertainment, education and cultural enrichment to generations throughout the world. Indigenous American music, including country, jazz, blues, bluegrass, gospel and rock & roll, are today enjoyed worldwide because of sound recordings. Hundreds of artists have become household names and, because of sound recordings, will be with us forever. Indeed, they are part of our cultural heritage.

Phonograph records and pre-recorded tapes are distributed domestically in a number of different ways, one of which is through the mail, an important, convenient alternative to retail distribution for countless millions of Americans. Direct mail purchasing appeals to a large segment of today's consumer public -- including rural America and the aged, but also urban residents and youth. Consequently, every major record company participates in direct mail selling, either through record and tape clubs of their own, or by licensing their recordings to companies that market by mail.

Because mail distribution of sound recordings is so important to RIAA, the Postal Service, and the American public we shall, in terms of immediate concern, address ourselves to the trends which threaten the Postal System as we know it.

-3- RIAA TESTIMONY TO SENATE PANEL OF APRIL 16, 1980

The Special Fourth-Class Rate, which Congress wisely enacted to recognize that the dissemination of cultural material was indeed a public service, has proved not to be so "special" at all. It has borne an increase from 1970 of close to 500%.⁴ Of course, the RIAA member companies we represent are also heavy users of first- and third-class mail.

Since 1970 the increases in First, Third and Special Fourth Rate have consistently exceeded the rise in the Consumer Price Increase. For example, between June, 1977 and June, 1978 the CPI rose by 6.5% while the rate for the first pound of Special Fourth matter rose by 44% -- over seven times as fast as the CPI!!!

If you can, try to put yourselves in the shoes of the gentlemen and women who operate record clubs. Then ask yourself:

- How would you run a mail order business when postage cost increases exceed 25% per year?
- This question leads to another, one which does not bode well for the Postal Service:
How do you run a direct mail business with-
out using the mail?

Obviously, as businessmen we know costs are rising rapidly in many areas and we're taking every step we can to contain them. But, the continuing escalation of postal rates has already resulted in millions of dollars being diverted from the U.S. Postal Service as record and tape clubs have increased their use of

**A bar chart attached to our testimony dramatically illustrates this.*

-4- RIAA TESTIMONY TO SENATE PANEL OF APRIL 16, 1980

United Parcel Service deliveries. They have started experimenting with other alternative delivery systems in several cities.

In 1979, the Columbia Record and Tape Club, which is the largest direct response distributor of recorded music products shipped over 860M parcels containing records or tapes via the United Parcel Service.

This volume represented an almost 19-fold increase in UPS use over 1978. Further, the use of UPS is expected to increase by at least 50% in 1980. The shift is directly attributable to increased postage rates charged by USPS.

In light of the volume of mail that record and tape clubs produce for the U.S. Postal Service, any substantial diversion from the mail system will have clear and immediate harmful effects on the Postal System generally as well as on those who continue using the mail.

A diminution of volume can only create a smaller base over which to spread the not-inconsiderable institutional costs, inevitably resulting in further major rate escalations. This will mean that alternative distribution systems will become increasingly attractive, thus accelerating that vicious harmful cycle.

The future of the Postal System is today at a crucial junction. The House, the Senate and the Administration all want to curb expenditures where possible. The newly proposed Senate's

-5- RIAA TESTIMONY TO SENATE PANEL OF APRIL 16, 1980

bill wisely would at least maintain them at the levels established by the Postal Reorganization Act of 1970. Some weeks ago when we began drafting this testimony we considered asking for an increase of those appropriations. We are not like Pollyanna as to do so today, but will still believe such an increase would be appropriate.

By abandoning the public service concept the Congress would put into question many assumptions which have stood behind the postal system. Key questions are forced to the fore. For example:

- Can the Private Express statutes be fully justified any longer?
- Can small post offices continue to exist? Will delivery soon be reduced from six days to five days? And, if so, does that portend that further reductions to four days, or less, will be in the offing in this decade?
- Will new delivery systems be allowed to develop which service the rich and middle class in urban and suburban areas while poor and rural areas are unserved -- or serviced only by an expensive skeleton of the present Postal Service?

We want the Postal System to continue. We would prefer to deal with one national delivery service. We may, however, be forced by continually escalating rates to use other systems. Of course, we will be hurt but so will the country. While the Postal Service must be operated in a business-like way it is not now --

-6- RIAA TESTIMONY TO SENATE PANEL OF APRIL 16, 1980

nor ever was intended to be "a business." Thus, public service funding should cover the myriad of services that no business would provide without extra charges, yet which the Postal Service does nevertheless provide for all taxpayer-users. Without public service funding these services will cease to exist.

Our view is based on the fact that the Postal Service is, by law, a public service. Therefore, the expenses incurred in performing any services that inure to the benefit of the general public at large are indeed public services, should be treated as public service costs, and should be funded by Congress to the extent that the costs of such public services exceed operating revenues.

Under this definition, those public services would include, but not be limited to:

Providing a nationwide network of services and facilities for the dissemination of information, communication of intelligence, the advancement of education and culture, and advancing the national economy by carrying the articles of commerce and industry of the nation.

Implicit in this definition is a recognition of the role of the Postal Service in uniting the American people, promoting the general welfare, and serving as a transportation medium for the commerce of the nation.

-7- RIAA TESTIMONY TO SENATE PANEL OF APRIL 16, 1980

Although some volume of mail has been diverted to other communications and transportation media, the fundamental charter and responsibility of the Postal Service to provide a truly national communications system for the public good remains unchanged from what it was when it was originally mandated by the Constitution.

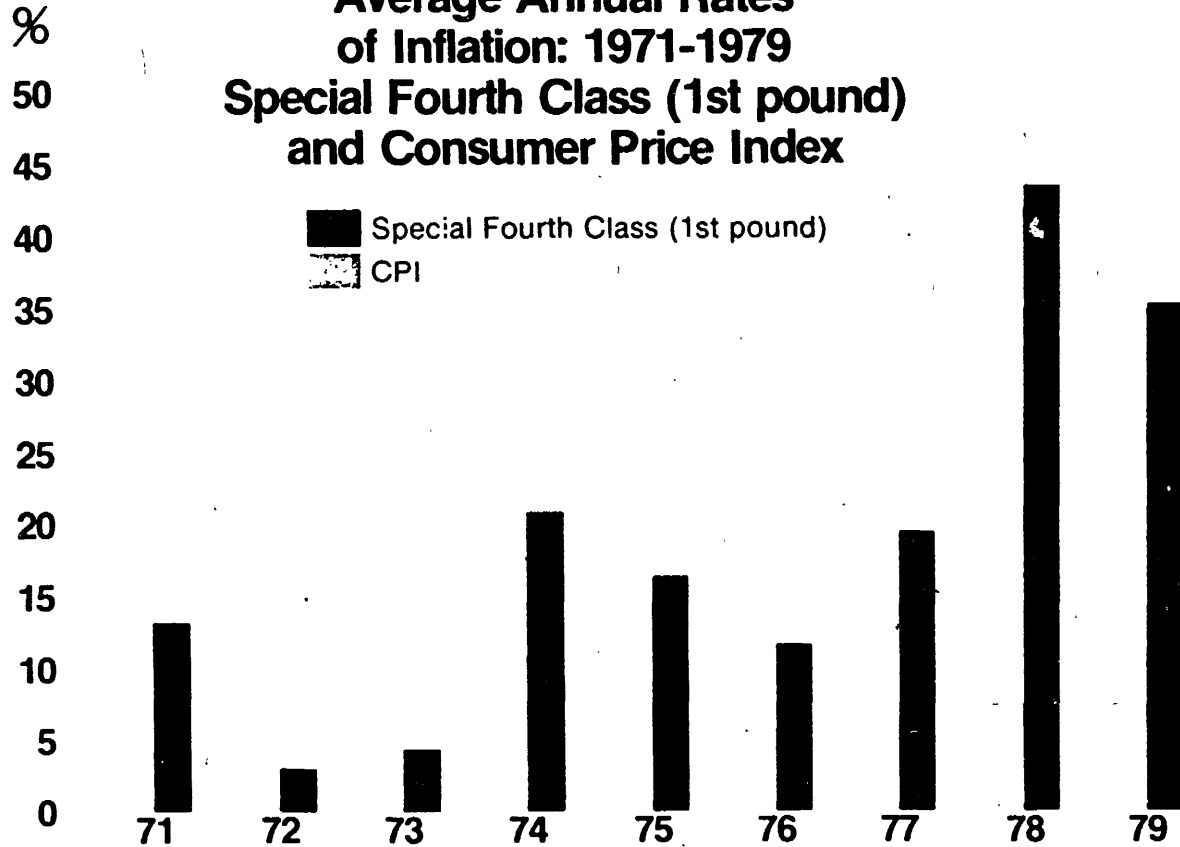
In so stating we don't now seek greater public service funding and we do not at all wish to avoid paying those costs directly attributable to handling our class of mail and we believe -- as evidenced by our repeated filings with the Postal Rate Commission -- we already do. We simply do not think it fair for businesses -- even profitable ones such as ours -- to pay more than the fair share of services which we are somehow provided but which we do not need or want.

If "the public service concept" is to be abandoned, or even badly damaged fiscally, then radical changes must be made in the Postal Service to make it more of "a business" but if this dramatic change were ever to become postal policy -- and we hope it never comes to pass -- the ultimate losers would be the American public.

Again, RIAA welcomes this opportunity to present our views and we welcome the opportunity for questions. Thank you.

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Average Annual Rates of Inflation: 1971-1979 Special Fourth Class (1st pound) and Consumer Price Index



[Whereupon, at 12 noon, on Wednesday, April 16, 1980, the subcommittee was adjourned.]

POSTAL SERVICE ACT OF 1980

MONDAY, APRIL 21, 1980

U.S. SENATE,
SUBCOMMITTEE ON ENERGY, NUCLEAR
PROLIFERATION AND FEDERAL SERVICES,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met at 10 a.m., in room 3302, of the Dirksen Senate Office Building, Hon. John Glenn (chairman of the subcommittee) presiding.

Present: Senators Glenn and Stevens.

Senator GLENN. The hearings will be in order. Today the Subcommittee on Energy, Nuclear Proliferation and Federal Services, continues its hearings on S. 2558, the Postal Service Act of 1980 as well as H.R. 79, and H.R. 826.

In two previous committee meetings we have been given testimony by leaders of the various postalworkers' unions and by representatives of various mail users.

Today we receive testimony from the Postal Rate Commission and from representatives of the major management organizations within the Postal Service itself.

Since our time is always short in committee meetings, we would appreciate summarized versions of testimony you may be able to give us today. In any event, whether you choose to give full testimony or a summarized version, the entire testimony will be included in our committee record.

With us today is the Honorable Lee Fritschler, Chairman of the Postal Rates Commission, accompanied by Vice Chairman, James Duffy, and Commissioners Simeon Bright, Clyde DuPont and Kieran O'Doherty.

Gentlemen, we welcome you this morning. Mr. Fritschler, we welcome any statement you or any of the Commissioners have to make.

TESTIMONY OF A. LEE FRITSCHLER, CHAIRMAN OF THE POSTAL RATE COMMISSION; ACCOMPANIED BY JAMES DUFFY, VICE CHAIRMAN, SIMEON M. BRIGHT, CLYDE S. DUPONT AND KIERAN O'DOHERTY, COMMISSIONERS, AND DAVID STOVER, GENERAL COUNSEL

Mr. FRITSCHLER. Thank you very much, Mr. Chairman, I appreciate the opportunity to testify on S. 2558. I would like to announce that in addition to my fellow Commissioners, I am accompanied by our general counsel, Mr. Stover, who is sitting on my right.

I have submitted a lengthy statement which is my response to your request and I would like to take advantage of the opportunity you just offered to give a few summary remarks.

To get right to that, I feel that the proposed bill cuts very close to the heart of the regulatory authority of the Postal Rate Commission. I know that my attempting to support regulation in today's political environment is something like trying to sell a dread disease, however, I'm going to try to do it.

I think that there's a lot of talk of deregulation and the problems of regulation. I would like to point out that there are different types of regulation and in fact the Postal Rate Commission is involved in the most classical kind of regulatory activity. That is, we are involved in the regulation of a monopoly or a public utility and it just simply cannot be forgotten that the primary purpose of this type of regulation is to make certain that the public is adequately, even forcefully represented in decisionmaking.

No one here needs to be reminded that the Postal Service is a huge enterprise. It has a \$20 billion a year budget and close to 700,000 employees. More important than size I think is the fact that its activities affect nearly everyone in this country.

Every business, not to mention the very well-being of this Nation, is affected. There is a tendency in any large organization, whether it be a private monopoly, public monopoly, or Government agency to take on an agency view of matters without paying proper attention to outside views or outside interests. I believe that the electronic mail case is an example of this. The primary reason that I've been able to determine for the Postal Service's opposition to the PRC recommended decision is that someone on the outside had what the Rate Commission determined to be a better idea than the original service proposal. Consequently we've had quite a brouhaha over it.

Regulation in a nonprofit setting is of course important, through such questions of rate and revenue, but it's also important to prod organizations into more efficiency to provide services people want and to stimulate innovative service.

Mr. Chairman, the public is quite interested in what we do and I think this is a measure of the success we've had so far. In our last major rate case, we had 62 intervenors representing large chunks of the mail public. We had 64 days of hearings and 21,000 pages of testimony.

Similarly in the electronic mail case, we had 49 intervenors, 31 days of hearings and 12,000 pages of testimony.

We are sometimes, I should make that often, criticized for delay, criticized for taking too long and frankly I am sympathetic to those criticisms. However, I want to point out that a major rate case in 10 months for public utility regulation is somewhat of a speed record and frankly I don't know how much we need to apologize for taking 15 months in a classification proceeding. Perhaps we should apologize for 3 of the months. Taking up to a year to consider a decision as important as electronic mail, which affects major industries in this country and even the future of the Postal Service, does not appear to be excessive.

It might be a little too long, but I don't think it's something that requires a major apology.

These are issues which have substantial public impact, the public wants to intervene and does, and as I indicated in the electronic mail proceeding, we had 49 separate intervenors.

Postal Rate Commission procedures need some improvement, but not at the expense of sound regulatory principles, which again in the case of monopoly regulation means primarily quality representation of the affected public.

Under the proposed bill, the mail classification review procedures would be substantially changed. They would limit the regulatory authority of the Rate Commission to those proposals which may have a substantial and adverse impact upon competition.

This strikes me as being extremely limited. I am not exactly sure how all this would work out, but first it seems to me that this would automatically remove from our purview any examination of issues arising from the Postal Service on first class, which of course is the major business of the postal service.

Since first-class mail is a statutory monopoly, the question of competition has no bearing and consequently we would have little if anything to do with it. There are all kinds of examples of things which might be done to first-class mail. One issue which has come before us is letter mail. That is such issues as the size of letters and this sort of thing.

It doesn't seem like a major thing, I suppose, but there are major portions of the mailing public which has considerable concern about the size of letters. I think that limiting us to only issues of competition would eliminate questions involving first-class mail.

Furthermore, if we're limited only to questions of competition, we have to forego our consideration of such technical and legal issues as cross subsidization. This of course is one of the major points of regulation of any kind of large public enterprise.

As I read the mail classification portion of the proposed bill the Postal Rate Commission would not be allowed to consider issues of cross subsidization.

Furthermore, I believe that this portion of the bill would allow substantial rate changes to be implemented without proper public hearing. It is possible that proposals were made in the past, for example, to add a surcharge to parcel at the rate of \$1.50. This was a classification change and the Rate Commission has dealt with it.

I believe that the word had come up separately under this new proposal. We could not deal with this and hold proper public hearing.

In reference to the experimental classification changes of S. 2558, I would suggest that we would like to clarify our procedures and improve them, but I think the bill eliminates procedural delays by eliminating procedures altogether.

What we would like to move to is to a notice-and-comment procedure which would essentially leave it to the Commission to decide whether or not to hold public-trial-type hearings, when it seems that it is in the public interest. When there is substantial interest in an experimental change, we could then move to that hearing, after a period of notice and comment.

If in fact that is not necessary, if the hearings are not necessary, we could go ahead on the basis of the record.

One of the things that puzzles me about these two sections, Mr. Chairman, is that I believe they are likely to result in a shift of burden from the Rate Commission to the courts.

If the Rate Commission is proscribed from holding hearings in these matters, the substance and thrust of the legislation has in fact been changed. Litigants, that is, parties are not being allowed to air their positions before the Rate Commission and could then go to the courts.

In my prepared statement I have five legislative proposals, with proposed legislative language attached. I would like to mention three of these in a summary way and come back to them, later, if you'd like.

One of them is to grant the Postal Rate Commission final decision authority over rate and classification matters. I believe the time has now come for the role of the Governors and the Postal Service to be reexamined. The Governors perform a very important and very useful function for the Postal Service. They act as its Board of Directors.

A corporation as large and as important as the U.S. Postal Service certainly needs an outside Board of Directors.

But I believe it is clear that they are not equipped to sit as an appellate body, they do not have independent staff, nor do they really have sufficient time necessary to consider Postal Rate Commission proposals in detail.

Furthermore, I think there is a basic unfairness in the procedure as it currently exists. The Rate Commission goes through a trial-type hearing, it decides on the basis of the record, often after several months of testimony and deliberation. This decision is then sent to the Governors, who do not rely solely on the record for their decision and, as a matter of fact, are briefed on it by the same people who appeared as litigants before us. Other parties to the case are not allowed to participate in the Governors decision.

This strikes me as a second bite at the apple for the Postal Service. It strikes me as something that is unfair to other parties in the case and the procedure should be changed. I believe it argues for giving the Rate Commission final decision authority over rate and classification matters.

A second legislative proposal that I am recommending is to adopt a notice and comment procedure for experimental proposals.

The third major portion of my proposal is one which would give us the ability to require data and information from the U.S. Postal Service related to cases before the Commission.

That finishes my summary, Mr. Chairman, of the lengthy document I submitted to your committee in this matter. I would be pleased to talk about other matters. For instance, it has been suggested that I might want to say something about electronic mail.

I feel in some ways I've said enough about electronic mail, but if you'd like to solicit my views on that, I would be happy to provide them. Otherwise I would be prepared to end here.

Senator GLENN. Why don't you just continue right on with electronic mail. We're going to get to that anyway.

Mr. FRITSCHLER. You think I should plow right into that.

Senator GLENN. Right.

Mr. FRITSCHLER. Just very briefly, the electronic mail decision supports the entry of the U.S. Postal Service into the electronic mail

service field, but it does it in a way that the Postal Service itself did not initially propose. The Service's original proposal was to rely on one contractor, at least initially, for telecommunications.

We endorsed a different structure which allows for open competition in the telecommunications portion of the electronic mail service.

Under our recommended decision, which is now before the Board of Governors, any licensed common carrier could transmit, given the proper clearances, to the receiving facilities at the Postal Service. Messages would thus be printed out, enveloped, and delivered as first-class lettered mail.

The Postal Service itself, and I think this is where a great deal of confusion has arisen over our decision, under our decision, the Postal Service itself could participate in telecommunications, but—and it is an important but here—they have to do it as any other telecommunication carrier would, that is they would have to get a license, if they want to do it themselves, or they would have to do it through a telecommunication contractor, who would also need to get a license.

We have been criticized for not putting the Postal Service into the telecommunications field. We feel that we do not have the authority to do that.

That's in the jurisdiction of the Federal Communications Commission. They're the agency which issues licenses for these matters and all we simply did was set up the system whereby any licensed carrier could interface with the Postal Service in the electronic mail field.

If the Postal Service should get into transmission itself, and the electronic mail system doesn't depend on the Postal Service being in telecommunications, but if they should decide to do that, our only area of jurisdiction as far as we can see at this point would be in making certain that the Postal Service did not use funds from other areas of this operation to cross-subsidize the telecommunications function.

In other words we still feel that we must look carefully at that part of the postal act which requires us to make certain that there is no cross-subsidization. Furthermore, cross-subsidization would be patently unfair and anticompetitive.

I think the important thing here is that the decision of the Rate Commission allows the Postal Service to enter the electronic mail field immediately with or without a telecommunications function of its own. If they decide to implement one later, either directly or through contract, that is certainly allowable under the terms of the decision.

Senator GLENN. In this area of electronic communication, do you see it as experimental or permanent? Should it be established, expanded or gone into on a full scale?

Mr. FRITSCHLER. The term experimental—

Senator GLENN. We've had testimony, as well as visits to the office by people concerned on both sides of the issue. It hasn't been clear what direction we are headed in.

Obviously, if you go into this on a large scale, with a full-blown electronic communications and then the business backup is not there, you will have an expensive experiment down the tube.

Would you comment on that?

Mr. FRITSCHLER. Certainly. The term experimental, as we use it, is a word of art applying to the fact that when we approve something

on an experimental basis, we do it simply because there is not sufficient data, and of course in a new service like this there wouldn't be sufficient data.

So we approve it on an experimental basis simply saying that we'll revisit the issue in 1984 for the purpose of reviewing the Postal Service's accumulated data and other aspects of the system.

So we use the term experimental to make it clear to all parties, including competing parties, that we do not have sufficient data to give permanent authority.

On the other hand, the Postal Rate Commission is entirely clear and supports the idea of the Postal Service getting into electronic mail service.

Under our recommended structure the Postal Service can set up its electronic mail system at a fairly low cost, because they do not have to set up the telecommunications portion of it. That already is in place. There are several carriers that have indicated an interest in interfacing with the receiving and data processing mechanisms of the Postal Service.

So I believe that, in answer to the last part of your question, the amount of money that the Postal Service would have to put up is fairly minimal.

Senator GLENN. What about other Commission members? Do the rest of you have comments on this, Mr. Duffy?

Mr. DUFFY. We have had a lengthy and divisive history on this case, since its inception. Notwithstanding what the majority opinion issued from the Commission said, I have always been of the opinion that the Postal Service ought to be able to get into electronic transmission mail immediately.

Through contact with any telecommunication company which might be interested in contracting for that kind of service under the control of the Postal Service which could then guarantee service to the entire United States with the kinds of message quality and guarantees and so forth.

The fact that the Governor rejected the first decision which germinated at the Commission and sent it back with instructions and are now considering a second one, indicates how difficult it is for everyone to comprehend exactly what goes into such a decision.

I think that, and this is my personal judgment, that what the Commission decision did in fact was to reduce the Postal Service to a data processing and envelope stuffer operation. I felt that, notwithstanding the fact that the contractors would have to go before the Federal Communications Commission. I think that that's only proper.

But I think that the Postal Rate Commission certainly could give its voice to the Postal Service to get into electronic communication mail messages right now.

Senator GLENN. Does anyone else have a comment?

Mr. O'DOHERTY. On the electronic communications mail issue?

Senator GLENN. Yes.

Mr. O'DOHERTY. I concur in Vice Chairman Duffy's dissenting opinion in my responsibility to the Governors at the present time. We have a very sharp difference of opinion here with respect to the jurisdiction of the Commission.

It is our judgment—that is the judgement of the minority—that the majority far exceeded its jurisdiction of the Postal Rate Commission in this matter.

This is a mail classification change request in accordance with section 3623 of the Act and the criterion there was satisfied in my judgment in the first 3 or 4 months of the proceedings. I believe we could have had a record decision from the Governors, up to 6 months of its filing. That would have been back in 1979.

Had that occurred, the Postal Service would have had the opportunity of going ahead with their contract with Western Union under the preliminary phase of the electronic communication originated mail (ECOM) system design.

They had a very advantageous contract because of their prior business relationship with mailgrams extending over the past 10 years. They've lost that opportunity now.

I don't believe this Commission has any right whatsoever to try to supercede the Postal Service management priority in the area of business operations, contractors or procurement, research and development; we have no expertise in these areas whatsoever, and yet we indulge in a 15-month proceeding, largely entertaining testimony from outside by people brought in by the Commission—that is the person appointed under the statute to represent the interest of the general public—in a technical exercise of testimony that none of us can comprehend beyond that of an intelligent layman.

This is the job, obviously, for experts. We are not an advanced-services division; it is the Postal Service's mandated duty to develop that kind of experience.

Fortunately the matter is now before the Governors; unfortunately on the other hand, I disagree entirely with the chairman's statement that we are not responsible for the delayed entry of the Postal Service into this field.

In the meantime several of the major, private telecommunication companies have made major progress in the area and the Postal Service, at this point, doesn't even have a foothold.

Senator GLENN. Do you feel there is a role for the Postal Service in electronic communications at all.

Mr. O'DOHERTY. It is essential. The opportunity for it and the necessity for it were brought to their attention by one of their large competitors, Shell Oil Co., while they have their own private telecommunication system and had developed a considerable volume of mail.

They had been looking at it for 5 or 6 years. They've done extensive research and development, they've put a great deal of effort into it and it is our job to stick to our last. We didn't stick to our last in this matter. And unfortunately in several other classification matters before the proceeding—

Senator GLENN. Do you feel the Postal Service should be getting in, experimentally at least, to electronic mail? Would you propose that the Rate Commission be involved with that and, if so, do you need additional legislation to provide that kind of authority?

Mr. O'DOHERTY. I don't think we need additional legislation.

One area of expertise that we do have, Senator, is a well-developed ability to analyze costs. Most of the preliminaries have been very well done by the Postal Service itself. The data we get is sufficient for our

people when we are finally able to have it before us in concrete terms; we don't have that at this point.

The whole mobile operation now has been redetermined by the Governors. They are in the process of doing that and the Postmaster General has announced he has worked the proposals and they will shortly be going out. They have ideas of their own. We don't know now exactly what system they have, but we understand they are ready to go into the staggered phase. The Postmaster General made that statement back in January.

[The following letters were subsequently received from Mr. Duffy and Mr. O'Doherty.]

POSTAL RATE COMMISSION,
Washington, D.C. April 23, 1980.

HON. JOHN H. GLENN,
Chairman, Subcommittee on Energy, Nuclear Proliferation and Federal Service,
Committee on Governmental Affairs, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We submit this letter to express our views on those provisions of S. 2558 which would amend certain sections of the Postal Reorganization Act pertaining to responsibilities and functions of this Commission thereunder. Our position on these proposed amendments is based upon a construction of the Act and Congressional intent and upon conclusions drawn from the operational experience of this Commission which *fundamentally differ* from those expressed by Chairman Fritschler in his statement to the Committee in the Commission's appearance testifying before you on this bill on April 21, 1980.

We believe that the salutary goals expressed by this Committee's predecessor in its report submitted to the Senate upon enactment of the Postal Reorganization Act in 1970, S. Rep. No. 91-912, 91st Cong. 2d Sess. (1970), are best served by retention of the present statutory scheme in its major essentials limiting this Commission to the rendering to the Governors of the Postal Service of "recommended decisions" upon postal rate and mail classification adjudgments and of "advisory opinions" on proposed nationwide changes in postal services, the final decisions in these vitally important areas of postal service operations being reserved for the Governors subject to review by the Court of Appeals. Stressing the independent and yet cooperative relationship intended between the Commission and the Governors of the Service in ratemaking and mail classification, in essence, a truly symbiotic relationship, the report stated that this Commission shall at once "be a body fully independent of the Board of Governors and fully independent of any influence whatsoever of the Postmaster General or of members of his staff" and at the same time "[t]he Committee envisions the Commission to be an integral part of the Postal Service, to be a true partner of the Board of Governors in every aspect of postal operations." (Emphasis added.)

With notable prescience, [particularly in view of the persistent (recently greatly expanded) efforts by some members of this Commission and by part of its staff, notably the offices of the General Counsel and of the Officer of the Commission, to aggrandize this Commission's jurisdiction and to arrogate basic powers and responsibilities expressly reserved by the Act for postal service management in neglect and derogation of its mandated responsibility to render expeditious recommended decisions upon postal service mail classification requests (viz, Dkt. MC 78-2, Third Class Carrier Route Presort Proposal and Dkt. MC 78-3, E-COM proposal),] the Committee warned that "[i]f a bureaucratic struggle between the Board and the Commission develops, then the whole theory of independent ratemaking [and classification] judgments will have failed and the Congress will probably be called upon to revise the system." The Committee went on to say: "But if individuals appointed to the Board on the one hand, and the Commission on the other, recognize the constitutional and legal responsibilities of their position and work together to achieve the truly effective postal service, then the independence of the Commission will serve a vitally important function by permitting them to view the overall impact of postal costs with a degree of detachment which the Committee considers vitally important to preserve the public interest and the public investment in the largest civilian agency of the Federal Government."

Believing, as we do, that this Commission must be fully responsive to its mandated responsibilities under the Act, illustrated by these clear expressions of

Congressional intent, in carrying out its critically important duty to render expeditious recommended decisions to the Governors, we wholeheartedly concur with the objective intended by Section 6 of S. 2558 entitled "Mail Classification; experimental services," as you stated it upon your introduction of the bill in the Senate on April 15, 1980 (Cong. Rec. S3656, April 15, 1980), of "alleviating the regulatory morass that surrounds proposals by the Postal Service for changes in the mail classification schedule, whether on an experimental or permanent basis."

However, in light of this Commission's prior experience with a similar, even more serious, problem with protracted rate proceedings, since remedied, and upon our review of the Postal Reorganization Act and its legislative history leading to the clear conclusion that Congress vested full management authority in the Postal Service permitting the Service to undertake rate and classification experiments and that Congress did not intend for the Postal Service to be required to seek Commission approval before undertaking such experiments (see the penetrating dissenting opinion of Circuit Judge A. Leon Higginbotham, *United Parcel Service v. United States Postal Service*, 604 F. 2d at 1382-1389, 3d Cir. 1979) we believe that the proposed amendments to Section 3623 of the Act would not achieve the intended objective.

It is our conviction that if this Commission and its staff confines itself in mail classification proceedings to dealing solely with evidence which is relevant and material to the criteria set forth in Section 3623 of the Act, then this Commission can, as commanded by the Act and as it has in each of the last two rate proceedings, render expeditious recommended decisions to the Governors in such proceedings. In our judgment, each of these criteria was well-established by Congress for deliberation by the Commission with participation by interested parties in public hearings before the rendering of a recommended decision upon proposed mail classification adjustments. The proposed new sections 3623(c)(2) and (3)(a) would (1) have extremely limited application in mail classification proceedings and (2) if applied, they would *deprive* the Governors and the Postal Service of the benefits of a record developed in public hearings addressed to the significant criteria set forth presently in section 3623 affecting the interested parties and the public interest. The desired expedition of mail classification proceedings can, we reiterate, be achieved by the same kind of corrective response by this Commission to express Congressional concern in this area as has been achieved by this Commission in response to Congress' vigorous and well-founded criticism five years ago of this Commission's untimely rate proceedings. The proposed new sections 3623(c)(2), 3(A) and 3(B) would contravene major policy objectives of the Act and are not in the public interest.

The proposed new sections 3623(e) and 3624(d) would require the Postal Service to obtain the prior approval of the Commission before undertaking necessary experiments to test the operational feasibility and to obtain cost and market information for new mail services and products it may wish to offer to the public. These proposed amendments would drastically impede Postal Service management in facilitating the necessary flexibility, modernization and efficiency in operations intended by Congress under the Act. The public interest can ill afford a repetition of the kind of recent protracted proceedings inflicted upon the Postal Service in the E-COM proceeding where this Commission purported to deal with the highly technical elements of the proposed new electronic mail system in a review of the Postal Service's research and development, contractor selection process and choice of existing and developing technologies despite its lack of jurisdictional authority to do so and impinging upon the express statutory powers conferred in these areas upon postal service management. Since, unfortunately, recent court decisions have challenged the Postal Service's authority to conduct such necessary experiments, we recommend that specific authority to do so be provided by an appropriate amendment to Title 39 USC.

We support the proposed amendment to section 3624(c)(2) of the Act which significantly clarifies and buttresses the clear intent and purpose of that section of the statute as enacted in 1970. We also support the proposed amendment of section 3601(a) of the Act concerning the requisite qualifications for appointment as a member of this Commission with the proviso that the period limiting appointment following service with the Postal Service or the Commission to be reduced to two rather than five years.

In light of our understanding of the Postal Reorganization Act, the intended appropriate working relationship between the Commission and the Governors of the Postal Service, and actual operating experience of this Commission over

the past ten years, we oppose Chairman Fritschler's proposed amendments to S. 2558 to confer finality subject only to court review to Commission decisions in postal rate and mail classification changes, and to confer subpoena powers upon the Commission to compel production of such data as it deems necessary for its proceedings. In our further response to the questions shortly to be addressed to the Commission which were alluded to by you at the close of the hearings on Monday, April 21, 1980, we shall further elaborate upon our reasons for our opposition to these proposed additional amendments by Chairman Fritschler and the strong exception we take to the cast and substance of his statements to the Committee, most particularly his animadversions upon the authority and responsibilities vested by the Act upon the Governors of the Service.

Sincerely,

KIERAN O'DOHERTY,
Commissioner.
JAMES H. DUFFY,
Vice Chairman.

Senator GLENN. Does anyone else have comments on electronic mail?
Mr. DUPONT. Yes, Mr. Chairman. I'd like to comment.

Senator GLENN. I'm going to have to leave for a few minutes. My presence is required at another hearing, then I'll be back. Senator Stevens will take over for me.

Senator STEVENS [presiding]. Thank you. Mr. DuPont?

Mr. DUPONT. In this regard, I think it is the consensus of everyone on the Commission that the Postal Service should be involved in electronic mail as quickly as possible.

The divergence comes in how that should be approached. The Postal Service came up with a centralized system. We heard evidence on that centralized system. We also took evidence on a decentralized system because we saw that the FCC was having problems with the contractor selection process that the Postal Service said they had gone through in selecting Western Union as a sole contractor to carry forth their ECOM proposal.

I think our decision and the record that we amassed over 62 days of hearings—I was the presiding officer in that case—in any case, the cost difference was explored extensively.

The proposal, endorsed by the majority of the Commission, carries a price tag that would be less than that proposed by the Postal Service.

It will also allow more competition to take place. Instead of a sole source contractor, any common carrier who obtains approval from the FCC could tie into the ports of the computers that are in the 25 serving post offices and we would have competition.

We feel that the evidence that we received—I think one provision in Senator Glenn's bill states that the Rate Commission will consider or would have authority to consider mail classification proposals where competition would be involved—clearly supports the Commission's decision.

Certainly this is one case where competition is present. We had a number of intervenors in our ECOM case address that particular proposal. Certainly there will be competition in the proposal endorsed by the majority.

As far as experimental procedures are concerned, I endorse what the chairman said, that we use experimental procedures so that we would revisit this, once actual costs were obtained. We had estimates on cost when ECOM was before us. We felt that we needed more concrete evidence on what the cost in comparison with the market was and until those figures were available, we felt that the Postal Service

should carry on in experimental modes and come back with us in 3 or 4 years when they had actual data. They could then say that the costs for running this system is this; this is how it's working; this is the volume we're getting; this is what we project; and these are the people who have come in and said we will participate further in this.

We had a Shell Oil representative come in before the Commission and lecture us. It was a public lecture, saying that in his estimation the amount of traffic that they would send through an ECOM system would double every year and that's a lot of traffic from one company, Shell Oil Co.

It would double every year for approximately, he said, 10 years. You look at the traffic that is being handled in similar systems in Europe and the volume that is being handled by the postal systems there is very, very high. We see the same here. And we feel that the Postal Service should get into it as soon as possible.

The majority feels that we've provided the Postal Service with a system where they can do this.

Senator STEVENS. Do you have any comments, Mr. Bright?

Mr. BRIGHT. Yes, Senator Stevens. First of all I'd like to endorse wholeheartedly what Chairman Fritschler said, as well as what former Chairman DuPont said on electronic mail. I would also like the record to indicate my absolute disagreement with Commissioner Duffy and Commissioner O'Doherty.

I think they are absolutely wrong in this and the majority has ruled. If I may give a trifle bit of history.

I was employed by the Post Office Department in the 1960's at 12th and Pennsylvania, here in Washington, in training, initially. In trying to develop training programs for the Postal Service this electronic mail item first came to my knowledge.

Unfortunately, we didn't get it off the ground since it was not a priority subject. I was familiar with it then. I subsequently left the Service—but never divorcing myself completely from the Service—and on coming back, trying to follow up what was going on, I sat in this room on November 29, 1977, during my confirmation hearing. And I quote, if I may, from the transcript of that particular session:

The future of the Postal Service, once again for the record, in my opinion is in electronic communications of some type or description. How far we go with this, I do not know. I am just saying that in 1977, I think we need to definitely do something along these particular lines.

When the Postal Service proposed this, I listened to them, loud and clear, and based upon the history that I had with respect to electronic mail in postal training and in any other Postal Service experience as I indicated, and the more it developed the more I realized that this wasn't really the thing for several reasons.

First, I instantly recognized that there was no competitor under the Postal Service's proposal. I won't go into the details because I think they have been covered adequately.

Second, I was certainly impressed with the OOC's proposal of a lower cost than that proposed by the Postal Service for electronic mail. I feel that we should give the general public as low a cost as we possibly can, as long as it's a good service.

Third, and probably, in my opinion, more important than any of these items, I could visualize very clearly the handwriting on the wall,

there was going to be a jurisdictional problem there, over electronic mail.

Here we are again faced with another dilemma, how is the Postal Service going to get into electronic mail when they are going to have jurisdictional problems that will last, goodness only knows how long.

And as I said in 1977, there's only one way for the Postal Service to go, they must get into the electronic mail business. This judicial recommendation that we made on ECOM came out very clear. We must go with electronic mail, now.

This is the only way, and the majority has provided the avenue for them to get into the business.

Senator STEVENS, I hope the Board of Governors will have the clairvoyance and the prudence to move in the right direction and approve what we have recommended.

Senator STEVENS. Thank you gentlemen. Some of us that believe we are already 5 years or so behind as far as the use of the new system, why is it that the Postal Service will not be able to conduct its experiments without going through the process through your Commission. Why shouldn't we change that?

Mr. FRITSCHLER. Well, Senator Stevens, let me ask you this, what if the Postal Service had gone into electronic mail on an experimental basis under its original proposal? They would have, first of all, wound up in court and we would have had the most horrendous delay imaginable which would have taken longer, I believe, than a full hearing procedure which allowed everyone to speak, develop new proposals that seem proper in the course of those proceedings, and let the Rate Commission, or whatever body is listening to the testimony, come up with a decision which could then be implemented.

Senator STEVENS. Well if we used that system at the time when the airmail started, we'd still be using dogsleds in Alaska. You know the airmail started in Alaska, whether people remember that or not. I just don't see why we ought to force the Postal Service to go through this cumbersome process to seek approval of experimental proposals.

What about your cross-subsidization concept? Apply that to airmail. Why shouldn't there be a cross-subsidy during the experimental period?

Mr. FRITSCHLER. In the airmail field?

Senator STEVENS. No, I mean here. Again, going back into history, if that airmail had not been subsidized by regular mail, it never would have gotten off the ground, literally.

Mr. FRITSCHLER. Well, in the electronic mail field, for example, you have conflicting values. If there's cross-subsidy, you would compete, very unfairly it seems to me, with existing telecommunications carriers.

Senator STEVENS. So the idea is to prove whether the system would work. Why shouldn't we have a period of experiment where they can prove whether the system could work?

Mr. FRITSCHLER. Well, the system could generally work, if the Postal Service were allowed to send electronic letters for 2 cents and use the rest of their \$20 billion budget to support it.

Senator STEVENS. What do you think broke this interstate rate pool that we've got here in terms of the telecommunications system? It was, in fact, a rate separation process that took more from the local phone user and put it into the interstate field.

Now, with volumes building up, we can do it the other way around. Now we can actually take money from their interstate operation and put it back into the local where the costs are going higher.

Why shouldn't the post office be able to go through the same kind of developmental process?

Mr. DUPONT. May I answer that, Mr. Fritschler?

Mr. FRITSCHLER. Fine.

Mr. DUPONT. The Postal Service can't, under the law. At the present time, for mail classification changes, the Postal Service can implement mail classification changes 90 days after they submit a filing with the Postal Rate Commission.

In this instance, they attempted—well, let me go back to some history.

The Commission on the Postal Service, in 1976, on which I was an ex officio member, took testimony on this and were very surprised at that time to hear a Postal Service official, former Postmaster General Bailor who sat on the Postal Service Commission with the rest of us, say that the Postal Service had received proposals on electronic communication of mail and had decided to put it on the backburner.

It's in our report, but to address it at that time, we were just very surprised that the Postal Service had not moved along as you indicated they should have.

It is my view that they were behind and they are behind. At that time, the evidence that the Commission on Postal Service received indicated that the Postal Service was not enthusiastic in moving ahead in electronic mail. This time period was 1976-1977.

Now at the present time, the Postal Service could have moved ahead with ECOM 90 days after they filed with us.

The law, section 3623, allows that to happen. However, in selecting Western Union as the Service's sole source contractor, Western Union had to go before FCC to get their tariffs approved. FCC turned them down. So in this regard, the Postal Service could have moved along in this area had Western Union gotten FCC approval.

Regardless of what did, this is the way the law is written. What we looked at—

Senator STEVENS. It sounds to me like we're in such a jurisdictional spider web that I better tell my dogsled people to start feeding their dogs, you know. The system's going to break down and we're going to need them again.

Now, somehow or other, people have come before this committee and asked that we abolish your commission. Because of the inordinate delay in dealing with the problems that have been presented to your Commission.

What's the answer to that? Why should it take 15 months to deal with ECOM, as far as the Commission is concerned, on an experimental program?

Mr. DUPONT. The problem, Senator, if I may refer to the Commission's transcript of our hearings, was that there was great difficulty in finding out how much competition was taken into consideration by the Postmaster General in selecting Western Union.

As I said, FCC didn't approve Western Union. The hearings that we held, went on for 15 months; we had a witness before us who appeared before us on 16 different occasions, because he would not give

us the answers, even though he was a project manager for the project at the Postal Service.

His answers were, "I don't know," "I don't recall," on meetings that took place 2 years ago. The lawyers for these parties, Graphnet, and others, cross-examined him in order to get information on cost and on the procedures of selection for their sole source contractor.

That was the holdup, but again I say that the Postal Service could move ahead in this area 90 days after they filed with us, had FCC given Western Union approval on the tariffs.

Western Union did not obtain that approval and so we looked at it in an attempt to satisfy what we saw as problem areas and how the Postal Service could get into this quickly. We feel that the FCC was concerned about competition and we believe we've met that objective. We do allow competition.

Newspaper reports indicate that Charles Ferris, who we all know served up here in the Senate for a number of years, made a statement in effect approving the majority decision in ECOM. I certainly feel that there are carriers who could get FCC approval at the present time and if the Postal Service would agree to put these computers in the serving post offices, with ports to which they could tie, they could get into this system right away.

Senator STEVENS. Let me interrupt for just one minute. Let me ask one question and I'll be glad to have you comment.

Am I correct in my understanding that you made a recommendation after hearings and then went to the Board of Governors; they turned it down, its come back, and you've made another series of recommendations and that is waiting for the Board of Governors' concurrence now. Is that right?

Mr. DUPONT. Yes.

Mr. FRITSCHLER. Yes, that's correct.

Senator STEVENS. And meanwhile, the Postal Service has gone to the FCC and tried to get them to approve some modernization of this system; the FCC said no, and we're in a situation where, frankly, you know what's going to happen, it's going to be cleared up and there's a rider in the appropriations bill. You've all seen that.

It's going to cut through a bunch of dead weight and say go, and your authority and the FCC authority and everybody else's authority is going to become a mockery, mainly because of delay.

Tell me again, gentlemen, and I've asked all of you, why should there be so much delay when the world is already moving into this system. We were the ones to develop the technology and we're the last to use it.

Mr. FRITSCHLER. Just two points, Senator, or comments, and then I'll try to answer your general questions.

The Governors did accept the basic structure of our December 17, 1979, decision. They agreed in their remand notice to go and just send the remand back to us to clarify some technical points.

We have responded to that. The FCC action was filed about the same time, I believe, that the Postal Service filed its docket with us.

They were attempting to get certification from the FCC and the go-ahead with their original proposal. I am also frustrated by the time it takes. I don't know if there's an especially good answer to that, Senator, it's a big issue. There were 49 separate intervenors in this case.

Those intervenors represented large portions of the public, they all felt they had something to say. They were listened to. There were 12,000 pages of testimony. I suggested in my written submission and a little bit earlier this morning, some ways in which I felt the processes, or procedures of the Postal Rate Commission could be improved, to speed things up a bit.

But as long as we are to be interested in questions like competition and four or five other major questions, as long as there are people out there that want to be heard on the subject, and have real legitimate interests, it is going to take some time.

Senator STEVENS. Mr. Duffy.

Mr. DUFFY. I think the answer, it would appear from listening to the members here at the table that we are all in essential agreement on ECOM, but we are not.

Obviously the decisions do not reflect such unanimity and the Governors have rejected it. When the ECOM matter was filed before the Postal Rate Commission, it was a simple proposal to establish electronic mail transmission. In effect the OOC, the Office of the Commission, threw the whole proposal in the wastebasket.

Instead it came up with an entirely different plan, recommending data processing and envelope stuffing at some 25 serving post offices all over the country.

But in effect that act would have denied the Postal Service the right to get into electronic mail. Now you properly stated a little while ago that the mail from dogsled, pony express, trucks to railroads and to airplanes had not run into any great obstruction from the other regulatory bodies like the CAB or ICC and so forth.

This is a very simple proposal and could have been handled very quickly. Now we were talking about Western Union. Western Union dragged its feet when it was rejected, it failed to file anything corrected for a long period of time, until finally the Postal Service was prompted to abrogate the sole source contract. Now it has been my position all along that there's no reason in the world, competition or no competition, for the Postal Service not to enter into contracts with telecommunications industries who are interested, who are willing to do it under Postal Service control. Let those telecommunications companies get their tariffs, their licenses from the FCC, nobody wants to deny the FCC its rights, and I think that we could have gotten through this classification case, much more quickly.

The last three or four cases, if my memory serves me correctly, at the Postal Rate Commission have been going about 15 months.

Mr. O'DOHERTY. Could I comment, Senator? It's almost our ritual exercise, as a matter of fact, that these annual, semiannual or biannual appearances before the Senate Committee or the House Committee, and their respective chairmen to start boasting about intervenors and their pages of testimony, as though that in itself proved that we generate a great deal of knowledge.

Frankly, I can't see that at all in our case. Most of the 49 intervenors took no part at all. The OOC brought in two expert witnesses and that occupied at least 65 percent of the record going into engineering, technique, electronic communication area, computers, and data processing. As a result, I can say right here that there wasn't a

single member of the bench, that is, the five Commissioners, who understood the testimony going into the record.

It was an exercise in futility allowing this kind of testimony because we're involved with just the mere changes in mail classification. The simply spelled-out criterion of the act made this extraneous testimony totally unnecessary in this matter.

You alluded to the experimental areas of the proposed legislation. The thrust of that legislation is sound; however, it seems to me that the objective would be better obtained by the direction that Senator Stevens was taking and we ought to be made to clarify that the Postal Service itself has the authority to get into experiments before the rate change.

I guarantee that the regulatory overzealousness that's part of our staff, and which is probably indicative to any quasi-regulatory agency, will in almost every instance say this experimental authority does not satisfy the custom extended here. There is a lust for hearings in the regulatory process, and in every quasi-regulatory agency in Washington, and I think each one of you know it.

Senator STEVENS. I do thank you for that, you do mention the question about the amendments that have been proposed here through your commission's jurisdiction. Why is it necessary for you to have oversight jurisdiction on proposed changes in rates and in classifications. Why do we really need that in this day and age, we've got the Board of Governors, they can veto the Postal Service.

Mr. FRITSCHLER. Well, I guess we really don't need it if the Board of Governors, who of course are also the managers of the Postal Service, propose rate increases and any kind of new service and are allowed to implement them.

It seems to me it can happen obviously and it could be very efficient.

Senator STEVENS. That question assumes that they're not going into the telecommunications business. Now if they're going into the telecommunications business, it would be another matter.

The Western Union or whoever else gets any kind of contract with them and is going to the FCC and deal with tariffs—why should you deal with the rates that, it seems to me this is the same thing we've been through and some of you have been up here and know this, with the CAB with regard to postal rates on airlines. Aren't we just duplicating the problems we had there?

And extending the time frame for innovation. I really don't know why we need this laborance of this review of rates; is the consumer protected by the delay they've just had?

We've been after this now for at least 4 years, to my knowledge. I hired someone to work in the summer of 1975 because we saw this thing coming, to find out what we should do about electronic communications, as far as the postal service was concerned.

Why should there be that much delay?

Mr. FRITSCHLER. Well, on the question of overlap, I had thought and I firmly believed that our decision did all it could; it went a long way toward eliminating it.

We separated the jurisdiction between the FCC and the PRC very clearly. That was one of the major features of the decision itself—to make certain that there would not be duplication.

The communications commission handles the communications portion for this and we take over doing whatever we need to do from the front door of the Postal Service.

As a matter of fact, we worked long and hard to separate that jurisdictional area so that there would be no overlap.

Mr. DUPONT. If I may comment, Senator Stevens. Again, I go back to the classification sections 3623 and 3641 of the law. The Postal Service could have moved ahead with ECOM, within 100 days after filing with us. However, because they could not get approval from FCC for Western Union, their contractor, that system became moot and, contrary to what Commissioner Duffy said, it was not the Postal Service that abrogated that contract; Western Union sent the letter to the Postal Service, saying, "let us out of this contract, we can't get approval from FCC," and the Postal Service said, "OK, we'll let you out of the contract."

But the Postal Service could have moved into ECOM if they wanted to within 100 days after filing with us—sections 3623 and 3641 of the act. However, there were so many issues involved that they felt that if they moved ahead—I'm trying to second-guess what they thought—they would be knocked down by the court and they could not get a tariff out of the FCC.

Senator STEVENS. You know, in view of what I just heard, I wouldn't have moved, either, if I was the post office.

Mr. DUPONT. Well this is—

Senator STEVENS. With the Board of Governors turning down recommendations through you people, you people going back into hearings after the first go round.

Mr. DUPONT. No, no, we did not—

Senator STEVENS. Am I wrong there? You didn't have a second set of hearings?

Mr. DUPONT. No; there was a resubmission.

Senator STEVENS. Let me change the subject. You gentleman have been very patient with me.

Your testimony indicates that mailers satisfy 88.5 percent of the revenue requirements of the Postal Service. According to the testimony of Kent Rhodes of the Magazine Publishers Association, the public service appropriations for fiscal year 1980 were 4.4 percent of the operating expenses. Where did the other 7 percent of postal income come from? If those figures are right, where did the other income come from?

Mr. FRITSCHLER. I believe the rest is in the revenue foregone for this—

Mr. DUPONT. There's a public service subsidy, then you have the revenue foregone subsidy. So there are two subsidies involved.

Mr. FRITSCHLER. Which amounted to about \$1.5 or \$1.7 billion out of the approximately \$20 billion budget last year.

I think my math is right.

Mr. O'DOHERTY. The subsidies, Senator, are for the nonprofit mail, third classes of mail. Congress allowed for those subsidies to continue after the Postal Reorganization Act was passed in 1970.

Senator STEVENS. Where's the income coming from? I understand we have some revenue foregone concepts, but someone is paying the bill.

Mr. O'DOHERTY. The taxpayers of the United States are paying the bill for the subsidy.

Mr. FRITSCHLER. Out of the \$20 billion budget, there's about \$1.5 billion in subsidies coming from Congress, the remainder of 88 percent is coming from mailers.

Senator STEVENS. All right; it just seemed to me that there was a deficiency there. You say you're not making up from revenues, that revenue foregone is not made up of other revenue.

Mr. O'DOHERTY. The attempt, Senator, under the act, is that the combined revenues obtained from what the mailers pay, plus the subsidy both cover the budget. As you know, that's what really happens under actual performance.

This year, there's an anticipated deficit that's already developed these last periods and therefore we anticipate immediate filing for an increased rate.

The Postal Service is about to file a request for an increased rate to take effect 10 months hence.

Senator GLENN [presiding]. Could I just clarify that? What deficit then would the Postal Service have now, as you see it? Have we been building up a deficit every year in spite of the subsidy? I thought we were close to balancing.

You're saying that it hasn't been in balance even with the subsidy.

Mr. O'DOHERTY. Unfortunately, there's a fact that we had to make revisions in the last two rate cases to attempt to recover prior year losses over a 7-year period. We haven't succeeded in doing that to my knowledge to date.

The later contracts the service had included one of the primary reasons was the cost of living—

Senator GLENN. What I was getting at was that I thought, the way you stated that a minute ago, that there would be a deficit, a standing deficit of x billions of dollars that the Postal Service has right now.

Mr. O'DOHERTY. No, there's an anticipated operating deficit I believe they have, which will be an estimate for us of their operating deficits for this fiscal year, upon which they've premised their request for an increased rate. You have to look at those estimates.

Senator GLENN. Yes.

Mr. DUPONT. May I comment on that Mr. Chairman?

Senator GLENN. Sure.

Mr. DUPONT. When the Postal Service files with us, they look at a future test year and say if the present rates continue as they are in that future test year they will be in a deficit position.

At the present time, looking at fiscal year 1979, there are common periods, the Postmaster General has stated that they have been in the black, frankly, \$475 million, \$213 million—

Senator GLENN. But with the \$920 million subsidy.

Mr. DUPONT. That's correct, that's it. The subsidy plus revenue from the mailers, they're in the black.

Now for the future, they will come in and say that in this future test year, which will be 12 months from the time that they file, this is an oversimplification, but we will be in a deficit position and that's where the deficit will be.

Senator GLENN. Thank you.

Senator STEVENS. Did you have any indication of the cost to the consumer, the user would come down if we could accelerate the movement of the Postal Service into the electronic communications field.

Mr. FRITSCHLER. I don't believe there's anything like that on the record. The record dealt solely, as I recall, with the cost of transmission of those electronic messages, which is about 30 cents per page, from telecommunications through printing, envelope stuffing and delivery.

I believe that that certainly will be a cheaper form of business communication which I would guess would result in lower prices somewhere for the consumer. But the electronic mail proposal we had before us was a bulk mail proposal and I think the minimum number of messages was 200. It was the kind of thing you and I would not use.

But we would benefit from bringing down mailing costs commercially.

Mr. DUFFY. Electronic transmission of mail messages Senator, under the control of the Postal Service would, in my opinion, react very, very favorably on behalf of the consumer public.

Because, under the control of the Postal Service, the contract would have to specify certain charges whereas today, Western Union is going merrily on its way, charging \$1.90 per page for each first page of a mailgram. I think there would be substantial benefits to the public.

Senator STEVENS. My last question is what's the difference between the proposals you've submitted to us for changes to expedite mail classification and those that are in the bill here. How would you summarize the different philosophies between the proposal you've attached to your statement and the ones that are in the bill.

Mr. FRITSCHLER. I would say that difference in philosophy is primarily that, I feel, the bill does not provide adequate opportunity for public participation in these important classification and experimental decisions.

We are interested in streamlining our procedures, we suggest using notice and comment procedures in many instances instead of the trial-type hearings, which are required in many cases in the law. But we think that the bill goes too far in eliminating the possibilities for the public to participate in a meaningful decision process.

Senator STEVENS. Thank you. Thank you very much Mr. Chairman.

Senator GLENN. Thank you Senator Stevens. I'd like to follow up on ECOM for just a moment.

Do you see it as a dollar maker or dollar loser? Is it going to help support the Postal Service and get us out of our subsidy-type situation, or is it going to add to the subsidies that are going to be required to provide this service?

Mr. FRITSCHLER. It certainly is a service that's going to be a very big money maker. This is probably not the right term to use. It's going to be a very popular and very large service, but with the prohibitions against cross-subsidization in the law, it's difficult to see how this could be used to solve other areas of postal problems.

But it certainly will be, I think, a popular and productive service.

Mr. DUPONT. May I address that question.

Senator GLENN. Sure, Mr. DuPont.

Mr. DUPONT. As we stated earlier, I think while you were out of the room for a minute, a Shell Oil Co. representative, manager of com-

munications for Shell Oil Co., appeared before an electronic mail gathering before us and indicated that Shell Oil Co. had a large volume to put into the system, if it were available.

Other companies similarly, we are sure, would do this. We can look at what has happened in Europe, where ECOM has been instituted, and the traffic is very, very high. It would be a great market for the Postal Service.

Nobody has the delivery system that the Postal Service does. Shell Oil Co., right now has teletype machines in 114 locations, I believe, around the country.

They frankly, at one point, I understand, went to the Postal Service and said, "how about letting us put our teletype, our printers in your post offices and you all deliver them." But the Postal Service has expanded and said, "we'll put our own printers in 25 SPO's, serving post offices, to begin with."

So the market I think is there to be taken advantage of. Also with the reduction in subsidies, that has already been written into the law, we have to find new areas of traffic. I am firmly of the mind that if this is instituted, it would bring additional revenues into the Postal Service and at the same time stem the loss that may very well occur, if the Postal Service, doesn't get into the area. Again the delivery system that the Postal Service has, of course, is unduplicated in the whole country and as the Shell Oil Co. representative said, we'd be stupid not to take advantage of that system.

Mr. FRITSCHLER. Senator, there's another aspect of our decision which hasn't received much attention and hasn't been discussed much, which I think is pertinent here.

Under the Rate Commission decision, the Postal Service runs the data-processing part of the electronic mail system. It is my understanding that this is where the primary or bulk of the resources will be in the future.

This really allows the Postal Service to get into a function that it was not in before, and which it would not have been under the system which it originally proposed, for those services would have been contracted out.

Senator GLENN. I have been studying the question of cost and revenue ever since I've been on this committee. We've been following it very closely, trying to get a better handle on cost attributions, to the extent it is possible.

The Service has a number of studies presently ongoing that presumably will be completed soon. I hope they will give us better information on cost attribution.

We wrote to the Postal Rate Commission last fall, requesting a status report on the mail classifications studies. Mr. Duffy responded to us and stated as part of his letter that the studies initiated by the USPS in the spring of 1975 had a target date for completion 2 years later.

Four and a half years have passed and the studies are still a long way from completion. The major function of the Commission in Docket MC-76-5 is to move the study program along as rapidly as possible.

Can you give us a report on that or status of all these studies that are apparently ongoing for so many years that we have needed very, very much and haven't been able to get?

Mr. FRITSCHLER. Mr. Chairman, Mr. Duffy is the presiding officer of that docket and I'd like to ask him to respond to that.

Senator GLENN. Mr. Duffy.

Mr. DUFFY. I regret, Mr. Chairman, that I don't have the chart that I use in presiding over that, but the Postal Service has been encountering a lot of difficulty with some of its contractors in getting the kind of data, quickly enough so that the studies can be brought to a close on the various subjects.

The counsel for the Postal Service has apologized on numerous occasions for being unable to give specific closing dates for some of those studies. I guess some of them are now going into the latter part of this summer, stretching out into the fall and some may not be completed this year.

We've been meeting about every month in the middle of the month. I've been trying to press from the Postal Service and others, with the cooperation of the OOC for the earliest possible completion of these particular classifications.

But the Postal Service, as I say, explains the delays and the difficulties in the contractors who have been doing the work for them.

Senator GLENN. It's difficult I know, it's a very complex system of costs, but I don't see how we really get around to making our attribution at all under the current set of facts that come up, at least as has been testified before us here in some of the hearings and other information from staff, until we get some of these studies completed.

It's very, very difficult and we had testimony last week which some of you may have followed. One person testified that he felt we should try and make that kind of cost attribution, we should just quote this \$920 million out there every year and that's it.

We wouldn't even know where it's going and I react very negatively to that, we don't do that with any other function of Government that I know of at all. We don't float billions to the Pentagon or any place else.

We have contingency funds in every department of some amount of money, you can't take it down to the last eraser on every pencil on cost attributions, I'm well aware of that so we provide contingency funds and some flexibility in funding or some flexibility with a certain approval procedure, taking out of one account and putting it into another account for whatever purpose with approval.

But you have to know where the money is going and to think that we don't have a better handle on some of this bothers me considerably. If we are going to move into the ECOM area and to a whole new different set of figures that we have not dealt with before, then were just adding more complexity on what has been a situation that we've not been able to get good accounting figures on for the past 4 years. According to Mr. Duffy.

Maybe 4½ years, that was last fall, we're up to 5 years, now that we've been studying this thing and apparently with difficulty in getting decent enough figures. Figures that we know that we can even begin to attribute them to different classes of mail.

Mr. DUPONT. I just consulted with Chairman Fritschler, and if you would like, I think we could work something out for you and lay it all

out in graphic form where we see the costs are, now, where the problem areas are, and where the MC76-5 studies could fill those gaps.

At least we would have a working paper to review what the costs are. We don't have perfect knowledge in this area, but we certainly have a lot of knowledge and I suggest that we work up a cost paper for you and give you what we have and go through the studies that Commissioner Duffy has jurisdiction over and let you know where they are, rather than just giving you a chart.

Senator GLENN. I would appreciate having that and any other information you can give us.

