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POSTAL LEGISLATION

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HEARING

BEFORE THE

COMMITTEE ON POSTAL OPERATIONS

OF THE

COMMITTEE ON
OFFICE AND CIVIL SERVICE
UNITED STATES SENATE

NINETY-SECOND CONGRESS

FIRST SESSION

ON

H.R. 135

TO PROVIDE FOR PERIODIC PRO RATA DISTRIBUTION AMONG
THE STATES AND OTHER JURISDICTIONS OF DEPOSIT OF
AVAILABLE AMOUNTS OF UNCLAIMED POSTAL SAVINGS SYS-
TEM DEPOSITS, AND FOR OTHER PURPOSES

AND

S. 996

FOR THE RELIEF OF CERTAIN AIR TAXI MAIL TRANSPORTA-
TION OPERATORS

AND

S. 1989

TO AMEND TITLE 39, UNITED STATES CODE, TO PROVIDE FOR
THE RENEWAL OF CERTAIN STAR ROUTE CONTRACTS

AND

S. 2106

TO PROVIDE THAT EACH PIECE OF MAIL MATTER CANCELED
BY THE POSTAL SERVICE SHALL INCLUDE CERTAIN INFOR-
MATION AS PART OF THE CANCELLATION

JULY 22, 1971

Printed for the use of the Committee on Post Office and Civil Service

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1971

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WASHINGTON, D.C.

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POSTAL LEGISLATION

THURSDAY, JULY 22, 1971

U.S. SENATE,
SUBCOMMITTEE ON POSTAL OPERATIONS OF THE
COMMITTEE ON POST OFFICE AND CIVIL SERVICE,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to call, in room 6202, New Senate Office Building, Senator Ernest F. Hollings (chairman of the subcommittee) presiding.

Present: Senators Hollings and Boggs.

Staff members present: David Minton, staff director and counsel; Clyde DuPont, minority counsel; Richard G. Fuller and Dan Doherty, professional staff members.

Senator HOLLINGS. The Subcommittee on Postal Operations will now convene the hearing on H.R. 135; S. 1989; S. 996; and S. 2106. Before we hear our first witness, I request that copies of these bills and the agency reports concerning them be placed in the record where it is appropriate. Also a letter I received from my friend and colleague, Senator Harris, in support of S. 996.

(A copy of H.R. 135 follows:)

(1)

92^D CONGRESS
1ST SESSION

H. R. 135

IN THE SENATE OF THE UNITED STATES

MAY 4, 1971

Read twice and referred to the Committee on Post Office and Civil Service

AN ACT

To provide for periodic pro rata distribution among the States and other jurisdictions of deposit of available amounts of unclaimed Postal Savings System deposits, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) to provide a sharing in the amount of unclaimed
4 Postal Savings System deposits among the States and other
5 jurisdictions in which such deposits were made, which is
6 more equitable and expeditious than may be accomplished
7 under differing escheat laws, the Secretary of the Treasury
8 is authorized, within sixty days following enactment of this
9 Act, and on such date as he may set during each of the four
10 succeeding calendar years, to divide the remaining prin-

1 cipal of unclaimed deposits held pursuant to the Act of
2 March 28, 1966 (80 Stat. 92), in the trust fund account
3 established under section 17 of the Act of June 26, 1934 (31
4 U.S.C. 725p), including the accrued interest applicable
5 thereto, into a retention balance and a distribution balance.
6 The retention balance shall consist of that portion of the re-
7 maining principal and accrued interest which he deems neces-
8 sary to retain for the purpose of honoring claims by or on
9 behalf of depositors; the distribution balance shall consist of
10 that portion not so designated. The Secretary is authorized to
11 proceed to distribute to each of the fifty States and to the Dis-
12 trict of Columbia, Puerto Rico, the Virgin Islands, and
13 Guam, referred to in this section as other jurisdictions of
14 deposit, a pro rata share of the distribution balance. Each
15 such share shall be determined on the basis of the ratio
16 between—

17 (1) the dollar amount of the principal of the un-
18 claimed deposits remaining as of each determination,
19 which had been deposited in the post offices of the given
20 State or other jurisdiction of deposit, as the case may be,
21 according to the records of the former Postal Savings
22 System and the Treasury Department, and

23 (2) the dollar amount of the principal of the total
24 remaining deposits.

25 All determinations made by the Secretary of the Treasury

1 under this subsection shall be final and conclusive and not
2 subject to review in any court.

3 (b) The retention balance remaining after the final
4 distribution authorized by subsection (a) shall be held by
5 the Secretary of the Treasury in perpetuity in the trust fund
6 account established under section 17 of the Act of June 26,
7 1934 (31 U.S.C. 725p), for the purpose of honoring claims
8 by or on behalf of depositors, without regard to any laws of
9 the States or other jurisdictions of deposit concerning the dis-
10 position of unclaimed or abandoned property.

11 SEC. 2. There is hereby authorized to be appropriated
12 without fiscal year limitation to the trust fund established
13 under section 17 of the Act of June 26, 1934 (31 U.S.C.
14 725p), out of any money in the Treasury not otherwise ap-
15 propriated, such sums as may be necessary to pay claims by
16 or on behalf of depositors whenever the balance in that trust
17 fund account is insufficient to pay such claims as a result of
18 determinations and distributions authorized by the first sec-
19 tion of this Act.

Passed the House of Representatives May 3, 1971.

Attest:

W. PAT JENNINGS,

Clerk.

Senator HOLLINGS. Secretary Sokol, will you come forward with your staff and give your testimony?

STATEMENT OF HON. SIDNEY S. SOKOL, DEPUTY FISCAL ASSISTANT SECRETARY, U.S. TREASURY DEPARTMENT; ACCOMPANIED BY STEVE L. COMINGS, COMPTROLLER, BUREAU OF ACCOUNTS; CHARLES E. ORBANK, ACCOUNTING OFFICER, BUREAU OF ACCOUNTS; AND JOHN A. KILCOYNE, TREASURY, GENERAL COUNSELS OFFICE

Mr. SOKOL. Mr. Chairman and members of the subcommittee, I welcome this opportunity to appear before you to support H.R. 135, a bill designed to provide for the distribution, to the 50 States, and to the District of Columbia, Puerto Rico, the Virgin Islands, and Guam, of most of the remaining funds representing unclaimed Postal Savings System accounts. This legislation, as passed by the House on May 3, 1971, is similar to H.R. 19400 introduced in the 91st Congress, pursuant to a recommendation of this Department. Our purpose in recommending this legislation initially, and for supporting it now, has been to provide a more practical and equitable method than presently exists for the 50 States and the four other jurisdictions to obtain an appropriate portion of the unclaimed amounts, while retaining in the Treasury sufficient funds to meet possible future claims.

LIQUIDATION UNDER PUBLIC LAW 89-377

I would like to review briefly the Treasury's liquidation of the Postal Savings System under Public Law 89-377, enacted March 28, 1966. The 1966 legislation discontinued the Postal Savings System as of April 27, 1966, and transferred as of July 1, 1967, the remaining funds to the Treasury for deposit in a trust fund for unclaimed moneys and for liquidation. As of that date, the Post Office Department transferred to the Treasury a total of \$56,789,000 to cover unpaid principal of \$52,934,000 plus \$3,855,000 for estimated accrued interest. On June 30, 1970, an additional amount of \$8,350,000 was transferred by the Post Office Department to cover the unpaid liabilities for estimated accrued interest and principal, as reconstructed by the Treasury, making a total transfer of \$65,139,000.

From July 1, 1967, to June 30, 1971, the Treasury has liquidated 84.3 percent of the original unpaid balance. Payments during these 4 years of liquidation have totaled \$54.9 million, consisting of \$44.9 million in principal and \$10 million for accrued interest. In terms of number of accounts, however, only 104,000 accounts have been paid off.

This is about 18 percent of the total number of 580,000 accounts that were unpaid at the outset of the Treasury liquidation operation on July 1, 1967.

AVAILABLE UNCLAIMED FUNDS AND PRO RATA SHARES OF THE JURISDICTIONS

As of June 30, 1971, there was an aggregate liability of \$10.2 million, consisting of \$8.2 million for principal and \$2 million for accrued in-

terest. This is the liability on the total of 475,500 unpaid accounts, most of which are small in amount. A table attached to my statement shows as of June 30, 1971, the remaining principal balance of the deposits which were made in each of the 50 States and the four other jurisdictions, and the percentage, or pro rata share, of each of these 54 entities in the total. The table also shows the amount of funds which each of the jurisdictions would have received if a first distribution of \$5,000,000 had been made as of June 30. These figures and percentages will, of course, change as the liquidation continues. During fiscal year 1971 the Bureau of Accounts paid out an average of about \$130,000 a month on claims.

OUTLINE OF THE LEGISLATION

The first section of H.R. 135 would authorize the Secretary of the Treasury to determine how much of the balance in the trust fund account need reasonably be retained to pay future claims from rightful owners and then to distribute the surplus to the 54 jurisdictions on a pro rata basis. The pro rata basis is simply the ratio of the balance of each State account to the total amount available for current distribution. This first distribution would be made within 60 days after enactment of this bill and subsequent distributions would be made on such dates as the Treasury may set during the 4 following years. The balance finally retained after the fifth annual distribution would be held available to pay future claims. I think it is appropriate to state that even with this so-called retention balance, the States, as a whole, would have a considerably higher net profit under H.R. 135 than through any other means.

The second section would authorize appropriations without fiscal year limitation to the trust fund account, in the event that the trust fund balance, because of the distributions made under the first section, is insufficient to pay claims. The balance which will be retained in the trust fund after the fifth and final annual distribution will be the amount estimated to cover future claims. Inevitably, it will be slightly higher or lower than what will ultimately be needed.

REASON FOR THE LEGISLATION

Since the passage of the 1966 act many of the States have pressed claims, under their laws providing for State custody or escheat of unclaimed funds, for the unclaimed accounts of Postal Savings depositors in those States. This Department opposed State claims for custody and administration of these unpaid accounts on the ground that the Department had no authority to transfer the custody and administration given to it by the Congress. However, the Postal Savings System Act had provided (39 U.S.C. 5222, 1964 ed.), and Federal courts had determined, that entitlement to an account should be determined by State courts. Consequently, the Department issued regulations on August 12, 1969 (34 F.R. 13031; 31 CFR 257.3) providing for recognition of a State court judgment of escheat to the State under applicable State law, and for furnishing to a State, upon request, of records of "inactive" accounts, i.e., those which had been

20 years without activity at the time of transfer of records from the Post Office Department.

Enactment of H.R. 135 would eliminate significant burdens and expenses for the States, including legislative action to enact an appropriate escheat statute; sorting out the addresses on account cards acquired from the Treasury for all unliquidated accounts pertinent to the States; advertising such accounts in the appropriate locality or otherwise attempting to reach each depositor by mail; obtaining the State court judgment of escheat; and handling individual claims received after escheat. All burdens for the Treasury, which are implicit in the foregoing, would likewise be precluded by the proposed legislation. As for the general public, the bill would preserve for all future claimants the right to look directly to the United States for their money, promptly upon submission of their claims, as they fully expect.

I believe that the desirability of this legislation is recognized by those States which have taken an active interest in this subject. In fact, it is our understanding that several States are refraining from initiating court action to escheat the inactive accounts in expectation of the passage of this distribution legislation. At the request of this Department the Director of the Office of Intergovernmental Relations of the Office of the Vice President has advised the 53 Governors and the Mayor of Washington of the pendency of H.R. 135.

Mr. Chairman, I am accompanied today by Mr. Steve L. Comings, Comptroller, Bureau of Accounts, and Mr. Charles E. Orbank, Accounting Officer, Bureau of Accounts. Mr. Comings and Mr. Orbank are directly concerned with the liquidation of the Postal Savings System in our Bureau of Accounts. I am also accompanied by Mr. John A. Kilcoyne of the Treasury General Counsel's Office. We shall endeavor to answer any questions that the committee may have.

I would like to have the tabulations attached to my prepared statement included in the record at this point, Mr. Chairman.

Senator HOLLINGS. It will be so included.

(The aforementioned material follows:)

STATUS OF POSTAL SAVINGS ACCOUNTS

As of June 30, 1971, the total unpaid balance for the postal savings accounts on the books of the Treasury was \$10,199,450, consisting of:

Unpaid principal.....	\$8, 204, 576
Accrued interest.....	1, 994, 874
Total.....	10, 199, 450

The attached schedule gives the breakdown of unpaid principal balances according to each of the 54 jurisdictions that would share in the distributions (the 50 States plus District of Columbia, Guam, Puerto Rico and Virgin Islands). It also shows the "sharing" percentage for each jurisdiction.

We expect that a total of \$5 million will be freed up for the first annual distribution. Thus, for example, New York State (which has the largest "sharing" percentage) would receive about \$861,000 in the first year.

NOTE.—The "sharing" percentage for each jurisdiction is the same whether computed on the basis of unpaid principal balances alone or unpaid principal and accrued interest combined. This is because the systemwide total of accrued interest is an estimate, distributable to the 54 jurisdictions proportionately according to the unpaid principal for each jurisdiction.

