


POSTAL REORGANIZATION LEGISLATION:
COMPARATIVE CASE STUDIES OF THE LEGISLATIVE PROCESS

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DEDICATION

To my wife Jean who provided the necessary moral support through a long process.

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The author has been involved in major postal issues for about forty-five years. For thirteen of those years, from 1965 to 1978, he served on the staff of the House of Representatives Committee on Post Office and Civil Service as staff director of four subcommittees, two of which – Postal Rates and Postal Operations and Service – had jurisdiction over most of the major functions of the United States Postal Service and its predecessor, the Post Office Department. In 1978, he left the committee staff and became the government affairs representative (lobbyist) for the major trade association of the direct mail advertising industry. He retired after representing the association for twenty-three years, but does some consulting work in the field to this day. He also currently serves as a member of the Smithsonian’s National Postal Museum’s Advisory Council, which keeps him in close contact with the major postal issues of the day. The author has worked with all of the interviewees over the course of his career. None of the interviewees requested anonymity in the dissertation. The author would like to thank all of the interviewees for their important role in this dissertation.

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ABSTRACT

POSTAL REORGANIZATION LEGISLATION: COMPARATIVE CASE STUDIES OF THE LEGISLATIVE PROCESS

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Much of the academic literature on Congress has concentrated on the growing polarization in Congress and the significant changes in the organization of the legislative process that have accompanied that polarization. This dissertation posits the theory that, nevertheless, there is a substrata of legislation for which the process has not changed substantially over the last forty years. The legislation is of relatively low saliency and often deals primarily with the organizational structure of government agencies. The process for this type of legislation is basically non-partisan and non-ideological. Two comparative case studies will be used for the analysis: the legislative process leading to the enactment of the Postal Reorganization Act of 1970, and Congressional efforts to further reorganize the Postal Service, which began in 1995 and concluded with the passage of the Postal Accountability and Enhancement Act of 2006.

CHAPTER 1: Introduction

The Postal Service is not usually the subject of searching analysis in public policy discourse. It is, pardon the pun, a pedestrian issue. It does not send men to the moon; it does not care for the poor and ill; it does not fight great wars. It just delivers pieces of paper and packages, six days a week, to almost 148,000,000 homes, boxes, and businesses. There is nothing very dramatic or interesting about that. Yet it is one of the specific governmental functions important enough to be mentioned in the Constitution¹ and the only federal government agency that touches the lives of almost every American almost every day.

Most Americans take the delivery of the mail for granted. Yet it was until recently the largest civilian enterprise in the United States. Now, it is exceeded only by Walmart. In fiscal year 2007, the Postal Service had 684,762 career employees and another 101,167 non-career employees, collected total revenues of \$74.057 billion and delivered 212,234,000,000 pieces of mail, more than 40% of the world's total. It maintained one of the world's largest civilian transportation fleets, owning or leasing 207,807 vehicles, and contracted for \$1.3 billion in air transportation. It is one of the largest real estate moguls in the United States, operating 34,318 post offices and buildings in every nook and

¹ United States Constitution. Article 1, Section 8.

cranny of the country, owning or leasing almost 321 million square feet of interior space and owning almost one billion square feet of land, much of it in the most desirable commercial areas of the nation's cities.² Prior to the passage of the Postal Reorganization Act of 1970, it was also the prime repository of federal political patronage jobs. Tens of thousands of postmaster positions were filled by local members of the U.S House of Representatives, if they were members of the president's political party, and by the party apparatus, if they were not.³

In other words, the Postal Service is, and always has been, an amalgamation of great economic power and substantial political presence. While its basic functions are for the most part indistinguishable from what a private business would (and in some cases does) provide, the political forces that swirl around the Postal Service are formidable, indeed.

This was even more the case in the long history of the old Post Office Department from the beginning of the republic to 1970, particularly in the political arena where the post office was one of the most important repositories of patronage power in the country. In spite of this, major questions about the efficiency of the Post Office Department and the appropriateness of its form of organization were surfacing in the 1960's. The Department

² The figures in the two preceding paragraphs come from: United States Postal Service, *2007 Comprehensive Statement on Postal Operations* (Washington, D.C., 2007); and United States Postal Service, *2007 Annual Report* (Washington, D.C., 2007). The *Comprehensive Statement*, as the name implies, is more comprehensive than the annual report and is required by law to be submitted to Congress every year. The law also requires the House and the Senate to hold oversight hearings annually.

³ For a comprehensive discussion of the role of the old Post Office Department in politics (and vice-versa) see: Wayne E. Fuller, *The American Mail: Enlarger of the Common Life*, (Chicago; University of Chicago Press, 1972). Local postmasters were often the leader of the local party apparatus. Prospective appointees had to take a civil service examination, but that was largely pro-forma.

was running heavy deficits that were covered by annual appropriations that sometimes amounted to almost one third of all postal expenditures. Congress set postal rates, seldom, if ever, based on any recognizable economic principles. A series of postal disasters culminating in the virtual shut down of the Chicago post office because of the influx of massive volumes of mail led even master politicians such as Postmaster General Larry O'Brien to advocate major changes in the organization of the Post Office Department.

This dissertation consists of two case studies of the passage of two pieces of legislation that significantly restructured what is now the United States Postal Service some thirty-six years apart. The first is of the process leading to the Postal Reorganization Act of 1970 (P.L. 91-375); the second outlines the process leading to the passage of the Postal Accountability and Enhancement Act of 2006 (P.L. 109-435).

The basic thesis is that, though numerous studies show that both the structures and procedures of Congress have become remarkably more partisan over the last forty years, there is a substrata of legislation dealing primarily with organizational matters that has largely escaped the burdens of partisanship and proceeded through Congress in much the same way since the Legislative Reorganization Act of 1946 was passed, and probably long before then.⁴ This may be all the more remarkable in the specific case of postal

⁴ For an excellent analysis of the impact of this act see: Roger H. Davidson. : "The Advent of the Modern Congress: The Legislative Reorganization Act of 1946," *Legislative Studies Quarterly*, Vol. 15, No. 3 (Aug., 1990), pp. 357-373.

legislation, at least up to the passage of the Postal Reorganization Act of 1970 when the postal institution was in fact part of the very definition of partisan politics.

Other pieces of legislation that fall in this category during the period of time covered by this dissertation include the creations of the Departments of Education,⁵ Energy,⁶ and Homeland Security,⁷ which were largely the restructuring of existing agencies.

This will be shown first by conducting a review of the literature on party strength and loyalty in the nation at large and in the United States Congress. In particular, this review will show that while the pull of partisanship has weakened nationally over the years, partisanship has substantially strengthened in Congress, particularly since the passage of the Postal Reorganization Act in 1970, most notably in the House of Representatives. This has created a number of both formal and informal procedures designed to strengthen the ability of the majority party to structure and control important pieces of legislation, at least from a partisan viewpoint, again particularly in the House of Representatives.

Two analytical frameworks of the principal elements of the legislative process will be used in this dissertation. The first is from John W. Kingdon's *Politics, Parties, and Pressure Groups*.⁸ Kingdon outlines a model of the development of public policy issues and the reasons for their final adoption and implementation. He describes the problem

⁵The Department of Education Organization Act. Public Law 96-88.

⁶ The Department of Energy Organization Act of 1977. Public Law 95-91.

⁷ The Homeland Security Act of 2002, Public Law 107-296,

⁸ Kingdon, John W. *Agendas, Alternatives, and Public Policies*. 2nd ed. New York: Addison Wesley Longman, Inc., 1995.

stream, the policy stream, and the political stream, which interject themselves at some point along the policy making process, usually, but not always, in order. This will be discussed in Chapter 3 of this dissertation and applied in Chapters 4 and 5.

The second analytical framework is from James Q. Wilson's *Political Organizations*.⁹ Wilson's work contains a four-fold classification of issues based on costs and benefits, which in turn is based on Theodore Lowi's three-fold model of the development of public policy issues and the reasons for their final adoption and implementation.¹⁰ The four classifications are: 1. distributed benefits and distributed costs; 2. concentrated benefits and distributed costs; 3. distributed benefits and concentrated costs; 4. concentrated benefits and concentrated costs. The dissertation will also focus on this model in Chapter 3 and apply it in Chapters 4 and 5. The model that most closely approximates the legislative processes in both case studies is concentrated costs and concentrated benefits.

The data are drawn from a multitude of sources including: academic books and journal articles; government reports and documents; newspaper and magazine articles; interviews with key members of Congress and congressional staff members; postal officials; staff members of two presidential commissions on postal issues; officers of postal unions and management organizations; mailing industry representatives; representatives of postal competitors; and the author's own experience as a congressional staff member during

⁹ Wilson, James Q. *Political Organizations*. New York: Basic Books, 1973.

¹⁰ Lowi, Theodore J. "American Business, Public Policy, Case-Studies, and Political Theory." *World Politics* 16, no. 4 (1964).

consideration of the Postal Reorganization Act of 1970 and a representative of the mailing industry during the lengthy consideration of the Postal Accountability and Enhancement Act of 2006.

Chapter 2 is an analysis of the effect of growing partisanship on the U.S. Congress and how it has made the legislative process even more complicated and convoluted. Chapter 3 provides the analytical frameworks that help structure the two case studies and provide a basis for comparison. Chapter 4 is the case study of the process leading to the passage of the Postal Reorganization Act of 1970. Chapter 5 is the case study of the process leading to the passage of the Postal Accountability and Enhancement Act of 2006. Chapter 6 contains the dissertation's conclusions and suggestions for further study.

CHAPTER 2: Theory and Structure; Partisanship in Congress

In the late 1960's through 1970, when the Postal Reorganization Act of 1970 was developed, debated, and ultimately passed into law, Congress was operating pretty much as it had for at least half a century. Committee chairs basically controlled the agenda for legislation that came under the jurisdiction of their committees; bipartisan involvement in the development of legislation was more the rule than the exception. In the House of Representatives, the path of legislation was reasonably clear and straightforward, at least when compared to today's legislative process.¹¹ A bill was introduced, it was sent to the appropriate committee where it was subjected to the scrutiny of the chair. If the chair agreed that it should move on, the bill was usually assigned to the appropriate subcommittee, where the bulk of the work on the legislation – hearings, redrafts, studies - was usually done. (Subcommittees with specific, fixed jurisdictions were a relatively new innovation during the latter part of this period, and part of the beginning of the decline in the supremacy of committee chairs.)

If the subcommittee approved the bill, it went to the full committee, where it could undergo the same scrutiny through hearings, studies, and markups. Approval then put the

¹¹ For the official handbook on the process at the time of the Postal Reorganization Act of 1970 see: Fischer, J. *How Our Laws Are Made* (Washington, D.C., U.S. House of Representatives, 1971).

bulk of the major bills on the Union or House Calendars, where they would languish until the Rules Committee crafted a rule that set the time limits for debate and the extent to which it could be amended. Then it went to the floor of the House of Representatives. If the Rules Committee resolution setting the conditions of debate was approved, the bill would be taken up in the Committee of the Whole, consisting of the entire House operating under the adopted rule with a smaller quorum requirement rather than the more restrictive rules of the House of Representatives itself.

Once the bill was approved by the House it was sent to the Senate, where the process started all over again. The journey of the bill through the committee system was similar to that of the House. Consideration of the bills after they left the committee(s), though, “differ[ed] to a large extent from those in the House,”¹² reflecting more the individualism of the Senators than procedures governed by partisanship. This process was reversed when the Senate originated the bill.

After both houses had approved the bill and if the two versions were not identical (which they seldom were), a conference committee was appointed consisting of members from both houses (usually from the committees with jurisdiction over the legislation) and both parties. The committee then crafted a single bill, which was sent back to both houses for final passage (or rejection).

¹² Ibid. p. 30

This, of course, is a simplified version of what could be a rather complex process – or even a more simplified process if there were a particular emergency that needed to be quickly rectified. And, of course, what we are describing here is “regular” legislation on the principal legislative calendar. There were many other types of legislation such as noncontroversial bills (naming of post offices, for example) placed on the consent calendar, relatively noncontroversial bills for which the regular rules of debate were suspended and which had to pass by a vote of two-thirds of the members voting (in the House of Representatives). The point is that at this time, the major power in Congress to control the content of legislation and its process lay in the hands of powerful committee chairmen who rose to their position through their seniority on the committee. While partisanship often played some role in the process, it was not a commanding role. More explicitly, the majority party leadership did not have the power or the tools to enforce party positions on either content or process.

The situation regarding partisan control of the process is substantially different now than it was in 1970, particularly in the House of Representatives. The past forty years have brought incrementally a number of reforms that, combined, have substantially increased the power of the majority leadership to control both the content of legislation and the process by which it is considered and ultimately adopted. Ironically, in the first several years of this period, there were many scholars and observers of the political process who came to the conclusion that political parties had become weaker national institutions and

were far less influential as movers and shakers in the American political milieu. As Gary W. Cox and Matthew D. McCubbins pointed out in 1993, at the same time they were outlining the growing assertion of partisanship in the House of Representatives, “Much of the literature of the past two decades has been devoted to the thesis that American parties have been declining – both in the electoral and the legislative arenas.”¹³

According to Nathan W. Monroe, John M. Roberts, and David W. Rohde, the decline of attention to parties in the 1970’s and 1980’s was due to a combination of a consensus that they no longer had a consequential impact on legislative behavior and outcomes, and (more importantly) a parallel consensus that there were solid theoretical reasons that explained the lack of impact. “The consensus argument could be summarized as follows: because parties were neither electorally nor legislatively important to members, those members had little reason to be responsive to the wishes of party leaders or to champion the party’s platform.”¹⁴ The most influential statement of those views was by David Mayhew in *Congress: The Electoral Connection* (1974). Mayhew stated unequivocally in his study of Congress: “The fact is that no theoretical treatment of the United States Congress that posits parties as analytic units will go very far. So we are left with

¹³ Cox, G. W. and M. D. McCubbins. *Legislative Leviathan: Party Government in the House* (Berkeley: University of California Press, 1993). p. 1

¹⁴ Nathan W. Monroe, John M. Roberts, and David W. Rohde. “Introduction: Assessing the Impact of Parties in the U.S. Senate.” In Nathan W. Monroe, John M. Roberts, and Daniel W. Rohde. *Why Not Parties?* Chicago: The University of Chicago Press, 2008. p. 2.

individual congressmen, with 535 men and women rather than as units to be examined ...).”¹⁵

Keith Khrebel, in a series of studies, disagreed with many of the new studies of the growth of partisanship in Congress and the growing strength of the majority party in particular. As he stated in one of his excellent analyses of the United States Congress: “While parties and party leaders are extremely active in the legislative process, partisanship does not explain much variation in the observed stages of organizing the legislature. These findings suggest that theories of legislative politics with a party component – while perhaps more realistic than their more parsimonious non-partisan counterparts – are not necessarily superior predictors of observable legislative behavior.”¹⁶

This contrarian view was strongly expressed by Cox and McCubbins, writing specifically about the U.S. House of Representatives:

Our view is that parties in the House – especially the majority party – are a species of “legislative cartel.” These cartels usurp the power, theoretically resident in the House, to make the rules governing the structure and process of legislation. Possession of this rule-making power leads to two main consequences. First, the legislative process in general – and the committee system in particular – is stacked in favor of the majority party interests. Second, because members of the majority party have all the structural advantages, the key players in most legislative deals are members of the majority party, and the majority party’s central agreements are facilitated by cartel rules and policed by the cartel’s leadership.¹⁷

¹⁵ David R. Mayhew. *Congress: The Electoral Connection*. New Haven: Yale University Press, 1974. p. 27.

¹⁶ Keith Khrebel. “Where’s the Party?” *British Journal of Political Science*, Vol. 23, No. 2, (April 1993), pp. 236-237.

¹⁷ Cox and McCubbins. *Op.cit.* p. 2.

David Mayhew's study of major legislation enacted from 1948 to 1990 raised just this sort of provocative question.¹⁸ Using a two-step process of selecting significant legislation, Mayhew came up with a list of 267 "important" bills that became law during that time period under conditions of both divided and unified government. The determination of the "importance" of the bills was Mayhew's subjective judgment based on the "end of the session" wrap-ups of major political analysts on the *New York Times* and the *Washington Post* and careful study of the analyses of policy experts over a longer period of time.

Mayhew discovered that there was very little difference between the quality and quantity of significant legislation during periods of divided and unified government. The quality of legislation was roughly equal during periods of divided government and periods of unified government. The quantity of significant legislation passed during the two periods was also roughly equal. One almost startling discovery was that 186 of the 267 bills ultimately passed by a two-thirds majority of both parties in both houses of Congress. The same can be said for the number and nature of Congressional investigations. As Mayhew put it what does not emerge from the study "...is any relation between the incidence of important laws and whether party control was unified or divided. If all 267 laws are counted equally, the nine 'unified' two year segments average 12.8 acts, and the thirteen 'divided' segments average 11.7. The difference is trivial ..."¹⁹

¹⁸ David Mayhew, *Divided We Govern* (New Haven, CT: Yale University Press, 1991).

¹⁹ *Ibid.* p. 78.

Mayhew did not claim that his selection system was perfect, or that there may not have been other significant factors in setting the Congressional agenda over the period under study. And, in fact, subsequent studies have shown that the difference in legislative achievement between periods of divided and unified government may be more significant than indicated by Mayhew's study.

George Edwards found that the percentage of potentially significant laws that did not pass (and thus were not part of Mayhew's study) was greater during periods of divided government.²⁰ Mayhew used only laws that had become enacted in his analysis; Edwards examined all significant bills that had been introduced, some of which had not passed. He also found that more significant bills failed passage in periods of divided government, as did the president's opposition to significant pieces of legislation. Edwards joined with Andrew Barrett in another paper showing that from 1953 to 1996 the president almost always got the important parts of his legislative program on the congressional agenda, regardless of whether the government was unified or divided.²¹ The difference came in adoption of the president's proposals, with fewer than half being enacted during periods of divided government.

²⁰ George C. Edwards III, "The Legislative Impact of Divided Government," *American Journal of Political Science*, Vol. 41, No. 2 (April 1997), pp. 545-563.

²¹ George C. Edwards III and Andrew Barrett, "Presidential Agenda Setting in Congress," in Bond and Fleischer, op. cit. pp. 109-133.

Sarah Binder also amended Mayhew's findings in her study of legislative gridlock from 1947 to 1996.²² Her findings supported Edwards in that they showed, using her own system for selection of bills and laws based on the editorial pages of the *New York Times*, that fewer significant proposals became law under divided government. Binder, however, also showed that as the ideological gap between the parties in Congress widened, the number of important bills left unenacted at the end of a Congress had increased.

As implied in Binder's paper and emphasized in the work of other students of the Congressional process, the growing ideological gap between congressional Republicans and Democrats may be a more important factor in explaining modern congressional behavior than the ephemeral effects of divided vs. unified government. James Pfiffner discussed this growing (now virtually completed, to the extent that such a fluid process can ever be completed) ideological gap in his paper on the relationship between the president and Congress at the turn of the new century.²³ Citing previous works on polarization, Pfiffner concludes that, "voting in Congress has become more partisan; the use of delaying tactics such as the filibuster has become more common, and the level of civility has declined."²⁴

Realignment of the South

²² Sarah Binder, "The Dynamics of Legislative Gridlock, 1947-1996." *American Political Science Review*, Vol. 93, No. 3 (September, 1999), pp. 519-533.

²³ James P. Pfiffner, "President and Congress at the Turn of the Century: Structural Sources of Conflict," in *Rivals for Power*, 2nd ed. James Thurber ed. (Lanham, MD: Rowman and Littlefield, 2002).

²⁴ *Ibid.* p. 34.

This fundamental shift came largely with the realignment of the once “solid south.” The south became a Democratic stronghold on the heels of the Civil War and the following reconstruction era. The natural economic conservatism of the southern politician was reinforced by racial politics in which the former slaves and their progeny were thrust into an inherently unequal position in society and the American polity.

In the 1960’s and 1970’s all of this began to change. The national Democrats became the major proponent of civil rights and reasserted their role as the more economically liberal party. At the same time, led by the presidential candidacy of Barry Goldwater in 1964 (and Ronald Reagan’s famous speech), the mainstream of the Republican Party began to move right, ultimately squeezing out the east coast liberal Republicans such as Senator Jacob Javits and Governor Nelson Rockefeller. In the meantime, inherently conservative southern politicians began to migrate to the Republican Party as both civil rights and a more liberal social welfare agenda came to dominate the national Democratic Party agenda. The growing enfranchisement of black voters largely in the South, but also in the rest of the country, helped lead to a realignment of party activists. By the turn of the century, the Republican and Democratic Party members in Congress tended to be far more uniformly conservative (Republicans) and liberal (Democrats) than they had been in previous generations, reflecting the increasing polarization and ideological conformity

among political activists in the general voting population.²⁵ Many other factors (such as the growing bifurcation of gender in voting patterns) have been important in the realignment of congressional party membership, which may be the most significant political development of the generation, the full implications of which are yet to be fully realized.

As Barbara Sinclair points out in her excellent *Party Wars: Polarization and the Politics of National Policy Making*, "Since the 1970's, then, voters' party identification, their views on a wide variety of issues, and their self-described ideology have become increasingly consistent. The result is that Republican and Democratic voters now more consistently diverge in self-described ideology and in their positions on many issues, both cultural and economic. ... As Fleischer and Bond show, there is a 'growing gap in the way that Democrats and Republicans understand and view the political world in which they live.'" As the voters have gone so have their representatives in Congress.