Mr. DUPONT. One comment, I'm sorry that you did not put into this bill the provision that you had in your bill a couple of years ago providing that a study of various costing systems should be made. I don't remember the exact provisions of that bill, but at that time, I personally endorsed that and thought it should be undertaken. I think if you'd give consideration for it again, possibly it would help move these studies along.

Senator GLENN. Well, let me be the devil's advocate, here. Why do you think we'd get any better information than what we've been getting, by putting it in?

We were assured time and time and time again that these studies were underway. They were going to be done by the end of last year. We've delayed pushing for the information because we were assured that they were going to be done. Now we don't have the information yet, so I'm getting very concerned about whether we are really going to get it, as we've been assured we would for so long.

And I don't know, maybe you can't work out a cost attribution system. I know you can't attribute to the labor of the person who puts the flag up outside the post office everyday to a particular class of mail. There have to be some general functions that are paid for out of general funds, and I'm well aware of that.

But I think we can break down our attributable costs far more than we have up to now. Then we'd have a clearer picture of where we stand. We could then make more educated policy determinations about where rates should be raised and where we subsidize out of general revenue.

So we have to make those decision, but I prefer to make those decision on some good hardheaded accounting figures, rather than the very, very vague estimates that we now get.

Mr. DUPONT. What you had was a much broader study than what the MC76-5 studies would have. As I recall, you wanted to look into the theory of various cost attribution systems.

At the time that I appeared before you I thought it was an excellent idea, because 8 years had passed and possibly the cost attribution theory followed the original Postal Reorganization Act should be reviewed.

This act needed to be modified or changed somewhat, but I thought we could do it by adjusting the theories also and give it all to you. The MC76-5 studies are not that broad in scope and that's where I think that if we had a mandate to go ahead and do that, look at the broader theories involved, that would give you a better handle on what changes, if any, need to be made.

Senator GLENN. I'm not sure I follow you exactly. Are you talking about giving us a rundown on the various theories which may be usable

to get the cost attribution figures in subsequent actions, or are you talking about having a system now that actually gets the attributable costs?

Mr. DUPONT. Let me talk with, it's fairly involved, and what happens is that other regulatory agencies use different cost theories, incremental costing theories, attributable costing theories. This, I think, is the theory that is adopted in the postal reorganization—

Senator GLENN. Well, I hope we're not backing up. If we're back to the stage now where we're going to study, how we're going to study—

Mr. DUPONT. No, not at all. Because I think we've already studied it.

Mr. DUFFY. I don't know, Mr. Chairman, what witnesses have appeared, if any from the Postal Service, but I think that if any are—

Senator GLENN. On May 1, the Postal Service will be here. We haven't had any direct testimony.

Mr. DUFFY. I think it would be very helpful if you could address some of these good questions that you've been addressing to us relative to the completion of certain mail classification studies. Those are the people who can tell us what the problems are.

Senator GLENN. We will address those in public hearings. Obviously we've had meetings, continual meetings on this subject with the Postal Service. They are very much aware of our concerns in this regard and we'll have public testimony on it of course, when they appear on the first.

Mr. FRITSCHLER, on page 27 you indicated that the Commission, at the present time, is considering rulemaking proceedings to streamline the experimental classification request. And you commented on that briefly a while ago.

When do you expect these new rules to be promulgated and what kind of improvements can we expect in terms of the amount of time that it takes the Commission to consider whether an experimental proposal by the Postal Service has been properly formulated?

Mr. FRITSCHLER. That proposed rule is about ready to be submitted for comment. What is the timing that we have on it now?

Mr. STOVER. I would think that we could get it out within a few weeks.

Mr. FRITSCHLER. We expect to get it out within a few weeks. It would allow us in a certain limited way to speed our procedures through using rulemaking rather than trial type hearings.

But the notice and comment provision, if it could be written into the law, would expedite that even further.

This frankly is a halfway step toward the notice and comment procedure.

Senator GLENN. We have time problems, obviously, this morning. We have a hundred different questions here remaining that I had hoped we might have time to get to, but we will not. We have some other witnesses here. What I would like to do is send a list over for your reply. Your answers will be included in the printed committee record.

I'm well aware, too, that there are variations of opinion on the Commission on some of these matters, and I would ask that you distribute

the list of questions to all the Commission members so that we can include dissenting viewpoints.

That way we'll have variations of opinion from the Commission available in the hearing record. We would appreciate the earliest reply on that. We do have a number of questions, so I know we need to extend our normal 2-week time period. We hope that you can get those back as promptly as possible so that we can have the benefit of the views of all the members of the Commission.

Mr. FRITSCHLER. Fine; we'd be happy to do that Senator.

Senator GLENN. Fine, thank you very much gentlemen.

[Mr. Fritschler's prepared statement with attachments, responses to written questions from Senator Glenn and additional material submitted by Mr. Fritschler, and a separate letter from Mr. Bright follow:]

STATEMENT OF A. LEE FRITSCHLER
CHAIRMAN, POSTAL RATE COMMISSION
BEFORE THE SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION
AND FEDERAL SERVICES,
COMMITTEE ON GOVERNMENTAL AFFAIRS

UNITED STATES SENATE
(April 21, 1980)

Mr. Chairman,

I appreciate the opportunity to appear before your Committee to present testimony on S. 2558, the bill regarding potential legislative changes in the Postal Reorganization Act. I would like to address those aspects of the bill that are pertinent to the Rate Commission, as well as many of the broader issues that it raises. I also will suggest legislative changes which I believe will improve the functioning of the Rate Commission. I will ask the Committee, as we generally do, to refrain from asking questions regarding matters at issue in cases pending before the Rate Commission.

My intent is to discuss possible legislative changes with respect to the United States Postal Service and the Postal Rate Commission. In doing so, I do not intend to offer generalized observations on the workings of these two agencies. To the contrary, I would like to offer comment on a specific topic which is of utmost concern to me and which has become the subject of considerable debate throughout the government as well as in the private sector--that is the subject of Federal regulation.

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The subject of regulation has been of personal interest to me for years. I conducted extensive studies on the topic as Dean of the College of Public and International Affairs at American University. Now, as Chairman of the Rate Commission, I am actively involved in the process of regulatory oversight.

I believe I am in a good position to assess the regulatory process and to offer suggestions that are directed to achieving the ultimate goal of maximizing the efficiency of that process.

But this objective--to promote effective regulation in this period of regulatory reform--must be keyed to the particular agency and regulatory situation. The Rate Commission is a unique regulatory body. It is the only agency in the Federal Government which has as its sole statutory obligation the regulation of another Federal agency. Because of this unique situation there has been some question as to the proper regulatory role and authority of the Rate Commission as an independent body. Much of the confusion has been caused by the lack of full recognition of our statutory responsibilities. I will explore some of the details of these difficulties subsequently. The point, Mr. Chairman, is that the key to effective regulation of postal operations, as my testimony will demonstrate, lies in legislative measures that will

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clarify and guarantee the status of this Commission as an independent regulatory body.

Despite some confusion as to the role of the Rate Commission, its status as an independent regulatory body is well established in the Postal Reorganization Act, and in judicial applications of the Act.

I. Background--The Postal Reorganization Act

A. The Rate Commission as a Regulatory Agency

The Act clearly designates certain postal matters that are subject to regulation by the Rate Commission. Specifically, the Commission has the statutory authority to issue advisory opinions on nationwide changes in the nature of postal services, to regulate rate and classification actions, to oversee rate and service complaints and to decide appeals from Postal Service determinations to close or consolidate a post office.

Perhaps the most important of these responsibilities is the regulation of rate and mail classification actions. The importance of these actions to the Postal Service and the public is obvious. Simply put, the mail classification schedule defines the types of postal services that will be offered to the public. The significance of the rate design is evidenced by the fact that in the last rate case, mailers satisfied 88.5% of the revenue requirement of the Postal Service.

By virtue of §§ 3622-3623 of the Act, Congress delegated the regulation of these important functions to the Commission.

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The Postal Service is mandated, under these sections, to present any proposed changes in rates or in the design of the mail classification schedule for review, or oversight, by this Commission. Furthermore, § 3623 enables this Commission to initiate changes in the mail classification schedule when it finds that the needs of the Postal Service and the public warrant such changes.

The perceived need by Congress for scrutinizing regulation in these two areas is apparent from the specific guidelines enumerated in §§ 3622-23, under which we conduct our proceedings. The Rate Commission must ensure that any proposed changes in rates comply with the eight statutory criteria designated in § 3622. Similarly, there are six criteria outlined in § 3623 which this Commission must implement in making recommendations on proposed mail classification changes. As I noted above, these criteria require the Commission, in general terms, to ensure that changes in rates and the classification schedule are designed to meet the needs of the mailing public and the Postal Service. The scope and significance of this responsibility is evident from the detail with which Congress defined our statutory mandate.

B. The Rate Commission is an Independent Agency

It is also clear from the statute, Mr. Chairman, that the Commission is a regulatory body independent from the Postal Service. Section 3601(a) of the Act states that "The Postal Rate

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Commission is an independent establishment of the executive branch" The Commissioners are appointed by the President, "by and with the advice and consent of the Senate." Unlike the Governors, we have no allegiance to the Postal Service or any other party which appears before us.

Furthermore, under § 3624 we conduct quasi-judicial hearings for rate and mail classification proceedings in which all interested parties are given an equal opportunity to present their views. Our rules of practice prohibit ex parte communications, i.e., communications on the merits of a case between the parties and the Commission, to insure that the Commission's decisions are the result of impartial review.

An important adjunct of this independent status, according to a recent Court of Appeals decision, is that the Commission is the agency which has the authority to interpret the Postal Reorganization Act's provisions on rate and classification matters. In particular, the Court stated:

[T]he agency entitled to deference in the interpretation of 39 U.S.C. §§ 3622-24 is the Rate Commission--not the Postal Service-- as it is the Rate Commission which is charged with making recommended decisions on changes in rates and mail classification. 1/

I believe all of the above demonstrates that the Rate Commission is structurally and operationally an independent body.

II. The Courts Have Confirmed the Role of the Rate Commission as an Independent Regulatory Body

Almost every court which has rendered a decision on postal matters has interpreted the law in this manner, declaring the Rate

1/ United Parcel Service v. U.S. Postal Service, 604 F.2d 1370, 1381, (3d Cir. 1979).

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Commission to be an independent regulatory body. For instance, there have been a series of cases on the Commission's approach to ratemaking. In one such decision, commonly referred to as NAGCP I,^{1/} the court addressed the issue of whether or not the Postal Service could implement rates for special services without submitting the proposed increase to the Rate Commission. In resolving the issue the court referred to the separation of functions between the Postal Service and the Rate Commission and concluded that:

[M]ost of all, any reasonable examination of the purposes of the Act discloses Congress' implicit design that the distinct functions of service provision and rate adjustment be divided between the Postal Service and the Rate Commission. The expertise of the Postal Service supposedly is in management, and its authority therefore reasonably extends to basic decisions pertaining to the provision of special, non-postal and other services. The Postal Rate Commission, however, was created specifically to oversee the ratemaking process. Its expertise is in the setting of rates and fees that are fair and equitable, and its authority therefore reasonably extends to all aspects of such decisions . . . and, it would seem plainly, the setting of fees for those special services which management decides should be provided. ^{2/}

In another case, the courts were called upon to decide whether a postal regulation was actually a change in the classification schedule and therefore subject to the Rate Commission's jurisdiction.

^{1/} National Association of Greeting Card Publishers v. U.S. Postal Service, 569 F.2d 570 (D.C. Cir. 1976).

^{2/} 569 F.2d at 597.

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The District Court, in the beginning of its opinion, cited the division of functions between the Postal Service and the Rate Commission. In particular the court stated:

In 1970, Congress by passing the Postal Reorganization Act revamped the entire U.S. postal system. The Act established two independent agencies, United States Postal Service and the Postal Rate Commission (PRC). While USPS was charged with managing the daily operations of the postal system, the PRC was given broad authority over changes in mail rates and classifications. ^{1/}

The court went on to state some of the reasons for the delegation of these functions to the Rate Commission. It cited the need to remove "political influence" from postal management and to place rate and mail classification matters in the hands of "impartial professionals." The Court of Appeals, in affirming the District Court's decision, reiterated that the Postal Rate Commission is "a regulatory body independent from USPS."^{2/}

The Act's history indicates the courts were on solid ground in their application of the law and in defining the role of the Rate Commission vis-a-vis that of the Postal Service. In a June, 1970, report on Postal Reorganization the Senate Committee on Post Office and Civil Service stated:

In discharging the highly important responsibilities vested in the Commission, it must exercise its best

^{1/} National Retired Teachers Association v. U.S. Postal Service, 430 F. Supp. 141, 143 (D.D.C. 1977) affirmed 593 F.2d, 1361 (D.C. Cir. 1979).

^{2/} 593 F.2d at 1363.

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judgment to insure that all postal rates, fees, and classifications are reasonable and equitable, and to insure that the rights of all mail users are protected, throughout the ratemaking and classification process, by careful consideration of all the specific public-interest factors that the statute requires be taken into account, and by faithful adherence to all of the ratemaking and classification standards set forth in the statute. 1/

In that report the Committee also stated that each agency need only recognize its legal responsibilities.

I feel that the Rate Commission has taken proper cognizance of its responsibilities and the scope of its jurisdiction. There have been instances, in the past, when our interpretation of the statute has compelled us to dismiss certain cases, as beyond the jurisdiction of the Commission. In an order relating to Docket Nos. MC76-1-4, we declined to add an additional class of mail to the list of classes already permitted to receive phased rates under § 3626. Our interpretation of the statute, as well as the legislative history, led us to conclude that Congress intended the list to be exclusive. In Docket No. RM76-4 we deferred, to the Postal Service, on the matter of which agency has primary jurisdiction over the Private Express Statutes. In our Opinion and Recommended Decision on MAILGRAM, we concluded that the service should be regulated by the Federal Communications Commission rather than the Rate Commission. In Docket No. A78-1 we concluded from the

1/ Senate Committee on Post Office and Civil Service, 91st Cong., 2d Sess., Report on Postal Reorganization (Comm. Print 1973) at 14.

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plain meaning of the Act that a consolidation of postal routes was not a consolidation or closing of a post office within the Commission's purview under § 404(b). In sum, the Commission has based the exercise of its jurisdictional prerogatives on a sound and reasoned interpretation of the statute.

Up until now I have focused on the scope of our jurisdiction. But as intimated in some of the quotations that I have recited, the Rate Commission is expected to have the full responsibilities and the full complement of regulatory tools that accompany its status as an independent regulatory agency.

III. Public Interest Function of the Rate Commission

The specific responsibilities of this Commission are clear--to oversee some of the most important functions of the Postal Service--particularly rate and classification actions. But concomitant with the establishment of any independent regulatory body is a broader and more important responsibility--to protect the interests of the public.

In the Scenic Hudson case the Court of Appeals defined this responsibility in terms of the duty of a regulatory agency to search out alternatives to those presented on the record, to ensure that the public interest is protected. Quoting from another case involving the responsibilities of regulatory agencies the court stated:

As the sole representative of the public, which is a third party in these proceedings, the agency owes the duty to investigate all the pertinent facts, and to see that they are adduced when the parties have not put them [on the record] . . . 1/

1/ Scenic Hudson Preservation Conf. v. Federal Power Commission, 354 F.2d 608, 621, (2d. Cir. 1965).

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The Rate Commission thus has a separate duty, as an independent regulatory body, to protect the public interest. The Court of Appeals, in a more recent case, defined this duty with respect to the specific responsibilities of the Commission. In deciding the issue of whether the Postal Service could implement certain rate and mail classification changes that were not nationwide, without submission to this Commission, the Court stated:

Such a view finds no support in the Act or in the legislative history. Indeed, such a construction of the Act is capable of completely undermining Congressional regulation via the Rate Commission of those aspects of postal affairs which are most heavily infused with the public interest--an interest which the Rate Commission is charged with protecting. 1/

It also is clear from the Act, Mr. Chairman, that the Rate Commission, as a regulatory body, is charged with protecting the public interest; part and parcel of regulation is providing the public an opportunity to participate and to offer their views.

Specifically, § 3624 of the Act mandates the Commission to conduct a full trial-type hearing pursuant to §§ 556 and 557 of Title 5 before acting on any proposed changes in rates or the mail classification schedule. Those who are directly interested in a case can participate as intervenors or as parties. In addition, those who want to make their views known but who don't have the resources to participate directly can offer their views through the submission of informal statements. Section 3624 also mandates that an Officer of the Commission be appointed, in these hearings, specifically to represent the interests of the

1/ United Parcel Service v. U.S. Postal Service, 604 F.2d 1370, 1379.

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general public.

The Rate Commission has complied with this statutory mandate and has taken full advantage of the hearing process to the benefit of both the public and the Postal Service. The importance of providing these hearings is evidenced by the length and breadth of our proceedings. In Docket No. R77-1 there was a total of 62 intervenors and limited participants, and the hearing-room proceedings took 64 days with a record of over 21,500 pages. In Docket No. MC78-3, there were 49 intervenors and limited participants, and the hearing-room proceedings consumed 31 days and a record of over 12,000 pages. Participants in recent hearings have included the Small Business Administration, the Department of Justice, the National Telecommunications and Information Administration, and the Federal Communications Commission, as well as private concerns.

The Postal Rate Commission thus serves an important national function. It ensures that changes in rates and the mail classification schedule are made in an open forum where all interested parties can present their views, including those responsible for the formulation and implementation of public policy in other areas. The process meets the requirements of the Postal Service as well as serving the needs of the mailers, the unions, and in general, the public.

But the Rate Commission is only ten years old and there are areas that are in need of clarification. The series of court cases on ratemaking, that I referred to earlier, offer guidance as to our cost and ratemaking methodology. For example, the NAGCP III case affirmed our adherence to

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the methodology outlined in NAGCP I but called for further refinement in our method of assigning costs to second-class mail. The Commission is, in a docket instituted on our own initiative, at the present time, reviewing that issue. The courts have stressed the need for continued improvement in the performance of our task and the Commission is committed to adhere to this mandate by searching for ways that will enhance the efficiency of our operations.

IV. Proposed Amendments to the Act

I stated, at the beginning of my testimony, that increased efficiency is the goal for the Rate Commission and an objective of all regulatory bodies. I also stated that the best way to achieve this goal, for the Rate Commission, is through legislation which will guarantee its independence.

Yet the bill contains measures which, it appears, would reduce our responsibilities. It also appears, although it is not entirely clear, that it would place some of them in the hands of the Postal Service itself. I would like to address the revisions which are pertinent to regulatory review in the order in which they appear in the bill.

A. Statements of Postal Service Plans

The revised § 2401 provides for the Postal Service to include, in its statements to Congress, its plans with respect to certain

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matters which are within the purview of the Commission. In particular, the Service is to provide a comprehensive statement on, among other things, any plans for reductions in service on a nationwide or substantially nationwide basis, for establishing, consolidating or discontinuing post offices, and for requesting changes in rates or fees. I believe that this is a good informational mechanism for keeping Congress abreast of Postal Service affairs.

I would like to comment particularly with respect to Postal Service plans to close or consolidate a post office. Such plans are largely a matter of Postal Service policy, and the Commission's role in these cases is limited. If a determination by the Service is appealed to the Commission our function, as outlined in § 404 (b)(5) of the Act, is similar to that of a United States Court of Appeals. We must apply specific review standards, and we are restricted to a review of the administrative record. In other words, we cannot conduct our own fact-finding investigations or hearings but are limited to deciding, in general terms, whether the Postal Service made its determination in accordance with the criteria listed in § 404(b).

Over the past year the Commission has issued several opinions on these types of cases. In most of them we remanded the cases to the Service in large part because the Service had failed to comply

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with the law respecting the impact of the closing or consolidation on the community. In our first consolidated opinion, which included nine cases, we examined the legislative history of that subsection as well as the structure of § 404(b) as a whole and concluded that the Postal Service had misconstrued the law. We then went on to suggest certain measures the Postal Service could take in order to comply with the standards of the statute.

The point, Mr. Chairman, is that despite the rather peripheral role of the Commission in these cases, we have taken it upon ourselves to insure that the Postal Service is in compliance with the law by offering guidance as to the manner in which it should proceed under § 404(b). In this regard we also have sponsored a paper on rural post offices and communities, as an aid to both the Postal Service and Congress.

B. Civil Penalties for Failure to Pay Lawful Postage

The bill adds a new § 3629. That section provides basically that the Postal Service may collect from mailers any unpaid postage and may also impose a fine in an amount not to exceed the amount of the unpaid postage. I have no objections to this amendment and think it is appropriately left to Congressional oversight.

C. Mail Classification; Experimental Services

1. Scope of DMCS

The bill also restructures § 3623 of the Act, which relates to mail classification actions. The new subsection (a) refers to the Domestic Mail Classification Schedule as having been established "pursuant to section 3621 of this title." I would like to point out that while this reference to § 3621 is correct in the most formal sense, the classification schedule was actually established pursuant to § 3623.

I would also like to note my objection to the last sentence of subsection 3623(a), as revised in the bill, which provides that the schedule "shall not include instructions or procedures concerning postal operations or administration." In Docket No. MC76-5, titled Basic Mail Classification Reform Schedule--Proper Scope and Extent of Schedule, we addressed the issue of the propriety of including operational features in the schedule. In that case we stated that "when the only way to distinguish one category of service from another is by reference to an operational function, such reference must, of necessity appear in the DMCS." We found that there are ways to minimize the impact of such references on management flexibility, and noted, "we fully recognize that the Postal Service needs the maximum amount of operational flexibility possible if it is to operate efficiently."

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However, there are times when operational and administrative matters have to be referenced in the DMCS, at least to the extent they identify legitimate classification distinctions. As our decision in Docket No. MC76-5 indicates, any such reference is limited to the extent that it serves the purpose outlined in the first sentence of this new subsection, which is to describe "categories of mail service to be provided by the Postal Service sufficiently to delineate the classes and subclasses to which rates of postage and fees for postal services apply."

2. Procedures for Review of Mail Classification Actions

The next new subsection § 3623(b) in the bill retains the procedures for initiating mail classification actions that are presently in effect--the Commission may, on its own, decide to institute such proceedings or the Postal Service may request the Commission to submit a recommended decision on a proposed mail classification change.

However, this new subsection (b) also contains a provision which states that any proposed changes in the mail classification schedule are to be "accompanied by initial rates or fees for the revised portion of the schedule." I believe that this phrase is subject to the interpretation that only the classification changes and not the rates or fees for these changes are subject to review. The necessity and authority for review by the Commission of such rates was confirmed by the District Court in the case of National

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Retired Teachers Association v. U.S. Postal Service. Specifically, the court stated:

Examination of the existing mail classification schedule and its predecessor reveals that a classification is a 'grouping' of mail matter for the purpose of assigning it a specific rate or method of handling. 1/

Since the phrase in the bill could be misconstrued, I believe it should be omitted.

The following subsections in the bill appear to change the procedures for reviewing mail classification changes requested by the Postal Service. I use the word "appears" because the proposed procedures are not entirely consistent.

The bill requires the Commission to establish expedited procedures for reviewing Postal Service requests for changes in the mail classification schedule. These procedures are to include, under § 3623(c)(1), the opportunity for a public hearing under §§ 556-557 of Title 5 if it is requested by a party within 30 days after the proposal is noticed in the Federal Register.

I would like to point out that the Act already contains a mechanism for expediting procedures with respect to either rate or mail classification actions. In particular, § 3624(b)(5) permits the Commission to conduct the entire proceedings off the record with the consent of the parties. In light of this provision I do not believe the requirement in the new subsection (c)(1) is necessary.

1/ 430 F. Supp. 141, 146.

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Furthermore, this § 3623(c)(1) is inconsistent with the subsequent subsections 3623(c)(2) and (c)(3) in the bill, which require the Commission to make a determination, within 90 days after publication in the Federal Register by the Postal Service of a mail classification change request, as to whether the change "is likely to result in a substantial and immediate adverse impact upon competition in the provision of postal services." If the Commission doesn't make this determination, it is required to so notify the Governors, who may then instruct the Postal Service to adopt a "final rule" in accordance with the notice and comment procedure of Title 5, § 553. In other words, the Commission's regulatory authority over classification changes will be limited to those cases in which, within 90 days after notification, regardless of the quality or quantity of supporting testimony provided by the Postal Service, we are able to find that there is "a substantial and immediate adverse impact upon competition. . . ."

These proposed sections 3623(c)(2) and (c)(3) are inconsistent with section 3623(c)(1) which requires an opportunity for a full trial-type hearing only if requested. They are also inconsistent with § 3624(a) which mandates an opportunity for a hearing on the record by this Commission (except for experimental proposals) under §§ 556-557 of Title 5, in considering requests for rate and mail classification changes.

The procedures do provide, under the proposed subsection 3623(c)(3)(B), for review by this Commission in accordance with § 3624 and the factors enumerated in § 3623(d), if we make

the required finding. However, the cases which we hear involve a host of legal and technical issues, and I do not see the point in singling out competition as the determining factor in classification proceedings.

Postal policy for the past decade has been to base classification decisions on a wide range of considerations. The proposed amendment would throw the advances which have been made out the window by permitting a negative finding on anti-competitive effect to exclude independent examination of other relevant policies.

In other words, I believe there should always be an appropriate amount of regulatory oversight. Switching responsibility for the oversight of these classification matters to the Governors and the Service would remove measures designed to protect the public through independent regulation. It would permit a 20 billion dollar enterprise to escape the detached review, currently required, by an independent and impartial body of experts.

I think that the need for independent regulation is evidenced, in part, by the fact that this Commission is authorized to initiate mail classification actions. To me, this indicates that we were delegated an additional responsibility: to have the foresight to identify those areas which might require the independent scrutiny

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of the Commission, with the accompanying participation by the public. In a recent case ^{1/} the District Court affirmed our authority to initiate such actions and to review any rate adjustments that accompany them. There is no doubt that Congress intended this Commission to take responsibility for changes in the mail classification schedule. As stated by the District Court in an earlier case:

[C]ongress unmistakably delegated its ratemaking and classification prerogatives to the PRC.

Any change in the classification schedule must, by statute, be recommended to USPS by the PRC and would be invalid in the absence of such a recommendation. ^{2/}

These judicial interpretations indicate the viability of the Act's provisions for establishing and maintaining the Commission as an independent forum for review over any changes in the mail classification schedule.

3. Notice and Comment; Experimental Classification Changes

The necessity and authority for regulatory oversight in these types of actions is thus clear. While I do believe that there are ways to streamline our procedures in this area, I do not believe, for all of the reasons noted above, that the procedures proposed in the bill are adequate. At the present time we are limited by the Act, and particularly § 3624(a), which requires the opportunity for a full hearing as to the measures we can use

^{1/} Dow Jones & Co., Inc. v. Postal Rate Commission, 471 F. Supp. 455 (D.D.C. 1979).

^{2/} National Retired Teachers Association v. U.S. Postal Service, 430 F. Supp. 141, 146.

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to expedite these proceedings. I think it would be most advantageous to provide specifically for this Commission to use the notice and comment procedure of § 553 of Title 5 for certain mail classification actions--including, I would expect, experimental changes in the classification schedule.

The need for experimental changes can develop in two ways. First, there are cases in which the Postal Service proposes a change in the mail classification schedule and the Commission decides to recommend the change on an experimental basis. The E-COM decision is a good example of this type of case.

The Commission found in E-COM that there was insufficient data to recommend the change on a permanent basis. But we also found that there was a sound basis for allowing the service to go forward for a marketplace test to obtain the necessary data.

Other regulatory bodies have used this method. For example, the FCC in the Dataphone case authorized the institution of a new communication device on a limited basis pending a hearing on outstanding issues. Citing the substantial legal and technical questions which remained unanswered with respect to the new device, the FCC stated: "At the same time, we do not wish to deny to the public any improvements in service quality" The Rate Commission had a similar intent in permitting the Postal Service to offer electronic mail. We thought the Postal Service had

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proposed a service which might be of great benefit to the public. At the same time, we found the proposal significantly lacking with respect to pertinent data.

The alternative to recommending the service on an experimental basis would have been to reject the proposal until the Service had formulated a request which contained all the necessary components for the Commission to make a recommendation that would comply with the statutory requirements for a permanent mail classification change. With the E-COM proposal, which involved an entirely new service, this might not even have been possible. But, in general, the notion of continually rejecting a proposal until it contains all the data necessary for the Commission to make reasoned findings, in compliance with the Act, runs contrary to the principles outlined in the Scenic Hudson case that I referred to earlier. As a regulatory body we have the duty to search for alternatives. One such alternative is to permit the Postal Service to experiment with new services which might offer better mail service to the public, but to require additional market data so that costs and revenues can be sufficiently estimated to permit the changes to be incorporated in the classification schedule on a permanent basis.

Consideration of a DMCS change as an experiment is also appropriate when the Postal Service proposes a mail classification change on an experimental basis. The Court of Appeals, in UPS v. USPS,^{1/} decided last March, expressly stated that the Commission has jurisdiction over Postal Service experimental

^{1/} 604 F.2d 1370.

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offerings. In that case the Postal Service had experimented with bulk-mailings by charging a fixed fee per item rather than calculating the postage by the weight of the parcel. The Service selected 20 shippers from five cities to test the experiment for a year. In rejecting the Postal Service's authority to create "de facto a new mail classification by virtue of the criteria which it established," the court relied on the plain meaning of the statute. It stated that the Act expressly requires all changes in rates and mail classifications to be reviewed by the Rate Commission.

The bill contains specific procedures for Postal Service experimental requests. I think it will become apparent as I address the specifics of these procedures, Mr. Chairman, that they do not promote expedition or efficient regulation.

The first provision in the draft related to experiments is the addition of a new subsection (e) to § 3623 and provides that the Postal Service is authorized to "propose" experimental classifications with the necessary rates or fees to test the feasibility of the proposal and to collect cost and market information "sufficient to support a proposal under subsection (b). . . ."

At the outset, I should note that the new subsection provides only that the Service is authorized to propose experimental classifications. I would like to point out that by virtue of § 3623(a) the Postal Service already has the power to submit such proposals to the Commission. This subsection 3623(e) also provides

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that the Service may propose experimental mail classifications for services "not otherwise available under the classification schedule." I think that by definition an experiment involves some new type of service. For all of these reasons I believe that the new subsection (e) is superfluous.

The additional procedures for review of experimental proposals are outlined under § 3624(d). That subsection provides that the Commission shall determine, within 60 days, whether the experimental proposal is properly submitted in accordance with certain criteria.

Furthermore, the bill provides that if the Commission finds that the proposal is properly designated as an experiment then it must issue an order making findings on all the listed criteria. The Postal Service then may implement the proposal, after giving 10 days notice in the Federal Register, for a period not to exceed 2 years. If the Commission finds that the proposal is not properly submitted, it must issue an order to that effect, again making findings with respect to each of the criteria.

I believe that these provisions could be construed so as to limit public participation in the process. The bill states that the Commission is to issue orders indicating whether a Postal Service request for an experimental offering is

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properly submitted. It makes no mention of public comment in these cases.

The Commission could, by virtue of § 3603, request that those who have an interest in these types of cases submit their comments before the Commission issues its order. I think that this type of procedure is essential because the Commission is committed to providing a forum for public participation as well as impartial review.

But I think there is a way to streamline the procedures in these types of cases, retaining the necessary protections but improving upon the rather circuitous method proposed in the bill. In particular, I would advocate a procedure which explicitly provides for public comment as well as impartial review.

That is why I propose the use of notice and comment procedures under § 553 of Title 5 for these types of cases and, indeed, any classification case where it would be appropriate. I believe that this procedure will facilitate classification proceedings. In particular, § 553 provides that a proposed rulemaking shall be noticed in the Federal Register with a statement of the time, place and nature of the proposed public

rulemaking proceedings, a reference to the legal authority under which the rule is proposed, and the substance of the proposed rule or a description of the subjects and issues involved. In other words, part of this procedure involves a fairly detailed explanatory section or preamble describing the rule or rules proposed.

The notice time is 30 days. During that time interested parties are to be provided the opportunity to "comment" or, as specifically outlined in § 553(c), the opportunity to "participate . . . through submission of written data, views, or arguments with or without opportunity for oral presentation." After consideration of these comments the agency is to incorporate in the adopted rules a statement of their basis and purpose.

I have outlined this procedure, Mr. Chairman, to demonstrate that it would allow experiments to be implemented quickly, while at the same time preserving an opportunity for public comment and for an appropriate amount of independent review by the Commission. This review would include the necessary safeguards to ensure that experimental rates do not result in cross-subsidization of or by other mail classes. Review by this Commission would insure that the rates which accompany any experimental change in the DMCS would satisfy all the requirements of the Act.

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I also would advocate an additional safeguard. This would be to require findings by the Commission that the need for expedition warrants the notice and comment procedure, and that it would not prejudice the procedural rights of any party.^{1/}

I believe that this type of finding by the Commission is unlike the proposed § 3623, which requires the Commission to make a finding, sua sponte, on a complex issue requiring both findings of fact and conclusions of law. In this instance the Commission's finding is designed to further the goal of effective regulation while at the same time ensuring that the interests of the public are protected.

I would like to point out that the Commission is, at the present time, considering rulemaking proceedings to streamline experimental classification requests within the confines of § 3624(a), which requires the opportunity for a full trial-type hearing. These rules would include such measures as special procedures to determine if the issues require a full trial-type hearing, as well as provisions which would allow an experiment to proceed despite the lack of data specified under Rule 64 of our rules of practice.

While we are thus attempting to facilitate these types of Postal Service requests, we are limited in this endeavor by the statute and propose the above-cited legislative measures to expedite our consideration of them while preserving the protection accorded the general public through independent regulation.

D. Delay Provision

The bill also revises the delay provision of § 3624(c)(2). Presently, the Act provides that if the Postal Service has

^{1/} See attached.

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unreasonably delayed the Commission's consideration of a Postal Service request for changes in rates, by failing to respond to lawful orders of the Commission within a reasonable time, the Commission may extend the 10-month statutory deadline for rate decisions by one day for each day of such delay.

The bill changes this subsection in several ways. It provides that if the Commission determines, at the conclusion of the ten-month time period in which we are to conduct rate proceedings, that the Postal Service has unreasonably delayed the proceedings we may extend the ten-month deadline in accordance with certain procedures. I do not see any merit in requiring such a determination to be made at the end of the ten-month period. In Docket No. MC78-1, when we issued the first and only order pursuant to this provision, we stated that "there obviously must be a prospective element in the Commission's order of extension." I believe that requiring the Commission to wait until the end of the ten month period to make this determination would only delay the proceedings further and would also create an air of uncertainty with respect to temporary rates and possible appeals.

It could also cause problems during the proceedings. For instance, if the Commission determines at some point in the hearings that there was substantial delay impeding the proceeding, a new schedule should be set taking this factor into account. Otherwise, the problem may be compounded by procedural inequities

resulting from efforts to hold to the original schedule after the Postal Service has unreasonably delayed.

The bill also requires that the Postal Service must have unreasonably delayed the proceedings by "failing to respond to any lawful order of the Commission." As I noted above, the language in the present § 3624(c)(2) provides that we may consider extending the ten-month period if the Postal Service fails to respond "within a reasonable time." I assume that this phrase was inadvertently omitted from the bill since the revision could lead to a situation in which the Postal Service could delay the proceedings indefinitely and concurrently institute temporary rates, leaving the parties and the Commission without recourse.

Finally, the bill provides that the 10-month period may be extended by the lesser of one day for each day of unreasonable delay or one day for each day of the Postal Service's failure to respond in a reasonable time. In other words, the bill could shorten the time by which we can extend the deadline. I think that this provision is unreasonable. For example, a party might ask for certain data from the Postal Service for use by an expert witness in testimony. If the Postal Service were ordered to produce the data yet did not do so in a reasonable time, the witness could be forced to use independent estimates. If the Service subsequently produced the data late, a whole host of additional delays could result.

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Not only would the party have to be given an opportunity to revise his testimony to incorporate the data, but resolution of the procedural issues arising out of the unreasonable delay would likely consume additional time and resources. Consequently, while the Postal Service may have delayed in complying with an order for only a short time, there might be substantial additional delay caused thereby. Therefore, I believe this revision should be omitted.

E. Reduced Rates

Section 3626, regarding reduced rates, is modified in the bill by the addition of a new subsection (f). That subsection lists the matter which will be considered mail under former § 4554(b) of title 39. The only change to the list contained in § 4554 is the addition of maps. I have no objections to this amendment.

F. Postal Rate Commission Budget

The Commission's budget arrangements also are changed in the bill. Specifically § 3604(d) is amended to provide that the Commission shall prepare its budget in accordance with the Budget and Accounting Act; rather than submitting it to the Governors. I believe that this amendment is appropriate since the Commission is an independent body separate from the Postal Service. In addition,

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the bill adds a new § 3605 to chapter 36 that provides for an audit of the Commission's accounts and operations by the Comptroller General. I have no objection to this amendment and think it is appropriate for Congressional action.

G. Qualifications of Commissioners

I support this part of the bill, but have one objection regarding the qualifications of Commissioners under § 3601(a). The last sentence provides, in part, that an individual who has been employed by the Postal Service or the Rate Commission can not be appointed to serve as a Commissioner until 5 years after such employment has ended.

I believe that this removes from consideration a large body of individuals who would have the knowledge and expertise that would make them extremely well-qualified to serve as a Commissioner. I know of no other agency that is so limited by statute and there have been numerous occasions in which outstanding top staff members of government agencies have received Presidential appointments.

H. Effective Dates

The bill provides that the amendments regarding mail classification changes and Commission decisions shall apply "with respect to fiscal years beginning after September 30, 1980, and before October 1, 1983." It also provides that the amendment defining mail matter under former § 4554 for purposes of § 3626(a), regarding reduced rates, shall apply "to mail

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matter mailed after September 30, 1980, and before October 1, 1983." The apparent effect will be to make these amendments temporary so that after October 1, 1983, the statute, as it presently stands, will be in effect. I have no position on this amendment.

In commenting on the revisions in the bill I have proposed measures that I believe would increase the effectiveness of the Rate Commission's task. But there are other measures, not expressly referred to in the draft, which I believe are at least as important to effective regulation and guaranteeing the independent status of the Rate Commission.

I. Finality of Commission Decisions^{1/}

Foremost among these would be to make our decisions final. At the present time, the Commission issues recommended decisions which the Governors may approve, allow under protest, reject or modify, in accordance with § 3624 of the Act. There are a number of reasons why I would advocate final decisional authority for the Postal Rate Commission.

One is that review by the Governors simply has not worked in practice as Congress intended. The major responsibilities of the Board of Governors are similar to those of the Board of Directors of a private corporation. These responsibilities include determining how the Postal Service's budget will be

^{1/} See attached.

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allocated, approval of major capital investment decisions and other high policy functions with respect to the overall operations of the Postal Service. In addition to these responsibilities, the Board must approve requests to this Commission for proposed changes in rates and mail classifications and the Governors must review our recommended decisions on these changes.

In light of all the other responsibilities of the Governors, and given only a few days a month in which to conduct all of its collegial affairs, the Governors cannot be expected to review our decisions in any meaningful way. In Docket No. MC78-2, a decision which totalled over 100 pages and was decided on a record running to nearly 4,000 pages, the Governors issued their decision rejecting our recommendations only 6 days after it was transmitted to them.

In addition to not having adequate time, the Governors do not have a staff of professionals, responsible directly and exclusively to them, with expertise in the areas of costing and ratemaking matters as does the Commission. No body of individuals could make reasoned findings on the Commission's decisions without this expertise.

A recent court case^{1/} highlighted another problem stemming from the Governor's review of our decisions. A party to one of our proceedings objected to the fact that the Governors are briefed

^{1/} Graphnet, Inc. v. U.S. Postal Service, D.D.C. Civil Action No. 80-0246, February 4, 1980.

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by the Postal Service staff which litigated before the Commission, while other participants are not allowed access to the Governors. In particular, in the affidavit of Mr. Louis A. Cox, General Counsel of the Postal Service and Secretary to the Board of Governors, it was stated that the chief attorney who litigated a case for 15 months before the Commission prepared a "neutral summary" of the Commission's decision for the use of the members of the Board. The court left open the question whether this accorded with accepted ideas of fair procedure, noting that it might well come up in any subsequent appeal from the Governors' decision involved. The difficulties are easy to see, however. At best, the Governors can only be either an additional regulatory body layered on top of the PRC, or a junior Court of Appeals. Either of these results would be unproductive, since a regulatory agency and an appellate court are already available to perform their respective functions.

On the other hand, I can appreciate the frustration that would likely be felt by a body of men who meet once a month for a few days--with a busy agenda--if they were required to analyze our decisions, and the underlying record, with no independent technical assistance. To me this suggests that the review of Commission decisions is not really an appropriate function for a body constituted as the Governors are, with very considerable responsibilities for the management and direction of the Postal Service.

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I believe that the Board can serve an important public interest function in reviewing and authorizing requests for proposed changes in rate and mail classification actions. But in light of all the Congressional and judicial statements, which I referred to earlier, citing the expertise of this Commission and the important public interest function which it serves, and given the length and breadth of our proceedings, I believe that this Commission's decisions should be final. Reevaluation by the Governors adds an additional layer of review which, as I noted above, is of limited value. If efficiency of governmental operations and expeditious action are primary public policy goals--and as I have emphasized, I believe they are--than this extraneous and time-consuming layer of review should be eliminated.

J. Data Collection^{1/}

Related to the issue of increasing the effectiveness of the regulation of postal operations is the matter of obtaining data from the Postal Service. Our rules, in consonance with the statute, provide several ways for parties to obtain necessary information, such as through the submission of interrogatories and other discovery requests. It is only through the production and presentation of the relevant data that reasoned findings and conclusions can be made. In other words, data becomes the key to effective regulation.

Yet we have encountered problems, in several cases, in obtaining information from the Postal Service, resulting in delays in the proceedings. These problems have extended even to

^{1/} See attached.

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requests for production of documents in camera, the only purpose of which is to allow the presiding Commissioner to evaluate the Service's claim that the data are legally privileged and should remain immune from disclosure.

For instance, in Docket No. MC78-1 we were compelled, with some reluctance, to invoke the delay provision of § 3624(c)(2) of the Act. As I noted earlier, that subsection permits the Commission to extend the 10-month statutory deadline for deciding rate cases if the Postal Service has unreasonably delayed in responding to lawful orders of the Commission. I agree with the position taken by Vice Chairman Duffy in his concurring opinion, in which he stated: "[T]hat an extension of the 10-month deadline should be imposed only under the strictest circumstances." However, the Postal Service had, in fact, unreasonably delayed filing responses to a number of lawful orders of the Presiding Officer in that proceeding, and, the Commission's order extending the 10-month deadline subsequently was upheld by the U.S. District Court.^{1/}

We also encountered problems in obtaining information from the Postal Service in the E-COM case, Docket No. MC78-3. Those problems entailed late filings by the Postal Service which delayed the proceedings, as well as instances in which the Service failed to produce certain documents requested by the parties and the Commission.

For example, the Postal Service made a major revision to

^{1/} Parcel Shippers Association v. Postal Rate Commission, D.D.C. Civil Action No. 79-1932, September 11, 1979, appeal docketed, D.C. Cir. No. 79-2307, November 15, 1979.

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the testimony of one of its two witnesses four months after it had initially been filed. This necessitated a substantial adjustment of the schedule in the proceeding. Subsequently, the Service made four sets of revisions to the same testimony causing further delays in the proceedings.

The hearings were also delayed by the failure of one of the Service's witnesses to respond, in full, to interrogatory requests. In particular certain information requested was not provided until after the Presiding Officer had issued an order terminating the cross-examination of the witness. When the information was finally provided, it contradicted that witness's previous testimony, requiring his recall for several more days of hearings.

Additionally, the Postal Service refused to produce a number of documents for in camera inspection relating to an important issue in the proceeding--the Postal Service's decision to contract with Western Union on a sole-source basis.

Some of these problems could be alleviated through legislation that would permit the Commission to specify data collection efforts to assure that if the information we require for making decisions in accordance with the statute is available to the Postal Service, it will also be provided to the Commission and made part of the record.

The Court of Appeals, in NAGCP III, expressly approved our data collection efforts. In discussing our method of assigning costs on the basis of a service-related cost methodology it stated:

The rough categorization of service priorities into preferential and non-preferential was a reasonable first approximation in tracing the costs of providing the various levels of service. That this dichotomy may not suffice in future proceedings is high-

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lighted by the PRC's exhortation to USPS to develop data and methodologies that will reflect more accurately the hierarchy of service priorities. 1/

I believe that this statement is a recognition, by the courts, of the responsibilities of the Rate Commission. Part of this responsibility is the collection of pertinent data.

I use the word "pertinent", Mr. Chairman, to emphasize that the Rate Commission requests only the data necessary to carry out its statutory mandate. I stated in my concurring opinion in Docket No. MC78-1, in which we rejected the Postal Service's proposal due to the lack of pertinent data, that we want to work in harmony with the Postal Service. With respect to the particular issues at hand, I stated:

[I]t is our duty to encourage the Postal Service's efforts to remain competitive in the parcel delivery market. We urge the Service to continue the development of competitive rate and service proposals based upon sound and complete cost and volume data, for this Commission to consider. Through the development of a competitive cost based rate structure the Service could, again, become a forceful competitor in parcel delivery.

In other words, all our efforts--including data collection--are designed to improve postal services. Nonetheless, because of the difficulties we have encountered in this area I believe that appropriate clarifying legislation would greatly improve the efficiency of our operations.

Our authority to obtain necessary data would also be enhanced by the addition of a specific provision in the Act authorizing the Commission to issue subpoenas to compel the production of necessary evidence. While I would hope this power

1/ National Association of Greeting Card Publishers v. U.S. Postal Service, 607 F.2d 392, 411 (D.C. Cir. 1979).

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would not have to be exercised, there have been occasions in the past--such as the cases that I just mentioned--in which the Postal Service has not provided evidence we considered necessary to our decision-making process. Most regulatory agencies have the statutory authority to issue such subpoenas.

K. Self-Representation^{1/}

Another potential legislative change which would assist the Rate Commission in carrying out its functions would be to provide, explicitly, the opportunity for self-representation by the Commission in court proceedings. Under the present law the Justice Department is assigned to represent both the Commission and the Postal Service. This has resulted in conflicts, in the past, when our views on specific issues have differed from those of the Postal Service.

For example, in one case^{2/} there was a question concerning our statutory authority to regulate Postal Service actions that would increase postal rates for certain special services. The conflict thus involved a significant legal question concerning the scope of the Commission's jurisdiction, rather than an administrative issue capable of informal resolution within the Executive Branch.

^{1/} See attached.

^{2/} Associated Third Class Mail Users v. U.S. Postal Service, 405 F. Supp. 1109 (D.D.C. 1975).

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In that case, the Justice Department decided to represent the Postal Service yet declined to permit the Rate Commission to represent itself, despite a statutory provision [39 U.S.C. § 409(d)] which would have permitted it to do so. It attached to one of its pleadings--but did not endorse--a memorandum setting forth the views of the Rate Commission, but the Commission was not represented in oral argument. Nonetheless the court agreed with the Commission.

I believe that the Rate Commission should be able to employ its own attorneys in cases where Postal Service and Postal Rate Commission interests diverge to ensure that both agencies are fully represented. The capability of our attorneys to handle court litigation was demonstrated most recently in a case^{1/} in which the Justice Department permitted both the Postal Service and the Rate Commission to represent themselves. Again in that proceeding, I might add, our position was accepted by the court.

V. Conclusion

I believe that all of the legislative changes that I have suggested would improve the regulation of postal operations by increasing the independence of the Rate Commission. In creating the Rate Commission, Congress anticipated that we would have the expertise to conduct effective oversight of some of the most significant functions of the Postal Service. Many of the measures

^{1/} Parcel Shippers Association v. Postal Rate Commission, D.D.C. Civil Action No. 79-1932, September 11, 1979.

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proposed in the bill would not be a mere reallocation of functions but would disrupt the entire regulatory scheme created by Congress and recognized and supported by the courts.

I think the time has come to make the necessary legislative changes that will reflect the expertise which the Commission has developed as well as the amount of responsibility which it has accepted over the past ten years. The degree of expertise that we have developed is exemplified by the series of rate cases. In those cases, the courts indicated their support for adoption, by the Rate Commission, of costing methodologies that will maximize cost tracing. In particular, they approved our methods of using reasonable inferences of causation for attributing and assigning costs as far as possible. This methodology includes attributing costs on the basis of volume variability and, as I noted earlier, assigning costs on a service-related cost basis. One of the benefits of maximizing cost tracing is that it prevents cross-subsidization among the various classes of mail. In both NAGCP I and NAGCP III the courts referred to the necessity for extended attribution, and we are prepared to move further in that direction.

Mr. Chairman, that concludes my prepared statement. Again please note I have attached hereto suggested language for the legislative changes that I have proposed. I will be happy to answer any questions you may wish to ask.

NOTICE AND COMMENT PROCEDURES FOR CLASSIFICATION CASES

§ 3624. Recommended Decisions of Commission

(a) The Postal Rate Commission shall promptly consider a request made under section 3622 or 3623 of this title, except that the Commission shall not recommend a decision until the opportunity for a hearing on the record under sections 556 and 557 of title 5 has been accorded to the Postal Service, users of the mails, and an officer of the Commission who shall be required to represent the interests of the general public. In any case arising under section 3623, the Commission may, upon finding that such action is required by the need for expedition and may be taken without infringement upon the procedural rights of the parties, order that the proceedings be had in whole or in part under section 553 of title 5.

INDEPENDENT BUDGET ARRANGEMENTS

SEC. _____. Section 3604(d) of title 39, United States Code, is amended to read:

"The provisions of the Budget and Accounting Act, 1921, relating to the preparation and presentation of budgets, and the provisions of any other Federal law relating to the preparation and presentation of budgets, shall apply to the Commission."

FINALITY OF DECISIONS

SEC. _____. (a) Section 3622(a) of title 39, United States Code, is amended by deleting the words "submit a recommended" and substituting therefor the word "render."

(b) Section 3622(b) of title 39, United States Code, is amended by deleting the word "recommended."

(c) Section 3623(a) of title 39, United States Code, is deleted.

(d) Section 3623(b) of title 39, United States Code, is redesignated as § 3623(a), and is amended by deleting the words "submit" and "submit to the Governors" and replacing them in each case with the word "render" and by deleting the word "recommended."

(e) Section 3623(c) of title 39, United States Code, is redesignated as § 3623(b) and is amended by deleting the word "recommended."

(f) Section 3623(d) of title 39, United States Code, is redesignated as § 3623(c).

(g) Section 3624 of title 39, United States Code, is amended by deleting the word "recommended" wherever it occurs and by deleting the word "recommend" in subsection (a) thereof and substituting therefor the word "render."

(h) Section 3625 of title 39, United States Code, is amended in its entirety to read:

"§ 3625. Effect of Commission decision

"A decision of the Postal Rate Commission rendered under § 3624 shall be final and shall be reviewable in accordance with the provisions of § 3628 of this title."

(i) Section 3628 of title 39, United States Code, is amended to read as follows:

"§ 3628. Appellate review

"A decision of the Postal Rate Commission rendered under § 3624 may be appealed to any court of appeals of the United States within 30 days of its issuance by the Commission, by an aggrieved party who appeared in the proceedings under § 3624(a) of this title. The court shall review the decision, in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, except as otherwise provided in this section, on the basis of the record before the Commission. The court may affirm the decision or order that the entire matter be returned to the Commission for reconsideration, but the court may not modify the decision. The court shall make the matter a preferred cause and shall expedite judgment in every way. No court shall have jurisdiction to review a decision made by the Commission under this chapter except as provided in this section.

(j) Section 3641(a) of title 39, United States Code, is amended by deleting the word "recommended."

(k) Section 3641(d) of title 39, United States Code, is amended to read:

"Upon the transmission of a decision by the Commission under § 3624(d) of this title, the Postal Service shall within 15 days terminate any temporary change in rates of postage or in fees for postal services made under this section and place into effect the changes in rates or fees contained in such decision."

(l) Section 3641(e) of title 39, United States Code, is amended to read:

"If the Postal Rate Commission does not transmit to the Governors within 90 days after the Postal Service has submitted a request for a decision on a change in the mail classification schedule, the Postal Service, upon 10 days' notice in the Federal Register, may place into effect temporary changes in the mail classification schedule in accordance with proposed changes under consideration by the Commission. Upon the transmission of a decision by the Commission under § 3624(d) of this title, the Postal Service shall within 15 days terminate any temporary change in the mail classification schedule made under this section and place into effect the changes in the mail classification schedule contained in such decision."

(m) The third sentence of § 3662 of title 39, United States Code, is amended to read:

"If the Commission, in a matter covered by subchapter II of this chapter, determines the complaint to be justified, it shall, after proceedings in conformity with section 3624 of this title, issue a decision which shall have effect as provided in section 3625 of this title and be subject to review in accordance with the provisions of section 3628 of this title."

INFORMATION-GATHERING AUTHORITY

SEC. _____. (a) Chapter 4 of title 39, United States Code, is amended by adding at the end thereof the following new section: "§ 413. Reporting requirements

"(a) The Postal Service shall keep the Postal Rate Commission fully and currently informed with respect to the operation of the Postal Service. The Postal Service shall furnish to the Commission information with respect to--

"(1) internal Postal Service management matters;

"(2) plans and policies of the Postal Service with respect to proposed changes in the nature of postal services and proposed new mail classifications intended to be submitted pursuant to § 3623(b) of this title; and

"(3) evaluations undertaken by or at the direction of the Postal Service with respect to the operation of the Postal Service.

"(b) The Postal Service shall furnish to the Postal Rate Commission any information which the Commission considers necessary or appropriate for the effective evaluation of the operation of the Postal Service.

"(c) The provisions of § 410(c) of this chapter shall not excuse the Postal Service from furnishing to the Commission any information referred to in this section; Provided, however, that upon a written finding by the Postmaster General that such information would otherwise be within the scope of § 410(c) and that the best interests of the Postal Service imperatively require that it be treated as confidential, such information, when supplied to the Commission, shall remain subject to the provisions of § 410(c) as against any third party."

(b) The table of sections for chapter 4 of title 39, United States Code, is amended by adding at the end thereof the following new item:

"413. Reporting requirements."

SEC. _____. (a) Subchapter I of chapter 36 of title 39, United States Code, is amended by adding at the end thereof the following new section:

"§ 3605. Review and hearings

"(a) The Postal Rate Commission shall have the authority to initiate reviews and hearings with respect to the activities of the Board of Governors and the Postal Service under this chapter.

"(b) Any hearing initiated by the Postal Rate Commission under this section shall be in accordance with section 3624(a) of this title.

"(c)(1) The Postal Rate Commission may issue subpoenas, signed by the Chairman of the Commission, to compel the production of evidence and the testimony of witnesses with respect to any hearing held by the Commission under this chapter.

"(2) Any appropriate district court of the United States may, upon petition by the Commission, in case of refusal to obey a subpoena of the Commission issued under this subsection, issue an order requiring compliance with such subpoena. Any failure to obey such order may be punished by such district court as a contempt thereof."

(b) The table of sections for subchapter I of chapter 36 of title 39, United States Code, is amended by adding at the end thereof the following new item:

"3605. Review and hearings."

SELF-REPRESENTATION

SEC. _____, Section 409(d) of title 39 is amended (1) by striking out the words "with the prior consent of the Attorney General," and (2) by adding at the end thereof the following new sentence: "The Postal Rate Commission shall have the right to be a party to litigation involving proceedings under section 404(b) and subchapter I, II, IV or V of Chapter 36 of this title and may employ attorneys by contract or otherwise to conduct such litigation."

POSTAL RATE COMMISSION
Washington, D.C. 20268

A. Lee Fritchler
CHAIRMAN

June 20, 1980

The Honorable John H. Glenn
Chairman, Subcommittee on Energy,
Nuclear Proliferation and Federal Services
United States Senate
Washington, D.C. 20510

Dear Senator Glenn:

The following are my responses to the questions which you forwarded with your letter of May 15, 1980. As I noted in my letter of May 20, 1980, I circulated these questions to the other Commissioners. Commissioner DuPont endorses the responses in this letter. Commissioner Bright has enclosed a separate letter endorsing my responses while amplifying on questions 2 and 12. Vice-Chairman Duffy and Commissioner O'Doherty will be sending their responses under separate cover.

Question One

On page 2 of your statement you refer to "effective regulation of postal operations." You go on to propose a number of measures which would permit the Commission to extract information from the Postal Service, as "necessary or appropriate for the effective evaluation of the operation of the Postal Service."

How far would you have the Commission go, beyond its current duties to review rates, and rate framework and eligibility?

What aspects of postal operations do you wish to evaluate or regulate?

Will your Commission be able to effect regulation of postal operations through reviews, hearings and decisions under Chapter 36? Do you believe that your proposal would authorize the issuance by the Rate Commission of management directives to the Postal Service?

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To what extent would your proposals for "information gathering authority" duplicate or supplant Congressional oversight? Have you found Congressional oversight to be inadequate?

At the outset, I should note that our proposed § 413 is designed to elicit only that information which is necessary to conduct effective regulatory review and must be read in the context of our functions in that regard. In other words, the proposed revision is not intended to expand our functions but rather to enhance our ability to perform our current responsibilities.

With respect to the narrow issue raised under question one, on the authority of the Rate Commission to issue management directives to the Postal Service, I believe my proposed legislative changes may have been misinterpreted. The language in these proposed revisions does not purport to authorize the Rate Commission to conduct oversight of Postal Service management. We are fully cognizant that oversight of Postal Service management is the responsibility of the Board of Governors, and that general oversight of the Postal Service is the express responsibility of Congress.

However, there may be some overlap in the sense that we could at times require information on subjects that are termed internal management affairs in order to perform our regulatory functions adequately. For example, in our recent E-COM decision, information related to the issue of contractor selection was extremely relevant to one of the major considerations of the case--the impact

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upon competition. Although a management decision in the sense that the Commission does not review the award of contracts by the Service, the contractor selection issue was of great importance in deciding the issues falling under our jurisdiction.

The topic of Congressional oversight is raised under part four of question one, in terms of whether our proposed information-gathering authority would supplant Congressional authority, and in terms of my opinion as to whether Congressional oversight has been inadequate. The answer to both questions is no, and I did not mean to intimate, in either my written or oral testimony, anything to the contrary.

There is a question of reduced Congressional oversight because of the possibility of a reduced Postal Service subsidy. However, this issue is unrelated to the Rate Commission's Congressionally delegated tasks or to suggested legislative changes, such as the one referred to above, which are designed to improve our ability to perform those tasks. As I indicated in my testimony, the Rate Commission was created with the expectation that it would develop expertise in the highly technical areas of ratemaking to insure effective regulation of those postal matters that we are required to regulate.

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The Commission does not, therefore, intend to supplant Congressional oversight, nor does it find that oversight to be inadequate. Our aim is simply to enhance our ability to carry out our responsibilities and hopefully, in the process, to aid Congress in the performance of its tasks.

Question Two

You have proposed requiring the Postal Service supply the Commission with extensive information, including "any information which the Commission considers necessary or appropriate for the effective evaluation of the operation of the Postal Service." What standards would you have a court apply in judging Commission directives to the Postal Service concerning the gathering and provision of information? Would this section enable the Commission to obtain information from USPS which it might be unable to obtain by subpoena?

The first component of this question relates to the standards that would be applied by a court reviewing a Commission directive for information under our proposed legislative changes. Our proposed § 413 as well as § 3605 on information-gathering authority must be read in the context of our statutory responsibilities. Section 413 is not intended to give us authority to operate as a second inspection service, but is only a device to elicit information that is relevant and necessary to conduct effective regulatory oversight. I assume it is that standard i.e., whether the information is relevant and necessary to regulatory review, that would be the judicial standard of review in these types of actions.

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The second component of question two addresses the relationship between two of our proposed changes. In particular, it asks whether the requirement in our proposed § 413, that the Service provide information "necessary or appropriate for the effective evaluation of the operation of the Postal Service," will enable us to obtain information that we cannot obtain by virtue of the subpoena power which we proposed under § 3605.

The pertinent portion of § 3605 reads as follows:

The Postal Rate Commission may issue subpoenas, signed by the Chairman of the Commission, to compel the production of evidence and the testimony of witnesses with respect to any hearing held by the Commission under this chapter.

The term "hearing" encompasses the authority, outlined in the proposed § 3605(a), to review activities of the Postal Service in conjunction with any hearings conducted pursuant to § 3624. It therefore may appear that the proposed sections overlap, or are duplicative. However, the critical distinction is that § 3605 authorizes the Commission to issue subpoenas only with respect to witnesses' testimony and the production of evidence.

In designating regulatory functions to the Postal Rate Commission, Congress recognized the need to scrutinize proposals of the Postal Service, which has an economic monopoly, protected by law, over the letter mail market. In reviewing Postal Service proposals, the Rate Commission conducts standard public utility

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type regulation. This form of regulation is proper and necessary even in today's environment which emphasizes deregulation.

The authority to require necessary data is not unique. Most state public utility regulatory agencies and many federal agencies such as CAB, FCC, FERC, ICC and SEC have the authority to require data and information deemed essential to the effective conduct of proceedings, using the subpoena as their procedural vehicle.