POSTAL SAVINGS SYSTEM LIQUIDATION, UNPAID PRINCIPAL BALANCE BY LOCATION OF DEPOSITORY AS OF
JUNE 30, 1971

Location of depository	Active accounts	Inactive accounts	Total unpaid principal balance	Percentage of total	Initial distribution illustrated ¹
Alabama.....	\$71,346.00	\$9,602.00	\$80,948.00	0.99	\$50,000
Alaska.....	10,344.00	8,029.00	18,373.00	.22	11,000
Arizona.....	41,437.00	6,312.00	47,749.00	.58	29,000
Arkansas.....	47,431.00	8,707.00	56,138.00	.68	34,000
California.....	689,847.00	106,061.00	795,908.00	9.70	485,000
Colorado.....	45,599.00	14,717.00	60,316.00	.74	37,000
Connecticut.....	107,621.00	16,874.00	124,495.00	1.52	76,000
Delaware.....	8,182.00	653.00	8,835.00	.11	5,000
Florida.....	334,622.00	43,951.00	378,573.00	4.61	231,000
Georgia.....	104,227.00	5,387.00	109,614.00	1.34	67,000
Hawaii.....	4,601.00	3,370.00	7,971.00	.10	5,000
Idaho.....	18,037.00	3,203.00	21,240.00	.26	13,000
Illinois.....	1,023,193.00	250,470.00	1,273,663.00	15.52	776,000
Indiana.....	136,721.00	15,842.00	152,563.00	1.86	93,000
Iowa.....	47,906.00	5,433.00	53,339.00	.65	33,000
Kansas.....	40,142.00	5,481.00	45,623.00	.55	28,000
Kentucky.....	54,688.00	3,848.00	58,536.00	.71	35,000
Louisiana.....	42,506.00	18,278.00	60,784.00	.74	37,000
Maine.....	6,392.00	1,698.00	8,090.00	.10	5,000
Maryland.....	43,133.00	5,868.00	49,001.00	.60	30,000
Massachusetts.....	169,786.00	34,119.00	203,905.00	2.49	125,000
Michigan.....	344,080.00	49,577.00	393,657.00	4.80	240,000
Minnesota.....	36,943.00	13,943.00	50,886.00	.62	31,000
Mississippi.....	30,934.00	4,080.00	35,024.00	.43	21,000
Missouri.....	115,742.00	24,115.00	139,857.00	1.70	85,000
Montana.....	29,462.00	13,801.00	43,263.00	.53	27,000
Nebraska.....	91,635.00	4,701.00	96,336.00	1.17	58,000
Nevada.....	14,937.00	4,050.00	18,987.00	.23	11,000
New Hampshire.....	5,824.00	4,814.00	10,638.00	.13	6,000
New Jersey.....	147,310.00	38,403.00	185,713.00	2.26	113,000
New Mexico.....	17,703.00	2,925.00	20,628.00	.25	12,000
New York.....	1,131,942.00	281,097.00	1,413,039.00	17.22	861,000
North Carolina.....	88,987.00	7,768.00	96,755.00	1.18	61,000
North Dakota.....	4,312.00	1,636.00	5,948.00	.07	3,000
Ohio.....	193,713.00	53,462.00	247,175.00	3.01	150,000
Oklahoma.....	57,773.00	6,439.00	64,212.00	.78	39,000
Oregon.....	49,344.00	18,542.00	67,886.00	.83	42,000
Pennsylvania.....	494,495.00	83,716.00	578,211.00	7.05	354,000
Rhode Island.....	13,532.00	3,467.00	16,999.00	.21	10,000
South Carolina.....	153,275.00	9,892.00	163,167.00	1.99	100,000
South Dakota.....	18,151.00	596.00	18,747.00	.23	11,000
Tennessee.....	46,010.00	6,131.00	52,141.00	.64	32,000
Texas.....	205,085.00	18,199.00	223,284.00	2.72	136,000
Utah.....	12,710.00	1,486.00	14,196.00	.17	9,000
Vermont.....	186.00	166.00	352.00		(²)
Virginia.....	39,318.00	15,377.00	54,695.00	.67	34,000
Washington.....	87,747.00	37,736.00	125,483.00	1.53	77,000
West Virginia.....	20,812.00	5,241.00	26,053.00	.32	16,000
Wisconsin.....	50,927.00	11,034.00	61,961.00	.76	38,000
Wyoming.....	2,328.00	3,551.00	5,879.00	.07	4,000
District of Columbia.....	215,126.00	31,058.00	246,184.00	3.00	152,000
Guam.....	929.00		929.00	.01	(²)
Puerto Rico.....	80,985.00	6,795.00	87,780.00	1.07	54,000
Virgin Islands.....	12,488.00	302.00	12,790.00	.16	8,000
Subtotal.....	6,862,516.00	1,332,013.00	8,194,529.00	99.88	5,000,000
Add: miscellaneous.....	10,013.36	34.00	10,047.36	.12	
Balance.....	6,872,529.36	1,322,047.00	8,204,576.36	100.00	

¹ Illustrates a distribution as of June 30, 1971, assuming a total amount of \$5,000,000.

² Less than \$1,000.

Senator HOLLINGS. Thank you, Mr. Sokol. My question goes to the legal opinion of the Attorney General or counsel to the Treasury Department, as the case may be, to the effect that these moneys are properly claimable under the Escheat Laws and thereby the property of the Federal Government. That is a point that I want to make clear for the record. You have stated, for example, that the Postal Savings System Act had provided, and the Federal courts had determined, that entitlement to an account should be determined by State courts.

Do we have decision and opinions, that is what I would like to know for the record?

Mr. SOKOL. We will be glad to supply them for the record. As I say, we do have a Treasury General Counsel opinion on that score which is consistent with the opinion of the Attorney General, and which is consistent with the legal status of these funds while they were in the custody of the Post Office Department. As I say, we will be glad to supply those opinions for the record, if you wish.

Senator HOLLINGS. But the Federal Government in your departments initially did resist State claims for these moneys?

Mr. SOKOL. When we were getting pressed simply on the basis of custody, the State wanted to have transfer of custody of the funds without an escheat statute on their books.

Senator HOLLINGS. What occurred, did the Federal courts hold with the States that they had custody?

Mr. SOKOL. We did not agree with the transfer of those funds to States based upon custody statute.

Senator HOLLINGS. As a result of your not agreeing was any case heard on its merits by the court?

Mr. SOKOL. None that I know of, sir.

May I ask Mr. Kilcoyne to address himself to that.

Mr. KILCOYNE. When we took over the liquidation of postal savings we did have inquiries from the States about turning the money over to the States under their custody statutes. Our general counsel took the position that the Treasury Department could not turn over money to States under custody statutes. As a result a group of these States did sue, led by Indiana, in Federal district court in Indiana and a number of other States, five or six, joined with Indiana. However, that litigation was never heard on the merits and it is by stipulation the hearing of the case has been postponed because the States are now aware of this bill.

Senator HOLLINGS. The record is still open if the committee disagrees and wants the Department to pursue it to its final conclusion; namely, a decision on the merits. The record is so open that it can be heard and a decision made. Is that correct?

Mr. KILCOYNE. Yes, sir; that is right. And we are in close contact with the Department of Justice, of course, on this.

Senator HOLLINGS. What are the opinions of the Attorney General's office? Do you have any opinion? Why would you stipulate that you would give it back to the States, that is what we want to know?

Mr. KILCOYNE. There are a series of Federal court cases decided under the original Postal Savings System Act. Those decisions held that postal savings deposits were private moneys, that they were not owned by the Federal Government, and that the law of the States where the postal savings system deposit was made would properly govern the disposition. We had that series of cases to rely on, and as Mr. Sokol said, there is a decision of the Attorney General. There is also a decision of the, I believe, Acting Solicitor of the Post Office Department. And I would say that those are the main bases for our position that under a State escheat statute we must turn the money over to the States.

Senator HOLLINGS. So, then the question was asked your committee concerning the discretion, as you see it, from a legal standpoint that there is no giving by the Federal Government of moneys to the States. Individual accounts that are left in those particular States, are attributable to that specific State, and if it is there we do not have

discretion as to what the State should do with it. We can't tell them they have to spend so much.

Mr. SOKOL. Yes.

Senator HOLLINGS. Specifically, my State of South Carolina, didn't you put in your schedule of what is going back. Is it \$163,000?

Mr. SOKOL. That is correct.

Senator HOLLINGS. They can have a big party down there.

Mr. SOKOL. That is their money. Our only purpose in this legislation is to give it to them in the least expensive manner for all concerned. If they have to go the route of escheat in the legal sense the cost involved in some cases dissipate the principal.

Senator HOLLINGS. Now, why were the accounts held at State level? Why weren't all accounts brought in and why aren't they right now brought into the Federal Treasury?

Mr. SOKOL. They are all in the Federal Treasury.

Senator HOLLINGS. If they are physically there, how can you get them back to the States so they have custody?

Mr. SOKOL. They were originally in the custody of the post offices within the States and that is the basis for this pro rata distribution.

Senator HOLLINGS. You mean at the time of your consideration of this proposed bill the physical custody of the money was within the U.S. Treasury right here in Washington?

Mr. SOKOL. Yes, sir. That money is in our treasury.

Senator HOLLINGS. And is it your legal opinion that it still goes back to the States?

Mr. SOKOL. Yes, sir. The address of record of the depositor is the basis for the escheating.

Senator HOLLINGS. It is the basis for the locale of the fund itself?

Mr. SOKOL. Yes, sir.

Senator HOLLINGS. Of the account?

Mr. SOKOL. Yes, sir.

Senator HOLLINGS. Mr. Sokol, we do have those amounts. When you talk about unclaimed amounts, I think in general terms you are taking care of some 475,500 unpaid accounts?

Mr. SOKOL. Yes, sir.

Senator HOLLINGS. How much is retained to pay those accounts? How much would it be, in general terms in dollars and cents if you had to pay 475,000 back?

Mr. SOKOL. \$10.2 million.

Senator HOLLINGS. \$10.2 million. That still leaves a balance of approximately how much?

Mr. SOKOL. Oh, no, that is all we have in the funds now, \$10.2 million. That is all we have left at this point in relation to all the 475,000 unpaid accounts.

Senator HOLLINGS. If all claims presented themselves to your office for their money, how much would it take to satisfy those claims?

Mr. SOKOL. \$10.2 million.

Senator HOLLINGS. \$10.2 million?

Mr. SOKOL. Yes, sir.

Senator HOLLINGS. Then the balance would be due them. If they do not present themselves.

Mr. SOKOL. That is right.

Senator HOLLINGS. I am not sure I know what the statute of limitations is.

Mr. SOKOL. There is no statute of limitations.

Senator HOLLINGS. But the policy is 20 years?

Mr. SOKOL. No such policy at all.

Senator HOLLINGS. The escheat law runs about 20 years in various States.

Mr. SOKOL. That would vary State by State, I presume. But there is no Federal statute of limitations. As long as this money is in the Federal trust fund we will recognize a valid claim a 100 years from now, so to speak. That is the purpose of this legislation in one respect. We intend to retain in the trust fund an estimated amount which should take care of all possible future claims. Of course, these claims have been diminishing these past 4 years. In the first year 54 percent of the money was paid out in claims. In the second year, it was roughly 25 percent. In the third year, it was less than 3 percent. In the fourth year, just ended, it was slightly more than 2 percent. We, of course, watch the trend. As the years go by the claims will simply disappear. And what we are trying to do now is to look into a crystal ball, so to speak, and see what the potential future claims are. On that basis we feel that of the \$10.2 million now remaining in the fund, it will be safe to distribute \$5 million, approximately half of the total balance, to the States in the first annual distribution. This is a kind of sharing approach, a very inexpensive way of sharing instead of having a lot of expense in detailed operations and also in fighting legal battles in terms of escheat. And than next year we will know a little better how much to make the second distribution and then the third, fourth, and fifth. And when the fifth one is finished, we will keep in the fund enough, we hope, to take care of future claims into perpetuity.

Senator HOLLINGS. But, this is not revenue sharing?

Mr. SOKOL. No, sir. It is a sharing of what is owing to these States, in any event, by law, under the escheat opinions and the basic legal positions.

Senator HOLLINGS. Suppose we passed Federal escheat laws instead of passing this act?

Mr. SOKOL. I am not an attorney and I am afraid, from what I have asked on that question, there is some constitutional issue involved in that. But I hesitate to say any more. Could you address yourself to that, Mr. Kilcoyne?

Senator HOLLINGS. Mr. Kilcoyne, various bills have been introduced over the years which would probably qualify as a Federal escheat law, but they never have been acted upon. What is your legal judgment or opinion of some of these bills? Can we constitutionally enact a Federal escheat law?

Mr. KILCOYNE. I must say I am not a constitutional law expert. I am satisfied that the Congress under its various powers could enact that kind of statute for certain kinds of unclaimed moneys, but not for the postal savings accounts. Our attention has been mainly focused on the postal savings system unclaimed moneys because this has been our most pressing problem.

Senator HOLLINGS. There must be an administrative way. You want to get it cleared up?

Mr. KILCOYNE. Yes.

Senator HOLLINGS. The amount is minimal when you divide it among the 50 States, Puerto Rico, and the Virgin Islands. I think it might be worth looking into legally.

Did any one recommend some provision to make sure money did not get back to the States without Federal guidelines. They must have had a monetary lapse on this one? I just can't see it.

In other words you don't think there is any legal discretion whereby the Post Office Department could administratively give this money back to the States. I would like to see a legal opinion that would eliminate the administrative burden of the Treasury Department.