This fundamental ideological shift between Democratic and Republican members of Congress and among the major geographical areas of the United States was virtually completed in the 2006 Congressional elections. This polarization of Congress has been accompanied by the strengthening of party leadership, particularly in the House of Representatives. As Gary C. Jacobson has pointed out, "These two forces – the emergence of distinct and increasingly homogenous electoral coalitions in both parties

²⁵ Barbara Sinclair, *Party Wars: Polarization and the Politics of National Policy Making* (Norman; University of Oklahoma Press, 2006). The Fleischer and Bond quote is from their "Evidence of Increasing Polarization Among Ordinary Citizens" in *American Political Parties: Decline or Resurgence*, ed. Jeffrey Cohen, Richard Fleischer, and Paul Kantor (Washington D.C.; CQ Press, 2001).

and, in consequence, the greater willingness of members to submit to party discipline – are the chief explanations that have been offered for the broader rise in party unity and ideological divergence since the 1970’s...”²⁶ The combined forces of polarization and greater party discipline has made Congress a much different place, for better or worse, than it was when this author began to work on the Congressional staff in the summer of 1961.

The growth and impact of partisanship in Congress has been the subject of numerous studies from varying perspectives for many years. Our concentration here is on the effect of greater partisanship on the internal mechanisms for consideration and passage of legislation in Congress; particularly, but not exclusively, in the House of Representatives. Partisanship has now become the norm in the legislative process, and that has affected how legislation is considered at all levels of the process – generally assuring that members of the minority party are severely limited, if not excluded entirely, from the process of consideration of major legislation. As succinctly stated by John Aldrich and David Rohde, “the majority party has asymmetric influence over policy outcomes relative to the minority party.”²⁷

In 1960, Congress had been operating consistently in what was becoming the “traditional” mode for half a century, following the revolt of Republican members of the

²⁶ Gary C. Jacobson, “Party Polarization in National Politics: The Electoral Connection,” in Bond and Fleischer, op. cit., p. 14.

²⁷ Aldrich, John H. and David Rohde. Chapter 3: “The Consequences of Party Organization in the House: The Role of the Majority and Minority Parties in Conditional Party Government” in Bond, J. R. and R. Fleischer, Eds. *Polarized Politics: Congress and the President in a Partisan Era* (Washington, D.C., CQ Press. 2000), p. 71.

House of Representatives against the extremely autocratic style of Speaker “Uncle” Joe Cannon. Committees basically controlled the Congressional agenda, and committee chairs were the autocrats of Congress. While party caucuses (in the House, the “party caucus” was the Democratic majority of the Ways and Means Committee), and the party leaders, placed members of Congress on specific committees, that is where their influence on committee structure ended. Members in both the House and the Senate advanced up the subcommittee and committee structure strictly by seniority, the most senior member of the majority party being the Chair of the Committee or subcommittee.

This was also a period when the Republican and Democratic parties in Congress were less homogenous than they are now, as mentioned above. Southern Democrats tended to be considerably more conservative, particularly in matters of race, than their fellow Democrats from other areas of the country. Similarly, Republicans from the Northeast tended to be more liberal than their counterparts from other parts of the country, particularly the West. Thus, while there were significant public policy fissures in Congress, they tended to be ideological rather than reflections of party partisanship.

Nelson Polsby’s *How Congress Evolves* gives us a succinct overview of the evolution of Congress over the past fifty years from a time when committee governance was the rule and committee chairs were the rulers of the content of legislation, marked by a relatively bi-partisan atmosphere to the current system where the majority party leadership largely controls the process as well as the content of major legislation, particularly in the House

of Representatives.²⁸ To a surprising extent, the House over the last quarter century has become the home of the sort of politics fondly anticipated in such utopian documents as the 50-year-old *Toward a more Responsible Two-Party System* issued by the long-gone Committee on Political Parties of the American Political Science Association.”²⁹

It is not just that voting has become more partisan, but that that partisanship has been one of the major factors, some would say the major factor, in significant changes in the legislative process, most notably in the House of Representatives; but also in the Senate to a somewhat lesser extent. This bipartisan subculture began to shift toward the strong partisanship in today’s Congress with the “packing” of the House Rules Committee by the Democrats in 1961.³⁰ By the turn of the century (the 21st, that is), Polsby said, “This pattern is as close as a democratically governed institution gets to the sort of arrangement described by the famed founder of the BBC, Lord Reith, as his notion of the ideal form of government: ‘Tyranny tempered by assassination.’”³¹ Polsby concluded: “It might be argued that day-to-day rancor between the parties and the lack of informal communication between their leaders are natural by-products of strong partisanship itself when partisanship is permitted unconstrained expression. In any event, by the beginning of a new millennium both strong party regularity and pervasive partisan hostility were, so

²⁸ Polsby, Nelson. W. *How Congress Evolves: Social Bases of Institutional Chang* (Oxford: Oxford University Press, 2004).

²⁹ *Ibid.* p. 2.

³⁰ Fiona M. Wright discusses the impact of the new re-election process, and the removal of some key committee chairs in the 1970’s, on the increased partisan behavior of committee chairs and the growing assertion of control over the legislative process in the House of Representatives by party leaders in “The Caucus Reelection Requirement and the Transformation of House Committee Chairs, 1959-1994.” *Legislative Studies Quarterly* XXV, no. 3, (August 2000).

³¹ *Ibid.*, p. 144.

it seemed, well entrenched in the politics of the House of Representatives.”³² As mentioned above, the same can be said, though perhaps to a somewhat lesser extent, about the Senate.

The shift in power over the legislative process from committee chairs to the majority party leadership in the House of Representatives began with the packing of the Rules Committee by Speaker Sam Rayburn in the early 1960’s. This move effectively brought control of the Rules Committee procedures and thus control of the ways in which legislation could be considered by the full House, and its Committee of the Whole, to the majority leadership – and, in particular, the Speaker.

This is an extremely significant power for those who want or need to strengthen partisan control over the content of legislation. The complex procedures for major pieces of legislation which are often sent to the floor by the Rules Committee more often than not facilitate majority leadership, hence partisan, control.³³

Barbara Sinclair, in *Unorthodox Lawmaking: New Legislative Processes in the U.S. Congress*, discusses a multitude of new procedures that are used to enhance the majority leadership’s control over both the legislative process and the content of legislation. Referring to 255 major pieces of legislation in the 100th through the 105th Congresses, Sinclair said: “I counted the number of special procedures and practices that the

³² Ibid.

³³ Sinclair, Barbara. *Legislators, Leaders, and Lawmaking: The U.S. House of Representatives in the Postreform Era*. (Baltimore; The Johns Hopkins University Press, 1995), p. 170.

legislation encountered as it worked its way through the House. The procedures and practices enumerated were multiple referral, omnibus legislation, legislation resulting from a legislative-executive branch summit, the bypassing of committees, post committee adjustments, and consideration under a complex or closed rule.”³⁴

As an example, she described part of the process involved in the consideration of the Patients’ Bill of Rights in 1999: “When he became Speaker at the beginning of 1999, Dennis Hastert had promised the House he would restore ‘regular order’ and allow committees to work their will on legislation. But with the committees unable to produce the sort of bills he wanted and the danger of a successful discharge petition looming, Hastert appointed a task force of subcommittee chairs to draft a Republican bill that could pass the House. Bill Thomas, R-Calif., chair of the Ways and Means Subcommittee on Health and an opponent of expanded liability, was designated task force chair.”³⁵

In his study of “winnowing” in the U.S. Congress, Gene S. Krutz describes the major factors involved in determining what pieces of legislation (a small minority) actually begin the tortuous journey through the legislative process. “There is an effect of party factors, even in the presence of strong control for preferences. Majority party members and especially leaders are more likely to see their bills move forward than minority members.”³⁶

³⁴ Sinclair, Barbara. *Unorthodox Lawmaking: New Legislative Processes in the U.S. Congress*. (Washington, D.C.; CQ Press. 2000. 2nd Ed.), p. 80.

³⁵ Ibid. p. 132.

³⁶ Krutz, Glen S., “Issues and Institutions: ‘Winnowing’ in the U.S. Congress,” *American Journal of Political Science*, 49, no.2 (April 2005). p. 322.

While partisanship is by no means the only factor governing the initial consideration of bills, it grows in importance with the national nature of the legislation and its saliency.³⁷ As in most studies of the legislative process, partisanship is a more significant factor in the House than in the Senate according to Krutz and most other scholars.

Sarah Binder, in her study of the pattern of rules changes from the first Congress to 1983, listed ten major rules changes from 1970 that suppressed minority rights, thus strengthening the power of the majority.³⁸ These include reduction of funds for minority committee staff, increase in the number of days for consideration of legislation under suspension of the rules (prohibiting amendments, for example), prohibiting quorum calls during debate, elimination of proxy voting, and increasing the threshold for demanding a recorded vote.

Binder limits this study to changes in procedural rules in the House of Representatives. In her “Political Goals and Procedural Choice in the Senate,”³⁹ Binder (and her co-author, Steven S. Smith) took issue with scholars who argued that the Senate’s historical commitment to unlimited debate reflected “senators’ collective interests in maintaining an institution that protects free speech and minority rights.”⁴⁰ They maintain that this position “understates the influence of political objectives in shaping senators’ procedural

³⁷ Ibid. p. 323.

³⁸ Binder, Sarah A. “The Partisan Basis of Procedural Change: Allocating Parliamentary Rights in the House.” *American Political Science Review*, Vol. 90, No.1, (1996), p. 19.

³⁹ Binder, Sarah A. and Steven S. Smith, “Political Goals and Procedural Choice in the Senate.” *The Journal of Politics*, 60, no.2 (May 1998).

⁴⁰ Ibid. p. 398.

choices.”⁴¹ In other words, “Even when Senators are concerned about the consequences of institutional change for the collective interests of the Senate, they never lose sight of the consequences for their own political and often partisan agendas.”⁴²

Barbara Sinclair discusses the growth of partisanship in the internal processes of the Senate over the same period of time.⁴³ She points out that the substantially different rules structure of the Senate affected by its individualistic nature of the Senate since its beginning has blunted the effect of growing partisanship. “The United States Senate has the most permissive rules of any legislature in the world.”⁴⁴ Committee processes are less partisan than in the House, and Sinclair points out that, “Senate committees often explicitly put off conflict, including partisan conflict, until the floor stage”⁴⁵ Nevertheless, studies of voting patterns in both Senate committees and the full Senate show increased partisanship over the years.⁴⁶ Sinclair, however, concludes on a pessimistic note. “The combination of partisan polarization and individualism that characterizes the contemporary Senate has shaped a legislative process that often seems near breakdown.”⁴⁷

Conditional Party Government

⁴¹ Ibid.

⁴² Ibid. p. 400.

⁴³ Barbara Sinclair. *Party Wars*. Op. cit.

⁴⁴ Ibid. p. 185.

⁴⁵ Ibid.

⁴⁶ Ibid. See Chapter 1, “From Sam Rayburn to Newt Gingrich: The Development of the Partisan Congress,” pp. 4 – 35; and Chapter 6, “Partisan Polarization, Individualism, and Lawmaking in the Senate,” pp. 184 – 233.

⁴⁷ Ibid. p. 231.

Finally, David Rohde's work on partisanship and the inner workings of the House of Representatives forms the foundation for our thesis that, in spite of the remarkable growth of the development and use of specifically partisan procedures controlled by the majority leadership in the U.S. Congress, there remains significant legislation that is treated in a nonpartisan or bipartisan way.⁴⁸ As Rohde put it in the introduction to his book: "The purpose of this book is to explore the reasons for the remarkable resurgence of partisanship in the House, in floor voting and in other areas. In particular, the argument will be made that the reform movement rather than weakening the impact of parties on policy-making had as its purpose and effect the fostering of the majority party's ability to enact a party program."⁴⁹

Rohde describes the growth of partisanship in the House of Representatives in the 1980s, brought on by the "exogenous influence of electoral change."⁵⁰ The exogenous changes in the electorate were largely driven by the segregation issue which drove many southern Democrats toward the Republican Party and brought Democrats and Republicans into the House who agreed with their national party positions to a much greater extent than before. As this became more prevalent, Democrats moved to take more authority away from committee chairs and move it into the party caucus and other party structure. "When these new Democrats got to the House, they found that although their party was in

⁴⁸ Rohde, David W. *Parties and Leaders in the Postreform House*. Chicago: The University of Chicago Press, 1991.

⁴⁹ Ibid. p. 14.

⁵⁰ Ibid. p. 162.

the majority and theoretically could control outcomes, in reality the conservative coalition of southern Democrats and Republicans stood as an effective roadblock to the achievement of their policy goals.”⁵¹

There were three ways this was done through the 1980s. The first was “... measures that undermined the powers of committee chairmen.” These included establishing the independence of subcommittees and providing for separate staffs; removal of the appointment of subcommittee chairs and members by committee chairs; and the adoption of recorded teller votes, thereby pitting “... the pressures in their [the members’] interest in reelection and policy against the influences that committee leaders could bring to bear....” The second was measures that increased the power of the majority party leaders, including switching the selection of committee members and chairs to the Steering and Policy Committee, Speaker control over membership on the Rules Committee, multiple referrals of bills, and expanded use of suspension of the rules. Finally, party mechanisms were strengthened, including increased regular and special meetings of the Democratic Caucus, making committee chairs directly responsible to the caucus particularly through election of the chairs secret ballot, and an enhanced whip system.⁵² Rohde was writing about the Democratic Reforms of the House of Representatives in the 1970s and 1980s that enhanced the role of partisanship in the House of Representatives. As we roll forward through the 1990s and into the 2000s, both

⁵¹ Ibid. pp. 163-164.

⁵² Ibid. p. 164-165.

Republicans and Democrats strengthened the ability of the majority to control the legislative agenda if they so chose.

Summing up the early years of reform, which could also apply to the later years for Republicans as well as Democrats, Rohde wrote: "... a wide range of reforms in the House were linked together by a common goal, and by a common theme or approach. The goal was to improve the chances for enacting into law policies favored by a majority of Democrats. The approach was to make who held power through the party – leaders, committee and subcommittee chairs – responsible to the majority of that party, and to facilitate moving party-supported measures through the legislative process."⁵³

None of the above discussion should be meant to imply, however, that all legislation that passes through the Congress is controlled by partisan processes and procedures. This is emphatically not the case, as even a cursory examination of legislation would show. Rohde clearly provides a framework describing the circumstances that may lead to the energizing of partisanship. "An appropriate term for the goal and approach of the reformers [the Democrats in the 1980s] might be *conditional party government*. Unlike in parliamentary systems, party would not be the dominant influence across all issues and the leadership would not make policy decisions which would receive automatic support from the ran-in-file. Rather the direction of influence would be reversed and there would be party responsibility *only if* there were widespread policy agreement among the House

⁵³ Ibid. p. 25.

Democrats. When agreement was present on a matter that was important to party members, the leadership would be expected to use the tools at their disposal (e.g. the Rules Committee, the whip system, etc.) to advance the cause. Chairmen and members on relevant committees would be expected not to be road blocks to the passage of such legislation.”⁵⁴

Rohde outlines four basic types of legislation, only one of which engenders genuine partisanship and causes the partisan-oriented procedures to be used. First, there are trivial bills – largely items that have virtually no opposition and are brought up under unanimous consent or suspension of the rules procedures – national observances, the naming of post offices, resolutions of commendation, for example. The second category contains “... relatively low cost distributive programs, which provide benefits to a limited numbers of districts (usually helping members of both parties) without being so expensive as to damage everyone else’s interests). He cited a Merchant Marines and Fisheries bill establishing a wildlife refuge in San Francisco that passed by a voice vote as an example. The third category contains: “... programs that affect large numbers of politically active constituents residing in all districts. Examples include veterans’ legislation and social security benefits. Virtually all members care a lot about such bills, but they are not likely to involve partisan conflict.” The final category “comprises substantive matters of national import about which there is substantial disagreement in the electorate. Such issues are likely to provide partisan disagreement in Congress

⁵⁴Ibid. p. 31.

because the partisan electoral system tends to channel conflicting opinion along partisan lines.”⁵⁵

Rohde’s theory of “conditional party government” fits well into the assertion that there is a type of legislation – in this case legislation dealing largely with the structure of government organizations – that has normally been dealt with in a bipartisan fashion. Rohde’s four categories of legislation, three of which include nonpartisan or bipartisan bills, indicate that, while the processes of Congress have become much more partisan in the time between the passage of the Postal Reorganization Act of 1970 and the Postal Accountability and Enhancement Act of 2006, bills of this nature are still handled in a similar fashion. In this case, the two bills would fall under the third category, “...programs that affect large numbers of politically active constituents residing in all districts”, though it might be a bit of a stretch to assume that “...virtually all members care a lot...” about legislation dealing with postal organization.

Conclusion

The basic thesis of this dissertation is that there is a substratum of legislation considered by the U.S. Congress for which the process has remained relatively unchanged for at least the past forty years, and probably much longer. That substratum consists of legislation

⁵⁵ Ibid. pp. 32-33.

dealing largely with the structural organization of departments and agencies and even the creation of new ones, whether out of whole cloth or by rearranging agencies in new patterns and relationships. This type of legislation tends to be treated in a non-partisan or a bi-partisan manner, though further study would be useful.

In the case of postal organizational legislation, the relatively bi-partisan nature of the legislation may be further enhanced by factors other than the simple fact that legislation deals with largely organizational matters. Rural areas, for example, tend to be represented by Republicans who, by and large, favor smaller government and private enterprise in place of many government run programs. The exception to this general philosophical orientation is, and has usually been throughout our government's history, federal government postal operations where a universal federal postal system was of immense importance to the development of the country, particularly the rural areas. Even today, rural constituencies are commonly supportive of a strong postal service that will guarantee delivery (and pick up) to every corner of the land. Postal labor unions and postal employee unions are another very important constituency, which tends to concentrate in urban areas, largely represented by Democrats. While postal employee issues may be different from rural constituency issues, they are both in favor of a strongly viable national universal postal system. Therefore, whenever postal issues have arisen in Congress, there has been a strong incentive for members to work together in a non-partisan or bi-partisan way.

This chapter has outlined the growth of overt partisanship in Congress over the past forty years or so, concentrating on the development of procedures and mechanisms designed to enhance the ability of majority party leaders to control both the content of legislation and its progress through the complex legislative process in both the House and the Senate. In spite of this, there is still a significant amount of legislation that is developed and progresses through Congress on a bipartisan and a nonpartisan manner.

The process described in the case study of the passage of the Postal Reform Act of 1970 was the “traditional” process that had been entrenched for at least the past fifty years – a process that was largely controlled by entrenched committee chairs and which was not partisan in nature – at least not usually so. In 1995, a new Congress and a new Republican majority began work on legislation that ultimately became the Postal Accountability and Enhancement Act of 2006 (Public Law 109-435). This process was much more convoluted and took much longer to reach fruition than did its predecessor. There are many reasons for this that will be described in the case study. Partisanship, however, was not one of them. The process was bipartisan, as perhaps reflected by the sponsors of the final piece of legislation that became law: Representatives Tom Davis (R-VA) and Henry Waxman (D-CA), the chair and ranking minority member respectively of the House Committee on Government Reform; and Senators Susan Collins (R-ME) and Tom Carper (D-DE), chair and minority member respectively of the Senate Homeland Security and Governmental Affairs Committee. Throughout the eleven years postal reform legislation was being considered before final passage in 2006, key members from

both parties were intimately involved in the process. Their differences were based on personal preference, influence of various lobbying organizations, and economic philosophy, but not on partisanship. The long and often hard bill writing efforts took place on a bipartisan basis. When the ultimate product reached the floors of the House and Senate, the bills achieved a substantial, bipartisan majority vote, similar to the 1970 legislation.

Twenty-two individuals were interviewed on the process leading to the enactment of the Postal Accountability and Enhancement Act of 2006. They consisted of members of Congress, committee staff members, executive branch officials, and lobbyists for a multitude of businesses and postal employee unions. Twelve were identified as Republicans and eleven as Democrats. Without exception, every interviewee said that the process – as long and involved as it was – was fundamentally bi-partisan. While there were some disagreements about specific elements of the proposed legislation among mailers, employee organizations, customers and competitors, these disagreements were not based on partisan considerations.

CHAPTER 3: Two Models of the Public Policy Process

Two models of the public policy process will be used in this dissertation to help sort out and categorize the steps leading to both The Postal Reorganization Act of 1970 and The Postal Accountability and Enhancement Act of 2006. John W. Kingdon's and James Q. Wilson's seminal works on the public policy process have helped guide numerous scholars through processes that under the best of circumstances often seem remarkably convoluted and complex. These models will be used in the two case studies in Chapters 4 and 5 to help describe and clarify the various steps and negotiations leading to the passage of the two pieces of legislation coming some thirty-six years apart.

Agendas, Alternatives, and Public Policies

John W. Kingdon's *Agendas, Alternatives, and Public Policies* outlines a model of the development of public policy issues and the reasons for their final adoption and implementation.⁵⁶ The word "model" is really a misnomer, as Kingdon himself would probably admit, because his work does not create a neat blueprint of do's and don'ts for public policymakers. Rather, it is a complex description of the policy process, offering

⁵⁶ Kingdon, John W. *Agendas, Alternatives, and Public Policies*. 2nd ed. (New York: Addison Wesley Longman, Inc. 1995).

perceptive insights into how public policy is made and describing the many elements necessary for success.