Again I emphasize that our proposed legislative measures must be read in the context of our regulatory functions. While each concerns a different aspect of those functions, they are all designed to aid in the performance of our responsibilities.

Question Three

You also propose providing the Commission with access to plans for mail classification proposals. At what stage of development would the Postal Service be required to report such plans to the Commission? Given Commission access to classification planning, how much time will be cut from your proceedings? Would you recommend that we change the Service's 90-day wait for temporary implementation authority to 60 or 30 days? Would your proposal prevent enforced, advanced disclosures of plans for rate increase proposals?

Our draft language is intended to foster a cooperative relationship with the Postal Service. By obtaining data at an early stage of the development of proposals for classification changes, the Commission will be better able to understand the nature of the Postal Service's request once it comes before the Commission, and therefore will be able to develop a more complete record. Our objective is not to interfere

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with the internal planning and development of Postal Service management but to facilitate the review process once a formal proposal is presented to the PRC. As information regarding new proposals becomes available we would hope the Service would provide appropriate data as a means of facilitating full cooperation.

The same type of reasoning is applicable to the second part of question three which asks the amount of time that will be saved by this suggested legislative provision. When I appeared before your subcommittee I stated that I did not feel that our classification proceedings were unduly lengthy. In my written testimony I referred to the necessity of developing a full and complete record and cited specific examples of problems that we have encountered in obtaining relevant data from the Postal Service. The proposed revision is one measure which would alleviate some of these problems by obtaining necessary data at an early stage, so that the Commission and the parties will be better informed. In this sense, the provision is not intended as a time-saving device only, but is designed also to aid in the development of a complete record which, in turn, will enable us to issue recommended decisions which are more finely keyed to the statutory criteria outlined in § 3623.

I would not recommend, as suggested in the third part of question three, that the 90-day waiting period for temporary implementation authority be reduced. I believe that since the

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first opportunity for parties to present their views is at the beginning of the proceedings, the waiting period is necessary to give the Postal Service an opportunity to evaluate initial public reaction and determine whether temporary implementation is in the public interest.

Question Four

On page 19 of your testimony you state that the classification cases which you hear involve a host of legal and technical issues and that you do not see the point in singling out competition as the determining factor in such proceedings. On what basis other than competition do you normally get opposition from members of the public or from other interested parties with respect to a mail classification proposal?

This question refers to the portion of my testimony in which I objected to the procedures in the bill which could limit regulatory review in classification cases solely on the basis of a negative finding, by the Commission, on the impact of the proposed changes on competition. The question asks for a clarification of this objection and for a list of other issues that are relevant in a mail classification case.

At the outset I would like to point out that § 3623(c) lists six factors that we are mandated to consider in rendering a decision on classification cases. In addition, the Commission, in reviewing classification cases, often must refer to one or more of the factors listed in § 3622 on rate changes in determining whether or not the rates accompanying the classification change comply with the Act.

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Specifically, we must insure that such rates are in compliance with § 3622(b)(3) which, in general terms, requires that the rates accurately reflect costs and that there is no cross-subsidization. The simplicity of the rate structure under § 3622(b)(7) also is often a factor that we have to consider. In addition, it is sometimes necessary to refer to § 3622(b)(4) which is the rate-setting criteria related to competition and which requires the Commission to examine the effect of rate increases on the general public.

With respect to the criteria in § 3623, the issues that we must address include: the needs of the mailers, the maintenance of efficient postal operations, and the ease with which the proposed classification change can be administered by the Postal Service.

In summary, my reference to the "host of legal and technical issues" which could be raised in a classification proceeding was in large measure a reference to the factors which Congress expressly mandated the Commission to consider in making decisions on these types of cases. I believe that these factors enable the Commission to better serve the public than by limiting our review simply to the issue of competition.

The following chart lists three recent classification cases and some of the major issues that were raised during the proceedings.

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Classification CasesIssues

Red-Tag Proceeding, 1979,
Docket No. MC79-3

Cross-Subsidization
Undue Discrimination
Lack of Appropriate
Cost Data
Market Impact
Public Policy Issues Concerning
the Dissemination of Information

Third-Class Carrier
Route Presort Proposal,
1978, Docket No. MC78-2

Cost Behavior
Lack of Appropriate Cost Data
Market Impact
Undue Discrimination
Cross-Subsidization

Parcel Post Proposal,
1978, Docket No. MC78-1

Appropriate Cost Data
Costing Principles
Undue Discrimination
Cost Behavior
Cross-Subsidization

Question Five

On page 15 you object to a proposal which would bar administrative or operational instructions or procedures from the mail classification schedule. Isn't it possible for the Commission to refer to functions for definitional purposes without prescribing instructions or procedures? Do you wish to have the Commission prescribe such matters in the classification schedule?

It appears from this question that there has been a misunderstanding with respect to my objection to the proposal in the bill which would bar administrative or operational procedures in the mail classification schedule. The question asks if the Commission could refer to such procedures for definitional purposes rather than prescribing instructions or procedures.

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On page 15 of my testimony I stated that operational and administrative matters often have to be referenced in the DMCS "at least to the extent that they identify legitimate classification distinctions." I objected to this portion of the bill because I believed it could be construed to limit the Commission in this regard.

In a situation ^{1/} where there was disagreement as to the Commission's jurisdiction in this area, we referred to page 31 of the Basic Mail Classification Reform Schedule--Proper Scope and Extent of Schedule, Docket No. MC76-5 where we stated:

[I]n order to warrant inclusion in the DMCS, a provision should bear significantly on the rate, classification, or other regulatory responsibility of the Postal Rate Commission as set forth in chapter 36 of title 39.

The specific issue was whether changes in the presort quantities resulting from proposed mail preparation requirements were the proper subject of a classification proceeding under 39 U.S.C. § 3623 rather than a unilateral rulemaking by the Postal Service.

We concluded that the alteration "would 'significantly change' the affected category", and focused, by way of example, on the impact on second-class mail. In particular, we stated that

^{1/} Comments of the Postal Rate Commission on Notice of Proposed Rulemaking (August 15, 1979).

the effect of the changes "would be the shifting of an indefinite number of pieces from one distinct rate category to another."

We went on to note the cost and volume variables related to the mail preparation requirements of second-class mail that we dealt with in Docket No. R77-1. We concluded that:

We see no reason to suppose that the cost and volume variables relating to a change in the presort requirements are of any less significance now than when we were deciding Docket No. R77-1.

We stated, in summation:

There is no question here that the Service is proposing to alter a requirement 'relevant to the make-up of a mail classification' under the standards established in the Scope and Extent decision. The connection is not merely theoretical, but was specifically found to exist in the rate proceeding which created the presort discount structure for second-class which the proposed rule would alter.

In other words, when operational or administrative procedures are of such significance that they have an impact on classification and rate matters, it is our view that the Commission must consider such procedures to carry out its regulatory responsibilities.

Question Six

On pages 19-20 you discuss the scope and meaning of the Commission's authority to initiate mail classification proceedings. You state that a "District Court affirmed our authority to initiate such actions and to review any rate adjustments that accompany them." Did the Court rule that the Commission could actually recommend attendant rates to the Governors? If so, what effective limitations remain on the Commission's ability to initiate rate change proceedings?

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The case I was referring to in my testimony was Dow Jones & Co., Inc. v. Postal Rate Commission, 471 F.Supp. 455 (D.D.C. 1979). In that case, the court had an even more expansive view of our authority than I indicated in my testimony. It not only said that we have the authority to review rates in classification proceedings, but refused to find, as the plaintiff had asked, that we could not recommend appropriate rate changes. In particular, the court stated:

Thus, the Court could not enjoin the PRC from considering, in any shape or form, cost or rate issues in the upcoming proceeding. Such leaves open solely the possibility of an injunction prohibiting the PRC from recommending to the Governors the promulgation of a rate change. This the Court will not do. [471 F.Supp. at 456]

The District Court also referred to the Court of Appeals decision in NAGCP III, decided less than a week before the Dow Jones case, where the court referred to the same classification proceeding which was in issue in Dow Jones. In NAGCP III the court also said that the Commission had not acted "arbitrarily" in deciding to explore rate and classification issues relating to red-tag service in a classification proceeding.

In both cases the courts stated that rate and classification issues often are intertwined. In addition, in addressing the

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same topic in a different context, I referred, at pages 16 and 17 of my testimony, to the case of National Retired Teacher's Association v. U.S. Postal Service, 430 F.Supp 141, 146 (D.D.C. 1971) where the court stated that "mail classification is a 'grouping' of mail matter for the purpose of assigning it a specific rate or method of handling." While we therefore are not in a position to initiate rate proceedings, there are occasions where we must, of necessity, recommend rates in the course of a recommendation on a classification change.

Question Seven

On the subject of experiments, you propose that "notice-and-comment" rulemaking be permitted only where such actions "may be taken without infringement upon the procedural rights of the parties" Since section 3624 already requires an opportunity for on-the-record hearings--and this would not be altered by your proposal--would you ever be able to utilize notice-and-comment rulemaking if even a single party desired more formal and complex procedures? Doesn't the statute already provide for relatively informal resolution with the consent of all parties?

This question focuses on that portion of our legislative proposal which states that the notice and comment procedure would only be used when it would not infringe on the procedural rights of any party. The question suggests that since § 3624 requires an opportunity for on-the-record hearings and since that requirement is not changed under the Commission's proposal, the potential use of the notice and comment procedure would be

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minimal since a request by even one party for a formal trial-type hearing would nullify the opportunity for the Commission to employ the notice and comment procedure.

This interpretation of our legislative proposal is not entirely correct. The proposal qualifies the requirement in § 3624 of providing an opportunity for a hearing on the record, by permitting the Commission to use the notice and comment procedure in lieu of a trial-type hearing, on the condition that the Commission makes a finding that it will not prejudice the procedural rights of a party and that the need for expedition requires these shortened procedures.

In other words, even if a party were to request a hearing, the Commission could deny that request if it found that the party did not raise issues which would warrant a hearing, and if it found, additionally, that the party would not be prejudiced by the notice and comment procedure. It appears from this portion of question seven as well as from the last component of this question that my comments on your proposed changes regarding mail classifications, in general, have been confused with my comments on the procedures for experimental mail classifications, in particular.

The last component of question seven asks whether the Act currently provides for informal resolution of a case with the consent of all the parties, implying that our proposed

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procedures may be superfluous. The bill's amendments to § 3623(c)(1) were an attempt to provide for expedition in classification cases by requiring the opportunity for a public hearing only if requested by a party. In commenting on that section, I referred to the present § 3624(b)(5) which permits some amount of expedition in that it authorizes the Commission to conduct the entire proceedings off the record with the consent of all the parties. I also objected to the bill's changes to § 3623(c)(1) on the grounds that they were inconsistent with the existing § 3624, which the bill left intact and which, as I noted above, presently mandates the opportunity for a hearing on the record.

I believe that the requirements of § 3624 should remain intact unless the Commission finds that classification cases can be reviewed under the notice and comment procedure. Such a finding would forestall institution of the mechanisms outlined under the present § 3624(a), including a possibly latent agreement by the parties to conduct the proceedings off the record, and would therefore expedite the process.

I also stated, at page 27 of my written testimony, that in our legislative proposal, the finding the Commission would have to make on whether to hold hearings is aimed at effective and efficient regulation and is unlike the one

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proposed in the bill's amendments to § 3623 of the bill, which requires the Commission to make a finding sua sponte on a complex legal issue. Under our legislative proposal, the Commission would use the expertise we have developed to make the required finding. In this vein, if it were found that some issues required a trial-type hearing, we would conduct hearings for those issues while considering other issues deemed appropriate for the notice and comment procedure. In summary, our proposal would, as I stated at page 26 of the testimony, "allow experiments [as well as other appropriate classification cases] to be implemented quickly, while at the same time preserving an opportunity for public comment and for an appropriate amount of independent review by the Commission."

Question Eight

Your statement reflects some concern that revenues from experimental rates might be used to subsidize other mail classes. Do you consider it realistic to suppose that the Postal Service would start up an experiment, and gain public acceptance of it, at rates so high that profits could be used to fund losses in other services or classes?

This question refers to my concern that experimental rates could result in cross-subsidization of or by other mail classes. It appears, however, that the question is based on an incorrect interpretation of the type of cross-subsidization that I thought might occur. I was not concerned that experimental rates would be set at such high levels

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that they would contribute to the cost coverage of other classes or services. To the contrary, I felt that the Postal Service might use promotional rates or set rates for experiments that were so low that they would gain public acceptance but would require revenues from other classes to actually fund the service. This kind of result would violate the statute and could provide the Service with unfair competitive advantages. Consequently, I felt that independent review of these cases by the Commission would be necessary to ensure that experiments are priced high enough to cover the costs of the service over an appropriate period of time.

Question Nine

On page 27 you indicate that the Commission at the present time is considering rulemaking proceedings to streamline experimental classification requests. When do you expect these rules to be promulgated and what kind of improvement can we expect in terms of the amount of time it takes the Commission to consider whether an experimental proposal by the Postal Service has been properly formulated?

In answer to the first part of question nine, we are presently formulating rules to streamline experimental classification proposals. We expect to notice these rules for public comment in approximately two weeks.

With respect to the second portion of this question, which asks the amount of time that these rules would save the Commission in determining whether a Postal Service experimental proposal is properly formulated, I would like to note,

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initially, that our responsibilities extend beyond consideration of whether the proposal is properly formulated. While one of the main purposes of these rules is to expedite experimental proposals we are also constrained, by the statute, as to the measures we can use in accomplishing this purpose. In our rules we propose to develop issue-limiting procedures so that we can identify those issues which require a trial-type hearing and those which do not. In this sense, the amount of time that would be saved under the proposed rules would vary depending on the nature of the experiment. Other measures in our proposed rules that would expedite these proceedings, but which go beyond a mere assessment of the formulation of the proposal, include a rule that the nonavailability of data required under our rule 64 could not be used as an argument against approval of the experiment except in extraordinary cases, and a procedural deadline for the case.

Question Ten

You say that S. 2558 contains measures which it appears would reduce your responsibilities. We have received testimony from mail users, some of whom indicated they were opposed to parts of the bill because they expanded the Commission's responsibilities. It is not the intent of this bill to either expand or contract your jurisdiction, but rather to provide expedited procedures for making decisions wherever possible. Don't you feel that is a worthwhile goal to try to achieve with legislation?

I wholeheartedly agree that the provision of expedited procedures for making decisions, wherever possible, is a worthwhile

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goal of legislation. I would also refer you to page two of my testimony where I stated that I would offer suggestions that are aimed toward achieving "the ultimate goal of maximizing the efficiency of [the regulatory] process."

I am thus in complete agreement that expedition is a worthwhile goal and would venture further to say that it is integral to the regulatory process, i.e., the development of policies, procedures, and the like should be made with a view toward adopting expeditious resolutions.

However, question ten also references my objections to certain portions of the bill on the grounds that they would reduce the Commission's responsibilities. I would like to reconcile that objection with my affirmative answer to the specific question cited above.

My objections to the major revisions in the bill were based in large part on the fact that they either eliminated or reduced the amount of public participation in the review process. As a consequence, our ability to conduct effective regulation would be sharply curtailed because of the lack of public and user input.

For example, I objected to the bill's revisions to § 3623 regarding the procedures for review of mail classification

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actions because, as I noted above, they required the Commission to make a finding, sua sponte, on whether the proposal had a significant impact on competition. A negative finding on this issue would remove the case from the Commission's jurisdiction, without any public participation on this or other issues. Additionally the bill provided that, in the event of a negative finding by the Commission, the Governors could instruct the Postal Service to adopt a final rule under § 553 of title 5. While there would thus be some degree of review which would incorporate public comment, it would not be independent review which, as I noted in the beginning of my testimony, appeared to be of primary concern to Congress.

I also objected to the procedures for experiments under the bill's revision to § 3623(e) and § 3624(d) because I felt they would impede effective regulation. I noted, at page 25 of the testimony, that while these procedures did not make any reference to public participation in the process, the Commission could, by virtue of other sections of the Act, offer the public the opportunity to comment. I also noted, however, that this seemed a rather circuitous and potentially time-consuming procedure and thus would not foster expedition.

As explained in greater detail in my written testimony, I believe that expedition can be achieved without sacrificing

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public participation or impartial review. The measures I proposed are designed to incorporate all of these highly important aspects of regulatory review.

Question Eleven

There have been suggestions made that since the Commission has as its sole statutory obligation the regulation of the Postal Service that in fact there really is no need for the Rate Commission to exist and that its functions can be taken over by the Postal Service through use of an administrative law judge. What is your view of such a proposal?

In the first twelve pages of my testimony I clarified the role of the Rate Commission by reference to the Act, several court decisions, and the legislative history. In referring to the statute, I stated at page four of my testimony that, "[t]he perceived need by Congress for scrutinizing regulation in these two areas is apparent from the specific guidelines enumerated in §§ 3622-23, under which we are to conduct our proceedings." I see no basis for the proposal in question eleven, given the above-cited portions of my testimony, and the statement in question ten that "[i]t is not the intent of this bill to either expand or contract [the Commission's] jurisdiction but rather to provide expedited procedures"

The specific defects of the proposal are apparent upon consideration of the potential procedural and substantive ramifications. Procedurally, the proposal would most likely be more time-consuming than is presently the case. An

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administrative law judge at the Postal Service would be required to hold the same trial-type hearings under §§ 556-557 of title 5 that the Commission is required to conduct. However, unlike the recommended decisions of the Rate Commission, the administrative law judge's initial decision would be subject to exceptions on brief. The Governors would thus be required to examine the record in order to address any such exceptions. This undoubtedly would be more time-consuming than current practices, where the Governors have rendered a decision on a case as little as six days after receiving the Commission's recommended decision.

But perhaps more important than the procedural time frame of this proposal are the implications with respect to impartial review. The Postal Service, in its recent Request for a Recommended Decision on Changes in Rates of Postage and Fees for Postal Services, has projected a revenue requirement of almost 23 billion dollars for the test year. I believe that an enterprise offering monopoly services, with operating expenses that could approach that magnitude, should not be permitted to escape detached review. As I noted above, this independent oversight includes the opportunity for public participation and, as I noted throughout my testimony, review by a body of experts in the highly complex technical and legal aspects of ratemaking. The need for this review

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is further highlighted by the possibility of a reduced postal subsidy and the consequent possibility of reduced Congressional oversight.

All of these factors lead me to the unequivocal conclusion that implementation of the proposal would fly in the face of effective and efficient government management and, as a result, would be detrimental to the interests of the mailing public.

Question Twelve

In your testimony you refer to [the] NAGCP III case which called for further refinement in your method of assigning costs to second-class mail and you state in addition that you are presently reviewing that issue. When can we expect additional progress by the Commission in determining an appropriate assignment of costs not only to second-class mail but to other classes as well?

Although we cannot be certain, we hope and expect that the record currently being developed in the ongoing rate case will enable the Commission to make considerable additional progress in determining appropriate attributions and assignments of costs to all classes of mail. The Postal Service's filing did contain some new studies on certain aspects of transportation, rural carriers, city carriers, and mail processing cost behavior. While I am noting the fact that documentation for these studies has been placed on the record by the Postal Service, my remarks should not be taken as endorsement or approval of their work.

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The evaluation of the new studies will be undertaken by the Commission after a full record has been developed.

The Postal Service has not yet provided in their current rate case filing certain analyses requested by the Commission's decision in recent rate or classification cases. Included among these unanswered requests are the following:

- o Study of piece/pound relationships in third-class mail^{1/}
- o Refinements to the service-related cost concept introduced in Docket No. R77-1^{2/}
- o Additional data on the actual costs of the second-class presort categories^{3/}
- o Refinements of parcel-route variability analyses^{4/}
- o Impact of increased productivity and/or cost reduction programs on the classes of mail,^{5/} by functional element and specific program

As you know, the Commission is not in a position to enter on the record independently developed source data on postal operations. We are, therefore, heavily dependent on the Postal Service for record data. The Service provides us with

1/ PRC Op. No. MC78-2, November 28, 1979, p. 106.

2/ PRC Op. No. R77-1, May 12, 1978, Volume I, pp. 123-4 and Appendix J, p. 252.

3/ Ibid., Volume I, pp. 326, 353-5.

4/ PRC Op. No. R77-1, May 12, 1978, Appendix J, pp. 85, 90-91.

5/ Ibid., Volume I, p. 58.

this information in the context of rates and classification cases and the Mail Classification Study Program (Docket No. MC76-5).

On October 30, 1977, you requested a status report on Docket No. MC76-5 and I asked Vice-Chairman Duffy, the Presiding Officer in the case, to respond to that request.^{1/} As he indicated to you in his letter of November 9, 1979, we were very hopeful that the Mail Classification Study Program would fill many of the current data gaps in the cost area. At the time of that letter we expected the three most important study efforts, i.e., the Summary Mail Flow Data Set, the Current Cost Study, and the Peak Load Study to be completed by the spring of this year. This schedule would have allowed these studies to be included in the record for the current rate case. As our Appendix illustrates, our expectations, unfortunately, have not been met, and the latest estimated completion date for these studies is August, 1980. Frankly, given the extensive history of chronic failures to meet estimated completion dates,

^{1/} In addition, during the course of the hearings on April 21, 1980, Commissioner DuPont stated that the Commission would prepare a report on the progress of the MC76-5 studies. We have compiled a report describing the status and nature of these studies, as well as their impact on our cases. This report is attached as an appendix to this letter.

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we cannot say when the Postal Service will complete these studies and submit them to the Commission and the parties to the Mail Classification Study Program proceeding. It does not appear that the results of these studies will be available for consideration in the current rate case.

Question Thirteen

How do you envision the role of the Postal Service in areas where it competes with private enterprise?

In answer to question thirteen, I refer you to two Commission decisions--the Parcel Post Proposal, Docket No. MC78-1 and, particularly, the concurring opinion of Commissioner Bright and myself; and the Express Mail Metro Service Proposal, Docket No. MC79-2.

In the separate opinion in MC78-1, I stated that it is "our duty to encourage the Postal Service's efforts to remain competitive in the parcel delivery market." Thus, the first step in defining the role of the Postal Service in areas where it is permitted by law to compete with private enterprise is recognizing that the Service must maintain a competitive status in these areas if it is to continue to serve them. While we rejected the Service's proposal in Docket No. MC78-1, I also stated at page one of the separate opinion that:

Balancing the technical inadequacies of the Service's proposal with our commitment to foster competition in the parcel delivery market made our participation in the recommended decision most difficult.

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I stated further, with respect to the declining volume of parcel post, that one way to "revitalize the Postal Service in the parcel market" would be to align rates more closely with costs.

But the need for accurate ratemaking is, of course, not peculiar to parcel post and in fact is vital in considering the role of the Postal Service in all markets where it competes with private industry. The basic principle is that if rates accurately reflect costs, then competition between government entities and private industry will generally be equitable.

We addressed this issue in the EMMS decision. In particular we stated, at page 34:

The Postal Reorganization Act, however, did not require the Service to cease competing with the private sector; rather, the Postal Service was merely required not to unfairly compete with the private sector.

We noted in that decision the requirements of § 3622(b)(4), which I spoke of earlier. We stated that since § 3622(b)(4) requires the Commission to consider the public interest, we are obliged to consider the national policy in favor of competition, albeit not the antitrust laws in particular. We concluded that the Postal Service had an obligation, in addition to its obligation to abide by the service standards of the Postal Reorganization Act, to comply with this national policy.

We concluded that more data was needed with respect to the potential anticompetitive effects of EMMS and we

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recommended it as an experiment, rather than as a permanent classification change. However, we also stated that:

After thoroughly examining the record, we find that by proposing EMMS, the Service is fulfilling its development responsibility, and in doing so is apparently competing fairly with the private sector. EMMS is not inherently anticompetitive as long as the rates cover costs and are consistent with § 3622(b)(3) of the Act.

Last week President Carter issued a memorandum encouraging agencies to innovate in regulatory management and to develop regulatory alternatives. The PRC E-COM decision was credited as one of the leading examples of a regulatory action which improves regulation by stimulating competition and removing regulatory barriers. The White House statement said that:

The Postal Rate Commission rejected a Postal Service recommendation to contract with a single carrier to handle all electronic mail services. Instead, the Commission accepted a plan for private competing firms involved in electronic transmission to send messages from customers directly to specially equipped post offices. This decentralized and competitive approach would foster competition and provide technically superior service at a lower rate.

In summary, Postal Service competition with private enterprise is appropriate, so long as the necessary steps are taken to insure that the competition is fair.

Question Fourteen

How has the Rate Commission budget and personnel grown in the past nine years in relation to growth in the U.S. Postal Service budget?

The Postal Service's budget has grown approximately three times as fast as the Commission's over the last nine years. Whereas our budget has increased by 35.6 percent, the Postal

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Service's has increased by 99.6 percent. Despite the rapid growth in the Service's budget, which creates enormous complexities for the ratemaking process, we have managed to reduce our positions by 18.4 percent as compared with the Service's reduction of 7.0 percent. The following chart indicates the budget and personnel levels of the Rate Commission and the Postal Service.

BUDGET, FY 72 AND FY 80

	<u>POSTAL RATE COMMISSION</u>		<u>UNITED STATES POSTAL SERVICE</u>	
	<u>Positions</u>	<u>Amount (\$000)</u>	<u>Positions</u>	<u>Amount (\$000)</u>
1972	98	\$2,500	706,400	\$ 9,608,000
1980	80	3,390	657,081	19,175,000
% increase or (decrease)	(18.4%)	35.6%	(7.0%)	99.6%

Thank you for your interest in the workings of the Postal Rate Commission. I hope I have answered these questions to your satisfaction.

Sincerely,


A. Lee Fritschler

STATUS REPORT ON THE
DOCKET NO. MC76-5 LONG-RANGE STUDY PROGRAM

INTRODUCTION

The purpose of this report is to provide a status report on the Docket No. MC76-5 Long-Range Study Program. After an introductory portion setting forth an overview of the study program, the report discusses each study describing the objectives and other highlights of the study. The original projected completion date and the current status of each study is included in most of these brief synopses.

Because this survey was instituted as a result of the substantial delays that have incurred in completing the study program, there is attached to the body of this memorandum a detailed chronology of events focusing on delays.

BACKGROUND

Section 3623 of the Postal Reorganization Act (Act) required the Postal Service to request the Commission to issue a recommended decision on the establishment of a mail classification schedule within two years of passage of the Act. In January 1973, the Postal Service filed such a request and the Commission instituted Docket No. MC73-1 to consider the Postal Service's request. Approximately a year later in July 1974, the Commission recognized that the development of a classification schedule consonant with the statutory requirement of a "fair and equitable classification system for all mail" would

require substantially more data than that available. This data would have to be collected through a long-range study program.

In order to avoid delay in recommending relatively minor classification changes to the then operable classification schedule, the Commission divided Docket No. MC73-1 into three phases (PRC Order No. 51, July 1, 1974).

Phase I would consider the six classification changes proposed by the Postal Service in January 1973.

Phase II would consider proposals of a limited nature advanced by parties other than the Postal Service.

Phase III would consider basic classification reform issues and called upon the Postal Service to develop a study program to collect data for the purpose of major classification reform.

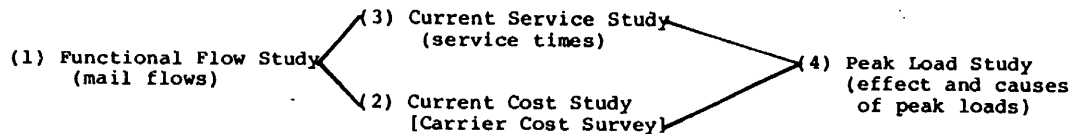
In April 1976, the Commission issued its Opinion and Recommended Decision on Phase I of Docket No. MC73-1. At approximately the same time it established Dockets No. MC76-1 to MC76-4 to handle Phase II and Docket No. MC76-5 to oversee the ongoing long-range classification studies of Phase III.

Hence the subject of this memorandum, the long-range study program, has been before the Commission since the middle of 1974. The program consists of ten different studies being

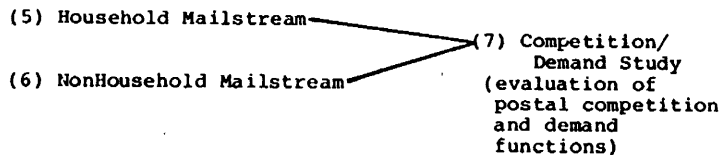
developed under Postal Service contracts with various private consulting firms. In addition, a study identified as a Carrier Cost Survey is being handled in-house by the Postal Service. Certain of these studies are designated as baseline studies because they will develop a data base for other studies and future classification proposals. The following chart identifies the studies and illustrates their inter-relationships.

CHART OF STUDIES

Baseline Studies



Mailstream Studies (study of users of mail system)



Other Studies

- (8) Commercial Mailing Programs--receives input from Current Cost and Competition Demand Studies
- (9) Physical Mail Standards--receives input from Current Cost and Competition Demand Studies
- (10) Service-Related Products--receives input from Current Cost, Current Service, Peak Load and Competition/Demand Studies.

The long-range study program has been constantly beset by delays. Only one study, the Household Mailstream Study, has been completed. Both presiding officers, Commissioners DuPont and Duffy, have exhorted the Postal Service to complete these studies. Yet the Postal Service has been unable to either devote the resources or have its contractors devote the resources necessary to complete the studies.

As a consequence of the incessant delays in completing the studies, the potential for meaningful classification reform is being stifled. Also many improvements in rate design and cost attribution and distribution, which would be expected to result from the study program, are being delayed. A prime example is the Carrier Cost Survey which was expected to develop cost data which would substantially reduce the need to use assumptions in distributing carrier street time costs in the pending Docket No. R80-1 rate proceeding.

INDIVIDUAL STUDIES

Functional Mail Flow Study

The Functional Mail Flow Study is intended to provide a detailed description of flow patterns and estimates of associated volumes for inter-office and intra-office processing of mail. This study is a prerequisite to the completion of the Current Cost and Current Service Study as it provides a substantial portion of the basic data for these studies. In turn, one or more of these three studies provide essential inputs for the balance of the MC76-5 studies, exclusive of the mailstream description studies.

Although a "final report" for the Functional Mail Flow Study was issued in November 1977, the major work product of this study, the Summary Mail Flow Data Set, is not yet available.^{1/} It is this data set which will contain the detailed information as to how mail enters the postal system and the operations which are applied to the mail until it reaches the recipient. In more specific terms, the data set will provide for a particular profile of mail (subclass, shape, indicia, presort level, etc.) data indicating the number of and types of sorts, handlings, transportation modes, etc., inherent in the processing of the mail.

As indicated, the "final report" in this study was issued in November 1977. In a status report dated March 23, 1978, the Postal Service indicated that the Summary Mail Flow Data Set would be completed in early August 1978. As of June 1980, the Postal Service states that the narrative report describing the results of the Summary Mail Flow Data Set project will be completed in August 1980.

^{1/} The Postal Service has indicated that it considers the Summary Data Set to be separate from the original Functional Mail Flow Study. This contention is at odds with the facts because completion of certain other studies is conditioned on obtaining this data set. Without the data set much of the study program would be impossible to complete.

Current Cost Study

The Current Cost Study will develop costs by function and subfunction, for example, mail-processing, transportation, delivery, supervision and equipment maintenance. Within each functional and subfunctional cost grouping, costs will be fragmented to permit identification of the amount of costs caused by characteristics traceable to the nature of mail deposited in the mail-stream, such as shape, weight, cube, distance and special service characteristics.

In addition to ascertaining functional costs, the study will also examine the effect on costs of such factors as mail volume, mail machinability, frequency of collection and delivery, number of addresses in a carrier route, number of vehicles being used, etc. Data relating to these factors (workload measures) will be combined with the aforementioned data relating to functional costs to provide a reliable data base to analyze cost behavior.

Initially, the Current Cost Study was to provide parametric cost models which would have provided the ability to incrementally estimate the cost consequences of changes in the volumes of the different categories of mail. In August 1978, this part of the Current Cost Study was transferred to the Peak Load Study.

The Current Cost Study, being an exhaustive study of cost incurrence, is expected to significantly improve the understanding of cost behavior. In the classification area, it is expected

that it will lead to improvements in classification structure. With this data it will be possible to establish new groupings of mail matter based on homogeneous cost characteristics and conversely divide existing subclasses where the cost characteristics of mail within the existing subclass are significantly heterogeneous.

Proposals on the Current Cost Study were requested in July 1976. The contract was awarded April 1977. The May 1977 status report indicated that the study was to be completed in November 1978.

Presently, the Current Cost Study is divided into three parts. Part I involves those portions of the Current Cost Study not dependent on the Summary Mail Flow Data Set. The final report on Part I is scheduled to be filed in late June. Part II, which represents the balance of the study exclusive of the parametric modeling, is scheduled to be completed in August 1980. As indicated, Part III, which is the parametric modeling, is to be merged into the Peak Load Study.^{1/}

Carrier Cost Survey

This study is an outgrowth of the Current Cost Study. It was the Commission's expectation that an analysis of postal costs would include a detailed analysis of carrier cost behavior. An examination of city carrier costs is especially important not only because it comprises approximately 14 percent of postal costs, \$2,352 million in Docket No. R77-1, but also

^{1/} It is questionable whether the parametric modeling is being performed in the Peak Load Study because the Peak Load Study is supposed to be available shortly.

because the Postal Service's current data systems fail to provide ongoing data permitting identification and distribution of the major components of out-of-office carrier costs.

The depth of the study of carrier costs in the current cost study was a subject of controversy from late 1977 until late 1978 when it was agreed that the Postal Service would conduct a separate detailed in-house study of carrier street time. Although this study is to be conducted in-house, the Postal Service agreed to cooperate with the parties on this study, make the study publicly available and to report monthly on the status of the study. In May 1979, the Postal Service stated that the study would be completed by December 1979.

The Postal Service has recently indicated that a "computer file of residential and mixed route information will be available in late summer" (1980). A computer file of business and support routes will not be available until 1981. Written reports will not be available until a later date.

Current Service Study

The Current Service Study is to provide estimates of the length of time from entry to delivery for mail. The study will provide these estimates by subclass, shape, indicia, and other factors, such as presort level, which have a bearing on how the mail is processed. The time estimates (component services times) will be developed for major fundamental areas, e.g., collection or delivery, and for more discrete operations such as time spent on delivery routes.

By analyzing the component service times in conjunction with the attributes of the mail (class, shape, machinability, condition and presort level), it will be possible to identify different levels of service and ascertain the areas and causes of different levels of service.

Proposals on the Current Service Study were requested in May 1976. The contract was awarded in May 1977. The May 1977 status report indicated that the final report for this study was to be completed in June 1978.

As of June 1980, the Current Service Study is far from completion. The initial contractor's work on the study has been effectively terminated. The balance of the study is to be completed as a part of the Service-Related Products Study.

Peak Load Study

Using FY 1978 as the base year, the Peak Load Study is to determine the effect of mail arrival rates, service standards and Postal Service staffing and capacity constraints on workload patterns. The study will thus identify workload patterns and ascertain the effect of these workload patterns on postal costs. Areas where workload patterns will be critically analyzed are mail processing, delivery, window service and collection/acceptance and transportation.

As part of the study the contractor is to prepare models which will quantify peak load costs. With the output from this study, it will be possible to identify the causes of peaking patterns and to identify and allocate the costs traceable to peaking patterns

to the classes of mail causing peak-load costs.

The Peak Load contract was awarded in July 1978 to System Planning Corporation. In a July 1978 monthly report, the Postal Service estimated that this study would be completed in August 1979. As evident, this study was not completed by August 1979. A report which the Postal Service denominates as "presenting analytical results" to date is scheduled for June 1980. The Postal Service indicates that this report will constitute the final report in this study if acceptable to the parties.

Mailstream Studies

1. Household Mailstream Study

The Household Mailstream Study was completed by the Survey Research Center at the University of Michigan in 1978. This study provides data as to the composition of the household mailstream. It identifies quantities of mail transmitted by (1) type of sender and recipient, (2) subclass, (3) content and (4) certain other attributes of mail which result in cost differentials.

2. Nonhousehold Mailstream Study

The Nonhousehold Mailstream Study is also being performed by the University of Michigan and differs from the Household Study in that it focuses on the business, non-profit, and government mailstreams. This study is scheduled to be completed in July 1980.

Competition/Demand Study

It was initially contemplated that the Competition/Demand Study would provide a data base on competition with the Postal Service and a set of demand equations on the demand

for postal services. The competition portion of the study would compile price and market data on competition to the Postal Service with the intent of identifying those factors which affect the demand for postal services.

Because of difficulty in obtaining primary data, the contractor decided to rely primarily on secondary data sources. The final report will consist of two volumes. Volume I will deal with competition and volume II will provide theoretical approaches to demand analysis, but no actual demand analysis results.

The contract for the Competition/Demand Study was awarded in November 1977. Initially, it was contemplated that the study would be completed by March 1979. Presently, the final report, which as described above will not fulfill one of the two major objectives of the study, is now scheduled to be filed in June 1980.

Commercial Mailing Programs Study

The Commercial Mailing Programs Study is to evaluate various concepts which would lead to increased worksharing between the Postal Service and the mailer. In the first stage of the study the contractor examined various worksharing concepts and selected four for further in-depth study. The four concepts selected for further study are (1) presorted bulk, (2) plant loading, (3) bar-coding, and (4) local zone mail. Two other worksharing concepts are being studied internally by the Postal Service and will be reported on intermittently by the Postal Service during the MC76-5 study program. They are detached labels and containerization.

The contract on this study was awarded in March 1979. The Postal Service in its report for March 1979 indicated that the final report in this study would be available in July 1980. Presently this study is projected for completion in January 1981.

Physical Mail Standards Study

The direction of the Physical Mail Standards Study is uncertain. A preliminary Schedule of Work filed October 7, 1977, indicated that the study would develop physical standards for mechanical and manual processing of letters and parcels. In addition, the study would collect and summarize data on physical characteristics of mail in the current mailstream.

The Postal Service questions the need for this study. Presently, the Postal Service is reviewing tables prepared by the Office of the Commission to determine what data relating to physical mail standards will be collected in other Docket No. MC76-5 studies. Awaiting completion of this review the direction of this study is indeterminable.

Service-Related Products Study

Like the Commercial Mailing Programs Study the Service-Related Products Study is to evaluate proposals for future implementation. This study will focus on new products concepts involving service standards which could be made available if found to be cost-effective and in demand.

The study is to be conducted in two stages. The first stage will consist of a feasibility study of various new concepts and will focus on the operational feasibility, cost impact and market demand of the new concepts.

CHRONOLOGY OF EVENTS
FUNCTIONAL MAIL FLOW STUDY, SUMMARY DATA SETS

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> (Originally June 1976)
4/15/75	Postal Service submits a detailed Study Program including plans for an automated (computer) model descriptive of postal system mail flows.		June 1976
11/4/75	Postal Service submits a revised schedule. The original completion date was based upon a decision to utilize sole-source procurement rather than competitive bidding.	Delayed six months.	January 1977
2/15/76	Contract for Functional Mail Flow Study awarded.	Delay of two months.	March 1977

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> (Originally June 1976)
8/23/76	Postal Service reports that a technical review meeting was held with the contractor. Task II Report has been distributed.	On schedule.	March 1977
9/23/76	Postal Service notes that because the collection of augmented ODIS data is not projected until January 1977, it "may not be possible to integrate this data with that produced by the other three Flow Study data collection efforts and still meet the schedule set out in the Flow Study contract."		
10/26/76	In order to permit integration of the augmented ODIS data with the rest of the study, the contract has been extended two months.	Delayed two months.	May 1977
1/25/77	Tasks 3 and 4 Reports were distributed. Data collection efforts continue and are scheduled for completion in March.		

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> <u>(Originally June 1976)</u>
2/25/77	No delays reported in data collection which would affect the time schedule.		
3/30/77	Postal Service reports that data collection is complete and data are being prepared for entry into the computer. However, it also reports "problems with the keypunch contract" for which remedial actions have begun.		
5/26/77	Data are still being edited. A new contractor for keypunching has begun work.	Delay of two months.	July 1977
6/20/77	Parties informed that the Summary Mail Flow Data Set, needed for analysis of data gathered in the Functional Mail Flow Study, would not be incorporated in the final report of that Study.		
7/29/77	Data processing activities are said to be taking longer than expected.	Delayed one month.	August 1977

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date (Originally June 1976)</u>
8/26/77	Postal Service announces that further work is required to complete the Flow Study "based on preliminary review of information."	Delayed three months.	November 1977
11/15/77	Flow Study "final report," without the Summary Mail Flow Data Set, is issued. Without the Data Set, the Flow Study is an uncoordinated collection of data. <u>No study of mail flows is possible</u> since the various data cannot be fitted together and made to interact.	No completion date projected.	
3/10/78	Preliminary output tables are issued to Advisory Panel members. Requests for specific tables by parties due April 1978.	Four months have passed since the "final report."	
4/28/78	Revised list of output tables distributed to parties, whose comments are due 5/12.	Five months have passed since the "final report."	
7/15/78	Two months after receiving parties' comments on the revised output tables, the Service decides that three more months are needed to begin implementing parties' suggested changes.	Eight months have passed since the "final report."	November 1978

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date (Originally June 1976)</u>
9/30/78	Postal Service cites "minor computer processing delays."	Delayed 1-1/2 months. Ten months have passed since the "final report."	December 1979
12/29/78	Postal Service has just conducted a review of its contractor's technical and managerial procedure. No mention of this review was made up to now, nor was there any indication from the previous two monthly reports that the progress of the study was being hindered.	Delayed four months. Thirteen months have passed since the "final report."	April 1979
3/30/79	Postal Service indicates that the Data Set completion is "on schedule." Yet, the completion date has been moved from April to August.	Delayed four months. Sixteen months have passed since the "final report."	August 1979
4/30/79	Postal Service cites programming problems.	Delayed six weeks.	October 1979
6/30/79	More programming problems are discovered.	Nineteen months have passed since the "final report."	
7/17/79	Still more programming problems are cited, but the process of correcting them is going "smoothly."		

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> <u>(Originally June 1976)</u>
7/31/79	The contractor has, according to Postal Service, decided to rewrite the entire program.	Twenty months have passed since the "final report."	
10/1/79	Postal Service cites "major unanticipated problems" as being the only bar to a speedy completion of SMPDS.	Programming activities scheduled for completion in November.	December 1979
10/31/79	Data Set programming said to be proceeding on schedule.	Twenty-three months have passed since the "final report."	
1/4/80	"Several minor errors in the computer program" have delayed completion. Compare the phraseology here with the 10/1/79 report.	Preliminary SMPDS tape expected in February. Twenty-six months have passed since the "final report."	March 1980
2/27/80	Postal Service states that "production mail tracing has now begun."	Delay of two months. Preliminary SMPDS tape due in March, 1980. Final tape with printouts expected in April, 1980.	May 1980

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> (Originally June 1976)
3/31/80	Postal Service is still citing minor programming problems as the basis for delay.	Twenty-eight months have passed since the "final report."	
4/30/80	Further delays incurred in order to transfer the computer files and programs and to make still more so-called "minor" programming changes.	Delay of two months. Preliminary tapes due in May. Final tape with printouts due in June, 1980. Twenty-nine months have passed since the "final report."	June 1980
	Additions to the charts prepared by the OOC*		
5/30/80	A finalized Summary Data Set tape will be provided to the Cost Study contractor in late June. A narrative report of the analytical results of the Summary Data Set work will be available in August.		

*The Chronology of Events for the Functional Mail Flow Study was prepared by the Officer of the Commission in a May 22, 1980 filing.

CHRONOLOGY OF EVENTS
CURRENT COST STUDY

APPENDIX 2
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<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> (<u>Originally June 1977</u>)
4/15/75	Postal Service files a detailed Study Plan, including plan for Current Cost Study.		June 1977
11/4/75	Postal Service files a revised schedule, based on competitive procurement procedure rather than sole-source, as originally planned.	Delay of six months.	January 1978
5/76	Request for Proposals issued. Proposals are due in early July.		
6/26/76	Postal Service files a status report explaining that the program's complexity causes some delay, although timeliness is still said to be important.		May 1978
7/27/76	Postal Service has begun review and evaluation of the technical proposals.		

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> <u>(Originally June 1977)</u>
10/26/76	Evaluation of the technical proposals has been completed, and evaluation of the cost proposals has begun.		
11/26/76	Cost proposal evaluation continues. An award is expected next month.		
12/23/76	Evaluation of proposals is complete, and negotiation with the bidders will begin. An award is delayed until January.	Delay of one month.	
1/25/77	Final negotiations with bidders have yet to be arranged. An award is delayed until February.	Delay of one month.	
2/25/77	Bidders have been requested to submit revised proposals, which are being evaluated. A contract award is not expected until March.	Delay of one month.	

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date (Originally June 1977)</u>
3/30/77	Postal Service has not yet undertaken final negotiations with its bidders. A contract award is not expected until April.		
4/8/77	Contract awarded. Contractor has undertaken orientation.	Four month delay from last estimate.	September 1978
5/26/77	Contractor orientation still underway.		
6/24/77	Orientation continuing.		
7/29/77	"Efforts by the contractor to determine . . . the exact approaches to be pursued continued" during the month of July		
8/26/77	The Task II (Feasibility) report will be distributed to the parties in September.		
10/14/77	The Task II Report has been distributed to parties.		
11/25/77	A list of Cost Study outputs is being prepared by the Postal Service.		
1/27/78	A panel meeting was held in January to discuss the output list.		

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date (Originally June 1977)</u>
3/22/78	Study contractor decides to obtain certain transportation cost data through joint data collection with MPCM project.	Delayed three months	December 1978
5/12/78	Data collection for rural carriers in the planning stage.		
5/17/78	Task 4 Report distributed.		
7/31/78	Pilot study of Vehicle Service Drivers delayed until August. MSC Survey set for August.		
8/30/78	Vehicle Survey Driver pilot study delayed until September. MSC Survey delayed until September. Parametric modeling activity removed from this study and placed in Peak Load Study.	Parametric modeling activity has joined the Peak Load Study which is merely in "orientation" stage.	
9/30/78	Completion date delayed due to the fact that the earlier completion date reflected a study effort which excluded certain data originally promised.	Delayed five months	May 1979

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date (Originally June 1977)</u>
2/28/79	Postal Service reported that "It has recently become apparent that certain data inputs required to complete the Cost Study have been delayed."	Delay of indeterminate length.	No completion date
3/30/79	The FY 78 payroll data cannot be made available to the contractor until June 1979.	Delay of an indefinite period of time.	No completion date
4/30/79	Pilot studies for Caller Service Questionnaires and MSC Survey conducted in April. Payroll data still delayed.		
7/17/79	Payroll problems reported to be solved.	Payroll problems have caused a total of four months' delay.	September 1979
7/31/79	Postal Service's ten tasks within this study scheduled for completion by the end of September. The Workload Measure Data Flow Study, however, depends upon the Summary Mail Flow Data Set.	Final Report cannot be completed without the Summary Mail Flow Data Set. Delay of one month.	October 1979

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date (Originally June 1977)</u>
10/1/79	Postal Service has now separated the final report into two parts; the first volume contains parts of the Current Cost Study not dependent upon the SMPDS; the second volume depends upon the Data Set.	No reason given for the further delay of Vol. I	Vol. I: November 1979 Vol. II: February 1980
1/4/80	"Additional data editing" reported necessary for Volume I.	Vol. I delayed three months Vol. II delayed one month	Vol. I: February 1980 Vol. II: March 1980
2/27/80	Still more data editing required for Volume I. The completion of Volume II depends upon the SMPDS being made available to the CCS contractor.	Vol. I delayed two months Vol. II delayed one month	Vol. I: April 1980 Vol. II: April 1980
3/31/80	Volume I reported on schedule. Further problems with SMPDS are holding back Vol. II.	Vol. I on schedule. Vol. II delayed one month	Vol. I: April 1980 Vol. II: May 1980
4/30/80	Without explanation, Postal Service reports another delay in Vol. I. It also expects the SMPDS tape will be provided to the contractor in May.	Vol. I delayed one month Vol. II delayed one month	Vol. I: May 1980 Vol. II: June 1980

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date (Originally June 1977)</u>
5/21/80	Postal Service reports that Vol. I is being withheld pending the SMPDS, even though the Data Sets are not needed to produce that portion of the Cost Study. A further delay in SMPDS is holding back Vol. II.	Vol. I delayed one month Vol. II delayed one month	Vol. I: June 1980 Vol. II: July 1980
	Additions to the charts prepared by the OOC*		
5/30/80	Volume I of the final report will be available by mid-June. Volume II is dependent upon a final Summary Data Set tape and will not be available before August.	Delay of two months.	August 1980

*The Chronology of Events for the Functional Mail Flow Study and the Current Cost Study were prepared by the Officer of the Commission in a May 22, 1980 filing.

CHRONOLOGY OF EVENTS
CARRIER COST SURVEY

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> (Originally December 1979)
1/79	The survey's completion date will be determined by the manpower resources allocated to the Study by USPS management. Work is proceeding on the identification of data requirements, the design of data collection formats, and the development of plans for a feasibility study in the Spring of 1979.		
2/79	Continued development of a questionnaire survey. Data collection will occur from June through October. A request for Regional support has been made, but no response has been received.		
3/79	The regional offices have temporarily assigned 24 industrial engineers to CCS work.		
4/79	Milestones for the remainder of the year have been set. The training session commenced April 30.		December 1979

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> <u>(Originally December 1979)</u>
5/79	Distribution of the questionnaires was delayed ten days so that postal union officials could communicate with affected locals. Editing of questionnaires commenced. The "unanticipated low response rate" has caused a delay in the selection of the carrier/route sample.	Delay of one month.	
6/79	Data technician training sessions held at regional locations during the week of June 25. Data collection efforts scheduled for June 9 through October.	On schedule.	
7-8/79	Data collection commenced in July. Development of a data summary, edit, and analysis system began in July. This work continued in August.		
10/79	153 routes chosen for study in November. Studies of mixed and residential route types are almost complete. 40 time series studies of various route types planned for November. Work on the development of computer programs continues.		
11-12/79	Business route feasibility studies conducted. Pilot tests conducted in Chicago the week of November 26. Business studies conducted in all regions the week of December 3.		

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> (Originally December 1979)
1-2/80	Business route and time series data collection activities progressed on schedule. Data analysis will continue for the next several months. "Time demands related to the pending rate filing are expected to introduce an element of uncertainty into the scheduling of Carrier Cost Survey activities."		
3/80	Business route and time series data collection activities completed on schedule. Data review and editing commenced. Support route data collection activities progressing on schedule. Some resources diverted from the study due to the pending rate filing.		
4-5/80	Continued data review and editing and development of an analytical computer program. Resources continue to be diverted from the survey. The preparation of additional tabulations and analyses of data requested by the OOC and the parties will require additional time.		

CHRONOLOGY OF EVENTS
CURRENT SERVICE STUDY

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> <u>(Originally June 1977)</u>
4/15/75	Postal Service submits a detailed study plan, including plan for Current Service Study.		June 1977
11/4/75	Postal Service submits a revised schedule, based on competitive procurement procedure rather than sole-source, as originally planned.	Delay of seven months.	January 1978
5/28/76	Postal Service reports revisions made in the Current Service Study. Contract expected to be awarded about December 1, 1976.	Delay of two months.	March 1978
7/26/76	Request for Proposals issued.		
10-12/76	Evaluation of the technical proposals.		
2/25/77	Reports that "[e]xtensive negotiations with the technically acceptable bidders took place in February, resulting in the submission of revised proposals," causing a delay in the contract award until early March.		
3/30/77	Contract award expected in April.	Delay of one month.	April 1978

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> (Originally June 1977)
5/4/77	Contract has not yet been awarded. The award should not be made until the Mail Flow Study is within two months of being completed.	Delay of two months.	June 1978
6-7/77	Data collection continues. Contract awarded.		
8/26/77	Reports data collection completed at Denver and the results are being keypunched. The Feasibility Report should be available in October.		
10/14/77	Reports continued data processing and analyses of service data collected in Denver and Marysville. Expects to distribute the Feasibility Report in November.		
11/25/77	Reports that the Task 2 Report will be distributed next week.		
2/9/78	Task 2 Report distributed January 13. Field test will be conducted January 23, 1978 through February 10, 1978.	On schedule.	
3/22/78	Data collection began in mid-March and will continue through October 1978, causing a six month delay.	Delay of six months.	December 1978
7/5/78	The Task 4 Report was distributed May 24.		

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> (Originally June 1977)
7-9/78	Data collection was completed in the Portland, OR; St. Louis, MO; Pierre, SD; Atlanta, GA; Marysville, CA; Chicago, IL; and Portsmouth, NH MSCs.		
10/27/78	Data collection completed in the San Francisco BMC and the New Orleans, Northern Virginia, and Newark, N.J. MSCs. Contractor's computer programming team will not be able to work on the Service Study tasks until the Summary Data Set work is finished.	Delay of five months.	May 1979
11/78	Data collection completed by November 18. A survey of Transportation Management Offices (TMOs) will be conducted in December and January.		
12/29/78	Commenced keypunching, editing, and processing of collected data.		
1/31/79	Data collection from the TMOs will continue in February.		
2/28/79	Data collection from the TMOs will continue in March.		

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> <u>(Originally June 1977)</u>
3/30/79	Transportation data collection continued in March. The remaining data should be available by the end of April. The contractor informed the Postal Service that he needs more time and funding to complete the study.		
4/30/79	Data editing should be complete by the end of May. Discussion of the Study Schedule at the April 27 panel meeting.		
5/31/79	Data editing expected to be completed by mid-June. The Postal Service will then evaluate alternative methods for completing the computer programming activities required to complete the data sets.	Delay of one month.	June 1979
6/30/79	Editing of source data completed. Six more weeks are needed to complete the specification of analytical procedures used to produce the Service Study data sets.	Delay of two months.	August 1979

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> <u>(Originally June 1977)</u>
7-8/79	Due to the "low level of remaining funds" for the Current Service Study, the contractor was directed to concentrate on the Summary Data Set work, since the Summary Mail Flow Data Set activity is included in the Current Service Study contract. The Postal Service is exploring the "possibility of a separate contractual effort to complete the Service Study work."		Unknown
9/79	Reports that it would be nine months before work on the Study could be resumed if a new contract is needed.		Unknown
10-12/79	Panel meeting discussions on the need for Current Service Study results and the future of this study.		Unknown
1-2/80	The Service-Related Products Study contractor is asked to evaluate the work that has been completed and remains to be completed for the Current Service Study.		Unknown
3-5/80	The Service-Related Products Study contractor is expected to complete the Current Service Study work within the Service-Related Products Study. This will be the topic of discussion at a June 11 meeting of the Classification Advisory Panel.		Unknown

CHRONOLOGY OF EVENTS
PEAK LOAD STUDY

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> (Originally June 1977)
4/15/75	Postal Service submits a detailed study plan, including plan for Peak Load Study.		June 1977
11/4/75	Postal Service submits a revised schedule, based on competitive procurement procedure rather sole-source, as originally planned.	Delay of seven months.	January 1978
5/28/76	Contract expected to be awarded about April 1, 1977.	Delay of three months.	April 1978
9-10/76	Preparation of the Preliminary Schedule of work. The RFP is expected to be issued in November.		
11/23/76	The RFP will be delayed until issues related to peak loads have been resolved. A second meeting of the Classification Advisory Panels requested by the Officer of the Commission will be scheduled for early December.		

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date (Originally June 1977)</u>
1/25/77	Reports that the second meeting of the Classification Advisory Panels will be in February.		
2/25/77	The Peak Load Study is scheduled to begin on January 1, 1978.	Delay of seven months.	November 1978
3/30/77	Reports that the second meeting of the Classification Advisory Panels held March 17, 1977. A revised schedule of work under preparation for the RFP.	Delay of three months.	February 1979
5/4/77	Contract has not yet been awarded. The study cannot begin until data on arrival rates and component service time have been collected during the first 10 months of the Current Service Study.	Delay of one month.	March 1979
5-6/77	Second revised preliminary SOW was distributed. February contract award date still scheduled.		
7-8/77	Reports that the study proceeded to the procurement stage in early July. Issuance of the RFP planned for August. Contract award planned for March 1978.	Delay of one month.	April 1979

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> (Originally June 1977)
8/30/77	RFP issued.		
10/14/77	RFP extended. Proposals now due October 17.		
11/25/77	Commenced review of the proposals in response to the RFP.		
2/9/78	Review of cost proposals to commence shortly. Contract award date planned for April.	On schedule.	
3-5/78	Contract award expected in May. Two month delay caused by "complications in the contractor proposal evaluations" and a delay in the Current Service Study.	Delay of two months.	June 1979
7/5/78	The contract is expected to be awarded by the end of July. Delay of award caused by a "longer negotiation process than anticipated."	Delay of two months.	August 1979
7/24/78	Contract awarded.		
10/78	Delays in the Current Cost and Current Service Studies have postponed the completion date of the Peak Load Study.	Delay of five months.	January 1980.

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date (Originally June 1977)</u>
11/78-1/79	Continued preparation of the Task 2 Report.		
2/28/79	A Panel meeting was held on February 16, but discussion of the Peak Load Study was postponed at the request of the OOC staff due to "unexpected scheduling conflicts."		
3-4/79	Distribution of the final version of the Task 2 Report expected in May.		
6/15/79	The Task 2 Report was sent to the parties.		
7/10/79	Data analysis continued.		
11-12/79	"Delays in several of the MC76-5 studies have caused certain portions of peak load analyses to be delayed." A report summarizing the analytical results to date will be distributed in March.		
1-3/80	The report on the analytical results achieved to date expected to be delivered in April.	Delay of two months. (January Report) Delay of one month. (February report)	March 1980 April 1980
4/30/80	Contractor experiencing delays.	Delay of one month.	May 1980
5/31/80	Final report expected in June.	Delay of one month.	June 1980

CHRONOLOGY OF EVENTS
NON-HOUSEHOLD MAILSTREAM DESCRIPTION STUDY

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> <u>(Originally March 1977)</u>
4/15/75	Postal Service submits a detailed study plan, including plan for Market Description Study.		March 1977
9/19/75	Postal Service proposes dividing the market research study into two segments, household and non-household, with a separate study conducted for each segment. A preliminary schedule of work for each segment is submitted.		
11/4/75	Postal Service submits a revised schedule, based on competitive procurement procedure rather than sole-source, as originally planned.	Delay of ten months.	January 1978
5/14/76	Request for proposals issued.		
8/20/76	Interim contract awarded.	Delay of one month.	February 1978
9/23/76	Finalized contract in the process of being signed by the contractor.		
11/23/76	Reports that the status of the contractual relationship with the contractor is "undergoing consideration."		

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> <u>(Originally March 1977)</u>
12/28/76	Formal termination of contractual relationship with the contractor. Expects to award a contract to another contractor "in the early months of the New Year."		
2/14/77	Contract became effective.		
3-5/77	The Non-Household Mailstream Description feasibility study proceeding toward completion.	Delay of four months.	June 1978
6/24/77	Task 3 Report distributed. Two week delay due to unscheduled second pretest effort begun in Ann Arbor to test the forms and questionnaires revised after the first pretest.	Delay of two weeks.	
7/29/77	The Non-Household Mailstream Feasibility Study has begun. Field data have been collected and a complex computer program is being written to eliminate duplicate nonhouseholds in combining the various postal records.	No delay.	June 1978

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> <u>(Originally March 1977)</u>
8/26/77	Reports that the three-week data collection effort for the Feasibility Study extended to four weeks to accommodate large mailers in the sample. Coding and key punching of the field data have begun. The complex computer program to consolidate duplicate non-households has been written. Feasibility study expected to be concluded by the end of November.	One year delay.	June 1979
10-11/77	Task 2 Report is projected for the middle of November. Feasibility Report still expected in December. Completed preliminary testing of data-collection procedures for mail received by nonhouseholds.		
2/9/78	Contractor has recommended a 13-month, mail-piece data-collection period, beginning late in June 1978. Six month delay caused by contractor's determining that the "collection of annual nonhousehold data could not be accomplished through utilization of earlier mailer time-period records."	Delay of six months.	December 1979
6/2/78	Task 2 Report distributed.		
3-7/78	Reports that data collection and processing is continuing.		

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> <u>(Originally March 1977)</u>
7-8/78	Development of sampling frame.		
9-12/78	Completed training of contractor and postal personnel involved in data collection activities. Full-scale data collection begins in October.		
1/31/79	Contractor reports that three additional months will be "required for analytical activities to insure the accuracy of the data to be presented in the final report." The contractor also reports that "field data activities are proceeding smoothly."	Delay of three months.	March 1980
2-4/79	Continuation of field data collection activities.		
5-6/79	An Interim Report covering the first three months of data collection will be distributed by the end of July 1979.		
7/31/79	An additional month will be required for data processing and analysis due to the "higher-than-expected response rate."	Delay of one month.	April 1980
8/8/79	The Interim Report was mailed.		
9-11/79	Field Data collection activities completed in November.		