(The legal opinion requested follows:)

MEMORANDUM

TREASURY DEPARTMENT,
Washington, D.C., December 22, 1967.

To: John K. Carlock, Fiscal Assistant Secretary.
From: Fred B. Smith, General Counsel.
Subject: Escheat of unclaimed postal savings deposits.

BACKGROUND

Public Law 89-377¹ discontinued the Postal Savings System² as of April 27, 1966, and directed the transfer on July 1, 1967, of the total amount of unpaid deposits to the trust fund receipt account on the books of the Treasury Department established under 31 U.S.C. 725p, to remain available for payments whenever proper claims are received. Of the estimated 607,350 postal savings accounts remaining as of June 30, 1967, 177,671 were inactive for at least 20 years and were deemed by the Post Office Department to be unclaimed. Of these inactive accounts 149,481, or 84%, have nominal balances of \$2 or less. At least three states have expressed interest in escheating or taking custody of some of these unclaimed deposits.

CONCLUSION

The answer to the question whether these unclaimed postal savings deposits may be escheated by a state depends upon an analysis of the federal law under which the funds are held and of the character of the claim of escheat asserted by the state. This analysis leads to the following conclusion:

The United States holds unclaimed postal savings deposits in its Treasury trust account in perpetuity for the rightful owner. The Secretary of the Treasury has authority to make regulations governing the payment of claims against this account. Subject to such rules and regulations as may be necessary for the efficient and fair disposition of escheatable postal savings deposits, the Treasury Department may pay the amount of designated deposits to a state which establishes through appropriate court proceedings that under its escheat statute it claims such deposits as their rightful owner.

ARGUMENT

(1) Under the Postal Savings System, 39 U.S.C. Chapter 85, the Post Office had the obligation to pay the amounts deposited to their owners under regulations of the Board of Trustees. Under 39 U.S.C. 5222 the Board of Trustees was required to accept as conclusive the final judgment, order or decree of any court of competent jurisdiction adjudicating any right or interest in a postal savings account, and payment made in accordance therewith discharged the Postal Savings System and the United States from further claim for the sum paid. The Acting Solicitor of the Post Office, on page 3 of a memorandum dated February 28, 1952, stated: "Once the Board determines that a deposit is unclaimed, it is my opinion that it is subject to the escheat power of the state * * *." This opinion was consistent with the opinion of the Acting Attorney General addressed to the Secretary of the Treasury dated July 29, 1920, 32 O.A.G. 268, advising that U.S. Government bonds, registered in the names of persons who have died intestate without leaving heirs or next of kin, may be transferred to a state upon final judgment or decree of escheat of an appropriate state court.

(2) The transfer to a Treasury trust fund of the unpaid deposits under Public Law 89-377 does not alter the escheatability of unclaimed deposits. The several

¹ Act of March 28, 1966, 80 Stat. 92, 39 U.S.C. 5225-5229.

² The background and nature of the Postal Savings System is briefly discussed in Appendix A of this memorandum.

decisions in the *Klein* case establish that funds held in the Treasury subject to proper claim may be escheated to the state where it claims as the owner entitled thereto.³

(3) There are two basic prerequisites for recognition of a state's claim as owner of the deposit. The first is that the state must be entitled under the governing state statute (a) to reach funds in the United States Treasury and (b) to claim them as owner by virtue of escheat and not merely to claim as a custodian of unclaimed or abandoned property. Few, if any, state statutes attempt to embrace funds held by the United States. Moreover, such state statutes as those based upon the Uniform Disposition of Unclaimed Property Act clearly establish the state as a mere custodian of unclaimed or abandoned property until claim is made upon the state by the rightful owner. The custody of the State is in no way superior to the custody in perpetuity by the United States under federal law.⁴

The second prerequisite is that the ownership by escheat of a state be established by an adjudication of escheat by the appropriate state court.⁵ Since the escheat considered here substitutes the state for the private owner, this substitution must occur in accordance with the due process established by the state. As a practical matter, it may be that because of the undue expenses involved, such as providing notice and an opportunity for hearing in the counties of last known address, a state with an appropriate escheat statute may determine to undertake escheat only with respect to deposits over a minimum amount.

The escheatability of unclaimed Postal Savings deposits raises subsidiary legal and administrative questions. The solution to these questions can, to a large extent, be embodied in the regulations of the Secretary governing the payment of claims in the liquidation process.⁶ Indicative of these questions are the following:

(1) The definition of an unclaimed deposit for purposes of liquidation. Since the publicity given to the liquidation of the Postal Savings System and to the fact that no further interest is being paid on the accounts, experience has shown that many of the so-called inactive accounts are in fact being claimed. Consequently, it can no longer be assumed that the deposits which were designated "unclaimed" by the Post Office are unclaimed for purposes of liquidation. The date of liquidation of the System, April 27, 1966, or the date of transfer of the funds remaining unpaid to the Treasury Department, July 1, 1967, could be designated in the regulations as the new basis from which to mark off the years before a deposit remaining in the Treasury shall become officially "unclaimed." Just as the Post Office Department could define unclaimed deposits for purposes of its administration of the System, the Secretary may define unclaimed deposits for purposes of liquidation. The federal definition was held to be superior to that of any state with respect to funds held by federal officers by the Acting Solicitor of the Post Office in his February 28, 1952 opinion above referred to.⁷

(2) The extent of disclosure to the states of information requested on unclaimed deposits. In his opinion the Acting Solicitor decided on this question that the states have a right to sufficient information to enable them to conduct escheat proceedings authorized by their statutes provided that the furnishing of the information does not impose a substantial burden on the Postal Savings System. Since the effective date, July 4, 1967, of the Freedom of Information Act, 5 U.S.C. 552, the Federal Government may recover from the states the cost of providing information from its records. It is obvious, however, that the cost will be less heavy if a request is limited to information pertaining to deposits of \$3 or more since this information is now available on electronic tape in addition to manual card records. The cost of providing the information with respect to deposits of less than \$3 would be substantial because these records consist solely

³ The *Klein* decisions are discussed in Appendix B to this memorandum.

⁴ That the United States holds unclaimed postal savings deposits in its Treasury in perpetuity for the rightful owner is indicated by the following quotation from H. Rept. 483 in H.R. 8030 (which became P.L. 89-377), 89th Cong., 1 (1965): "The unpaid deposits remaining after such period [liquidation period ending June 30, 1967] shall be transferred to the Treasury Department, deposited in a trust fund receipt, and remain available for payment, without time limitation, whenever proper claims are received." This idea is further expressed in the regulations of the Fiscal Service on payment on account of deposits added as Part 257 to 31 CFR. The notice of proposed rule making in 32 F.R. 7855, May 30, 1967, stated that P.L. 89-377 directed the transfer on July 1, 1967, of the total amount of unpaid deposits "to a trust fund deposit account on the books of the Treasury to remain available for payments whenever proper claims are received."

⁵ *In re MacMasters*, 60 F. Supp. 733 (S.D. N.Y. 1945).

⁶ 5 U.S.C. 301; see 7 GAO Manual 25.11 stating that regulations governing the payment of unclaimed moneys are issued by the Treasury Department.

⁷ Among the federal decisions supporting this opinion are *Norwegian Nitrogen Products Co. v. United States*, 285 U.S. 294, 315 (1933).

of extensive manual card files (not in electronic tape form).⁸ In any case, the appropriate charges may be determined in accordance with the disclosure regulations of the Secretary and of the Bureau of Accounts, 31 CFR Parts 1 and 270.

APPENDIX A.—THE POSTAL SAVINGS SYSTEM: BACKGROUND AND NATURE

The legislative history of the Postal Savings Bank Act of 1910¹ indicates that there was an acute need at that time for the establishment of a postal savings system in the United States. Banking institutions were neither sufficiently numerous nor accessible to meet the needs of the growing population, particularly in rural areas.² There was also a feeling of distrust in banks which restrained a certain segment of the population from making deposits in them, no matter how conveniently situated and well run.³ As a result, an increasing amount of money was taken out of circulation either by hoarding or sending abroad. The answer to the problem was the establishment of a postal savings system providing easily accessible facilities for the deposit of savings at interest with the faith of the United States pledged for repayment of the deposits. Congress hoped that such a system would not only channel a sizable amount of money formerly beyond the reach of private banks back to the local communities but also "encourage thrift and a saving disposition among the people."⁴

The Postal Savings Bank Act, *supra*, designated a Board of Trustees which consisted of the Postmaster General and the Secretary of the Treasury. The Board was to control, supervise and administer the postal savings system. Authority was vested in the Board, and in certain instances the Postmaster General, to make such regulations as they thought necessary and proper for the custody, investment, and repayment of the funds deposited.

Under the Act, the Postmaster General was authorized to designate the post offices which were to become postal savings depositories. Interest on the deposits was to be paid at 2 percent per annum. The funds received at the postal savings depositories were to be deposited by the Board of Trustees in banks of the locality where the postal savings deposits were made. To insure the safety and prompt payment of the deposits, the Board of Trustees was to require banks receiving postal savings funds to provide sufficient security in public bonds or other securities. Depository banks were to pay interest at a rate of not less than 2¼ percent a year. The profit from the operation of the system was turned over to the Treasury as postal revenue.

The Act authorized the Postmaster General to use the pass book system or such other device as he might see fit to adopt, and he adopted the certificate form. These nontransferable and nonnegotiable certificates of deposits were issued in fixed denominations ranging from \$1 to \$2,500.⁵ No person was allowed to have more than one savings account at one time. Payment was made upon presentation of the certificate either by the depositor or his designated representative at the office of issue. In the case of deceased depositors, the amount due was payable to the legal representative appointed under the laws of the state where the money was deposited.⁶

APPENDIX B.—THE EFFECT OF TRANSFERRING UNPAID DEPOSITS TO A U.S. TRUST FUND

The question whether funds held by the Federal Government are subject to escheat by the states has been the subject of extensive litigation known as the *Klein* cases. In 1916 the federal district court in Pennsylvania ordered payment by the Pennsylvania Railroad Company of certain moneys to a group of bondholders.¹ Some of these bondholders failed to file claims and the unclaimed moneys were paid into the court registry. A petition to divide this money pro rata among the known claimants was denied² and subsequently the balance

⁸ Even though confined to accounts of \$3 or more, the administrative costs involved would not be inconsequential. This is because accrued interest would have to be computed for each account for which a state might be interposed as the rightful claimant, thereby involving work on many accounts that might otherwise never involve a claim and interest computations.

¹ Act of June 25, 1910, c. 386, § 1, 36 Stat. 814; 39 U.S.C. 5202 *et seq.*

² S. Rept. 125, 61st Cong., 26 (1910).

³ *Id.* at 27.

⁴ S. Rept. 125, 61st Cong., 31 (1910).

⁵ 36 Stat. 815. The statute was later amended to provide for a \$5 minimum deposit. Act of August 1, 1956, c. 844, 70 Stat. 897, 39 U.S.C. 5211.

⁶ 39 CFR 173.5(h).

¹ *Brown v. Pennsylvania Canal Co.*, 229 Fed. 444 (E.D. Pa. 1916), *aff'd*, 235 Fed. 669 (3rd Cir. 1916).

² *Brown v. Pennsylvania Canal Co.*, 279 Fed. 417 (3d Cir. 1922).

of the fund was transferred to the United States Treasury as required by federal law in the case of funds paid into court and unclaimed for more than five years.³

Some eighteen years after the original order, the Escheator of Pennsylvania, proceeding under a Pennsylvania statute, petitioned the federal district court to declare an escheat of the fund. The court dismissed the petition without prejudice on the ground that the Escheator had not yet procured a declaration of escheat of the fund which was deemed to be necessary in order to perfect the state's title.⁴ Since the Pennsylvania escheat statute did not confer jurisdiction upon a state court to decree an escheat of such a fund, it was amended to confer this power.⁵ The Escheator then sought a decree of escheat in the designated state court; he was opposed by the United States. The state court declared the escheat and authorized the Escheator to apply to the federal court for the money.⁶ The Government appealed to the United States Supreme Court, contending that the escheat decree was an unconstitutional interference with a federal court, and an invasion of the sovereignty of the United States. Chief Justice Stone, speaking for the Court in *United States v. Klein*,⁷ rejected these contentions and upheld the Pennsylvania court. The Chief Justice pointed out that the district court retained jurisdiction over the fund for the sole purpose of ordering payment of the fund to the persons entitled to it. However, beyond what is necessary to the accomplishment of that end, the Chief Justice observed, the jurisdiction of the federal court "does not operate to curtail the power which the state may constitutionally exercise over persons and property within its territory."⁸

Subsequently the Pennsylvania Escheator successfully petitioned the federal district court for the moneys which had been declared escheated by the state court. On appeal the Court of Appeals for the Third Circuit affirmed, *United States v. Klein*,⁹ reasoning that in order for the state court to have jurisdiction, the res escheated must have its situs within the territorial limits of the state, but need not be actually seized by the state court or in its possession. Since possession was unnecessary for the state's escheat proceedings, pointed out the court, the fact that the fund was in Washington did not present any obstacle, because control over the res still rested with the district court in Pennsylvania. The Third Circuit's ruling has since remained unchallenged, and in the escheat cases coming after it, only passing mention has been made that the particular fund involved was situated in Washington.¹⁰

The significance of the funds' actual location is further diminished by the Supreme Court's ruling in *Texas v. New Jersey*.¹¹ This was an original action involving different States, each asserting its right to escheat unclaimed debts owing by a corporation to individual creditors. To avoid the possibility that several States may assert conflicting claims to the same intangible property, the Court formulated a general rule designed to identify readily the States in whose favor the doctrine of escheat would operate. Having examined a number of different standards suggested, the Court focused upon the creditor's last known address as determining the State which may subject intangible property to escheat.