Kingdon relates his theory to the garbage can model developed by Michael Cohen, James March, and Johann Olsen.⁵⁷ The garbage can model is marked by problematic preferences, unclear technologies, and fluid participation. Related to complexity theory and chaos theory in more scientific areas of study, the garbage can model does not posit that there is no structure or rationality behind what happens in the public policy arena; it posits that the process is so highly complicated and the factors involved in coming to an ultimate conclusion are so numerous and fluid that we make predictions only with a high degree of skepticism and tentativeness. As Kingdon points out, the garbage can model enables us to find “pattern and structure in very complicated, fluid and seemingly unpredictable phenomena.” The model is also historically contingent; events are based on what goes before them. Finally, “there is a residual randomness left after one identifies as much structure as one can, so that there is surprise and unpredictability.”⁵⁸

There are three defining threads that run through Kingdon’s “policy primeval soup” - the deep, dark, swirling liquid filling the garbage can. “We conceive of three process streams flowing through the system – streams of problems, policies, and politics. They are largely independent of one another, and each develops its own dynamic and rules.

⁵⁷ Cohen, Michael, James March, and Johan Olsen, “A Garbage Can Model of Organization Choice,” *Administrative Science Quarterly* 17(March 1972): 1-25.

⁵⁸ Kingdon, op. cit. p. 224.

But at some critical junctures the three streams are joined and the greatest policy changes grow out of that coupling of problems, policy proposals, and politics.”⁵⁹ These streams flow independently of one another, though they can contain many of the same participants. Kingdon emphasizes that, “... each of the participants can be involved in each of the important processes – problem recognition, policy generation, and politics.”⁶⁰ When they come together, the three “streams” can lead to change and innovation – in the case of this dissertation, successful legislation restructuring the country’s postal service.

The first is the problem stream. Here the many participants in a specific issue area study, argue, formulate solutions, write papers, contribute op-ed pieces for the New York Times and other influential newspapers and journals. The participants in the problem stream are waiting for a defining event that places their subject on the national agenda in Congress and/or at the White House. It is that defining event that opens the policy window and places the issue on the decision agenda of the key players, in our case the Congress and the president.

That defining event can be almost anything that focuses attention dramatically on the problem in a meaningful way – elections bringing shifts in political players or policy mandates, a crisis or prominent event, or simply (though less frequently) a gradual accumulation of knowledge and perspective among policy specialists that grows into a

⁵⁹ Ibid. p. 19.

⁶⁰ Ibid. p. 18.

catalytic force. This opening of the policy window by some defining event is essential to the process, even if it is not immediately clear what that defining event is. Without it, little or nothing is going to happen to change the status quo.

The second is the policy stream. This stream, as the others, is independent, though it may consist of many of the same players. It is in the policy stream that alternative policies are developed, essentially the preparation work in anticipation of the opening of the policy window. It is a process where “some ideas are selected out for survival while others are discarded, order is developed from chaos, pattern from randomness. These criteria [used to make judgments about policy alternatives] include technical feasibility, congruence with the values of community members, and the anticipation of future constraints, including a budget constraint, public acceptability, and politicians’ receptivity. ... Thus, entrepreneurs, who broker people and ideas, are more important than inventors [who dominate the problem stream].”⁶¹

The third, the political stream, is “composed of such factors as swings of national mood, election results, changes of administration, changes of ideological or partisan distributions in Congress, and interest group pressure campaigns.”⁶² It is the participants in the political stream who set the agenda, which is in turn allowed by the opening of a policy window. In the political stream, bargaining replaces persuasion as the primary

⁶¹ Ibid. pp. 200-201.

⁶² Ibid. p. 162.

tool to achieve whatever goal is on the agenda. It is here where the three streams converge to establish public policy. Though convergence of all the streams is not absolutely necessary, it would be unusual if they did not converge in the case of the successful implementation of a new policy or program.

Kingdon describes many diverse participants in these three streams, all of which participated at one point or the other in the development of postal policy and legislation in both processes under study. In both case studies, the participants fall into several general categories:

- The various companies who depend on the mail to deliver their messages and products, and the several trade associations that represent them. These, as all the others, will be described more specifically in the case studies.
- Competitors of the postal service, particularly delivery companies and those who compete for advertisers.
- Major suppliers to the postal service such as sorting machine and computer manufacturers.
- Policy institutes, or “think tanks,” and other academic organizations devoted to the study of various issues and government processes.

- Postal labor and management organizations, all of whom are very active in the political process.
- Postal management, including particularly the postmaster general and the government affairs office of the postal service.
- Other Federal agencies, notably in the second case study the Treasury Department and the Office of Management and Budget.
- The White House and Executive Office of the President, which played significant roles in both case studies.

Throughout the two legislative processes that led to the two respective postal acts in the case studies, and particularly the second case study leading to the Postal Accountability and Enhancement Act of 2006, all of the participants in the three streams knew one another, interacted frequently, participated in studies together, and often attended bargaining meetings, even though they may not have agreed with all of the proposals and in fact may have been strongly opposed to some.

This dissertation compares two proposals for major reorganizations of the nation's postal services coming more than thirty years apart. Prior to the passage of the Postal Reorganization Act of 1970, the postal problem stream was rather amorphous, consisting of the officials of postal system itself and members of Congress largely because of their role in appointing postmasters and rural delivery personnel, mail users and suppliers. It came into play throughout the history of the postal system. Wayne E. Fuller's *The*

American Mail: Enlarger of the Common Life outlines the history of the postal system from colonial times to 1970, including the problem stream that ebbed and flowed as the postal system grew to become one of the most powerful communications systems in the world as well as the principal purveyor of the nation's patronage system.⁶³

In 1970, Kingdon's three policy streams came together with the passage of the Postal Reorganization Act of 1970, assisted by two crises. The first crisis, the shut down of the Chicago Post Office in 1966 due to massive amounts of mail that filled every nook and cranny of the gigantic post office building, a policy window opened with the creation of The President's Commission on Postal Organization and its subsequent hearings and report recommending significant legislation to completely reorganize the old Post Office Department. The second crisis was the early 1970 wildcat strike of city letter carriers over pay issues that began in New York City and spread sporadically to other areas of the country. The resolution of that strike with a pay increase caused the National Association of Letter Carriers and some other postal employee organizations to switch from opposition to support of postal reorganization legislation, which was enacted some five months after the settlement

In the latter half of the 1990's, leading up to passage of postal reform legislation in December 2006, there was growing concern about the long term viability of the United States Postal Service unless significant organizational and fiscal changes, perhaps even

⁶³ Fuller, Wayne E. *The American Mail: Enlarger of the Common Life*. Chicago; University of Chicago Press, 1972.

leading to full privatization, were made. The postal problem stream by this time had become much larger, though just as amorphous, consisting of a significant group of lobbying organizations, both customers and competitors, postal labor and management organizations, and academic think tanks such as the Brookings Institution, the CATO Institute, and the American Enterprise Institute. These organizations were constantly interacting with one another through seminars, meetings, the media, and interpersonal relationships. Kingdon lists the turnover of political actors and/or a “wholesale change in congressional membership” as catalysts for the opening of windows.⁶⁴ A policy window opened when the House of Representatives turned Republican, and completely new committee leadership took over. Representative John McHugh (R NY) became the chair of a new postal subcommittee in the Committee on Government Reform after the new Republican leadership abolished the Committee on Post Office and Civil Service at the beginning of the 104th Congress in 1995.

McHugh took his new role as subcommittee chairman seriously and embarked on a series of hearings designed to examine all of the facets of postal operations and policies and to determine whether any legislation was needed to improve or restructure postal organization and operations. The postal problem and policy streams and ultimately the political stream, consisting of members of Congress and their staffs, the administration, mailers and their trade associations, competitors, postal employee organizations, and

⁶⁴ Kingdon, *op.cit.* p. 168

policy think tanks, were energized. Kingdon's model will be discussed further within the two case studies that follow.

Political Organizations

Another theoretical formulation of the public policy process that will be used in this dissertation can be found in James Q. Wilson's seminal *Political Organizations*.⁶⁵ The political organizations to which Wilson refers are "voluntary formal organizations."⁶⁶ These organizations are "... voluntary associations - political parties, trade unions, civic associations, interest groups, and so on. It is with respect to voluntary associations that the effect of incentive systems is most clearly visible, for by definition members cannot be coerced into joining (except, perhaps, in the case of certain labor unions) and most members (professional staff excepted) do not earn their livelihood by their participation. " To understand the behavior of leaders and members of voluntary organizations it is necessary to examine the internal processes of organizations to discover how they are formed, why people join them, how leaders and policies are selected, and by what strategies they deal with other organizations, especially government agencies. The central theme of the study is that the behavior of persons who lead or speak for an organization can best be understood in terms of their efforts to maintain and enhance the organization and their position in it." ⁶⁷ ... "The theoretical perspective that will be offered here is that the behavior of persons occupying organizational roles (leader, spokesman, executive,

⁶⁵ Wilson, J. Q. *Political Organizations* (New York, Basic Books. 1973).

⁶⁶ Ibid. p. 6.

⁶⁷ Ibid. p. 9.

representative) is principally, though not uniquely, determined by the requirements of organization maintenance and enhancement and that this maintenance, in turn, chiefly involves supplying tangible and intangible incentives to individuals in order that they will become, or remain, members and will perform certain tasks."⁶⁸ The principal parts of the book are devoted to examining this thesis at great length and are particularly interesting for scholars of the organization process.

The term "voluntary organizations" describes many of the lobbying organizations involved in both the Postal Reorganization Act of 1970 and the Postal Accountability and Enhancement Act of 2006. These would include various trade associations, postal employee unions and management organizations, and think tanks. But the value of the book to students of the legislative process is not so much in an examination of its major thesis but in the political cost/benefit analysis that he includes almost as an afterthought at the end.⁶⁹ This is not unusual for Wilson, which is one of the things that make him one of the most seminal thinkers in the business.⁷⁰

In Chapter 16, Wilson develops a four-fold classification of issues based on costs and benefits. This is an expansion and restructuring of Theodore Lowi's threefold

⁶⁸ Ibid. p. 13.

⁶⁹ Ibid. Chapter 16.

⁷⁰ See, for example - Wilson, J. Q. *Bureaucracy: What Government Agencies Do and Why They Do It* (Basic Books, 1983).

classification of issues in his paper “American Business, Public Policy, Case Studies, and Political Theory.”⁷¹ These are described by Wilson as follows:

Theodore J. Lowi has proposed a threefold classification of public issues and a set of hypotheses relating the kind of issues to the character of the political process (“arena of power”) that it will evoke and to the extent and ways in which organized group will participate in the decision. A *distributive* decision is one that provides, or appears to provide, specific benefits to specific groups ‘without regard to limited resources.’ Patronage is a distributive policy; so are defense contracts, government services to organized business, farm, or labor clienteles, the management of public land, and an item-by-item tariff. A *regulatory* decision involves a governmental choice as to ‘who will be indulged and who deprived’ on the basis of some general rule: examples include awarding a television license, banning an unfair labor practice, and giving the president discretionary powers over foreign trade. Finally, a *redistributive* decision involves broad categories of citizens, “approaching social classes,” to whom benefits are extended or from whom losses are taken. A progressive income tax and nondistributive welfare programs are important illustrations.⁷²

Wilson believes that Lowi’s formulation is “bold and imaginative but also ambiguous and incomplete.” In its place, Wilson builds a four-fold classification based on costs and benefits as follows:⁷³

1. **Distributed Benefits and Distributed Costs:** "policies that both confer benefits upon, and spread costs over, large numbers of persons will tend to become easily institutionalized and to produce benefit levels without significant organizational intervention."

⁷¹ Lowi, Theodore J. “American Business, Public Policy, Case Studies and Political Theory.” *World Politics*. XVI (July 1964)

⁷² Wilson. Op. cit. pp. 327-328.

⁷³ Ibid. pp. 332 to 335.

2. **Concentrated Benefits and Distributed Costs:** "Programs that benefit a well-defined special interest but impose, or appear to impose, no visible costs on any other well-defined interest will attract the support of the organizations representing the benefited group and the opposition of none, or at best the hostility of only of purposive associations having no stake in the matter."

3. **Distributed Benefits and Concentrated Costs:** "When a specific, easily identifiable, group bears the cost of a program conferring distributed benefits, the group is likely to feel its burdens keenly and thus to have a strong incentive to organize in order that their burdens be reduced or at the very best not increased."

4. **Concentrated Benefits and Concentrated Costs:** "Programs that benefit a well-defined group but at a cost to another well-defined generate continuing organized conflict. Revisions and amendments are endlessly contested and sometimes efforts are made to repeal the initial policy."

The category that comes closest to postal reform legislation in both case studies is concentrated costs and benefits. As mentioned above, in the process leading to the Postal Reorganization Act of 1970, there were several voluntary organizations in both case studies with concerns about the proposed legislation. Postal employee unions and management organizations were concerned with the possibility of a new pay structure that could in some way hurt them, or at least be less advantageous. Mail user associations such as the Magazine Publishers Association, the Third Class Mail

Association, and the Direct Mail Marketing Association were apprehensive about a totally new way of setting postal rates by regulatory processes rather than legislation. Competitors were concerned that a strengthened postal service with broader commercial strength would pose a threat to their business. And, of course, political parties were concerned that they would lose a major source of political patronage.

The legislative process that began in 1995 and reached its conclusion almost twelve years later in 2006 is more difficult to categorize. The nature of the issues was different largely because the Postal Reorganization of 1970 created an entirely new ratemaking mechanism and corporate structure. Thus, the existing lobbying organizations in 1970 had changed their focus, and many more organizations had entered into the fray by 1995. Nevertheless, the concept of concentrated costs and benefits still appears to more closely describe the situation that molded the process for this second bout of postal reform legislation. Organizations lobbying postal issues had become far more articulate and organized than they were in the 1960's and far more sensitive about costs and benefits to themselves and to other segments of the postal user universe, and more of these voluntary organizations were involved in the long process that led to the Postal Accountability and Enhancement Act of 2006.

The nature of that universe had also shifted in the twenty six years between the passage of The Postal Reform Act of 1970 and the Postal Accountability and Enhancement Act of

2006. Individual mailers had become far less important while business and institutional mailers had grown in importance to the postal business. Other forms of communications were becoming more significant everyday through the growing use of email, the Internet, and text messaging. Financial transactions – credit card statements and payments, bank transactions both for individuals and for commercial entities – were beginning to exit the mail, a trend that has reached massive proportions today.

While first class mail volumes did not begin to drop significantly until after the passage of the postal bill in 2006, the almost absolute conviction that it was going to happen helped drive the push for postal reform. This was evident in the testimony of Bernard J. Unger of the General Accounting Office before Chairman McHugh's Subcommittee on the Postal Service on October 22, 1999.⁷⁴ Unger said, "the Service faces growing challenges from competition, notably from private delivery companies and electronic communications alternatives such as the Internet. The [Postal] Service projects that such competition will lead to substantial declines in the Service's First Class Mail volume in the next decade. Should this occur, the Service will likely face unprecedented challenges as it seeks to fulfill its primary mission of providing universal postal service at reasonable rates while remaining self-supporting from postal revenues."⁷⁵

⁷⁴ Bernard L. Unger (General Accounting Office). "U.S. Postal Service: Challenges to Sustaining Performance Improvements Remain Formidable on the Brink of the 21st Century." Testimony before House Subcommittee on the Postal Service, Committee on Government Operations, October 22, 1999.

⁷⁵ Ibid. p. 3

These volume declines did not begin to occur until after the passage of the Postal Accountability and Enhancement Act of 2006. In early 2009, Dan G. Blair, Chairman of the new Postal Regulatory Commission testified as to the great impact the economic crisis has had on postal volumes and revenues as well as “the continued diversion of single piece First Class Mail to e-mail and electronic bill payments.” The participants in the postal problem and policy streams clearly had something significant about which to be concerned.”⁷⁶

From the viewpoint of this study, these shifts in the nature of the postal business brought shifts in the interests of those lobbying postal issues. However, that did not change the nature of the process as one reflecting concentrated benefits and concentrated costs. In the process of both the 1970 and the 2006 postal reorganization legislation there were no absolute winners and losers in the sense of a zero sum game, however. While some of the players got what they wanted and others did not, in the end they came away with what most considered an improved service institution. The next two chapters will show this to be the case.

⁷⁶ Dan G, Blair, Chairman of the Postal Regulatory Commission. “Statement Before the Senate Subcommittee on Federal Financial Management, Government Information, Federal Services, and International Security, Wednesday, January 28, 2009.”

CHAPTER 4: The Postal Reorganization Act of 1970

This chapter is a case study of the process leading to the passage of the Postal Reorganization Act of 1970. It was a complex piece of legislation that in essence created an entirely new agency with unique powers and organization. The study will show that the development, debate, and ultimate passage were bipartisan – or nonpartisan – among both those who were in favor of the legislation and those who opposed it in the beginning. Final passage in the House and Senate was overwhelming. Two models discussed in the previous chapter will be used to analyze the process: John W. Kingdon's model of public policy issues and processes in his *Agendas, Alternatives, and Public Policies* and James Q. Wilson's four-fold classification of issues pursued by voluntary organizations in his *Political Organizations*, specifically his categorization of concentrated costs and concentrated benefits in the legislative process.

The Post Office Prior to Reorganization

The United States Postal Service is the descendant of a long tradition of government as a primary deliverer (in earlier times, the primary deliverer) of communications among its citizens, businesses, and various levels of government. It is one of the specific federal

functions mentioned in the Constitution and was one of the major functions of the British Crown prior to the American Revolution.

The main features of the Postal Service traditionally have been its monopoly on letter mail, with a few exceptions (notably express mail, which is time sensitive), and its commitment to universal service in the United States (including Alaska and Hawaii). Through the years, non-letter mail such as catalogs, magazines, newspapers, and packages have become an important part of the Postal Service's business and the beneficiaries of universal service.

The basic organization of the Postal Service did not change substantially from the beginning of the republic until 1970, though its programs expanded and modes of transportation had greatly changed. The Postal Reorganization Act of 1970 placed the new United States Postal Service on a more business-like footing – eliminating political patronage, placing it on a breakeven financial basis, and establishing a ratemaking process that did not rely on congressional action. To manage this enterprise the Act created a Board of Governors appointed by the president and confirmed by the Senate similar in function to the board of directors of a private business. The Act also created a new regulatory body to oversee the setting of postal rates. The Postal Rate Commission consisted of five commissioners, also appointed by the president and confirmed by the Senate. The Postal Reorganization Act largely succeeded in its goal of placing the Postal

Service on a far more business-like footing and ultimately eliminating the need for annual appropriations, thus moving it several steps further from political control.⁷⁷

The passage of the legislation is a saga in itself.⁷⁸ Ultimately, the bill passed because of the convergence of, using Kingdon's concepts, the separate problem, policy, and political streams, precipitated by both the "collapse" of the Chicago Post Office in 1966 and an illegal wildcat strike by postal letter carriers in early 1970. The "policy primeval soup" contained a unique combination of present and former postmasters general from both political parties, members of Congress from both parties (notably Rep. Morris K. Udall who was the true father of postal reorganization), business leaders, postal competitors and postal employee organizations and unions.

For many years prior to the passage of the Postal Reorganization Act postal managers had become more and more concerned with the antiquated procedures and infrastructure of the nation's post offices. Volume had increased almost exponentially through the first sixty years of the twentieth century, yet much of the mail was still handled and sorted as it was in Benjamin Franklin's time.⁷⁹ Automation had not yet made much of an impact in spite of vastly increased volumes. On top of fabled postal inefficiency was an antiquated

⁷⁷ For a good overview of the history of the United States Postal Service and its position in the American economy and culture, see: Wayne E. Fuller. *The American Mail: Enlarger of the Common Life* Chicago (University of Chicago Press, 1972). The Postal Service was, until 1970, the principal source of political patronage in the United States. The president appointed all postmasters. When members of Congress and Senators happened to be of the same party as the president, they had a major influence in the appointment of postmasters in their district or state.

⁷⁸ For an excellent study of the steps leading to the passage of the Postal Reorganization Act of 1970 see: David Whitman, *Selling the Reorganization of the Postal Service*. The monograph was published in 1984 by Harvard's Kennedy School of Government for use as a case study at the Center for Press, Politics and Public Policy.

⁷⁹ Franklin invented the pigeonhole box used by letter carriers to sort their routes as late as the 1960's.

patronage system. All postmasters and rural carriers were political appointees, many chosen with only passing regard for their managerial abilities. The placement and building of post offices was largely a function of politics, too. Postal rates were set sporadically by Congress, with heavy political participation by large mailers and virtually no understanding of the economics of a business, which after all was what the Post Office was. The chief executive of this business, the Postmaster General, was usually one of the president's top political operatives, often the top political operative, and normally paid scant attention to the operations of the department that he headed. As David Whitman put it in his case study for the Kennedy School of Government, "No department of the federal government was so shackled by vested interests, by stultifying personnel practices, by archaic regulations and equipment, by an absence of elementary management practices; and last, but not least, nowhere was the sauce of political patronage thicker than at the heart of the lavish office of the Postmaster General."⁸⁰

The Problem Community

Kingdon's problem stream during the years – even centuries – leading to the passage of the Postal Reorganization Act of 1970 was similar, but not as cohesive or interactive, to the community that came together after the passage of the legislation, and formed one of the streams that ultimately led to the passage of the Postal Accountability and Enhancement Act of 2006. While there were many organizations and individuals

⁸⁰ David Whitman. Op. cit. p. 1. The actual office of the Postmaster General was the largest in Washington, reputedly a hundred feet long.

interested in and deeply affected by postal issues through the history of the postal system, they generally operated on their own and did not form a part of a “community” that had wide interrelationships and met together from time to time to examine postal issues, at least until the formation of the President’s Commission on Postal Organization in 1966.