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<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> <u>(Originally March 1977)</u>
11-12/79 1-2/80	Computer processing of questionnaires and analysis of the data continued.		
3-5/80	Reports a three-month delay "[b]ecause the size and complexity of the various data base management and analysis tasks were somewhat underestimated."	Delay of three months.	July 1980

CHRONOLOGY OF EVENTS
COMPETITION AND DEMAND STUDY

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date (Originally June 1977)</u>
4/15/75	Postal Service submits a detailed study plan, including plans for separate Competition and Demand Study.		Competition Sept. 1976 Demand June 1977
11/4/75	Postal Service submits a revised schedule, based on competitive procurement procedure rather than sole-source, as originally planned. Proposes merger of Competition and Demand Studies.	Delay of seven months.	January 1978
5/28/76	Contract expected to be awarded March 1, 1977.	Delay of five months.	
8/16/76	Request for Proposals (RPP) issued.		
9/23/76	Reports amendment to the RPP issued September 20, 1976, extending the RPP due date from October 18, 1976, to November 1, 1976, due to delays in awarding the Household and Nonhousehold Mainstream Description Study contracts.	Delay of two weeks.	
11/23/76	Reports that delay considered in September not instituted.	On schedule.	

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> (Originally June 1977)
12/28/76	Evaluation of the proposals submitted by the various bidders began.		
1/25/77	The award of this contract will be delayed at least one month, since "data from the Mailstream Description Studies are essential for this study."	Delay of one month.	
2/25/77	Reports that the "Office of Contracts has decided that the Competition/Demand Study RFP should be reopened for new bids or revision of current proposals," causing a two month delay in the award of the contract.	Delay of two months.	
3/30/77	Decision to reopen the Competition/Demand Study RFP for new or revised proposals confirmed. Bids now due by May 16.		November 1978
5/4/77	Contract has not yet been awarded. The award should not be made until the Household Mailstream Description Study has been underway for 11 months and the Non-household Mailstream Description Study has been underway 5-6 months.	No delays.	November 1978
5-6/77	Review of the revised proposals received on May 16. July contract award date still scheduled.		

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date (Originally June 1977)</u>
7-8/77	Reports continued review of revised proposals. "Contract award is now anticipated by September at the latest."	Delay of two months.	January 1979
10/14/77	Evaluaton of proposals continues. Contract award expected by mid-November.	Delay of two months.	March 1979
11/21/77	Contract awarded.		
2-5/78	The Task 2 Report is under preparation.		
7/5/78	Reports that the contractor continued research into data sources and analytical procedures for four general markets.		
7/18/78	Task 2 Report distributed.		
8-12/78	Continued research in demand analysis and data collection methods and preparation of questionnaires for a survey of publishers. There will be a delay due to problems with finalizing the survey efforts.		
1/31/79	Delay caused by difficulties in planning the advertising and publication surveys.	Delay of nine months.	December 1979
2/28/79	Pretests of the surveys will be conducted during March-May 1979.		

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> <u>(Originally June 1977)</u>
3-6/79	Reports receiving discouraging comments on the surveys. Contractor having problems obtaining access to primary data sources.		
7/31/79	A Task 3 Report cannot be completed until additional data from the Non-household Study is received by the Competition/Demand Study contractor, which will not occur before August 1. Two more months will be needed to analyze the data. The competition data and analyses will be incorporated into the final study report, due to this additional delay and the low level of funds.		
8-10/79	Preparation and distribution of a report on the estimation of future alternative delivery firm volumes.		
11-12/79	Preparation of the final report continues. Several "minor delays" experienced.	Delay of two months.	February 1980
1-3/80	Difficulties involved in finalizing the analyses to be included in the final report have caused an additional delay.	Delay of two months. Delay of one month.	April 1980 May 1980
5/30/80	The contractor must make "extensive corrections" of the final report.	Delay of one month.	June 1980

CHRONOLOGY OF EVENTS:
COMMERCIAL MAILING PROGRAMS STUDY (FORMERLY WORKSHARING STUDY)

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> <u>(Originally December 1977)</u>
4/15/75	Postal Service submits a detailed study plan, including plan for Worksharing Study.		December 1977
11/4/75	Postal Service submits a revised schedule, based on competitive procurement procedure rather than sole-source, as originally planned.	Delay of seven months.	July 1978
2/25/77	The study is planned to begin on March 1, 1978, and to last for 15 months. By then the necessary data from the Current Cost and Mailstream Description Studies should be available. A preliminary statement of work will be available during May 1977 and the RFP should be distributed in July.	Delay of ten months.	May 1979
4/6/77	Corretion of error of the timing of the study in February 1977 Monthly Progress report.	Error-2 months.	August 1979
8/26/77	A preliminary SOW is now planned for September, "[d]ue to time pressures created by the need for intensive review of the preliminary Flow Study results" which prevented the MCRD from completing the preliminary SOW in August.	Delay of one month.	September 1979

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> <u>(Originally December 1977)</u>
10/14/77	The Preliminary Schedule of work is being distributed. The RFP will be delayed one month to December. It has been estimated that it will take 16 months rather than 15 to conduct this study.	Delay of three months.	December 1979
2/3/78	A final draft of the SOW was sent to the USPS Office of Contracts in January. Minor revisions to the Statement of Work are required due to "receipt of additional comments from Headquarters units."	Delay of two months.	February 1980
3/23/78	Funding for this study was approved by USPS management in March.	Delay of two months.	April 1980
5-6/78	The SOW was sent to the Office of Contracts, but due to "an unusually heavy workload" the RFP will not be released before June.		
7-10/78	Evaluation of proposals.		
11-12/78	Evaluation process neared completion. Contract award expected in early February.	Delay of two months.	June 1980
2/28/79	Contract award expected in March.	Delay of one month.	July 1980

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> (Originally December 1977)
3/28/79	Contract for Commercial Mailing Programs Study awarded.		
4-9/79	Contractor reviewing relevant documents and meeting with USPS officials and mailer representatives.		
11-12/79	The Task 2 Report is expected to be distributed in early February.		
1-2/80	The Task 2 Report will be distributed to the parties in mid-March, "[b]ecause the draft review cycle took longer than had been anticipated."		
3/31/80	The Task 2 Report will be distributed in April. The delay was caused by continued "[c]orrections and additions to the preliminary Task 2 Report" during March.		
4/30/80	Contractor begins work on Task 3.		
5/14/80	Task 2 Report mailed to the parties.		
5/30/80	Six-month delay necessitated by dependence upon data from other baseline studies not yet available.	Delay of six months.	January 1981

CHRONOLOGY OF EVENTS
PHYSICAL MAIL STANDARDS STUDY

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> (Originally September 1977)
4/15/75	Postal Service submits a detailed study plan, including plan for Physical Mail Standards Study.		September 1977
11/4/75	Postal Service submits a revised schedule, based on competitive procurement procedure rather than sole-source, as originally planned.	Delay of eight months.	May 1978
2/25/77	Reports that the Study is planned to begin on March 1, 1978, and to last for 15 months. "By this time, the necessary data from the Current Cost and Mailstream Description Studies should be available."	Delay of twelve months.	May 1979
5/4/77	Contract has not yet been awarded. This Study cannot begin until data on disaggregated USPS costs and the demand for current USPS products have been developed during the first 12 months of the Current Costs Study and the first 9 months of the Competition/Demand Study.	Delay of one month.	June 1979
5/26/77	A preliminary SOW could not be completed in May "due to the pressure of ongoing studies." Anticipates obtaining additional personnel to help expedite the preparation of the draft SOW projected for July.	Delay of two months.	August 1979

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> (Originally September 1977)
6/24/77	Work on a preliminary SOW began in June and should be completed and distributed during late July.		
7-8/77	Reports continued work on a preliminary SOW, "but coordination with the appropriate Headquarters organizations has taken much more time than expected." Anticipates distribution of the preliminary SOW in early September.	Delay of one month.	September 1979
10-11/77	Reports distribution of the Preliminary Schedule of Work. RFP expected to be delayed one month to December. Estimated that 16 months will be needed to conduct this study.	Delay of three months.	December 1979
2/9/78	Two month delay due to delay in the preparation of a final draft of the Statement of Work caused by "additional time spent coordinating with USPS Headquarters units that are concerned with Optical Character Reader development and parcel-mail standards."	Delay of two months.	February 1980
3/22/78	Funding for this study was approved by USPS management in March.	Delay of two months.	April 1980

APPENDIX 9
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<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> <u>(Originally September 1977)</u>
5/12/78	The SOW was sent to the Office of Contracts which does not expect to release the RFP before June due to "an unusually heavy workload."		
7/5/78	The RFP was distributed in June.		
7-10/78	Continued evaluation of proposals.		
11/78	There will be a delay in awarding the contract due to a delay in evaluating the proposals in order to "allow certain offerors to submit additional information" needed to complete the evaluation.		
12/29/78	Evaluated additional information obtained from offerors. A decision by the Office of Contracts expected in mid-January.		
1-2/79	The RFP was cancelled in January due to "a lack of technically acceptable bidders." A new RFP will be issued shortly. The contract is expected to be awarded in June 1979.	Delay of six months.	October 1980
3/30/79	Doubts as to the need for conducting this study expressed at the February 16 panel meeting will be discussed at a panel meeting in late April.		Unknown

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<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> (Originally September 1977)
4/23/79	Comprehensive statement filed concerning the need for and interest in this study. The Postal Service is willing to continue the study, but warns that "three years might be required before study results would be available" (1-2 months to prepare and RFP package, 7-12 months to evaluate the proposals, with a "typical study duration of 16-24 months").		Unknown
8/31/79	Preparation of a "memorandum listing the various MC76-5 studies that will develop data on physical characteristics for mail shapes other than parcels."		Unknown
9/7/79	The memorandum on MC76-5 studies was sent to the parties.		Unknown
10-12/79	No reports		Unknown
1-2/80	A Panel meeting was held on February 7 to discuss data on physical mail characteristics available from other MC76-5 studies.		Unknown
3/31/80	A Panel meeting was held on March 26 to discuss extracting data from previous MC76-5 studies to develop tables on physical mail characteristics.		Unknown
4-5/80	No report		Unknown

CHRONOLOGY OF EVENTS
SERVICE-RELATED PRODUCTS STUDY

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> (Originally June 1978)
4/15/75	Postal Service submits a detailed study plan, including plan for Service-Related Products Study.		June 1978
11/4/75	Postal Service submits a revised schedule, based on competitive procurement procedure rather than sole-source, as originally planned.	Delay of six months.	December 1978
2/25/77	Reports that the Study is scheduled to begin July 1, 1978, and to run for 15 months, allowing time for sufficient data to be available from the Current Cost, Current Service, Mailstream Description, and Peak Load Studies.	Delay of ten months.	October 1979
5/4/77	Contract not yet awarded. "That award should not be made until the Current Costs Study is 2 months from completion, the Current Service Study is 2 months from completion, the Peak Load Study is 7 months from completion and the Competition/Demand Study is 2-3 months from completion."	Delay of one month.	November 1979

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date (Originally June 1978)</u>
7/29/77	Preliminary SOW expected in September.	Delay of one month.	December 1979
8/26/77	Preliminary investigations into past USPS research efforts in the area of service-related products commenced in August.		
10-11/77	A Preliminary Schedule of Work is now projected for early December. The RFP is expected to be delayed two months.		
2/9/78	Classification Advisory Panels met January 20, 1978, to discuss the Preliminary Statement of Work. Agreed at the meeting that the Mail Classification Research Division would solicit additional comments from panel members and mailers, causing the two month delay.	Delay of two months.	February 1980
3/22/78	A meeting with representatives of the Mailer's Technical Advisory Committee is scheduled for March 28. A Revised Preliminary Statement of Work (PSOW) will be prepared after the meeting and distributed in early April.	Delay of two months.	April 1980

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> (Originally June 1978)
5/12/78	Funding for this study was approved by April. The SOW was sent to the Office of Contracts which does not expect to release the RFP before June due to "an unusually heavy workload."		
7/5/78	The RFP was distributed in June.		
7-9/78	Continued evaluation of the Study proposals.		
10-12/78 1-2/79	"Very little useful work can be accomplished in this study until certain preliminary outputs of the Peak Load Study are available." The Service-Related Products Study will be postponed by the same amount(s) as the Peak Load Study.	Delay of five months.	September 1980
3/30/79	An RFP will be issued in early April.	Delay of four months.	January 1981
4/30/79	The RFP was issued.		
5/31/79	Proposals were received in response to the RFP.		
6-7/79	Evaluation of contractor proposals.		
8/31/79	Evaluation of proposals continued, "but at a slower pace than expected." Contract award expected to be made in November.	Delay of two months.	March 1981

<u>Reporting Date</u>	<u>Action Taken</u>	<u>Description</u>	<u>Completion Date</u> (Originally June 1978)
9-10/79	Evaluation of contractor proposals continued.		
11-12/79	Contract award now expected by the end of January. Delay caused by a "minor contractual problem."		
1-2/80	Contract awarded in early January. Contractor is still in progress with Task 1.	Delay of two months.	May 1981
3-4/80	Contractor has proceeded to Task 2.		
5/30/80	Contractor has begun work on Task 3. The Task 2 Report will be distributed by the end of June.		

POSTAL RATE COMMISSION

Washington, D.C. 20268

Simeon M. Bright
COMMISSIONER

June 20, 1980

The Honorable John H. Glenn
Chairman, Subcommittee on Energy,
Nuclear Proliferation and
Federal Services
United States Senate
Washington, D.C. 20510

Dear Senator Glenn:

I have reviewed the responses of Chairman Fritschler to the questions which you forwarded to him in your letter of May 20, 1980. I am in complete agreement with those responses. I do, however, have an additional comment on the responses to questions two (2) and twelve (12) and the memorandum attached to the Chairman's responses.

The responses to questions two and twelve deal with data on postal operations -- how and when this Commission can obtain such data from the Postal Service. The attached memorandum is an example of the difficulty which the Commission has experienced obtaining data on postal operations. To place the responses and that memorandum in perspective, it should be noted that on May 24, 1974 the Postal Service, itself, proposed to sponsor extensive studies, the fruit of which is the study program outlined in the memorandum. The Commission on July 1, 1974, gratefully accepted the Postal Service's proposal. It is a sad fact that the Postal Service has allowed a three-year delay in its own study program. The oral testimony before your Subcommittee on April 21, 1980, of the Chairman and me and the Chairman's responses to the questions which you forwarded should be read in light of this fact.

I appreciated the opportunity to testify before your Subcommittee and to further respond to your questions.

Sincerely,

Simeon M. Bright

Senator GLENN. Our next witnesses this morning will be Mr. Eugene B. Dalton, president of the National League of Postmasters, Mr. Donald N. Ledbetter, president of the National Association of Postal Supervisors, and Mr. James Syers, president of the National Association of Postmasters of the United States. They will appear as a panel.

TESTIMONY OF EUGENE B. DALTON, PRESIDENT, NATIONAL LEAGUE OF POSTMASTERS, DONALD N. LEDBETTER, PRESIDENT, NATIONAL ASSOCIATION OF POSTAL SUPERVISORS, AND JAMES SYERS, PRESIDENT, NATIONAL ASSOCIATION OF POSTMASTERS OF THE UNITED STATES, A PANEL OF EXPERTS

Senator GLENN. Gentlemen, we appreciate your coming to this hearing. Your name appeared first, Mr. Dalton, so perhaps you would lead off for us this morning.

Mr. DALTON. Thank you very much, Mr. Chairman.

I am Eugene B. Dalton, president of the National League of Postmasters.

Our organization represents 22,000 postmasters throughout this Nation and approximately 50,000 other Federal employees who are enrolled in our health benefit plan.

We welcome this opportunity to appear before your distinguished committee for the purpose of giving our thoughts on Senate bill 2558. We wish to commend you and your committee for taking appropriate action on key issues that are so vitally important to our members and to the American public.

The action taken by your committee and the Congress of the United States will play a vital role in the future of the Postal Service.

Mr. Chairman, in the essence of time, I would like to just hit some highlights and if you have any questions, I would be happy to answer them.

Senator GLENN. Your entire statement will be included in the record.

Mr. DALTON. Thank you very much.

First of all, and I guess most important to us is the proposal of the administration for the cutback in appropriations for the Postal Service.

We commend you, Mr. Chairman, and your committee for leaving the \$920 million subsidy as it now stands. The only problem is, we feel that might not be even enough today faced with the rate of runaway inflation, such as we have today.

We can applaud the President in his desire to curb inflation, but we would also like for Congress to take into consideration the Postal Service has been the initiator and has led in leadership to provide for appropriate action to assist the administration in reducing our reliance on Federal oil through energy conservation.

In addition to that we were the first Federal agency to not only reduce our budget but to also increase our productivity and reduce our work force through attrition only with no layoffs.

We feel that such credit for this be given to the Postmaster General for his initiative in this action, but we also feel that it is unfair to

have the ax fall upon us to slice the subsidy. Whenever we have set the stage, so to speak, for the other agencies to make a sincere effort to help out in this role.

Though, while we agree that all the Federal agencies play a very vital role in the lives of the American public, not one of them, Mr. Chairman, touches the life of every American like the Postal Service.

We sincerely believe that if the subsidy is taken away as the administration anticipates it may do, and reduce 6-day delivery, it's only going to be the first step to eliminating even more than the 6-day delivery.

We're witnessing right now, Mr. Chairman, in many areas of our country, a great reduction in window services out of our post offices on Saturday or some other day through the week.

You have to remember that the business people are not going to want to use our mail service while we could hurt the largest part of our income which is derived from the large mailers or business people.

The Constitution provides that we shall provide an efficient mail service with a maximum degree of service to the entire Nation. As long as we are providing free rural delivery service, city delivery service, then we're going to need that subsidy because there's no other way we could pay our way.

For many years, the U.S. Postal Service has been the leader in the entire world in communications. Without benefit of being able to enter the electronic transfer of mail messages, we will no longer be the leader in the communication field.

We are witnessing today other countries who have already, as you stated earlier, either you or Senator Stevens, put our technologies to work in their countries and they're making it work.

I don't want to get into the disagreement between the agencies as to who has the legitimate authority to provide whether or not we enter into the electronic transfer of mail. I think, Mr. Chairman, this is where the Congress of the United States is going to have to step in and make some decisions in this matter.

Because the Postal Service has the outlets for providing to every American, the opportunities to use the electronic transfer of mail messages.

No other private carrier has the outlets the Postal Service has today; therefore we feel that it would be unfair to the American public if the Postal Service is denied an active role in the electronic transfer of mail.

With regard to your section in your bill with the Postal Rate Commission and the Board of Governors, I think you will recall that the last time it was my pleasure to testify before your distinguished committee, that our organization at that time agreed that the Board of Governors should be abolished and the President should be appointed, I mean the Postmaster General should be appointed by the President with confirmation by the Senate.

We have not changed our position in this regard.

As far as the Postal Rate Commission is concerned, the FCC and all the others on the electronic mail, we feel that like the old cliché says, that sometime too many cooks spoil broth. We would like to see something come out that the Postal Service could at least get around to on an experimental basis, the electronic transfer of mail.

We agree with almost all of your bill, Mr. Chairman, with the exception of, we do not feel that the 5-year probation to eliminate any former postal employee from serving on either of these boards is in the best interest of the American public.

To go back in time to the last decade, we have witnessed the corporate giants who were brought in from the outside to run the Postal Service. I feel that is one reason we find ourselves in the position we do today.

I think it would be good, not only on the Board of Governors, but also in the Postal Rate Commission if we had someone on those committees or on those commissions who had some prior knowledge of the Postal Service.

While we agree that the public should be protected under the consumer, we also feel that the Federal Government and the Postal Service must be protected by having someone with this knowledge on those boards.

So we would respectfully request the consideration that this 5-year probation be eliminated from your bill.

Research and development. We commend your inclusion of the comprehensive program of research and development. We feel that this is an area that has kind of fallen by the wayside. We realize we must have a continued program on research and development if the Postal Service is going to progress and provide the kind of service the Americans desire.

On the protection of postal property. We wholeheartedly agree with your section on that. Also with reduced postal rates.

In regards to the development of safety and health. We commend you for your inclusion of the mandatory safety features in your bill. We, however, do not feel you have gone deep enough in this area, because you were not aware of some of the things that were going on, Mr. Chairman.

Deaths, injuries are readily measured by statistics. But no one has bothered to secure statistics on our members who have suffered mental illness, heart attacks, and disability retirement due to excessive stress, harassment and mental injuries brought upon them. This has brought about in the majority of the cases by the elimination of adequate clerical assistance in their offices, continued workload increases and cuts in hours of these offices.

I did a little statistical information, just for your committee's information within our own health benefit plan from our postmaster members only. We receive an average of 10 claims daily in terms of mental disorders from our postmasters.

A far greater number of claims are received on heart attacks, Mr. Chairman. Just a few short years ago, postmasters were made to retire at the mandatory age of 70. Today, they are leaving the ranks of the Postal Service as soon as they reach age 55, if they have 30 years service.

This can be proven by the continual vacancies that we have existing in our postmaster ranks. This type of illness, Mr. Chairman, as stated earlier has not been given proper consideration in your bill, or anyone else's OSHA bill.

While we concur that there should be a nationwide application of OSHA, we would, however, ask that it be a national policy and not be under State requirements. Because in our States we have a lot of different versions of the OSHA requirements. We think it

would be very confusing, Mr. Chairman and we'd like to see a national policy.

Mr. Chairman, I'd like to summarize and I'll be happy to respond to any questions that you or the committee would ask.

Senator GLENN. Thank you Mr. Dalton. Mr. Ledbetter, we welcome your testimony. Mr. Ledbetter is president of the National Association of Postal Supervisors.

Mr. Ledbetter.

Mr. LEDBETTER. Thank you, Mr. Chairman for this opportunity to appear today and present testimony concerning H.R. 79, the Postal Service Reorganization Act of 1979, your own legislative measure, S. 2558, the Postal Service Act of 1980 and related postal matters.

I represent here today, 35,000 postal supervisors who work in the field service. I'm going to summarize as well as I can, Mr. Chairman for the sake of time.

The postal supervisors' oversee the operations of the Postal Service in the field. They do not formulate policy, but they have the responsibility to carry out policy and to reflect the philosophy of top postal management.

In this level, supervisors develop strong viewpoints concerning U.S. Postal Service management. I will express some of these to you today.

In the decade since postal reorganization, the concerned parties—postal employees, postal management, mail users and the Congress—have grappled with certain key issues which have evolved in the evercontinuing examination of the Postal Service and how it serves, or does not serve the public.

It is proper and necessary that the current postal legislation deal with these central issues which we believe are as follows: One, the so-called break-even concept as applied to the U.S. Postal Service needs refuting once and for all. This entails definition and commitment to public service aspects of the postal service and the public funding of these public services.

Two, the Postal Service needs to be helped and not hindered in its efforts to provide new and/or improved services and classification of mail. This means streamlining the ratemaking procedures, liberalizing mail classification procedures, and finally allowing the Postal Service to progress with the rest of the world in the electronic mail field.

Three, the issue of accountability needs to be resolved. To whom is top postal management held accountable, the Congress, this subcommittee, the President, the public, the Board of Governors, or to no one? The current Postmaster General is knowledgeable and effective, but the Postal Service's progression or regression must not rest on the strength or weakness of one man's performance. There must be continuity of oversight and accountability.

Now let's examine the proposed legislative efforts to address these issues.

The National Association of Postal Supervisors supported and still supports the concepts embodied in H.R. 79 which passed by an overwhelming margin in the House of Representatives last September. The National Association of Postal Supervisors continues to press for a progressive, accountable and adequately funded Postal Service.

In this era of budgetmania, the Postal Service is threatened on each of these fronts. The Postal Service cannot continue to be progressive in the face of stymied regulatory efforts and mindless budget cutting. In the face of the recent House, Senate, and administration proposed budget cuts, this Nation can forget progressive services and accountability, because the Postal Service will simply not be adequately funded.

In relation to our strong support of adequate public service funding, the association strongly opposes the budget cuts that result in service reductions such as the proposed move from 6 to 5 days of delivery.

Following a sure reduction in volume will come a corresponding reduction in revenue, a reduction in jobs, and the vicious circle will continue with further reductions in service.

We are extremely pleased to note that your own legislation, S. 2558, recognizes the need for continued public service authorization.

As I understand it, this legislation would establish a permanent level for the public service authorization of \$920 million.

Certainly, we recognize the financial constraints which are the reality of the day, but we urge the Congress to focus on the fact that the Postal Service too, must live with the current rate of inflation.

Your proposed authorization level is a minimum level of funding needed by the Postal Service.

Section 2 of your measure would switch the part of the Occupational Safety and Health Act which applies to Postal Service from the Federal agency portion to the private sector portion. We have two obvious problems with this.

We oppose civil or criminal fines against the Postal Service as an institution or against individual supervisors or other employees for any perceived safety shortcomings.

Civil or criminal fines against the Postal Service as an institution would not penalize private shareholders, but would tax the postage-buying public.

And, as I understand it, the act does not authorize penalties against individual supervisory or other employees for safety failings. With that, the question would surely be asked, how then are safety policies to be enforced?

We answer with the most recent example of OSHA interaction with the Postal Service in New Jersey.

OSHA has identified a number of serious safety violations at the bulk mail facility there, in the aftermath of the tragic death of a postal employee.

In reaction to OSHA citations, the Postal Service is moving quickly to remedy the most threatening conditions, and is using every resource to remedy all violations in a timely manner.

This cannot be accomplished overnight, but it is my understanding that the Postal Service is placing an extremely heavy emphasis on accomplishing the cleanup task in New Jersey and in all bulk mail facilities.

This reaction and continuing action at the request of OSHA occurs without monetary penalties.

Mr. Chairman, I digress at this point to answer remarks about the safety record of the Postal Service. It is my understanding that in testimony last week you were told that the Postal Service had an accident rate four times that of any comparable industry.

You were understandably shocked, and I was too. I did some checking on my own and I found about what I had expected.

Though the Postal Service wins no blue ribbons for its safety record in comparison with others, the statistics furnished by the Bureau of Labor Statistics do not bear out the quadruple shocker. In comparison to other Federal agencies, the Postal Service neither has the worst, nor the best accident rate. But our rate is lower than either TVA or the Government Printing Office.

Figures compiled by OSHA on December 31, 1978, reflect an accident rate of 6.71 lost-work-day cases per 200,000 hours of exposure for Postal Service and using the same measurement, the figure is 6.81 for GPO and 7.21 for TVA.

Using OSHA statistics measuring all injuries reporting the ratings of 10.30 for USPS, 24.01 for GPO, and 23.87 for TVA.

In comparison to a comparable industry, such as the trucking and warehousing industry, BLS figures show industry with a rate of 9.3 lost-work-day cases for 200,000 hours of exposure while the Postal Service, during the same period, has a rate of 6.7 lost-work-day cases per 200,000 hours of exposure.

These figures are from BLS, November 1979. But even with these figures in mind, I'll be the first to say that any comparison such as the two I've just cited is a comparison of apples and oranges.

There are literally hundreds of different methods of reporting accidents with statistics, and some are more reliable than others. I find it very difficult to compare the Postal Service with other industries, though I've tried for the sake of some comparison.

The Postal Service has the largest exposure to accidents of any operation, private or public, and we're thankful that not all accidents are the result of dangerous or neglected in-house working conditions. Fifteen percent of USPS accidents involve a motor vehicle on the highways of this country.

Eleven percent of all USPS accidents involve an animal, most often a dog.

Senator GLENN. Mr. Ledbetter, do you have a breakdown that would show how many were actually in industrial situations, in other words, in the post office, as opposed to what percent of the accidents are carriers out on the route?

Mr. LEDBETTER. No; but I think I could get it for the record, Mr. Chairman.

Senator GLENN. That would be an interesting figure to have because it's difficult, as you point out, to find a comparable industry. We asked questions about that the other day, and I believe they were going to try and get some figures for us. If you could furnish us some figures, I would appreciate it.

Mr. LEDBETTER. I will certainly do that. We wanted to show that they're not all in-house, as some witnesses have indicated. Twenty-one percent of the accidents are in-house involving material handling, such as in lifting, pulling, or pushing cartons or hampers or bags of mail.

I offer this information, Mr. Chairman, and hope that it will lend some perspective to this question.

[The information follows:]



NATIONAL ASSOCIATION OF POSTAL SUPERVISORS

National Headquarters
490 L'ENFANT PLAZA EAST, S.W., SUITE 3200
WASHINGTON, DC 20024
(202) 484-8070

Office of President
DONALD N. LEDBETTER
BOX 1344, L'ENFANT PLAZA
WASHINGTON, DC 20024

May 6, 1980

The Honorable John Glenn, Chairman
Subcommittee on Energy, Nuclear
Proliferation and Federal Services
Governmental Affairs Committee
United States Senate
Washington, DC 20510

Dear Mr. Chairman:


The following is in response to your request for information concerning accidents or injuries "in industrial situations" as opposed to those occurring outside an industrial setting.

Attached is a distribution of accidents by type, number and percent in Fiscal Year 1978. This is accompanied by a more detailed description of what constitutes each type of accident.

In attempting to present the most meaningful information to the Subcommittee, we are faced with a definitional problem. For instance, the Postal Service considers accidents or injuries occurring on a carrier route as "industrial." And, in order to furnish the Subcommittee with data reflecting accidents/injuries occurring "on-site" versus "off-site," the Postal Service would need to go back to their computers in a procedure that could take 30 to 60 days.

However, in the short run, we offer this information by type distribution accompanied by an amplification of terms for your use. If further information is desired, we will attempt to follow up in a more detailed manner.

Sincerely yours,


Donald N. Ledbetter
President

DNL:sls

Enclosure

USPS ACCIDENTS
DISTRIBUTION BY ACCIDENT TYPE
- FY 1978

	<u>Number</u>	<u>Percent</u>
Manual Handling -	17,458	21%
Falls	14,138	17%
Motor Vehicle	13,140	15%
Slips, Twists & Trips (No fall)	9,744	11%
Animals	9,062	11%
Striking Against	5,747	7%
All Other Types	<u>15,289</u>	<u>18%</u>
Total	84,578	100%

USPS ACCIDENTS

Amplification of Terms

Manual Handling: Injuries in this category usually involve actions such as lifting, reaching, pulling or pushing.

Falls: Involves falls on the same level (e.g. to the street, sidewalks or floor) or falls from elevation (e.g. on stairs, from vehicles, chairs, docks, etc.)

Comment: Associated with falls is inattention or a failure to recognize a walking surface hazard. For example, slippery sidewalk conditions, chipped or broken pavement, debris, etc.

Motor Vehicle: Includes accidents in which injury or property damage resulted, incident to the use of a motor vehicle.

Comment: Most vehicle accidents involve, as a contributing cause, driver error either by one or both drivers involved.

Slips, Twists, and Trips: Similar to the "falls" type with the primary difference being that a fall does not result. Such accidents involve slipping and twisting, tripping on or tripped by an object, or stepping in or on an object.

Comment: Causes of this type accident parallels that of the "fall" type in that a contributing factor is usually inattention or failure to recognize a working surface hazard or a loss of balance.

Animals: Although this type accident involves all animals, including insects, the majority do involve dogs. Most dog related injuries are dog bites, while a small percent occur as the employee attempts to retreat from a hostile dog.

Striking Against: Includes, in general, an accident in which a person in motion strikes a stationary object or material.

Comment: Accidents of this type usually involve, as a contributing cause, momentary inattention to one's immediate surroundings while working or walking.

All others: This classification includes the following accident types:

1. Caught in, under, or between
2. Exposure to extreme temperature
3. Inhalation
4. Jumping to or from places
5. Contact with: electric current, chemical, hot or cold substances
6. Struck by material or objects
7. Violence
8. Fires
9. Not elsewhere classified

Additional remarks: The comments made under each accident type above do not necessarily reflect the results of a causal analysis of each accident group, but do represent accepted or recognized opinion or causes associated with similar type accidents in general.

Mr. LEDBETTER. Sections 3 and 4, civil penalties and investigation. We will not elaborate on these, but we do applaud the intent of the bill to provide needed strength to the Postal Service in combating illegal mail order schemes and failure to pay lawful postage.

On section 5, appropriations, again your recognition of the need for congressional appropriations is most important. This section of your legislation is perhaps the most important, yet it is also the most threatened. I reemphasize our Association's support of this provision for an adequate public service subsidy and I pledge to work with you to maintain at least this level of funding.

Sections 6 and 7 on mail classification and experiments. I will try to speak briefly on those points.

My thrust is this, the Postal Rate Commission exists to promote an effective postal system in the public interest.

It does not exist to protect private delivery interests above the interests of the mail using public.

We point to the current debate over ECOM as an example, the Postal Service's ECOM proposal has been delayed for over 15 months. And it appears that the Postal Rate Commission is intent on excluding the Postal Service from effectively competing for telecommunications business.

We appeal to you and your colleagues, Mr. Chairman, to help rather than hinder the Postal Service in its efforts to remain a viable service in the present and future.

As a final point, concerning the Postal Rate Commission, we support the apparent intent of section 9 to avoid any conflict of interest concerning the Postal Rate Commission's budget.

Section 10 on qualification of Governors and Commissioners, Mr. Chairman, we support your efforts to insure a more knowledgeable and experienced Board of Governors by specifying certain areas of qualification.

However, since my testimony was prepared, I had the opportunity to witness the Governors in action before the House Post Office and Civil Service Committee and Mr. Chairman, I was frankly so frustrated and disappointed in the four members of the Board of Governors that appeared before that committee, that I'm going back to our previous recommendation and recommend that serious consideration be given to eliminating the Board of Governors.

They are supposed to be overseeing the Postal Service, defending the Postal Service, standing up for the Postal Service and with 17 Members of Congress on the panel in the House committee the other day, without exception, they all spoke in opposition of the proposed cutback in delivery service, but not one of the Governors spoke in opposition of it.

They spoke for 2 hours about two studies that are going on and finally the members of the panel evoked one definite commitment against Saturday delivery and another Governor said that he felt that there were many more matters of priority to our Government other than Saturday delivery service from the Postal Service. This indicated that they had their minds made up. Mr. Chairman, we're going to lose a day of delivery and maybe a lot of the volume of our mail. Meanwhile, the very people that have been appointed by the President and

confirmed by your committee to oversee and to operate the Postal Service are going to stand by and see it die.

If the Board of Governors is to be continued, we would strongly urge you to drop the 5-year waiting period that you propose before any employee of the Postal Service can serve.

One of the problems to this point has been that the people on the Board didn't really understand the Postal Service, they didn't really understand Congress or the Government and we need people who do understand on that Board if we're going to have an effective Board of Governors.

I would like to add one final word, Mr. Chairman, about our current efforts to resolve our association's pay disputes with top postal management.

Two years ago you urged me to attempt to resolve the debate over arbitration rights for supervisors with Postmaster General Bolger. As you no doubt know, at this very time, Mr. Bolger and I, and our respective staffs, and staff members of your subcommittee are attempting to formulate compromise legislation which would address the pay issues long in dispute.

We look forward to coming to you with this compromise and we sincerely hope you will join with your colleagues on the committee in examining and approving this legislative approach.

With these final remarks, I conclude my prepared statement. Again, I thank you for your interest in these postal issues and I will be happy to respond to any questions that you or any member of the subcommittee may wish to address to me.

Senator GLENN. Thank you Mr. Ledbetter. Mr. James Syers, president, National Association of Postmasters of the United States.

Mr. SYERS. Mr. Chairman and members of the committee, I am Jim Syers, postmaster of Sturgis, Ky., a small rural post office and I'm temporarily on leave without pay to serve as president of the National Association of Postmasters which represents approximately 27,000 active postmasters and 7,000 retired postmasters.

In the sake of time, Mr. Chairman, I know you have tremendous demands and I would like to focus only on one section. Our complete written statement will be made a part of the record.

We are here today to testify in broad support of the provisions of the Postal Service Act of 1980 and comment on this one particular provision.

Section 5, Public Service Authorization and the Annual Report. Section 5, amending 39 U.S.C. 2401, recognizes the need to provide the Postal Service with the fiscal base for mail service operations and the research and development and planning necessary to increase its effectiveness.

The establishment of a fixed amount of core funding through reimbursement for public service costs at the level of \$920 million annually provides the basis for the Postal Service to strive to improve the current level of service to all citizens of this Nation.

We commend the chairman for retaining the provisions of the reimbursement of the Postal Service "for public service costs incurred by it in providing a maximum degree of effective and regular postal service nationwide, including communities where post offices may not be deemed self-sustaining * * *." The retention of these provisions

reinforces the longstanding congressional commitment to provide universal postal service to rural areas and small communities. The rural and small community post office is as important to a comprehensive nationwide system as any other post office.

A very large portion of the citizens of this country depends on the small rural post office as a means of communication to carry on business.

In many areas of this country, the post office is the only place the citizens have any contact with their Government, the only place where the American flag flies in the community. Thank you for recognizing that this should continue.

The authorization for the expenditure of an amount to carry out a comprehensive program of research and development from the sums authorized in 2401(c) (1) to include methods of electronically sending and delivering letters and other mail matter recognizes three important elements: One, the means to fund a research and development program; two, the establishment of such a program; and three, the major role that electronic mail will play in the Postal Service's future.

We believe it is essential that the Postal Service provide a national network to manage both hard copy and electronic mail delivery service which will first be universal and provide privacy and security of the mail at a reasonable and uniform rate.

This can only be assured by a nationwide, federally regulated system such as that of the U.S. Postal Service.

The Postal Service must be permitted to provide the services in an efficient manner directly to its customers, thereby enabling it to establish and manage a truly universal electronic mail service.

The application of electronic technology in the field of communications is merely another necessary step to provide service to the public at reasonable costs to insure a healthy and solvent postal service.

We foresee this section as providing the impetus to such development and are pleased to support the provisions of this subsection.

As I stated, Mr. Chairman, I wanted to be brief. I would like to focus in, you have the testimony and broad support of your bill and I would be more than happy to try and answer any questions that you might have.

Senator GLENN. Thank you very much, Mr. Syers.

Mr. Dalton you favor abolishing the Board of Governors, Mr. Ledbetter, you favored abolishing the Board of Governors and direct Presidential appointment. Mr. Syers, what are your views?

Mr. SYERS. Mr. Chairman, we have testified in the past on the Presidential appointed Postmaster General, both in H.R. 79, and H.R. 7700. At this time I feel there are more important matters at hand and that we should concentrate all our efforts on saving the appropriation.

Under the present leadership, I am much in agreement with the theories and practices and the knowledge and expertise set forth by our present Postmaster General, but there may be a time in the future when we would need to concentrate on that area. Presently, I think we're being led in a most efficient manner.

Senator GLENN. Mr. Dalton, why do you think we need to abolish the Board of Governors?

Mr. DALTON. Mr. Chairman, Mr. Ledbetter covered—

Senator GLENN. What advantages would there be with a direct appointment, is what I'm asking?

Mr. DALTON. Mr. Ledbetter covered the basic part of the elimination of the Board of Governors. But if we are to have an appropriation cut, I feel, Mr. Chairman, there are other areas, this being one of them that we could save a lot of money, in fact we could save as much money as the elimination of 6-day delivery as my testimony will bear out, if we struck out some of the middle layers of management, which tends to be only confusing in many cases, in our Postal Service today.

The direct appointment by the President, would once restore to the status of a Cabinet member of the Postal Service and I'll go even one step further than that. I personally feel that the Congress of the United States, is very well learned and adequate to establish rates, to establish whether or not the Postal Service should enter into certain classifications of mail.

I think there are several commissions that have been established that could be eliminated to save a world of cost.

Senator GLENN. I'm not sure I agree with you completely that the Congress is more capable of setting proper rates. We might be able to do some of the things that the Board of Governors is charged with doing. But the Rate Commission would be more difficult.

It's a very complex thing. People who are working at it full time, day in and day out, year round, are finding it almost beyond their ability to come up with attributable costs. I find it hard to believe that we could do that same thing, with more efficiency with staff that we have here on the Hill.

Mr. DALTON. Mr. Chairman, if I might interject here, the Rate Commission, I believe it has been proposed they be under separate budget. Looking at the Postal Service budget at this point and time, and in addition to this I feel that for far too long, that since the establishment of the quasi-government corporation, Congress has not taken an active hand in controlling the past administrations of the Postal Service and I concur with my colleagues that I think the present leadership of the Postal Service is excellent, but I can still remember the days when we did not have Mr. Bolger at the helm.

Senator GLENN. Do you look at the abolishment of the Board of Governors mainly as a cost saving mechanism?

Mr. DALTON. Well, sir, not only as a cost saving mechanism, but also as, I think here again we have a bureaucracy of redtape where many times as it was pointed out in Mr. Ledbetter's statement that whenever they are called up before the different committees, that they are unable to answer any questions because they don't have the knowledge of the Postal Service and its workings.

These people are profit oriented, not service oriented.

Senator GLENN. You represent the postmasters of the country. Would you favor Presidential appointment of individual postmasters?

Mr. DALTON. Mr. Chairman, I speak for Eugene B. Dalton, and not for my organization in response to your question. Yes, sir.

Senator GLENN. You would repoliticize the Postal Service, then, from your personal viewpoint?

Mr. DALTON. That is my personal viewpoint, only.

Senator GLENN. From top to bottom?

Mr. DALTON. Yes, sir.

Senator GLENN. Does the organization go along with that?

Mr. DALTON. That I cannot answer because I have not had an opportunity to poll my organization. And I do not speak for it.

Senator GLENN. How about you there, Mr. Ledbetter.

Mr. LEDBETTER. Well, we're very much opposed to the Presidential appointment of postmasters, we believe these should be appointed through the career service on a merit basis.

Senator GLENN. But you do favor the Postmaster General being appointed by the President?

Mr. LEDBETTER. The Postmaster General, yes.

Senator GLENN. Where I've come aground everytime I've asked these questions at hearings, is how far down you politicize the Postal Service. A Postmaster General without some authority to put his own people in at some level down from his is going to be the most frustrated gentleman in history.

He's going to be issuing orders, trying to be responsive to what he sees are the needs and what the President says are the needs. But unless the people under him on certain levels who have management authority are in full harmony with him, working toward his goals, then he's going to be frustrated.

Accountability will be lacking.

Mr. LEDBETTER. Well, it shouldn't go very far down, in my opinion. I never could understand why someone in the White House is concerned about who is going to be a substitute letter carrier in West Helena, Ark. We used to have cases like that.

No promotion of any employee could be made anywhere without clearance and we're against that and have always been against it.

We continue to oppose it, and I see no reason why it follows that if the President appoints the Postmaster General, then he's got to appoint a supervisor in Ohio or Tennessee.

Senator GLENN. Well, no, but you have to give the Postmaster General some authority to put his own team in place. If you're going to repoliticize the Postal Service and do away with the Board of Governors, supposedly to make it more responsive to the needs of the people, which is always the statement that comes out when we talk about a political appointment, then it seems to me that you'd have to take this a distance below the PMG, making a political hierarchy of some kind.

What would you favor?

Mr. LEDBETTER. The move to go to career appointment of postmasters started a year before the Postal Reorganization Act was enacted into law. And I don't see any reason why, if the Postmaster General is appointed by the President, he can't be in favor of merit promotions, the same as if he was appointed by the Board of Governors.

Senator GLENN. What is the advantage then as you see it in going with a politically appointed PMG.

Mr. LEDBETTER. You've got a Board of Governors, which has no real value to the Postal Service, Mr. Chairman. The Governors admitted it the other day, when they said they hadn't even had time to meet on this burning question right now about the cutback in days of delivery.

The Congress is ready to act, the Budget Committees are ready to act, and they don't know where they stand on the issue. They're unnecessary.

But I'll tell you one thing, Mr. Chairman and I assume that the legislation will propose that they be discontinued. I think it's kind of ridiculous to pay them \$10,000. That's what they received in 1970-71 and there's been no change.

Anybody else, that gets any compensation for anything, would be getting double that by now.

Senator GLENN. Are you proposing that we double their salaries?

Mr. LEDBETTER. I think if they're going to stay, their salaries ought to be doubled, at least they ought to receive something more reasonable.

Senator GLENN. Would you make the Postmaster General's appointment change with the administration? When we appoint a new President, should we appoint a new Postmaster General?

Mr. LEDBETTER. No, I wouldn't recommend that.

Senator GLENN. All right, I find it a little difficult to see how he'd be politically responsible to the will of the people and the President and what the President might want, if a new President didn't have authority to remove a Postmaster General when he came in.

Mr. LEDBETTER. Well, I understand what you're talking about. I've lived through several changes and I've seen the whole top staff cleaned out on January 20, on two or three occasions.

Senator GLENN. Would you make a Postmaster General's appointment 5 years, 7 years, or 3 years? That can be done intentionally, as we have on some boards and commissions.

Mr. LEDBETTER. It would provide some insulation from being strictly a political job.

Senator GLENN. You started to say something, Mr. Syers, just a moment ago.

Mr. SYERS. Mr. Chairman I'd just like to comment here. You asked the other two gentlemen how they felt on the political appointment of postmasters. As far as the Presidential appointment of postmasters is concerned, I would like to state that I'm very much opposed to it and the National Association of Postmasters is very much opposed to returning to the political appointment of postmasters.

We favored the upward mobility that's now in effect.

Senator GLENN. Would you still appoint the Postmaster General with a Board of Governors?

Mr. SYERS. As I stated before, I'm very much in harmony with our present Postmaster General, and I feel like we're diversifying our efforts in too many areas at this point.

My main concern is the appropriation, the public subsidy appropriation which you have provided for in your bill of the \$920 million.

The Board of Governors have disappointed me recently, to say the least.

Senator GLENN. Mr. Dalton, you say in your statement that in your opinion, the Postal Rate Commission has overstepped its authority. Could you provide the subcommittee with examples of just how you feel the Commission has exceeded its mandate?

Mr. DALTON. My understanding, Mr. Chairman, is that the Postal Rate Commission was established to establish rates, to handle hearings so that the general public and consumers would have or be protection for them.

Some cases we've found where they are actually establishing policy for the Postal Service. One of them, not necessarily establishing pol-

icy for ECOM, but has helped to tie it up in all this litigation between the different agencies.

I just feel that their role is ratemaking and not policymaking. I think that should be, as long as we have a Board of Governors, that the Postmaster General and the Board of Governors do it with the consent of Congress.

Senator GLENN. Do you feel there is danger to the private express statutes?

Mr. DALTON. Very definitely. We've already seen a sly crack in the private express statute and the law provides that any service that the Postal Service cannot provide or will not provide, opens it up to the private enterprise.

If we're not providing delivery on Saturday, to those people that need it, then the private enterprise is going to step in and take over the cream of the crop. But the rural areas are still going to be left without any delivery. Because this is not a profitmaking thing.

Senator GLENN. There have been four major surveys conducted since 1976, indicating that the majority of the people in the country feel that 5-day mail delivery would be acceptable as a means to holding down costs.

One survey found that one in five households, 20 percent believed that Saturday delivery was really necessary. Another survey, mainly on business, found that a much larger portion of business would do without Saturday delivery in the interest of the economy.

Do you have any other information that would dispute or counter those conclusions?

Mr. DALTON. I would be very interested to know where the polls were taken, Mr. Chairman.

If you're going into your metropolitan areas where the newspapers are delivered by carrier, or such things of that nature, I would certainly understand why these people would not object.

You have many areas in the rural areas, such as the area where I'm from. Where they get market reports and everything else go right out by the rural carriers you know, and the daily papers and all of this.

I think if you polled those people you'd find 100 percent would not be in favor of it. I never did rely too much on polls anyway.

Senator GLENN. We will furnish you that information on where the four surveys were conducted. We didn't bring it with us this morning.

Mr. DALTON. I would be very appreciative, Mr. Chairman. I'd just like to clear up one other thing that there was a little disagreement upon.

Going back to the appointments. We're witnessing in our own organization today and it's the same one that Mr. Syers represents, whether we want to admit it or not, we have a political appointment of postmasters today, it is just not done by the President and the Senate, Mr. Chairman.

The MSC managers are appointing all postmasters up through a level 15. The ones above that go before a selection board and the final decision rests with Mr. Bolger, of course. But in the other areas, all they have to do is take a look at some of the lists, postmasters are not getting the opportunity to promote themselves to higher offices.

And we have found the evidence where the people within that section, Senator, be in favor. In my opinion, we swap one type of politics for another.

Senator GLENN. Well, you're always going to have internal politics. Mr. DALTON. That is correct.

Senator GLENN. But I would presume that this is not Republican- and Democratic-type politics, or is it?

Mr. DALTON. No; I don't think that enters into the postmaster ranks as much as in the higher echelon of the Postal Service. But I might remind you Mr. Chairman, as I'm sure you're already aware, we have a Postmaster General on board today, that's of the opposite party of the administration and he hasn't lost his job.

I feel that any President, as long as the man was doing a good job, would be interested in keeping that person in the job because as Mr. Carter expressed to me personally, he didn't want the headaches of the Postal Service.

Senator GLENN. Well I think in this particular situation that's true, but it might not be true with every President who might be elected.

In the past, we've seen some rather wholesale nonvoluntary departures—

Mr. DALTON. We still have them, Mr. Chairman.

Senator GLENN. To put it delicately, they got fired because they just happened to be in the wrong political party. I don't want to see us return to that particular situation. If we did away with the Board of Governors and went to direct appointment, on an oddball year basis, that might take care of some of those difficulties, it's true. Some of the rest of you were going to comment on 5-day delivery.

Mr. LEDBETTER. I wanted to comment on the polls. Members of the House committee, last Thursday when the Governors appeared before them said without exception that all of their polls showed that the public does want to retain 6-day delivery.

Senator GLENN. They want it. But where the option was presented in terms of willingness to go to 5-day delivery if it could save a substantial amount of money in the Postal Service and save tax money, I think the outcome was different.

Four studies have been done since 1976. I'll be glad to furnish you with copies.

Mr. LEDBETTER. You can word a question in such a way as to get the answer you want.

Senator GLENN. That's exactly right. So I would appreciate your comments on these surveys.

Mr. SYERS. Mr. Chairman, may I cite a personal experience, I stated before I'm from a small rural office and on Saturdays and holidays when deliveries are automatically suspended we do receive mail in the post office.

We have had occasions in the past, not recently where this mail was cased for the rural routes. There would be approximately 50 percent in many instances of the customers served, when rural delivery did not take place, or when the city delivery was not taking place, the customers would call me or call at the office to see if anyone was going to be available to pass that mail out to them out the back door.

We talk about a possible savings of energy. You know one person serves an entire rural route. One small vehicle would serve a city delivery route. We would generate energies from 50 to 150 people to come in to pick their mail up.

This is a vital service, this is where they are receiving information from their Government, from their Senators and from their Congressmen. I'm greatly concerned about any reduction in delivery.

Senator GLENN. I'm concerned about it too. We have some tough budget decisions that have to be made and this is obviously one of them.

I come from a small town too. I know that people back there still get the papers and the ads on Saturday morning, and go to town a lot of times to do their shopping on Saturday afternoon.

They still live the way they did back when I was a kid, back more years ago than I like to remember these days. They still operate that way and depend on those ads for knowing where to go and the coupons for what to buy. To the rural people, it's a very important factor in their lives.

It is more than just the inconvenience of getting no mail on Saturday. It's a factor in how people plan their lives and how they do their work.

It goes beyond little preferences that some urban dwellers tend to put on 5-day mail delivery.

Mr. SYERS. You know Senator, one other thing, sir, to the best of my knowledge, we're the only public related agency that operated this year with a cheaper public subsidy fund than we did last year.

We're the only agency or associated agency which is projected to operate because of Public Law 91-375 with less moneys next year than we are this year.

I think we're within the law as it was intended and it seems to me they're taking picks on the Postal Service.

Senator GLENN. We're going to have to end here shortly because we're going way over our time, and I have another appointment I'm already late for right now.

Mr. LEDBETTER. Mr. Chairman, could I just say that we feel very strongly about this danger of losing the monopoly, if a day, any day of delivery is eliminated.

It's going to follow that others will be allowed to deliver mail that day and it's going to damage the Postal Service, in a way in which we may never recover.

Senator GLENN. We want to go into this at some length with the Postal Service as to what their estimates are of the business loss and whether this will be taken up by others or not.

Let me comment on the \$920 million. That's no magic figure, as far as we're concerned. We just put it where it started out back some years ago. It was sort of a tide-over budget figure.

It was supposed to give us subsidy while the Postal Service got on its feet and became self-sufficient and then it was to phase down year by year and phase out. And away we went.

That obviously has not proven possible, without putting rates up to an intolerably high level or one that would drive people away from the Postal Service.

So the \$920 million figure we felt was the least we could do this year to put it back with the tremendously increased cost, which the Postal Service has shared along with everything else in our economy.

Still I hope, after all this time, we can get some idea of attributable cost, one of these days. Then we'll have a better basis for deciding

whether that permanent subsidy figure of \$920 million is adequate, whether it needs to go up by an inflation rate of x amount each year, or be reconsidered each year.

At least we'll know what we're doing at that time because our \$920 million figures, and I'll be quite honest with you that the \$920 million figure is pulled right out of the blue sky.

It's nothing magic. We don't know what the money's going for. It's just a general subsidy figure right now for the Postal Service.

Well that's fine, I'm happy to go ahead and propose that now, but it's intolerable to me that we go into the indefinite future with no better handle on where the money is going. I don't think the Congress is going to accept that much longer.

What we provide here in the legislation, of course, is at least there will be an accounting back of what it was spent for the previous year.

Surely we can do that. We even had some objection the other day though as to whether we should even be trying to make that sort of accountability.

We should have that kind of accountability, even if we don't know in advance what they're going to need it for or what areas are going to need propping up that particular year.

But they can't even tell us what it was spent for, it would be the only function in Government that I know of where we float nearly a billion dollars and don't require somebody to tell us specifically what it was used for. So I'm sure we're going to have at least that kind of accountability.

I just wanted to reemphasize that the \$920 million is not any magic figure that we come up with by accounting and saying that this is needed for a certain purpose here and x amount is going for this function and a certain amount for another function.

We just returned the \$920 million into this bill because that was the figure we started out with. And we hope to get good enough figures one of these days so we can alter the amounts as the Congress decides what is really needed to support the Postal Service, without driving rates so high that we drive customers away.

Gentlemen I appreciate your being here.

Thank you very much.

[The prepared statements of Mr. Dalton, Mr. Ledbetter, and Mr. Syers follow:]

TESTIMONY OF

EUGENE B. DALTON, PRESIDENT
NATIONAL LEAGUE OF POSTMASTERS OF THE UNITED STATES

BEFORE

THE COMMITTEE ON GOVERNMENTAL AFFAIRS
SUBCOMMITTEE ON ENERGY, NUCLEAR
PROLIFERATION AND FEDERAL SERVICES

APRIL 21, 1980

Mr. Chairman and Members of the Committee:

I am Eugene B. Dalton, President of the National League of Postmasters. Our organization represents 22,000 Postmasters throughout this Nation and approximately 50,000 other Federal employees enrolled in our Postmasters Benefit Health Plan. We welcome this opportunity to appear before your distinguished Committee for the purpose of giving our thoughts on Senate Bill 2558. We wish to commend you and your Committee for taking appropriate action on key issues that are so vitally important to our members and the American public. The action taken by your Committee and the Congress of the United States will play a vital role in the future of the Postal Service.

The first issue we wish to address is the proposed elimination of the appropriations now provided by Congress for services rendered by the United States Postal Service. While our organization supports the President in his desire to curb run-away inflation which every American is faced with today, we cannot, however, condone appropriation cutbacks which will jeopardize an adequate mail service to the American public. The Postal Service, under the Directorship of Postmaster General William F. Bolger, was the first federal agency to initiate plans for reduction in energy

consumption, increased productivity, and reduction in our work force through attrition. We have provided leadership for the other federal agencies to take appropriate action to assist the administration in reducing our reliance on foreign oil through energy conservation.

When the administration proposed reduction in expenditures for the purpose of balancing the budget, no consideration was given the United States Postal Service for its former actions. We resent the slashing away of appropriations that are necessary to maintain a viable Postal Service. We feel this is unjust as we had already begun a program of work to bring our house in order to serve in every possible way without eliminating the maximum degree of service provided for under the Postal Reorganization Act. The Postal Service down through the years has become a favorite whipping boy for every administration and is always first to be called upon in appropriation cuts. While all federal agencies play a vital role in the lives of everyone, not one touches the life of every American as that of the Postal Service.

We strongly feel the American public is entitled to the best Postal Service possible for the tax dollars invested by them. While we concur that in some areas a reduction in delivery will not be harmful to some users of our service, it will be very detrimental to the large majority of urban and rural communities. We feel the time has come when appropriate priorities must be established by Congress and the Postal Service which will once again restore service to the American people. Postmaster General Bolger has stated in previous statements that in the event the appropriation is eliminated he would have no choice except to reduce delivery from six to five days. In our opinion there are other alternatives which can be used to reduce expenditures of the Postal Service that would not have the adverse effect on our customers as a reduction in delivery.

The elimination of some of the present layers of management, unneeded reports, excessive travel by survey teams and elimination of the Board of Governors would result in savings far more than the reduction in delivery services. Our organization supported previous legislation proposed by the House which would eliminate the Postal Board of Governors and provide for the appointment of the Postmaster General by the President with confirmation by the Senate. We have not changed our position on this matter. We also feel that Congress should play a more important role in the decisions involving rate making and granting authority to the Postal Service to enter the field of electronic mail. With the authorization by Congress the Postal Service can proceed in the field of electronic mail thereby creating substantial savings in the movement of messages which would result in the final analysis of reduced postal rates to our customers. The conflict that exists today between the Postal Service, Postal Rate Commission and Federal Communications Commission should be resolved immediately by the Congress of the United States.

For many years the United States Postal Service has been the leader in the entire world in communications. Without benefit of being able to enter in the electronic transfer of mail messages we will no longer be the leader in the communications field. In Europe, systems like Prestel, View Data and Cable T.V. are already operational and provide service directly to home and office. In several areas of our country today, payments for goods are being transferred via electronic procedures directly from the department store to the banking institutions. We have already lost the lucrative parcel post business to a competitor and if denied our rightful role in the electronic industry we will find ourselves

in a position of serving only the areas of our country which are undesirable to the cream skimmers. These conditions would necessitate even more appropriations than presently called for in your bill to fulfill the requirement of providing a maximum degree of effective mail service to the American public.

We urge you Mr. Chairman and your Committee to proceed with all haste to pass legislation which will not only provide the \$920 million in your bill but will also provide for additional funding upon appropriate presentation by the Postal Service for additional funds. We also urge consideration be given by the Appropriations Committee to the additional services provided for by the Postal Service for other governmental agencies.

Cut Backs in Delivery

With the proposed elimination of six day delivery several adverse effects will be brought about. First and foremost it will have a tendency to widen the crack already created in the private express statutes. Under present law, private firms are authorized to deliver any type service the Postal Service cannot or will not provide to the American public. An extreme hardship will be placed upon our customers in rural areas by denying them their newspapers, market reports and other vital information for the proper operation of their businesses. The lucrative business will be taken over by the entrepreneurs who are presently skimming the cream of the crop at a much higher rate to our customers. History has taught those of us in the Postal Service that once a service cut has been made it has never been restored. We already experience many of our post offices not providing appropriate window service on Saturday

to accommodate our customers. The reduction in delivery actually would result in a tendency to accumulate all mail over the weekend which would only result in excessive overtime and additional personnel on Monday. While it has not been established that Saturday would be the day to eliminate delivery, more than likely this is the day that would be chosen. When the majority of federal holidays are observed on Monday this would create an even greater hardship on Tuesday. After careful study and consideration it is our opinion that no productive savings could be realized just by eliminating six day delivery.

Postal Rate Commission

While we concur with the general synopsis in this portion of your bill we do feel, however, that more emphasis should be placed on the role of rate making by the Commission and not to establish policy for the Postal Service. If you will permit me to use the old cliché that "...too many cooks spoil the broth..." this is certainly the position we find ourselves in with the jurisdiction of the different agencies involved. While we feel the Postal Rate Commission has an important role as a consumer protection agency, we do feel, however, in some instances they have overstepped their authority. Policies should be made by the Postal Service with the consent of Congress.

We do disagree, however, Mr. Chairman, with the provision of your bill which prohibits a former employee of the United States Postal Service from serving on the Postal Rate Commission for a period of five years. If the Board of Governors is to be retained, we have the same reservation in regards to the selection of the Governors. Experience over the past

decade has taught us that bringing people in from the outside sector has in many cases proven to be very detrimental to the operation of the Postal Service. While we feel both the Postal Rate Commission and the Board of Governors should have some members from the private sector to represent our consumers we also feel it mandatory that people who have knowledge of the inner workings of the Postal Service be placed in decision making positions in order to balance the picture. Under the leadership of former corporate giants we witnessed the beginning of the demise of the Postal Service. Only after the Board of Governors had the wisdom and foresight to bring to the Board a career Postal employee, did the trend to abolish the Postal Service change its course. Under the leadership of Mr. Bolger's predecessor the Postal Service was on a run away course for destruction. In the majority of cases, the persons who have been chosen in former years to serve in these important positions were profit oriented rather than service oriented. The Postal Service is not and was never intended to be a profit making organization but its sole responsibility was to provide the best possible service at an efficient cost to the American public. Therefore, we respectfully request consideration that the five year prohibition be eliminated and former Postal employees be eligible to serve.