The Court pointed out

"* * * that since a debt is property of the creditor, not of the debtor, fairness among the States requires that the right and power to escheat the debt should be accorded to the State of the creditor's last known address as shown by the debtor's books and records. * * * Adoption of such a rule involves a factual issue simple and easy to resolve, and leaves no legal issue to be decided."¹²

The debt being regarded as an asset of the creditor, the "situs" of the asset is in the state of the creditor's last known address. Since a postal savings deposit represents a debt or obligation owing to the depositor, it is my opinion that under

³ 29 Stat. 578 (1897); 28 U.S.C. 852 (1946 ed.), 2042 (1964 ed.).

⁴ *Klein v. Broderick*, 15 F. Supp. 473 (E.D. Pa. 1934).

⁵ Pa. Stats. Ann., tit. 27, § 334 (1958).

⁶ *In re Escheat of Moneys in Custody of United States Treasury*, 326 Pa. 260, 192 Atl. 256 (1937).

⁷ 303 U.S. 276 (1937).

⁸ *Id.* at 280-81.

⁹ 106 F. 2d 213 (3rd Cir. 1939), cert. denied, 308 U.S. 618 (1939).

¹⁰ See e.g., *In re Moneys Deposited in United States District Court*, 243 F. 2d 443 (3d Cir. 1957); *In re Vulcan & Reiter Co.*, 71 F. Supp. 678 (S.D. N.Y. 1948); *In re Van Schaick*, 69 F. Supp. 764 (S.D. N.Y. 1946).

¹¹ 379 U.S. 674 (1965).

¹² *Id.* at 680-81.

the rule of *Texas v. New Jersey* the state of the last known address of the depositor may subject unclaimed postal savings deposits to its escheat statutes.¹³

It should be noted here that unclaimed funds from court registries, such as those involved in *United States v. Klein*, are transferred to the Treasury as miscellaneous receipts, while postal savings funds are transferred to a Treasury trust fund under 31 U.S.C. 725p. In my opinion, this distinction does not render the *Klein* rationale inapplicable to postal savings deposits, since the Court there considered the position of the United States to be that of a statutory trustee.

Senator Boggs. Mr. Chairman, I apologize that I came in late because I had to be at another committee meeting. I will certainly look at your testimony and consider it.

Senator HOLLINGS. We appreciate both of you appearing here this morning.

Mr. SOKOL. Thank you, Mr. Chairman.

Senator HOLLINGS. Our next witness is Mr. W. Allen Sanders, Deputy Assistant General Counsel for Legislation, U.S. Postal Service.

**STATEMENT OF HON. W. ALLEN SANDERS, DEPUTY ASSISTANT
GENERAL COUNSEL FOR LEGISLATION, U.S. POSTAL SERVICE;
ACCOMPANIED BY HAROLD P. BELCHER, OFFICE OF THE SENIOR
ASSISTANT POSTMASTER GENERAL, MAIL PROCESSING GROUP**

Mr. SANDERS. I am W. Allen Sanders, Deputy Assistant General Counsel for Legislation, U.S. Postal Service. Accompanying me is Harold P. Belcher from the Office of the Senior Assistant Postmaster General, Mail Processing Group. Thomas Meagher, Assistant General Counsel for Transportation Division was scheduled to accompany me here today but was unable to come at the last minute.

I welcome this opportunity to testify on H.R. 135. As you know the Postal Savings System was terminated by law in 1966 and all unpaid deposits were transferred to the Treasury Department. H.R. 135 would provide for the distribution by the Treasury Department of the remaining unclaimed deposits to the several States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

The procedures prescribed by the bill appear to provide a practical and equitable method of distribution of the unclaimed postal deposits. The Postal Service has no objection to the enactment of the bill.

Senator HOLLINGS. Yes, sir. That is H.R. 135. We will consider that, ask questions, and move on to the next one. Thank you very much. Do you have a legal opinion?

Mr. SANDERS. No, sir. We have not focused on those questions you raised with the Treasury Department this morning.

Senator HOLLINGS. Thank you, sir. Then let's proceed on S. 996.

(A copy of S. 996, the agency reports, and letter from Senator Harris follows:)

¹³ This conclusion does not apply to unclaimed bankruptcy dividends paid into the Treasury. In a 1956 amendment to the Bankruptcy Act, Congress has declared that unclaimed bankruptcy dividends "shall not be subject to escheat under the laws of any State." 11 U.S.C. 106. This amendment underscores the escheat-ability of such funds absent the Congressional prohibition.

Although no court has yet passed upon the constitutionality of the provision of the Bankruptcy Act, prohibiting escheat by the states of unclaimed bankruptcy dividends, it was said to present a serious constitutional question in *In re Moneys Deposited in United States District Court*, 243 F. 2d 443, 447-48 (3d Cir. 1957).

92^D CONGRESS
1ST SESSION

S. 996

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25 (legislative day, FEBRUARY 17), 1971

Mr. HARRIS introduced the following bill; which was read twice and referred to the Committee on Post Office and Civil Service

A BILL

For the relief of certain air taxi mail transportation operators.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That the Postmaster General is authorized and directed to
4 pay, out of current appropriations to the Post Office Depart-
5 ment (hereafter referred to in this Act as the "Depart-
6 ment"), to each individual eligible for reimbursement under
7 section 2 of this Act the amount of money to which each such
8 individual is entitled, as determined by the Postmaster Gen-
9 eral, under section 3 of this Act. Any payment made to any
10 individual pursuant to this Act shall be in full settlement of

III

1 all claims by such individual against the United States arising
2 out of—

3 (1) the expenses which resulted from the applica-
4 tion by the Department and the Federal Aviation
5 Agency of certain requirements, and

6 (2) certain other expenses incurred
7 (described in section 3 of this Act) with respect to such
8 individual's transportation of mail by air at any time during
9 the period commencing July 1, 1967, and ending Decem-
10 ber 31, 1968 (hereafter referred to in this Act as the "re-
11 imbursement period").

12 SEC. 2. Any individual who transported mail as a non-
13 certificated air common carrier at any time during the reim-
14 bursement period is eligible to apply for reimbursement under
15 this Act if (1) application therefor, in such form as shall be
16 prescribed by the Postmaster General, is made by the individ-
17 ual within such time as shall be specified by the Postmaster
18 General, and (2) such individual had made appropriate ap-
19 plication during the reimbursement period to the Postmaster
20 General for a rate increase to cover the expenses referred to
21 in the first section of this Act.

22 SEC. 3. The Postmaster General shall pay to any indi-
23 vidual eligible to apply for reimbursement under section 2 of
24 this Act an amount equal to the total amount of expenses de-
25 termined by the Postmaster General to have been incurred

1 by the individual during the reimbursement period in order
2 to meet (1) the requirements established by the Department,
3 or the Federal Aviation Agency, or both, with respect to
4 necessary aircraft equipment, continuing aircraft crew train-
5 ing, and operational procedures, and (2) newly imposed or
6 increased landing and ramp fees, or both, charged by airports
7 as a result of increased air taxi mail transportation operations.

8 SEC. 4. No part of any amount appropriated in the first
9 section of this Act in excess of 10 per centum thereof shall be
10 paid or delivered to or received by any agent or attorney on
11 account of services rendered in connection with any claim
12 made under this Act, and the same shall be unlawful, any
13 contract to the contrary notwithstanding. Any person violat-
14 ing the provisions of this section shall be deemed guilty of a
15 misdemeanor and upon conviction thereof shall be fined in
16 any sum not exceeding \$1,000.

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., March 16, 1971.

HON. GALE W. MCGEE,
Chairman, Committee on Post Office and Civil Service,
U.S. Senate.

DEAR MR. CHAIRMAN: Your letter of March 1, 1971, transmitted copies of S. 996 entitled: "A BILL For the relief of certain air taxi mail transportation operators," and requested our views and comments thereon.

S. 996 is identical to S. 3995, 91st Congress, the subject of our report to you dated September 18, 1970, B-166772. As we stated in our report of September 18, 1970, the purpose of the bill is to afford financial relief to air taxi operators subjected to unforeseen extra expenses in transporting the mails during the period from July 1, 1967, through December 31, 1968. After the air taxi operators' offers of service, including the rates to be charged, and the Post Office Department's notices of intent to utilize those services, had been filed with the Civil Aeronautics Board, both the Post Office Department and the Federal Aviation Agency reportedly imposed requirements as to aircraft equipment, crew training, and operational procedures which increased the costs of operations. And as the transportation of mail by the air taxi operators increased, airports assessed landing and ramp fees, or increased existing fees. These added expenses raised the costs of operation over the costs used to determine the rates held out in the carriers' offers of service.

S. 996 provides that any noncertificated air common carrier which transported mail during the reimbursement period, July 1, 1967, through December 31, 1968, and which applied to the Postmaster General during that period for a rate increase to cover the additional expenses, might apply to the Postmaster General and be reimbursed in an amount equal to the added expenses which the Postmaster General should determine the applicant to have incurred during the reimbursement period. The Postmaster General would be authorized to prescribe the form of the claim for reimbursement and the time within which the claim must be filed; the payments to claimants would be made from current appropriations of the Post Office Department. Section 4 of the bill would restrict the fee of a claimant's agent or attorney to no more than 10 percent of the recovery; a violation would be a misdemeanor punishable by a fine up to \$1,000.

As we understand the background of this matter, the air taxi operators' offers of service and rates and the Department's notices of intent to use those services were properly filed with the Civil Aeronautics Board, which, when approved by the Board, became final on their effective dates. Experience in carrying the mails showed the rates to be inadequate because the subsequently imposed requirements and changed conditions had increased actual operating costs over those upon which the rates were predicated. The Board was unable to grant relief since the law is well settled that it is powerless to increase rates retroactively. *Transcontinental and Western Air, Inc. v. Civil Aeronautics Board*, 336 U.S. 601 (1949).

We have learned from the Post Office Department that only two air taxi operators, Ross Aviation, Inc., Tulsa, Oklahoma, and Sedalia-Marshall-Boonville Stage Line, Inc., Des Moines, Iowa, could meet the requirement in condition (2) of section 2 of S. 996 to qualify for reimbursement. These two operators, alone among a number of air taxi operators which transported mail during the reimbursement period, had applied to the Postmaster General during that time for rate increases to cover the extra costs. Other air taxi operators transporting the mails may well have incurred comparable additional costs; but for the requirement in condition (2) of section 2 of the bill, they also would be eligible for reimbursement.

We feel that to avoid any implication of discriminatory treatment of other air taxi operators similarly situated, condition (2) should be removed or modified so as to afford reasonable opportunity to other such operators to file claim for reimbursement. A filing period of 180 days after enactment would appear to be reasonable. With the suggested change in S. 996, and assuming that the information developed by your committee establishes that the bill is worthy of enactment, we would not object to favorable consideration of the bill by the committee.

We note that the Post Office Department is to be replaced by the United States Postal Service under the Postal Reorganization Act, Public Law 91-375, approved August 12, 1970, 84 Stat. 719, within the year after August 12, 1970. We also note that section 5402(c) of that act provides for adjustment of air mail contracts which may be made between the Postal Service and air taxi operators to reflect increased or decreased costs occasioned by changed conditions which occur during the life of the contracts.

Sincerely yours,

R. F. KELLER
Assistant Comptroller General of the United States.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., June 7, 1971.

Hon. GALE W. MCGEE,
*Chairman, Committee on Post Office and Civil Service,
U.S. Senate, New Senate Office Building, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for the views of the Office of Management and Budget on S. 996, a bill "For the relief of certain air taxi mail transportation operators."

The Office of Management and Budget has no objection to the enactment of S. 996, if amended as stated in the Post Office Department report to you on this bill.

Sincerely,

WILFRED H. ROMMEL,
Assistant Director for Legislative Reference.

THE GENERAL COUNSEL,
POST OFFICE DEPARTMENT,
Washington, D.C., June 16, 1971.

Hon. GALE W. MCGEE,
*Chairman, Committee on Post Office and Civil Service,
U.S. Senate, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in reply to your request for a report on S. 996, a bill for the relief of certain air taxi mail transportation operators.

This measure would authorize reimbursement to certain air taxi mail transportation operators for additional expenses incurred by them in the period July 1, 1967-December 31, 1968, as a result of directives issued by the Federal Aviation Agency and new regulations of the Post Office Department.

During the stated period air taxi operators were engaged in transporting mail under final service mail rates prescribed by the Civil Aeronautics Board pursuant to 49 U.S.C. 1376. Expenses of the character referred to in section 3 of the bill were not covered by the rates which had been set by the Board before the expenses were incurred.

These air taxi operators incurred costs of a type which are normally reimbursable. However, since the carriers were operating at the time under final service mail rates, there was no authority to authorize reimbursement. This was so because of the case of *Transcontinental and Western Air, Inc. v. Civil Aeronautics Board* (336 U.S. 601), which held that the Civil Aeronautics Board is without authority to fix a new mail rate for air carriers and make it retroactive for a period in which a final rate previously fixed by the Board was in effect and unchallenged by the initiation of a mail rate proceeding. Insofar as the Postal Service is concerned, we are not authorized to pay more than the rate prescribed by the Board (49 U.S.C. 1376(c)).