This does not mean that the problem stream did not exist, however. There were private companies, trade associations, postal labor and management organizations, competitors, and, of course, the Post Office Department itself. It is one of the specific powers granted to Congress by the Constitution, and in fact was stated broadly enough to imply that the function could be expanded substantially as new communications systems were invented and rapidly became an integral part of the fabric of our community.⁸¹

One of the first public policy issues that that engaged the post office dealt with the transportation system as it grew and evolved from the beginning of the Republic to today.⁸² Throughout its history, the post office has been one largest – if not the largest – user of civilian transportation systems in the world, both through contracts with commercial companies and operating its own transportation systems.

⁸¹ United States Constitution. Article I, Section 8.

⁸² The major postal issue areas used in this chapter can be found in Richard Kielbowicz’s *Postal Enterprise: Post Office Innovations with Congressional Restraints, 1789-1970*; for the Postal Rate Commission and transmitted to the commission on in May 2000. It is on file in the library of the Postal Regulatory Commission, successor to the Postal Rate Commission in the Postal Accountability and Enhancement Act of 2006. Other works on the history of the post office include: Fuller, Wayne E. *The American Mail: Enlarger of the Common Life.* (Chicago; University of Chicago Press, 1972); Cullinan, Gerald. *The United States Postal Service* (New York; Praeger Publishers, 1972); and Scheele, Carl H. *A Short History of the Postal Service.* (Washington, D.C.: Smithsonian Institution Press, 1970).

Private stagecoach lines may have been the first participants in a postal problem community transmogrifying quickly into policy and political streams. As Richard Kielbowicz said, "... from the start, most mail service was a joint public-private venture: the post office received mail, processed it, and delivered it to the recipient, but transportation from one town to another was purchased – with a few exceptions – from private firms."⁸³ Through the years, "The department adopted a succession of new transports – stage coaches, fast schooners, steamboats, railroads, pneumatic tubes, airplanes, and more – to carry the mail. Each technology presented two questions that affected the post office's relationship with private firms and Congress: Should the post office operate transports itself or contract with private firms for the service? Did the department need congressional assent to innovate – to adopt the newest technologies?"⁸⁴

The transportation interests in the problem and policy streams for both the Postal Reorganization Act and the Postal Accountability and Enhancement Act of 2006 were similar, though the air transport industry had replaced the railroads as the most significant carrier of inter-city mail. The transportation participants in the process leading to the Postal Reorganization Act of 1970 included the trucking company Diekbrader Express of Cincinnati, Ohio; Central Freight Lines of Waco, Texas; the National Air Carrier Association; United Parcel Service (UPS); American Trucking Associations; Air Transport Association; Transportation Association of America; Association of American Railroads; the Civil Aeronautics Board; the Interstate Commerce Commission; the

⁸³ Kielbowicz, *op.cit.* p. 6.

⁸⁴ *Ibid.*

Railway Express Agency; the Freight Forwarders Institute; Railway Express Agency; and the National Association of Motor Bus Owners.⁸⁵ While names and functions had changed, the transportation industry's leading players in the steps leading to the Postal Accountability and Enhancement Act of 2006 were much the same.

Another major issue area that dates back to the beginning of the postal system and remains to this day is what can be carried in the mail and at what rate. The use of the mail for advertising has been one of the more hotly contested issues through the years. The newspaper industry has been particularly attentive to the rates and classification of advertising mail, being its principal competitor. The newspapers, of course, want to see the rates for advertising mail as high as possible to keep newspapers competitive in the advertising market. During the battle leading to the Postal Reorganization Act of 1970, associations and newspaper companies in Kingdon's streams included the Mail Order Association of America (consisting of the major catalog companies such as Sears, Roebuck; Montgomery Ward; Spiegel; and L.L. Bean); The Direct Mail Advertising Association (later to become the Direct Marketing Association); Magazine Publishers Association; Mail Advertising Service Association of America (later to become the

⁸⁵ The participants in the problem stream (and, as time went on, the policy and political stream) are drawn from numerous sources including the personal experience of the author, interviews with many of the participants in the development and passage of the Postal Reorganization Act; and lists of witnesses in hearings on the legislation conducted by the House of Representatives Post Office and Civil Service Committee: *Post Office Reorganization: Hearings Before the Committee on Post Office and Civil Service, Ninety-First Congress, First Session, on Various Proposals to Reform the Postal Establishment; Serial Nos. 91-3, 4, and 4(a).* Washington, D.C.: U.S. Government Printing Office, 1968; and *Postal Reform: Hearings Before the Committee on Post Office and Civil Service, Ninety-First Congress on 17070 and similar bills to Improve and Modernize the Postal Service, to Reorganize the Post Office Department, and for Other Purposes:* (Washington, D.C.: U.S. Government Printing Office, 1970).

Mailing and Fulfillment Service Association); McGraw-Hill, Inc.; American Business Press; New York Magazine; Time, Inc. and Johnson Publishing Company, Inc.

The post office had the most highly organized workforce in the federal government, and the organizations became important parts of all three of Kingdon's streams. By the time the Postal Reorganization Act of 1970 began its legislative journey, significant players included the National Rural Letter Carriers' Association; National Association of Postmasters of the United States; National Association of Special Delivery Messengers; National Star Route Mail Carriers Association; National Association of Mail Handlers, Watchmen, Messenger, and Group Leaders Division of the Laborers' International Union of North America; National Association of Postal Supervisors; National Federation of Post Office Motor Vehicle Employees; the National Postal Union and the National Association of Letter Carriers. Several of the organizations representing blue collar workers were also members of the American Federation of Labor and Congress of Industrial Organizations whose president, George Meany, became a member of the Commission on Postal Organization, one of the major catalysts in the postal reorganization battle.

And, of course, the United States Post Office Department was part of Kingdon's streams throughout its long history, dating back to the beginning of the republic – and before. The Department became active from time to time in influencing postal policy, largely through Congress, and throughout history has played a major role in crafting postal

policy, particularly in the major issue areas discussed above. The Department played a significant role in every major issue before Congress from its very beginning, and the simple fact that the Postmaster General was usually also a major political figure in the administration and that tens of thousands of postmasters and rural letter carriers throughout the country were also political appointees added to its influence.

Finally, the White House itself was a part of all three streams in both case studies. Some would say, in fact, that some significant White House involvement is necessary as a catalyst for almost all but the simplest legislation. We will leave that debate to other students of the legislative process, but in the case of postal reorganization legislation in 1970 and 2006, it can and will be shown that the White House itself was an important factor in moving the legislation to its final conclusion, both the staff and the President himself.

As complex and important as these issues might have been, it was clear from the start that they were not particularly partisan issues, except to the extent partisan political considerations entered into appointment decisions. The congressional procedures and final actions may have involved ideological or practical influences, but the processes were largely non-partisan.

The Opening of a Policy Window

While participants in the problem stream had been expressing alarm for some time, there was little political will for making major changes in the structure of the department. That situation changed, however, with one of Kingdon's "defining events." The policy window opened with a major crisis in the Chicago Post Office.⁸⁶ In October 1966, the massive Chicago Post Office ground to a halt. More mail was coming into the building than could be processed and sent back out. More than 10,000,000 pieces of mail jammed almost every nook and cranny of the building, with more scheduled to be delivered to the building. The problem was simply that antiquated and slow moving machinery could not keep up with the increasing volumes of mail being shipped in by rail from all over the country.. Representative Edward Derwinski, a Republican member of Congress from Chicago and a member of the House Post Office and Civil Service Committee described the situation as pure chaos.⁸⁷ The paralysis took three weeks to straighten out. Derwinski later became one of the principal sponsors of the Postal Reorganization Act of 1970.

The crisis helped convince Postmaster General Lawrence O'Brien that draconian measures were needed to save the Post Office Department from disaster. He outlined the problem and suggested a major organizational reform of the Post Office Department in a speech before a joint meeting of the Magazine Publishers Association and the American

⁸⁶ Tierney, John T., *Postal Reorganization: Managing the Public's Business*. Boston; (Auburn House Publishing Co., 1981). pp. 8-14.

⁸⁷ Interview #13 in the Appendix.

Society of Magazine Editors in Washington D.C. on April 3, 1967. O'Brien called for the creation of a government-owned corporation run by a board of directors nominated by the president and confirmed by the Senate, which in turn would appoint a professional administrator to run the service. Citing the many problems that were growing day-by-day within what he considered to be an antiquated department, O'Brien said that if the (private) telephone system were run like the mails, "the carrier pigeon business would still have a great future."⁸⁸

Among the reforms suggested by O'Brien was an independent rate-making system devoid of congressional influence, the establishment of a top-to-bottom merit personnel system, eliminating all vestiges of political patronage, financial independence, and granting the ability for the new Postal Service to float bonds. In fact, it was perhaps the most complete reorganization of the functioning of a government agency ever proposed. O'Brien asked President Lyndon Johnson to establish a commission to recommend sweeping reforms of the Post Office.

Five days later, on April 8, 1967, Johnson appointed the Commission on Postal Organization and designated Frederick Kappel, retired chairman of AT&T, as chairman of the commission. Commission members consisted of distinguished business, academic,

⁸⁸ Time Magazine, Friday, April 14, (1967). Volume 89. No.15.

and labor leaders.⁸⁹ The commission's executive director was Murray Comarow, former executive director of the Federal Power Commission who later was a significant participant in the problem and policy streams leading to the Postal Accountability and Enhancement Act of 2006.

Comarow, who was interviewed for this dissertation, emphasized that one of Johnson's desires in the process was that it be completely nonpartisan – or the effort to enact meaningful and far-reaching organizational reform would likely fail. Comarow went so far to say that Johnson's appointment of seven Republicans out of a total of nine members was a “brilliant” move.⁹⁰

In Kingdon's terms, the commission formed both the vanguard of and the focal point for the participants in the postal policy stream. Its hearings and proceedings were probably the first time the disparate elements of the postal community came together in a common effort broader than their interest in specific postal policy issues. This occurred through the series of informal hearings held by the commission, by the broad participation in the responses to the commission's questionnaires.

⁸⁹ Other members of the prestigious commission were: George P. Baker, dean of the Harvard Business School; David E. Bell, vice president of the Ford Foundation; Fred J. Borch, president of the General Electric Company; David Ginsberg, a partner with Ginsberg and Feldman; Ralph Lazarus, Chairman of the Board of Directors, Federated Department Stores; J. Irwin Miller, chairman of the board of Cummins Engine Company; W. Beverly Murphy, president of the Campbell Soup Company; Rudolph A. Peterson, president of the Bank of America; and George Meany, president of the AFL-CIO. Arthur D. Little, Inc., a major management consulting firm, provided most of the professional staff support and studies for the commission. Murray Comarow, former Executive Director of the Federal Power Commission, was Executive Director.

⁹⁰ Interview # 7 in the Appendix.

The commission issued its report in 1968 and recommended sweeping reforms of the Post Office Department. The new United States Postal Service would be run by a professional Postmaster General (who would not be a member of the President's cabinet) appointed by a Board of Governors who would be appointed by the President with the consent of the Senate, and who would function much as the board of directors of a major business. The new postal service would be run more like a business, with sources of finance independent from the political process, an independent ratemaking process, labor relations based on a business model, and elimination of all political patronage. The commission recommended that the operations of the postal system be removed from the literally day-to-day oversight of Congress and the president and taken completely out of politics.⁹¹

The commission's report came near the end of President Lyndon Johnson's presidency. While Johnson strongly supported legislation implementing the commission report, there was too little time to begin to move new legislation during the waning days of the 90th Congress. The new President Richard Nixon, however, strongly endorsed postal reorganization along the lines of the Kappel Commission report, and his choice for Postmaster General, international building contractor Winton M. Blount, told the president that he would not take the job unless the Nixon administration totally supported major reorganization of the Post Office Department and total removal of the department

⁹¹ The President's Commission on Postal Organization, *Towards Postal Excellence*, (The Kappel Commission Report), (Washington, DC; Government Printing Office, 1968), p. 212.

from politics.⁹² Blount had postal employees draft a bill and postal reorganization legislation soon was off and running in the 91st Congress, in spite of the fact that both Houses of Congress were Democratic and Nixon was a Republican, thus shifting the political advantages of postal patronage to the Republicans in Congress.⁹³

The Merging of the Problem, Policy, and the Political Streams

It fell to the House of Representatives to do the initial work on postal reorganization, and the House Post Office and Civil Service Committee became the focal point of the process. Many committee members, however, were not happy with the thought of postal reorganization, and in many ways they were a microcosm of the full House of Representatives. Senior Democrats, including the Chairman, Buffalo Congressman Thaddeus J. Dulski (D-NY) and the Ranking Republican, Robert J. Corbett (R-PA), were very upset that the traditional “iron triangle” of agency bureaucrats, industry lobbyists, and congressional committees was being directly challenged. They also completely disapproved of removing the system from the political patronage process. Senior Republicans who had been looking forward to the patronage bonanza that came with the election of the first Republican President in eight years were furious that the patronage plum was being plucked from the tree. The administration had to descend into the ranks of relatively junior (in terms of seniority) members of the committee to find the

⁹² Interview with participants in the process.

⁹³ It reportedly was the first time a newly elected president had faced both a Senate and the House controlled by the opposition since the election of Zachary Taylor.

Democratic and Republican co-sponsors of major reorganization legislation, H.R. 11750.⁹⁴

While partisan political considerations certainly played a role in the development of opposition to the proposed legislation, largely because the legislation eliminated political patronage in the postal service, it did not play a role in the process by which the legislation was considered and ultimately passed, a major thesis of this dissertation.

The major “citizen” lobbying effort for reorganization came from the newly formed Citizen’s Committee for Postal Reform (CCPR). The co-chairmen were Democrat Larry O’Brien, who had kicked off reorganization efforts as Lyndon Johnson’s chief political strategist and postmaster general, and former Republican Senator and Chairman of the Republican National Committee Thruston B. Morton. The committee had the support of a broad cross-section of major American business interests. It also billed itself, as the name suggests, as a broad grassroots coalition, though this claim was honored more in the breach than in the observance.⁹⁵ Nevertheless, the CCPR was a major lobbying force for postal reorganization throughout the country, rallying both businesses and average citizens through a highly sophisticated and widespread media campaign. The CCPR

⁹⁴ Representatives Morris K. Udall (D-AZ) and Edward Derwinski (R-IL). Both were fourth on their respective party’s seniority list.

⁹⁵ Among the most prominent members of the Citizens for a Postal Corporation were General Lucius Clay, Senior Partner, Lehman Brothers; R.E. Mulford, Chairman, Owens Illinois, Inc.; John Hill, President, Aetna Life and Casualty; James Ling, President, Ling-Temco-Vought, Inc.; Crawford Cooley, President, San Francisco Investment, and John W McCarter, Vice President, Booz, Allen, and Hamilton.

effort was supplemented by an unusually heavy lobbying effort by Postmaster General Winton “Red” Blount and a team of top Republican political operatives, who were appointed by the president to postal executive positions primarily to work on postal reorganization. Technically, federal agencies are (and were in 1970) prevented by law from “lobbying” Congress. Most agencies, however, are adept at circumventing this restriction by using their public relations skills, their ability to provide “information” to Congress and the public, and aggressive and knowledgeable political appointees, particularly when the president supports them, as they were supported in this case. Postmaster General Blount and his team used these skills very effectively in promoting reorganization. Blount was, in fact, the chief behind-the-scenes (but not far behind) organizer of the CCPR and its main source of information from which it crafted its own lobbying campaign.⁹⁶

Postal employee unions were the primary opponents of postal reorganization, particularly the two largest AFL-CIO postal unions, the United Federation of Postal Clerks and the National Association of Letter Carriers. The employees, whose pay and benefits were set by the political process, could see no benefit to them, and saw considerable harm, in turning the whole process over to corporate-style management and labor-relations. They were comfortable with a political system over which they had considerable influence.

⁹⁶ The primary Republican sponsor of H.R. 11750, Representative Edward J. Derwinski (R-IL), cited the Postmaster General’s “dogged persistence” as the main factoring the ultimate success of postal reorganization passed. “As I look back, what got postal reform through was that Blount was an unusually determined, able man who just bulldogged it. Mo Udall and I finessed it through committee and on the floor, relying heavily on his arguments.” Quoted in David Whitman, *op. cit.*, “Sequel”, pp. 7-8. Confirmed by personal interview with Representative Edward Derwinski – interview #13 in the Appendix.

The battle lines were drawn in 1969, and the fight became bitter and personal.⁹⁷ The swirling debate is a story in itself, and initially most political pundits were predicting defeat. On January 3, 1969, Post Office and Civil Service Committee Chair Thaddeus J. Dulski fired the opening shot by introducing H.R. 4, which took some steps in overhauling the structure, finances, and postal ratemaking of the Post Office while keeping it as an executive department and retaining political patronage.⁹⁸ Subsequently the president and postmaster general sent a series of messages to the Hill calling for the elimination of the patronage system in the appointment of postmasters and rural letter carriers, replacing it with the regular civil service system, and an increase in postal rates.

On May 27, 1969, the president sent a message to Capitol Hill calling for the creation of an independent government corporation to replace the Department. The president's reform bill, H.R. 11750, was introduced in the House of Representatives on May 29 and referred to the House Committee on Post Office and Civil Service. The two major co-sponsors were Rep. Morris Udall (D-AZ) and Edward Derwinski (R-IL), who became the

⁹⁷ The major threads of the debate can be found in the hearings held by the House committee in 1969. United States Congress. House Committee on Post Office and Civil Service. *Post Office Reorganization. Hearings, Ninety-first Congress, 1st session, on various proposals to reform the postal establishment, (Washington, D.C.; U.S. Government Printing Office, 1969).* 3 volumes.

⁹⁸ See The Congressional Quarterly Almanac of 1969, pp. 778-791 for an overview of the legislative actions on postal reorganization legislation through the year and the major players.

key proponents in the House Post Office and Civil Service Committee and on the floor of the House of Representatives.⁹⁹

On April 22, the committee commenced a series of hearings on reorganization of the Post Office Department, postal rates and related matters. Included in the mix were H.R. 1382, which incorporated the recommendations of the Kappel Commission; Chairman Dulski's response, H.R. 4; and subsequently H.R. 11750, the administration's proposal, after it was introduced on May 29.

On October 8, 1969, the first vote in committee on H.R. 11750 failed by a tie vote, leading many to believe that the end had come.¹⁰⁰ The National Association of Letter Carriers in particular led a bitter public relations campaign against postal reorganization and Postmaster General Blount, branding Blount a voice for big business. The United Federation of Postal Clerks was not far behind. If it were not for another major postal issue looming in the background, this may have proved the death knell for postal reorganization.

That issue was a proposed pay increase for postal workers. The postal pay and postal reorganization issues were joined in November 1969 (after the negative committee vote)

⁹⁹ Rep. Derwinski told the author, who was a committee staff member at the time, "Why on earth am I supporting this legislation, when I finally can get postmasters appointed?"

¹⁰⁰ The actual vote was on a motion by Representative Udall to substitute H.R. 11750 for H.R. 4, Chairman Dulski's bill that would have made some relatively minor organizational changes.

when the Nixon administration opened discussions with James Rademacher, president of the National Association of Letter Carriers. Rademacher had been bitterly opposed to reorganization, but saw an opportunity here to improve the lot of his constituency. After intense negotiations, Rademacher publicly endorsed a new postal reorganization bill that included both a pay raise and a collective bargaining process that was more favorable to the unions. Initially the other unions refused to go along with the deal and worked hard to get the committee to take up postal pay legislation separately. The first two months of 1970 were consumed with efforts by the administration to reach an agreement with the other postal unions while the unions (except for the letter carriers) were pressing the committee to take up separate pay legislation (which Nixon had vowed to veto).

When neither effort succeeded, Chairman Dulski called a meeting of the committee with the expressed intent of bringing up his own postal reorganization bill, H.R. 4, and reporting it and a separate pay bill to the full House of Representatives. An intense lobbying campaign on both sides ensued, and carried on up to minutes before the meeting was convened on the morning of March 12, 1970. When the closed meeting adjourned, the crowd outside the Cannon Building committee room was stunned to discover that the Udall-administration postal reorganization bill had been approved by the committee by a lopsided vote of 17-6, with several Democrats abandoning their chairman and voting for the administration's bill. That is the official and final count. However, the first vote in committee to substitute the administration bill for the chairman's bill carried by only one

vote, and it was this vote that really broke the logjam. The meeting was closed, however, and only the final, recorded vote appeared in the minutes of the meeting.¹⁰¹

Clearance of the bill for floor action came too late, however, to head off a second “defining event,” in Kingdon’s terms. In this case, the defining event did not so much place postal reorganization on Congress’s and the administration’s decision agenda as confirm to many in Congress that its position on the agenda was justifiable and necessary. On March 17, the NALC New York City local voted to go on strike, followed quickly by other New York postal union locals. This was a “wildcat” strike that was not officially endorsed by the national union leadership. The strike was not directly related to the pending legislation, centering, rather, on general pay and benefit issues. Within a week, the strike had spread nationwide. At its peak, almost a third of the nation’s rank and file postal employees was on strike. President Nixon declared a national emergency on March 23 and announced that he would call in the National Guard to assure continued movement of the mail, the interruption of which was already causing significant economic dislocations. By March 25, almost all the postal workers were back on the job.

There was never any official resolution of the strike issue, rather the strike just petered out as National Guard troops were called in. However, there was a commitment to a pay increase by the administration included in H.R. 11750, which, while it did not “resolve”

¹⁰¹ This is from a personal recollection of the author and confirmed by interviews with Rep. Edward Derwinski (Interview #13 in the Appendix) and George Gould (Interview #15 in the Appendix), both of whom were at the meeting, as well as the author.

the strike, aided in convincing the strikers to return to work, along with a tacit assumption that there would be no retaliation against the workers for their illegal actions.