Research and Development

We commend your inclusion of a comprehensive program of Research and Development. We must at all times keep abreast of the needs of our times. This program cannot be overemphasized. New ways must be explored continuously to upgrade our service to the American public and increase productivity.

Protection of Postal Property

We commend you on addressing this issue and heartily endorse this entire section as written.

Reduce Postal Rates

We further commend you on the clarification of the so called library rate. This has been a much abused rate and in the past has not given the proper subsidy to those people for which it was originally intended, namely our schools and libraries. Instructions issued in the past have been unclear and very confusing to the American public.

Office of Safety and Health Act (OSHA)

Mr. Chairman we commend your Committee for including mandatory safety features in your bill. While we heartily endorse all provisions of this section we feel, however, that some areas have been overlooked. Injuries and deaths to Postal employees can be readily measured by statistics. No one has bothered to secure statistics on our members who have suffered mental illness, heart attacks, and disability retirement due to the excessive stress, harassment and mental injuries brought upon them. The majority of these cases have been brought about due to the elimination of adequate clerical assistance in their offices, unnecessary paper work and constant demands for higher productivity without regards to the number of hours required to perform these services. For your committees information, we have made an investigation as to the number of claims for mental disorders from our membership that are insured by our health benefit plan. We receive an average of ten claims daily in terms of mental disorders. A far greater number of claims are being

received from victims suffering heart attacks. Only a few years ago, Postmasters were made to retire at the mandatory age of 70. Today, Postmasters are retiring at the earliest possible age. This is easily proven by the continuing number of vacancies that exist in our Postmaster ranks. Since Postmasters have no collective bargaining or arbitration we become the victims of excessive hours. The Office of Compensation has such a backlog on disability retirement that they have started making partial payments until a person's true compensation can be established. We have cases where Postmasters who retire under disability have had to wait six to eight months before receiving any type of payment. This type of illness, Mr. Chairman, as stated earlier, has not been given proper consideration in your bill. We respectfully request the Postal Service be required to produce these statistics along with the injuries and deaths in their annual report. We feel that a nationwide application of OSHA should be the policy the Postal Service must operate under, not state requirements.

In summary, Mr. Chairman, permit me to express to you and your distinguished Committee our sincere appreciation for affording us the opportunity to appear before you today. I will be happy to respond to any questions you or your Committee may have.

STATEMENT OF DONALD N. LEDBETTER
PRESIDENT, NATIONAL ASSOCIATION OF POSTAL SUPERVISORS
BEFORE THE SENATE SUBCOMMITTEE ON
ENERGY, NUCLEAR PROLIFERATION AND FEDERAL SERVICES
HEARINGS ON H.R. 79, S. 2558, AND RELATED POSTAL MATTERS

April 21, 1980

Mr. Chairman and Members of the Subcommittee:

I am Donald N. Ledbetter, President of the National Association of Postal Supervisors. Thank you for this opportunity to appear today and present testimony concerning H.R. 79, the Postal Service Reorganization Act of 1979, your legislative measure--S. 2558, the Postal Service Act of 1980, and other related postal matters. As I express my views today on vital postal issues, I speak on behalf of 35,000 postal supervisors and other managerial employees who are members of our Association. The Association has members in all fifty states and possessions, and they are employed in post offices, sectional centers, district offices, branches, stations, motor vehicle facilities, maintenance units, airport facilities, bulk mail centers and all mail-handling installations of the U.S. Postal Service.

Simply stated, postal supervisors oversee the operations of the U.S. Postal Service. These employees do not formulate postal policy, but the responsibility lies with them to carry out policy and to reflect the philosophy of top postal management. However, in this pivotal role, postal supervisors develop strong viewpoints concerning USPS management. I will express some of these to you today.

In the decade since the Postal Reorganization Act was passed, the concerned parties--postal employees, postal management, mail users and the Congress--have grappled with certain key issues which have evolved in the ever-continuing

examination of the Postal Service and how it serves, or does not serve, the public. It is proper and necessary that current postal legislation deal with these central issues which we believe are as follows:

*The so-called break-even concept as applied to the U.S. Postal Service needs refuting once and for all. This entails definition and commitment to 'public service' aspects of the Postal Service, and public funding of these public services.

*The Postal Service needs to be helped, not hindered, in its efforts to provide new and/or improved services and classifications of mail. This means streamlining rate-making procedures, liberalizing mail classification procedures, and finally allowing the Postal Service to progress with the rest of the world in the electronic mail field.

*The issue of accountability needs to be resolved. To whom is top postal management held accountable...the Congress, this Subcommittee, the President, the Public, the Board of Governors, or to no one? Our current Postmaster General is knowledgeable and effective, but the U.S. Postal Service's progression or regression must not rest on the strength or weakness of one man's performance. There must be continuity of oversight and accountability.

Now, let's examine the proposed legislative efforts to address these issues.

H.R. 79

The National Association of Postal Supervisors supported and still supports the concepts embodied in H.R. 79 which passed by an overwhelming margin in the

House of Representatives last September 7. The measure provided for slight increases in public service subsidies to the Postal Service thus denying the "break-even" concept. And the bill recognized the importance of improved postal services and top management accountability. As an addendum to today's testimony, I offer my extended comments on H.R. 79 which were presented in March, 1979. But in the interest of brevity, it is sufficient to say that the National Association of Postal Supervisors continues to press for a progressive, accountable and adequately funded Postal Service.

Unfortunately, in this era of budgetmania, the Postal Service is threatened on each of these fronts. The Postal Service cannot continue to be progressive in the face of stymied regulatory efforts and mindless budget-cutting. In the face of the recent House, Senate and Administration proposed budget cuts, this nation can forget progressive services and accountability, because the Service will simply not be adequately funded.

In relation to our strong support of adequate public service funding, the National Association of Postal Supervisors strongly opposes budget cuts that result in service reductions such as the proposed move from six to five days of delivery. Inadequate funding and ill-conceived budget cuts will begin the dismantling of the nation's mail delivery network which has served all citizens equally for two hundred years. Following a sure reduction in volume will come a corresponding reduction in revenue, a reduction in jobs, and the vicious circle will continue with further reductions in service.

S. 2558 - POSTAL SERVICE ACT OF 1980

We are extremely pleased to note that your own legislation, S. 2558, recognizes the need for continued public service authorization. As I understand it,

your legislation would establish a permanent level for the public service authorization at \$920 million. Certainly, we recognize the financial constraints which are the reality of the day, but we urge the Congress to focus on the fact that the Postal Service, too, must live with the current rate of inflation. Your proposed authorization level is a minimum level of funding needed by the Postal Service.

Section 2 - Occupational Safety and Health - Section 2 of your measure would switch the part of the Occupational Safety and Health Act which applies to the Postal Service from the Federal agency portion to the private sector portion. We have two obvious problems with this.

We oppose civil or criminal fines against the Postal Service as an institution or against individual supervisory or other employees for any perceived safety shortcomings. Civil or criminal fines against the Postal Service as an institution would not penalize private shareholders, but would tax the postage-buying public. And as I understand it, the Act does not authorize penalties against individual supervisory or other employees for safety failings. With that, the question will surely be asked--how, then, are safety policies to be enforced? I answer with the most recent example of OSHA interaction with the Postal Service in New Jersey. OSHA has identified a number of serious safety violations at the bulk mail facility there, in the aftermath of the tragic death of a postal employee. In reaction to OSHA citations, the Postal Service is moving quickly to remedy the most threatening conditions, and is using every resource to remedy all violations in a timely manner. This cannot be accomplished overnight, but it is my understanding that the Postal Service is placing extremely heavy emphasis on accomplishing the clean-up task in New Jersey and in all bulk mail .

facilities. This quick reaction and continuing action at the request of OSHA occurs without monetary penalties.

My good friend, Jim LaPenta, in his testimony before this Subcommittee, pointed to the "three E's" of an effective safety program--Enforcement, Engineering, and Education. We suggest that without a fourth, and most important "E", even these cannot be fully effective. That most important element is "Emphasis"--from the top, down. Now the message is coming from the top, down to the line supervisor, that productivity must be balanced with safety. With the proper emphasis and backing from higher management, the line supervisor can and will enforce the Postal Service's safety program.

Finally, on the safety issue, I point out another troublesome problem with private sector, rather than Federal agency, OSHA guidelines. Supplementary state safety regulations permitted under private sector OSHA could subject the Postal Service to varying requirements across the country. This would obviously be a problem.

Sections 3 and 4 - Civil Penalties and Investigation - We will not elaborate on these sections, but we do applaud the intent of the bill to provide needed strength to the Postal Service in combatting illegal mail-order schemes and failure to pay lawful postage.

Section 5 - Appropriations - Again, your recognition of the need for Congressional appropriations to the Postal Service is most important. This section of your legislation is perhaps the most important, yet is also the most threatened. I re-emphasize our Association's support of this provision for public service subsidy, and I pledge to work with you to maintain at least this level of funding.

Sections 6 and 7 - Mail Classification and Experiments - I will try to speak briefly on these points. My thrust is this--the Postal Rate Commission exists to promote an effective postal system in the public interest. It does not exist to protect private delivery interests above the interests of the mail-using public. Your section on mail classification seems to put undue emphasis on "impact upon competition" rather than impact upon the Postal Service and the mail user. And your section on postal experiments, again, seems to give inappropriate power to the Postal Rate Commission over Postal Service experimentation. The Postal Service must be free to effectively research and develop new and different services. Part of this research is, necessarily, experimentation with the mailing public. We question a Congress which calls for an efficient, cost-effective Postal Service, but which, at the same time, reinforces an arduous regulatory process that all but destroys the incentive for the Postal Service to progress. We point to the current debate over ECOM as an example. The Postal Service's ECOM proposal has been delayed for over 15 months. And it appears that the Postal Rate Commission is intent on excluding the Postal Service from effectively competing for telecommunications business. We appeal to you and to your colleagues, Mr. Chairman, to help rather than hinder the Postal Service in its efforts to remain a viable Service in the present and future.

As a final point concerning the Postal Rate Commission, we support the apparent intent of Section 9 to avoid any conflict of interest concerning the Postal Rate Commission's budget.

Section 10 - Qualifications of Governors and Commissioners - Mr. Chairman, we support your efforts to insure a more knowledgeable and experienced Board of Governors by specifying certain areas of qualification. However, as has long

been our opinion, the Board is a layer of bureaucracy that is unnecessary. We have, in the past, called for the abolishment of the Board of Governors, but I suppose if we can't abolish the Board, the least we can do is try to improve the Board. Your qualifications and specifications for service on the Board and the Postal Rate Commission make sense, with one exception. I would urge you to drop the five-year waiting period that you propose before any employee of the Postal Service may serve in either capacity. Basic postal experience is the most obvious missing ingredient of the make-up of the Board today, with a few notable exceptions. And your five-year limitation seems to insulate both institutions from the services of those very individuals who would possess postal background, knowledge, and experience.

As you well know, Mr. Chairman, the National Association of Postal Supervisors holds a great number of concerns about the United States Postal Service in its management and direction. I have expressed to you today many of these concerns. And if I may, I would like to add one final comment concerning our current efforts to resolve our Association's pay disputes with top postal management. Two years ago you urged me to attempt to resolve the debate over arbitration rights with Postmaster General Bolger. As you know, at this very time Mr. Bolger and I, our respective staffs, and Subcommittee staff members, are attempting to formulate compromise legislation which would address pay issues long in dispute. We look forward to coming to you with this compromise, and we sincerely hope you will join with your colleagues in examining and approving this legislative approach.

With these final remarks, I conclude my prepared statement. Again, I thank you for your interest in these postal issues. I will be happy to respond to any questions that you or any Member of the Subcommittee may wish to address to me.

TESTIMONY OF

Donald N. Ledbetter, President
National Association of Postal Supervisors

Presented to the

Postal Operations and Services Subcommittee

and the

Postal Personnel and Modernization Subcommittee

March 15, 1979

Mr. Chairman and Members of the Subcommittee:

I am Donald N. Ledbetter, President of the National Association of Postal Supervisors. Thank you for this opportunity to appear today and present testimony concerning H.R. 79 on behalf of the 35,000 members of our Association. I realize your hearing schedule is crowded, Mr. Chairman, so I shall make my remarks brief.

Your untiring efforts to bring realism and responsiveness to the United States Postal Service are to be commended. Believe me, I know that task is difficult. As you once again take the lead with H.R. 79, I offer my whole-hearted support to the intent of the bill. The ill-conceived "break-even" concept must be put to rest once and for all. It is infeasible for a service designed to serve the nation's populace--regardless of geographic or economic desirability--to balance the bottom line or make a profit. Your attack on the break-even philosophy seems to form on two fronts--altering top management's form and philosophy and easing the Postal Service's extreme financial difficulties. We back you in both directions, though the steps we suggest differ slightly.

Section 2 of H.R. 79 attempts to deal with the situation we face in which the Postal Service is answerable to no one, insulated from everyone--including

the Congress and the President. Despite rosy financial conjectures, the fact is the Postal Service is sliding further and further into debt. Previous testimony, with which we concur, points out that by the end of fiscal year 1980, the Postal Service under the Postal Reorganization Act will have lost \$5,598,328,000. The official budget of the United States says that the Postal Service will incur a deficit this fiscal year of \$517,310,000; in 1980 the deficit will be \$1,237,593,000. Yet, the Postal Service does not want Congressional appropriations. The Postal Service pleads for more money before the Postal Rate Commission; it contends it needs no money before Congress; and it claims it has no money to pay its employees, especially its supervisors and managers. Unless the Congress steps in, Postal Service top management will continue to scapegoat middle management, and will continue to increase rates eventually driving away the volume it now enjoys. The means of survival are limited. If the Postmaster General chooses to cut services, cuts in volume and revenue will follow. Increased productivity has its physical limits--postal supervisors have tightened their operations and their belts until they are operating in the blue, never mind black or red. And increased mechanization will soon reach the end of expansion. Yet, the fiscal fog that seems to descend at the time the title Postmaster General is assumed has even settled in on our career man William Bolger. Recent Postmasters General have said "no" to increased appropriations. But Bill Bolger says "it's none of my business what the Congress decides to do about appropriations." That's hard for me and the people I represent to understand.

Top postal management must be called into accountability. And some measure of responsiveness to our nation's elected representatives must be evoked. We continue to urge Presidential appointment of the Postmaster General with the

advice and consent of the Senate. And we again call for abolishment of the Board of Governors. Since 1970, the Board has been of no significant use. With the exception of Robert Hardesty and the more recent appointment of William Sullivan, not one governor had postal experience or background. Their decisions have been basic hinge-head responses--nodding "yes" to the conclusions of top postal management. If we must continue to endure this ineffectual layer of bureaucracy at the Postal Service, your suggestions to build strength into the body and postal background into its members are desirable. But it is our preference to simply eliminate the Board. We feel that the Postmaster General should remain the chief executive officer of the Postal Service and, if the Board remains intact, the Postmaster General should remain a member. Concerning the frequency of Board meetings, we believe that it's not how often it meets, but what it does when it meets that counts. Based on its record to date, we suggest zero frequency. Then, at least money will be saved from the monthly outlaying of salaries, air fares, room and board.

Section 3 of H.R. 79 provides for an increase in public service appropriations. Again, we are pleased with the implied put-down of the "break-even" philosophy. However, we realize, as we believe the Chairman realizes, that the amounts authorized in this section are not adequate to maintain current public service levels. In supporting these proposed increases in funding, we are not endorsing the levels of funding. But we realize--given the current attitude of the Carter administration--the suggested amounts may be all we can get. Certainly, something is better than nothing.

We agree with your concept of extending phased rates proposed in Section 4 of the bill. Though we contend that each class of mail should pay those costs which can be reasonably charged against that class, along with its share of the

overhead costs, we believe that Congress should have the power to evaluate pending rate increases and subsidize a class of mail if it is deemed for the good of all. We recognize that mail volume is the Postal Service's lifeblood.

Section 5 of H.R. 79 provides for an independent budget for the Postal Rate Commission. That makes good sense to us. Though we do not believe there has ever been any improper collaboration between the Postal Service and the Postal Rate Commission, or any undue pressure tied to purse strings, we believe it is sound procedure to eliminate any such temptation. If the Postal Rate Commission is to operate independently, it should have an independent budget.

A cost attribution study such as you propose in Section 6 can't hurt, though I'm not sure still another study of postal matters will help. But, with or without the assistance and recommendations of the Postal Rate Commission, we support any proposal that will bring rate methodology under the scrutiny of the Congress.

We fully support Section 7 of this bill which would permit the Postal Service to specify size and weight limits for parcel post after consideration by the Postal Rate Commission. This corrects a ridiculous limitation on the Postal Service which has been enforced since the days of the REA. Hopefully, these nonsensical limitations can be removed. Such a move is long overdue.

In conclusion, Mr. Chairman, I offer on behalf of all postal supervisors our appreciation to you for your continued interest and determination to bring long-needed reform to the Postal Service. We fully realize that your bill is not an attempt at complete reform, but it is simply an effort to bring greater accountability in postal decision-making and sorely needed public service funding to a sinking operation. H.R. 79 is a trim bill, currently void of damaging or compromising sections. We sincerely hope the bill will not be amended to

death and that we can offer our support continuously until passage into law. As you have noted, Mr. Chairman, the alternative is not bright. Failure to support and act on this postal legislation may very well mean decreasing service, decreasing volume and fewer jobs for postal employees.

Beyond dealing with these immediate provisions of H.R. 79, we share your concern about other very serious problems facing the Postal Service. We are alert to the threats against the Private Express Statutes. We are aware of the absolute necessity that the Postal Service maintain involvement in electronic mail systems. We understand your intent to examine these serious issues, and we welcome the opportunity to provide input at the proper time.

Thank you for allowing us to express the views of the National Association of Postal Supervisors concerning H.R. 79. We shall be happy to answer any questions at this time.

STATEMENT OF
JAMES D. SYERS, PRESIDENT
NATIONAL ASSOCIATION OF POSTMASTERS OF THE UNITED STATES
BEFORE THE
SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION, AND FEDERAL SERVICES
COMMITTEE ON GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

April 21, 1980

Mr. Chairman and members of the committee, I am Jim Syers, postmaster of Sturgis, Kentucky, a small rural post office. I am temporarily on leave without pay to serve as President of the National Association of Postmasters which represents approximately 27,000 active postmasters and 7,000 retired postmasters. I am accompanied today by Frank Miklozek, our Executive Director, and Joe Gondola, our national legislative chairman.

We welcome this opportunity to appear before your committee to comment on the proposed "Postal Service Act of 1980."

The U. S. Postal Service from the beginning has been charged by the Constitution and subsequent enabling legislation to provide to all our citizens a universal and effective mail service. A primary goal of amending the Reorganization Act of 1970, Title 39 of the U. S. Code, should be to strengthen the Postal Service in terms of adequate funding and operational flexibility. There are many individual issues which have come into question since the Reorganization Act of 1970, and we commend the Chairman for the thoroughness with which the Postal Service Act of 1980 deals with these issues.

We are here today to testify in broad support of the provisions of the Postal Service Act of 1980 and comment on those provisions that, with slight modification can be made even more effective.

Section 2. OCCUPATIONAL SAFETY AND HEALTH

The amendment of 39 U.S.C. 410 to remove the Postal Service from the Federal agency safety and health program and place it under the provisions of the Occupational Safety and Health Act of 1970 with its attendant inspections, investigations, record-keeping and potential for litigation, may be saddling the Postal Service with added burdens, both administrative and financial. The Federal agency safety and health program provides adequate safeguards and protection for the Postal Service employees when effectively administered. We believe it is preferable to retain the present program, particularly in light of the steps recently undertaken by the Postmaster General to increase safety awareness in the Postal Service and to make the present program more effective.

Section 3. FALSE REPRESENTATIONS: INVESTIGATION AND CIVIL PENALTIES

We support the provisions of this section, as it provides much needed reform of the mail stop-order procedure. We are certain you will be applauded for your interest in this matter by untold numbers of consumers who have been victimized, as well as by postmasters who, day in and day out, shoulder the complaints of these unfortunate citizens.

Section 4. CIVIL PENALTIES AND FAILURE TO PAY LAWFUL POSTAGE

We believe the provisions of this section offer a more efficient procedure for handling nonpayment of lawful postage, augmenting the Postal Service's ongoing program of revenue protection, which is a high priority program among the postmasters of this nation. We wholeheartedly endorse this section.

Section 5. PUBLIC SERVICE AUTHORIZATION AND ANNUAL REPORT

Section 5, amending 39 U.S.C. 2401, recognizes the need to provide the Postal Service with the fiscal base for mail service operations and the research and development and planning necessary to increase its effectiveness. The establishment of a fixed amount of core funding through reimbursement for public service costs at the level of \$920,000,000 annually provides the basis for the Postal Service to strive to improve the current level of service to all citizens of this nation.

We commend the Chairman for retaining the provisions of the reimbursement to the Postal Service "for public service costs incurred by it in providing a maximum degree of effective and regular postal service nationwide, including communities where post offices may not be deemed self-sustaining..." The retention of these provisions reinforces the longstanding Congressional commitment to provide universal postal service to rural areas and small communities. The rural and small

community post office is as important to a comprehensive nationwide system as any other post office. A very large portion of the citizens of this country depends on the small rural post office as a means of communication to carry on business. In many areas of this country, the post office is the only place the citizens have any contact with their government--the only place where the American flag flies in the community. Thank you for recognizing that this should continue.

The authorization for the expenditure of an amount to carry out a comprehensive program of research and development from the sums authorized in 2401(c)(1) to include methods of electronically sending and delivering letters and other mail matter recognizes three important elements:

- (1) The means to fund a research and development program,
- (2) The establishment of such a program,
- (3) The major role that electronic mail will play in the Postal Service's future.

We believe it is essential that the Postal Service provide a national network to manage both hard copy and electronic mail delivery service which will first be universal and provide privacy and security of the mail at reasonable and uniform rates. This can only be assured by a nationwide, federally regulated system such as that of the U. S. Postal Service.

The Postal Service must be permitted to provide the services in an efficient manner directly to its customers, thereby enabling it to establish and manage a truly universal electronic mail service. The application of electronic technology in the field of communications is merely another necessary step to provide service to the public at reasonable costs and to insure a healthy and solvent postal service. We foresee this section as providing the impetus to such development and are pleased to support the provisions of this subsection.

Section 9. POSTAL RATE COMMISSION BUDGET

We are in profound agreement with the provisions of this section. We commend the Chairman for his foresight in correcting an incongruous situation where a regulated entity controls the budget of its regulator by removing the Postal Rate Commission budget from that of the Postal Service.

Section 10. QUALIFICATIONS OF GOVERNORS AND COMMISSIONERS

We are in agreement with the provisions of this section except for one area. We feel that the passing of a five year period before former employees of USPS and PRC can be appointed to the Board is too excessive. We would like to see the number changed to one or two years. It appears to us that the major thrust of this section is to provide a Board of Governors which has specific knowledge and expertise in postal and related areas. To allow five years to lapse before a former postal executive or Rate Commission member can serve would result in

a significant loss of such specialized knowledge and expertise.

Section 12. PROTECTION OF POSTAL PROPERTY

This section provides for a much needed broadening of authority of Postal Service security employees.

Section 13. SIZE AND WEIGHT LIMITATIONS

We welcome the provisions of this section which will repeal the obsolete and archaic restrictions on size and weight of parcels handled by the Postal Service.

CONCLUSION

We thank the Chairman for his responsible consideration of many needed reforms in the Postal Service and his apparent desire that the citizens of this country be provided with universal and efficient mail service.

Thank you for listening to our views, and if there are any questions we shall be happy to try to answer them.

[Whereupon at 12:15, Monday, April 21, 1980, the hearing recessed subject to the call of the Chair.]

POSTAL SERVICE ACT OF 1980

THURSDAY, MAY 1, 1980

U.S. SENATE,
SUBCOMMITTEE ON ENERGY,
NUCLEAR PROLIFERATION AND FEDERAL SERVICES,
COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:44 a.m. in room 357, Russell Senate Office Building, Hon. John Glenn (chairman of the subcommittee) presiding.

Present: Senators Glenn, Durenberger, and Levin.

Also present: Dr. Leonard Weiss, staff director; Anne Boni, legislative aide staff member; and Pam Cocker, assistant chief clerk.

Senator GLENN. The hearing will come to order. The way things are working out this morning, we could not have picked a worse day. My apologies for this. We will get on with the hearings as fast as possible.

OPENING REMARKS OF SENATOR GLENN

Senator GLENN. Our hearing this morning serves a dual purpose. It is first of all an opportunity for the Postmaster General, William Bolger, to present his annual report to the Senate as provided for in the Postal Reorganization Act of 1970. It is also a hearing in which Mr. Bolger will present his views on pieces of legislation which are presently before this subcommittee.

These include S. 2558, the Postal Service Act of 1980; H.R. 79, a comprehensive bill on postal matters, which passed the House last year; and H.R. 826 which provides for the Postal Service to be covered by the Occupational Safety and Health Act, which has also passed the House.

I don't think that it is any news to anyone that these are difficult times for the Postal Service. The House Budget Committee has recommended a cut of \$836 million in the appropriations for the Postal Service for fiscal year 1981. This is \$100 million above the public service subsidy. The Senate Budget Committee has recommended a cut of \$588 million in the public service subsidy, and the Office of Management and Budget has recommended a cut of \$250 million.

In all cases, the presumption has been that savings would be effected at least in part by the elimination of 1 day of mail delivery. In addition to this, the Postal Service has recently filed a rate case with the Postal Rate Commission in which the first ounce of first class mail will be raised in cost from 15 cents to 20 cents. This is a

rise of 33 $\frac{1}{3}$ percent in first-class mail, while the cost of other classes of mail are rising much less or, in some cases, are receiving reductions.

The Postal Service has been stymied in its introduction of new services such as ECOM and INTELPOST. It continues to be the object of a large number of complaints by the mailing public. Deficiencies in the working conditions of postal workers in some areas reached a climax with the death of a postal worker at the Bulk Mail Center in New Jersey, prompting demands for improvements in health and safety for postal workers around the country.

On the positive side of the ledger, the Postal Service had a reasonably good financial year in fiscal 1979, partly as the result of increased volume which is expected to continue at least through next year. By all accounts, according to the mailers, unions, workers, and supervisors, the present Postmaster General is doing an excellent job and has the confidence and trust of all of those who deal with him. I should add that I share that view, too. In the course of our close working relationship with Mr. Bolger, I have developed a high regard for him.

We shall be examining many issues this morning raised by the actions of the Budget Committees, the White House, the Rate Commission, and the Postal Service itself. Prior to Mr. Bolger's testimony, we shall receive testimony from two of my distinguished colleagues, Senator Harrison A. Williams, Jr., of New Jersey; and Senator Jim Sasser of Tennessee. In addition, we have what we could call a surprise witness this morning, Mr. Basil Whiting, Deputy Assistant Secretary for Occupational Safety and Health of the Department of Labor. He has a statement for us on the administration's position on legislation applying the provisions of the Occupational Safety Health Act to the Postal Service.

We will begin with testimony by Senators Williams and Sasser. We welcome you both. Senator Williams, do you have a statement for us?

**TESTIMONY OF HON. HARRISON A. WILLIAMS, JR., U.S. SENATOR
FROM THE STATE OF NEW JERSEY**

Senator WILLIAMS. Thank you very much. Mr. Chairman, it is a great pleasure and a privilege to appear before you and the subcommittee to express strong support for bringing to the employees of the U.S. Postal Service the protection of the Occupational Safety and Health Act.

I would like to commend you and the members of the subcommittee for scheduling these hearings and for your concern for the workplace safety and health of more than 650,000 postal workers. As one of the authors of the Occupational Safety and Health Act I have long believed that America's workers deserve a strong Federal commitment to their well-being on the job. Our Committee on Labor and Human Resources has just completed extensive hearings on the occupational safety and health program. One of the things which is coming through loud and clear is that workers' efforts to work with management to eliminate workplace hazards is most effective when the workers are backed up by a credible OSHA enforcement program.

Thus, it is critically important that America's Postal Service workers secure the protection of the Occupational Safety and Health Act and the committed backing of the Occupational Safety and Health Administration.

It is time that we all understand that postal work can be very hazardous employment. A popular misconception is that dog bites are the predominant occupational injury for postal workers and the hay fever is the predominant occupational disease. This is patently not the case.

Postal workers work in large, highly mechanized, industrial facilities. They are surrounded by complex machinery. They are subject to hazards which are akin to the hazards confronted by industrial workers everywhere.

The tragic death of a mail handler, Michael McDermott, on December 15, 1979, at the New York Bulk and Foreign Mail Center in Jersey City, N.J., painfully demonstrates the very real hazards that confront postal workers each and every working day of their lives. And, regrettably, these incidents are not isolated. There have been, since McDermott's death, other events in New Jersey postal facilities which involved serious injuries or near misses, and which indicate the hazardous nature of Postal Service employment.

Mr. Chairman, according to data provided by the Department of Labor, in 1978, the rate of lost workday injuries and illnesses for Postal Service employees was more than twice that of the entire Federal Government. In that year, nearly 60,000 postal workers suffered injuries and illnesses, and 15 postal workers were killed on the job. These are astounding figures.

Yet it is clear that postal workers are vitally interested in securing safe and healthful working conditions. In 1978, 27 percent of all worker complaints filed with OSHA by Federal agency employees were filed by postal workers, even though the Postal Service employs only 22 percent of the total Federal work force. But, as our committee has been told in recent weeks, those who are committed to effective workplace safety and health programs believe that their joint efforts to resolve safety and health disputes can be truly effective only where there exists a background of credible enforcement by an agency of the Government which is independent of the workplace parties. The Occupational Safety and Health Administration is the agency to which workers have learned to turn for support when their efforts to eliminate job hazards fail. And postal workers, no less than any group of industrial workers in our Nation, deserve this support.

Agencies of the Federal Government should take the lead in protecting workers. They should be the most innovative, the most constructive, the most dedicated of employers when it comes to workplace safety and health. The Postal Service has a duty to comply with the Occupational Safety and Health Act, and to develop and implement a strong, effective, meaningful commitment to workplace safety and health. I do not believe that the Postal Service has consistently and effectively done this, and I am convinced that the best way to insure that the Postal Service develops and implements a responsible job safety and health program is to bring it under the jurisdiction of OSHA.

Mr. Chairman, your subcommittee, it seems to me, must take the lead in bringing effective workplace protection to America's 650,000 postal workers. I know that the task before you is a difficult one, but the needs of these workers are very real and the result of a failure to address these needs will be measured in human tragedy.

I believe that America's workers—all of America's workers—deserve the most safe, most healthful workplaces which our society can provide to them. And an essential first step for postal workers is the protection of the Occupational Safety and Health Act.

I would like to tell you, Mr. Chairman, that we, at our committee, stand ready to provide any assistance which we can make available. I respectfully urge you to do everything possible to assure these fundamental rights to America's postal workers. I know that the bills before you will provide this essential protection. They are viewed as providing great promise for those 650,000 postal workers out there.

I am glad to be here with Senator Sasser, who, I know, has indicated his concern, over and over again, for the welfare of postal workers.

Senator GLENN. Thank you, Senator Williams. We appreciate that very much. We want to work closely with your committee and appreciate your testimony this morning.

I have no further questions. We might have some questions we want to include in the record later on. We would appreciate your responding to them later.

Senator WILLIAMS. We stand ready at any time, gentlemen.

Senator GLENN. Thank you.

Senator WILLIAMS. Thank you very much.

Senator GLENN. Senator Sasser, I understand that a representative from Kentucky, the Honorable Marilyn Lloyd Bouquard, who was going to be with you this morning—I understand from the staff that she did have to go to another meeting and could not remain. Do you have a statement from her?

Senator SASSER. Mr. Chairman, I have Congresswoman Bouquard's statement and ask that it be inserted in the record.

Senator GLENN. It will be included in the record.

Senator SASSER. I think they had a vote in the House and she had to go back for that.

Senator GLENN. Fine.

[Prepared statement of Congresswoman Bouquard follows:]

PREPARED STATEMENT OF CONGRESSWOMAN MARILYN BOUQUARD

Mr. Chairman, I appreciate the courtesy extended me by the subcommittee in permitting me to appear before you today in connection with your deliberations on the bill S. 2558, the Postal Services Act of 1980. Since we in the House are often constrained by the 5-minute rule, I will keep my comments as brief as possible.

There are few Government-provided services which affect more Americans more often than the Postal Service. The effort upon which the subcommittee is embarked is an important one, many areas which this legislation addresses, such as the relationships between the various governing bodies of the Postal Service, and the requirement for comprehensive planning on a 3-year basis, will be essential to improving the efficiency of the Postal Service.

There is another area, however, in which I believe improvement can be made. The decision of the Congress to remove the Postal Service from the political arena remains a wise act. Unfortunately, along with the abuses which arose in connection with the presence of political manipulation, there was a degree of protection for the Postal Service and its workers from the capricious deci-

sions of the top bureaucrats in the Post Office which was sacrificed. I would certainly not recommend a return to the days of direct political intervention, but I do know of a situation which has arisen in Chattanooga which I believe reflects poorly on the Postal Service, and which entails, at least in my opinion, the wholly arbitrary and petty personal prejudices of certain members of the Postal Service senior management.

The Postal Service is presently engaged in a reorganization effort which would eliminate the Chattanooga Postal Inspection Division and divide its mission between existing operations in Atlanta and Memphis. To accomplish this goal, the Postal Service would terminate or transfer approximately 42 employees now at work in the Chattanooga Division. In order to justify this move, the Postal Service has cited its potential savings in personnel costs attributable to the transfer of and reassignment of 14 postal inspectors and support personnel and the termination of another 38 individuals. However, when the total reorganization plan is evaluated, the creation of the three "super" divisions and 14 medium divisions, each with a minimum of 18 to 25 support staff, leads me to the conclusion that any savings in personnel are likely to evaporate quite quickly.

In addition, the new Postal Service facility in Chattanooga, which has only been occupied since last August, includes nearly 9,000 square feet in space intended for use by the Division of Postal Inspectors, vacating these premises would leave the Postal Service paying for unused space.

Finally, Mr. Chairman, it hardly seems that the efficiency of the Postal Service will be enhanced by dispersing one of the most productive units in the country. Last year the Chattanooga Division posted 941 arrests for crimes, this figure is more than 100 arrests higher than any other division in the southern region despite the small staff in Chattanooga. As Senator Sasser has mentioned, the tribute paid to this division by the U.S. Attorney's Office is eloquent testimony to the high regard in which this division is held by the Justice Department.

Many of the personnel now stationed elsewhere in the Postal Service's Division of inspectors have been trained in Chattanooga, in fact, I am told that most, if not all of the inspectors now present in Chattanooga have requested assignment to that duty station.

This arbitrary and unwarranted action of the Postal Service will cause harm not only to the individuals and families involved, but will also weaken the spirit of community that is so vital to our area. Chattanooga already suffers disproportionately from the effects of the recession. We are a manufacturing and heavy industry center. The loss of these jobs and this payroll will be felt in our community.

I would respectfully urge that this subcommittee find the means to make the Postal Service more sensitive to the needs of not only the public, but its own employees as well. Actions such as this proposed termination ought not to take place, especially when only the flimsiest of excuses are offered in justification. Similar plans have been twice rejected by the Congress and I think the present proposal should receive similar treatment. Thank you.

TESTIMONY OF HON. JIM SASSER, U.S. SENATOR FROM THE STATE OF TENNESSEE

Senator SASSER. Mr. Chairman, I want to commend you this morning for holding these timely, and, I think, very important hearings. The operation of the Postal Service is a matter of great import to Americans all across the land. Indeed, as one of the recently elected Governors in the Midwest put it, and I quote him: "There are only a few things the Federal Government should do. Defend our shores, deliver the mail, and stay the hell out of our lives." I am surprised he didn't add on there, "and keep the revenue money coming," but he didn't.

Senator GLENN. He is the only Governor who hasn't said that so far.

Senator SASSER. While I don't wholly subscribe to this Governor's political philosophy, I think he correctly identifies the fact that the

Federal Government is ultimately responsible for the efficient operations of the Postal Service.

The Postal Service is a national resource. Legislation before this subcommittee would make needed improvements in the Postal Service. It would seek to improve the occupational safety programs for postal workers. It would require the development of comprehensive postal planning information on a 3-year basis. It would enhance the research and development activities of the Postal Service. And, it would clarify the working relationships between the Board of Governors and the U.S. Postal Rate Commission.

In my opinion, the Congress must support an efficient and effective Postal Service. That is one of the reasons we took the Postal Service out of politics back in 1971. That is one of the reasons that the Postal Service must insure that its various operations are as effective and as efficient as possible. But to my great regret, Mr. Chairman, the Postal Service has recently embarked on a reorganization effort that effects postal services in my State in a most unbecoming manner.

Specifically I refer to the recently proposed reorganization of the Chattanooga Postal Inspection Division. Now, analyzing the considerable amount of information that I have collected on this matter, I find reports of questionable and arbitrary judgments relating to this proposed reorganization. Some feel that there is a public-be-damned attitude in dismantling one of the finest postal inspection divisions in the country.

Mr. Chairman, if you will indulge me for a few moments, let me put two facts on the record for the consideration of this committee.

First, the reorganization is proposed since it is supposed to result in some \$700,000 in savings yearly. Now, this savings is predicated on a successful reassignment of 14 postal personnel and the loss of over 28 personnel now working at the Chattanooga Postal Inspection Division. But, if one looks at the savings closely, a different picture begins to emerge. Long range Postal Service plans calls for the creation of 4 large and 12 medium-range, and 1 small-range inspection divisions each with a minimum of 18 to 25 support staff. This is a configuration of personnel that would prevent minimal or no personnel savings as a result of the proposed transfer.

In addition, Mr. Chairman, Chattanooga postal operations were moved into a new, comprehensive facility in August 1979, just 2 years ago. Now, in that facility, the Postal Inspection Division occupies 11,669 square feet of space which will be left vacant as a result of their move.

The Postal Service may well be spending at least \$300,000 to support vacant space in Chattanooga and have to acquire additional space in Memphis and Atlanta to house transferred personnel. All of these costs may undercut any proposed savings from this reorganization.

The question is: Is it efficient to first provide new space and then 2 years later, abandon it?

Second, the reorganization would break up one of the most effective postal inspection divisions in the country. The Chattanooga Division regularly leads the southern region in arrests for mail fraud, postal tampering, and other postal problems. It does so even though the number of inspectors with specialist assignments is significantly smaller than in the competing areas of Fort Worth, Atlanta, or Memphis.

The statistics that I have appended to my testimony, Mr. Chairman, I think will underline this point. Indeed, the U.S. attorney, the U.S. marshal, and the chief U.S. probation officer for eastern Tennessee, wherein this division resides, have recently written me strong letters objecting to the transfer of the Chattanooga Division out of eastern Tennessee and out of their area of criminal jurisdiction. They hold the Inspection Division in the highest professional esteem. The reorganization would break up the cohesiveness and teamwork of the most effective postal inspection team in the southern region.

Finally, and perhaps most importantly, Mr. Chairman, the human and community costs of this proposed transfer are certainly important. The Chattanooga Postal Inspection Division is a major economic asset to that community. The payroll of the division contributes \$1 million annually into the local economy. And, in a community that is having economic problems, the loss of the Postal Inspection Division would be a real blow. The human element is important also. Virtually all of the support staff of the division may not be able to transfer due to family ties and the precarious economics of having to sell their homes in Chattanooga and buy elsewhere at today's high interest rates.

A number of the postal inspectors have been in the Chattanooga division for more than 10 years and have well-established community ties. Other inspectors have recently transferred to Chattanooga only now to be told they are to be uprooted once again and move elsewhere to keep their jobs. These human costs are not noted in the postal reorganization balance sheet, nor perhaps, most importantly, Mr. Chairman, are they noted in the morale of the employees all across the Postal Service.

But perhaps the most objectionable part of this proposed reorganization is the arbitrary nature of the decisions. For example, there are references to the division headquarters not being quite as accessible or cosmopolitan enough to suite the travel habits of some members of the post office. But the plain fact is that the Chattanooga Postal Division is the most productive in the southern region. In 1979, for example, it posted 941 arrests for postal crimes, at least 100 more arrests than any other division in the region. And, the division arrest record is measured by arrest per postal inspector and was the best in the southern region.

Yet, for some reason, the Postal Service wishes to abolish this working and successful unit.

So, in short, Mr. Chairman, the Postal Service's proposed analysis of the benefits of the proposed reorganization leaves very much to be desired. There is little weight to the effectiveness of this particular division, and there has been little discussion with community leaders and the personnel involved in the proposed reorganization. Rather the reorganization has been announced by fiat and with no convincing economic or administrative rational for the transfer.

So, in conclusion, such a proposed reorganization was rejected in 1971 and in 1974 and there is still no merit to it in 1980. The Postal Service should immediately cancel its plans for this reorganization and instead ask the Chief Postal Inspector for a full and convincing account of the rational behind the transfer. As a result of my deep concern about this and other similar reorganizations, Mr. Chairman,

I will be prepared to offer an amendment to S. 2558 that will require the cancellation of all proposed reorganizations announced by the Postal Service after January 1, 1980. And, this moratorium would provide time to establish a much more comprehensive economic and operational data base as criteria for reorganization proposals.

Mr. Chairman, I want to thank you this morning for allowing me to come before your committee and outline what I think is important testimony affecting an important problem. I look forward to continuing to work with you in developing this important postal legislation. Again, I want to commend you for your efforts in working to see that we have a postal service which is more responsive to the needs of the American people.

Senator COHEN. Thank you, Senator Sasser. I am sure that Postmaster Bolger will welcome the opportunity to give the Postal Service's views of this particular case.

We appreciate very much your being here with us this morning. Thank you.

Senator SASSER. Thank you.

[Attachment to Senator Sasser's statement follows:]

FY 79
POSTAL ARREST RECORDS
SOUTHERN REGION

	CHATTANOOGA DIVISION	ATLANTA DIVISION	FORTH WORTH DIVISION	MEMPHIS DIVISION
EXTERNAL CRIME				
<u>ARRESTS</u>				
BURGLARY	29	15	31	38
ROBBERIES	4	7	4	13
EXTERNAL MAIL THEFT	697	623	579	568
MAILBOX THEFT	71	45	135	90
MISCELLANEOUS	17	24	22	10
MONEY ORDER THEFT	46	20	22	33
ASSAULTS	15	7	11	12
TOTAL	879	741	804	764
INTERNAL THEFT	37	37	24	28
FINANCIAL DEPREDAATION	25	12	13	12
GRAND TOTAL	941	790	841	804
WORKFORCE (INSPECTORS)	90	104	86	100
ARRESTS/PER INSPECTOR	10.46	7.6	9.78	8.04



REGIONAL CHIEF INSPECTOR
SOUTHERN REGION
Memphis, TN 38161

NOV 29 1979

PERSONAL

Mr. R. C. Pierce
Inspector in Charge
U.S. Postal Service
Chattanooga, TN 37401

Dear Mr. Pierce:

I wish to commend you and the Chattanooga Division for your achievements in fraud during Fiscal Year 1979. We have had an opportunity to conduct an on-site management review of the Fraud and Prohibited Mailings Programs and evaluate year-end results. Both revealed that your enthusiastic response to the Chief Inspector's continued emphasis to combatting white-collar crime resulted in an enviable record of accomplishments during the year and a quality Fraud Program. Following are some specific comments regarding your Fraud and Prohibited Mailings Programs.

Fraud Program

As noted above, the Chattanooga Division responded very well to the Chief Inspector's emphasis on combatting white-collar crime. Good results were achieved by utilizing the modified task force approach to major investigations, resulting in timely investigations and presentations. Also, close monitoring of complaints greatly improved the overall caliber of investigations undertaken in the Chattanooga Division in Fiscal Year 1979.

Fraud Team Concept

The Chattanooga Division has not adopted the fraud team concept. However, use has been made of the modified task force concept. During Fiscal Year 1979, nine cases were investigated under the modified task force approach, utilizing Code 03 Inspectors to supplement the Division's Code 04's.

Timely Investigations and Presentations

For Fiscal Year 1979, the Chattanooga Division had an action plan to present 27% of Category 1 cases within 180 days of jacketing. The Division reported an accomplishment of 60%. Further, timely investigations and presentations are being accomplished in all categories of fraud cases. A review of all cases issued since March, 1978, revealed that 58% were either presented or closed within the targeted presentation dates. Assistant Inspector in Charge McCracken reviews all 45-day abbreviated preliminary reports to determine prosecutive potential and manpower requirements. Additionally, presentation target dates are closely monitored, and all fraud specialists are aware of the Division's goals in this regard.

Utilization of Resources

A review of cases issued during Fiscal Year 1979 disclosed that the Division utilizes fraud specialists on the more complex investigations. Approximately 12% of the non-specialist type cases were jacketed to Code 04's. Discussion and review of records indicated that Code 03 Inspectors are utilized to investigate the less complex schemes, as well as to augment modified task force investigations.

Through September 30, 1979, the Chattanooga Division had utilized 84% (25,843 hours) of its Fiscal Year 1979 budgeted fraud hours (30,743 hours). However, not meeting the budget was due to a prolonged major bomb investigation at Bessemer, AL, which involved two fraud specialists virtually full time for several weeks. Hours used represented an increase of 29% over Fiscal Year 1978. At the same time, the overall quality of cases investigated improved by the careful screening of complaints. Category 2 and 3 cases issued decreased approximately 50% over FY 78. It was noted that you are no longer issuing cases to investigate the sale of untaxed cigarettes (Subject Code 191), or unemployment compensation cases involving single incident true payee claims (Subject Code 269), as was done earlier.

Arrests and Prosecutions

For Fiscal Year 1979, the Chattanooga Division had as one of its goals and objectives that 13% of all fraud arrests would be in Category 1 cases. The Division accomplished 31%. Thirty-one Category 1 arrests were reported, while only three Category 1 arrests were reported for all of Fiscal Year 1978. Although total fraud arrests were down from last year (118 to 97), I am encouraged by the improved quality of arrests reported. You may recall that of the 118 arrests reported in FY 78, 47 (40%) were made in Subject Codes 191 and 296.

Federal convictions also increased slightly compared to FY 78 (50 to 54), and "other" convictions decreased dramatically over last year, (60 to 11, or an 82% decrease).

Monitoring of Publications/Liaison with other Agencies

Good success was realized through the program to monitor publications to detect fraudulent operations. Four cases could be attributed to the program in Fiscal Year 1979. However, emphasis of the program to field Inspectors and close monitoring of the results should develop even more quality fraud cases for the Chattanooga Division, as well as other Divisions in the Southern Region and Nationally.

Contacts with other law enforcement and consumer oriented organizations continue to be very effective. In addition to contacts by Inspectors in the field, Assistant Inspector in Charge McCracken personally visited all of the State Attorney Generals in the Division. He also closely monitors the submission of U.S. Attorney briefs in major investigations to assure their early awareness of the Inspection Service cases.

Consumer Protection Program

Satisfactory results were achieved under the Consumer Protection Program. Fiscal Year 1979 complaints totaling \$26,669 were received, and the Division had a resolution rate of 92%.

Private Express Investigations

Inspector Roland Gaines is the private express specialist. He reviews all initial complaints and recommends to the Assistant Inspector in Charge the action to be taken. He personally investigates only the more complex private express cases. Other cases are assigned to Code 04 or Code 06 Inspectors, depending on the complexity of the case.

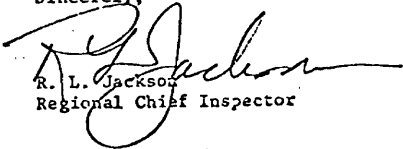
For Fiscal Year 1979, the Division completed 11 cases, two of which had potential revenue recovery of \$25,000 or more. This surpassed their action plan goal to complete 10 investigations, one of which had revenue recovery of \$25,000 or more.

Prohibited Mailings

Analysis and evaluation of open and closed Subject Code 363, Obscene/Objectionable Mail cases, disclosed a need for closer review and follow-up action to assure that such cases are receiving only that attention which is necessary to either stop the alleged violator, close the case, or present it to authorities for prosecutive consideration.

Again, I commend you and your Division for your contributions to the Southern Region's Fraud and Prohibited Mailings Programs during Fiscal Year 1979.

Sincerely,


R. L. Jackson
Regional Chief Inspector

Senator GLENN. The next witness this morning will be Basil J. Whiting, who is Deputy Assistant Secretary of Labor for OSHA. Mr. Whiting, we welcome you this morning and any statement you might wish to make.

TESTIMONY OF BASIL J. WHITING, DEPUTY ASSISTANT SECRETARY OF LABOR FOR OCCUPATIONAL SAFETY AND HEALTH, ACCOMPANIED BY RICHARD WILSON, DEPUTY DIRECTOR OF TRAINING, EDUCATION, CONSULTATION AND FEDERAL AGENCY PROGRAMS FOR OSHA, AND JOHN HYNAN, DEPUTY ASSOCIATE SOLICITOR OF LABOR, OSHA

Mr. WHITING. Thank you, Mr. Chairman. With me this morning is Richard Wilson, on my left, who is the Deputy Director of our program for Federal agencies, and Mr. John Hynan, the Deputy Associate Solicitor of Labor for Occupational Safety and Health.

We do want to thank the committee and you, Sir, for adjusting your schedule to allow us to appear here this morning. In recognition of that, I will summarize my written statement.

Senator GLENN. That will be fine. Your entire statement will be included in the record at the end of your testimony.

Mr. WHITING. We are happy to be here to discuss H.R. 826 and S. 2558 which are pending before this committee, and which would make the Postal Service subject to practically all the authorities of the Occupational Safety and Health Act of 1970. This administration fully endorses the basic intent of these bills. We do have two basic suggestions that I will touch on in a moment.

With over 695,000 employees, the Postal Service is the second largest Federal agency, surpassed only by the Department of Defense. Most postal employees are also exposed to hazards greater than those normally associated with office employment. These include unsafe working conditions involving mechanical equipment such as conveyors, hazardous working surfaces, inhalation of dust, toxic substances, automobile accidents, and various other serious hazards.

The Postal Service has roughly 20 percent of the Federal Government's employment and has roughly 40 percent of the injuries suffered by Federal workers in the various measures of those injuries.

Over a 5-year period ending in 1977, according to our statistics, injuries, illnesses and lost worktime in the Postal Service all increased by at least 35 percent. U.S. Postal Service employees have also filed more notices of unsafe and unhealthful working conditions directly with OSHA than have employees of any other Federal agency. And, of course, you heard Senator Williams discuss the tragic death of a postal employee in the bulk mail center in New Jersey last year.

Following that death, the Postal Service did request OSHA to conduct a comprehensive inspection of that particular fatality and of all 21 of the bulk mail centers. We have completed five of these comprehensive inspections to date. The data are being compiled and I don't have them here for you, but we can say that we found literally thousands of serious violations of safety standards that could have caused death or serious injury had an employee encountered them.

The fundamental reason why such problems exist in any employer's organization is because of the failure of top management to provide adequate support to safety and health activities. This is the case also with the Postal Service. It is the extent of support for the program of safety and health by all levels of management that in the end determines the protection actually provided to workers in any workplace. It is the view of this administration that the incentives to postal management to support safety and health needs to be increased by applying virtually the full range of OSHA authorities to this employer.

Now, it is true that more can be accomplished under the new Executive order the President recently signed regarding Federal agency safety and health. But the best incentive for improvements in the Postal Service would be the prospect of citations, penalties, and legally binding abatement requirements along with the clear right of postal employees to complain to OSHA and receive a prompt response in the form of a safety and health inspection by our safety engineers and industrial hygienists.

For Federal agencies in general, of course, monetary penalties would make little sense for they would simply involve the transfer of Federal funds from one Government pocket to the other. To require them in such cases would only hurt the public purpose of funds appropriated by and large from general tax revenues, not function as an effective financial incentive to better safety and health performance.

But the Postal Service is different from most Federal agencies in that it derives more than 90 percent of its operating revenue from fees for services provided. It does operate very much like a private enterprise, and in fact, declared a surplus in 1979. Any penalty payments would thus have an impact on the Postal Service's financial performance, fiscal performance, and would thus contribute to top management awareness of safety and health problems, particularly when the sanctions are in response to formal worker complaints of hazards that were ignored at a lower management level. This administration believes that in a case such as the Postal Service virtually the full range of OSHA authorities should be utilized to promote employer and employee efforts to eliminate hazards and lower compensation costs. We also believe, of course, that the Postal Service should have available to it the full range of defenses provided for under the Occupational Safety and Health Act to employers.

There are one or two problems that I would like to bring to the committee's attention. One of these has to do with criminal sanctions under the Occupational Safety and Health Act. The administration does not feel that it is necessary or appropriate to provide for criminal sanctions against the Postal Service as an organizational entity. But we do point out that criminal sanctions are the only direct means available to OSHA to hold individual managers directly accountable for their improper actions under these sections of the act, and we therefore prefer S. 2558, suitably modified, to H.R. 826 in this respect.

The recent postal employee death in the New York Foreign Mail Facility in Jersey City, about which we heard a few moments ago, would have been considered by this agency for possible referral to the Justice Department for prosecution of the relevant managers for

criminal, willful violations of the OSHA Act if they had worked for private employers. The evidence was clear and the only reason we could not do that was because this employer is not subject to the full range of OSHA provisions.

We strongly recommend that the subcommittee include provisions for criminal sanctions against individual managers in any legislation which proposes to place the Postal Service under OSHA as a private sector employer. We will be pleased to work with committee staff on language to this effect.

An additional area of concern with both of the bills pending before the committee with respect to occupational safety and health is whether Congress intends that the provisions of section 18 of the OSHA Act concerning State OSHA programs would apply to the Postal Service. The bills in their present form do not specifically exclude any provisions of section 18 and therefore we would have to interpret them as applicable to the Postal Service under these bills.

As you may know, the Occupational Safety and Health Act does provide for States to operate their own occupational safety and health programs subject to criteria and oversight by Federal OSHA. And, 23 States do have programs of this nature funded 50 percent by Federal funding. We do not believe that States should be permitted to apply their occupational safety and health programs to Postal Service facilities. The Postal Service remains an entity created by the Federal Government despite its private sector characteristics and from the earliest days of the Republic to the present time the application of State law to Federal entities has created problems both legal and practical. We do not recommend granting the States authority in this case as this might divert our efforts and the efforts of the Postal Service management from the goal of improving working conditions of postal employees.

Mr. Chairman, that concludes my prepared statement and we are available to answer any questions either here or for the record.

Senator GLENN. Thank you very much, Mr. Whiting. Does your testimony this morning reflect just the views of the Department of Labor or does your testimony on the OSHA matter represent the views of the administration?

Mr. WHITING. It represents the views of the administration.

Senator GLENN. Why do you oppose penalties against the U.S. Postal Service as an organizational entity when you support criminal penalties against postal managers per se? There is a difference there that I think is rather important.

Mr. WHITING. Well, Mr. Chairman, penalties in the case of an organization have little practical difference from the willful civil penalties that the organization would be subject to. Under the OSHA Act the maximum willful penalty, civil, is \$10,000 and for a criminal violation, similarly, \$10,000.

Senator GLENN. I was thinking here of the corporate analogy. You can have a fine, as I understand it, assessed against an individual or a corporation, yet in this you would favor going just halfway. You would make the individual liable but not, in effect, the corporation.

Mr. WHITING. Yes, sir. I think the criminal designation might have more symbolic than practical value in this case and the administration

feels that it is inappropriate to have one Federal agency bringing criminal charges against another one as an entity.

Senator GLENN. Where does the corporate analogy break down? I don't quite follow that.

Mr. HYNAN. Sir, I wonder if I could help?

Senator GLENN. Yes.

Mr. HYNAN. It was thought by the Justice Department that bringing a criminal action by one agency against another Federal agency as an entity was inappropriate, at least in appearance. Not inappropriate in practice but in appearance. In the case of criminal prosecution against individuals, the action wouldn't have to be just against the lower level supervisors or the managers. If, indeed, the facts of the particular case show that there was an overall Postal Service policy involved, we could move up the hierarchy to determine whether, based on the facts of the case, leading officials of the Postal Service were responsible for the policy that resulted in violation of the requirements of OSHA standards. So, in effect, not prosecuting the Postal Service, but only responsible managers, would preserve the fundamental purpose of criminal provisions which is to hold individuals responsible for their actions and to punish them.

As Mr. Whiting said, the symbolic—largely symbolic but not totally—criminal provisions in the case of a corporation are not, I would venture to say, as useful as holding an individual, no matter how high he is in the organization, responsible for those acts. But, we were persuaded by the Justice Department that one agency bringing a criminal action against another agency might be omitted without sacrificing the essence of criminal prosecution; that is, punishing responsible managers.

Senator GLENN. We may want to talk to you more about that. We don't have time to go into it in real depth this morning. In your own testimony, you note that the Postal Service is different from most Federal agencies and derive more than 90 percent of its operating revenues in fees for services provided and thus much like any private enterprise. In fact, it declared a surplus in 1979. Any penalty payments would have an impact on the Postal Service's fiscal performance, thus contributing to top management awareness. You make the case that this is not another Federal agency. That is the basis for the whole concept. But then to go only halfway with penalties that would apply to a non-Federal agency. It seems to me, you make a very good case for its not being a Federal agency, and then you don't go ahead and treat it as such.

So, you may want to work with staff later to try to get language that, as you suggested, would be satisfactory. We will have the staff get in touch with you. This was rather short notice. We do appreciate your coming forward and volunteering to appear this morning, so that we can have the benefit of your views.

Thank you very much.

[The prepared statement of Mr. Whiting follows:]

STATEMENT OF BASIL J. WHITING
DEPUTY ASSISTANT SECRETARY OF LABOR
FOR OCCUPATIONAL SAFETY AND HEALTH
BEFORE THE
SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION
AND FEDERAL SERVICES
OF THE
SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS

May 1, 1980

Mr. Chairman and Members of the Subcommittee:

I am Basil Whiting, Deputy Assistant Secretary of Labor for Occupational Safety and Health. With me this morning are Richard Wilson, Deputy Director of Training, Education, Consultation and Federal Agency Programs for OSHA and John Hynan, Deputy Associate Solicitor of Labor for Occupational Safety and Health.

We are happy to be here today to discuss H.R. 826 which would make the Postal Service subject to practically all the authorities of the Occupational Safety and Health Act of 1970. The Administration fully endorse the intent of H.R. 826. Before I begin to discuss the provisions of the bill, however, I would like to describe the authority and philosophy of the OSH Act, particularly as it relates to the Federal sector.

Purpose of the Act

OSHA was created in 1970 by a Congress deeply concerned about the rising number of deaths and injuries in American workplaces. The Congress in passing the Act saw the need for a strong enforcement program and included in the Act an array of tools designed to accomplish this end. The Act thus gives OSHA the authority to conduct unannounced inspections, issue citations, propose civil penalties, require abatement of hazards and, where a fatality is involved, refer appropriate cases to the Justice Department for criminal prosecution. The theory behind this enforcement scheme is that the actual or potential exercise of the full range of these authorities by OSHA would encourage general compliance with workplace standards, even though OSHA can only inspect a tiny fraction of all workplaces yearly.

Assuring safe and healthful working conditions in Federal agencies, however, is treated differently under the Act. Federal agencies are not defined as "employers," and are thus not subject to the same requirements of the OSH Act as the private sector. Rather, the Act provides for the protection of Federal employees under section 19. That section places the responsibility for protection of Federal employees with their respective employers--the respective agency heads--and OSHA is authorized to provide guidance to the agencies and evaluate the adequacy of their individual

in-house programs. OSHA does not, however, have specific authority under Section 19 to conduct unannounced inspections, issue citations, propose penalties, require abatement actions or to recommend criminal sanctions, as it does with private employers. Thus, the full theory of the Act does not apply to the Federal government because a key element of the Act's philosophy--the effect on employer actions of the potential for these enforcement actions--is absent.

Although Federal job safety and health programs do not operate under the same authorities or concepts as the private sector, Executive Orders have served to clarify and strengthen these programs. Gradually, as the needs have become more apparent, OSHA's responsibility and authority with respect to Federal employers have been expanded, and the responsibilities and accountability of individual agencies have been refined.

The first such Order, No. 11612, was issued in 1971. When it became clear that greater efforts were needed, Executive Order No. 11807 was issued, in September 1974. To keep the President abreast of progress, this order provided for detailed evaluations of the agencies' occupational safety and health programs by the Department of Labor, and for the transmittal of those evaluations, together with agency comments, to the President.

It became clear to this Administration after seeking to operate under E.O. 11807 that additional steps were needed to strengthen the effectiveness of Federal agency safety and health efforts. Based upon a careful review of the program's needs, the President signed, on February 26, 1980, a new Executive Order (EO 12196). This order will take effect July 1, 1980, and will provide for improved employee protection within the scope of section 19 authority.