The Postal Service has no objection to enactment of legislation to reimburse the air taxi operators covered by S. 996 for costs incurred to the extent these costs are appropriate for inclusion as elements for rate making purposes. However, section 3 of S. 996 creates some uncertainty as to how the amount of reimbursement is to be computed. For example, it is not clear that the bill would make any allowance for the residual or salvage value of equipment purchased by the air taxi operators. It should also be noted that section 2(2) limits eligibility for relief under the bill to those individuals who made application during the reimbursement period. Such applications were made only by Ross Aviation, Inc. and Sedalia, Marshall, Boonville Stage Line, Inc. These firms incurred properly reimbursable costs of \$23,891.26 and \$11,667.02, respectively.

In view of the foregoing the Postal Service is opposed to enactment of this measure in its present form, but would not oppose legislation authorizing payments to Ross Aviation and Sedalia, Marshall, Boonville Stage Line, Inc. in the amounts stated above.

Legislation authorizing the subject payments should be drawn, in the technical sense, so as to reflect enactment of the Postal Reorganization Act (Public Law 91-375). Thus, references to the Postmaster General should be converted to the Postal Service. Post Office Department should be referred to as the former Post Office Department. The language "out of current appropriations to the Post Office Department" should be changed to authorize payment out of funds of the United States, reflecting the policy of 39 U.S.C. 2002(a)(2), as enacted by the Postal Reorganization Act, that liabilities attributable to operations of the former

Post Office Department shall remain liabilities of the United States Government, except to the extent that such liabilities are fully funded at the time of the commencement of operations of the new Postal Service.

The Office of Management and Budget has advised that there is no objection to the submission of this report to the Committee from the standpoint of the Administration's program.

Sincerely,

DAVID A. NELSON, *General Counsel.*

U.S. SENATE,
COMMITTEE ON GOVERNMENT OPERATIONS,
Washington, D.C., July 21, 1971.

Hon. ERNEST F. HOLLINGS,

Chairman, Subcommittee on Postal Operations, Post Office and Civil Service Committee, New Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Because of a prior commitment, I am unable to appear and testify before your Subcommittee in support of S. 996 which I introduced on February 25, 1971. I appreciate your scheduling a hearing to consider the merits of this legislation.

S. 996 is identical to S. 3995, introduced by me in the 2nd Session of the 91st Congress. The bill simply authorizes the Post Office Department, now the U.S. Postal Service, to reimburse air taxi operators for certain expenses incurred by them at the request of the government during the early period when the air taxi mail program was initiated. It is my understanding that testimony will be presented to the Committee indicating that postal officials gave assurances to the air taxi's that they would be compensated for these costs, but the government subsequently took the legal position that such costs could not be reimbursed retroactively. It is my further understanding that the Postal Service does not deny the added expenses were actually incurred or that they were incurred at the specific request of the Postal Service with either an explicit or implied promise to pay.

The legislation would recognize the equities of the situation and enable air taxis to file claims with the Postal Service for reimbursement.

I understand the Comptroller General has suggested an amendment to S. 996 to make it absolutely clear that any air taxi operator that incurred such expenses during the time period prescribed by the bill would be eligible for reimbursement. I certainly have no objection to the suggested amendment, as it merely puts all air taxi operators on the same footing.

I would appreciate it if you would have this letter included in the record of the hearings. I urge the Subcommittee to act promptly and favorably on S. 996.

Sincerely yours,

FRED R. HARRIS, *U.S. Senate.*

Mr. SANDERS. S. 996 is a private relief bill for the relief of certain air taxi mail transportation operators.

The basis for equitable relief in this case is that rates approved by the Civil Aeronautics Board for the air taxi operators proved to be inadequate because subsequently imposed safety requirements and other changed conditions increased operating costs over those upon which the rates were predicated. However, the Civil Aeronautics Board was unable to grant relief since the law is well settled that the Board is powerless to increase rates retroactively. *Transcontinental and Western Air, Inc., v. Civil Aeronautics Board*, 336 U.S. 601 (1949).

As indicated in our report filed with your committee on June 16, 1971, the postal service opposes the bill in its present form because (1) section 2(2) limits eligibility for relief to only two operators who are not named in the bill, and (2) section 3 creates some uncertainty as to how the amount of reimbursement is to be computed.

However, if in the judgment of the Congress the facts present a case of equitable relief, the Postal Service will not oppose enactment of the bill if—

- (1) The operators to be granted relief are named in the bill;

(2) The amounts found to be properly reimbursable are specified in the bill; and

(3) Certain technical amendments are made in the bill as suggested in the penultimate paragraph of our report.

I will be glad to answer any questions.

Senator HOLLINGS. Mr. Sanders, what is the advantage of naming?

Mr. SANDERS. Mr. Chairman, we simply believe that there should be—as usually there is in private relief bills—a naming of individuals who are going to receive the relief so there will be a full disclosure to the Congress of who is being paid what.

Senator HOLLINGS. I agree; and who are the two operators? Will you name them for us?

Mr. SANDERS. Yes, sir. I believe that they are named in our report. I believe they are Ross Aviation, Inc., and Sedalia Marshal, Boonville Stage Line, Inc.

Senator HOLLINGS. Is it your opinion that those are the only two carriers that could qualify?

Mr. SANDERS. No, sir. Under the terms of the bill as written, this is a general bill. No; I am sorry. Under section 2.2 you are correct. The bill states that only those firms which made an application for a rate increase could be eligible under the terms of the bill and these are the only two firms that made an application for a rate increase. But they are not the only airlines that were in this same position. They were simply the only two that made an application for a rate increase.

Senator HOLLINGS. Then general provisions were made and others could apply?

Isn't the real thrust to reimburse those disadvantaged and those who suffered financially because of this upgrading of equipment that was required as you outlined in your statement?

The Department of Commerce would say, "Wait a minute there." They didn't have any idea that there was any relief to be granted or would be granted, but they suffered just as much. They were responsible to air carriers. They performed services just like the two who have applied.

Why not a general provision that provides that those who can apply and qualify would be reimbursed? Isn't that the thrust of the bill: to reimburse all those who should be, rather than those who as of this minute have applied?

Mr. SANDERS. Mr. Chairman, the bill as drafted would be limited by its terms to the two airlines because they are the only ones who would qualify under the terms of the bill as drafted.

Senator HOLLINGS. The Controller General outlined to the committee:

We feel that to avoid any implication of discriminatory treatment of other air taxi operators similarly situated, that condition 2 should be removed or modified so as to afford reasonable opportunity to other such operators who claim for reimbursement during the filing period of 180 days after enactment, would appear to be reasonable.

Mr. SANDERS. We simply disagree on the procedural point there with the General Accounting Office, Mr. Chairman. We believe that all of those who are to receive relief should be named in the bill, and specific amounts they are to be relieved of should be listed in the private relief bill.

Senator HOLLINGS. How can you name them in the bill when they haven't applied?

You have to put a provision in there—let's say for 180 days you can apply. Therefore, you establish a definite period.

Mr. SANDERS. We disagree with that procedure, Mr. Chairman. We believe that all of those who think that they are entitled to relief should come forward.

Senator HOLLINGS. When?

Mr. SANDERS. And be named in this private relief bill.

Senator HOLLINGS. Wait a minute. We are going to name them. We are about to pass the bill. How are they going to apply in time? What period of time would you give them?

Mr. SANDERS. We simply believe, Mr. Chairman, that this legislation as enacted should be strictly a private relief bill to all of those who are to receive relief and that they should be listed in this bill and the specific amounts that they are to be relieved of should also be listed in the bill. It should not place the responsibility on the Postmaster General to go through a procedure here as proposed, of making a determination. We believe that the Congress should make this determination.

Senator HOLLINGS. I understand.

Now, let's go to that other point about the uncertainty as to the amount. What is the uncertainty?

Do you think that it should be stipulated just as you insist on the actual naming should the Congress search out the various carriers and find out the amounts ahead of time of those likely to claim and put the amount in the bill?

Mr. SANDERS. That is our recommendation; yes, sir.

Senator BOGGS. What is the estimate of overall claim possibility?

Senator HOLLINGS. Do you have any estimate of overall claim possibility?

Mr. SANDERS. No, sir. We do not. The amount the two firms that would be covered by the bill as drafted would receive is a total of approximately \$38,000. However, we have no estimate of how many other firms would feel that they have been aggrieved. These are the only two firms that made an application for a rate increase. There are approximately 15 or 20 other air taxi operators that were in the same sort of business at the same time who may be entitled to relief. But they have not come forward yet and made an application for relief so we have no definite estimate of the amount of money that would be involved. I believe it would be a relatively small amount.

Senator BOGGS. So, assuming there could not be more than 20 claimants if there were only 20 other operators at the time.

Mr. SANDERS. That is the information I have; yes, sir.

Senator BOGGS. Thank you.

Thank you, Mr. Chairman.

On that particular one, Mr. Sanders, you don't have anything further?

Mr. SANDERS. No, sir.

Senator HOLLINGS. Thank you, sir.

Now, I want to ask you about S. 1989.

(A copy of S. 1989 and the agency report follows:)

92^D CONGRESS
1ST SESSION

S. 1989

IN THE SENATE OF THE UNITED STATES

JUNE 3, 1971

Mr. HOLLINGS introduced the following bill; which was read twice and referred to the Committee on Post Office and Civil Service

A BILL

To amend title 39, United States Code, to provide for the renewal of certain star route contracts.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That section 5005 (b) (1) of title 39, United States Code (as
4 enacted by section 2 of Public Law 91-375) is amended by
5 adding the following at the end thereof:

6 “If a holder has sublet the service in accordance with
7 law and does not indicate in writing to the Postal Service at
8 least ninety days before the end of the contract term that
9 he desires to renew the contract, the Postal Service may enter
10 into a contract with the subcontractor then, and for six
11 months prior thereto, performing the service under the con-

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1 tract to the satisfaction of the Postal Service. Contracts made
2 under this subsection shall be upon the terms prevailing at
3 the end of the preceding contract term and may be made
4 without advertising.”

COMPTROLLER GENERAL OF THE UNITED STATES,
Washington, D.C., July 1, 1971.

B-78175.

HON. GALE W. MCGEE,
Chairman, Committee on Post Office and Civil Service, U.S. Senate.

DEAR MR. CHAIRMAN: By letter dated June 7, 1971, you requested our views and comments on S. 1989, 92nd Congress, 1st session, entitled "A BILL To amend title 39, United States Code, to provide for the renewal of certain star route contracts."

The bill would amend section 5005(b)(1) of title 39, United States Code (as enacted by section 2 of Public Law 91-375, the Postal Reorganization Act of 1970), by permitting the Postal Service to enter into a contract without advertising with a subcontractor who has, for at least 6 months, satisfactorily performed the required services, if the prime contractor, who has subcontracted the services in accordance with law, does not indicate in writing to the Postal Service at least 90 days before the end of the contract term that he desires to renew the contract.

We note that this proposed legislation is substantially similar to that contained in 39 U.S.C. 6416(b), which was not carried forward into the Postal Reorganization Act of 1970. Senator Ernest F. Hollings, who introduced the bill, stated, at page S 8089 of the Congressional Record dated June 3, 1971, that:

"* * * Under the new provisions of title 39, as Congress enacted Public Law 91-375, the Postal Reorganization Act of 1970, this authority to renew directly with the subcontractor was omitted. The only way to contract with the post office under the new law, which becomes effective July 1, 1971, is either by competitive advertising or negotiating after fair public notice.

"I do not believe that Congress intended to repeal a provision of law which operates for the benefit of the postal service as well as those who provide transportation services satisfactorily for the postal service. The legislation which I introduce today will reenact that permissive authority. * * *"

We have no special information as to the advantages or disadvantages of the proposed legislation since the desirability of the enactment of the bill is a matter of policy for determination by the Congress. Therefore, we have no comments to offer as to the merits of S. 1989.

In accordance with your request, eight copies of this letter are enclosed.

Sincerely yours,

R. F. KELLER,
Assistant Comptroller General of the United States.

Mr. SANDERS. S. 1989 would permit the Postal Service to renew certain star route contracts with subcontractors without competitive procurement. The present law authorizes the Postal Service to negotiate the renewal of star route contracts by mutual agreement between the prime contractor and the Postal Service. S. 1989 would add a provision authorizing the Postal Service to renew the contract with a subcontractor, without advertising, if the prime contractor decides not to renew.

While it is the position of the Postal Service that competitive procurement should be required in most situations, we will not oppose the bill if it is clearly understood by all concerned that the bill is intended merely to authorize the Postal Service to negotiate the renewal of contracts with subcontractors. Under the provisions of section 6416(b) of old title 39, United States Code, which S. 1989 would reenact in substance, the practice developed whereby there was almost an automatic renewal of most contracts. We do not intend to follow that practice in the future. We interpret S. 1989 as it is drafted to give the Postal Service the authority to require competitive procurement in each case where such would appear to be in the best interest of the Postal Service.