The strike focused attention on the organization of the Post Office Department more intensely than ever before. Business and labor began to come together in the realization that major reorganization was necessary if the department was to survive in new economic circumstances. After two weeks of heavy negotiations with the major postal unions, the administration reached an agreement with the unions for the reorganization plan in exchange for a substantial two step pay increase totaling about 14% and binding arbitration in the new collective bargaining process included in the administration's postal reorganization legislation (though ultimately the pay increase, which consisted in raising the grade of letter carriers and clerks as well as a pay increase, was included in separate legislation). The amended bill passed the House easily by an overwhelming bipartisan vote on June 18.

The Senate Steps In

Senators and Senate staff were noticeably absent from virtually all of the activities leading up to the passage of the Postal Reorganization Act in the House of Representatives. The General Counsel and Staff Director of the Senate Post Office and Civil Service Committee at the time, David Minton, attributed this largely to the basic

disinterest in postal affairs by the members of the Senate Committee on Postal Office and Civil Service except when major pay issues arose.¹⁰² Chairman Senator Gale McGee (D WY), for example, had a PhD in history, and was far more involved in his work on the Senate Committee on Foreign Relations.

Senator Ralph Yarborough (D TX) was an exception, largely because close ties with postal employee unions, as was Senator Ted Stevens (R-AK), because of the importance of the mail in Alaskan commerce and social life. Stevens, however, was seated in December of 1968 and therefore came into the process fairly late in the game.¹⁰³ Little attention was paid to the process in the Senate until the passage of the Postal Reorganization Act in the House became imminent. The pay issue, of course, had caught their attention, and a separate pay bill had been sent to Congress by Postmaster General Blount, a result of the letter carriers strike and its aftermath. Nevertheless, it was rather late in the game before the Senate committee staff and the Senators themselves came to think that a reorganization bill might pass the House of Representatives and land in their laps.

Sometime early in 1970, Chairman McGee asked his committee staff to prepare a separate Senate bill on postal reorganization. The principal difference between the Senate draft and House bill was in the rate-making area. Senator McGee was totally

¹⁰² Interview #21 in the Appendix.

¹⁰³ Personal recollection and interviews.

opposed to putting the ratemaking process directly in the new United States Postal Service, and he placed a provision into his draft bill creating a new Post Rate Commission that would control the ratemaking process.¹⁰⁴

The Senate Committee on Post Office and Civil held hearings on the Senate draft of the House bill. Ultimately the bill, with the addition of a new postal rate-making process and creation of a new Postal Rate Commission, passed out of the Senate Committee by a unanimous vote. The Senate passed the House bill, with its own series of amendments on June 30, 1970. After a series of conferences between the House and Senate, the final version of the legislation passed the Senate on August 3 and the House on August 6, 1970. The president signed the bill on August 12, and the new United States Postal Service began its life on July 1, 1971.¹⁰⁵

Public Law 91-375 created an “independent establishment” within the executive branch and abolished the Cabinet level Post Office Department. Governance of the new independent establishment was delegated to a nine member Board of Governors nominated by the President with the advice and consent of the Senate. The Board would hire the Postmaster General and Deputy Postmaster General to run the establishment, who would become members of the Board of Governors. It removed the Postal Service entirely from the political patronage system – all positions would be based only on merit

¹⁰⁴ David Minton. Interview #21 in the Appendix.

¹⁰⁵ Public Law 91-375.

and qualifications. The new law established a collective bargaining system for postal employees, including bargaining for wages and benefits (unique in the Federal system), under National Labor Relations Board supervision, and it gave a pay increase to all postal employees equaling 108% of the current rates of pay. There were, of course, many other provisions outlining the basic authority and structure of the new independent establishment.

Conclusion

The passage of the Postal Reorganization Act of 1970 is a good example of the “normal” process of legislation through Congress throughout much of the Twentieth Century up to that time, particularly legislation dealing with organizational rather than ideological issues. Participation in the process for these kinds of issues was basically bi-partisan – or nonpartisan – even though by the time of the passage of the Postal Reorganization Act of 1970, both Houses had been under Democratic control for a long period of time. All committee and floor votes reflect this, as do all of the personal interviews.¹⁰⁶ Also, none

¹⁰⁶ The interviewees for the process leading to the passage of the Postal Reorganization Act of 1970 were: Rep. Edward J. Derwinski (R-IL), a member of the Post Office and Civil Service and cosponsor of the reform legislation along with its chief sponsor, Rep. Morris Udall (D-AZ); George B. Gould, staff assistant on the House Post Office and Civil Service Committee, one of the key staff members working on the legislation; David Minton, Staff Director and General Counsel of the Senate Post Office and Civil Service Committee under Chairman Gale McGee (D-WY); Paul Carlin, Executive Assistant to Postmaster General Winton Blount; and David Nelson, General Counsel of the Post Office Department who worked closely with committee members and staff on various drafts of the legislation. All of these are listed in the Appendix.

of the procedures designed in later years specifically to enhance partisan control had been developed.

In the case of basic and long-term postal issues, several of which dated to the beginning of the republic, Kingdon's problem, policy, and political streams moved with existed only occasional merging, as is usually the case. This changed when a major policy window was opened of the Kappel Commission, following the collapse of the operations in the Chicago Post Office. The commission became the focal point for the disparate elements affected by the post office, both those looking for major structural changes and those who were not. Its report became the foundation for the development of postal reorganization legislation and for the first time engaged many disparate elements in the process.

The momentum toward ultimate postal reform came with President Nixon taking over the reins of government and soon recommending a complete reorganization of the Post Office Department. Almost coincidental with introduction of the bill that became the foundation for the final Postal Reorganization Act was the creation of a powerful new lobbying group that became an important part of the political stream. Citizens for Postal Reform was headed by a former Democratic Postmaster General and Chairman of the Democratic National Committee, Larry O'Brien and a former United States Senator and

Chairman of the Republican National Committee, Thruston Morton, and consisted of a remarkable group of major business leaders of all political stripes.

This process contained not one, but two defining events that were essential in moving things along. The collapse of operations in the Chicago Post Office in October of 1966 was the catalyst that began the process. The nationwide letter carriers strike in March of 1970 helped break the legislative logjam. This case study of the passage of the Postal Reorganization Act of 1970 is an excellent example of the dynamism of Kingdon's model in analyzing the public policy-making process.

Finally, the case study also shows the usefulness of Wilson's classification of issues in which voluntary organizations are enmeshed. In this case, concentrated costs and concentrated benefits described reasonably well the legislative process leading to the passage of the postal bill. There were winners and losers, though as mentioned above it was not a zero sum game. In the end, even a number of "losers" came around to support the bill (or at least not actively oppose it) because it strengthened the postal system, which was ultimately to the benefit of most of the participants in the lobbying on the bill.

CHAPTER 5: The Postal Service Accountability and Enhancement Act of 2006

The Passage of the Postal Reorganization Act did not end public discussion over the future of the Postal Service or its proper organization, the problem stream in particular kept rolling along. Several half-hearted attempts were made to develop some legislation in the mid-1970's, but to no avail aside from a small piece of legislation that required the newly formed Postal Rate Commission and the Postal Service to take into account the "educational, cultural, scientific, and informational value," of a piece of mail to the recipient when setting rates.¹⁰⁷ As described below, the process leading to the passage of the Postal Service Accountability and Enhancement Act of 2006 did not really begin until 1995 when the Republicans gained control of the House of Representatives and, more importantly, Representative John McHugh (R NY) became chairman of a new postal service subcommittee of the House Committee on Government Operations where legislative jurisdiction over postal issues was transferred from the Post Office and Civil Service Committee, which was terminated with the opening of the 104th Congress in 1995.

The process after that was more convoluted and took far longer to come to a conclusion. Nevertheless this case study will show once again that the fundamental process was

¹⁰⁷ 39 USC, Section 3622 (b)(8).

similar to the process leading to the Postal Reorganization. More important, the process was basically bi-partisan, even though partisan-based procedures had become much more prevalent in the ensuing thirty-six years. As in the previous case study, Kingdon's model of the policy process and Wilson's four-fold classification of issues, specifically those with concentrated costs and concentrated benefits, will be used to give some structure and understanding to the process.

The Problem and Policy Streams After 1970

After the passage of the Postal Reorganization Act of 1970, Kingdon's problem stream reasserted itself, though the policy stream would wander in from time to time. During the early years after passage of the legislation, the postal problem and policy communities grew and developed closer relations among the constituent parts. They had (and have) eight distinct groupings, discussed in no particular order of importance.

First, there were business users of the mail, ranging from "mom and pop" mailers, to some of the largest corporations in America. Included were those who use the mail themselves and their suppliers – printers, mail preparation services, transportation companies, advertising agencies, and consultants, to name the most prominent. Included among these companies were Time-Life Inc., Meredith Corporation, ADVO Systems (now Vallasis), American Express, RR Donnelly (a major printer and mailer of catalogs), L.L. Bean, and Sears-Roebuck.

Trade associations representing mailers of different classes of mail such as The Direct Marketing Association, Magazine Publishers Association, Advertising Mail Marketing Association (now known as the Association for Postal Commerce), Mail Order Association of America (catalogs), Parcel Post Association (now Parcel Shippers Association), Printing Industries of America, Financial Services Roundtable, Greeting Card Association, Association of American Publishers, the Newspaper Association of America (consisting primarily of rural and suburban newspaper who relied upon the mail for their delivery) and the Mail Advertising Services Association (now the Mailing and Fulfillment Service Association).

These represented different classes of largely business mail that had been second class (newspapers and magazines), third class (largely advertising mail), and fourth class (packages) and non-profit mail, which had lower rates in each of the classes.¹⁰⁸ Somewhat late in the process leading to the 2006 legislation were business associations representing businesses that used primarily first class mail became more involved in the three problem, policy, and political streams. These included organizations such as the American Bankers Association, the American Retail Federation, the National Federation of Independent Business, and the U.S. Chamber of Commerce.

¹⁰⁸ These classes have been renamed. The classes of mail now are: Priority Mail – mail expected to be delivered within one day; Express Mail – two or three day delivery; First Class – 2 to 4 day delivery; Standard Mail B (parcels) – 7-10 day delivery; Media Mail (books and films) – 7-10 days delivery; Standard A (bulk advertising – 200 piece minimum) – 1 to 2 weeks delivery; and Library rate for mail going to or from libraries. Each have their own rate structures.

At first blush, it might be expected that business leaders would philosophically support setting up the Postal Service as a private corporation, or some variation thereof. While stating that they supported the concept of privatization, however, business lobbyists made it clear that their primary focus was assuring a ratemaking regime that would place a cap, usually based on some variation of the consumer price index, on postal rate increases.

Nonprofit mailers were also deeply involved, concerned that they keep their lower rate status, mostly in advertising mail and magazine and newspaper rate publications. The most prominent and active of these was the Association of Nonprofit Mailers. Nonprofit members of the regular mail trade associations were also active through their respective associations

Next were business suppliers of goods and services to the Postal Service. These included the National Star Route Carriers Association (private truckers who carry mail under exclusive contracts), Pitney Bowes, Air Courier Conference Association, and the Air Transport Association.

Then there were competitors of the Postal Service. These included package and document delivery companies such as the United Parcel Service and Federal Express; many of the large newspapers (represented by the Newspaper Association of America) who compete with the Postal Service for the distribution of advertising; and potential competitors such as electronic communication firms. Here, too, the principal interest was

to prevent the establishment of what could be a formidable competitor in the advertising marketplace, regardless of whether the Postal Service was turned into a private corporation or not.

Next were postal employee unions and management organizations. The Postal Service is the most highly organized of all government agencies, partly because of its past political heritage and partly because it is the only federal agency that uses collective bargaining to set salaries, fringe benefits, and working conditions for its rank and file employees. The key postal employee organizations include the National Association of Letter Carriers (AFL-CIO), American Postal Workers Union (AFL-CIO), National Rural Letter Carriers Association, National Association of Postmasters, National League of Postmasters, and the National Association of Postal Supervisors. These organizations, several of which pack a considerable amount of political clout, were principally interested in keeping their jobs and fostering a climate beneficial to their own economic well-being. In general, they are very skeptical of privatization proposals. Nevertheless, several of them supported the more modest proposal discussed below because of their concern for the future of the Postal Service and their positions within it. Again, support for the theoretical concept of privatization was far from their minds.

Then there were executive branch officials. This group consisted almost entirely of top postal officials and members of the United States Postal Service Board of Governors. On the periphery were officials in other agencies dealing with communications, commerce

and the treasury. White House and Executive Office of the President officials were almost never considered part of the postal problem community, but when they did enter the fray they were very significant. One might have expected this not to be the case at least during the Reagan and Bush administrations. Privatization was a philosophical battle cry during the Reagan administration. The President's Commission on Privatization made a major recommendation for complete privatization of the Postal Service including elimination of its monopolies on letter mail.¹⁰⁹ Yet, after the commission disbanded, executive branch officials were seldom seen as part of the postal problem or policy communities (or, for that matter, the political stream) until very late in the process, with the relatively minor exception of international postal affairs, where the Departments of State and Commerce played significant roles. As will be discussed further, this was a major factor in the failure of Congress to come to any resolution on postal reform issues until 2006.

Another relatively minor exception, but one that created a great deal of angst in the general postal community, came in the later 1980's. The Postal Reorganization Act of 1970, while setting up the Postal Service as an independent operation similar to a corporation on a breakeven basis, did not remove it from the Executive Branch budget. Budget hawks in succeeding administrations would occasionally invade the postal budget to attempt achieve an overall balanced budget. In 1987, the Reagan administration forced the Postal Service to absorb a \$1.7 billion cut to alleviate major budget deficits in other

¹⁰⁹ *Privatization Toward More Effective Government -- Report of the President's Commission on Privatization*. President's Commission on Privatization: (Washington, D.C., 1988).

areas. This action caused Rep. Mickey Leland (D-TX), the chair of the House Postal Personnel and Modernization Subcommittee, and Rep. Frank Horton (R-NY), ranking minority member of the full House Committee on Post Office and Civil Service, to introduce H.R. 982, rather grandiosely titled “The Postal Reorganization Act of 1989.” The bill was introduced in the House of Representatives with 361 co-sponsors, giving modest support to the thesis of this paper. (The Senate equivalent, S. 2449, was co-sponsored by 74 members of the Senate.) Supported particularly by the postal unions and management organizations, the bill was signed by President H.W. Bush, taking the Postal Service off the budgetary table for the next twelve years. In spite of this, Executive Branch officials, including the White House, were only sporadic participants in the policy, problem, and political streams for a large part of the period covered.

And, of course there were members of Congress and congressional staff. Of particular prominence were the members and staff of the House and Senate subcommittees with postal jurisdiction, both authorizing and appropriations. However, this was a small and lonely group, since postal issues did not make the radar scope of most members of Congress and their staffs.

Finally, there were public policy research organizations – think tanks. In the thirty-six years between the passage of the Postal Reorganization Act of 1970 and the passage of the Postal Service Accountability and Enhancement Act of 2006 several Washington based “think tanks” did some significant work on postal issues. The Cato Institute held

workshops and sponsored research on the organization of the Postal Service during this period.¹¹⁰ The American Enterprise Institute also sponsored some work on the Postal Service¹¹¹, as did the Institute on the Economics of Taxation.¹¹² The primary function of those organizations was to keep alive the neo-classical economic concepts of privatization. The National Academy of Public Administration has also looked at the Postal Service from time to time, but in general it has exerted little influence in the overall legislative process, though its recommendations did have some influence on the internal operations of the Postal Service.¹¹³

The conservative CATO Institute held a series of workshops, seminars, and day-long meetings during the extended period that new postal reform legislation was being considered that included a large number of the organizations involved in lobbying for postal reform. The general approach was to push for complete privatization, but many ideas short of this cherished goal were discussed.¹¹⁴ The venerable middle-of-the-road

¹¹⁰ See for example, Douglas K. Adie, *Monopoly Mail: Privatizing The U.S. Postal Service*. (New Brunswick, N.J.; Transaction Publishers, 1989). The book and Adie's research was sponsored by the Cato Institute. Also Peter Ferrara, ed., *Free the Mail: Ending the Postal Monopoly*. (Washington, D.C.; The Cato Institute, 1990).

¹¹¹ See: J. Gregory Sidak, ed., *Governing the Postal Service*. (Washington, D.C.; The American Enterprise Institute for Public Policy Research, 1994).

¹¹² Schuyler, Michael A., *Wrong Delivery: The Postal Service in Competitive Markets*. (Washington, D.C.; Institute for Research on the Economics of Taxation, 1998).

¹¹³ In 1981, Postmaster General William Bolger asked the Academy to conduct a study of the Postal Service's operations subsequent to the passage of the Postal Reorganization Act of 1970 and recommend any desirable changes in the legislation. Their report was issued one year after the request, on July 1, 1982. National Academy of Public Administration. *Evaluation of the United States Postal Service: Report by a Panel of the National Academy for Public Administration*. (Washington, D.C.; National Academy of Public Administration, July 1, 1982).

¹¹⁴ Cato Institute, *Mail @ the Millennium: The Future of Private Postal Service*. Papers presented at a Cato Institute conference on December 2, 1998.

Brookings Institution also sponsored day-long seminars including many significant members of the postal problem community during the same period of time.

In addition to these diverse organizations, there were two commissions formed during the time frame of this chapter, 1970 – 2006, that added significantly to the debate over further postal reform efforts, one of which was a catalyst pushing toward the final passage of the Postal Accountability and Enhancement Act of 2006.

Early Moves in the Problem and the Policy Streams

Subsequent to the passage and implementation of the Postal Reorganization Act, there was a growing feeling among many in the postal problem community the issue needed another look – from some who believed that perhaps the legislation had not gone far enough and others who felt that it had gone too far. In 1975, Congress created a new Commission on Postal Service.

The appointments to this commission were made by the majority and minority leaders of the House and the Senate, with key recommendations coming from the chairmen and minority leaders of the two chambers' post office committees. Nevertheless, the

appointments were made largely without partisan considerations and the commission functioned on a nonpartisan basis.¹¹⁵

The chairman was Gaylord Freeman, honorary chairman (meaning retired) of the First National Bank of Chicago and the vice chairman was James H. Rademacher, the then retired President of the National Association of Letter Carriers. Rademacher also had played a major role in the negotiation leading to the passage of the Postal Reorganization Act of 1970. The commissioners included Rose Blakely, a Washington, D.C. businesswoman; David Johnson, General Executive Vice President of the American Postal Workers Union; Kent Rhodes, Chairman of the Board of the Reader's Digest Association; and Hobart Taylor, Partner in the Dawson, Riddell, Taylor, Davis and Holroyd Washington, D.C. law firm, and former staff member of the Equal Employment Opportunity Commission who coined the phrase "affirmative action." Rounding out the commission were two ex-officio members, Postmaster General Benjamin Bailar and Postal Rate Commission Chairman Clyde S. DuPont.

The commission held a full series of hearings throughout the country and commissioned a number of reports from academicians, think tanks, and consultant organizations. The

¹¹⁵ David Minton interview (#21 in the Appendix). Minton had a long career in postal related matters. As mentioned earlier in this dissertation, he was Staff Director and General Counsel of the Senate Post Office and Civil Service Committee when the Postal Reorganization Act of 1970 was passed. He became Staff Director of Commission on Commission on Postal Service in 1975. When the commission's work was finished two years later, he became counsel to the House Post Office and Civil Service Committee and ultimately served as General Counsel of that committee.

commission then expeditiously developed a broad series of recommendations. Virtually none of these recommendations were ever seriously considered in Congress, however.¹¹⁶

Concerns about the future of the Postal Service in the modern communications market continued to surface, however. Questions were being raised about the viability of paper-based communications systems with the steady increase of electronic communications. The fact that the development of the telegraph and the telephone systems, while viewed with alarm by postal traditionalists, did not seem to make a dent in the growth of paper based communications in the preceding century did not deter those who predicted the early demise of the Postal Service.

As early as January 1977, even before the Commission on Postal Service issued its report in April, the Department of Commerce's Office of Technology Assessment issued a report on what it termed the "postal crisis."¹¹⁷ The Postal Service was suffering some rather severe financial problems. Postal rate increases were much greater than the rate of inflation, and there was a slight decline in volume, the first since 1946. The report even quoted Postmaster General Benjamin F. Bailar as predicting that total mail volume would decline about 10% in the next four or five years, a prediction that was wildly inaccurate.¹¹⁸ At that time, the technology referred to in the report was "exchange

¹¹⁶ Commission on Postal Service, *Report of the Commission on Postal Service*. Vols 1-3. April 1977. (Washington, D.C.; United States Government Printing Office, 1977).

¹¹⁷ United States Department of Commerce, Office of Telecommunications, *The Postal Crisis: The Postal Function as a Communications Service*, (January 1977).

¹¹⁸ In 1976, total postal volume was almost 90 billion pieces. In 2000, it was more than 207 billion pieces.

communications” which were increasingly moving electronically. The impact of e-mail, modern electronic fund transfer technology, and electronic commerce on the Internet were only dimly reflected in the discussion. The report anticipated later concerns about the impact of electronic commerce on the postal service in the new millennium.

The impact of electronic communications on the Postal Service was the subject of the United States Congress Office of Technology Assessment report five years later.¹¹⁹ Sounding a familiar clarion call, the OTA asserted that, “two thirds or more of the mail stream could be handled electronically, and that the volume of mail is likely to peak in the next ten years and fall below today’s level sometime in the 1990’s.”¹²⁰ This was another remarkably wrong projection, exacerbated by the prediction that total mail volume would be about 70 to 100 billion pieces in 2000.¹²¹ Contrary to the prediction, 2000 volume reached more than 207 billion pieces.