Application of OSH Act to Postal Service

In 1975, Public Law 94-82 amended the Postal Service Act to expressly place the Postal Service under OSHA as a Federal agency. The Postal Service is thus required to comply with section 19; and we understand it is their view that they must comply with implementing documents as well, including Executive Orders.

With over 695,000 employees, the Postal Service is the second largest Federal agency, surpassed only by the Department of Defense. Most postal employees are also exposed to hazards greater than those normally associated with office employment. These include unsafe working conditions involving mechanical equipment, such as conveyors; hazardous working surfaces; inhalation of dust and toxic substances; automobile accidents; and myriad other serious hazards.

Over a 5-year period ending in 1977, according to our statistics, injuries, illness and lost work time in the Postal Service all increased by at least 35 percent. The only exception to this trend is the incidence of fatalities, which while an unacceptable average of 16 fatalities a year, did drop by one-third over this period. U.S. Postal Service employees also have filed more notices of unsafe and unhealthful working conditions directly with OSHA than have employees of any other Federal agency.

Postal Service management has recently been receptive to OSHA's views on methods to improve this record. Thus, for example, a limited OSHA evaluation of the headquarters office and six Postal Service centers pointing to deficiencies in connection with safety and health staff led to changes in Postal Service activities in this regard. In addition, following the tragic death of a postal employee in a bulk mail center in New Jersey last year, the Postal Service requested OSHA to conduct comprehensive inspections of all 21 bulk mail centers. We have completed five of these comprehensive inspections to date, and would anticipate that our recommendations, when completed, will be carefully considered by the Postal Service. On the other hand, to say that OSHA's views are now given attention is not to ignore

that the reason why that attention is necessary is because of the failure of Postal Service management to provide adequate support to safety and health activities in the past. It is the extent of support for the program by all levels of management that in the end determines the protection actually provided to workers in any workplace, and it is the view of this Administration that the incentive to postal management to support safety and health efforts needs to be increased by applying the full range of OSHA authorities to this employer.

Proposed Legislation

While more can be accomplished under Executive Order 12196 than in the past in promoting safe and healthful working conditions, the best incentive for improvements in the Postal Service would be the imposition of legally binding abatement requirements, enforced through the imposition of penalties. For Federal agencies in general, of course, such penalties would make little sense, as they would simply involve the transfer of Federal funds from one Government pocket to the other. To require them in such cases would only hurt the public purpose of funds appropriated by and large from general tax revenues, not function as an effective financial incentive to better safety and health performance. The Postal Service is different from most Federal agencies, however, in that it derives more than 90 percent of its

operating revenue from fees for services provided. It thus operates much like any private enterprise, and in fact declared a surplus in 1979. Any penalty payments would have an impact on the Postal Service's fiscal performance, and thus contribute to top management awareness of safety and health problems, particularly when the sanctions are in response to formal worker complaints of hazards that were ignored at a lower management level. This Administration has indicated its strong opposition to legislation that would place restrictions on the use of OSHA compliance or other authorities in connection with businesses already considered "employers" under the Act; and similarly believes that in a case such as the Postal Service, virtually the full range of OSHA authorities should be utilized to promote employer and employee efforts to eliminate hazards and lower compensation costs.

H.R. 826 would, in general, provide for such a change in the OSHA authorities applicable to the Postal Service, and, of course, it would permit the Postal Service the full range of defenses available to any employer under the OSH Act. H.R. 826, however, has two serious deficiencies, the most serious of which is its exclusion of the Postal Service from the criminal penalties of Section 17(e), (f) and (g) of the Act.

While this Administration does not feel it necessary or appropriate to provide for criminal sanctions against the Postal Service as an organizational entity, we do point

out that criminal sanctions are the only direct means available to OSHA to hold individual managers directly accountable for their improper actions under these sections of the Act. The recent postal employee death at the New York and Foreign Mail Facility in Jersey City, New Jersey, would have been considered by this agency for possible referral to the Justice Department for prosecution of the relevant managers for criminal/willful violations of the OSHA Act if they had worked for a private employer. We strongly recommend that the Subcommittee include provisions for criminal sanctions against individual managers in any legislation which proposes to place the Postal Service under OSHA as a private sector employer. We will be pleased to work with committee staff on language to this effect.

An additional area of concern with H.R. 826 is whether Congress intends that those provisions of section 18 of the OSH Act concerning State plans apply to the Postal Service. The bill does not in its present form specifically exclude any provisions of Section 18, and therefore we would have to interpret them as applicable to the Postal Service under this bill.

Section 18 of the OSH Act provides, among other things, that States desiring to enact their own occupational safety and health laws should submit a plan to the Secretary of

Labor. If the Secretary approves the plan as meeting certain criteria in Section 18 and in his implementing regulations, the State may assume the enforcement of its own OSH law and regulations. These approval criteria are fairly detailed but they can be summed up as requiring that State enforcement must be as effective as the Federal program if the Secretary is to approve them. The Federal Government funds approved State plans up to 50 percent of cost. At present, 23 States have approved plans and one State, Connecticut, has a plan that only applies to State public employees; the other 23 apply to public employees as well as to most private employers.

We do not believe that the States should be permitted to apply their OSH laws and regulations to Postal Service facilities. The Postal Service remains an entity created by the Federal Government, despite its private sector characteristics, and from the earliest days of the Republic to the present time the application of State law to Federal entities has created problems, both legal and practical. We do not recommend granting the States authority in this case as that might divert our efforts from the goal of improving the working conditions of postal employees.

Mr. Chairman, this concludes my prepared statement. We are available to respond to any questions you or members of the Subcommittee may have.

Senator GLENN. Our next witnesses will be William F. Bolger, Postmaster General, Carl Ulsaker, Senior Assistant Postmaster, Employee and Labor Relations; Louis A. Cox, General Counsel; and Jim Finch, Senior Assistant Postmaster of Finance.

TESTIMONY OF WILLIAM F. BOLGER, POSTMASTER GENERAL, ACCOMPANIED BY CARL ULSAKER, SENIOR ASSISTANT POSTMASTER, EMPLOYEE AND LABOR RELATIONS; LOUIS A. COX, GENERAL COUNSEL; AND JIM FINCH, SENIOR ASSISTANT POSTMASTER OF FINANCE

Senator GLENN. Mr. Bolger, in the comprehensive statement on postal operations put out in January of this year, it was estimated that the postal deficit in fiscal year 1980 would be \$593 million. Do you have an update on the deficit amount at this time?

Mr. BOLGER. I think that the deficit will be slightly lower than that, Senator, if we can keep on this course and inflation doesn't get any worse. It is hard to visualize how it could get any worse. But I think it will stay at \$593 million or slightly below that.

Senator GLENN. I noted in your statement, on page 2, that you talked about going to a net income of \$470 million and to an estimated loss of \$593 million. Correctly, you blame that on inflation, as a big part of the problem. That figure, though, of a net of \$470 million included how much Government subsidy?

Mr. BOLGER. It included about \$1.8 billion, I think, Government subsidy including the public service subsidy of \$828 million.

Senator GLENN. I have found a number of people who, when I talk about a postal subsidy, want to know why we need a subsidy if the Post Office is in the black. I think it is important to point out that the figures you quote as a net include the Government subsidy. So, make that very, very clear.

Mr. BOLGER. Yes, indeed, we made that clear in our annual report. We try to make that clear everytime that we talk about it.

Senator GLENN. Can you break down your costs for us a little bit? I remember previous testimony a year or so ago when you reported to us, I believe, that labor was 86 percent of your costs at that time. Has that changed?

Mr. BOLGER. Salaries and fringe benefits account for about 86 percent of our total costs. Another 7 percent is for transportation and fuel cost; 93 percent of our costs are involved in one of those activities.

Senator GLENN. So that is remaining fairly constant. You don't see that changing much?

Mr. BOLGER. No, it is not. I don't see it changing in the foreseeable future. In a few years, with the automation attempts that we are going to make, and hopefully as we get involved with using the technology of electronic transmission, we will be able to reduce our labor costs.

Senator GLENN. That is the reason I am asking. I know that you have gone to a lot of expense in automation and bulk mail handling centers. They were supposed to provide greater efficiency. But you don't see this as materially changing the labor percent of your overall budget?

Mr. BOLGER. I don't see it in the next few years. I think that as we take our next steps in automation, if we are permitted to use electronics technology in the transmission of messages, I see, looking out several years ahead, that we probably will be able to reduce labor costs as a percentage of our total costs. I think it will start dropping off from 86 percent.

Senator GLENN. On page 2 of your testimony, also, you say "converting these cuts into larger rate increases would defeat the purpose of the cuts." Does that mean the Postal Service would not propose to make this conversion?

Mr. BOLGER. Well, actually, converting from 6- to a 5-day delivery was not on my priority list at all for fiscal year 1981 and I would not propose it if we were not discussing a cut in our appropriations.

The way I look at the discussion on our budget, if we are going to be cut and the cut is going to be continued—if we go beyond fiscal year 1981 and look into fiscal year 1982 and 1983—we are going to lose the public service subsidy. We have three options. We can increase rates. We can improve our productivity even further, but I don't think that is possible considering that we have already built in a 3-percent productivity improvement. The only other option that seems to be available is the elimination of a major part of our service. The one that seems to be readily adaptable to this, and probably the only one that is available, is the reduction from 6- to 5-day delivery.

I have stated before that if we were talking about a one-time cut of \$250 million in the 1981 budget, it would not cause me to consider reducing the days of delivery from 6 to 5.

Senator GLENN. How firm are your figures on the savings which would result from 6 to 5 day delivery? Your labor contract, which is 86 percent of your budget, is not such that you can just lop off large numbers of people. There are terminations, attritions, and time periods. It would take years to decrease the labor force significantly.

Is \$250 million a fairly firm figure that you think you realistically would save? Would the savings be in operating costs or fewer vehicles or fuel costs? Or, what would be the saving when you went from 6 to 5 days when your labor costs are so great and they don't really change that materially on a short-term basis?

Mr. BOLGER. The total savings per year, Senator, once this was implemented—in today's money I am talking about—would probably be around \$600 million. The \$250 million is what we figured we could save in fiscal year 1981 if we pressed the button and went ahead with implementing the 6- to 5-day delivery, probably in October, 1980 for February, 1981. That is the best we could get out of it. The annual savings would be about \$600 million after we had fully implemented. The first full year of implementation would only reduce our financial liabilities by \$588 million. It is a tricky situation because in the first year you have some one-time costs, such as \$84 million for unemployment compensation.

I will be glad to submit a complete digest of that.

Senator GLENN. We would like to have that for the record. We would appreciate that and it will be included in the record in its entirety.

[The material follows:]

5-DAY DELIVERY SERVICE

	Estimated annual savings ¹	
	First year	Long term
I. Savings:		
A. City carriers.....	\$427.5	\$469.4
B. Supervision.....	24.1	24.1
C. Rural carriers.....	109.4	109.4
D. Rural carrier EMA (vehicle).....	28.9	28.9
E. Rural carrier EMA (fuel).....	17.1	17.1
F. Fuel.....	18.0	18.0
G. MVS—Labor and parts.....	4.1	9.6
H. Driveout/carfare/vehicle hire.....	8.8	8.8
I. Highway contracts.....	3.5	3.5
J. Indirect.....	42.5	47.5
Total savings.....	683.9	736.3
II. Costs: Saturday collections.....	9.5	9.5
III. Annual savings.....	674.4	726.8
IV. 1-time costs: Unemployment compensation.....	86.4
V. Net 1st-year savings.....	588.0

¹ Fiscal year 1981 cost levels.

² 11,390,000 gal × \$1.50/gal.

³ 14,994,000 gal × \$1.20/gal.

Senator GLENN. Do you need any additional legislative authority to go from 6- to 5-day delivery, or do you have to go to the Rate Commission? I am not clear on the procedure.

Mr. BOLGER. Under current law—assuming the statute didn't change and assuming the appropriations procedure didn't specifically mandate that we would accomplish our reduction in costs by converting from a 6- to a 5-day delivery week—we would have to file a case with the Postal Rate Commission.

Senator GLENN. They would have to approve it, then.

Mr. BOLGER. Well, not approve it. They would hold hearings on this issue and let the public or anybody who wanted to testify on it, and they would come back and offer an advisory opinion to postal management. After we receive that advisory opinion, we would have to make a decision whether to proceed or not.

Senator GLENN. Well, you make a very strong case in your testimony for your lack of control in starting new services. I guess you are limited in cutting out old services, too. Is that correct?

Mr. BOLGER. We are limited to the extent that the Postal Rate Commission would have authority, under current law, to hold hearings on such a major service adjustment and then, in turn, would offer an advisory, not a binding, opinion back to postal management—not the board of governors, but to postal management.

Senator GLENN. You say there are three ways you can cut back on or balance your budget; by a change in rates, a change in productivity, or a change in service. We talked about 6- to 5-day delivery. What was your goal for productivity this year?

Mr. BOLGER. Three percent.

Senator GLENN. And you made 1.3?

Mr. BOLGER. No, the 3 percent was for fiscal year 1979. We made 1.3 percent in fiscal year 1979. Our goal for fiscal year 1980—

Senator GLENN. What was your goal for 1979?

Mr. BOLGER. It was 3 percent, and we made 1.3.

Senator GLENN. Now in the rates that you are talking about and in your budget for 1980, you are talking about 3 percent again. What gives you any confidence that you will hit 3 percent instead of 1.3 again?

Mr. BOLGER. Well, we have the trends going in the right direction. Right now we are hitting around 3.4 for the year to date and we are halfway through the year in fiscal year 1980. I think we are using our mechanization better, we are managing our activities better, and we are getting more volume. Not as much work is required—for instance, the third class rate and carrier presort. We are getting more volume with less work required, thereby increasing our gross productivity. I think we are going to make it. It is going to be awfully tight, but I think we are going to make it.

Senator GLENN. So you have real confidence that you will make your 3 percent or come closer to it than you did last year.

Mr. BOLGER. I do indeed. We are already ahead of it right now and I think we are going to stay ahead of it and not fall below it.

Senator GLENN. My 10 minutes is up. Senator Durenberger.

Senator DURENBERGER. Thank you, Mr. Chairman. Let me start with the back end of your statement on OSHA and ask you a couple of questions. I think I clearly understand your position on the application of occupational safety and health inspections but I don't understand fully why you believe that the inspection is necessary. If you recognize the problems inherent in the Postal Service, you understand all of the statistics that we have been furnished about the rate of injuries in the Postal Service and my basic question is why, like any other employment entity, is the service itself not doing something about the problem?

Mr. BOLGER. We are doing something about the problem. As a matter of fact, we have been continuing to emphasize safety and health for our managers and our employees, but we are not satisfied. We have been showing some improvement and I can offer some statistics for the record showing the improvement that we have had in our own safety program. I am not satisfied and I think that our accident rate is still too high. We are injuring too many people in the Postal Service. I am not satisfied with it at all. I don't know what the acceptable level is. I think the only acceptable level you can shoot for is zero accidents—zero injuries.

What we have done recently is hire one of the best consulting firms, E. I. DuPont Consulting Services, to help us improve our safety program. They have looked at it and they find that there is really nothing wrong with our program. The problem that we have had is the enforcement of our safety rules with our managers and with our own employees. That is what we are going to concentrate on and give a great deal of emphasis to over the next few years as a program and continue to give it emphasis as an ongoing thing.

If you have no other interest, as a greedy manager, you know that lost-time injuries cost you money and disturb your productivity. If you had no other interest, you would do it for that. We have other interests. We don't want to injure our employees. We want to take all the steps that we can to make sure that they are not injured.

As regards OSHA, I may have some differences as to how OSHA operates, like many people do, but if Congress is going to impose those

restrictions on the private sector, I really can't see an employer like the Postal Service being exempt from those OSHA inspections and OSHA rules.

So that is why I have no problem endorsing the bill with the exception of a couple of provisions.

Senator DURENBERGER. Normally, the reasons for an excess over the standard are a variety of factors. The office could be facilities oriented. Or it could be a lack of funds with which to evade certain kinds of conditions. But probably the most prevalent reason is the lack of education motivation on the part of the employee. You can have the safest workplace in the world, but if you aren't spending any time educating or motivating employees, then what good does it do to have an inspection? I wonder where the Postal Service falls in those areas?

Mr. BOLGER. Well, we have had the programs to educate and to motivate employees and our managers. I think in certain areas of our system they have broken down. I think that is where the problem is. I don't think it is our program per se.

I think it is that the individuals themselves have failed somehow or another to carry out the provisions of the programs. That is what we are going to have to work on.

Senator DURENBERGER. But from the outsider looking in, what you are saying is that you want an inspector to come in and tell these people what they already know should be done.

Mr. BOLGER. No, I think that is something I won't object to, but I think we have to do it ourselves. I think you practice safety day in and day out. You just don't have a grand program or have an inspection or get a report and that's the end of it. The only way to have a safety program—a safety and health program—is to have people practicing safety day in and day out. They must, from top to bottom, practice proper safety principles.

You could have all the programs and five more OSHA's and it still wouldn't work unless people carried it out.

Senator DURENBERGER. Have you measured the consequences of the application of OSHA to the Postal Service in terms of costs that will have to be incurred both in terms of penalties and in terms of abatement?

Mr. BOLGER. The penalties, I don't know. We haven't had that experience. We aren't going to correct the planning authority that OSHA might have over the Postal Service. I don't think it is going to help us in our safety and health program.

I think it is just a wrong system to have one Federal agency fining another Federal agency. I think OSHA, with the experts they have, might help us identify safety problems. They might be a valuable third party looking at us. An objective party looking on might help us. I don't see why there should be any great additional cost to us. If they got into fining authority, there could be some additional costs.

Senator DURENBERGER. Is it safe to conclude then that your position is—and I agree with your position—that if Occupational Safety and Health is good for one part of the employment sector, then it ought to be good for the Postal Service, but it probably is not going to have a great impact on the rate of injuries or lost time or anything else?

Mr. BOLGER. In itself. I hope that it will be useful and helpful to us in reducing injuries to postal employees and in helping us with our safety program. I just have the great feeling as a citizen, if not as a government official, that if the government is going to impose these types of rules and restrictions on the private sector, then they better well have them imposed upon themselves.

Senator DURENBERGER. The objection that you have in your statement referred to the section about multiple supplemental State regulations to the Postal Service. Is that a proposal that would apply to State inspection or State standing?

Mr. BOLGER. State standing and State inspections both. I think, if I heard correctly, the OSHA people testified against that today themselves.

Senator DURENBERGER. Do you have a problem with State? If you have uniform Federal standards, do you have a problem with State inspections?

Mr. BOLGER. I have a problem with the variety of standards that might be impossible for us to follow. We are a national organization, an actual government entity of the Federal Government.

I also think there is a pretty strong violation of the principle that the Federal Government should not be dictated to by the States.

Senator DURENBERGER. Let me switch. How are we doing timewise?

Senator GLENN. About 3 minutes.

Senator DURENBERGER. Okay. Let me switch to the issue of compensation as it relates to productivity. Is there any way to relate the two—compensation and productivity—at the Postal Service, particularly at the supervisory or management level?

Mr. BOLGER. I think there certainly is at the supervisory level. You have to keep some type of good differential between the supervisor and the employees supervised—a financial or total compensation differential—if you are going to expect supervisors to be interested in their work, and indeed, to give proper management direction to the people under their employ. If you are going to tell somebody to be a manager for a \$1 more a year, or \$5 more a year, you are not going to get much out of that person. You are not going to get many people trying to become managers. So there is a relationship there, yes.

Senator DURENBERGER. But my question is: Can you provide productivity bonuses to managers of facilities that reach certain productivity goals?

Mr. BOLGER. I don't think there is anything in the Reorganization Act, except the limits on total compensation at my level, that would prohibit that. I don't think there is. We have the opportunity to compensate people through incentive bonuses if we need to use that technique.

Senator DURENBERGER. I understand your position on Saturday mail delivery to be that that is out in 1982 or 1983. At the present time, is that your position?

Mr. BOLGER. No. I think we ought to sit and wait and see how the budget resolutions finally come down to get an indicator of what our financial situation is going to be in fiscal year 1981. There are three versions floating around right now, one in the House that would take \$736 million, or all of the public service appropriation. The adminis-

tration has recommended \$250 million out of our public service appropriation for fiscal year 1981, and completely eliminating the authorized amounts for the out years in 1982 and 1983. The Senate version reduces our appropriation by some \$588 million.

So, I don't know. Right now, I still have asked my task force to try and gather information for me to see what would be the final effects of this if we had to take such action and, indeed, whether we could do it in fiscal year 1981 or not. I just don't know. I have to really wait and see what the action of the Congress is going to be.

Senator DURENBERGER. If you don't know the action of Congress until September, as you have described the process here under law of filing with the PRC who is holding hearings and giving advisory opinion, what is realistic in terms of when a program like this might be implemented?

Mr. BOLGER. There are several things that could happen. I could ask that the rate case be amended to provide for the additional income we would need by further increasing the rates. If I had to, on an interim basis, I could ask the Governors of the Postal Service for permission to borrow, but that is counterproductive. That is not going to do any good. That is just increasing the total liability of the U.S. Government by an independent agency. That is not going to help control inflation, but that is an option open to me.

Incidentally, we borrow from the Treasury.

Senator GLENN. Senator Levin.

Senator LEVIN. Thank you, Mr. Chairman.

First of all, I want to commend you for your position on OSHA application. We have held a hearing on double standards in the Federal Government—on the difference between how we treat ourselves and the way we treat others. The Postal Service position that you are willing to be covered since the private sector is covered, I think, is an appropriate position.

What would be the clout that OSHA would have over you if there is no possibility of fining you?

Mr. BOLGER. As a Federal agency, I don't think another Federal agency telling us what is right and what is wrong would be helpful in guiding us to do the right thing. We shouldn't need any clout hanging over our heads. We ought to be doing the responsible things. I would hope we always will. I don't see where the fining authority would be any great clout, either. I think the only way we are going to have a good safety and health program in the Postal Service is to have the managers of the Postal Services and its employees committed to it.

Senator LEVIN. Are you familiar with the July 1979, OSHA evaluation of the Postal Service?

Mr. BOLGER. I am not familiar with all the details. I am familiar with the general aspects of it, yes, sir.

Senator LEVIN. Do you know whether you have improved your health and safety programs since that critical evaluation?

Mr. BOLGER. We have. I can supply some statistical examples for the record.

Senator LEVIN. That would be helpful.

[The material follows:]

STATISTICS DEMONSTRATING IMPROVEMENT IN THE USPS
SAFETY AND HEALTH PROGRAM SINCE THE OSHA
EVALUATION IN 1977 AND 1978

The Occupational Safety and Health Administration (OSHA) conducted its evaluation of the Postal Service's safety and health program from May 3, 1977 to May 16, 1978. The evaluation report was not issued until July 1979, and did not take into consideration actions taken by the Postal Service between the date of the evaluation and the date of issuance. Most of the specific recommendations made by OSHA were adopted by the Postal Service.

Since FY 1977, accident experience has been on a downward trend as reflected by the attached chart. Note particularly that the Lost Workday Frequency Rate went down 6.7% from FY 77 to 78 and another 8.6% from FY 78 to 79.

FEDERAL BULK MAIL CENTER
 BULK MAIL ACCIDENT STATISTICS

AP-13 YTD, FY-77, 78, 79

BULK MAIL CENTER	ACCIDENTS/100			INJURIES/100			LWD FREQ. 1/ RATE		
	FY-77	FY-78	FY-79	FY-77	FY-78	FY-79	FY-77	FY-78	FY-79
Springfield, MA	32.6	31.2	28.3	32.0	29.7	17.4	21.0	16.8	13.6
New York	36.7	30.2	27.5	29.1	21.6	19.3	25.8	21.3	21.3
Washington, DC	43.8	41.4	34.2	42.0	38.2	31.9	32.3	29.6	25.4
Philadelphia, PA	36.3	24.6	24.0	34.1	22.6	19.8	30.1	17.8	20.6
Pittsburgh, PA	36.2	24.7	23.7	25.8	13.6	20.2	15.2	8.9	10.7
Jacksonville, FL	29.0	23.3	23.1	21.0	18.4	18.3	16.5	9.7	10.2
Atlanta, GA	35.3	29.2	35.3	31.6	25.4	28.4	10.7	8.5	7.5
Greensboro, NC	16.8	12.9	18.4	16.2	12.2	17.8	6.2	4.4	6.1
Memphis, TN	19.0	15.9	42.1	20.0	11.4	39.3	12.4	2.0	3.4
Dallas, TX	36.6	25.8	30.1	35.3	25.3	26.3	14.1	10.1	12.2
Chicago, IL	40.4	47.4	23.7	36.0	45.9	23.0	19.2	34.5	13.6
Des Moines, IA	16.4	27.6	26.0	11.5	27.6	25.0	4.5	13.3	8.3
Kansas City, KS	31.8	16.8	17.3	17.0	8.9	7.9	3.2	3.2	2.2
Detroit, MI	43.2	31.4	26.0	25.7	23.2	24.7	11.0	5.6	9.0
Minneapolis, MN	15.4	16.5	13.7	5.4	10.8	8.5	4.3	6.8	2.4
St. Louis, MO	26.6	21.0	34.3	25.4	20.4	33.3	12.6	9.0	10.5
Cincinnati, OH	54.0	33.0	16.8	51.4	32.3	16.1	29.3	15.9	10.3
Los Angeles, CA	28.8	27.3	25.8	25.8	24.6	25.4	9.6	8.3	10.1
San Francisco, CA	35.1	28.0	19.3	34.6	28.0	16.4	21.6	14.4	7.4
Denver, CO	20.7	20.9	12.7	20.5	20.7	12.5	12.4	9.1	5.9
Seattle, WA	19.0	8.3	12.0	18.4	8.1	11.8	10.7	3.5	5.6
TOTAL BMC	33.7	28.0	25.5	28.8	23.7	21.2	18.7	15.3	13.1
TOTAL USPS EXCLUSIVE OF BMCs)	12.8	12.6	12.0	9.3	9.0	8.5	7.1	6.6	6.2
Total Postal Service	13.3	13.0	12.3	9.8	9.4	8.8	7.4	6.9	6.3

1/ LWD Frequency Rate is computed by multiplying the number of LWD accidents by 200,000, and dividing by the number of manhours worked.

PREPARED BY:

ACCIDENT PREVENTION DIVISION
 EMPLOYEE RELATIONS DEPARTMENT

The attached chart shows the actual distribution of accidents in several categories for FY 79. Attached also are definitions of the categories.

The categories "Striking Against," "Caught in, under or between," and "Contact with" would account for accidents generally associated with industrial operations. Loss of balance accidents such as "Slips, Twists, and Trips," and "Falls" are greatly influenced by weather conditions. These categories may be either on or off postal premises and in either large or small facilities. "Animal" and "Motor Vehicle" related accidents are predominantly off postal premises. "Manual Handling" injuries can occur both on and off postal premises and can involve handling materials of varying size, shape and weight.

DISTRIBUTION OF ACCIDENTS
FOR FY 79

<u>Category</u>	<u>Percent</u>
Manual Handling	20.4
Falls	14.8
Motor Vehicle	16.4
Slips, Twists & Trips (no falls)	14.8
Animals	10.8
Striking Against	6.4
All Other Types	20.2

This chart reflects all accident experiences, including first-aid cases, which were entered into our Accident Reporting System during the respective Fiscal Year 1979. OSHA does not require the submission of reports for first-aid cases.

TYPES OF U. S. POSTAL SERVICE ACCIDENTS

Amplification of Terms

Manual Handling: Injuries in this category usually involve actions such as lifting, reaching, pulling or pushing.

Falls: Involves falls on the same level (e.g. to the street, sidewalks, or floor) or falls from elevation (e.g. on stairs, from vehicles, chairs, docks, etc.)

Comment: Associated with falls is inattention or a failure to recognize a walking surface hazard. For example, slippery sidewalk conditions, chipped or broken pavement, debris, etc.

Motor Vehicle: Includes accidents in which injury or property damage resulted, incident to the use of a motor vehicle.

Comment: Most vehicle accidents involve, as a contributing cause, driver error either by one or both drivers involved.

Slips, Twists, and Trips: Similar to the "falls" type with the primary difference being that a fall does not result. Such accidents involve slipping and twisting, tripping on or tripped by an object, or stepping in or on an object.

Comment: Causes of this type accident parallels that of the "fall" type in that a contributing factor is usually inattention or failure to recognize a working surface hazard or a loss of balance.

Animals: Although this type accident involves all animals, including insects, the majority do involve dogs. Most dog related injuries are dog bites, while a small percent occur as the employee attempts to retreat from a hostile dog.

Striking Against: Includes, in general, an accident in which a person in motion strikes a stationary object or material.

Comment: Accidents of this type usually involve, as a contributing cause, momentary inattention to one's immediate surroundings while working or walking.

All Others: This classification includes the following accident types:

1. Caught in, under, or between
2. Exposure to extreme temperature
3. Inhalation
4. Jumping to or from places
5. Contact with: electric current, chemical, hot or cold substances
6. Struck by material or objects
7. Violence
8. Fires
9. Not elsewhere classified

Additional Remarks: The comments made under each accident type above do not necessarily reflect the results of a causal analysis of each accident group, but do represent accepted or recognized opinion of causes associated with similar type accidents in general.

5/6/80

COMMENTS ON TESTIMONY OF BASIL J. WHITING, DEPUTY ASSISTANT SECRETARY OF LABOR FOR OCCUPATIONAL SAFETY AND HEALTH BEFORE THE SENATE SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION AND FEDERAL SERVICE ON MAY 1, 1980

Mr. Whiting indicated in his statement that the Postal Service is different from most federal agencies in that it derives more than 90% of its operating revenue from fees for services provided. It thus operates much like any private enterprise. The statement is correct that the Postal Service is different from other federal agencies, but the conclusion that it is like private enterprise is not correct. The Postal Service is designed as a break-even operation, not profit-making. Rates are designed to allow mail to pay for itself within the regulations governing various classes of mail. Further, the USPS does not have the flexibility to reduce or adjust service or make rapid workforce adjustments. Therefore, fines or penalties that detract from income would obviously affect the rate or the subsidy, which means that the fines would be passed on to the taxpayer.

He also indicated that OSHA favors criminal sanctions against individual managers in the Postal Service. If we compare Postal Service executives to the private sector, private sector executives have high salaries and other attractive benefits. They are often insured against job-related law suits. The Postal Service is limited to a maximum salary somewhat in excess of \$69,000 per year and most postal executive salaries are actually far less. Our executives are not protected by insurance against law suits.

Criminal negligence of course, even if applicable to the Postal Service, must be proved. Mr. Whiting's testimony indicated that the recent postal employee death at the New York Bulk and Foreign Mail Facility "would have been

considered for possible referral to the Justice Department for prosecution of the relevant managers for criminal/willful violations of the OSHA Act if they had worked for a private employer". There were no witnesses to that accident and OSHA investigators developed a reasonable theory of how the accident might have happened. The Postal Inspection Service also investigated the accident and came up with their theory based on the evidence that they have uncovered. In addition to phone calls, we have written OSHA on two separate occasions - the first on March 6 and again on April 23 and invited them to view the video tape prepared by the Inspection Service and to discuss it with them. OSHA not only has not accepted our invitation, but on neither occasion did they even respond to our letters. It is difficult therefore to see how they would carry out criminal sanctions being unwilling even to review all the evidence.

Referring to OSHA inspections of the bulk mail centers, Mr. Whiting stated the Occupational Safety and Health Administration found literally thousands of serious violations of safety standards.

The inspections were conducted by OSHA with full and complete cooperation by the Postal Service. Yet it has been in excess of four months since the Postmaster General made the request for OSHA inspections and still the Postal Service has not received formal transmittal of the inspection findings. Certainly, if there are thousands of serious violations, the Postal Service wants to know the specifics in order to assure correction.

In the interim, we have conducted our own inspections and initiated corrective action.



THE POSTMASTER GENERAL
Washington, DC 20260

March 7, 1980

MEMORANDUM FOR Senior Assistant Postmasters General
General Counsel
Chief Postal Inspector
Assistant Postmasters General
Judicial Officer
Controller
Treasurer
Consumer Advocate
Office Directors
Division General Managers
Branch Managers

SUBJECT: Safety and Health Programs of the Postal Service

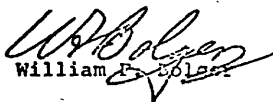
On behalf of the management of the Postal Service, I testified yesterday before the House of Representatives Subcommittee on Postal Personnel and Modernization concerning the safety and health programs of the Postal Service. A text of my opening statement will be sent to managers, down through sectional center postmasters, and will also be reprinted in an early edition of Postal Leader. I urge you to read it closely. In the meantime, however, I want you to know that I have committed the Postal Service to establish a Safety and Health Program that is second to none -- and a model for others to follow. As a start in this direction, I outlined in my testimony fourteen actions now being taken and suggested others that will follow.

Among the points made, I stated that the Postal Service would comply fully with Executive Order No. 12196 which pertains to the Occupational Safety and Health Programs for federal employees and that our preventive maintenance program would be given the highest priority. I noted, too, that I have instructed senior management to design whatever programs are needed and to apply whatever resources it takes to get this job done.

This is a big commitment and one that we must -- and will keep. To do so will require that you exercise your full responsibilities as a manager and that you place safety at the very top of your "must do" list.

In recent months there have been allegations that the Postal Service's safety record is the worst in the federal government and that management has a callous disregard for the safety and health of our employees. I do not accept these charges, and so stated yesterday, because I know that you are concerned about the people who work for you; but while our safety record is not as bad as has been portrayed, we can and will make it a lot better.

In the very near future, a series of directives will be coming to you concerning our safety and maintenance programs. Look for these and give them your closest personal attention.


William F. Tolson

cc: Deputy Postmaster General
Executive Assistant to the
Postmaster General

FOURTEEN POINT SAFETY PROGRAM
CURRENT STATUS

May 1, 1980

(1) At the New York BMC, the conveyor problems identified by OSHA have been corrected for all such equipment presently being used. We have sent in a safety and maintenance survey team to do a detailed study and make further corrections.

The study is complete. Items identified as serious in nature have been corrected or the equipment removed from service. Projects have been identified to improve the safety of the entire facility. This effort is being pursued.

(2) For the BMC's generally, a special maintenance and safety survey is underway.

That survey has been completed for all the BMC's. The maintenance work is virtually complete except for a few items (major projects i.e. catwalks) are still underway as a result of that survey. Each site has an action plan and is filing status reports on a regular basis to their regional headquarters.

(3) Also for the 21 BMC's, I have requested the Secretary of Labor to provide inspectors to do an independent inspection at each facility. The Secretary has accepted and the inspections have begun at five locations: New York, Los Angeles, Memphis, Chicago, and Philadelphia.

OSHA agreed to inspect five BMC's - one in each region. They were: New York, Philadelphia, Memphis, Los Angeles, and Chicago. Those inspections are now complete and we are awaiting their report. At that time, we will discuss their inspection of the remaining sixteen BMC's as originally requested.

(4) Management awareness of safety priority is being reemphasized. I am going to work harder and line managers are going to have to work harder to see that safety is treated with proper respect as part of the Postal Service job.

A program of management awareness is underway. The supervisor's training programs are being revised and updated for distribution throughout the Service. Each speaking engagement management will hold at supervisors' conventions and other such meetings will contain a strong message on safety. The new supervisor training programs particularly for those who are leaving the craft to become supervisors for the first time will learn about safety from the Management Action Series program for new supervisors as well as

the regular safety for supervisors' training program. The Postal Bulletin, Postal Leader, Postal Life, etc. as well as the management organizations are being encouraged to keep their readers abreast of the safety rules and the do's and don't's of working safely. The Postal Executive Program contains a discussion on safety including an update as to where we are in the development of our safety efforts. In both program offerings thus far, the participant executives have had a research project on safety. The first group published quite an excellent report that is being considered for publication in the Northeast Region. The Regional Postmasters General and the Executive Committee, along with hearing about safety from Mr. Ulsaker and myself on several occasions, last week attended a workshop conducted by the Dupont Corporation whose purpose was to familiarize the Postal Service with their message of effectively managing a corporation's safety program.

(5) Specific Compliance Control Procedures are being strengthened to clarify management responsibilities and accountability at all levels. Our regulations currently require safety deficiency reports to be posted at or near locations where safety deficiencies exist. Postings are to be maintained until the deficiency has been abated or for three working days, whichever is longer. If a serious hazard is discovered, the installation head must immediately initiate corrective action. Most deficiencies where practicable are corrected within 30 days. Deficiencies requiring more than 60 days are reported through regional headquarters to national headquarters. Again, I intend to see that all managers follow these instructions consistently and I will so hold them accountable.

These procedures are in the process of being strengthened. Many of our policies and procedures will shortly be rewritten to follow the implementing guidelines of the new Executive Order which are still under development. Currently, our policy on reporting unabated deficiencies is being revised to assure that these deficiencies after 20 and after 45 days respectively are reported through line management channels to the district and regional level and then to national Headquarters. These reports will contain a plan for the abatement of the deficiency in question along with a timetable for completion.

(6) Control of equipment modifications presents a potential safety problem on which we are working. A machine potentially can be modified during manufacture or after delivery for local application without full consideration of safety engineering and maintenance factors. We have a configuration control system which we are reviewing to see if it can be improved.

Our engineering change notice system has been reviewed and found to be generally satisfactory. It is, however, under continuing review with a renewed emphasis on follow-up after a configuration change. Funds are being dedicated by Headquarters for those engineering changes generated by our current efforts.

(7) A professional safety engineer is being recruited for the staff of the Postal Research and Testing Laboratories. In addition, we are arranging to provide each of the five regional headquarters with a safety engineer.

The professional safety engineer for the staff of the research and testing laboratories has been selected and has reported for duty. We have received applications from inside and outside the Postal Service for the Safety Engineer position for each of the five regional headquarters. We are in the process of evaluating those applications.

(8) Our medical program is being upgraded. We have adopted the physician pay comparability policy recently authorized by the Congress for certain other agencies, in order to attract better qualified doctors. We also have a new medical director, who is developing plans to upgrade medical staffing in the field. We will be authorizing additional physician and nurse positions.

Our National Medical Director has been interviewing candidates for two regional Medical Director positions which are currently vacant. The staffing plan for additional physicians and nurse positions has been completed and is being prepared for release. A handbook for medical procedures to be followed by nurses is being updated and revised.

(9) An independent outside review of the Postal Service's overall safety and health program is being procured. We have prepared a statement of work to seek proposals from both the Dupont Company and the National Safety Council. We propose to award contracts to both organizations. We think this will give us a fresh perspective which we and perhaps the OSHA people we deal with on a regular basis may not have. We are also seeking a safety executive from the private sector through the Presidential Exchange Program to help us develop improved safety procedures.

We have entered into two contracts to review our safety program - the first with the Dupont Corporation who is visiting selected locations and interviewing managers and employees at all levels to provide us with recommendations on how to manage our safety program more effectively. Their work started on April 1 and the

first phase will conclude July 31, 1980. The second contract is with the National Safety Council who started work on April 9. They will concentrate their efforts on the Central Regional Headquarters and all the BMC's in the Central Region. They will be making similar recommendations to us but they are concentrating on the highly mechanized bulk mail centers. The Safety Council contract terminates October 9. We have applied to the Presidential Exchange Program for a safety executive from the private sector. We do not have a candidate thus far.

(10) Training in safety will be upgraded and substantially expanded. For example, we have added a segment on safety to our new training program for all senior executives in the Postal Career Executive Service. In addition, we will be providing safety training for all the members of our safety committees as has been recommended by OSHA. Safety training philosophy is being modified with the intent to strengthen program requirements in this area. Employee groups to be affected by this new commitment to safety training include: senior and mid management, supervisors, safety personnel, craft employees and their representatives. As a first step in this area, we recently initiated a new course entitled "Employee Safety Awareness Training" which features vehicle safety, machine guarding, manual handling and other pertinent safety related subject matter. The course will be available to all employees with enrollment through our Postal Employee Development Centers.

The safety training programs are being updated. A program review was held with the Training and Development Institute to determine the status of each program and its need for revision. The Institute is acquiring additional resources to develop these programs rapidly. A review was also conducted to reestablish the safety laboratory and the programs connected with that activity. Training programs will be developed for employees and the supervisor's program will be updated to include applicable provisions of the new Executive Order emphasizing employee rights and responsibilities.

(11) Safety staffing is being reviewed to determine if current resources are adequately placed and what, if any, additional resources are needed to assure a strong compliance oriented organizational structure.

The safety staffing review is underway. We expect this study to continue for some time, and we expect that recommendations of the Dupont Corporation and National Safety Council will be considered in future staffing considerations.

(12) Accident investigation procedures are being examined to assure that field units have sufficient guidance for conducting investigations of serious accidents.

Accident investigation procedures are currently being drafted and will be an integral part of the modification of the Employee and Labor Relations Manual as well as the supervisor's safety handbook.

(13) Nationally, we have implemented an expedited procedure for investigating Federal Employee Reports of Unsafe or Unhealthful Working Conditions filed with OSHA.

The expedited procedure for investigating employee reports of unsafe or unhealthful working conditions has been completed. This expedited procedure, in effect, allows such reports to be dealt with at the regional level by postal officials who will work directly with the regional OSHA office. This expedites the previous procedure in which such complaints had to come to our national Headquarters and then over to OSHA national headquarters and back to the OSHA regional office.

(14) Finally, a message has been sent to field managers directing full compliance with our existing regulations regarding wearing apparel and confinement of long hair of employees working on or near mechanized equipment.

The policies on appropriate wearing apparel when working around machinery has been reemphasized throughout the field.

Senator LEVIN. Most of my questions relate to S. 2074, which is a bill to allow free postage for absentee ballots, absentee ballot applications, and, if amended as I have hoped, for the requests for the absentee ballot applications as well.

It has been estimated that this would cost approximately \$3.2 million per year. I am wondering whether or not you agree with that funding estimate. Do you think that would be an adequate amount if we decided to appropriate the \$3.2 million?

Mr. BOLGER. I will ask Mr. Finch to answer that question. He has more statistical information. I don't.

Mr. FINCH. Senator, on the basis of what we know now, and that is a sketchy look at historical data on the numbers of people in the United States who exercise their right to cast absentee ballots, it appears that it would. Before I would want to give you a firm answer, I would like to have an opportunity for us to check with some of the States. I think the provisions of the bill would include our printing and distributing the various envelopes. I think the amount of money would depend somewhat on the various individual State requirements—whether they have to have different formats and different kinds of envelopes, that kind of thing.

If we could use a standard envelope, for instance, for State ballots with only the State name changing, I think we could probably come in within that estimate.

Senator LEVIN. That would be helpful.
[Information follows:]

U.S. POSTAL SERVICE,
ASSISTANT POSTMASTER GENERAL,
GOVERNMENT RELATIONS DEPARTMENT,
Washington, D.C., June 24, 1980.

HON. CARL M. LEVIN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR LEVIN: This is reference to your request during the May 1 oversight hearing for the Postal Service's opinion on the sufficiency of the authorization levels in S. 2074, your bill providing for the free mailing of certain materials related to absentee voting.

Upon further review of the provisions of S. 2074 and a preliminary analysis of absentee voting behavior in several jurisdictions for which information is available, it would appear that the funding levels in the bill will be adequate to pay for the materials to be provided and the services to be rendered.

Sincerely,

EDWARD E. HORGAN, JR.

Senator LEVIN. Are you familiar with the study of the election commission which shows a 15 percent higher return of requested absentee ballots in those areas which pay the postage, compared to those areas which do not?

Mr. BOLGER. No, sir. I am sorry, I am not familiar with that.

Senator LEVIN. If this bill were adopted, do you anticipate any problems in dealing with State election agencies?

Mr. BOLGER. No, I would not anticipate any.

Senator LEVIN. Each State has its own election code and requirements for voting absentee. They vary widely from State to State.

What effect would this have on the Postal Service in providing envelopes with free postage for the request and return of applications and absentee ballots?

Mr. BOLGER. I don't think it would have any effect. We would have to make sure we understood each of them and make sure that our employees who would be accepting these ballots would understand what the rules are.

Senator LEVIN. In your estimate of the cost, when you give us more details on that, if you could assume that we amend the bill as introduced so we include the requests for the applications for the ballot as well as the application for the ballot itself, it would be helpful.

Those are all the questions I have, Mr. Chairman.

Senator GLENN. Fine. Thank you, Senator Levin.

In testimony before the House Post Office and Civil Service Committee concerning the recommended cuts in Postal Service appropriations, you stated that you could absorb a one-time cut of \$250 million without cutting 1 day of delivery. If that amount were cut for fiscal year 1981, with a projection of larger cuts in fiscal years 1982 and 1983, would you delay submitting a proposal to the Postal Rate Commission for a reduction in service until next year when these projections will be reconsidered?

Mr. BOLGER. Senator, I hope I didn't say I could absorb it. I may have been misquoted. We would have to take some type of loss, which means in fiscal year 1981 going from an anticipated small deficit to a higher deficit year.

Senator GLENN. Do you feel if your budget is cut \$250 million you will have to go to 5-day delivery?

Mr. BOLGER. That I don't know. What I said before the House Post Office and Civil Service Committee was that if we knew that for fiscal year 1981 we would have a \$250 million cut and that would be it, and no one would be discussing 1982 or 1983, the out years—and I wasn't a part of it—then we certainly would not be justified in taking action toward moving to eliminate a day of delivery. If that was the only cut that we knew that we had to face—a one-time shot—\$250 million in fiscal year 1981—we would not move from 6- to 5-day delivery. There would be no justification for it.

Senator GLENN. You claim the Postal Service should have full authority to develop and introduce new classifications in services, without "senseless time-consuming and costly red tape" of formal evidentiary proceedings before the Postal Rate Commission.

I am aware of meetings between the Postal Service and mailers for the purpose of ironing out positions to be taken on legislation dealing with classification matters. We are also aware of the fact that in the present rate case, mailers have done very well in terms of proposed increases in rates while the general public is faring rather poorly, with a proposed increase in the first class stamp from 15 cents to 20 cents.

Why shouldn't the Rate Commission, whose job is in part to see to it that proposals for changes in the classifications schedule are fair and equitable, be able to make recommendations on such proposals to the Board of Governors?

Mr. BOLGER. Actually, what we are talking about in a new classification of services is that we think that the only way to establish whether new services are going to be acceptable is to put these services out, sometimes on an experimental basis.

For instance, we had these provisions that we filed with the Postal Rate Commission in September of 1978—authorized by the Governors of the Postal Service—for a change in classification which would give us some competitive rates for parcel post, under certain conditions.

Senator GLENN. Isn't there some way of expediting the PRC's consideration of these proposals without taking them completely out of the loop?

Mr. BOLGER. We haven't seen it yet. I think there is plenty of opportunity there. They could be considering these things. Generally, we think we could put the services into effect in about 90 days, but we just haven't seen any indication on their part to let the Postal Service have the opportunity to put these services up and get them running in any timely fashion?

Senator GLENN. How do you expedite their consideration of these proposals? That was what I asked. How do you speed them up? Or what do they say when you ask why it takes so long?

Mr. BOLGER. Basically, they keep coming back, and they ask for more and more information—very detailed, minute information—on every activity involved in the classification process we are trying to change. We just don't have that without extensive cost studies.

I think that a lot of the answers, when you are trying a new service, have to be found in actually providing this service to see how people react to it.

Senator GLENN. How about the cooperative relationship between you and the Postal Rate Commission? I know there was concern expressed—that's in the legislative history of the Postal Reorganization Act—on the need for a very close relationship there, if the reorganization were to work right.

It appears there is some friction from time to time. Is that correct?

Mr. BOLGER. I think that it is safe to say, in my opinion, Senator, the situation has deteriorated to the worst I have seen it since the Postal Reorganization Act. I think it is not in the public interest to have this condition prevail.

Senator GLENN. What has caused that deterioration?

Mr. BOLGER. I think a couple of things have caused it. Certainly, there is always pressure between two Government bodies, one having some regulatory control over another one.

Senator GLENN. Some of that would be natural.

Mr. BOLGER. That's correct. But I think the Postal Rate Commission, in my opinion, is trying to extend their authority. I think they are getting involved as a supermanagement type of organization for the Postal Service. I just think they are going beyond the bounds of their authority under the present statutes.

Senator GLENN. What sort of recommendations would you make to correct the situation?

Mr. BOLGER. I frankly think the Postal Service is price sensitive. We want to offer the services that people want at prices they are willing to pay. We are interested in having these offerings to continue to improve the Postal Service—to offer the service people want. We are cost conscious. We are price sensitive.

I think, probably, one of the better ways is to allow the Postal Service to set up its own prices for its services with some type of

administrative law review. I think that would probably be a better practice.

It is getting very expensive for everyone, including the Postal Service, to litigate these cases over a long period of time before the Postal Rate Commission. I just don't know if it is serving any useful public purpose anymore or not.

Senator GLENN. In your recent remarks on the occasion of filing for increased rates, you stated:

In this rate case, we have refined our cost studies to an unprecedented degree, and our findings have been surprising and dramatic.

From the proposed rate schedules, it is evident that your studies resulted in greater assignment, or attribution, of costs to first-class mail, and less to other classes or subclasses, very noticeably, nonprofit and newspapers, within the county of publication. What have you found in the course of your studies that brings about these results? Can you better attribute costs now? This has been a goal that we have talked about on this committee in the past.

It is slow coming. You are putting in a new accounting system, and a whole new computerized setup, which was supposed to be in place by the end of last year. Are you prepared at this point to give a better cost attribution survey across the realm of postal services?

Mr. BOLGER. I think we are. I would like, if I may, to have Mr. Finch get into that in a little bit of detail.

Senator GLENN. Fine.

Mr. FINCH. Yes, Senator. As you are well aware from our prior discussions, we have a long-range study program which is comprised of 10 different discrete studies. One of those is a major cost study.

We have, in the rate filing now before the Rate Commission, used materials from 5 of those 10 studies, some of which are complete, some of which are partially complete. The statement you quoted from Mr. Bolger's press announcement on the rate case—if you like, I will give you an example of a dramatic discovery.

We did, partially with contractor help, partially internally, a study of our city carrier costs. There is about \$1½ billion worth of cost that the carrier incurs when he is out on the street delivering mail. The conventional wisdom, in past rate cases, had been that a large percentage of second-class mail—magazines and newspapers—was individually loaded in the mail receptacles, whether a mailbox, or a slot in the door, or a lockbox.

In the course of this study, we went out and chose a statistical sample of routes across the United States. We had industrial engineers out observing what took place with various classes of mail and the time it took to handle it. We found that over 90 percent of second-class mail came under what we call batch loading; that is, the carrier has a magazine or newspaper which he puts letters and circulars inside.

That one change in methodology, which involves commonsense—and if I had been asked to guess, I would assume that is the way it would be done, but it is not the way it has been in prior rate proceedings—that one change alone resulted in a lessening of the cost of second-class mail and in controlled circulation combined, in excess of \$30 million. That is, in the small class that it is in terms of our total revenue, that—

Senator GLENN. Just by the way you wrap them when you put them in the mailbox?

Mr. FINCH. Yes, sir. Well, when you are paying 21-plus cents a minute, and you are trying to allocate that time to the classes of mail that cause it, those little changes make a lot of difference.

Mr. BOLGER. Senator, when he told me the results last Saturday, I told him that after 39 years of service, I could have told him that without going through the study process.

Senator GLENN. I am scared to ask how much we wasted on the study to find that out.

Mr. BOLGER. There were other details we had to find out that I didn't know about.

Mr. FINCH. Senator, I want to give you one more thing. We have had, as you know, in the past, some slippage in the studies. These studies are being done principally by contractors. The total cost study is now slated for completion in June, the peak load cost study in late May. We have finished three of the studies. The nonhousehold study is due in July. There are a couple of the 10 studies that are in kind of a hold status now, based upon the mutual feelings of the Commission staff, the mailers, and the Postal Service that we wait and see the results of some of these before we design the last couple and put them out for competition.

Senator GLENN. I guess when I came into this job, it was with considerable naivete in that I had hoped that we would be able to run this study. I thought it would be about a 1½ year study, and that we would come out with a very clear picture of what we could attribute, what we couldn't. I also thought there would be a percentage for general postal services. Then I thought we could sit down in the Congress and make decisions about subsidizing second, third, fourth, or whatever class as a service of the U.S. Government to the people of this country. That was going to be the subsidy figure and it was going to be very clearcut as far as cost attribution.

The longer we go on, the more I see this, not as a clearcut, final deadline, but as an ongoing, long process of refining and re-refining. But I hope that you are keeping an emphasis on cost attribution down.

We use the classic example that you can't make a cost attribution on the time of the man who puts the flag up and down every day. There are some costs that are general to the whole Postal Service, which we are never going to refine down to what they contribute to a specific class. But we have to come as close in the actual workload for each class as we possibly can. I hope you are keeping the emphasis on those studies, so we can do that as much as possible.

I think, only on that basis, will we ever come up with a figure that means something as a subsidy, if we are going to have a subsidy.

Mr. BOLGER. I think that we are further down the road than we might think. I think it might be useful, Senator, since we both have a great deal of interest in this subject, if our respective staffs got together and brought you up to date as to precisely where we are, where we expect to go, and what we can get out of what we have completed to date. I think that might be useful.

Senator GLENN. That is fine. I hope you continue the work in that area because we still want to attribute costs as closely as possible.

Then I think it is up to the Congress to make final decisions. But we need a basis on which to judge. Our bill says the subsidy will be \$920 million a year, going back to the original figure, without the 10 percent, 3-year reduction that we are into now.

We can't just float out a billion dollars and say, "There it is; it's a nice figure, and we hope you spread it around nicely." We don't do that with any other function of Government. There is no reason we should do it with the Postal Service.

Mr. BOLGER. One thing. I agree with that statement. I think one thing we have to be careful of, though, is any public service appropriations that are so pinned down to line item accounting that it is impossible to move it from point to point. I think, in general, we ought to identify what is represented in the public service subsidy, if there is going to be a public service subsidy. But, I think if we get it down to fine line items, we could have a lot of difficulties.

Senator GLENN. Other agencies of Government have some flexibility, but we don't just float a billion dollars out to people and say, "Come back next year and let us know if you need some more tax money."

Mr. BOLGER. As a taxpayer, I resent that.

Senator GLENN. You resent that as much as I do. Senator Durenberger, I don't want to take up your time.

Senator DURENBERGER. Probably just one question.

I am at the same place Senator Glenn was when he came here. For that reason, I don't understand your answer.

As I look over your proposed rate changes, a couple of things appear to the naive examiner. One is that nonprofits, in-county newspapers, and so forth are being apparently heavily subsidized. Also, it seems to me that in several cases, services in which you have little or no competition are subsidizing services in which you have competition. I would ask you to speak to that.

Mr. BOLGER. I don't quite follow that idea.

Senator DURENBERGER. What I am looking at are the changes proposed, for example, for first class letters, the percentage of change is 33 percent. The cost coverage is 168 percent, compared to some other areas down here where you do have competition, where the cost coverage is much lower. Obviously, all of your rate reductions are in, you are below the 100 percent coverage on in-county, nonprofit classes.

Mr. BOLGER. No. Each class or subclass of mail has to pay its attributable costs. Then they pay a pro rata share or a fair share of the institutional costs. Each class or subclass of mail, including the nonprofit mail, must pay 100 percent of its attributable costs, those costs that we can identify actually as belonging to processing, delivering, and accepting that class or subclass of mail. That is the law. That is what we do.

Now, Mr. Finch can get you into a little more detail. He is the one that is responsible for putting that rate case together. He knows much more of the detail than I do.

Mr. FINCH. The statute, Senator, sets a ceiling on the nonprofit rates, at the attributable cost level. The nonprofit mailer makes no contribution into our fixed overhead. The revenues from the subsidy take up from there to what the regular rate would be so the Postal Service gets the full amount of money for carrying each piece of mail.

The differential between the percentage markups and, indeed, the percentage increases in first class and second class and some of the others, comes basically from the analysis of the cost behavior and the characteristics. The 1.9-percent overall increase is an average of a wide spread of possible rates in second class and controlled circulation. I was meeting with some mailers, just yesterday, at one of their annual meetings. Some people in that group, evidently, are incurring rate increases in the magnitude of 20 and 25 percent. The amount of reduction in that second class cost theory that I mentioned a while ago, and the illustration given Senator Glenn, had quite an impact.

The cost coverage differences are brought about by the consideration, which is required by the statute, of eight noncost factors that Congress set out to be used in the pricing over the attributable cost. One of the ratemaking factors is the attributable cost floor. That is both the ceiling for the nonprofits and the floor for everybody else. Then the regular rate mailers pay a contribution to the fixed overhead. The numbers in the cost coverage column are the percentage of their attributable cost they contribute to the overhead. Those factors are such things as the impact on the mailer, the amount of preparation the mailer does to the mail before he deposits it, the impact on the public, and the impact on competition. Those are less than scientific factors. There is a history in the prior four rate cases of the amount of weight given those considerations.

Senator DURENBERGER. Let me just make this my final question. You just mentioned the impact on competition. Let me compare first class letters and their contribution, and fourth class parcel post and its contribution.

Mr. FINCH. Well, we are in a declining volume situation in parcel post, and have been over the last number of years. The proposed overall increase of 8.4 percent in this rate case is a percent or two higher, I think, than our principal competitor has filed in its most recent rate case.

Senator DURENBERGER. But the declining volume is a factor in holding down the increase in parcel post.

Mr. BOLGER. No; just the opposite. The volume decline is going to force further increases. Our parcel post case represents an 8.4-percent increase in the overall. Some of our parcel post rates have increased more than that; some will be lower. We have found out in our class studies that we can take volume mailings, such as within A, B, and C bulk mail center area, and handle them more cheaply than we can handle mailings—individual mailings or even volume mailings—going from one B and C area to another. That is what has caused this change in approach in our parcel post rates. If we were just to leave our operations alone, and not consider these factors, there would be a drop in volume. That would adversely impact us, and we would start driving the cost further up than we are today.

Senator DURENBERGER. So, it would be unfair to say that the 5-cent increase, for example, in first-class letters, is being used to subsidize competition.

Mr. BOLGER. It is very unfair to say; right. I think we can prove it, as we litigate this rate case, before the Postal Rate Commission, I am sure we will be asked to establish that fact. Our testimony already establishes that fact. We will provide whatever we need to submit our case, because I think we are right on it.

Senator DURENBERGER. Thank you. Thank you, Mr. Chairman.

Senator GLENN. How much inflation is factored into the revenue need on which your recent rate increase was based?

Mr. BOLGER. The inflation rate is generally forecast—

Mr. FINCH. We locked in on the inflation factor as of October 30, 1979. At that point, for calendar year 1980, it was 10.5 percent; 1981, 8.5 percent; 1982, 8.5 percent. So we are very conservative on the inflation factor that undergirds these rates.

Senator GLENN. With all the variables, I hope you are right.

Mr. BOLGER. We hope DRI's forecast is right, Senator.

Senator GLENN. In the last general rate case, attributable and assignable costs amounted to almost 75 percent of all postal costs, and institutional costs a little more than 25 percent. What are the comparable figures in the pending case?

Mr. FINCH. The total attributable and assignable are 60.3 percent, and the institutional are the difference between that and 100 percent, 39.7 percent. The reason for that is the analysis that came out in our further cost studies. We had been attributing some cost on the basis of percentage volume variability in the past. Our further analysis determined that it was not so. In those cases if it didn't make sense, we took it out.

Senator GLENN. I think I have to reverse my thinking a little on this. I had automatically thought that the further refined our attribution, the higher the percent of assignable costs.

Mr. FINCH. No, sir. We have tried to let the chips fall where they may.

Senator GLENN. In other words, while some were put in, others were taken out?

Mr. FINCH. Yes, sir. If the analysis determines that a cost was caused by a class of mail, we put it in. If it determined that one we had assumed was caused, in the past, turned out on the basis of analysis not to have been, we took it out.

Mr. BOLGER. We have made a lot of optional changes since the last rate case, and the current cost studies reflect that. We are further into mechanization than we ever were before. We are further into these pre-sort programs where a lot of mail is prepared better before we receive it. It has cut down some of our costs in certain areas.

Senator GLENN. When do you expect the results of the task force investigation into the effect of a 1-day reduction in delivery on mail service and the postal work force? Do you have a study underway on that?

Mr. BOLGER. Yes; we do. I am hoping to have the basic information we need on which to base a decision within the next couple of days. I have a great deal of it now. I am hoping that it will be all together so that I can discuss it with the Governors of the Postal Service when we meet next Tuesday.

Senator GLENN. According to your annual report, workers, compensation costs increased \$244 million last year, despite a decrease in the number of new cases due, according to Labor Department statistics, to a 29-percent increase in the average liability per claim. The report also states that in an effort to control costs, the Postal Service will pursue an increasingly aggressive campaign to eliminate abuses. Could you identify these abuses and provide us with more detail on the actions you plan to use to eliminate them?