Accordingly, the Postal Service has no objection to the enactment of S. 1989. However, it is recommended that the new provision be added to paragraph (2) of 39 U.S.C. 5005(b) rather than to para-

graph (1) of that subsection as proposed. Paragraph (2) deals with the renewal of contracts with prime contractors and it would appear appropriate to add to that subsection the provision relating to the renewal of contracts with subcontractors.

Senator HOLLINGS. The bill was introduced because of an oversight by the Congress. It is permissive and does not require an automatic renewal of the contract.

Senator Boggs.

Senator BOGGS. I am a great believer in competitive bidding. I believe it is a great safeguard.

S. 1989 was in practice before the postal reorganizational legislation and it was accidentally left out or outlawed in that bill, is that the situation?

Mr. SANDERS. Yes, there was a provision of law before that allowed us to do this. That provision was not included in the Postal Reorganization Act.

Senator HOLLINGS. Was there some intention of Congress as expressed anywhere in the committee's testimony why it was left out?

Senator BOGGS. But it was left out so that if this bill is passed, it puts it right back where it was before the reorganization.

Senator HOLLINGS. That is right.

Mr. SANDERS. I think this bill would give us some additional flexibility.

Senator BOGGS. You are in favor of this bill, is that your position?

Mr. SANDERS. It does give us certain flexibility. We may not use it too often because we propose to require competitive bidding in most cases, but it may be useful to us in certain situations where only one party is interested. Competitive procurement in such a case would simply be unnecessary.

Senator BOGGS. But normally your policy would be competitive bidding?

Mr. SANDERS. Yes.

Senator HOLLINGS. All right, sir. Now, on S. 2106.

(A copy of S. 2106 follows.)

92^d CONGRESS
1st SESSION

S. 2106

IN THE SENATE OF THE UNITED STATES

JUNE 21, 1971

Mr. HOLLINGS introduced the following bill; which was read twice and referred to the Committee on Post Office and Civil Service

A BILL

To provide that each piece of mail matter canceled by the Postal Service shall include certain information as part of the cancellation.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That (a) chapter 36 of title 39, United States Code, is
4 amended by adding at the end thereof the following new
5 section:

6 **“§ 3686. Postal cancellations**

7 “The cancellation of any piece of mail matter canceled
8 by the Postal Service shall include the name of the city and
9 State or the post office and State in which the piece was can-

1 celed, the month, day, and year on which the piece was can-
2 celed, and whether the piece was canceled during the ante-
3 meridian or during the postmeridian”.

4 (b) The analysis of subchapter V of such chapter, pre-
5 ceding section 3685, is amended by adding at the end thereof
6 the following new item:

“3686. Postal cancellations.”

Mr. SANDERS. Mr. Chairman, it is our understanding that S. 2106 is intended to require the Postal Service to stamp each piece of mail canceled by the Postal Service with a cancellation stamp that would include all of the following information.

- (1) The name of the city and State, or the post office and State, in which the piece was canceled;
- (2) The month, day, and year on which the piece was canceled; and
- (3) Whether the piece was canceled during the antemeridian or during the postmeridian.

Mr. Chairman, the Postal Service strongly opposes the enactment of S. 2106.

We believe that the bill violates the spirit and intent of the "Postal Reorganization Act" which gave the Postal Service broad authority to manage its day-to-day operations. We believe that the determination of what information should be included on a cancellation stamp, which this bill proposes to legislate, is an operational policy matter which should be analyzed and determined by Postal Service management.

Prior to the adoption of the Postal Reorganization Act, the Kappel Commission found that the nominal managers of the Postal Service did not have the authority to run the Postal Service. The Commission found that the Postal Service was controlled by a host of detailed postal laws 200 years in the making which constrained managerial judgment and initiative. The Commission found laws on the statute books which specified what material the Postmaster General could dispose of as wastepaper, when customers should pay for postal lockboxes, how to mail a key, and how a file clerk should maintain his files. However, even in that era when the Postal Service was run by the book, the Postmaster General was allowed to determine what information should be included on postmarks. Section 2507 of old title 39 of the United States Code provided, and we believe for good reason, that:

The Postmaster General shall direct the manner in which postage stamps on mailmatter shall be cancelled and may furnish necessary equipment and supplies therefor.

Thus, S. 2106 would take away the discretion that the Postal Service had even before the enactment of the Postal Reorganization Act to determine the content of postmarks. Now that the Postal Reorganization Act has been enacted we feel that such legislation is especially inappropriate. We believe that amendments to the Postal Reorganization Act to legislate matters affecting day-to-day postal operations would be a grave mistake.

The enactment of S. 2106 would hamper the efficient operation of the Postal Service because compliance with the requirement of including the name of each local post office in the postmark would be in direct opposition to procedures that have been carefully worked out in implementing our area mail-processing program and other related network systems.

The principal idea behind area mail processing is that larger facilities equipped with major mail-handling machines which could not be justified for small-volume post offices will process mail brought in from surrounding areas. Modern, high-speed equipment is costly, and

its use is most efficient when a concentrated mail volume permits operation of the machinery for a larger part of the working day. However, our policy is not to implement this program where the level of service to the public cannot be maintained equal to or greater than that existing prior to the change.

Our present operational procedure of using the three-digit zip code number and the two-letter State abbreviation is proving to be the best solution to the problem of providing a postmark for mail processed at area mail-processing centers.

Senator BOGGS. Could I interrupt you there, Mr. Chairman?

Senator HOLLINGS. Yes, sir.

Senator BOGGS. What do you mean by a two-letter digit?

Mr. SANDERS. I believe the system has recently been developed as having a two-letter abbreviation.

Senator BOGGS. De.

Mr. SANDERS. Yes, sir; I believe that is for Delaware.

Senator BOGGS. Is that used only by the post office?

Mr. SANDERS. I believe that a standard two-letter list of abbreviations of the names of States has been developed and is used by others than the Postal Service.

Senator BOGGS. They put the De. and zip code?

Mr. SANDERS. Yes.

Senator BOGGS. Okay, thank you.

Mr. SANDERS. We adopted the three-digit numbering system because the separation, canceling, and postmarking of mail by each local office where mail originated was costly, cumbersome, and prevented the most effective utilization of our modern mechanized postal systems.

The three-digit number identifies a specific postal area and appears to have received general public acceptance since it meets the objection many local communities expressed when another city name was substituted for the name of their local town office. In addition, it should be pointed out that procedures have been developed so that any customer who wishes to do so can obtain a local postmark in a convenient manner.

With regard to showing the date and the a.m./p.m. designation on postmarks, we are already showing this on all canceled preferential mail. In addition, procedures have been developed so that customers may always obtain a postmark with a specific date and the a.m./p.m. designation at their local post office. However, here again we feel that this is an operational matter and should not be legislated.

In conclusion, I should point out that since the bill would be applicable only to "mail matter canceled by the Postal Service". We interpret the bill as having no application to mail which is presently not canceled by the Postal Service, such as bulk mailings of metered mail and precanceled mail. It would, of course, impose an intolerable burden on the Postal Service if the billions of pieces of second-, third-, and fourth-class mail bearing permit imprints were required to be postmarked with all of the detailed information required by S. 2106.

This concludes my prepared statement. Thank you, Mr. Chairman.

Senator HOLLINGS. Senator Boggs.

Senator BOGGS. This is the type of thing that is frightening so many people in communities. They think their post office is going to be wiped out. Their community is going to be wiped out because

they don't get their names on the cancellation. That is what concerns them, isn't it.

Mr. SANDERS. Yes, sir.

Senator BOGGS. What you said in the last part of your testimony, as I understood it, was that they can have it if they take it there personally and get the local postman to do it, is that it?

Mr. SANDERS. We adopted a number of procedures in the various communities that want to preserve their local postmark. This can be done, yes, sir.

Senator BOGGS. So Dover, Del., if anybody wants to make sure Dover, Del., is on this, they can put it in the mail and it will be canceled in Philadelphia?

Mr. SANDERS. Our aim is to please our customers. If there is any body who wants this service, we will make this available to them.

Senator BOGGS. But you are doing this as a matter of dollar savings in the operation, is that it?

Mr. SANDERS. Yes, sir.

Senator BOGGS. Is that the reason for it?

Mr. SANDERS. Yes, sir.

Senator BOGGS. But at the same time for those who have an interest and a concern about having Dover, Del., put on there or Newark, Del., they can still get that?

Mr. SANDERS. Yes, sir.

Senator BOGGS. Thank you, Mr. Chairman.

Senator HOLLINGS. Mr. Sanders, what evidence do you have that it has received general public acceptance?

Mr. SANDERS. Well, we certainly had a lot of correspondence.

Senator HOLLINGS. And they have all written you and commended you saying "I am glad you are leaving the name of my little hometown off", and that you have given me a number.

Mr. SANDERS. I don't think we can say they have all written. We certainly have had a lot of correspondence.

Senator HOLLINGS. What does the correspondence indicate?

Mr. SANDERS. Mr. Belcher, could I ask you to respond to that question.

Mr. BELCHER. At first, I think there was a degree of public misunderstanding of this program.

Senator HOLLINGS. You say it is a degree of understanding?

Mr. BELCHER. It was a change in operating procedure.

Senator HOLLINGS. Mr. Belcher, how did they go about it?

How did you develop that understanding with the public?

Mr. BELCHER. In most cases it was published in local newspapers and released to other news media. It is an operational procedure which is being implemented to provide our customers with more efficient service.

Senator HOLLINGS. But how did the public come to understand it?

Mr. BELCHER. Well,——

Senator HOLLINGS. Did you really advertise and was any publicity given the new system? Was a date set telling people the new Postal Service is going to eliminate your hometown postmark and give you a number?

Where was that publicity?

Mr. BELCHER. In most cases some of the public was notified of the procedure.

Senator HOLLINGS. What part of the public did you pick out to reach the conclusion that it was some of the public, and why did you leave out all of the public?

Mr. SANDERS. Mr. Chairman, if I might interrupt. I think we can provide for the record magazine articles, newspaper articles.

(The aforementioned material was subsequently supplied for the record:)

The following are samples of newspaper and magazine articles which have appeared in different areas of the county to explain the area mail processing system. All of the articles explain the procedures that have been developed so that any customer who wishes to do so can continue to obtain a local postmark in a convenient manner.

- (1) San Francisco "Examiner", April 13, 1971. [copy text of attached article.]
- (2) Atlanta "Journal", April 28, 1971. [copy text of attached article].
- (3) The "Mableton Neighbor", Marietta, Georgia. [copy text of attached article].
- (4) The "Neighborhood Times", Overland, Missouri, June 9, 1971. [copy text of attached article].
- (5) The "Daily Times News", Burlington, North Carolina, June 16, 1971. [copy text of attached article].
- (6) An article entitled "It's Faster the Long Way Around" from the May-June 1971 issue of Postal Life. [copy text of attached article].
- (7) The "Evening Star", Washington, D.C., July 28, 1971. [copy text of attached article].

[From the Examiner—San Francisco, Calif., April 13, 1971]

POST OFFICE TESTS NEW MARKING PLAN

If you get any letters with the postmark "U.S. Postal Service, Ca." instead of the name of a town, don't worry about it. The computers aren't taking over.

You can still mail your Valentine cards from Loveland, Colo. and your Christmas cards from Bethlehem, Pa.

But the Post Office is experimenting with eliminating the names of towns on postmarks, claiming it will save the taxpayers money and speed delivery.

PILOT TESTS

Such tests, according to George Kaufman, spokesman for the San Francisco Post Office, are under way in various selected areas, including the Inglewood area in Southern California, Milwaukee, Ore, and Framingham, Mass. It is also being considered for the Bay Area, although it is still in the talking stage.

Called "area mail processing," the pilot projects have set up "sectional centers" to which "associate offices" route all their mail before they are postmarked.

Framingham, for instance, postmarks the mail for 23 surrounding post offices. Inglewood handles a similar number.

CHEAPER

Kaufman says the system is less expensive because "the mail would go there (to the sectional centers) anyway because they are usually the dispatching point." This eliminates duplication of equipment and manpower, among other things.

ALLOWANCE

This does not, be assured, mean the hometown postmark is on its way out . . . at least not yet. *In a rare recognition and appreciation of citizens' idiosyncracies, the government is making allowances for those of us who, for one reason or another, like to see the name of our town on the letters we sent.*

Each of the "associate offices" have special boxes for letters from postal patrons who might prefer "Hell, Mich." or "Inc., Ark." to "U.S. Postal Service."

[From the Atlanta, Ga., Journal—April 28, 1971]

NEW SYSTEM HERE SCRAPS POSTMARKS

The U.S. Post Office announced a new area mail processing system Wednesday which should save an estimated half-billion dollars nationwide and abolish local postmarks except for specially deposited mail.

The new system is to be installed in Atlanta within the next few weeks. Atlanta Postal Region director T. J. Coleman said Atlanta will be the seventh city in its region, which includes North Carolina, South Carolina, Georgia and Florida, to have the new system.

Under the system, mail from all of 155 associate post offices served by the Atlanta sectional center will be transported directly to the main center and sorted and canceled by machine there.

THIS MEANS, Coleman explained, that letters mailed in this area will no longer carry the local postmark such as Decatur, Marietta or even Atlanta. The new system will postmark all mail handled in the sectional center just "U.S. Postal Service GA. 300," (300 is the zip code).

However, to head off possible opposition to abolishing local post marks the Post Office will also install "local deposit" slots and street boxes for those people who want their mail to carry the local post mark.