The congressional researchers in 1982 did not know their projections were flawed (or to put it more accurately, premature), so they proceeded to suggest some avenues for reform to prepare for the coming disaster. They made many recommendations, but they were largely operational and did not involve large structural or financial changes. Nevertheless, the study was further evidence that the postal community was becoming

¹¹⁹ United States Congress, Office of Technology Assessment, *Implications of Electronic Mail and Message Systems for the U.S. Postal Service*, August 1982.

¹²⁰ Ibid. p. 5.

¹²¹ Ibid. p. 6.

more concerned with the impact of electronic messaging on the future of the Postal Service.

The concern, however, was not exclusively from those who wished the Postal Service well and wanted it to continue to grow and prosper. Masters of electronic communications were strong in their desire to keep the Postal Service out of the growing market that promised to revolutionize the way in which we communicate with one another. As antiquated as some viewed the whole concept of paper-based communication and physical delivery of messages, the Postal Service was still an economic behemoth that, if unleashed and reorganized, could dominate the electronic communications market, or so many thought. This fear of the potential competitive strength of the Postal Service was a significant driver of the postal reform debate.

The Postal Service sponsored two separate activities between 1992 and 1996 to develop ideas for improvements in postal operations and support for significant legislative reform. Although the doomsday predictions of the previous decades had failed to materialize, concerns about the future of the Postal Service persisted.

In 1991, the Postal Service created the Competitive Services Task Force for an in-depth examination of postal operations.¹²² The task force consisted of more than 60 representatives of mail users from all of the segments served by the Postal Service. An almost equal number of postal managers worked with each mail user segment. The task force was asked to identify why customers sought alternative delivery methods and define the barriers to using the Postal Service. While threats from electronic messaging and commerce were not specifically mentioned or examined, the belief that some major steps needed to be taken to fight mail volume erosion permeated the activities of the task force.¹²³

More significantly from a public policy perspective, a smaller but broader group of the postal policy community began to meet at about the same time in a series of private meetings to craft a major piece of postal reform legislation. Organized quietly by the Postal Service, the group consisted of between fifteen and twenty representatives of major mail users, related trade associations, postal employee unions, and postal management organizations, along with several Postal Service congressional affairs officials.¹²⁴ Among the groups represented were the National Association of Letter Carriers, the United Postal Workers Union. The National Association of Postmasters, the

¹²² Michael Critelli, Chairman and CEO of Pitney Bowes was co-chair with Deputy Postmaster General John Nolan. Critelli interview #10 in the Appendix.

¹²³ United States Postal Service, *Competitive Services Task Force Report*, August 1992.

¹²⁴ Interviews with George B. Gould, Assistant for congressional relations to the President of the National Association of Letters Carriers (Interview # 15 in the Appendix), Jim Cregan, Executive Vice President of the Magazine Publishers Association, (Interview #9 in the Appendix), and David Nassef Vice President for Federal Relations – Pitney Bowes (#23 in the Appendix.).

Direct Marketing Association, the Magazine Publishers Association, the Parcel Shippers Association, the Advertising Mail Marketing Association, Pitney Bowes (manufacturers of mail sorting equipment and postage meters), ADVO, Inc (major business advertising mail users), staff members of the House Post Office and Civil Service Committee, and staff members of the Government Relations Office of the Postal Service.

The group met frequently over a period of a year, occasionally in day-long sessions. The goal was to draft legislation that would be introduced by the chairman of the House Subcommittee on Postal Operations and Services, Representative Frank McCloskey of Indiana. The informal group meeting under the auspices of the Postal Service received encouragement from McCloskey, and on occasion a key member of the subcommittee staff participated in the meetings. McCloskey, however, backed off when he realized that any postal reform measure would be very controversial, though even the controversial issues would be bi-partisan, and he was facing a very close race for re-election (which he ultimately lost).

The Opening of a Policy Window?

In 1995, the House of Representatives tumbled into the Republican column for the first time since 1954, ultimately intensifying partisanship by several degrees of magnitude,

and intensifying the drive begun by the Democrats to restructure legislative procedures designed to enhance majority party control of the legislative process.

In their reorganization of the House of Representatives, the Republicans eliminated the Post Office and Civil Service Committee and transferred the jurisdiction over postal legislation to the Committee on Government Reform and Oversight. The committee created the Subcommittee on Postal Service chaired by Rep. John McHugh (R-NY).

This was McHugh's first leadership position in the national legislative milieu, and he vowed to take it seriously. While postal issues were decidedly minor in the overall congressional context, McHugh was impressed with the numerous voices calling for postal reform: from those predicting a postal disaster if the Postal Service could not become more competitive in a world mesmerized by the potential of electronic commerce, to those who called for privatization for both ideological and practical reasons. With the election of the first Republican Congress in forty years, interest revived in privatization or deregulation of some government functions, which had seemed to peak in the late 70's and early 80's. McHugh was interested in examining the possibilities of various forms of postal reform, and the window appeared to be opening.

McHugh decided to embark on a series of hearings to examine the current condition of the Postal Service, prognostications for its long term health, and recommendations for

improvements in the structure, financial health, and the overall role of the Postal Service in the economic and cultural life of the nation.

The hearings brought together the principal elements of the postal community, which even in the early stages of the legislative process held out the hope for major changes in the way the Postal Service served its customers. Recommendations for changes in the law were all over the lot, from complete privatization to a return, at least in part, to a more politically oriented system.

The effort was bi-partisan from the very beginning. The ranking minority member, Rep. Chakka Fatah (D PA), participated early in the process, and the majority and minority staffs worked closely together in organizing the hearings and in developing the legislation that was developed upon completion of the initial set of hearings on postal reform. The bi-partisan nature of the ten year legislative process was emphasized by virtually every interviewee.

After this extensive get-acquainted period, McHugh introduced legislation he described as “... the first comprehensive reform effort involving the U.S. Postal Service since the Postal Reorganization Act of 1970.”¹²⁵ Reflecting the concerns of many, McHugh said, “... changing market conditions and advances in communication technology necessitate

¹²⁵ H.R. 3717, *The Postal Reform Act of 1996*. 104th Congress. Joining McHugh as a cosponsor was Rep. William Clinger, Chairman of the Committee on Government Reform and Oversight.

that Congress revisit the legislative infrastructure of the Postal Service to ensure its continued viability and financial well-being into the next century.”¹²⁶

A Tortuous Legislative Process Begins

H.R. 3717 (and its successors in subsequent Congresses) was extensive, but hardly revolutionary, particularly when compared to postal reform in several other countries, and even the original Postal Reorganization Act of 1970.¹²⁷

The most significant changes to the Postal Service came in the area of finance and pricing. The bill removed the requirement that the Postal Service breakeven. The Postal Service would, for the first time, be allowed to make a profit on any or all of its products. Postal products were divided into two primary categories: competitive and noncompetitive. The noncompetitive category included both monopoly products (first class letters, for example) or material for which there is “no significant alternative” to the Postal Service (such as magazines). Rates for this category could be set annually without going through the current extensive ratemaking process. The new rates could not exceed a cap based on the increase in the Gross Domestic Product and an “adjustment factor”

¹²⁶ U.S. Congress, *Congressional Record*, June 25, 1996, pp. E1159 and 1160.

¹²⁷ H.R. 3717 was drafted largely by Rep. McHugh’s subcommittee staff, with substantial help from one of the lobbyists on the bill, James Campbell, who was a legislative counsel for Federal Express and a legal consultant to others on postal matters. He was drafted to help in the legislative drafting not because of his lobbying activities, but because he had been on the U.S. Senate staff and was considered expert in legislative draftsmanship. Interviews with James Campbell (Interview #4 in the Appendix), and subcommittee staff members Dan Blair (Interview #1 in the Appendix) and Robert Taub (Interview # 26 in the Appendix).

designed to reflect productivity changes, value of service, and other cost of service considerations. The adjustment factor would be determined in a Postal Rate Commission proceeding conducted every five years. Rates for the competitive categories could be set by the Postal Service essentially as private enterprise sets rates, except that Postal Rate Commission oversight would assure that there would be no cross-subsidies from the monopoly classes and rate adjustments would be limited to one per year. Of growing significance to many large mailers, the bill also gave authority to the Postal Service to negotiate volume discounts with individual mailers.

H.R. 3717 eliminated the small appropriations authorized to compensate the Postal Service for, among other things, free mail for the blind and handicapped and the billion dollar tab incurred by previous legislation altering postal ratemaking for nonprofit classes of mail, thus removing the last significant link the Postal Service to direct Congressional control over postal operations. The bill also allowed the Postal Service to utilize private financial markets for both investment and financing, with the approval of the Secretary of the Treasury.

H.R. 3717 was notable partly in what it did not do. Although difficult labor-management relations were cited as one of the four issues in McHugh's preliminary studies, the bill did nothing more than establish a study commission. McHugh believed that any attempt to change labor-management laws would receive such strong opposition from postal unions that postal reform efforts would be doomed from the start. The bill also did not

significantly alter the Private Express Statutes, except to exempt from the monopoly any letter mail that cost more than \$2 to send. It also established a Mailbox Demonstration Project “to determine the feasibility and desirability of allowing non-postage bearing matter to be deposited in private letterboxes.”¹²⁸ This provision was so unpopular with the Postal Service and postal unions that it was summarily dropped from subsequent postal reform bills.

The bill contained several other less significant features. Two of them, the establishment of an Office of Inspector General for the Postal Service and increases in compensation for the Postal Service Board of Governors, subsequently became law in separate legislation.

The Postal Service Subcommittee then embarked on another series of hearings to vet the legislation and look for a middle ground that would allow a broad enough coalition to coalesce into a force that could ensure passage of some form of postal reform. In an important sense, the hearings neither covered new ground nor laid the groundwork for future compromise. The hearings did, however, dramatize the complexity of what the uninitiated might view as a simple problem with a simple solution. And they provided fertile material for the revisions to H.R. 3717 that were to follow.

Four principal threads, reflecting four of the major groups in the postal policy stream, wove their way through the hearings and years of lobbying activity that followed the H.R. 3717 hearings:

¹²⁸ H.R. 3717, 104th Congress. Section 704.

1. Postal competitors were concerned that the new Postal Service would have the power and special circumstances as a government agency to compete unfairly and to use profits from their monopoly services to subsidize other products and services.
2. Mail users looked forward to a more efficient, cost-effective, business-like Postal Service. Their main concern was that the mail would remain essential to their businesses in spite of the growth of new communications systems. They believed that unless the Postal Service could utilize the efficiencies of the marketplace in a business-like manner, the mail would become exorbitantly expensive. However, innately suspicious of government enterprises, they also wanted strong regulatory constraints on the pricing of monopoly products and services in the form of a cap on potential rate increases.
3. Postal employees were most concerned with preserving their jobs and protecting their rights to negotiate or consult with postal management on pay, benefits, and working conditions. Different opinions of how these goals could be achieved led to widely varying positions on the details of reform legislation.
4. Postal management wanted to maximize its ability to function as a business in the market economy and minimize any regulatory constraints.

The defining characteristic of the postal reform debate during the next three years was that these participants did not change their basic positions.¹²⁹ Changes made in McHugh's bill did not alter the primary thrust of the legislation. The positions of the participants only became stronger.

None of the participant groups were completely cohesive, unified entities. They tended to coalesce on some issues and pull apart on others, common in the Washington political culture. And there were many alliances on specific issues that cut across group lines. For example, some elements of the mail user group found themselves in the competitors' camp as well. Companies specializing in mail preparation had a strong interest in supporting a viable and economical Postal Service, but at the same time were concerned that an unfettered Postal Service could compete with them. Most postal employee organizations were just as interested in creating a financially healthy Postal Service as major mailers were, but differed on some of the specifics of how that goal could be reached.

The United Parcel Service was the archetype of the postal competitors. Highly focused and remarkably aggressive, UPS viewed the Postal Service as its principal competitor in the business world and adversary in the legislative world. UPS chairman Kent C. "Oz" Nelson stated this view unequivocally in his H.R. 3717 testimony: "...the Postal Service

¹²⁹ U.S. Congress, House Committee on Government Reform. *H.R. 22, The Postal Reform Act of 1997*. Hearing Before the Subcommittee on the Postal Service, 105th Congress, First Session, April 16, 1997, Serial No. 105-40. (Washington, DC; U.S. Government Printing Office, 1997). And -- U.S. Congress, House Committee on Government Reform, *H.R. 22, The Postal Modernization Act of 1999*. Hearings Before the Subcommittee on the Postal Service, 106th Congress, 1st Session, February 11 and March 4, 1999, Serial No. 106-16. (Washington, DC; U.S. Government Printing Office, 1999).

uses revenues from its monopoly to subsidize its rates and services in competitive markets.”¹³⁰ Pointing specifically to the international mail market, where the USPS and UPS were going head-to-head in competition for packages, Nelson charged that the Postal Service was pricing international package mail below cost:

Nor has the Postal Service been shy about making full use of its government agency status even as it ups the competitive ante with the private sector. It has been able to obtain special privileges through a number of foreign postal administrations, expedite customs clearance procedures for packages in its new Global Package Link Service, and is in the process of obtaining radio frequencies worth tens of millions of dollars in the private sector on terms available to it only because of its governmental status. This aggressive competitive activity, backed by an estimated \$20 million a year advertising budget, would be admirable for a private sector competitor. I find it appalling that it comes from a government agency. ... Private sector businesses do not have a monopoly exceeding \$42 billion, nearly 80% of their revenue. Private sector businesses make a profit over time, or go bankrupt. Private sector businesses pay taxes, and private sector businesses compete on a level playing field in the same regulatory environment. The Postal Service meets none of baseline criteria which would qualify it as a business, nor would it **even if the proposed legislation were signed into law tomorrow.**

Nelson endorsed some of the minor aspects of the bill, but strongly opposed the postal ratemaking provisions. While UPS did attempt to work with committee staff to come up with acceptable ratemaking language, the effort failed, and UPS remained strongly opposed to postal reform legislation until near the end of the process several years later.

Other postal competitors expressed similar views, though with less intensity and more willingness to compromise. Fred Smith, founder, chairman and CEO of Federal Express

¹³⁰ Ibid. Nelson’s testimony appears on pp. 896-908. Emphasis added. An added note, no United Parcel official, past or present, would agree to be interviewed by the author.

emphasized, “The emergence of new competition [to the Postal Service] does not, however, offer an obvious justification for allowing the Postal Service to compete vigorously. ... Government participation in a competitive market is always disruptive. A government ‘corporation’ – which does not need to make a profit, does not answer to shareholders, loads its fixed costs on a legal monopoly, and cannot go out of business – behaves so differently from private competitors that it distorts the entire market.”¹³¹

Smith concluded his testimony in a similar vein.

As the Postal Service competes more and more with private industry – whether because of changing circumstances or its own business decisions – it must be allowed, and required, to compete on terms that are substantially identical to those faced by private competitors. ... In short, on the day when the Postal Service truly faces intense competition in every area of its business, there will no longer be any public policy justification for a governmentally owned and operated Postal Service. The only viable policy will be to repeal all postal laws and sell the Postal Service to the public. This may be the inevitable fate of the Postal Service; inevitable because of the logic of changing communications technology. I suspect that it is.¹³²

Smith, and Federal Express, came around to support McHugh’s postal reform legislation after several revisions were made. However, the position expressed by Smith in this testimony still formed the foundation of the arguments of many competitors against the legislation as it was ultimately passed.

¹³¹ U.S. Congress, House Committee on Government Reform and Oversight. *H.R. 3717, The Postal Reform Act of 1996*. Hearings Before the Subcommittee on the Postal Service, 104th Congress, Second Session, July 10 and 18; September 17 and 26, 1996. (Washington, DC; U.S. Government Printing Office, 1997), p. 870.

¹³² *Ibid.* p. 890.

The convenient merging of some mailers' interests with some competitors' interest is reflected in the testimony and subsequent lobbying activity of the Main Street Coalition for Postal Fairness. The focus of the coalition was on first class mail, of particular interest to members such as the American Banking Association, Greeting Card Association, and national consumer organizations. However, the coalition also consisted of organizations such as the Newspaper Association of America, whose members compete with the Postal Service in the delivery of advertising to homes and places of business, mostly in the form of "free standing inserts" or advertising flyers in the eyes of the average citizen. The connection may not be readily apparent to the layman.¹³³

The answer lay in the arcane world of postal ratemaking cases. They were largely struggles between the two largest classes of mail, First Class, or personal and business correspondence of all forms, and "Standard A"(formerly Third Class) mail that consists primarily of advertising, solicitations, issue advocacy, and other types of mail not meant for a specific individual. The overhead costs of the Postal Service, between 35 and 40% of all costs, were allocated among the classes of mail according to principles other than purely cost-based analysis: value of service and the "economic, cultural, scientific, and informational"¹³⁴ value of the mail for example. This was a huge pot of money, and the bulk of it was distributed between the two largest classes of mail. First class users had long been concerned that more institutional costs were assigned to them than to Standard

¹³³ The Newspaper Association of America's newsletter recently ran a significant piece describing their position on postal competition: Ann Lallande, *Direct Marketing: Do or Don't?*, Presstime, (November 1999).

¹³⁴ Title 39 United States Code, section 3622 (b)(8). This provision was added to Title 39 in 1977 after an intense lobbying campaign by, among others, major newspaper, book, and magazine interests.

A mail. They were even more concerned that a more competitive Postal Service would favor large volume Standard A mailers, causing their own postal costs to spiral even higher.

Thus, newspapers and first class mailers found that they had a common cause. Both had an interest in relatively higher rates for advertising mail: the newspapers to ease their competition for advertising dollars and the first class mailers to keep their prices down. Both believed that rates under then current law were skewed in favor of advertising mail to the detriment of first class mail. Both were concerned that postal reform legislation would perpetuate and even exacerbate what they perceived to be an inequity. John Sturm, president and CEO of the Newspaper Association of America, stated the position very clearly in his testimony. Those interests remained opposed to the postal reform legislation until some changes were made in the new ratemaking process set up in the final legislation.

Mail users, other than those mentioned in the postal competitors group, were among the most vocal supporters of McHugh's postal reform proposals, though even among these there was some ambivalence on specific provisions. Support for McHugh was strongly expressed in the final report of the Postal Service's Blue Ribbon Committee, a committee formed by the Postmaster General in 1996 of the CEOs of several mailing giants to give postal management the benefit of their business expertise in plotting the future of the

Postal Service.¹³⁵ The committee's final report supported McHugh's legislation "wholeheartedly." Several mail user groups testified at the original H.R. 3717 hearings expressing general support, but making several recommendations for "improvements." Timothy May, General Counsel of the Parcel Shippers Association, spoke for most large advertising mailers. Referring to the growth of electronic commerce on the Internet, May testified, "...when a new generation of buyers, completely comfortable buying, ordering, paying and conversing through the Internet arrives on the scene what is now a trickle will become a flood. Each loss of a customer will weaken the Service a bit, and render the Service less efficient and more costly for the customers that remain. Legislation like H.R. 3717 can enable the Postal Service to remain a viable and communications and distribution partner for the future."¹³⁶ In spite of their support, representatives of mailers made many recommendations for changes in the bill. Most of them involved a tightening of the ratemaking provisions. Mailers were willing to give the Postal Service more flexibility in setting rates to meet the competition, but not that much flexibility. They consistently argued for tighter caps on postal rate increases in the new, more relaxed regulatory environment, and wanted the ability to negotiate individual contracts with the Postal Service for delivery.

Postal employee unions and management organizations had conflicting and conflicted views about postal reorganization. All of the postal employee organizations had been involved in the postal reform policy debate. The two largest unions, the National

¹³⁵ U.S. Postal Service, *The Report of the Blue Ribbon Committee*, (August 1997), p. 47.

¹³⁶ H.R. 3717 hearings, op.cit., p. 465-466.

Association of Letter Carriers and the American Postal Workers Union, were reflective of them.

The unions in particular were very concerned that any postal reforms not affect the collective bargaining process begun in 1971. Key to their concern was the cap on rate increases proposed in every draft of McHugh's postal reform legislation. A price cap translated to a wage cap in the minds of many union leaders, and that would have been an anathema to their members. The unions also strongly opposed anything that smacked of "privatization" of the Postal Service. This would mean almost any increased authority to contract out basic mail handling and delivery functions, an authority implied in almost any postal reform legislation. The unions in particular were very concerned about a provision written into later versions of the McHugh bill that would have allowed the Postal Service to establish a completely independent private law corporation. This separate company, owned by the Postal Service but otherwise separate from it, would have been able to do almost anything a private company can do. Both postal unions and postal competitors were strongly opposed to a Postal Service owned and operated by a private law corporation.

Nevertheless, postal employee leaders did worry about the future of the Postal Service, though they had few meaningful recommendations for change. The American Postal Workers Union was consistently hostile to most major postal reform proposals. Three years after the first hearings on postal reform legislation, APWU's long time president,

Moe Biller, once again strongly opposed postal reform legislation and a price cap, "...in a labor-intensive industry, a price cap inevitably pushes downside risk of adverse changes in price or market conditions onto workers while ... the upside benefits of low inflation and a growing economy are retained by mailers and managers. We cannot acquiesce to creation of this sort of scenario."¹³⁷

The National Association of Letter Carriers' position was for the large part one of benevolent neutrality, though in the end, it supported the legislation – or at the very least did not oppose final passage in 2006. Concerned about price caps, the Letter Carriers, however, were convinced that they were as evil as Moe Biller believed. The letter carriers made a considerable effort to study all of the issues and expressed deep concern about the future of the Postal Service. It held retreats for the national and local leadership to study the competitive threats to the Postal Service and, in early 1997, published a series of articles on postal reform issues both in the United States and abroad in an effort to inform its membership and educate them on the ultimate necessity for change.¹³⁸ Nevertheless, it did not strongly endorse any postal reform efforts, though its representatives participated in any number of public and private meetings designed primarily to promote passage of reform legislation.