Mr. BOLGER. We can give you some examples of abuse for the record, but the action is to get more people to work on this, helping us. We have given more emphasis with the Labor Department. We have asked them to get involved in a cooperative effort, which they have done.

Senator GLENN. Do you find people claiming greater injury than they have, or are there a greater number of cases, or is there an increase in straight-out fraud, or what?

Mr. BOLGER. Well, I think there is an increase in fraud. I think it is a combination of all of them. We have people that are filing claims that are fraudulent, we have people that are filing claims that are adjudicated incorrectly by the Department of Labor. I think we are billed for compensation expenses that are not occurring. There are all types of problems with it. We have some work going on together with the Department of Labor. I think it is going to help us identify more closely what this is all about.

[Examples follow:]

EXAMPLES OF ABUSES IN THE WORKERS' COMPENSATION PROGRAM

A clerk receiving continuation of pay due to a claimed back injury reported a slip-and-fall accident shortly after her return to duty. She was then placed on COP again. During the following weeks, Postal Inspectors observed her on numerous occasions working as a waitress. Confronted with the evidence, she resigned from the Postal Service.

A letter carrier claimed a back injury in October 1978. He admitted that he could return to duty in December 1978, but he remained at home until the middle of January 1979. He received a two-week suspension.

A clerk claimed an on-the-job injury to her shoulder. Subsequent investigation determined that her husband had beaten her, injuring her shoulder. She was removed from the Service.

These are just three of 262 cases the Inspection Service investigated last year as the continuing rise in workers' compensation costs to the Postal Service signaled the need for a crackdown on potential abuses.

For a number of years, workers' compensation costs have been a financial burden for USPS. While in 1978 billings and payments were close to \$173.3 million, in fiscal year 1979 that figure increased more than 9 percent to \$192.2 million. Claims, however, did fall by 3,000 between 1978 and 1979.

Since the Federal Employees' Compensation Act was amended in 1974, the workers' compensation program has suffered from a number of serious problems, including skyrocketing costs; unmanageable caseloads, large backlogs and payment delays; and "disincentives" to return to work.

The Postal Service has been working with the Department of Labor, which monitors the system government wide, to come to grips with these problems.

In recent testimony before a Congressional committee looking into workers' compensation, Deputy Postmaster General James V. P. Conway said: "One of the essential ingredients is to get people back to work when they are medically able. The Postal Service and the Department of Labor jointly have developed a set of rehabilitation and reemployment procedures which we think establish a model program.

"Our best-case estimate is that as many as 55 percent of the more than 11,000 former postal employees now off our rolls and on the compensation rolls might be reemployed within the next two years for productive work within their medical limitations."

USPS is also monitoring the workers' compensation program with a staff of 358 specialists located in the 154 largest postal installations. Their job is to administer workers' compensation claims within USPS.

Once employees are awarded COP or compensation for wage loss, these specialists try to monitor the recipients' medical status and provide assistance to them to get them into the rehabilitation program and back to a job within their medical limitations. They also try to find lighter work for employees temporarily unable to do their normal assignments so that they can stay on the job.

Abuses, however, still plague the system.

For instance, recently a carrier in a Midwestern city claimed a back injury. Medical reports sustained him, saying that he was totally disabled, to the point that he could not even perform light duty. However, while he was out on disability, getting three-fourths of his salary check tax-free, he applied to a neighboring police department for employment as a police officer. Part of his entrance test included going through an obstacle course; he jumped the low hurdles with ease and passed.

The Inspection Service got involved in the case, and the carrier was indicted. One of the charges against him said that he submitted a false statement to the Department of Labor in order to obtain workers' compensation. He did not tell Labor that he had been employed as a patrolman by the neighboring city police department on a part-time basis.

The carrier submitted a guilty plea to the indictment, and a month later he was sentenced to serve a period of two years on probation and to pay \$2,000 in fines.

In another case, a federal grand jury in a Western state recently indicted a letter carrier on four counts of false claims and four counts of false statements to obtain workers' compensation.

The carrier had been receiving compensation since April 3, 1974 based on an alleged back injury suffered in a fall while on duty.

However, the Department of Labor's Dallas Inspector General's office investigated and discovered that while the carrier was receiving \$58,755.28 in temporary disability benefits from the Office of Workers' Compensation he was gainfully employed as an unemployment insurance claims fraud investigator for his state. Ironically, the Department of Labor, which was administering his workers' compensation, was also underwriting his salary from the state.

The indictment stopped compensation payments to the carrier, reducing compensation costs to the Postal Service an estimated \$247,780 in projected future disability payments.

"Any improper or unnecessary use of the federal workers' compensation system distracts attention and resources from those whom the program is intended to serve," said DPMG Conway, "and detracts from the program's general credibility. These kinds of deficiencies harm the employees who have suffered from occupational injury or disease and are entitled to be compensated promptly and efficiently.

"The integrity of the workers' compensation system is crucial, and to work as it should, the system needs the confidence of both employees and managers."

Conway emphasized that the Postal Service strongly supports the federal workers' compensation program and is committed to making it work, but he added that it is in the best interests of taxpayers and postal rate-payers as well as postal employees to rid the system of abuses.

"Improper use of the system hurts all of us," he said, "since we have to pay the bills through our taxes and postage." Workers' compensation expenses currently approximate a penny of each First-Class stamp.

Senator GLENN. Under the proposed rate increases you recently filed with the Postal Rate Commission, the rate for regular, single piece, third-class mail would be increased by nearly 75 percent. What was the basis for requesting such a huge increase for this class of mail?

Mr. BOLGER. Cost. We found out in our cost studies that that is what it costs to handle this diminishing volume mail. The diminishing volume mail does cost us.

Jim, you can get into that if you will.

Mr. FINCH. Yes, sir. Our volume in the single-piece category, which is largely composed of small parcel samples and those kinds of things, has been decreasing over the years. I think it has probably dropped almost 50 percent since 1970. The latest actual 1979 cost numbers indicate that the pieces are, by and large, not susceptible to mechanization, and must be manually handled which is a very expensive operation.

Senator GLENN. There has been a good deal of criticism regarding the revised Postmaster selection procedures you adopted last September.

ber. I guess any changes are bound to generate some opposition. But, many are concerned that the possibility of advancement would be reduced significantly, under the revised guidelines. Can you comment on this?

Mr. BOLGER. Well, I don't think it has been. I think we still have people advancing in the Postal Service. Most all postmaster positions, with the exception of very small post offices, are filled within the Postal Service. In each case, it is usually an advancement. In our change of regulations, I didn't see anything which caused that to change. People are being promoted—employees in the Postal Service—to postmaster positions. Other people are looking upon the residency requirements as a restriction that keeps them from applying for positions because they don't want to move. That is their choice, not ours.

We want people who are interested in becoming postmasters to be promoted from within the office, or at least from within the Postal Service. I don't see anything in our regulations that would restrict the opportunity for people to be promoted in the Postal Service.

Senator GLENN. Senator Sasser made a statement this morning. Were you here for that?

Mr. BOLGER. No, I wasn't.

Senator GLENN. Some of the other gentlemen at the table were here. We would like to have your comments on his concerns included in the record, along with his statement, if you would please.

Mr. BOLGER. That is on the Chattanooga, Tenn. Inspection Service Division?

Senator GLENN. Yes, that's right.

[The information follows:]



Following Postal Reorganization, the U.S. Postal Inspection Service was comprised of five Regions located at New York, New York; Philadelphia, Pennsylvania; Memphis, Tennessee; Chicago, Illinois; and San Francisco, California. Reporting to these Regions there were 21 Divisions located at Boston, Massachusetts; New York, New York; Brooklyn, New York; Newark, New Jersey; Philadelphia, Pennsylvania; Pittsburgh, Pennsylvania; Washington, DC; Chattanooga, Tennessee; Memphis, Tennessee; Atlanta, Georgia; Fort Worth, Texas; Cincinnati, Ohio; Chicago, Illinois; St. Paul, Minnesota; Kansas City, Missouri; St. Louis, Missouri; Detroit, Michigan; Seattle, Washington; Denver, Colorado; San Francisco, California; and Los Angeles, California.

On three separate occasions since Postal Reorganization, the Inspection Service has consolidated field administrative responsibilities resulting in the elimination of three Division Headquarters operations. In 1973, the Brooklyn Division Headquarters operation was eliminated in the consolidation of administrative responsibilities in the New York Metropolitan area. While the majority of Inspector and support positions were reallocated to the gaining Divisions, a savings of three positions was achieved. In 1975, the Kansas City Division Headquarters operation was eliminated in a consolidation plan affecting our Central Region. Salaries for management and staff personnel totaling \$402,142 were saved on a recurring basis. This figure represents actual salaries at that time. It does not include fringe benefits and has not been adjusted for inflation. There were additional Inspector salary savings projected which could not be verified in time for this response. In 1977, the Denver Division Headquarters operation was eliminated in a consolidation affecting the Denver, San Francisco, and Los Angeles Divisions. As a result, recurring annual salary costs of \$247,626 were saved. Here, too, there were additional Inspector salary savings.

Recurring salary savings as a result of the Kansas City and Denver consolidations total \$649,768. This figure will be increased to \$1,346,409 with the realization of estimated savings of \$696,641 from the consolidation in the Southern Region and the elimination of the Chattanooga Division. This is not a plan to move or reorganize an operation without net savings. As in the Kansas City and Denver Division consolidations previously accomplished, management and staff positions presently filled will be eliminated. Except as noted, employees displaced at Chattanooga who are reassigned will assume vacant positions which otherwise would have been filled.

The Inspection Service has initiated action to consolidate the Division Headquarters offices in its Southern Region. Administrative functions now being performed by the Postal Inspection Service's Chattanooga Division Headquarters will be performed by the Atlanta and Memphis Divisions as part of the consolidation plan. This action, which will be completed by September 30, 1980, will yield significant cost savings and will not adversely impact on the field operations of the Inspection Service.

Two separate and distinct functions are performed by Postal Inspectors referenced in this paper. Field Postal Inspectors are responsible for investigating alleged violations of postal offenses, for conducting security investigations, and handling other security-related matters and for performing the internal audit function for the Postal Service.

A Division Headquarters performs supervisory and related administrative functions for a geographical area in support of field Inspectors and Security Force personnel. Currently, the Chattanooga Division Headquarters has administrative jurisdiction over 103 field investigative Postal Inspectors and Security Force personnel assigned to Alabama, North Carolina, South Carolina, and Tennessee. Following the realignment, field Postal Inspectors will simply report to Division Headquarters located at Atlanta or Memphis instead of Chattanooga. Similarly, the 13 Security Police Officers assigned to the Greensboro, North Carolina Bulk Mail Center will come under the administrative control of the Postal Inspector in Charge at Atlanta.

Division management, consisting of the Inspector in Charge and four Assistant Inspectors in Charge, perform the supervisory and overview function of day-to-day operations. Inspection Service support personnel, serving as staff for management, review Inspector's reports, process correspondence, and records to insure the efficiency and completeness of information handled. They also examine complaints and inquiries. The effectiveness of the field operations conducted by Postal Inspectors at Chattanooga and within the Chattanooga Division will not be impaired in any way as a result of this administrative realignment.

The action being taken results from the continuous efforts of the Inspection Service to improve the efficiency of its field management organization. Division Headquarters operations have been successfully consolidated on three earlier occasions at Brooklyn, New York; Kansas City, Missouri; and Denver, Colorado. In each case the consolidations were accomplished without adversely affecting the Inspection Service's field capabilities and with minimal impact on personnel while significant cost savings were achieved.

The present action is not being taken because of any dissatisfaction with the performance of the Chattanooga Division. Postal Inspectors of the present Chattanooga Division in North Carolina, South Carolina, Alabama, and Tennessee, have performed in an effective manner and will continue to do so regardless of whether they report to Chattanooga, Memphis, or Atlanta. The consolidation is being effected because we can reduce overhead administrative costs without adversely affecting field operations.

Exhibits Nos. 8 and 9 detail the cost impact of this action. Considering only salaries, it presently costs about \$780,000 to maintain the Division Headquarters operation at Chattanooga. The first full year after the discontinuance, using our current best estimate that we will surplus a net of at least 28 positions and presuming a worst case situation where we would have to relocate all 20 support personnel, we would still have a first-year savings of just under \$500,000 in salaries alone. Each succeeding year we would realize a net savings of just under \$700,000 in salaries alone. These figures are at 1980 costs, so the cost avoidances in future years would, in fact, be even greater. Relocation costs of the Postal Inspectors presently in Chattanooga have not been included. They will be filling vacancies in other areas that would require relocation costs in any event when filled.

A question was also raised concerning the space being vacated at the Chattanooga General Mail Facility (GMF). Planning for this facility began in September of 1975, and the project was approved by the Board of Governors in 1976. The 8,867 square feet presently occupied by the Inspection Service represents about 5½ percent of the total square footage of the GMF. This would account for about \$300,000 out of the total cost of over \$5 million for the facility.

Obviously, when the facility was being planned, we did not contemplate the consolidation of Divisions that is now taking place. A portion of this space will still be needed for the remaining Inspection Service operations. Any space which is not needed by the Inspection Service and which cannot be used by the Postal Service will be offered for lease, as has been done elsewhere where there has been space excess to our needs.

Since the costs involved in constructing the space for the Division Headquarters operations have already been expended, these costs cannot be avoided. There will be no additional costs to the Postal Service whether or not a Division Headquarters operation is in existence and if, in fact, we are able to lease this space, there may be a small financial advantage that will accrue to the Postal Service.

Senator Sasser and Congresswoman Bouquard made statements May 1, 1980, relating to the consolidation plan. Attached is information we believe will clarify certain points raised by them.

TRANSFER OR TERMINATION OF EMPLOYEES

The Chattanooga Division Headquarters and domicile is normally staffed with 42 employees broken down as follows:

19 Postal Inspector

23 Administrative/Technical Support

42 Total

Efforts have been under way to determine the number of positions which would remain in Chattanooga to staff the domicile and full consideration has been given to the placement of all employees affected by the consolidation of Divisions in the Southern Region. The following is a status report on the situation.

Postal Inspectors:

Five of the 19 Postal Inspector positions are managers at the Division Headquarters. The Postal Inspector in Charge will be retiring in June and the four Assistant Inspectors in Charge have, or will, transfer to existing vacancies elsewhere in the Inspection Service. Of the 14 remaining Postal Inspector positions, 13 are currently filled. Eight Inspectors will be transferring to existing Inspector vacancies in the Southern Region, and five will remain at the Chattanooga domicile.

Administrative/Technical Support:

Of the 23 positions, one Security Electronics Technician and one Stenographer will remain at Chattanooga. One of the support employees has submitted retirement papers. A concerted effort has been under way to place the remaining 20 employees. A freeze was placed on filling Inspection Service support vacancies throughout the country. An initial list of positions was offered to the employees, and some interest has been expressed in some of the positions. For example, one employee expressed an interest in vacancies both at Birmingham, Alabama, and Atlanta, Georgia, and another in vacancies at Atlanta. One other employee just agreed to accept a position at our Southern Region Headquarters in Memphis.

In recognition of the problems many employees would encounter in relocating, efforts are being made to place employees in post offices within commuting distance of Chattanooga, and contacts have been made with other Federal agencies in the area advising them of our excess employees and requesting that they be considered for employment.

LONG-RANGE REORGANIZATION PLANS

The testimony contains statements concerning Postal Service long-range plans for the creation of large, medium, and small-range Postal Inspection Service Divisions, and the fact that as a result of these plans, minimal or no personnel savings will result from the proposed transfer of functions performed by the Chattanooga Division Headquarters.

There are no long-range plans for the creation of Divisions. What is being referred to is a staffing plan which has already been established for Division Headquarters already in existence throughout the country. Standardized staffing for Division Headquarters according to size is in the process of being implemented. There are 3 Divisions categorized as large, 13 as medium, and 1 as small. The Inspection Service is not creating new Division Headquarters, nor increasing its complement of support personnel as a result of the standardization of staffing.

SPACE

Acquisition of additional space in the Atlanta and Memphis Division Headquarters offices will not be necessary to accommodate the two new support positions assigned at each location.

Of the 8,867 square feet of space occupied by the Inspection Service at the GMF, 1,200 square feet will be retained for the domicile. The Southern Region performed a retail analysis three years ago which showed that in a 10-year period there would be a requirement for retail services in the area in which the GMF is now located.

Based on growth patterns which have developed since the earlier analysis, the Region will re-evaluate the need for retail services. If the results of this re-evaluation indicate that adequate demand for services exists, steps will be initiated to provide the necessary service. It is estimated that at least 4,000 square feet of the vacant space would be utilized for this purpose. Whatever space remains, or all 7,500 square feet if retail services are not provided, can be leased to other agencies or the public.

PRIOR REORGANIZATION PLANS INVOLVING CHATTANOOGA

We are not aware of any formal study to eliminate the Chattanooga Division in 1971.

In response to a study conducted in 1974 (copy attached), the Chief Inspector acknowledged that the elimination of the Division appeared feasible and that certain advantages would accrue from such a move. But, he concluded that the action was not in order at that time.



CHIEF POSTAL INSPECTOR
Washington, D.C. 20260

October 31, 1974

PERSONAL

Mr. F. C. Freyer
Regional Chief Inspector
Southern Region
Memphis, Tennessee 38161

Dear Mr. Freyer:

I have reviewed with interest the material contained in your letter of October 10, 1974, relative to your proposal to eliminate the Chattanooga Division. While it appears that such a move is feasible and that certain advantages would accrue from such a move, I do not feel this action is in order at this time.

Sincerely,

A handwritten signature in dark ink, appearing to read "W. J. Cotter", written over a circular stamp or mark.

William J. Cotter
Chief Inspector

October 10, 1974

PERSONAL

Mr. W. J. Cotter
Chief Postal Inspector
U. S. Postal Service
Washington, D. C. 20260

Dear Mr. Cotter:

This is a proposal to make three Divisions in the Southern Region, out of the present four, by eliminating the Chattanooga Division and reassigning its states to the Atlanta, Fort Worth, and Memphis Divisions, all of which will have new boundaries. The savings in salaries and fringe benefits will amount to approximately \$250,000 per annum. There will be additional savings in equipment and space. Also, more geographically acceptable division of the regional territory will probably result in savings in travel expenses.

The new Divisions would follow trade center, commercial pattern and metropolitan area lines more closely. They would have augmented but manageable manpower complements. Although the changes could be effective January 1, another acceptable date would be July 1, 1975, the beginning of a new fiscal year.

WHEN

The proposal to realign the Divisions, if approved, will result in the cutback of some support positions at Chattanooga Division Headquarters and make necessary the transfer of persons to some other domiciles or headquarter points. If the effective date is July 1, 1975, there may be some vacancies by attrition. It may be bad for morale of persons involved if we were to engage in a RIF program by January 1, 1975; it is my understanding that at least 60 days notice must be given in such a program; some physical moves, entailing one-time expenses, would be involved. The holiday season is not the best time to put a RIF program into effect.

On the other hand, depending on the number and dates of the retirements of supervisors, nationwide, and a general realignment of supervisory personnel within Divisions, there may be offsetting values in making the effective date January 1, 1975. This would make five surplus supervisors available for consideration in overall reassignment for the National good. To summarize, it could be done by January 1, 1975, but in my opinion, the July 1, 1975, date is preferable.

SAVINGS

The savings to be accomplished would be chiefly in salaries. We would eliminate an Inspector in Charge and four Assistant Inspectors in Charge, as well as an Administrative Officer. It is my further estimate that at least two domicile support staff positions could be eliminated because there would be a reduction in the number of Inspectors assigned to Chattanooga, some of whom are there only because it is a Division Headquarters. Inspectors to be assigned elsewhere could make use of the existing support staff in some instances.

The elimination of Division Headquarters activities would result in a cutback of at least five top support positions. There are 16 support positions in Division Headquarters now, but I estimate that 11 of these may have to be reassigned to Division Headquarters at Fort Worth, Memphis, and Atlanta, or other domiciles, to take care of the extra work generated at those points because of realignment. Meanwhile all vacancies to be filled anywhere in the Southern Region in the support staff will be given most careful scrutiny and not filled unless positive hardship would result. This would give us spaces to which support staff could be moved if desirable.

There would be additional savings in space, as the space used for Division Headquarters at Chattanooga could be reverted to that Post Office for Postal use. Present domicile space is separate and more than adequate. A TWX and telecopier could be eliminated. Typewriters and other office machinery no longer needed at Headquarters could be assigned elsewhere and obviate the necessity of buying additional equipment within the coming year or two. The layout of the Chattanooga Division, as it now exists, is not conducive to economic travel; some of the Inspectors must cut across a state belonging to the adjoining Atlanta Division in order to achieve their travel objectives.

LARGER DIVISIONS

The Division complements as they are now and as proposed are shown in Table "A". Division Headquarters management and support staff as they

are now and proposed, are shown in Table "B". Maps also show present and proposed alignment of Divisions and security staffs.

I have been Inspector in Charge in a Division which at one time had 128 Inspectors. It was later cut down to approximately 70 to 75 Inspectors. It was no greater task administering a larger Division than it was in the small, and I have received similar opinions from other Inspectors in Charge who have had the opportunity to work in both large and small Divisions. The major difference is in the total responsibility. I do not think the amount of men supervised or the area covered would be unwieldy. In my opinion, it would encourage a tightened up and more efficient supervision.

RELOCATION OF INSPECTORS AND SUPPORT PERSONNEL

Relocation of Inspectors would be necessary from Chattanooga to other Division Headquarters in the case of some specialists. There might be reassignment of a few audit-type persons necessary, but this could be accomplished after the Divisions were aligned in the proposed manner and after some experience with them.

Support personnel, in some instances, can be moved to newly enlarged domiciles which could be considered for the supervisor program expansion.

Inspector in Charge Shatzel does not desire to retire for at least a year but will accept assignment in the same capacity in any other Division.

HOW IT WOULD BE ACCOMPLISHED

A committee of the involved Inspectors in Charge and their Administrative Officers should meet with the Region and discuss the technical implementation in the same manner as was done when the present divisional boundaries were set up. The details could be worked out and the transition accomplished smoothly as far as can be foreseen. There are additional details to be covered, but if the general proposal is acceptable, we can then start work on those. The proposal has the endorsement of all Inspectors in Charge.

Sincerely,

F. C. Freyer
Regional Chief Inspector
Southern Region

Attachments

COMPARATIVE STATISTICS ON PROPOSED DIVISION REALIGNMENT

TABLE A

	ATLANTA		FT. WORTH		MEMPHIS		CHATTANOOGA
	Present	Proposed	Present	Proposed	Present	Proposed	Present
Population (1970, Census)	11,379,018	19,051,593	11,196,730	13,755,959	11,062,756	15,149,365	14,318,413
Population & Ratio Metro Areas/Rural	61/39	52/48	74/26	69/31	45/55	44/56	42/58
Square Miles (Land)	112,163	191,186	262,134	330,916	213,388	236,207	170,624
Metro Areas							
250,000-500,000	6	12	4	5	5	9	11
500,000-1,000,000	2	3	2	3	2	3	3
Over - 1,000,000	3	3	2	2	1	1	0
Total	11	18	8	10	8	13	14
Domiciles	22	33	16	21	21	31	26
Inspectors (Field)	84	120	83	95	80	117	85
Field Inspectors by Specialty Codes							
01	11	14	10	11	9	13	8
02	13	19	10	12	11	13	10
03	1	1	1	1	1	1	0
04	15	18	14	16	9	11	7
05	10	14	9	10	4	9	10
06	20	34	16	20	22	35	31
07	10	16	11	13	14	20	14
08	1	1	3	3	2	3	1
09	3	3	9	9	8	12	4
Special Investigators	9	9	9	11	7	10	5
Electronic Technicians	2	2	1	1	2	4	2
Domicile Clerks (full time)	25	35	23	26	22	31	24
Security Force	99	104	102	112	76	78	17

COMPARATIVE STATISTICS ON PROPOSED DIVISION REALIGNMENT

TABLE B

	<u>ATLANTA</u>		<u>FT. WORTH</u>		<u>MEMPHIS</u>		<u>CHATTANOOGA</u>
	Present	Proposed	Present	Proposed	Present	Proposed	Present
Inspector in Charge	1	1	1	1	1	1	1
Assistant Inspector in Charge	4	4	4	4	4	4	4
Administrative Officer	1	1	1	1	1	1	1
Administrative Aide	1	1	1	1	1	1	1
Program Analysts	5	6	5	6	5	6	5
Sr. Examiner	5	6	5	6	3	6	5
Examiner	2	3	2	2	2	3	1
Personnel Asst.	1	1	1	1	1	1	1
Procurement and Supply Assistant	1	1	1	1	1	1	1
Steno, Occupational Field	1	1					1
Sr. Steno		1	1	1	1	1	1
TOTAL	22	26	22	24	20	25	22

The Inspector in Charge, four Assistant Inspectors in Charge and Administrative Officer positions at Chattanooga would be lapsed.

Proposed support complement was based on reallocation of eleven of sixteen positions now at Chattanooga.

Note on Table A that two domicile clerk positions now at Chattanooga would also be lapsed.

**PROPOSED DIVISIONS
SOUTHERN REGION
INSPECTION SERVICE**



EXHIBITS

- 1 - Listing and Population of Present Inspection Service Division Headquarters
- 2 - Staffing Chart of a Division Headquarters
- 3 - Map of Present Inspection Service Division Boundaries
- 4 - Map of Revised Inspection Service Division Boundaries
- 5 - Inspector and Security Force Complements of Present Inspection Service Divisions and As Revised
- 6 - Security Force Complement Alone of Present Inspection Service Divisions and As Revised
- 7 - Inspector Complement Alone of Present Inspection Service Divisions and As Revised
- 8 - Staffing Impact at Chattanooga of Consolidation
- 9 - Cost Impact of Consolidation

POPULATION OF DIVISION HEADQUARTERSMETROPOLITAN AREAS

<u>RANK IN SIZE</u>	<u>NAME OF CITY</u>	<u>POPULATION*</u>
1	New York	9,386,700
2	Los Angeles	7,031,000
3	Chicago	7,017,400
4	Philadelphia	4,793,900
5	Detroit	4,370,200
6	Boston	3,897,800
7	San Francisco	3,182,200
8	Washington	3,033,100
10	Fort Worth	2,673,300
12	St. Louis	2,379,800
13	Pittsburgh	2,294,500
15	St. Paul	2,037,100
16	Newark	1,969,200
18	Atlanta	1,831,500
23	Seattle	1,427,200
26	Cincinnati	1,375,400
40	Memphis	886,400
93	Chattanooga	403,200

* Source - Estimates of Population of Counties and Metropolitan Areas: July 1, 1976 and 1977 - Bureau of Census Publication

EXHIBIT 1

MEDIUM DIVISION

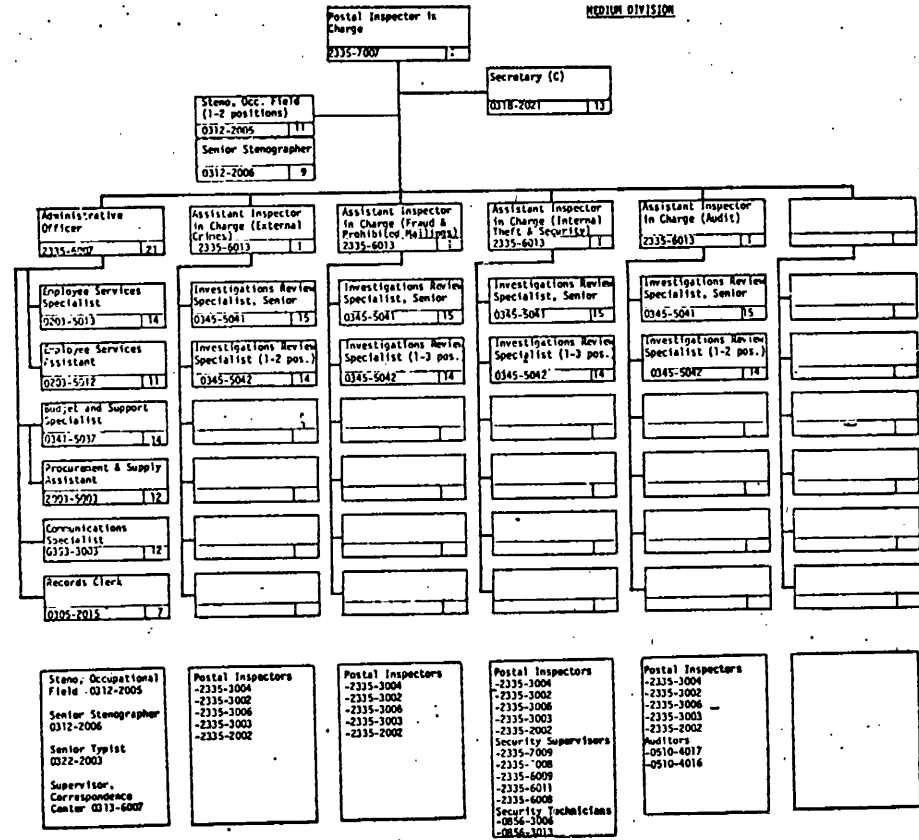


EXHIBIT 2

Postal Inspection Service
REGION AND DIVISION BOUNDARIES

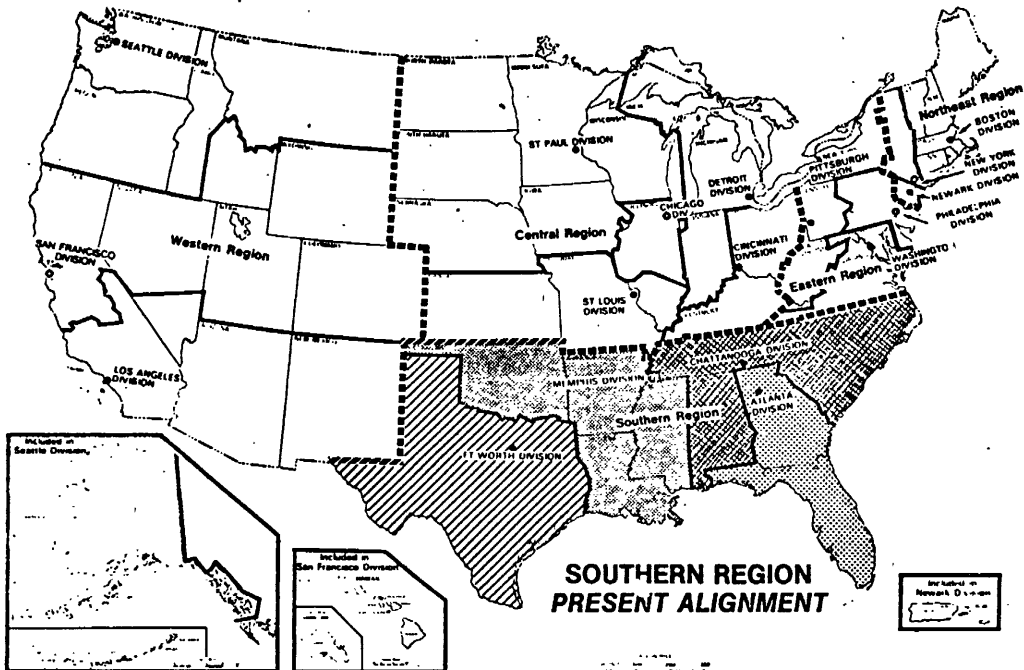


EXHIBIT 3

Postal Inspection Service REGION AND DIVISION BOUNDARIES

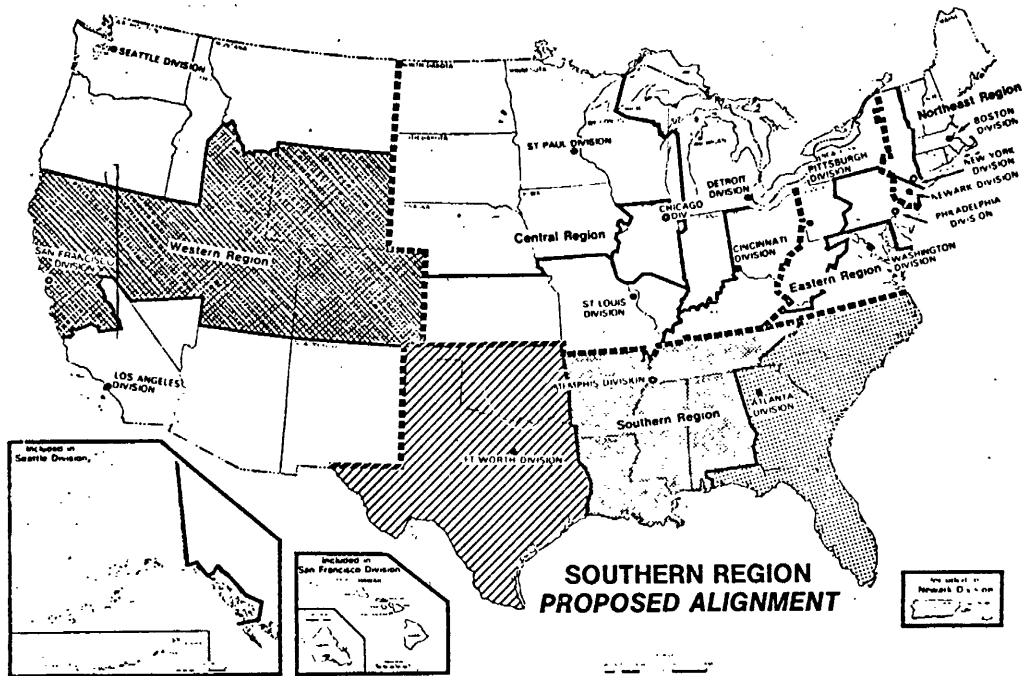


EXHIBIT A

INSPECTION SERVICE INSPECTOR/SECURITY FORCE COMPLEMENT

<u>PRESENT</u>		<u>REVISED</u>	
<u>DIVISION</u>	<u>ON-ROLLS NUMBER</u>	<u>DIVISION</u>	<u>ON-ROLLS NUMBER</u>
New York	608	New York	608
Chicago	377	Chicago	377
Washington	292	Washington	292
San Francisco	286	San Francisco	286
Los Angeles	255	Los Angeles	255
Boston	250	Atlanta	244
Newark	242	Boston	250
Philadelphia	227	Newark	242
Pittsburgh	207	Philadelphia	227
Detroit	204	Pittsburgh	207
Atlanta	197	Detroit	204
Cincinnati	191	Memphis	193
St. Louis	185	Cincinnati	191
Memphis	172	St. Louis	185
St. Paul	163	Fort Worth	164
Fort Worth	146	St. Paul	163
Chattanooga	103	Seattle	91
Seattle	91		

INSPECTION SERVICE SECURITY FORCE COMPLEMENT

<u>PRESENT</u>		<u>REVISED</u>	
<u>DIVISION</u>	<u>ON-ROLLS NUMBER</u>	<u>DIVISION</u>	<u>ON-ROLLS NUMBER</u>
New York	437	New York	437
Chicago	253	Chicago	253
Washington	186	Washington	186
San Francisco	159	San Francisco	159
Newark	152	Newark	152
Boston	151	Boston	151
Philadelphia	122	Philadelphia	122
Pittsburgh	121	Pittsburgh	121
Detroit	118	Detroit	118
Los Angeles	109	Los Angeles	109
St. Louis	95	Atlanta	106
Atlanta	93	St. Louis	95
Cincinnati	90	Cincinnati	90
Memphis	72	St. Paul	70
St. Paul	70	Memphis	67
Fort Worth	60	Fort Worth	65
Seattle	33	Seattle	33
Chattanooga	13		

EXHIBIT 6

INSPECTION SERVICE INSPECTOR COMPLEMENT

<u>PRESENT</u>		<u>REVISED</u>	
<u>DIVISION</u>	<u>ON-ROLLS NUMBER</u>	<u>DIVISION</u>	<u>ON-ROLLS NUMBER</u>
New York	171	New York	171
Los Angeles	146	Los Angeles	146
San Francisco	127	Atlanta	138
Chicago	124	San Francisco	127
Washington	106	Memphis	126
Philadelphia	105	Chicago	124
Atlanta	104	Washington	106
Cincinnati	101	Philadelphia	105
Memphis	100	Cincinnati	101
Boston	99	Boston	99
St. Paul	93	Fort Worth	99
St. Louis	90	St. Paul	93
Chattanooga	90	St. Louis	90
Newark	90	Newark	90
Detroit	86	Detroit	86
Fort Worth	86	Pittsburgh	85
Pittsburgh	85	Seattle	58
Seattle	58		

**STAFFING IMPACT
CHATTANOOGA DIVISION HEADQUARTERS**

	<u>CURRENT</u>	<u>REVISED</u>
INSPECTOR IN CHARGE/ASSISTANT INSPECTORS IN CHARGE	5	0
DIVISION HEADQUARTERS INSPECTOR/SUPPORT	23	2
FIELD INSPECTORS AT CHATTANOOGA	<u>14</u>	<u>5</u>
	42	7
SUMMARY: PRESENT	42	
REVISED	7	
	<u>35</u>	
LESS ESTIMATED ADDITIONAL SUPPORT AT ATLANTA/MEMPHIS	<u>-4</u>	
NET	31	

SALARY COSTS

MAINTAINING DIVISION HEADQUARTERS AT CHATTANOOGA
1980 COSTS

INSPECTOR IN CHARGE/FOUR ASSISTANT INSPECTORS IN CHARGE	\$221,600
DIVISION HEADQUARTERS STAFF (21)	409,041
	<u>\$630,641</u>
SIX EXCESS INSPECTOR POSITIONS @ \$25,000	150,000
	<u>\$780,641</u>

FIRST YEAR SAVINGS - DISCONTINUANCE - 1980 COSTS

INSPECTOR IN CHARGE/FOUR ASSISTANT INSPECTORS IN CHARGE	\$221,600
DIVISION HEADQUARTERS STAFF (21)	409,041
	<u>\$630,641</u>
SIX EXCESS INSPECTOR POSITIONS @ \$25,000	150,000
	<u>\$780,641</u>
LESS ESTIMATED ADDITIONAL DIVISION HEADQUARTERS STAFF @ \$21,000 (Two Level 14s - Atlanta) (Two Level 14s - Memphis)	84,000
	<u>\$696,641</u>
WORST CASE - RELOCATE ALL 20 SUPPORT POSITIONS @ \$10,000 ABOVE	200,000
	<u>\$496,641</u>

SUCCEEDING YEARS SAVINGS - 1980 COSTS

INSPECTOR IN CHARGE/FOUR ASSISTANT INSPECTORS IN CHARGE	\$221,600
DIVISION HEADQUARTERS STAFF (21)	409,041
	<u>\$630,641</u>
SIX INSPECTOR POSITIONS @ \$25,000	150,000
	<u>\$780,641</u>
LESS FOUR ADDITIONAL DIVISION HEADQUARTERS STAFF (ATLANTA/MEMPHIS)	84,000
	<u>\$696,641</u>

*At least one retirement

Senator GLENN. What is the status of the Fair Labor Standards Act suit brought by Labor Secretary Marshall regarding time keeping and payroll claims for employees not covered by private litigation?

Mr. BOLGER. I recently met with Secretary Marshall and we discussed the possibility of getting their case settled. It is in my interests and his and the employees' interest to get it settled, if we can find a fair way to settle it. He has appointed his new Under Secretary and I have appointed Mr. Finch as our representatives. Each of us have a committee of one to discuss this thing and see if we can come to some reasonable settlement. I am interested, Senator. I know we owe some of our employees money. My interest is finding who we owe and how much we owe, and paying them as promptly as we can.

Senator GLENN. Has there been any noticeable change in revenue or volume since the adoption of a limited suspension of the Private Express Statutes for the extremely urgent letters.

Mr. BOLGER. No. I have no statistics furnished me that would indicate that there was a great drop in volume or any drop in volume because of this.

Senator GLENN. I would like to go back to the productivity question again.

Past increases in city carrier productivity have been enhanced through motorization. I understand you are now embarked on a program to try to convert some of these motorized delivery routes back to foot delivery. Isn't that going to work in the opposite direction in terms of productivity?

Mr. BOLGER. Not if I can help it. We are certainly interested in conserving energy, but we have to watch our cost factors, too.

We overmotorized, Senator, in some areas where we really shouldn't have. What we are trying to do is identify those areas, and move them back to foot delivery where we can. But there has to be a tradeoff between cost and energy, at least for the present time. We may get to a time in this country where that tradeoff won't be possible. While it is there, I think we have to factor that in.

Senator GLENN. In a GAO report of February 1, 1979, a little over a year ago, which compared the pay of Federal nonpostal employees and postal employees, it was indicated that except for employees in some professional and management positions, postal pay was generally higher than that received by comparable level Federal employees in the general schedule. Will the cost of living adjustment provided for in the most recent collective bargaining agreement make that situation worse?

Mr. BOLGER. Well, it certainly is to date. Most of our employees are being reimbursed on the base of about 63 percent of the inflation rate, twice a year, in May and November, of each year. Compare that to the Federal sector where their pay is adjusted not more than once a year. I think with the inflation we have had, the postal salaries are getting further ahead than the other Federal salaries at the present time, particularly for rank and file employees.

Senator GLENN. In your statement you said that when the cost price index goes up one point, it costs the Postal Service \$30 million. You indicated that you felt you had to get away from cost of living increases on an automatic basis and tie pay increases more to productivity, if I recall your statement correctly.

Mr. BOLGER. That is correct, Senator.

Senator GLENN. What would you give as the odds of reaching that goal?

Mr. BOLGER. Well, I don't know. We are going into collective bargaining next year with the principal unions. I would rather not disclose the points of strategy I would use, at this point.

Senator GLENN. I am sure there is someone in the room who would like equal time.

Mr. BOLGER. I am sure they would.

Senator GLENN. Can you give us a report on the status of the express mail metro service that you recently instituted?

Mr. BOLGER. We have a recommended decision back from the Postal Rate Commission on this service. The Governors will probably act on it next week. I must say that the volumes that we have experienced in the test areas have been very disappointing. We have not generated a great deal of volume in these market areas. I think it is basically because of our pricing. We are not competitive with others in this feature. I don't know what we are going to do with their recommended decision at this point in time. As far as the experiments we have had in these cities go, I have been very much disappointed in what we have generated in volume.

Senator GLENN. You gave me some figures at a hearing a year or so ago that I was interested in. They were on the average time it takes to deliver a letter in this country. The time had come down rather substantially. It had been something like 3 days, and it was down to something like 1.9 or 1.8. Do you recall those figures? What is the current status?

Mr. BOLGER. The status is now—I haven't seen them. That was the Phoenix-Hecht report. They checked mail going between major cities for the banking industry. I think they showed that we had improved by about three-tenths of a day, something like that. I can't remember just what those figures are. I haven't seen those updated from Phoenix-Hecht this year.

I have seen some figures, however, from McGraw-Hill. Their experience is in and out of New York City and the northern New Jersey area on mail they receive from all over the country. They show further improvements over this past year. I will be glad to supply those McGraw-Hill statistics.

[Material follows:]

MC GRAW-HILL SURVEY

The following figures from McGraw-Hill indicate improvement in delivery in the New York City area; from various origins nationwide:

	Average calendar days to deliver	Average workroom days to deliver
May 1979.....	4.8	3.5
September 1979.....	6.7	3.9
October 1979.....	5.5	3.9
November 1979.....	5.4	3.8
March 1980.....	3.6	2.5
April 1980.....	3.9	2.7

In contrast, our figures from the beginning of fiscal year 1980 up to A/P 7 show the following for average days to deliver all stamped mail in New York City; local origin as well as all other origins nationwide:

	Dates	Days
PQ 1.....	Oct. 06, 1979 to Dec. 28, 1979.....	2.11
A/P 4.....	Dec. 29, 1979 to Jan. 25, 1980.....	2.22
A/P 5.....	Jan. 26, 1980 to Feb. 22, 1980.....	2.08
A/P 6.....	Feb. 23, 1980 to Mar. 21, 1980.....	1.92
A/P 7.....	Mar. 22, 1980 to Apr. 18, 1980.....	2.07

Undoubtedly the clearing up of the difficulties at Morgan and the efforts of the special task force for the trend in improvement. The implementation of the Area Distribution Center concept obviously helped also. The reason that the trend reversed direction in A/P 7 is largely the result of adverse impact caused by the New York transit strike (April 1 through April 11).

Senator GLENN. I would like to have that or any figures that show how long delivery took during the worst delivery times and what the trend is now. Is it going down? Is it getting worse, or getting better? Have we leveled off?

Mr. BOLGER. You know, sir, every time I hear a discussion on this, I have to recall for people what really used to happen in the great 1940's and 1950's when they like to compare the Postal Service. Most letter mail then traveled across this country on trains. We are now transporting most of the letter mail by air in a couple of days—3 days at most. We have some infrequent occasions when it is worse than that.

In the old train days, it took a minimum of 3½ to 4 days just to get it transported across the country. So, I will take issue with anyone that says that we provided better service in the 1940's and 1950's than we do today.

Senator GLENN. I think back in those days you had twice a day delivery, though, within the same town. There might be some difference there.

Mr. BOLGER. No; I will even go further than that. We cut out that twice daily delivery 30 years ago, April 18, 1950. There is a period in there from the early 1950's to the mid-1960's when we were still transporting most of our mail across this country by train. It has been 30 years since we cut out those secondary delivery runs.

Senator GLENN. If express mail service is not really doing as well as you had hoped, why are you extending it? Are you able to tell us at this time what service areas you expect to cover with this new service? Why are we going to this new service if it isn't working very well?

Mr. BOLGER. This is a proven service, express mail, that we have conducted between and among major cities around this country. This is an entirely different thing. Our pricing structure will be lower. I think we will pick up that volume.

A lot of people don't need next day delivery, or same-day delivery, but they would like to have some reliable service that will give them second-day delivery. At the right price, they will pay for it. This is what we are trying to identify, how to meet those customer needs.

Senator GLENN. You have highway mail contracts. In 1979, the estimate is they used about 120 million gallons of fuel. Is there any way

you plan to cut down on that, or is there any more efficient direction you can see of moving in that area?

Mr. BOLGER. That is service between sectional centers and their post offices. There isn't much we can do in reducing the number of trips in that activity unless we are willing also to make some service curtailments, which I am not willing to make at the present time.

We have been trying to encourage our contractors, when they bid on routes, to get more fuel efficient vehicles.

Also, on the large, long-distance hauls—from point to point with bulk mails—we have been trying to use the rail operations when they will meet our schedules, more than we have in recent years. We have met with Conrail; we have met with Amtrak; we have met with independent rail operations, to try to get reliable schedules that we can use to move things by rail instead of truck.

Senator GLENN. Do you use piggy-back trucks with trailers?

Mr. BOLGER. Yes, we do. We do a great deal of it in movement of bulk mail between principal cities, primarily out of the Chicago area, out to the west coast, and out into the Northwest area, when the schedules are available. Our problem with the railroads over recent years is that we haven't found them providing the schedules we need to meet our service standards. When they do, we use them because it is more fuel efficient.

Senator GLENN. Do you have any figures you could give us on how much you plan to be investing over the next year or the next few years in energy conservation, and how much fuel you expect to save as a result?

Mr. BOLGER. Yes. I will give you a quick figure right now. Our program calls for a 5-percent reduction in each of the next 3 years in our overall energy usage. I will give you more details and statistics for the record.

Senator GLENN. Fine. We will appreciate getting that.

[The material referred to follows:]

INVESTMENTS AND ENERGY SAVINGS—ENERGY CONSERVATION PROGRAM IN BUILDINGS

Fiscal year:	Investment (millions)	Energy savings at site (Btu's, billions)
1980.....	\$6.5	450
1981.....	9.6	750
1982.....	10.8	720
1983.....	40.5	460
1984.....	41.0	350
1985.....	39.6	250
Total.....	148.0	2,980

Capital investment in building energy conservation retrofits and new building design features, fiscal year 1980 through fiscal year 1985—\$148 million.

Total energy savings resulting from capital investment program fiscal year 1980-85 is 2,980 billion Btu using site conversion factors. In terms of source energy, fiscal year 1985 energy savings will be equivalent to 1.1 million barrels of oil per year.

Senator GLENN. As you may recall, I was interested in your electric vehicle program. I understand that you are using 31 British vehicles in California which have shown a superiority in battery and control systems to our American counterpart. Is that correct? What kind of

performance are you getting and do you have any preliminary figures on life cycle costs? Does it look promising or not?

Mr. BOLGER. It looks very promising on those particular vehicles. We have had those for several years, out in Cupertino, Calif. The whole city of Cupertino is served by electric vehicles. It has been very successful. I will supply some details for the record.

The life cycles of those vehicles appear excellent. The batteries hold up very well, too. The overall trade loss and the energy used by those vehicles versus the gasoline vehicles is, I think, about even. But the maintenance costs are way down. Our maintenance costs are in pretty good shape on those electric vehicles.

[The material follows:]

OPERATING AND MAINTENANCE COSTS
HARBILT VEHICLES AT CUPERTINO, CA

As mentioned in the testimony, daily reliability of the Harbilt vehicles operating at Cupertino, CA, has been exceptionally good. Downtime factors are on the order of only 1% daily versus a 2 to 3% downtime factor on our gasoline vehicles and a considerably higher downtime factor on the AM General electric jeeps which are in use throughout the country.

From a life cycle cost standpoint, the vehicles performed admirably for over 3 years. In the course of the fourth year and through the fifth year we experienced a number of expenses which did in fact drive up the cost of operation and maintenance. Three areas of cost were the principal generators of expense: body and body hardware rehabilitation; replacement of wheels and tires, and then at 4-1/2 years the beginning replacement of batteries. These expenses began to show in late Fiscal Year 1978 and continued on through Fiscal Year 1979. It is gratifying to note that as of Accounting Period 6, Fiscal Year 1980, the expense of operating this fleet is back in line and our annualized projections show a cost of \$1875 versus an estimated annualized cost of the gasoline jeep (1975) of \$2019.

The fiberglass bodies on the 31 Harbilt vehicles were fabricated in Northern California. We encountered problems with body construction, body hardware, and window glazing materials, all of which made body rehabilitation necessary at a substantial cost per vehicle. When the original tires began to wear out, there were no available American tires of that size on the market. This made necessary the replacement of both wheels and tires so that we could go to available American tire sizes. After the end of the fourth year of service, the original battery packs began to fail. It should be noted that 4 years of service from electric vehicle batteries in this country is almost unheard of; very few battery packs last longer than 2 years. All batteries have now been replaced at a cost in excess of \$3,000 per vehicle.

All of the expenses noted above were charged as expense items in the year in which the change or repair was necessary; hence, the large inflation of cost in Fiscal Years 1989 and 1979.

Contributing to the relatively high cost per vehicle of the Harbilts was the fact that for the first 3 years of their life the vehicles were leased at a cost of \$7.00 per day. At the end of that span of time the Postal Service purchased the vehicles. Anticipated life originally was 10 years. It appears probable that the vehicles will be economically operable for a total of 15 years. Attached to this statement are 3 charts depicting life cycle costs of the Harbilt vehicles from day 01 through Fiscal Year 1979, life cycle cost of the AM General 1975 gasoline powered jeep, and a year-to-date cost of the Harbilt vehicle Fiscal Year 1980 through Accounting Period 6 with an annualized projection for the year.

YTD - COST - HARBILT ELECTRIC

(PER VEHICLE - 6 A/P's)
FY 1980

		<u>Elec.*</u> <u>Power</u>	<u>Parts</u>	<u>Labor</u>	<u>O'Head</u>	<u>Depr.</u>	<u>Contract</u>	<u>TOTAL</u>	
M/M 04-10 Harbilt	AMOUNT	3100	2725	8094	8088	4822	-	26829	
(31 Vehs.)	Per Mile	.065	.057	.170	.170	.101	-	.563	
	Per Hr.	.229	.194	.577	.576	.343	-	1.911	
	Per Veh. 100.000	87.903	261.097	260.903	155.548	-	-	865.451	
		<u>MILES</u>		<u>HOURS</u>		<u># VEHICLES</u>			
		47688		14038		31			
	Annualized Cost Per Vehicle	-----					\$1875		

622

*Projected at \$0.05 per Kw/hr.

NOTE: Annualized Cost Per Vehicle----1975 Jeep ----\$2019
(30,005 vehicles)

LIFE TO DATE COSTS

THROUGH FY 1978

(PER VEHICLE)

M/M 21, Harbilt (1974)
31 Units

Year	Op. Sup. (Electricity)	Parts	Labor	O'Head	Deprec.	Contract	--- TOTALS ---		
							\$	MI	Hours
FY 74	121	Rental	\$7.00 per day			2121	2242	4444	1515
FY 75	121	"	"	"	"	2121	2242	3333	1515
FY 76	121	"	"	"	"	2121	2242	3333	1515
TQ 76	46	1.06	.79	.63	132	8	188	1272	568
77	112	187	367	257	389	52	1364	2865	1392
78	143	300	433	404	388	17	1685	3928	1488
79	128	1261	648	982	363	18	3401	3333	1288
TOTALS	792	1749	1449	1644	1272	6458	13364	21397	9280

Avg. Cost Per Vehicle Per Year

Cost Per Vehicle -----	\$1909.14
Cost Per Mile -----	0.625
Cost Per Hour -----	1.44

OFM:DC:awl
5-12-80

LIFE TO DATE PER VEHICLE COST
 THROUGH FISCAL YEAR 1979
 (69 ACCOUNTING PERIODS)
 1975 AM GENERAL GASOLINE - DJ-5D (30,016)

YEAR	FUEL	PARTS	LABOR	O'HEAD	DEPREC.	CONTR.	TOTAL	MI.	HRS.
FY-1975	309	80	312	226	750	51	1728	4805	1738
FY-1976	273	103	273	250	323	78	1300	4555	1759
TQ-1976*	97	19	54	51	166	18	405	1426	526
FY-1977	347	74	200	189	496	63	1369	4600	1712
FY-1978	356	108	243	237	482	69	1495	4424	1709
FY-1979	423	139	364	276	503	63	1768	4743	1736
<hr/>									
TOTALS	1797	523	1505	1224	2722	337	8065	24,554	9180

Avg. Cost Per Vehicle
 Per Year ----- \$1519
 L.T.D. Cost Per Mile \$0.33
 L.T.D. Cost Per Hour \$0.88

*Transition Quarter - Change of Fiscal Year.

OFM:DC:ep

2 11 80

024

Senator GLENN. That climate is favorable for electric vehicle use. It is reasonably warm. There aren't many zero-degree days that cut battery capacity in half. The reason I am pointing this out is that people listening to the testimony today should not think that we can put those in Buffalo, N.Y., for instance.

Mr. BOLGER. We put one up in a town that I know very well in Massachusetts just to try it. We didn't get these same results. When you have over a couple of inches of snow on the ground you have some problems. In cold weather it gives you real problems with electric vehicles.

Senator GLENN. You would go back to the mailman on foot pretty quickly in that case.

I understand that you are planning, though, to purchase some 750 electric vehicles that have been authorized by the Board of Governors. Is this still a learning situation with these 750 new ones? Or is this the beginning of normal use type operations?

Mr. BOLGER. It is a different vehicle and still for experimentation. Hopefully, we will get American manufacturers bidding on these things.

Senator GLENN. Is this a situation where you are going out with an RFP?

Mr. BOLGER. Yes, we are. What we are trying to do is to disperse those in different areas, not just in favorable climate areas.

Senator GLENN. Will the performance standards that you require be considerably higher than on the vehicles you have been using up to now?

Mr. BOLGER. The electric vehicles we have been using up to now—

Senator GLENN. You have several years of experience now. I am just wondering what you are going for with these 750 new ones. Are you going to a new performance level as a result of past experience? Or are we experimenting with a different type of electric vehicle, or what?

Mr. BOLGER. We have set some performance levels that we anticipate getting out of these new vehicles. They are a different vehicle entirely from our British-built vehicle out of Cupertino.

Senator GLENN. Do they have greater weight carrying capacity, or range, or a temperature operating range? What is the advantage?

Mr. BOLGER. I wish I could give you the detailed answers. I can't. But basically, the standards have been improved upon our experiences in Cupertino.

Senator GLENN. Could you give us a report for the record, so we will know what you are planning for these 750 new vehicles? I would like to know their advantages over what you have now, and what the experiment is supposed to prove.

Mr. BOLGER. I would be glad to do it.

[The material referred to follows:]

PLANNING STRATEGIES FOR PURCHASE
OF 750 ELECTRIC VEHICLES
FY 1980

In the bidding process for the Fiscal Year 1980 electric vehicle procurement, 7 manufacturers were represented: 6 were American concerns, the seventh was a Canadian firm which proposed to build in the United States. The low bidder was determined to be nonresponsive because of financial incapability, and an award was made to the second low bidder, General Engines, Incorporated of New Jersey. We understand the vehicle will be built in Sebring, Florida.

There are some significant differences in the performance parameters of the vehicle specifications as compared to the electric vehicles now in service. Our major problem from the standpoint of carrier operation was the slow rate of acceleration and the limited top speed. For your information, we are charting these performance parameter differences below:

	<u>Harbilt & AM General</u>	<u>1980 Requirements</u>
Top Speed	33 MPH	45 MPH
Acceleration		
0-15	6-7 seconds	4 seconds
0-30	20 seconds	15 seconds
0-45	-	45 seconds
Range & Stop/Starts	20/300	25/350

The improved acceleration will help greatly in merging with traffic and crossing intersections. In this area, from 0-15 acceleration rate is especially important.

Body configuration of the new vehicles will be significantly different from either of the previous electrics in service. The vehicle will be significantly lighter, and it is anticipated that the energy cost will be on the order of 50-60% of the current energy cost involved in the present Harbilt and AM General vehicles. It is this lowered energy use which will be of large interest to the Postal Service. Our present contract provides for 375 of these vehicles to be built initially with an option for 375 more; the option to be exercised after satisfactory demonstration of the pilot model which is anticipated to be ready for review in July or August of this year. The vehicle is anticipated to have a much longer mileage than indicated by the range and stop and start specifications. Under normal operation, range should be on the order of 50 - 65 miles. We will of course make immediate dynamometer tests of the early vehicles to determine more precisely what the actual mileage of these vehicles will be.

Senator GLENN. One reason I am pushing on this subject is that we have looked at the Postal Service as almost a test of what we may wind up with in the rest of the country one of these days.

I happen to think this is one of the most overlooked aspects of our energy picture. I think it is outrageous that we have not put more money into electrical energy storage. It could be concentrated for use in electric vehicles, for example. Also, massive amounts of electrical energy could be stored. We could really use some of this wind power, wave power, tide power, or solar power, that we all see pictures of in the magazines, but we can't store it for use when we want it and where we want it. This is the big holdup now. So we are looking at your experience with electric vehicles as a guide to what could wind up one of these days as being our biggest single stroke of independence from foreign oil. The figures, I think, from DOT are that we do 82 percent of our driving within 25 miles of our homes.

Mr. BOLGER. That is why we are a natural to get involved in this thing. We have told the Department of Transportation and the Department of Energy that we want to get involved. We want to be used as an experimental operation for them in many of our activities.

Senator GLENN. I think a lot of people feel like I do. I would buy an electric vehicle tomorrow if I was certain that on a cold winter's evening I wasn't going to be halfway out the GW Parkway thumbing a ride some night on the way home, because I drive about 18 miles in each direction. That puts me at a marginal distance on most of the proposed electric vehicles which have been developed so far.

A recent national survey conducted by the Roper organization established that people complain at the rate of approximately one complaint for 4,400 pieces of mail. That means a total of 25 million complaints a year. How does that compare with other countries? Or what is the trend in that area?

Mr. BOLGER. I don't know how it compares with other countries, but when you look at that 25 million, that is a lot of complaints, and I am not happy about it.

Senator GLENN. Well, you roll a lot of mail through, I realize that. The volume is large. But that is a lot of complaints. What is the trend in that area, and what are you doing about it?

Mr. BOLGER. I think our complaints are cyclical. Right now, our overall complaints are on the downtrend. What we do is get cyclical complaints. For instance, last winter we got all the publicity about the New York situation, which was bad. We got a lot more complaints from New York because the publicity caused those complaints to be recorded.

I am afraid sometimes that we don't get a lot of the complaints we ought to get, so that we can know more about it and can take some corrective action. Overall, I think our service is holding its own.

Senator GLENN. What assumptions did you make on mail volume in filing your rate case? Will the increase in first-class rates to 20 cents, assuming the Postal Rate Commission approves it, mean a substantial drop in the volume, in the amount of first-class mail delivered?

Mr. BOLGER. Not a substantial drop in percentage. We are looking at about a 1-percent drop, but that is substantial in pieces—about 1 billion pieces being 1 percent of our total volume. Yes; it does have some impact when we increase your rates.

Senator GLENN. Could you comment on what has been the prediction through the years, and what has happened to volume in spite of those predictions? I would ask for your figures on this.

Mr. BOLGER. It has been 5 years ago since they pronounced us dead at 89 billion pieces. This year, we will handle pretty close to 104 billion pieces. We would have been dead if we had not stabilized our rates. I think we would have diminished in volume scale if we hadn't been innovative in such things as a presort program; working with mailers to give discounts. I think we would have been dead, and gotten into diminishing scale if we hadn't started to work with mailers to find out what their needs were and tried to meet those needs.