Coleman pointed out, however, that such mail still will have to be hand-sorted and canceled in the local post office by workers he said are paid about \$4.50 an hour and therefore will cost more to handle. Coleman emphasized, however, that this will prevent any city from losing its local post mark.

The Atlanta post office has four-letter-sorting machines, each capable of processing 35,000 letters per hour with only 12 operators. The offices' six canceling machines are capable of canceling 30,000 letters per hour.

[From the Marietta, Ga., Mableton Neighbor, May 12, 1971]

POST OFFICE REORGANIZES—ATLANTA TO PROCESS SOUTH AREA MAIL

The U.S. Postal Service is launching a nationwide reorganizational program known as the area mail processing system, which will affect Austell, Mableton, and Powder Springs.

Under the new program, which could save the federal government an estimated half-billion dollars, mail from the 156 associate post offices served by the Atlanta sectional center will go directly to Atlanta for processing and cancellation.

Only mail deposited in specially designated boxes will carry the local postmark. Otherwise, the mail will be postmarked "U.S. Postal Service Ga. 300."

According to John Shipp, information director for the Atlanta post office, "No town is going to lose its postmark."

The associate post offices "will provide a box or drop slot for people desiring a local postmark. No town is going to lose its identity," said Shipp.

The new program, which should be in full operation within the next four to six months, is a part of the Postal Service's move toward mechanization and increased efficiency.

"You can't mechanize every post office though. Within a smaller post office, you don't have the volume to necessitate big machinery. So you have to bring the mail to the machines," Shipp explained.

Although machines will be doing work formerly done by men, Shipp said, "Not one single person within the network of the post office will lose his job because of mechanization."

Some employees may be transferred from associate offices to the sectional center in Atlanta, but "no one will be asked to transfer more than 50 miles," he said.

The idea of taking mail from an associate office to Atlanta, then back to that office, may seem somewhat senseless at first. However, the Atlanta office normally receives two-thirds of all mail deposited at associate offices—with only some one-third staying in a town, said Shipp.

"We have regular dispatches going twice a day to and from this office, so that the extra one-third presents no problem at all. No mail will be delayed because of this system. In fact, it will expedite it," he explained.

The Atlanta post office has machines capable of processing and cancelling mail much faster than could be done in the associate offices. Four letter-sorting machines

are each capable of processing 36,000 letters per hour and require only 12 operators. Six canceling machines handle 30,000 letters per hours.

Atlanta is the sectional center for all areas whose first three zip code numbers are 300, 301, and 302. The district reaches north to Rome and Jasper, south to Thomaston and Barnesville and La-Grange, west to the Alabama line, and east to Lawrenceville and Covington and Cummings.

[From the Overland, Mo., Neighborhood Times, June 9, 1971]

MAIL PROCESSING CENTER TO LOCATE IN FLORISSANT

Harold S. Wagner, Director of the St. Louis Postal Region (Iowa-Arkansas-Missouri) announced recently that the Florissant Post Office will become the mail processing center for mail originating in St. Louis County.

Adoption of the "Area Mail Processing" concept will transfer non-local mail from Fenton, Valley Park, Ballwin, Chesterfield, St. Ann and Hazelwood Post Offices to the Florissant office for processing.

"By bringing the mail to one location, we can use modern methods and mechanization to speed the mail on its way while cutting our costs," Director Wagner said.

"There should be no misunderstanding about the postmark on area processed mail," he added. "Any person or firm that asks for a local postmark will get it. Mail deposited in non-local collection boxes will receive an area postmark reading '630-Missouri' rather than 'Fenton,' 'Ballwin,' etc."

Mr. Wagner stated that no career postal employee will lose his job as a result of the change, and all seniority rights will be respected.

The improved plan, which will relieve some of the crowded conditions at other offices in the area, should be operational in a few weeks.

[From the Burlington, N.C., Daily Times News, June 16, 1971]

OUTGOING MAIL AFFECTED—BURLINGTON JOINS AREA MAIL PLAN

Burlington was included in the Area Mail Processing Plan yesterday, according to Postmaster Frank E. Copeland Jr. This means, said Mr. Copeland, that the Burlington Post Office no longer will prepare outgoing mail for dispatch.

All outgoing mail collected by the carriers or deposited at the post office, will be sent to Greensboro for canceling and dispatching.

Local mail, mail for Burlington only, will receive the Burlington postmark and will be worked by the Burlington Post Office, provided the mail is deposited in a collection box labeled "Burlington" or "Local."

By consolidating mail at the Greensboro Post Office from Lexington, Thomasville, High Point, Burlington and other nearby towns and cities, the Postal Service is able to utilize mechanization that provides more efficient and economical dispatch of mail, Mr. Copeland stated. Without the consolidation of mail, none of the offices mentioned would generate enough mail volume to justify the cost of machinery.

Mr. Copeland pointed out that a large percentage of the out-of-town mail previously had been reworked at Greensboro, and thus, by eliminating the Burlington dispatch, the cost of handling the mail one time would be eliminated. He cautioned all customers against using the simplified address "City", as personnel at the Greensboro office would be unable to know what city.

Customers specifically desiring a Burlington cancellation may deposit their mail in the Burlington collection box regardless of the destination. In some cases this would delay the mail, as it would not make the next dispatch of mail to Greensboro, but it would receive the Burlington postmark.

It is believed that the change will not be very noticable and that the savings to the U.S. Postal Service, by utilizing mechanization in the processing of mail, will be significant, Mr. Copeland stated.

In addition to the mechanized facer-canceler, the Greensboro office now is using a letter sorting machine that enables a postal clerk to make 299 separations, instead of the 77 separations he did make manually.

[From the Postal Life, May-June, 1971]

It's FASTER THE LONG WAY AROUND

Most people accept as gospel the idea that a straight line represents the best line of travel between any two points. But, if this were always true, our space-ships would be shot like a bullet straight to the moon, instead of orbiting first. And our mail routes would criss-cross every county in nightmarish profusion from West Littletown to East Littletown, from North Pumpkin Center to South Pumpkin Center, etc.

Once upon a time, this straight line travel concept for mail had slightly more validity. Years ago, the XYZ railroad milk run stopped first at West Littletown to drop and pick up some mail, and, after the cow was removed from the tracks, it chugged five miles with more mail for East Littletown.

The milk run and the old XYZ disappeared about the time farmer Brown's cow was run over by a new-fangled hot-rod on the new super highway through East Littletown.

But the idea that mail between East and West Littletown should continue to travel only five miles is still argued fervently by residents of these and many other similarly situated communities.

Of course, most mail never did travel that way. Even in the heyday of the old XYZ, relatively few communities received such direct service.

The idea that mail should go by the shortest routes between all receiving points has never been practical throughout the world's postal history with the possible exception of ancient times when only royalty enjoyed postal services and monarchs could dispatch couriers posthaste straight to any given points with the admonition that their heads would become the postage due should they dally along the way.

The point of all this is that the newly-expanded Area Mail Processing program by the Postal Service for more efficient handling of mail flies in the face of the "straight line" of travel idea.

Public understanding of how and why "AMP" works can speed public acceptance and success for this program.

Everyone in the Postal Service should understand the sound principles behind this program, and be able to answer questions of the little old lady (as well as the big young businessman) about why letters from towns only a few miles apart—as the crow flies—travel 50 miles or so to a centrally located Maintown.

Another frequent question that is often raised is why mail for strictly local delivery must go 50 miles or so to Maintown for processing and then come 50 miles back.

Several key points are important in providing an understanding of why these seemingly senseless procedures make very good sense.

It is obvious, for example, that mail deposited on any given day cannot ordinarily be delivered in any case until the next day.

From a service standpoint, it would make no difference to the customer if the letter went all the way to Timbuktu for processing, provided it is delivered the next day.

Of course, nothing as outlandish as that happens, but it illustrates the main point—that the customer's proper concern is fast, safe delivery and not ordinarily the steps that are taken between deposit and delivery.

The Postal Service's emphasis today on service standards requiring next-day first class mail delivery within local areas is another basic reason why AMP is being expanded.

By concentrating much mail processing for a given area in a single postal facility large enough to utilize more advanced equipment, mail processing for the entire area can be handled more efficiently and in time to insure next-day deliveries of preferential mail to all points within the area.

Obviously, a West Littletown or a North Pumpkin Center does not have the local mail volume or the space to justify installation of new mechanization capable of processing millions of pieces of mail in a single evening tour.

But it is possible, and sensible, to concentrate mail for an entire area at larger sectional centers or other large post offices which can handle big mail processing equipment. The process also provides economies expected to help keep down rising expenses.

An added AMP service bonus is faster handling and dispatch of outgoing mail from the strategically-located larger facility. It has the needed transportation immediately available, including flights for airmail and space-available first class mail.

For deliveries within the area, contract transportation also is already in operation out of the sectional centers, with few exceptions, using many daily star route

roundtrips between this AMP main office and the associated two dozen or so smaller offices.

This pattern can best be demonstrated to the customer by showing the central facility as the hub of a wheel, with the spokes roughly indicative of the contract routes.

Even when these sound service concepts are understood, objections to AMP may be encountered based on arguments not directly related to service.

These will reflect a civic concern that "our city will lose its identifying postmark."

This concern is understandable to some extent, because most AMP mail will be postmarked only with the first three digits of the ZIP Code of the SCF or hub office, together with the state abbreviation. No single office, including the main processing office, gets favored with its own postmark on the general run of mail processed.

However, the Postal Service is sensitive to civic pride and all AMP projects include a standard requirement that all AMP offices must make available to customers who want local postmarks on their letters a specific deposit point for that purpose. All mail so deposited gets the local postmark.

Obviously, local businesses, which are using meters increasingly nowadays, also have no problem if they want to retain the local postmark. They simply put it on the meter imprint.

Today, with AMP proven successful at several points—as at Framingham, MA—and with earlier technical problems mostly resolved, a total of 51 AMP projects has been approved for implementation during calendar year 1971.

As Regional Directors recommend new AMP centers the total will expand substantially within the next few years.

There is no question now that AMP will provide a significant change for improved mail handling.

[From the Evening Star, Washington, D.C., July 28, 1971]

ACTION LINE

Somebody should tell the new U.S. Postal Service to quit advertising itself and return to postmarks that tell the name of the place where a letter or card was mailed.—P. M. C.

It's either faster service or postmarks with the place on them. The postal service has installed high-speed mechanization in larger offices around the country as part of the area mail processing program. The mail from the surrounding smaller post offices is taken to the large office. It would be time-consuming to reset the machines for each of the approximately two dozen places the mail comes from at each area office. *However, signs at their local offices tell people who want their mail marked with their town on it where they may deposit it in a special drop.* But, even without a city mark, you can identify the origin of the letter. The postmark, has the first three digits of the Zip Code followed by an abbreviation of the state.

Senator HOLLINGS. We are talking about Post Office Department publications.

Mr. SANDERS. I am talking about the information we put out in the news releases and other information that were made available describing this system. You have Massachusetts—

Mr. BELCHER. Yes, I do. In one particular case we described what we were doing in Framingham which consolidated mail from about 23 of the surrounding smaller offices and brought that mail into the Framingham office which was a good processing center.

Senator HOLLINGS. Framingham, where is that?

Mr. BELCHER. Massachusetts.

Senator HOLLINGS. Where in Massachusetts?

Mr. BELCHER. It is near Boston.

Senator HOLLINGS. What is Framingham known for other than what you are talking about? I never heard of it.

Mr. BELCHER. I don't know exactly how to answer that question.

Senator HOLLINGS. Right.

Mr. BELCHER. But it did describe basically how the area mail processing program operates, stating that we are bringing mail in

from associate offices and that those cities that formerly had their postmark may still obtain it if the customer deposits the mail in special boxes—otherwise the mail would come into Framingham and be canceled. Now, that mail does not bear a Framingham postmark. It bears the two-letter State abbreviations and the three digit zip code.

Senator HOLLINGS. The Framingham system was described in the magazine article?

Mr. BELCHER. This was done in an article, yes, sir.

Senator HOLLINGS. What article?

Mr. BELCHER. Memo to Mailers, sir.

Senator HOLLINGS. Memo to Mailers, and how many mailers received that memo?

Mr. BELCHER. I can provide that information for the record, sir.

(The aforementioned material was subsequently supplied for the record:)

The Memo to Mailers is a monthly, nationwide publication and has a circulation of some 60,000. Following is the text of the article from the January 1971 issue concerning the Area Mail Processing Center in Framingham, Massachusetts:

[Memo to Mailers, January 1971]

LETTER SORTING IS REDUCED WITH AREA MAIL PROCESSING

The Area Mail Processing concept, which is being implemented in several Sectional Centers, will substantially reduce the sorting and re-handling of mail and bring other significant economies to postal operations, according to Frank J. Nunlist, Assistant Postmaster General for Operations.

"By working the mail in a modern facility which can serve communities within a radius of approximately 45 miles, we are reducing the handling of letter mail from three to five times plus developing the volume to justify the installation of letter sorters, facer-cancellers and other modern equipment. We are insisting that this method be adopted only where present levels of service can be maintained or improved."

Mr. Nunlist adds: "These economies plus the reduced need to build additional postal facilities are vitally important to business mailers concerned with the upward trend in postal costs and rates."

Area Mail Processing is scheduled for several dozen additional areas around the U.S. in the coming year.