¹³⁷ U.S. Congress, House Committee on Government Reform, *H.R. 22, The Postal Reform Act of 1999*, Hearings Before the Subcommittee on the Postal Service, 106th Congress, 1st Session, (Washington; D.C., U.S. Government Printing Office, 1999). The hearings were held on February 11 and March 4, 1999. For Biller's testimony see pp. 253-268.

¹³⁸ The articles are contained in the National Association of Letter Carriers monthly publication, *The Postal Record: Reshaping the Postal World to fit a Changing World: Part 1: Threats and Opportunities*, Vol. 110, No. 5, May 1997; *Part 2: The Quest for a Successful Evolution*, Vol. 110, No. 6, June 1997; *Part 3: Change Challenges the World's Services*, Vol. 110, No. 7, August 1997.

From a lobbying perspective, postal management operated under a handicap, partly self imposed and partly imposed by law. Theoretically, government agencies cannot “lobby” Congress in the traditional sense of organizing to influence the outcome of legislation. But anyone who has studied Congress knows that federal agencies use their broad mandate to “inform” Congress to make their point of view clearly known. (This was certainly obvious in the very strong lobbying operation Postmaster General Winton Blount and his staff conducted during the process leading to the Postal Reorganization Act of 1970.) They may not actually organize coalitions, raise political money, and stir up the grass roots, but there are plenty of ways that federal agencies can and do influence Congress. Throughout the course of postal reform during several Congresses, it was unclear to many exactly where the Postal Service stood on the legislation itself. As Robert Taub, McHugh’s Chief of Staff, said in an interview, “The Postal Service didn’t really make a big difference. They were not as politically savvy as they should have been. If the USPS had participated effectively, they would have gotten more of what they needed or wanted.”¹³⁹

Part of this was because top management of the Postal Service was very sensitive to charges that it was “lobbying.” It, therefore, low keyed strong positions on most pieces of legislation, preferring to play the public role of responding to Congressional enquiries rather than acting as an advocate in the traditional lobbying sense. Postmaster General Runyon played this role in the early hearings on postal reform. While setting the

¹³⁹ Interview #26 in the Appendix.

framework for other's support of postal reform, postal officials largely played the role of information providers to the process, at least in public. As the debate progressed, however, the Postal Service began to develop more pronounced positions on various aspects of McHugh's bill, particularly in the setting of postal rates and the establishment of a private law corporation to extend the Postal Service's ability to develop business outside traditional postal products.

The Postal Service was placing itself in an increasingly frustrating position; frustrating to friendly lobbyists who wanted unequivocal support, and frustrating on the part of McHugh and his staff who were looking to craft a meaningful piece of legislation that could be enacted into law. McHugh's (and others') frustration came to a head during the final postal reform hearings early in 1999. Citing a "recent article" McHugh bluntly asked Postmaster General William Henderson:

Major mailers active in postal reform efforts are beginning to suspect that the Postal Service wants to kill H.R. 22 [McHugh's postal reform legislation in the 105th and 106th Congresses]. ...So I want to make it very clear here today, one way or another, is it your and the Postal Service's intent to kill this effort or are you supportive of this effort as we are currently under way? And, as part of that, are we to understand that your position is that, without all of the amendments that you have submitted, H.R. 22 is not helpful?¹⁴⁰

The Postmaster General was immediately forthcoming. "Well, let me make sure that there is no ambiguity. We are absolutely, positively not out to kill H.R. 22." Even so, Henderson promoted numerous Postal Service amendments, some rather substantial,

¹⁴⁰ U.S. Congress, House Committee on Government Reform, *H.R. 22, The Postal Modernization Act of 1999*. Hearings Before the Subcommittee on the Postal Service, 106th Congress, 1st Session, February 11 and March 4, 1999, Serial No. 106-16. Washington; DC; U.S. Government Printing Office, 1999.

including shifting most of their products to the competitive category for ratemaking purposes, thus removing them from the more restrictive ratemaking provisions for the noncompetitive category.

Two months later, after negotiations with McHugh's staff had been completed and some, but by no means all, of the Postal Service amendments had been incorporated into the bill, Henderson issued a statement strongly supporting H.R. 22. "All along, I have consistently said postal management was committed to working with Congressman McHugh to bring about progressive change. Today, I want you to know postal management wholeheartedly supports H.R. 22."¹⁴¹

Work on the bill continued until McHugh felt he was ready to bring it up for markup in the subcommittee. After a moderately contentious debate in subcommittee in which several amendments were considered and adopted, the bill was then sent to the full committee for consideration. It was felt that even though there were some unresolved conflicts, it was ready for prime time in the committee and ultimately on the floor of the House of Representatives.

It was the year 2000, however, and Congress was in a wind down mode in anticipation of the November presidential and congressional elections. There was a question whether the bill would be scheduled by the Speaker prior to the adjournment of the 106th

¹⁴¹ United States Postal Service, *Changes Make Postal Reform Good for Industry, America, Postmaster General Tells Mailers Convention*, Release No 40, May 17, 1999.

Congress sine die. Chairman Dan Burton (R-IN) brought the bill up in committee anyway under the assumption that the Speaker would schedule the bill, though he had no assurances.

After some discussion of the bill, ranking minority member Rep. Henry Waxman (D-CA) pressed the chairman as to whether or not he had received specific assurance from the Speaker that the bill would be scheduled and if so, when it would be taken up. When Burton could not provide that assurance, Waxman indicated that he would then vote against reporting the bill out of committee since he felt that more work should be done on it. Waxman's pronouncement effectively killed the bill; the final vote to report the bill was 19 nays to 6 ayes.

While there was a good bit of partisan antagonism between Burton and Waxman, all interviewees who were working on the legislation at the time agreed that it was not partisanship that motivated Waxman, but irritation that Burton had been unable to get a commitment from the Speaker and the belief that improvements could be made. If there would be no bill on the floor subject to amendments, then they might as well keep the measure in committee for further work. The lopsided vote against reporting was also bipartisan.

Another Policy Window Opens: The President's Commission on the United States Postal Service

The failure to report the bill close to the end of the 106th Congress was viewed by many as the death of postal reform. All was not over, however. Concern about the future of the Postal Service had continued to grow in the postal policy community. A number of studies suggested that the long-time alarms about electronic mail undercutting the principal market of the Postal Service were, in fact, beginning to come true. First Class mail volumes were beginning to soften and threatening to decline and the long-range financial picture was looking bleak.

Neither the White House nor the executive branch had showed any public interest or concern during the long gestation period (other than, of course, the presidentially-appointed USPS Board of Governors). The White House had, however, been keeping in contact with many of the participants of the postal policy community, and sentiment within the White House slowly began to coalesce around presidential involvement. Finally, the president on December 11, 2002, appointed a blue-ribbon Commission on the United States Postal Service.¹⁴² The commission was required to report its findings and recommendations on the future organization of the Postal Service by July 21, 2003, a very ambitious deadline. The president designated the Department of the Treasury as the agency to provide staff and technical support, and funding for the commission. This

¹⁴² Executive Order 13278 of December 11, 2002: President's Commission on the United States Postal Service. *Federal Register*, Vol. 67, No. 240, Friday, (December 11, 2002). p. 76671.

would prove an important step in tying the executive branch in to support of the final product, and also in ensuring at least some support from the president.¹⁴³

The members of the commission were, as were the members of the earlier President's Commission on Postal Organization, drawn largely from business and academia and had little direct involvement with the Postal Service or, for that matter, in partisan politics. The one overtly political member of the commission was a former Republican member of Congress and president of a major lobbying operation in Washington, D.C.

The members and their affiliations were:

- James A. Johnson, Vice Chairman of Perseus, LLC – Co-Chair.
- Harry Pearce, Chairman of Hughes Electronic Corporation – Co. Chair.
- Dionel Aviles, President of Aviles Engineering Corporation.
- Carolyn Gallagher, former President and CEO, Texwood Furniture.
- Richard Levin, President of Yale University.
- Norman Seabrook, President of the New York City Correction Officer's Benevolent Association.
- Robert Walker, Chairman and CEO, Wexler Group.
- Joseph Wright, President and CEO, PanAmSat.

¹⁴³ A particularly valuable source of information about the functioning of the commission and the value of its final product came from an interview with Roger Kodat, Deputy Assistant Secretary, Government Financial Policy, Department of the Treasury (Interview #17 in the Appendix). Kodat was the Treasury Department liaison to the commission.

The commission went to work immediately, holding a nationwide series of hearings and conducting a number of staff and commissioned studies on key issues. During the work of the commission, virtually every member of the postal problem and policy community – business, Congress, labor, think tanks, academics, government officials, and former and present postal officials - participated in one way or another – testifying at the hearings and submitting detailed policy papers. The commission, remarkably, completed its work in record time and met its deadline, issuing its final report on July 31, 2003.¹⁴⁴

The recommendations included several which required legislation and more that suggested internal Postal Service organization and services. The principal recommendations for legislation which would change elements of the functioning and organization of the Postal Service included:

- Changing the governing structure to a corporate-like Board of Directors: three of whom would be appointed by the President, eight of whom would be selected by the three presidential appointees and approved by the Secretary of the Treasury, and the Postmaster General (appointed by the Board of Directors).
- Giving the Board of Directors and postal management total authority to manage the Postal authority with no statutory limitations.

¹⁴⁴ President's Commission on the United States Postal Service. *Embracing the Future: Making the Tough Choices to Preserve Universal Mail Service*. Report of the President's Commission on the United States Postal Service, July 31, 2003. Washington D.C.; Government Printing Office, 2003.

- Replacing the Postal Rate Commission with a new Postal Regulatory Board with broad regulatory authority over the Postal Service, but a more limited role in setting postal rates.
- Establishing new parameters for the ratemaking process with an “incentive based rate-setting methodology.
- Creating a Postal Network Optimization Commission, similar to the Defense Base Closure and Realignment Commissions, that would make recommendations regarding the closure of postal facilities that would become final 45 days after issuance of the recommendation unless Congress disapproved. The commission would consist of eight commissioners nominated by the President and approved by the Senate.
- Eliminating the statutory pay cap on salaries and establishing of rates of pay comparable to private enterprise.
- Authorizing collective bargaining for the Postal Service’s pension and post-retirement health plans.

The commission’s recommendations were far-reaching and would have made major changes in the structure, administration, and operations of the Postal Service. They re-energized the policy community and placed the issue of postal reorganization on the congressional agenda in both the House and the Senate once again. (In the previous efforts, the Senate had been noticeably absent.) Thus, we now had the significant involvement of key players in the three institutions crucial for the success of most

legislative endeavors, according to Kingdon, Pfiffner,¹⁴⁵ and other prominent scholars of the governmental process: the House, the Senate, and the presidency (in this case including both the White House and the Treasury Department).

Both House and Senate committees with postal jurisdiction held hearings on the commission's recommendations and began developing legislation that would incorporate all or part of the commission's recommendations along with suggestions from witnesses with which they agreed. One joint hearing was held with the House Government Reform Committee and the Senate Governmental Affairs Committee, an unusual event.¹⁴⁶

Another significant factor in this government-side equation was that the issue of postal reorganization was not a partisan issue in Congress, a basic thesis of this study. The Democratic and Republican leaders and their staffs on both the House and the Senate committees of jurisdiction worked together on postal reform legislation. This was emphasized over and over again in the interviews conducted with staff members of both Democratic and Republican leaders in the postal reform legislative process. Richard Boykin, Chief of Staff to Representative Danny Davis (D-IL), one of the chief sponsors of the legislation and a key subcommittee and committee member, said that Representative Davis "jumped at the chance" to work with Representative McHugh on

¹⁴⁵ James Pfiffner in his *Modern Presidency*, analyzes at some length the growth of the presidency's role in the legislative process, to the point now where the presidency can now be considered the principal influence in the federal legislative process, a situation never anticipated by the Founding Fathers.

¹⁴⁶ The House Government Reform Committee hearings were held on January 28, February 5 (in Chicago), and February 11, 2004. The Senate Governmental Affairs Committee Hearings were held on March 9, March 11, and April 7, 2004. The joint hearing was held on March 23, 2004.

postal reform.¹⁴⁷ “People [members of Congress] are not partisan,” about quality postal service, Boykin added. Jack Calendar, Republican staff attorney for the Government Operations Committee agreed, saying that, “there were contentious issues, but not along partisan lines.”¹⁴⁸

The Final Journey Down the Political Stream: The Streams Come Together

There was still a long way to go before a new postal reform bill would pass Congress and become law, and ultimate passage was still not a foregone conclusion. But the Commission’s work and final report kick-started the House and Senate hearings and the legislation that followed.

A crucial element was that members of the Senate, and particularly key members of the Senate Governmental Affairs Committee, joined the postal reform political stream as a permanent fixture, where they had been only intermittent participants before 2002. Specifically, Senator Susan Collins (R-ME), chair of the Senate Governmental Affairs Committee, joined with committee member Senator Thomas Carper (D-DE) to develop postal reorganization legislation; another example of the bipartisanship that marked the issue both in the development of the Postal Enhancement and Accountability Act of 2006 and the Postal Reorganization Act of 1970.

¹⁴⁷ Interview #2 in the Appendix.

¹⁴⁸ Interview #3 in the Appendix.

None of this is meant to imply that there was no opposition to various legislative proposals; there was. United Parcel officials, for example, were extremely skeptical of any legislation that would provide both financial and organizational resources that could allow the Postal Service to compete more effectively with private enterprise. The American Postal Workers Union was opposed to any moves it felt would weaken postal workers collective bargaining over wages and benefits, allow mail preparation services to be shifted to private enterprise either through signing contracts with private companies or through the ratemaking process, or even allow closing of many facilities for cost savings. APWU maintained its opposition to most postal reform proposals until the last minute in 2006.

Congress, however, did not leap into immediate action after the report of the commission was released. The Senate Governmental Affairs Committee did not complete its series of hearings on the commission report and various postal reform proposals until April, 2004. On May 12, a postal reform bill, H.R. 4341 sponsored by Rep. John McHugh (R NY) and a bipartisan group of committee members, was reported unanimously out of the House Government Reform Committee. This was followed soon thereafter by the introduction of S. 2468 sponsored by committee chair Senator Susan (R-ME) and Senator Thomas Carper (D-DE) and its almost immediate reporting out of the Senate Governmental Affairs Committee, also by a unanimous (and bi-partisan) 17-0 vote on June 2, 2004.¹⁴⁹

¹⁴⁹ Allen, Jonathan and Adam Satariano. "Bipartisan Efforts Could Make Postal Service Overhaul a Reality." *CQ Weekly Online*. (June 5, 2004): pp. 1344-1345. <http://library.cqpress.com/weeklyreport108-000001187614>.

The House Judiciary Committee approved H.R. 4341 by voice vote on September 15, 2004. The Judiciary Committee had partial jurisdiction over the bill because it created a new Postal Regulatory Commission to replace the Postal Rate Commission and gave the new commission broader regulatory authority over the Postal Service while reducing somewhat the commission control over the ratemaking process, similar to the recommendation made by the President's Commission on the United States Postal Service.

The Senate and House bills were similar in approach, but they did contain some differences. Significantly, both also contained language that would have shifted the responsibility from funding retirement benefits for postal employees who had prior military service from the Postal Service back to the U.S. Treasury. Tens of billions of dollars were involved, and the administration was very much against these provisions because it would increase the executive branch's deficit. The Postal Reorganization Act of 1970 removed the Postal Service from the unified executive branch budget, thereby increasing the temptation to shift major costs to the Postal Service and thus remove these expenses from the unified budget. The administration had managed to shift the funding of these retirement benefits to the independent Postal Service budget just the year before (PL 108-18). No other federal agency was required to do this, but it made no difference to the government's deficit posture since the benefits still came out of the unified budget.

And this is where things remained for a fairly long period of time. One of the mailing industry's newsletters described the situation:

Taking a trip is a science: get on the right road and you end up where you want to be. Of course, you have to have instructions – a map – to offer clear guidance. --- By contrast, the legislative process is art: there may be a few written rules to suggest a path, but those who successfully navigate the process do not do so because of their map reading ability, but because of their superior talents for persuasion, influence, and situational management. ...

Many mailers, being average citizens and strangers to life inside the Beltway, may have thought that, when the when the President's Commission delivered its report last July, Congress would heed those recommendations and duly produce legislation in which the recommendations could still be recognized. As those mailers who have been paying attention long ago realized, that was not the case.

Instead, when postal reform entered the Congressional process the arcane art of politics took over. In other words, postal reform went into an unmarked institutional wilderness where its survival would depend on the skills of its native guides more than on its own objective merits.¹⁵⁰

The overwhelming Senate and House Committees votes to report the postal reform bills were deceptive, as suggested by the above newsletter excerpt. While there was a broad belief among the major players (and most of the minor ones) that some sort of postal reform was necessary to save a venerable institution, there was little broad agreement on the best way to achieve it. Almost all of the participants in the political stream had something they really disliked in the bills, or something that was not in the legislation they felt was necessary. In the words of one of the interviewees, they were dealing with an “ugly baby.”

¹⁵⁰ Reymond, L. “Mailers and the Art of Legislative Strategy.” *Postal Points*. Mail Fulfillment and Service Association. Issue #04-11, July 30, 2004, pp. 2-3.

Thus, even though on the surface it appeared that the very heavy favorable votes to report the bills out of committee would assure quick consideration and easy passage, the bills went into a state of limbo as the various interests pressed quietly to have their favorite bête noir deleted or their own brilliant idea inserted. This was further exacerbated by the fact that near the closing days of the 108th Congress, the administration informed Congress that it could not support the postal reform measures pending in both houses because they did not contain changes in the way the Postal Service funded its employees' retirement benefits. The administration desired a system that would in effect remove much of the Postal Service's retirement costs from the Federal budget and ameliorate Federal deficit problems, at least on paper.

The bills were reintroduced almost immediately upon the convening of the 109th Congress, H.R. 22 in the House and S. 662 in the Senate. Dramatizing the bipartisan nature of the legislation, H.R. 22 was sponsored by Republican Representative John McHugh and cosponsored by the Republican chair of the House Government Reform Committee, Representative Tom Davis (R-VA), and the Democratic Minority Leaders of both the full committee and the subcommittee with jurisdiction over the bill, Representative Henry Waxman (D-CA) and Representative Danny Davis (D-IL). The Senate bill was cosponsored by the Republican chair of the Homeland Security and Governmental Affairs Committee Senator Susan Collins (R-ME) and Democratic committee member, Senator Thomas Carper (D-DE).

The House Government Reform Committee quickly approved its version (H.R. 22) on April 13, 2005, after some tweaking, by a 39-0 vote, just about as bipartisan as you can get. The Senate Homeland Security and Governmental Affairs Committee approved S. 662 on June 22, 2005 by a vote of 15 to 1.

Again, however, the overwhelming committee votes still did not assure scheduling for floor action. There were still many problems that needed to be resolved before the leadership of both houses would schedule the bills. The administration felt that the reforms were too “modest” and remained opposed to provisions in the bills shifting responsibility for military pension funding relief which would have added to the executive branch budget deficit.¹⁵¹

Nevertheless, the House passed H.R. 22 on July 26, 2005, by a vote of 410 to 20 in spite of a veto threat by President Bush. It took a little longer in the Senate, but Senators Collins and Carper finally convinced Majority Leader Senator Bill Frist (R-TN) to schedule their legislation for consideration on February 9, 2005. On that day, the language of S. 662 was substituted for the language in H.R. 22, and H.R. 22 passed the Senate by a voice vote. The bill was ready to go to conference.

¹⁵¹ For a concise discussion of where the legislation stood at this point see: Stevens, Nye. *Postal Reform*. CRS Issue Brief for Congress. June 23, 2005. Washington, D.C.; Congressional Research Service, 2005.

That did not happen quickly, however. While the bills shared many common elements, there were some relatively significant differences that needed to be resolved.¹⁵² The most significant included:

- The definition of market-dominant products that would be treated differently in the new postal ratemaking process.
- Some differences in how pricing for the various product lines would be treated in the postal ratemaking process.
- The treatment of disability payments and retirement. The Senate bill encouraged employees on disability to retire, if they were eligible. The House bill had no such provision.
- Funding of retiree health benefits, a major concern of the administration.
- The procedures to be used to establish updated service standards.
- Qualifications for appointment to the USPS Board of Governors.

Taken together, these variations were of concern to every member of the political stream – Members of Congress, the administration, the Postal Service, postal unions and employee organizations, customers, and competitors. In spite of the overwhelming majority achieved by the legislation in both the House and Senate, negotiations among members of the conference committee and the other members of the political stream were complicated and, at times, intense.

¹⁵² For a complete discussion of these differences and their implications for consideration of the legislation, see: Kosar, Kevin R. *Postal Reform Bills: A Side-by-Side Comparison*. CRS Report for Congress., October 16, 2006. Washington, D.C.; Congressional Research Service, 2006.

In spite of some last minute spats, however, it all came together during the last minutes of the 109th Congress. On December 7, 2006, a new bill was introduced in the House incorporating all of the negotiated changes, H.R. 6407. The bill passed the House by a voice vote on December 8 and was sent to the Senate, which passed it by a voice vote on December 9. A very long legislative process for postal reform had come to a successful conclusion.