That is why I am so insistent on having some more experimental authority, more latitude than we have today. We need to do these things. The world is changing and we have to change with it.

Senator GLENN. Can you give us a report on the Postal Service's involvement in the census and how that is perceived?

Mr. BOLGER. In the overall, we have had a pretty good experience with the census. I would like to get to the point, and I think we can, of doing pretty near the whole job for the census. I don't mean computing the results of it, but getting the statistics for them through the mail or through our postal employees, instead of their specially hired numerators getting this information. I think we have had a pretty good experience in 1980. I think as we are planning for the update in 1985, and the census in 1990, we could be of even more value to the Department of Commerce than we are today.

We have distributed the census forms. The Census Bureau is getting the returns they anticipated in most of our cities. We have had some complaints here and there. Sometimes it has been their fault, sometimes it has been ours. But overall, I think it has been a satisfactory experience.

Do you have anything else to offer, Jim?

Mr. FINCH. No, sir.

Senator GLENN. Would that have to be dealt with through your collective bargaining process?

Mr. BOLGER. You mean whether we could do the work or not? It would depend on whether we change the work rules or have different levels for our employees in that service or not. I just don't know those details. I don't think that our unions would be unhappy with us trying to find more gainful employment for our employees.

Senator GLENN. What is the next step on E-COM and Intel-Post?

Mr. BOLGER. The E-COM ball is back in the Governors' court—before the Governors of the Postal Service. We are going to have a discussion next Monday or next Tuesday on it.

I don't know just where we will come down on this as far as the recommended decision of the Postal Rate Commission is concerned.

Concerning Intel-Post, the international record carriers that we have been trying to get to provide the transmission services for us, have again had their tariffs turned down by the FCC. I think the discouraging and almost shameful result that is going to come out of this is that we, the United States, the initiators of this type of experimental demonstration service, are probably not going to participate in it.

The Western European nations now have banded together with Canada and, if we don't act pretty soon, are going to put up their own

form of Intel-Post. We might find ourselves going in the back door through Canada, instead of staying in the lead role that we started. I think that it is a darned shame, Senator.

Senator GLENN. Did you recommend giving you authority to go ahead on that?

Mr. BOLGER. I would hope that the FCC could see their way clear to give the international record carriers the tariffs they need to provide the service for the Postal Service. Indeed, I do. We are ready to go. I think the nations we discussed this with are ready to go as soon as we remove these regulatory barriers.

Senator GLENN. I tend to agree with you. As you point out, they are going to go whether we go with them or not. It isn't a question of whether it is going to happen or not. It is a question of whether we are on the boat when it leaves the dock. That summarizes it right now.

Mr. BOLGER. I think we are going to be in that water if we are not careful.

Senator GLENN. Your main concern on Senate bill S. 2558 appears to be sections 6 and 7, dealing with classifications and experiments. If we were to remove those sections, and simply keep the present law in those areas, could you then enthusiastically support the remainder of the bill?

Mr. BOLGER. Well, we had it in mind to address some problems with the bill concerning subsidy issues. That is up to the Congress. Enthusiastically is a word I wouldn't use. I wouldn't stand up and scream and holler and stamp my feet about the bill, if it went through that way. I would have some difficulties working with it.

Senator GLENN. When announcing your proposed new rates, cost studies producing "surprising and dramatic findings" were cited as the basis for the proposed new structure.

I wonder if you could share some of those "surprising and dramatic findings" with us.

Mr. BOLGER. I think Mr. Finch did describe that one about putting the mail together for delivery.

Senator GLENN. That's right. Are there any other examples of that? Did you want to add to that?

Mr. FINCH. We had a similar situation on the rural carrier study and in the transportation cost study. We found out that our transportation costs had been tilted a little too heavily on the short zones and not heavily enough on longer range zones. I assume that this reflects the increasing impact of energy costs on our transportation cost.

Senator GLENN. Apparently, there has been a recent decision to drop the requirement that new highway transportation contractors be bonded. What steps are being taken to insure performance if they are not being bonded?

Mr. BOLGER. We have the right to terminate the contract on 30-days' notice, or immediately if there is some type of activity that is not part of the contract and would be detrimental to the Postal Service. I just don't think we need the expense of a bond anymore, and we have had some difficulties with the current commercial bonds—fraud difficulties with the current bonding activities.

I think we will be able to police this on our own, without any difficulty.

Senator GLENN. We have asked for quite a bit of additional material this morning. Please submit that as soon as possible. We would appreciate having it for the record in its entirety.

Do any of you at the table, besides the Postmaster General, have any comments you wish to add this morning?

You have been very patient with us. I appreciate that. I am sorry we didn't get started quite on time. It has been a lengthy session.

Thank you very much.

[Whereupon, at 12:47 p.m. on Thursday, May 1, 1980, the hearing was adjourned.]

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Statement of Senator Barry Goldwater
of Arizona for the Senate Subcommittee on
Energy, Nuclear Proliferation and Federal Services

May 1, 1980

Preserving Postal Traditions

Mr. Chairman, I wish to express my strong support for the purposes of legislation you have introduced designed to preserve the historical public service traditions of the post office.

By law, the Postal Service is an independent arm of the government, but Congress can always step in with a new law pointing the agency back to its historic functions when public services, the very cause-for-being of the post office, are neglected.

To my mind, mail service should be just that--a public service. If there are any functions the central government can properly handle, surely an effective, low cost mail service to tie the country together is one of them. In particular, when a government unit is given a total monopoly over an activity, such as the Postal Service enjoys over the delivery of first class mail, it is incumbent upon the agency to provide that service at a cost low enough to make it attractive and beneficial.

For this reason, I have testified time after time before study commissions and Congressional Committees, always with the same recommendations--put a ceiling on the price of a postage stamp for personal mail, continue six-day-a-week delivery service, make sure the mail gets to its destination on time, and assure that the public gets the service the Constitution and law guarantee.

The last point is included because, strange as it seems, in some places in Arizona, such as Lake Havasu City, the management of the Postal Service did not allow delivery service to thousands of citizens, until I initiated a full scale investigation with the help of the General Accounting Office.

In particular, Mr. Chairman, I support the intent of your bill to authorize sufficient public service funds for the Postal Service so that regular, six-day-a-week

delivery service can be continued. I have consulted with numerous persons in Arizona about the threat of discontinuing Saturday service, and while a few patriotic persons indicated they would accept any sacrifice to help their country in this time of economic crisis, the overwhelming response I received is that the Postal Service should improve its service, not cut it.

On this point, I would just note that the Carter Administration has asked for \$10.2 billion in foreign aid outlays and \$24.6 billion in budget authority for foreign aid functions of the 1981 budget. Of this amount the President is seeking \$4 billion in foreign aid so that international banks can make loans to third-world countries.

In contrast, the public service funds needed for the Postal Service are \$736 million in 1981, less than one-tenth of what the White House wants to give foreign nations.

Now, I support a tight budget as much as anyone, but when it comes to a choice of important services for the American people or extravagant aid programs for countries thousands of miles away, I say let us cut the foreign aid share of the budget first, instead of putting our citizens last.

Frankly, I did not believe adequate thought has been given to the harmful aspects of stopping Saturday delivery service, particularly as it would affect rural areas. As one rural carrier in Arizona, Mr. R. L. Johnston of Sun Lakes, has explained:

"It only stands to reason that one mail carrier delivering to four hundred farmers and rural patrons in one trip will use far less gasoline than 200 farmers driving all the way into town to pick up their mail."

Also, I am persuaded that discontinuing Saturday service loses sight of the human element. Millions of Americans receive important, personal mail on Saturday. Children in many families compete to see who can get the mail first.

One family I know regularly receives mail from relatives abroad every Saturday. Stopping Saturday service would mean waiting until the following Monday for word that is very personal and comforting to this family.

Many citizens receive checks, insurance payments or retirement checks, by mail on Saturday. Although social security checks are supposed to be delivered before Saturdays, it often happens that these monthly checks do not arrive before Saturday.

Usually this Saturday mail will arrive in time for it to be deposited at local banks or cashed at stores. But if there is no Saturday service many persons will have to wait two more days, until Monday, to receive money that may be very important in their family budgets.

Millions of Americans receive magazines, or daily or weekly newspapers by mail on Saturday. Cutting these people off from delivery service will mean that the news they receive is at least three days late.

Also, I believe it is fair to ask, with delays in delivery now, what kind of service would the public receive when six days of deliveries are backed up to five days?

Moreover, do we have complete assurance that Saturday will be the non-delivery day? It is possible that mail delivery service may be cancelled on Wednesday or Friday, instead of Saturday, depending on the region and the regional postmaster? This would mean that mail carriers would be unfairly working a split week.

One Arizona carrier has written to me:

"We are human beings and should have the right to have a two day weekend like other citizens of our country."

Again, this is what I mean by the human element, which has not been taken into account by the so-called cost-efficiency experts, who came up with idea of reducing service.

Mr. Chairman, I also fear that cutting delivery service would cut an artery

of the post office. More than one publisher or editor in Arizona has informed me that he will consider turning to an alternative delivery system if pushed to the wall by the Postal Service. If the Postal Service does not deliver every day of the business week, someone else will.

In other words, dropping Saturday service will drive an increasing number of postal customers to alternative means of delivery and accelerate a death cycle in which decreased service means decreased customers. Decreased customers means decreased revenues. Decreased revenues means either or both decreased service or increased rates. And increased rates also means decreased customers. Where the cycle ends, noone knows.

To sum up, I oppose any increase in the price of the stamp for personal mail and support the continuation of Saturday service. I have an old-fashioned idea that the art of writing and communication with other persons should be encouraged.

STATEMENT OF ROBERT E. SMITH, VICE PRESIDENT
OF UNITED PARCEL SERVICE
BEFORE THE
SENATE COMMITTEE ON GOVERNMENTAL AFFAIRS
SUBCOMMITTEE ON ENERGY, NUCLEAR PROLIFERATION AND FEDERAL SERVICES
S.2558
APRIL 30, 1980

My name is Robert E. Smith, I am a vice president of United Parcel Service. Our company has become well known to the public as a national parcel delivery service whose principal competitor is the United States Postal Service. Throughout the years of our development UPS has maintained a strong interest in the laws that established the principles of fair Postal competition with the private sector. As long as the Postal Service has a monopoly in letter mail and continues to benefit from avoidance of taxes and other costs, there will always be a need to guard against possible competitive abuses. We believe that the Postal Reorganization Act has been effective in this regard and over the years we have supported those parts related to more effective costing and rate setting for the Postal Service.

Our comments on S.2558 deal with several sections of the bill. Because of the technical nature of some of the amendments which we propose, I have included an appendix to my statement which contains our suggested legislative language.

Specific remarks are made on Section 5 on appropriations, Section 6 on classifications and experimental services and Section 7 on Postal Rate Commission decisions. Also, we propose additions to the bill relating to appellate review and subpoena power for the Postal Rate Commission.

Before beginning discussion of these sections, I would first like to comment on the current requirements of the law regarding cost determination and ratemaking. Others appearing before the committee and representing special users of the mails have been highly critical of the Postal Rate Commission or the courts, or both for past cost and rate decisions. While claiming to share the same interest in cost recovery as that of the Chairman, the users have attacked the cost and rate provisions in present law.

We do not share these criticisms. We believe that if the suggestions of these users were followed, even greater costs would be heaped upon first class mail. It would be the general public which would be paying higher rates to support the users of other classes of mail who have testified at these hearings.

The existing law reflects well the intent of Congress that each class of mail should pay the costs of providing the service and that the users should pay for what they receive. The PRC and the courts have pushed a reluctant Postal Service toward an equitable attributable cost system under which the intent of Congress can be achieved. We support the general direction of the Postal Rate Commission and the court decisions.

Holding this view we commend the Chairman for his decision not to include the complex and controversial ratemaking subject in S.2558.

Turning now to the provisions of S.2558 I offer our views on specific sections as indicated above.

SECTION 5 - PUBLIC SERVICE AUTHORIZATION

Most serious for us is the proposal of the Committee that public subsidy money is to be continued for the Postal Service. It has been our consistent policy--enunciated over many years--that subsidy begets more subsidy, inefficiency and general reliance upon the taxpayer's dollar. We applauded the decision of the Congress in 1970 that the break even concept would apply to the Postal Service. More recently we have been concerned and distressed that the Postal Service has openly chosen not to comply with the Reorganization Act during FY 1980 by the simple device of not filing a rate application, thus causing a projected deficit of about \$600 million for the year.

In 1976 the Congress moved to guarantee that public service subsidy money would not be used to give the Postal Service an undue advantage over private enterprise competitors in the field of parcel post. In that year the provision first appeared--and is repeated again in S.2558--denying the Postal Service the right to unlimited use of subsidy funds for parcel post and, in fact, limiting the rate reductions which could be accomplished by subsidy to 10 percent below where they should be without subsidy funds.

We recognize now, as we did in 1976, that parcel post shares to a degree in the public service subsidy and for that reason we agreed not to oppose the 1976 provision. However, the subsidy level in 1976 was closer to 10 percent of the postal budget.

The \$920 million authorized by the bill is now approximately 4 percent of the postal budget and we strongly object to any reduction in parcel post rates of more than 4 percent because of the use of subsidy funds. To authorize up to a 10 percent reduction in parcel post rates is not realistic today. If the public service subsidy were 10 percent and if all segments of the Postal system were to share equally in that subsidy it might be justified but that is not the case.

We reiterate our basic belief: there should be no subsidy for parcel post. This position seems well supported by the latest rate increase request of the Postal Service where it wants to increase first class rates by 33 percent, but would increase parcel post rates only by 8.4 percent. If the Committee should continue a subsidy, the provision relating to parcel post on page 13, line 21, should be amended in accordance with our recommendation.

A second amendment in Section 5 is recommended by United Parcel Service. This amendment is technical in nature and would simply make sure that subsidy funds could not be used to reduce the rates of parcels presently included under the classification schedule covering parcel post. We would change the language "zone rated parcels formerly entered under former chapter 67 of this title" to "mail entered under Section 400.020 of the Domestic Mail Classification Schedule in effect as of April 3, 1979."

SECTION 6 - MAIL CLASSIFICATION

UPS strongly believes that no change is needed in existing Section 3623 and that changes proposed in S.2558 represent serious policy errors. These are detailed below.

A. The proposed new Section 3623(a) (page 14, lines 8 through 14) is a significant attempt to cut back on the authority of the Postal Rate Commission. This amendment is meant to overrule the Commission's decision in the Scope and Extent Phase of Commission Docket No. MC76-5. In that decision, the Commission showed great restraint and gave the Postal Service great flexibility by limiting the contents of the Domestic Mail Classification Schedule. It specifically rejected attempts to put operational details or other unnecessary details into the classification schedule. Thus, the last sentence of proposed Section 3623(a) is unnecessary, and the first sentence of the section as proposed would go a long way toward eliminating any meaningful role for the Commission to play in the area of establishing or changing mail classifications.

B. The proposed amendment to Section 3623(b) is even more objectionable. That provision is meant to overrule the court decisions which have unanimously held that when the Postal Service proposes a change in rates, the rate provisions of the Act apply, even if the Postal Service proposes classification changes at the same time. The new Section 3623(b) would permit the Postal Service to tack on new rates without regard to the ratemaking requirements of the Act any time it proposes a change in the mail classification schedule.

C. Although the proposed amendment to Section 3623(c) would achieve a result which is, in certain circumstances, desirable-- a shortening of the administrative process to review classification changes--the proposed language would also result in other changes which are not good public policies. For example, Section 3623(c)(1) (page 14, beginning at line 22) provides that the Commission would review the text of the mail classification schedule. Apparently, the Commission could not review the substance of the schedule, and would become an expensive editor rather than an expert body exercising independent judgement. Furthermore, Subsection(2) (page 15, lines 6 through 11) is extremely vague, and could be interpreted not as a safeguard against the unwarranted destruction of private enterprise competition, but rather as a mandate to insulate the Postal Service from the effects of healthy competition from the private sector. Obviously, that is not the goal which the amendment seeks to achieve, but the amendment as written could nevertheless achieve that result. But even more important, proposed Sections 3623(c)(2) through (4) ignore the legitimate interests of mailers in the classification process.

D. The remaining amendments to Section 3623, together with the amendment to Section 3623(b) discussed in paragraph B above, would seem to mean that the ratemaking criteria of Section 3622 need not be applied to rates which are accompanied by a classification change. Any amendment to the Act should make it clear that all rates, regardless of the label placed on the proceeding in which they are proposed, should comply with the ratemaking requirements of the Act.

E. The bill also contains language relating to experimental rates and services. This provision of S.2558 is perhaps the most critical to United Parcel Service. This appears as parts of Section 6 and Section 7 of the bill. A brief background is in order.

Section 3622 of Title 39 presently requires that the Postal Service obtain Postal Rate Commission approval of rate changes before putting them into effect. Section 3623 requires the same type of approval for "services" or classifications.

In 1977 the Postal Service sought to inaugurate, without PRC approval, certain "experimental" rates for parcel post service. The Federal district and appellate courts upheld UPS' contention that Sections 3622 and 3623 apply to all rates and classes of service, including experimental rates and classes. Thus at this moment the Postal Service may not institute experimental rates or classes of service without first making a filing with the PRC.

The PRC accordingly instituted a proceeding to look into procedures and policies which it might establish to deal with USPS requests in this area. This proceeding has resulted in a preliminary conference and the filing of written comments by interested parties. Numerous interested groups have filed comments looking toward the adoption of rules by the PRC in this area. The PRC considers this an ongoing matter. Further proceedings are expected.

UPS believes that the Congress has set adequate policy by establishing the Rate Commission and by giving to them the responsibility for approving changes in Postal Service rates and services.

We understand and recognize the need for experimentation but we believe that no change is needed in the law to allow proper experimentation. Rather, the Commission should continue to have the responsibility which it was created to exercise.

Proposed Section 3623 (e) of the bill would permit the Postal Service to offer an experimental service and rates in total disregard of the classification and ratemaking requirements of the Act. For example, the Postal Service could conduct an experiment even though it would be clear that the rates paid by the participants in the experiment are not adequate to cover the costs of the experimental service. Although one of the main objectives of an experiment may be to develop such costs, the Postal Service would undoubtedly have, at least in most instances, some data on which it based the experimental rates. Such data should be reviewed in light of the requirements of the Act in order to insure that the experimental rates are reasonable from the standpoint of the information that is available. The authority to experiment should not be conferred without any consideration at all of whether the data that does exist indicates that the features of the experiment, including experimental rates, appear to be consistent with the requirements of the Act, or at least are not on their face inconsistent with the requirements of the Act.

Furthermore, the Commission's role should not be relegated to one of determining whether the Postal Service is acting in good faith in proposing an experiment. Yet that is the only role the proposed new Subsection (d) of Section 3624 confers on the Commission.

The standards contained in proposed Section 3624(d) are vague, and are insufficient to safeguard against abuse, intentional or unintentional, of the authority to experiment with the rates which are actually paid by real shippers in the marketplace.

We have included with this statement a new proposal dealing with experimental rates and classes of service which we believe strikes a proper balance between the desire for flexibility in devising rate and classification experiments and the need for adequate safeguards to protect the public, mail users and private enterprise competitors. The provision we propose eliminates many of the rigorous procedural and substantive requirements of the Act concerning changes in rates and classes of service. We repeat our basic position that no new language is needed but we nevertheless offer our amendments should the Committee choose to enact some language.

SECTION 7 - COMMISSION DECISIONS

In the previous portion of this testimony we have commented on that portion of Section 7 relating to experimental rates.

The other changes proposed in Section 7 relate to Subsection 3624(c)(2) which presently authorizes the Rate Commission to extend the ten month waiting period before proposed postal rates may be put into effect. Again, we believe no change is needed from existing law.

The proposed amendment to Section 3624(c)(2) is at best unnecessary, and at worst would foster rate instability and confusion on the part of mailers and competitors of the Postal Service. For example, it makes no sense to require that the Commission wait until the

conclusion of the ten month statutory waiting period before determining whether the Postal Service has unreasonably delayed the consideration of a rate request. By that time, the Postal Service may have already announced the temporary implementation of the proposed rate changes, only to have such temporary implementation blocked by a Commission ordering extending the ten month period.

The Section 3624(c)(2) authority to extend the ten month waiting period has been used only once since it was enacted in 1976, and in that instance the proposed changes which could otherwise have been implemented on a temporary basis were ultimately rejected by the Commission and abandoned by the Governors of the Postal Service. The exercise of the Section 3624(c)(2) extension power in that case was clearly warranted, and events since 1976 have not shown any need to change the extension mechanism currently in the Act.

UNITED PARCEL SERVICE PROPOSALS

In addition to our proposal regarding rate and classification experiments, UPS offers two proposals not covered in S.2558. First, we propose to authorize the Rate Commission to exercise subpoena power. Second we offer comments and an amendment relating to appellate review of Commission decisions.

Our proposed Subsection 3604(e) is new and is based on a provision which has been proposed by the Postal Rate Commission in the past. It would give the Commission a power possessed by virtually all other regulatory agencies--the power to issue subpoenas in aid of proceedings before the agency. In view of the difficulty the

Commission has experienced in obtaining necessary information from the Postal Service in past proceedings, we believe that the expeditious handling of Postal rate cases would be insured by giving the Commission the tools needed to evaluate rate requests properly and efficiently.

Subsection (f) presently appears in the Act as Section 3604(e).

Secondly, our proposed amendment of Section 3628 would remove some of the ambiguities in the present appellate review section of the Act. In particular, the amendment would make it clear that the reviewing court need not strike down an entire rate decision merely because one aspect of the decision which affects only a certain rate or rates is erroneous. Also, the amendment would make it clear that the court need not suspend all of the rate changes adopted by the decision being reviewed. For example, where the court determines that the rate increases recommended for second-class mail are excessive in light of the requirements of the Act and the record before the Commission and that the rate increases for first-class mail are too low, the court would have the flexibility of suspending the excessive increase in second-class rates but permitting the inadequate increase for other classes to remain in effect. The court still would be prohibited from setting rates.

In short, the proposed amendment would keep the courts out of the business of making rates, but would permit them to tailor the relief provided on review of an erroneous rate decision to the deficiencies the court finds in the decision.

APPENDIX

UNITED PARCEL SERVICE

Suggested wording on Sections:

- 3604. Administration
- 3628. Appellate review
- 3629. Experimental postal services -

§ 3604. Administration

(e) The Commission may issue subpoenas in connection with proceedings conducted under chapter 36 of this title to compel discovery of documents or other information by the Postal Service or to compel the production of evidence or the testimony of witnesses by the Postal Service. Such subpoenas shall be signed by the Chairman of the Commission, or by any other employee of the Commission authorized to do so by the Commission. In the case of a refusal by the Postal Service to obey a subpoena issued under this subsection, any district court of the United States shall, upon application by the Commission or by any party aggrieved by the refusal to obey, issue an order requiring compliance with such subpoena. Any failure to obey such an order of the district court may be punished by such district court as a contempt thereof.

§ 3628. Appellate review

A decision of the Governors to approve, allow under protest, or modify the recommended decision of the Postal Rate Commission may be appealed to any court of appeals of the United States, within 15 days after its publication by the Public Printer, by an aggrieved party who appeared in the proceedings under section 3624(a) of this title. The court shall review the decision, in accordance with section 706 of title 5, and chapter 158 and section 2112 of title 28, except as otherwise provided in this section, on the basis of the record before the Commission. The Court may affirm the decision in whole or in part or order that the matter be returned to the Commission for further consideration in whole or in part, but the court may not modify any of the specific rates or fees or changes in the mail classification schedule approved in the decision. The court shall make the matter a preferred cause and shall expedite judgment in every way. No court shall have jurisdiction to review a decision made by the Commission under sections 3622 or 3623 except as provided in this section.

§3629. Experimental postal services

(a) From time to time the Postal Service may request the Commission to issue a decision on such proposed experimental postal services as are necessary to test the operational feasibility of such services and to collect cost, market, and other information of the type relevant to a request to implement the proposed experimental or similar changes on a permanent basis under this title.

(b) Upon receiving a request for the establishment of an experimental postal service, the Commission shall publish notice of the filing of the request in the Federal Register and shall issue a decision approving implementation of the proposed experiment upon finding that:

(1) Such implementation is necessary or desirable in order to test operational feasibility and to collect cost, market, and other information of the type relevant to a request to implement the proposed experiment or similar changes on a permanent basis;

(2) Existing data and other information, if any, indicate that adoption of the proposed experiment on a permanent basis may be in the public interest;

(3) The proposed experiment will not have a substantial adverse impact on the financial condition or other aspects of the Postal Service;

(4) The proposed experiment will not have a substantial adverse impact on the general public, users of the mails, or private enterprise competitors of the Postal Service engaged in the delivery of mail matter other than letters;

(5) Existing data and other information indicate that the conditions and other features of the proposed experiment do not contravene any of the policies of this title or any of the provisions of sections 3622 and 3623 of this title; and

(6) Such other factors as the Commission deems appropriate.

(c) Experiments conducted under this section shall not continue for more than one year after implementation, except that the Commission may extend this one year period for an additional period not to exceed ninety days upon finding that an extension of the experiment is necessary to achieve its objectives, and upon further finding that any such extension will not have a substantial adverse impact on the general public, users of the mails, or private enterprise competitors of the Postal Service engaged in the delivery of mail matter other than letters. No more than four such extensions shall be granted by the Commission.

(d) The Commission shall, within 180 days of the effective date of this section, adopt rules and regulations concerning the data and other information required to be filed

by the Postal Service as part of a request filed under this section. Such rules and regulations shall require, at a minimum, that the Postal Service include as part of its request all existing data and other information considered by the Postal Service in determining the conditions and other features of the experiment.

(e) The Commission shall promptly consider a request made under this section in accordance with section 3624(c) of this title.

(f) If no interested party seeks to be heard with respect to the proposal, the Commission shall not hold hearings and shall issue its decision within 90 days of the date the request was filed on the basis of facts stipulated by the Postal Service and an officer of the Commission who shall be required to represent the interests of the general public. In the event any interested party requests an opportunity to be heard with respect to the proposed experiment, the Commission shall provide such an opportunity in accordance with section 553 of title 5. If the interested party submits a verified statement or statements containing matter in opposition to the proposed experiment which are relevant to the factors set forth in paragraph (b) of this section, the Commission may, in its discretion, hold hearings in accordance with section 556 and 557 of title 5.

(g) The table of sections for chapter 36 of title 39, United States Code, is amended by adding after the entry for section 3628 the following new item:

"3629. Experimental postal services."



Public Employee Department AFL-CIO

815 SIXTEENTH STREET, N.W. WASHINGTON, D.C. 20006 • (202) 393-2820-21

WILLIAM H. McLENNAN
President

JOHN A. McCART
Executive Director

KENNETH T. BLAYLOCK
Treasurer

STATEMENT OF THE
PUBLIC EMPLOYEE DEPARTMENT, AFL-CIO
BEFORE THE
SUBCOMMITTEE ON NUCLEAR PROLIFERATION AND FEDERAL SERVICES
COMMITTEE ON GOVERNMENTAL AFFAIRS
U.S. SENATE
ON H. R. 826, Postal OSHA Coverage

April 23, 1980

We wish to offer the views of the Public Employee Department, AFL-CIO, in regard to H.R. 826 now before this Subcommittee. Our Department serves on the Federal Advisory Council on Occupational Safety and Health. We see this bill from that vantage point. Our general concern is for all public employees, who in so many cases do not enjoy the rights of other citizens in terms of protection of their government.

A partial answer to the safety and health problems of Postal Service employees is before you in H.R. 826. It should be amended to include criminal sanctions against postal management at every level, where injury or death is a result of repeated or flagrant violations of the Act. We are all conscious of the recent tragic death of Michael McDermott at the New York Foreign and Bulk Mail Center in Jersey City, New Jersey. This is another proof of the lethal threat that obtains in many in many work places of the Postal Service, where no mandatory safety and health provisions are in effect. Extending the Occupational Safety and Health is overdue and H.R. 826 provides a vehicle for meeting this lapse.

This Subcommittee will have noted that Chairman William Clay (D-Mo.) of the Subcommittee on Civil Service of the House Post Office and Civil Service H.R. 6913, the postal employees' right to safety bill.

With the workforce approaching 700,000, USPS is undoubtedly the largest industrial organization whose workforce lacks the statutory protection which Congress has extend to the private sector. At the same time, the Postal Service, according to U.S. Department of Labor data, is one of the most dangerous places to work--with perhaps four times the injury rate of comparable industries outside of government.

This legislation provides a great opportunity and we urge that it be utilized by the Subcommittee.

opeiu-2 afl-cio



Public Employee Department AFL-CIO

815 SIXTEENTH STREET, N.W., WASHINGTON, D.C. 20006 • (202) 393-2820-21

WILLIAM H. McCLENNAN
President

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STATEMENT OF THE
PUBLIC EMPLOYEE DEPARTMENT, AFL-CIO
BEFORE THE
SUBCOMMITTEE ON NUCLEAR PROLIFERATION AND FEDERAL AFFAIRS
COMMITTEE ON GOVERNMENTAL AFFAIRS
U.S. SENATE
ON POSTAL REORGANIZATION

April 23, 1980

This statement of policy is made on behalf of the two million public employees at every level of American government, who are affiliated with the Public Employee Department by our 33 unions. The American Postal Workers Union, National Association of Letter Carriers and the Mail Handlers Division of the Laborers' International Union are integral parts of the Public Employee Department. We also express the interest of all our members as taxpayers and users of the postal system.

Even as this statement is made, the Congress is considering the first budget resolution of the second session for fiscal year 1981. A grievous question is presented by the suggested extension of the Budget Act beyond its original intent, to give the Budget Committee positions of unprecedented preeminence in the legislative process. At the same time signals from the Administration are uncertain, mixed and contradictory. As applied to the Postal Service, a report has it that the President intends to eliminate all public fundings from the Postal Service after 1981. This would be an extraordinary proposition if applied to the public schools, the national defense system or the state highway patrols. It is no less amazing with respect to the postal system. We trust that the legislation which will be approved by this committee will restate the constitu-

tional role of the Post Office, with its history of almost 200 years, in strengthening our commerce, our arts and communications generally.

With respect to H.R. 79, and Senator Glenn's proposed Postal Service Act of 1980, we are again impressed with the responsibility and leadership that is evidenced. We subscribe to the testimony delivered by the President of the National Association of Letter Carriers and the President of the American Postal Workers Union and Executive Director of Mail Handlers Division of the Laborers' International Union of North America.

The underlying purposes and goals of the legislation are excellent and should be enacted, even in the face of current budget-reducing pressures. H.R. 79 recognizes the necessity for a stronger Postal Service.

The bill could go further and protect the rights to negotiate union security, guard against arbitrary closing of post offices and other important questions. We realize, however, this may not be the time. We particularly appreciate H.R. 79's proposed appropriations authorization, increasing financial support from \$1.1 billion for FY '80, \$1.2 billion for FY '81, and \$1.3 billion for FY '82. This may be insufficient but it has the merit of moving in the right direction. We propose that you consider revising that figure upward.

The provision in Section 9 is important. It specifically recognizes and respects the role of collective bargaining and implementation of collective bargaining agreements. If this is enacted and followed by careful oversight, it will immensely improve labor relations in the Postal Service.

A most important concern is the recommendation of the Budget Committees of the House and Senate, apparently in agreement with the White House view, to reduce the U.S. Postal Service public service and "revenue foregone." That is why Section 4 of H.R. 79, to increase public service funds and retain six days mail delivery must be retained. These are a minimum.

We appreciate the opportunity you have given us to offer views of the Public Employee Department, AFL-CIO, on this vital question.

opeiu-2 afl-cio



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

April 30, 1980

Honorable John Glenn
Chairman
Subcommittee on Energy, Nuclear
Proliferation and Federal Service
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Enclosed are copies of my proposed testimony on S. 2558 for the record. As I indicated in discussions with your staff, it would be very difficult because of the press of other business and staffing problems for me to appear personally tomorrow. I believe the discussions with your staff and the enclosed testimony provide the necessary information for your use. We will separately provide in the near future a position on Section 2, OSHA coverage.

I appreciate the consideration of your staff on this matter and hope our views are helpful in your consideration of S. 2558.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. O. Schlickeisen".

R. O. Schlickeisen
Associate Director for
Economics and Government

Enclosure

STATEMENT OF
RODGER O. SCHLICKEISEN
ASSOCIATE DIRECTOR FOR ECONOMICS AND GOVERNMENT
OFFICE OF MANAGEMENT AND BUDGET
ON
S. 2558 BEFORE THE SUBCOMMITTEE ON ENERGY,
NUCLEAR PROLIFERATION, AND FEDERAL SERVICE
OF THE COMMITTEE ON GOVERNMENT AFFAIRS
UNITED STATES SENATE

MAY 1, 1980

Mr. Chairman and Members of the Subcommittee:

I am pleased to have an opportunity today to provide the views of the Office of Management and Budget regarding S. 2558. I appreciate the opportunity to work with this Committee to improve the efficiency and effectiveness of the postal system.

At the outset, I should indicate that we support the overall objectives of S. 2558. We find, however, the provisions of the bill that would increase the authorization for public service appropriations to the Postal Service unacceptable in light of the President's recently announced budget proposals and our long-term commitment to a self-sustaining Postal Service. We also have serious reservations regarding provisions which attempt to define the role of the Postal Rate Commission in service classification actions, to restrict the President in selection of Governors and Commissioners, and to eliminate Presidential revisions to the budget requests of the Postal Rate Commission.

Finally, the Administration is still formulating a position on proposals that would subject the Postal Service to the provisions of the Occupational Safety and Health Act of 1970. We share the Committee's concern for the health and safety of postal workers and will separately, in the near future, communicate our views on this complex subject to the Subcommittee.

Postal Service Authorization

First, I would like to address the important questions of the increased authorization for the public service subsidy to the Postal Service in Section 5 of the bill.

This Administration has consistently taken the position that the Postal Service should ultimately bear the total costs of its operations. The Reorganization Act of 1970 stipulates that the Service should become financially self-sustaining. Accordingly, the Act provides for a phase-down public service authorization amount and eventual elimination of the entire subsidy.

The achievement of this financial objective has certain implications which the Administration acknowledges. First, either rate adjustments or cost reductions are necessary in order to accomplish such a financial posture. In testimony before the House Subcommittees on Postal Operations and Services and Postal Personnel and Modernization last year, we indicated our strong preference that the Service improve its financial viability through increased efforts to reduce costs. Second, this position requires that the Service consider the wide range of options available by which cost reductions can be achieved. The Postal Service has already considered and acted upon certain options related to the following areas: mail processing, manpower scheduling and staffing, delivery services, real estate and buildings, employee relations, and finance. According to Postal Service estimates, annual cost savings resulting from actions in these areas have been in the hundreds of millions of dollars. However, we feel that additional cost reduction actions are essential in the climate of mounting inflationary pressures affecting the Postal Service's labor and energy costs.

The Administration's current position regarding the public service subsidy is more stringent than the maximum permitted under the current authorizations. The President has proposed in the recent budget revisions that the public service subsidy to the Postal Service, presently declining at a rate of \$92 million per year, be reduced by an additional \$250 million in FY 1981 and that it be eliminated entirely in subsequent years. Considering the budget reductions being levied on other Federal agencies, the Administration feels that accelerating the schedule by which the Postal Service is required to achieve financial self-sufficiency is appropriate.

We realize that the cost reductions we are seeking are sizeable, although they are exceeded by those recently offered in both the House and Senate Budget Committees. These reductions are likely to be accomplished only through significant cost saving steps. The Administration does not intend to seek legislation mandating how those reductions are to be achieved. We feel that is properly a decision best made by the Postal Service itself. From our discussions with the Service, and from our budget consultations with the Congress, we recognize that one option under serious consideration is the reduction of mail delivery from six to five days per week. It is our understanding that through this action the Postal Service could quickly reduce operating costs by approximately \$600 million per year and also mitigate the need for substantial postal rate increases in future years.

In light of our ultimate objective of eliminating the postal subsidy, the potential for substantial Postal Service operating cost reductions which would not seriously threaten acceptable levels of service to the public, and the critical need to restrain Federal expenditures, we believe that the proposed reductions are reasonable. We must strongly oppose efforts to increase the level of the Postal Service subsidy.

Enforcement of False Representation Statutes

Section 3 would strengthen efforts of the Postal Service to effectively crack down on fraud and abuse through the mails. This is accomplished through provisions authorizing the imposition of civil penalties for violations of mail stop orders, immediate access to records and articles for sale by mail, and requests for court orders in cases of failure to comply with provisions in this section. We support this badly needed reform of the mail stop order procedure because it will enable the Postal Service to institute quicker and more effective response to problems of mail fraud.

Civil Penalties for Failure to Pay Lawful Postage

Section 4 provides authority to the Postal Service to assess civil penalties of up to 100 percent of the unpaid postage on mail users who fail to affix lawful postage. It would also permit the suspension of permits for mailing in cases of non-payment of penalties.

Presently, the Postal Service must rely heavily on mailer self-policing, and, to a lesser degree, on spot checks of large volumes of bulk mail. Although criminal penalties are available if prosecution is pursued, we believe the civil penalty procedure is more sensible and efficient.

Postal Subsidies

Section 8 expands the fourth class preferred ("library") rate category by adding public and non-profit libraries and educational institutions when mailing to publishers and distributors, as well as publishers and distributors when mailing to such institutions. The proposal would also expand the list of eligible materials to include certain teaching guides and other interpretative materials. This section involves additional subsidies in that it calls for an expansion of revenue foregone which amounts to the Government providing a subsidy to mail service users which is paid by the taxpayers. We oppose this provision given the present budget restraint climate.

Postal Rate Commission Budget

Section 9 provides that the Postal Rate Commission seek appropriations from the Congress through the annual budget process rather than through the Postal Service. We believe that the Commission's operations should be supported by a separate appropriation rather than out of postal revenues. Since the Commission serves as a regulatory body over the Postal Service, it should not be dependent upon postal income for its own funding. However, the section should be amended to delete what appears to be a prohibition against Presidential revisions to the budget.

Qualifications and Service of Governors and Commissioners

Section 10 prescribes specific qualifications for the Governors and Commissioners and prohibits appointment of former employees of the U.S. Postal Service and the Postal Rate Commission to the Board of Governors for at least five years. We share the Subcommittee's interest in assuring that talented and qualified officials are appointed to these positions. We are concerned, however, that specification of experience and training for Commissioners could unnecessarily limit the selection of the President without offering assurances that such limitations would, in general, improve the selection process. Such restrictions may well open the door for potential conflict of interest complaints. Therefore, we have some reservation about the need for specificity in the law and the unnecessary disruption that could result. We do not have any objection to the subsection prohibiting "revolving door" appointments between the two agencies.

Section 11 effectively addresses the problem of unfilled vacancies on the Board of Governors by authorizing a Governor to serve up to one year after expiration of his term if a successor has not qualified. While the provision would assure needed continuity, undesirable "holding over" in lieu of new appointments would be prevented by limiting such service to one year. We support this provision.

Postal Property Protection

Section 12 addresses the problem of lack of property protection authority which was overlooked in the 1970 Reorganization Act that authorized transfer of responsibility for postal property from GSA to the Postal Service. In the past, the authority has been provided by a rider to the annual Postal Service appropriations bill. This provision would replace the rider by permanently authorizing the exercise of enforcement powers by security personnel, including service of warrants and arrests. We support the permanent authorization of these enforcement powers in the Postal Service.

Size and Weight Limits

Section 13 would repeal the statutory size and weight limits for non-letter mail. Instead, limits would be set through the mail classification procedure. The Administration supports this and a similar provision in H.R. 79, because the variance in limits is not only unnecessary but creates confusion and irritation to the public.

Responsibilities of the Postal Rate Commission

Sections 6 and 7 of S. 2558 attempt to define and to clarify certain responsibilities of the Postal Rate Commission regarding the review of service classification decisions and experimental service proposals. We concur with the Subcommittee that it would be desirable to define more precisely the responsibilities of the PRC in this area. Unfortunately, we do not believe that Sections 6 and 7 of S. 2558 would, in fact, result in an acceptable definition of the PRC role. In total, we believe the sections may add to regulatory complexity and delay. We are also uncertain about the heavy weight placed on the "impact upon ~~competition~~" in the proposed PRC decision process.
competition"

* * * * *

Again, I would like to reiterate our concern about the increases in subsidy authorizations and to offer to work with the Subcommittee on the many issues addressed in this bill.

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS

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815 SIXTEENTH STREET, N.W.
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May 12, 1980

Honorable John H. Glenn, Chairman
 Subcommittee on Energy, Nuclear Proliferation
 and Federal Services
 Senate Governmental Affairs Committee
 204 Russell Office Building
 Washington, D.C. 20510

Dear Mr. Chairman:

This is with reference to ~~HR 826~~ the bill to bring the United States Postal Service under the Occupational Safety and Health Act of 1970. This bill passed the House of Representatives on October 22, 1979, and is now before the Senate Governmental Affairs Committee.

H.R. 826 would authorize the Occupational Safety and Health Administration to conduct unannounced safety and health inspections of postal facilities and to impose penalties for violation of federal safety and health laws. The bill would apply to the Postal Service the same standards as are applied to employees in the private sector generally. While this bill would impose civil penalties for violations of federal safety and health laws, it should, we believe, be strengthened by providing for criminal penalties similar to those contained in the Glenn Bill, S. 2998, the "Postal Service Act of 1980", when flagrant violations result in death or injury to postal workers.

The need for this legislation has long been evident. Although Public Law 94-82 gave the United States Postal Service statutory responsibility to establish and maintain "effective and comprehensive" safety and health programs, the Service's record in carrying out this responsibility is one of disregarding, neglecting or minimizing allegations of unsafe or unhealthy working conditions. As a consequence, postal workers throughout the system are subjected all-too-often to unsafe and unhealthy conditions in work areas.

The disastrous consequences of these conditions are shown in the fact that the Postal Service has the highest accident and injury rate of any federal government agency. In 1977 the Service's employees suffered 62,966 injuries and illnesses, amounting to 34.4 percent of the total 182,790 for all Federal agencies. The Service's rate of lost workdays due to injuries and illnesses exceeded the rate for the entire federal workforce by almost 150 percent. Fifty-five percent of all lost workdays due to accidents and injuries in the federal government were attributable to the Postal Service. The untimely and tragic death of a postal worker at the Postal Service's New York Foreign and Bulk Mail Center in Jersey City, New Jersey, was clearly a result of inadequate attention and care for the maintenance of safe working environment conditions. Such conditions could be alleviated if the Service were brought under the protection of the Occupational Safety and Health Act.

We strongly urge that legislation which would accomplish this objective be reported favorably by the Governmental Affairs Committee and that the Senate give its approval to this necessary and desirable House-passed measure. We also urge that flagrant violations of safety and health requirements be made subject to criminal penalties so as to make clear that violations that result in death or injury to postal workers will not be tolerated.

I would like to request that this letter be made a part of the record of the hearings before the Subcommittee on Energy, Nuclear Proliferation and Federal Services on this important legislation.

Sincerely,

A handwritten signature in cursive script that reads "Ray Denison". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

Ray Denison, Director
DEPARTMENT OF LEGISLATION



AMERICAN LIBRARY ASSOCIATION

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EXECUTIVE
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 CHICAGO, ILL. 60611

May 7, 1980

The Honorable John Glenn, Chairman
 Subcommittee on Energy, Nuclear Proliferation,
 and Federal Services
 Governmental Affairs Committee
 U. S. Senate
 Washington, D.C. 20510

Dear Senator Glenn:

This letter is submitted for the hearing record on the Postal Service Act, S. 2558 and HR 79; on behalf of the American Library Association, a nonprofit educational organization whose 35,000 members are dedicated to the development and improvement of library and information service for all the American people.

The Association was pleased to note the recent introduction of S. 2558, and our comments will be directed mainly to Section 8 concerning the fourth-class library rate. We support the intent of Section 8, but feel that three amendments are necessary to clarify the intent as follows:

Suggested Amendments to Section 8(a) of S. 2558

1. Delete Section 14(d) which would cause Section 8 to expire as of September 30, 1983.
2. Treat Section 8 as an amendment to Section 3683 (which covers the library rate) of title 39 of the U.S. Code, rather than as an amendment to Section 3626 which provides for extended phasing of library rates and expires in 1987.
3. Permit "catalogs" as well as teaching aids, guides and maps to be mailed at the library rate. Both HR 79 and the section-by-section analysis of S. 2558 include catalogs.

Additional details on the need for these amendments plus examples of the effect of current postal rates on library operations are given below.

Amendment Number 1

The main purpose of Section 8 of S. 2558 is to correct an anomaly neither anticipated nor intended by Congress. For some time, the law has allowed libraries, educational institutions, and certain nonprofit organizations to loan or exchange materials among themselves at the library rate, and it allows films, sound recordings, museum materials, and catalogs of any of these to be sent to or from libraries, educational institutions and certain nonprofit organizations.

The Postal Reorganization Act Amendments of 1976 (PL 94-421) made it possible for publishers and distributors to mail materials to libraries at the library rate. Previously they had been required to pay the higher book rate. Without this legislation libraries today would be paying far more in postal costs, since such costs have traditionally been passed on from publisher to purchaser. However, the 1976 amendments neglected to specifically allow a library to return materials to a publisher at the library rate. Although this amounts to only one or two percent of what libraries purchase by mail from publishers and distributors, it is ironic that libraries, for whom the library rate was intended, must use the higher book rate to return such materials.

We are pleased that S. 2558 corrects this oversight, but it does not make sense to correct it for only three years, as Section 14(d) would provide. To undo the Section 8 amendments as of September 30, 1983 would be costly for the Postal Service and confusing, to say the least, for libraries and their users and for other entities affected by the library rate. We strongly urge deletion of Section 14(d).

Amendment Number 2

In its current form, Section 8 of S. 2558 would make changes in the library rate by amending Section 3626 USC. Section 3626 provides for extended phasing of the library rate until the full rate is reached in 1987. Thus even without the provision of Section 14(d) of the bill, Section 8(a) could be interpreted to expire when phasing expires. We believe this is not appropriate for the reasons given above.

Section 8 should be treated as an amendment to title 39 rather than to the phasing provision. A more appropriate placement might be as an amendment to Section 3683 USC which covers the library rate, as provided in the House-passed bill, HR 79.

Amendment Number 3

Section 8 should permit catalogs as well as teaching aids, guides and maps to be mailed at the library rate. HR 79 includes catalogs or similar publications which contain listings of items eligible for the library rate, and the section-by-section analysis of S. 2558 in the April 15 Congressional Record (pp. S3657-8) specifically includes catalogs. We assume the omission of catalogs in the text of the bill is inadvertent, and urge that it be restored.

Our concern on this point stems from the problems some libraries have had in attempting to mail Books-by-Mail catalogs at the library rate. In order to provide library service to rural, isolated, homebound or institutionalized persons, many public library systems and state library agencies provide Books-by-Mail service. To help such patrons select materials, many libraries prepare selective listings of items in their collections which they mail to prospective users of the service. These listings are actually bibliographies, clearly eligible for the library rate. But to make them more familiar and appealing to the Books-by-Mail clientele, the format may be arranged like a mail-order catalog. And some local postmasters refuse to allow such "mail-order catalogs" to be mailed at the library rate. As rising energy costs make bookmobile service less economical, Books-by-Mail projects are increasing. Alabama, Minnesota and Nebraska are among the states encouraging Books-by-Mail service.

Other Provisions

We would suggest that the Committee's report on S. 2558 make clear that the term "library" means all libraries which are open to any segment of the public or are at least operated on a nonprofit basis. In a postal context, the term "library" has often been interpreted to mean only "public libraries." Such an interpretation denies the benefits of the library rate to the libraries of parochial schools and to institutions such as the Folger Shakespeare Library which serve a true public purpose.

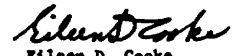
We are also concerned about the public service appropriation for the U.S. Postal Service. As you noted, Sen. Glenn, in your introductory statement on S. 2558, "the concept of universal service at a uniform price involves a public service aspect that goes beyond the question of hard economic analysis" (April 15 Congressional Record, p. S3656). We agree wholeheartedly. Section 5 of S. 2558 would freeze the public service appropriation at its current level of \$920,000,000. This is certainly preferable to current law which would have the public service appropriation decline 10 percent per year for the next five years. However, we urge you to accept the modest increases provided by HR 79 over three years to a maximum of \$1.3 billion. Given that universal mail service requires a subsidy, the subsidy must cover increased costs, especially when the alternative is increased postal rates.

The public service appropriation to maintain universal postal service affects directly another essential public service which is nearly universal -- public library service. The library users most affected by increasing postal costs are those in sparsely populated areas where the public libraries are most dependent on receiving new materials by mail, and where library and user are most likely to make connections by mail. The arguments for universal postal service and universal library service are the same -- Americans should not be denied service or charged more for it because of their location or circumstances. The attachments to this letter detail the impact of increasing postal costs on library service.

Conclusion

The American Library Association appreciates the opportunity to present its views and recommendations for strengthening S. 2558. We stand ready to provide any further assistance you may require in developing a sound postal reform bill that will make significant progress toward assuring prompt and reasonably-priced mail service to all Americans.

Sincerely,


Eileen D. Cooke
Director
ALA Washington Office

Attachments

IMPACT OF INCREASING POSTAL COSTS ON STATE LIBRARY AGENCIES

A survey of state library agencies in December 1979 elicited the following comments on the impact of increasing postal costs on library services:

- ALASKA:** In four years our postage expenditures have increased by more than 100 percent. We are dependent on USPS to serve Alaska's widespread citizenry. The great increase in postal costs means fewer materials can be purchased as the money must come from somewhere -- public budgets are not increasing at that rate. An informed citizenry is important to the nation.
- AMERICAN SAMOA:** As a representative of a non-contiguous territory of the USA, increased postal rates are a great concern. On our already small budget, we cannot continue to increase our postal costs, but we need a delivery system that can get our library materials to the islands in the least amount of time and money. It's going to be more books/less postal costs or less books/more postal costs for American Samoa.
- CONNECTICUT:** The 63 percent increase in phased rates from 1978 to 1987 will necessitate decreasing service in providing state documents (laws, consumer information, recreational opportunities) to the public since status quo or shrinking state budgets cannot foreseeably make up this increase. A related problem -- the Hartford postmaster has refused to allow the State Library to send exchange materials library rate to other institutions, stating that the material (other Connecticut agency publications) does not originate at the State Library.
- DELAWARE:** For letters, our gripe is not the cost as much as the incredibly slow delivery.
- FLORIDA:** We have an extensive interlibrary loan operation as part of the Florida Library Information Network. Since 1976/77, our postage use has more than doubled. If the phased rates continue to escalate and requests for increased appropriations for postage are not funded by the legislature, our only recourse will be to reduce service.
- GEORGIA:** In addition to the obvious postage costs on the postage meter, shipping costs are added to the price of materials ordered. A recent invoice for a single \$5.95 book had shipping costs of \$1.23; another for several books totalling \$62.00 had shipping charges of \$2.65. These costs must be borne by every library in addition to the 20 percent rate of book price inflation. Our state-defined mission is to provide free library service to every Georgia citizen. We are not allowed to charge for our services, but with funding remaining static or even being cut, this cannot continue indefinitely. The end of free library service is in sight if no one will draw the line on increased postage costs -- it's the straw that will break the camel's back.
- IDAHO:** We have a very grim situation facing us in our operational budget. We have not had increases in appropriations; therefore, the increases in postage, which have been high, must be paid from service funds. The impact is especially serious on the small libraries in Idaho. We send them collections of books (500-1000 volumes) at a time; they have to scrape to come up with postage to return these collections.
- LOUISIANA:** Increases in postal rates with little improvement in service are forcing us to reconsider other delivery systems such as UPS and Greyhound Bus.
- MICHIGAN:** No question that costs to mail library materials will more than double. The long range impact may well reduce or eliminate any interloaning of materials from small public libraries which will not be able to

afford paying for or absorbing costs relating to interlibrary loan. In many instances, monies normally used to purchase materials will be diverted to meet rising postal costs.

MINNESOTA: Many of Minnesota's regional system directors are very concerned about the future of bookmobile service because of rising costs. Books-by-Mail is already available in most of the systems, but may be increased. Two of the regional systems have reported that small branch libraries do have trouble with local postmasters not permitting library rate, but I'm not sure for exactly what items.

MISSOURI: The Dunklin Public Library in Kennett, Missouri provided a Books-by-Mail service for about three years to residents in the most rural parts of its service area. Those who received catalogs and borrowed materials by mail were essentially homebound -- many were without cars and many could not afford to buy books and had no other access to such materials. However the increasing postage costs, even at the library rate, caused the service to be discontinued. The library tried to pass the postage cost on to the patron but use declined, and the library, no longer able to afford the only library service available to some of its rural residents, dropped its Books-by-Mail program.

NEBRASKA: Postal rate increases have substantially increased the costs of operating our statewide film lending service and of sending materials from our book and audiovisual collections to libraries throughout Nebraska. Continued increases will reduce the portion of our budget that can be used for materials purchases and collection building.

NEW JERSEY: An estimated 15,000 volumes are received annually by mail. Cost of these materials will increase as publishers pay a higher postage rate. The State Library has already had to resort to commercial delivery of materials to libraries in New Jersey because of rising postage rates, slowness of USPS, and risk of damage through the postal process.

NEW YORK: We are very concerned about the increase in postage costs. This year has seen a marked increase and we seem to be constantly running out of money on the meter.

OHIO: Because of increasing postal rates and decreasing reliability of the service, we are using UPS for our interlibrary loan service.

PENNSYLVANIA: Statistics indicate that the State Library's postage costs are increasing about 21 to 23 percent a year. With the operating budget of this library increasing only 6 to 8 percent a year, it is clear that increased postage costs are cutting very deeply into the library's funds to purchase books and periodicals for the use of its patrons.

VERMONT: In rural America there is no viable substitute for the U.S. Mail. Again the federal government costs the average citizen dollars. Because postal rates rise consistently, many small public libraries find they can no longer provide shipment of interlibrary loan books free. The borrower is being asked to pay postage charges. Can small public libraries stay in business -- energy, postage, books, \$\$\$?

American Library Association
Washington Office
May 1980

POSTAGE COSTS - STATE LIBRARY AGENCIES - December 1979 Survey

	Postage Costs				Percent Increase				Percent Books Rec'd By Mail	Percent Books Retn'd By Mail
	1976	1977	1978	1979	1976-77	1977-78	1978-79	1976-79		
AL	\$ 3,621	\$ 6,541	\$10,691	\$12,903	80.6	63.5	20.7	256.3	N/A	N/A
AK	19,152	23,049	33,151	39,218	20.4	43.8	18.3	104.8	95%	1%
AZ										
AR										
CA	24,871	23,443	22,629	30,126	-5.7	-3.5	33.1	21.1	90%	2-5%
CO										
CT	7,000	9,800	6,450	11,500	40.0	-34.2	78.3	64.3	72%	½%
DE	1,662	1,784	1,825	2,500	7.3	2.3	37.0	50.4	5%	0%
DC	19,000	20,000	20,000	21,000	5.3	0	5.0	20.5	20%	5%
FL	7,497	10,358	17,949	13,439	38.2	73.3	-25.1	79.3	80%	1%
GA	4,937	5,466	6,413	7,260	10.7	17.3	13.2	47.1	99%	½%
HI										
ID	3,504	4,515	4,859	7,073	28.9	7.6	45.6	101.9	99%	1-5%
IL	24,389	25,814	22,854	27,680	5.8	-11.5	21.1	13.5	95%	3%
IN	8,106	11,112	12,324	13,000	37.1	10.9	5.5	60.4	95%	1%
IA										
KS										
KY										
LA	18,830	22,076	26,983	29,110	17.2	22.2	7.9	54.6	99%	1%
ME	12,891	17,038	19,370	24,289	32.2	13.7	25.4	88.4	90%	1-3%
MD										
MA										
MI	31,467	16,270	29,979	25,108	-48.3	84.3	-16.3	-20.2	95%	2-3%
MN	N/A	N/A	5,300	6,430	N/A	N/A	21.3	N/A	100%	2%
MS										
MO	8,865	11,093	11,515	12,355	25.1	3.8	7.3	39.4	95%	1%
MT										
NE	10,846	16,298	19,953	24,360	50.3	22.4	22.1	124.6	90%	5%
NV										
NH	9,348	13,220	13,872	12,133	41.4	4.9	-12.5	29.8	85%	1%
NJ	33,989	46,634	40,898	40,500	37.2	-12.3	-1.0	19.2	99%	1%
NM										
NY	N/A	7,605	4,930	9,200	N/A	-35.2	86.6	N/A	60-70%	3%
NC										
ND										
OH	18,035	27,062	27,610	31,617	50.1	2.0	14.5	75.3	90%	1%
OK	10,858	12,801	14,623	22,125	17.9	14.2	51.3	103.8	99%	1%
OR										
PA	13,014	16,367	20,146	24,000	25.8	23.1	19.1	84.4	80%	3%
RI	2,157	2,881	2,728	4,363	33.6	-5.3	59.9	102.3	80-90%	1%
SC										
SD	22,228	26,570	34,298	38,582	19.5	29.1	12.5	73.6	93%	1%
TN										
TX										
UT	11,557	14,836	16,767	17,115	28.4	13.0	2.1	48.1	40%	3%
VT	26,190	15,627	18,678	21,164	-40.3	19.5	13.3	-19.2	80-90%	1%
VA										
WA										
WV										
WI										
WY										
AS	N/A	1,700	2,000	2,200	N/A	17.7	10.0	N/A	90%	2-5%

ALA Washington Office, May 1980



TRANSPORTATION ASSOCIATION OF AMERICA

SUITE 1107 • 1100 17TH STREET, N.W. • WASHINGTON, D. C. 20036 • (202) 296-2470

PAUL J. TIERNEY
PRESIDENT

May 1, 1980

Honorable John H. Glenn, Chairman
Energy, Nuclear Proliferation and
Federal Services Subcommittee
Senate Governmental Affairs Committee
Washington, D. C. 20510

Dear Chairman Glenn:

Speaking on behalf of the broad membership of the Transportation Association of America, I should like to express TAA's opposition to those provisions in the House-passed H.R. 79 which would discontinue the independence of the U. S. Postal Service and again place it under the direct authority of the President and Congress. This bill, along with others relating to the USPS, are now being considered by your Subcommittee.

TAA, a national policy organization made up of transport users, suppliers, investors, and carriers of all modes, continues to support the principle of maximum independence of the Postal Service, with full opportunity to operate as a business enterprise free from political pressures and influences. This position is based on the following policy formally approved by the 115-member TAA Board of Directors (see current roster attached):

"TAA supports an independent United States Postal Service under the direction of a Presidentially appointed Board of Governors, but free from a Presidentially or Congressionally appointed Postmaster General."

H.R. 79 not only calls for Presidential appointment of the Postmaster General, by and with the advice and consent of the Senate, but would also make this appointment strictly a political one by having the Postmaster General "serve at the pleasure of the President". As such, the USPS would be required to operate under postal policies in line with national policies of the current Administration. A change in Administration would in all probability result in a change in postal policies. TAA does not believe the USPS can be effective in a highly competitive field such as communications under a politically dominated management.

Similarly, we fail to see the logic of abolishing the Board of Governors of USPS, as proposed in H.R. 79, since this would deprive the Postal Service of the very type of policy expertise and guidance that is needed. If this Board has been ineffective, the proper corrective action is to find out why and to make appropriate changes. In this respect, an approach such as proposed in Section 10 (Qualifications of Governors and Commissioners) of S. 2558 would be the better choice.

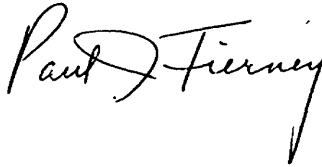
SUPPORTED IN THE NATIONAL INTEREST BY USERS, INVESTORS, AND ALL FORMS OF TRANSPORTATION

We are pleased to note that neither H.R. 79 nor S. 2558 would change the independent status of the Postal Rate Commission. TAA believes such independence is basic to a sound postal system, as policy decisions with respect to postal classifications, rates, and services should be based on objective and impartial analyses.

While the Postal Service has failed to meet the goals of its restructuring in 1970, we cannot place the blame on the Postmaster General. He has had to manage an inherently unprofitable public service that must compete in a climate of rapid technological change in communications, as well as face a growing number of private-enterprise carriers in the parcel field. The return to a politically dominated, one-man-controlled USPS will, in our opinion, make it even more difficult for the Postal Service to compete, provide good service, and minimize its losses.

TAA, therefore, urges that provisions calling for a Presidentially appointed Postmaster General and for abolishment of the USPS' Board of Governors not be included in any Postal Service restructuring bill approved by your Subcommittee. We also request that this letter be included in the formal record of hearings on H.R. 79 and S. 2558.

Respectfully,



Attachment
cc: Members of Senate Governmental
Affairs Committee

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