Conclusion

The ten-year process leading ultimately to the Postal Accountability and Enhancement Act of 2006 on the surface looked quite different from the process leading to the passage of the Postal Reorganization Act of 1970. For one thing, it took a much longer time, largely because there was very little interest in Congress and the administration. Representative John McHugh (R-NY) stepped in to his first subcommittee chairmanship with the Republican takeover of the House of Representatives in 1995 and immediately took the job very seriously. He held a series of hearings to determine if there was a real need to restructure the Postal Service to meet the challenges of emerging changes in the communications network that threatened to make the Postal Service a major anachronism.

From the very beginning, however, the effort was bi-partisan – both with supporters of the concept of at least some reform of the postal system and with those who could have

cared less. It was bi-partisan – or non-partisan – because the issues involved were not high ideological principals that parties adopt as an identifying feature of their political identity. This is reflected in every interview conducted in and all of the written work and studies on the topic. Representative Danny Davis (D-IL), one of the principal sponsors of the legislation, summed it up when he said that from the time he got involved in 1996, the process was “fundamentally non-partisan.”¹⁵³

This does not mean, of course, that there was not strong support or strong opposition to various proposals for inclusion in the legislation – or occlusion from it. The principal elements of Kingdon’s three streams have been described, including postal customers, postal competitors, postal employees, postal officials, administration officials up to and including the President, and the various think tanks that took considerably varied views on the subject. Most of these groups were driven by practical considerations of how the legislation would affect their own specific interests. These views may have been driven in part by ideology, but there is no evidence that simple partisanship was a significant factor. And none of the partisan-oriented procedures that have grown exponentially of the last forty years were used at any step during the process leading to the ultimate passage of The Postal Accountability and Enhancement Act of 2006.

John Kingdon’s formulation of the various elements constituting the legislative process held up well in this second case study. In this case, however, the “garbage can model” is

¹⁵³ Interview #11 in the Appendix.

particularly applicable to this case study since nothing happened in a straight forward linear fashion from inception to conclusion. Rather than ultimately joining together early to lead inexorably to a conclusion (the mouth of a great river), the problem, policy, and political streams meandered along independently. And there could be a debate whether there was any dramatic “defining moment” that brought all of the streams together. The closest act to a defining moment and the opening of a policy window in this study was the decision on the part of the administration to create a presidentially appointed commission to come up with a comprehensive series of recommendations for postal reform. This brought all of the disparate elements together to concentrate on the issue and ultimately led more than two years later to the successful conclusion of a very long legislative process.

CHAPTER 6: Conclusion

This dissertation consists of comparative case studies of two pieces of legislation involving major changes in the organization and functions of the nation's postal system. The first case study outlines the process leading to the passage of the Postal Reorganization Act of 1970, which enacted one of the most significant restructurings of an existing federal agency in our history. The second covers ten years from the beginning to the successful conclusion of a new postal reform effort arising from fundamental changes in the transmission of messages, transactions, and information by electronic means rather than paper that are still advancing. The Postal Accountability and Enhancement Act of 2006 was enacted in the closing days of the 109th Congress.

This type of legislation can be described as dealing primarily with operational or organizational issues. These pieces of legislation do not create major new programs or move the government in significantly different directions, which can be, and usually are, fraught with ideological considerations. They concentrate on how things are run, not whether they should exist at all.

Two different, but complementary, structures are used to analyze and compare the processes in the two case studies. The first and most significant is the description of the

policy process in John Kingdon's *Agendas, Alternatives, and Public Policies*. In that book, Kingdon describes the problem stream, the policy stream, and the political stream as the principal mechanisms that drive the public policy process. These are described at greater length in Chapter 2, but a brief synopsis is in order.

The first is the problem stream. This consists of the public policy concerns of virtually anyone who is affected by a particular program – or the lack of one. In the case of the Postal Service, this consists of users of the mail and the beneficiaries of the mail, postal competitors, postal labor and management, think tanks engaged in the study of public policy such as the Brookings Institution and the Cato Institute, and ultimately key Congressional and Administration officials involved in postal policy issues. The problem stream is more often a relatively disorganized and amorphous group.

The “problem” for those in the postal policy problem stream (and, for that matter, for those in the other streams as well) is very generally whether the postal system is set up to operate efficiently and fairly for all involved in it. More specifically, mail users and beneficiaries also focus on the ratemaking system and structure looking for rates that are most beneficial to them. Postal competitors, such as United Parcel or Federal Express, want to assure that the Postal Service cannot have a competitive advantage over them, particularly in the area of rates and exercise of the Postal Service's monopoly status. Postal labor organizations are proponents of as strong a competitive bargaining position as possible in a government system. Postal management organizations generally share

the goals of top postal management for as efficient a system as possible in a government context. Think tanks are primarily interested in acting as catalysts for rational discussion of the issues and some have specific policy options they would like to see adopted such as the Cato Institute's drive for complete privatization of the postal system. Finally Congressional participation, both members and staff, in the problem stream is mostly driven by the need for them to stay abreast of developments in their areas of jurisdiction.

Next is the policy stream that energizes whenever there is a reasonably obvious need to make a change – often what Kingdon describes as a defining event. (The defining events are described below.) At this stage of the game the policy stream begins to assert itself. Meetings are held, studies conducted, conferences sponsored, Congressional hearings held and sides taken. Finally, another defining event can activate the political stream, which includes the major political players – notably lobbyists, key members of Congress, and administration officials.

A word of warning, however. Kingdon himself relates his theories to the “garbage can” model of Cohen, March and Olsen. Nothing really happens in a clear and easily categorized way. The political streams meander and are independent of one another (though they consist of many of the same players) occasionally coming together when a major move is being made to resolve the pertinent issues, in this case the future of the Postal Service. The definition of what constitutes a meaningful and catalytic “defining

moment” is never clear – nor at times can you even comfortably say what the defining moment was.

The defining events in these two case studies were very different. In the case of the Postal Reorganization Act of 1970, there were two dramatic defining moments. The virtual collapse of the Chicago Post Office in 1967 was the first defining moment. It caused Postmaster General Larry O’Brien to begin to press for major reorganization of the Post Office Department – one of the principal goals being to remove it from patronage politics, another to allow it to be run like a business that was run on its own revenues rather than appropriations from Congress. This was a remarkable move for one of the pre-eminent political operatives of his time. O’Brien succeeded in getting President Johnson to appoint a blue ribbon commission that came up with the blueprint for a new Postal Service removed from the negative effects of patronage politics and got the ball rolling in Congress toward that goal. The second defining event came two years later at a point where it appeared that postal reorganization legislation had stalled. The letter carriers in New York went out on a wildcat strike, which quickly spread to other areas of the country. The negotiations, including insertion of language in the bill granting pay increases to postal employees, ending the strike also brought about union support of postal reform. When the dust cleared, the Postal Reorganization Act of 1970 passed both the House and the Senate relatively quickly and with broad bipartisan support.

A defining moment during the process leading to The Postal Accountability and Enhancement Act of 2006 is much harder to define. The takeover of the House by

Republicans in the 1994 and the subsequent elevation of Representative John McHugh to the chair of the subcommittee with jurisdiction over postal issues opened a policy window and may have may have been a defining moment.

The closest thing to a defining moment in the latter part of the process, and an opening of another policy window, came when the Bush administration was searching for ways to reduce the massive and growing budget deficit. The Postal Service was off budget, so the administration devised a scheme whereby the Postal Service would be required to provide present and future funding for retirement earned by their employees while serving in the military. This and other budget issues dealing with Postal Service long term liability for retirees' pensions and health benefits brought the administration into the process and arguably got the political stream running, or at least trickling once again. The President appointed The President's Commission on the United States Postal Service, which came up with a broad series of recommendations on the reorganization of the Postal Service. The commission's report helped kick start Congress once again. While there was much shuffling around in the House and the Senate, legislation was finally adopted and sent to the President two years later in the final minutes of the 109th Congress. All of this goes to say that Kingdon's model of the public policy process stood up well in these two case studies.

While the use of James Q. Wilson's formulation of the policy making process was less in evidence, it nonetheless provided a very useful framework for analysis of the process

and, particularly, the behavior of the people and organizations that drove the process. His description of how voluntary associations are organized, recruit members, and play a role in the political process accurately described most of the non-government organizations involved in the process described in both case studies. The same can be said for his four-fold classification of the policy process based on costs and benefits. The classification that appeared to best describe the two processes was Concentrated Benefits and Concentrated Costs: "Programs that benefit a well-defined group but at a cost to another well-defined group generate continuing organized conflict. Revisions and amendments and interpretations are endlessly contested, and sometimes efforts are made to repeal the initial policy."¹⁵⁴ In these two case studies, there were arguably several well-defined groups that benefitted from some provisions in the proposed legislation at a cost to other well-defined groups. For example, mail users who may have benefitted from specific cost policies that were at a cost to other mail users. Programs that benefitted post office department employees that arguably were promoted at a cost to competitors of the Postal Service are another example of concentrated costs and concentrated benefits.

Interviews in both case studies strongly confirmed this. However, while lobbying at times was intense, and there were winners and losers, neither process was really a zero sum game. Ultimately some players grudgingly supported the two pieces of legislation in the two case studies, or at least they did not oppose the final legislative packages in the sense of a zero sum game. In most cases the participants recognized that the final pieces

¹⁵⁴ Wilson, James Q. Op.cit. p. 335.

of legislation would lead to a better functioning and funded Postal Service for all. This was particularly reflected in the process leading to the passage of the Postal Accountability and Enhancement Act of 2006. Throughout the ten year period that the legislation that ultimately became the 2006 legislation was under consideration most of the participants in the process met together frequently, sharing reports on the progress of the legislation or, often, the lack thereof. There were very few personal animosities among the lobbyists or organizations. All of this was confirmed over and over again by the interviews held with a wide spectrum of participants in the process.

As stated in the opening sentence of Chapter 1, “The basic thesis of this dissertation is that there is a substratum of legislation considered by the U.S. Congress for which the process has remained relatively unchanged for at least the past forty years, and probably much longer.” More specifically, this type of legislation deals primarily with questions of organizational structure and function. The two pieces of legislation discussed in this dissertation are prime examples.

The process leading to the passage of the Postal Reorganization Act of 1970 followed the traditional path of legislation through the committee structure of each House, to the respective floors for final consideration and ultimate passage. There was no specifically partisan activity in the sense that various structures and procedures designed specifically to exclude or greatly reduce the influence minority party leadership and members had not been created. As discussed in Chapter Two, partisanship has become a significant -

usually controlling - factor in the legislative process since 1970. Throughout almost every step of the process there are now structures and procedures that are controlled by the majority party that virtually exclude participation by members of the minority party. This has primarily affected the legislative process in the House of Representatives, but the Senate has also been affected to a lesser extent. However, this study shows that none of these partisan mechanisms was used and that the process was bipartisan to the successful conclusion of the drive to further restructure the Postal Service in 2006.

There has been some disagreement among academicians as to the nature and extent of the growth in partisanship in Congress over the past forty years. Extensive analyses of voting by students of Congress such as David Mayhew and Keith Khrebiel suggested that the role of partisanship is rather limited, though we may be accused of comparing apples and oranges to a certain extent. This study relies on the work of scholars such as James Pfiffner, Barbara Sinclair, John Aldrich, David Rohde, Gene Krutz and others. And we are largely looking at procedures and structures rather statistical analyses of voting patterns. Barbara Sinclair gave us a list compiled from the study of the passage of 255 major pieces of legislation, quoted in Chapter 2: "I counted the number of special procedures and practices that the legislation encountered as it worked its way through the House. The procedures and practices enumerated were multiple referral, omnibus legislation, legislation resulting from a legislative-executive branch summit, the bypassing of committees, post committee adjustments, and consideration under a

complex or closed rule.”¹⁵⁵ These procedures are used much more often in the past few decades than they were in the late 1960’s and early 1970’s, when the first postal reorganization bill was passed.

It is clear both to those who have worked for and/or with the United States Congress over the past half century that it is a much different institution than it was in, say, 1960. Partisanship is much more pervasive. The tools of lawmaking reflect this. And a certain amount of congeniality and collegiality has gone by the wayside – though it has not disappeared completely. Participants in the congressional process would certainly agree with the assumption that Congress is far more partisan than it was forty years ago and, more important in studies of the process, that partisanship has reflected itself in procedures and structures that exclude members of other parties. This gives far more legislative power to the party that happens to be in the majority at any particular time, in both the House of Representatives and the Senate.

There is a “straw man” aspect to the primary thesis of this dissertation. It can be argued that there is not a black and white dichotomy between partisan and nonpartisan behavior, that there are almost an infinite number of gradations in legislators’ behavior in the legislative process. What is being described here, however, is concrete behavior – the use of procedures specifically designed to exclude members of another party – in this case exclusion of members of the minority party participation in most aspects of creating

¹⁵⁵ Sinclair, Barbara. *Unorthodox Lawmaking: New Legislative Processes in the U.S. Congress*. (Washington, D.C.; CQ Press. 2000. 2nd Ed.), p. 80.

viable legislation and achieving final passage. This type of behavior became far more prevalent in the years after the passage of the Postal Reorganization Act of 1970. What the comparative case studies show is that there is legislation now that is not forced through the partisan legislative grinder and that is not the subject of partisan posturing, official party positions, use of partisan-oriented procedures, or party discipline in voting as reflected in David Rohde's theory of "conditional party government."

More research on this overall topic would be useful. In particular, it would be interesting to put together carefully a list of bills that have been filtered through the types of procedures and structures mentioned by Barbara Sinclair and then compare this list to other pieces of successful legislation. Admittedly many of these latter bills would be insignificant, such as those naming federal buildings and resolutions of recognition and commendation, but there would be several relevantly significant pieces of legislation.

More studies of legislation that actually did not pass through the current partisan legislative juggernaut are necessary to give weight to (or even disprove), the thesis of this study. Studies of the creation of departments and agencies such as the Department of Homeland Security, the Department of Education, the Department of Health and Human Services, and the Environmental Protection Agency would be useful. While there may have been some partisan issues involved in the consideration of the legislation, cursory examination of the legislative process of this type of legislation indicates that any ideological or partisan issues had been resolved, and these bills were largely a

restructuring and redistribution of functions that had already been approved. More important, even if there were partisan issues involved, the legislation did not pass through the procedures discussed in Barbara Sinclair's work. A broader net for other types of legislation that was considered on a bi-partisan or non-partisan basis should also be cast. The data in this study are based on the interviews of key participants in both processes conducted by the author. In every case, the interviewees emphasized the nonpartisan nature of both processes. The author is confident that other studies of similar types of legislation would yield the same results.

Some Final Thoughts

The United States Postal Service and its predecessors have been of immense importance to the political, cultural, and economic life of this country. Prior to the development of the telegraph, telephone, and more recently the Internet, the mail was the only universal communications system in this country. Even as these other communications systems developed, the Postal Service maintained its position as the premier communications system of this country.

The Postal Reorganization Act of 1970 came about because the powers that be became convinced that the system as it was then structured was vastly inefficient and should be operated much more as a business than as a patronage-filled government entity. This

experiment, which was soon repeated in varying forms all over the world, was successful for the most part.

Not everyone was completely happy, though, and throughout the years that followed there were some attempts to retrench, but none was successful. In fact they seldom even got to first base legislatively. As long as the Postal Service had a monopoly on universally-delivered paper-based letter mail most were confident that it would continue to grow and prosper.

Doubts began to grow in the early eighties, however. Wildly inaccurate predictions were made that total volume would peak at 100 billion pieces by the mid-eighties and decline inexorably after that. (By 2006, total mail volume had reached more than 213 billion pieces, close to 50% of the entire world's mail volume.) Nevertheless, the postal problem community became busy conducting numerous studies, seminars, and even meetings in nice resorts to discuss the future of the Postal Service. In 1995, a new chair took over the key postal subcommittee in the House of Representatives and, taking his new legislative duties seriously, began the ten-year process that led to the Postal Accountability and Enhancement Act, a significant piece of legislation that is already beginning to look like a temporary stop-gap measure.

The communications revolution that began more than 170 years ago with the invention of the telegraph has finally come home to roost as far as the Postal Service is concerned. It

is somewhat ironic that postal volume peaked historically with the passage of the 2006 legislation. Postal volumes have declined precipitously since then, and there is little hope that they will rebound to any extent, even with our recovery from the economic collapse. It is clear to all what is happening. Our whole communications system is rapidly moving away from paper-based mail. More and more financial transactions are being conducted online, as is shopping – the very foundation of the catalog industry, a very significant part of business mail. It is now possible, for example, to go online to a clothing store, look at a wide array of outfits, transmit your exact measurements, pay for your clothes and receive them - all outside the mail system. This is just one example of thousands that show that after literally thousands of years, our paper-based communications system is going the way of dinosaurs.

Recently, the Postmaster General, John E. (Jack) Potter, has been sounding the alarm in almost every forum available to him. Among the steps he thinks are essential to take to preserve even a smaller postal system are restructuring the system for paying in to the massive retirement program for postal workers, the elimination of at least one day of delivery – from six days a week to five days a week – and greater freedom to close uneconomic postal stations and facilities. All of these require a change in the law. Beyond this, it is still unclear to the author what else should or can be done. Privatization now seems to be off the table, both because most financial analysts say that private enterprise would be unwilling to take on the burden and because there still appears to be a

residual respect for a government owned and run system of communication that has deep ties with this nation's history.

It is reasonably clear that more legislation will be needed to provide for a drastically different and much smaller system. Perhaps this will be the subject of yet another academic paper on this type of legislation.

APPENDIX

Interviewees

1. **Dan G. Blair:** Minority General Counsel to the House Post Office and Civil Service Committee, 1985-1994. Staff Director, House Subcommittee on the Postal Service, 1994-1996. Senior Counsel to the Chairman of the Senate Committee on Government al Affairs, 1996-2001. Deputy Director, Office of Personnel Management, 2001-2007. In 2007 he became the first chair of the Postal Regulatory Commission create by the Postal Accountability and Enhancement Act of 2006.
2. **Richard Boykin:** (July 26, 2006) Chief of Staff to Representative Danny Davis (D-IL).
3. **Jack Calendar:** (June 29, 2006) Staff Attorney, House Committee on Government Reform.
4. **James Campbell:** (March 10, 2007) Legislative Counsel to Federal Express. Consultant on postal legal matters.
5. **Paul Carlin:** Executive Assistant to the Postmaster General, 1968 to 1970. Later served as Postmaster General in the new United States Postal Service, 1985-1986.
6. **Jerry Cerasale:** (July 18, 2006) Senior Vice President for Government Affairs, Direct Marketing Association.
7. **Murray Comarow:** (August 29, 2006) Executive Director, President's Commission on Postal Organization (1967-1968). Also consultant on postal issues to ADVO Inc. during the period of consideration of legislation leading too the Postal Accountability and Enhancement Act of 2006.
8. **Ben Cooper:** (February 9, 2007) Sr. Vice President, Government Affairs, Printing Industries of America.
9. **Jim Cregan:** (August 28, 2006) Executive Vice President, Government Affairs, Magazine Publishers Association.

10. **Mike Critelli**: (March 20, 2007) Chairman and CEO, Pitney Bowes.
11. **Rep. Danny Davis (D-IL)** (March 26, 2007) Ranking minority member of the House Postal Service Subcommittee. He later served on the Committee's ad hoc task force on postal reform when the Postal Subcommittee was abolished.
12. **Gene Del Polito: (July 19, 2006)** President, Association for Postal Commerce.
13. **Representative Edward J. Derwinski**: Republican Member of Congress from Illinois and Member of the House Committee on Post Office and Civil Service during consideration and passage of the Postal Reorganization Act of 1970.
14. **Ann Fisher**: (April 16, 2006) Counsel, Senate Committee on Government Reform.
15. **George B. Gould**: (July 20, 2006) Assistant to the President for Legislative and Political Affairs, National Association of Letter Carriers. Also assistant to Representative Charles Wilson (D-CA). Member of the House Post Office and Civil Service Committee during the process leading to the Postal Reorganization Act of 1970.
16. **Paul Hallisay**: Director of Government Affairs, Airline Pilots Association.
17. **Roger Kodat**: (March 12, 2007) Deputy Assistant Secretary, Government Financial Policy, Department of the Treasury. Treasury Department Liaison to the President's Commission on the United States Postal Service. (2002-2003).
18. **Robert Levi**: (July 14, 2006) Director, Government Relations, National Association of Postmasters.
19. **Laurel Kamen**: (February 6, 2007) VP Government Affairs, American Express Company.
20. **Rep. John McHugh**: (March 12, 2007) Chair of the Subcommittee on Postal Service of the Committee on Government Reform when the House Committee on Post Office and Civil Service was abolished in 1995. He became chair of an ad hoc task force to handle postal legislation when the subcommittee was abolished later.
21. **David Minton**: Staff Director and General Counsel of the Senate Post Office and Civil Service at passage of Postal Reorganization Act of 1970.

22. **Pierce Myers**: Attorney specializing in postal matters and Executive Vice President, Parcel Shippers Association.
23. **David Nassef**: (February 21, 2007) Vice President – Federal Relations. Pitney Bowes.
24. **David Nelson**: (February 14, 2007) General Counsel of the Post Office Department, 1968 to 1972.
25. **Kevin Richardson**: (April 7, 2007) Vice President for Government Relations, RR Donnelley Corporation, 1996 – 2005.
26. **Robert Taub**: (June 29, 2006) Chief of Staff to Rep. John McHugh (R-NY).
27. **Denise Wilson**: (June 28, 2006) Professional Staff Member, Committee on Government Reform.

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