One of the Centers which is fully implemented is at Framingham, Mass., where this mechanized office is handling virtually all the mail processing for 23 surrounding smaller offices. Postmaster William R. Pleshaw's AMP operation illustrates some of the standards that will apply in selecting other AMP offices around the country.

The Framingham office was built in 1967 with capacity to meet anticipated mail volume ten years ahead. When it was selected early in 1970 for AMP, it had space to handle mail processing from other offices—a standard that will be used in designating additional AMP offices. Framingham also was located so that it could service the sizable number of offices that are within an hour's travel time.

According to Postal Service Officer Bob Judge, very little trouble has been encountered in implementing the program at Framingham, and serious civic criticism has been avoided.

In some previous AMP-type programs, criticism has been centered on the fact that the local postmarks of associate offices were abandoned in favor of the postmark of the AMP office. This problem was met principally by two steps at Framingham:

Special boxes were designated at a location in each of the associate communities and mail deposited in those boxes receives the local postmark for those who want it.

Secondly, local rivalries have been eliminated since the mail at Framingham does not bear a Framingham postmark but is simply postmarked "U.S. Postal Service, Massachusetts 017"—the key ZIP Code digits.

Business mailers can help their postmaster gain community acceptance of Area Mail Processing by pointing out that it is being adopted where overnight processing of mail going from one community to another in the area can usually be

achieved. And, that it provides the foundation for bringing modern mailhandling techniques to smaller communities.

Senator HOLLINGS. In general, not the exact number. I am trying to discover the extent of the population that was reached in the Framingham area.

Mr. BELCHER. Well, sir, throughout the country; through the mailing list.

Senator HOLLINGS. Who receives this? You don't really know who received the Memo to the Mailers. What kind of list do you have? Who would prepare Memos to Mailers, would State officials, would the public generally, or who?

Mr. SANDERS. I am advised, Mr. Chairman, that generally these releases or notices to the public regarding mail service are released through the local postmasters and it is these releases that are made available to the local press throughout the country, and this memo about Framingham was used just as an example of how the area mail processing system works. This article is just an example of how we explained what area mail processing is all about.

Senator HOLLINGS. That meant all the postmasters in the country, is that right?

Mr. SANDERS. This new release was made available to the public generally; yes, sir.

Senator HOLLINGS. And the best you can determine is that it is reasonable to presume that this particular process went to all postmasters to distribute it and that all Americans had a chance to learn of it and know of it and comment upon it; is that right?

Mr. SANDERS. Percentagewise, of course, we have had a small number, only a small number of objections to this program.

Senator HOLLINGS. Going back to your statement where you indicated your system received general public acceptance, your testimony was that you received many letters of approval. How many letters do you have approving this new system?

Mr. SANDERS. Well, I think that is based upon the fact that after we explained this system to them and explained that—

Senator HOLLINGS. You are giving the reason. Do you have any idea of how many letters of approval, Mr. Sanders, that you received?

Mr. SANDERS. I would simply have to provide that number for the record. I can not give you the exact number.

(The aforementioned material was subsequently supplied for the record.)

No letters of approval have been received and the witness did not intend to say that any such letters had been received. What he attempted to say was that a considerable number of complaints were received regarding the "loss of the identity" of small towns when the area Mail Processing System was first announced. However, when those who complained were informed that the new system provides better service and that they can still obtain local town postmarking by putting their mail in specially designated boxes, no additional complaints were received from those individuals.

Our Department of Consumer Affairs, which has been receiving an average of 100 to 200 complaints daily regarding postal service, has received no more than a dozen complaints regarding the three digit postmarking system since that Department was created in May, 1971. This low number of complaints indicates the general public acceptance commented upon in the original testimony.

Senator HOLLINGS. What prompts my question is that this is a matter where we as public officials receive complaints. Senators

receive complaints, "Don't eliminate my hometown. I don't like the number. What is the trouble with America?"

I haven't received a letter saying, "Whoopee, I am glad I have a number." I can't really contemplate receiving such a letter. I would like to see one. You can bring them all up here. But I would be amazed if you got over a 100 letters saying it was a good system.

Mr. SANDERS. We received letters of complaint and when we explained this system in many cases we received no other complaints. This is one of the indications that it received acceptance. After the public understands what we are trying to do which is simply to provide better service to the public, and we are certainly interested in this. We receive no further complaints. We have an information program and it is trying to explain what our program is to the public. We are trying to keep the public informed of our goal of providing faster and more efficient mail service to the America people and the area mail processing system is a part of that program.

Senator HOLLINGS. You don't think designation of a person's hometown is a part of the service? Do you think that really improves the service when you remove that hometown postmark, particularly a little town, and put a number there instead?

Mr. SANDERS. Yes; as I explained in my statement, Mr. Chairman, in the area mail processing program where we use large volumes, high-speed machines, that it was just simply cumbersome and almost impossible at these big centers to separate the mail according to each small town that it came from; so that this portion of the mail could receive a different sort of postmark than the mail that came from another area. This would have slowed down the processing of this mail.

Senator HOLLINGS. You stated, sir, that the policy is not to implement this program where the level of service to the public cannot be maintained equal to or greater than that existing prior to the change. So you had cancellation by hometown designation prior to the change. Therefore, the elimination of the postmark is not equal to or greater than prior service.

Mr. SANDERS. What I meant to say there, Mr. Chairman, is that area mail processing is faster and more efficient. Of course, one other consideration is to operate the Postal Service in a less costly manner.

Senator HOLLINGS. How much do you save in dollars and cents with this new procedure?

Mr. SANDERS. I have those figures, Mr. Chairman. I don't have them with me at the moment but I can supply them for the record. We have an estimate of what we believe the area mail processing program has saved already in cost.

(The aforementioned material was subsequently supplied for the record.)

The 55 area mail processing centers which were in operation in Fiscal Year 1971 resulted in a savings of \$2.8 million even though a number of the centers were in operation for only a part of the year. The projected savings for Fiscal Year 1971 is \$7.5 million.

Senator HOLLINGS. That is area mail processing?

Mr. SANDERS. Yes, sir.

Senator HOLLINGS. And that could not work at all if you had to designate these towns on each piece of mail, is that your testimony?

Mr. SANDERS. Yes, sir.

Mr. BELCHER. And provide the savings as well.

Senator HOLLINGS. Is the total savings based on removing town designation? As long as you have to designate by town you can't have area mail processing?

Mr. BELCHER. If we had to maintain the actual full separation and did the separate cancellation at a central point for each office we couldn't maximize on our mechanization; there would be an additional cost. As we say, we are providing for those customers that wish their home town cancellation mark, we are providing that service to them. If they so select, sir.

Senator HOLLINGS. For the record, Mr. Belcher, lets say you mailed a letter from the Island of Palms, which is a little island area of 3,000 and some residents. They have a post office and they had a big dedication and a Republican mayor, its a nice place. Now, what you do under this area mail system is to take the letter to the area center, isn't that right? There is no cancellation on the Island of Palms and the center puts a number on it. There is a designation and you can tell where it was mailed, isn't that true?

Mr. BELCHER. Not completely so, sir. If the example which you cited was selected for area mail processing—

Senator HOLLINGS. Well, it has been.

Mr. BELCHER. Yes. If the customer wishes to have the particular postmark of that local city, he can bring it to the post office and he will get it at that post office. The remaining mail is collected from the remaining collection boxes in that area and would wind up at the area mail processing center and would be canceled with the State and three-digit ZIP code, sir.

Senator HOLLINGS. But, right now not at the customer's request as standard operating procedure. You bring in all the mail from a particular section and you give it that particular number. Now, isn't that the case?

Mr. BELCHER. Yes.

Senator HOLLINGS. All that comes in from this particular area is given a number; isn't that it?

Mr. BELCHER. Yes.

Senator HOLLINGS. What is the difference between printing a number and printing the "Island of Palms"?

Mr. BELCHER. Because we have other locations also coming to that processing center from other offices.

Senator HOLLINGS. You mean other towns would get that particular number?

Mr. BELCHER. That is right.

Senator HOLLINGS. Where could I get mail postmarked?

Mr. BELCHER. At local office, sir.

Senator HOLLINGS. How much does that cost?

Mr. BELCHER. We can provide that special cost for you, sir, for the record.

(The aforementioned material was subsequently supplied for the record:)

The cost of the special procedures that have been developed to provide a local postmark to any customer who wishes one is negligible and undeterminable. This is so in part because only a relatively small amount of mail has been deposited in the special boxes that have been designated for mail for which a local postmark is desired.

Senator HOLLINGS. Why do you provide that option if this system was so popular? How many requests have you received for this service?

Mr. BELCHER. That specific number of quantity I don't have, sir. But we do know that there are some people who wish to have that service. So therefore we are attempting to provide that service to our customers.

Senator HOLLINGS. Just about every Senator and Congressman has heard about this problem. These people are up here to represent their sections of the country and they like their sections and area known and are proud of them. That is part of the service. I say that most respectfully. I just cannot see the language of your statement: "We vigorously oppose it. It is against the intent of Congress. We have general public approval." You have no public approval at all. I want to see the record. You bring me the letters. You call me if there are too many of them. I want to see several rooms of letters. Post dated. I would really like to see them. I might give on this bill if you have over 100 letters saying that, "Whoopee, I have a number." I just can't imagine your having this kind of letter.

We appreciate your appearance here this morning. Is there anything you wish to add, Mr. Sanders, Mr. Belcher?

Mr. SANDERS. No, sir. I have nothing further.

Senator HOLLINGS. Thank you very much.

We will be in recess momentarily for a rolcall. I will be right back. (Whereupon, there was a brief recess.)

(Resumed.)

Senator HOLLINGS. The committee will please come to order. We will next hear from Mr. Thomas S. Miles, President of the National Air Transportation Conferences.

STATEMENT OF THOMAS S. MILES, PRESIDENT, NATIONAL AIR TRANSPORTATION CONFERENCES, INC.; ACCOMPANIED BY WILLIS B. HENDERSON, EXECUTIVE SECRETARY, CARGO AND MAIL CONFERENCE, NATC

Mr. MILES: Mr. Chairman, I am Thomas S. Miles, president of the National Air Transportation Conferences, Inc. With me is Willis B. Henderson, Executive Secretary, Cargo and Mail Conference, NATC.

To assure that I accurately present the position of NATC on this important legislation, I would appreciate your patience and attention while I read this brief statement in support of a modified version of S. 996. After reading my prepared statement, my associate and I would welcome the opportunity to answer any questions which may clarify the need for this legislation requiring the Postmaster General to give financial relief to all eligible air taxi operators subjected to unforeseen extra expenses in transporting the mails during the period from July 1, 1967, through December 31, 1968.

For the purpose of introduction, let it be known that NATC represents 245 companies scattered throughout our magnificent country. The primary objective of the association is to promote, develop, and improve the business of transporting persons, property, and mail by air carriers providing air transportation pursuant to part 298 of the Economic Regulations of the Civil Aeronautics Board. At the present time this authorization is restricted to aircraft with a maximum gross takeoff weight of 12,500 pounds or under—usually no more than 20 passengers—unless larger aircraft are authorized by the CAB to satisfy

the needs of a specific market. Thirty of our members are currently transporting mail for the U.S. Postal Service at rates established by the CAB.

It will please you, members of this subcommittee, and all other public servants to know that air taxi mail operators, commonly referred to as Commuter Air Carriers pursuant to CAB definition, are providing mail service to communities which can no longer be served economically by the certificated carriers at the time the Postal Service desires to move the mail. In addition, Commuter Air Carriers (air taxi operators) are expanding air mail service to communities not served by the certificated carriers and have the capability, desire, and means to improve and expand such services to hundreds of other communities in the national and public interests. In recognition of this fact, the U.S. Postal Service has requested the CAB under the part 298 Weight Limitation Investigation to permit Commuter Air Carriers (air taxi operators) to operate aircraft with a mail payload up to 6,000-pounds.

On behalf of the member air carriers of the Cargo and Mail Conference, NATC, let it be known that we appreciate this opportunity to appear before the Postal Service Subcommittee in support of a modified version of S. 996 which includes the following suggested amendments:

First, we suggest striking the word "certain" in the first line so as to make it crystal clear that the relief sought will apply to all eligible air taxi mail operators.

Second, we suggest the placement of a period following the word "general" on page 2, line 18, and striking the balance of section 2 so as to provide the relief sought to all eligible air taxi mail operators without any precondition. If this suggested amendment is not supported by the U.S. Postal Service, then it will have knowingly and willfully restricted the reimbursement to only those few operators who made appropriate application during the reimbursement period (July 1, 1967, through Dec. 31, 1968) to the Postmaster General for a rate increase to cover the unforeseen extra expenses in transporting the mails and all other air taxi operators who may have incurred comparable additional expenses but failed to apply for reimbursement "during the reimbursement period" will not be eligible for reimbursement. This would not be fair. And as it is not the American way of doing business it cannot, and should not, be tolerated by the Congress of the United States. Otherwise, what are American citizens to think?

It is our understanding, Mr. Chairman, that the suggested amendments as described above will be supported by the Comptroller General of the United States in view of the position he took on September 18, 1970, with respect to S. 3995, 91st Congress, which is identical to S. 996.

As we see it, the relief sought in this bill will correct a situation that existed during the so-called reimbursement period wherein by a quirk of the CAB's economic regulations the air taxi mail operators were required to incur additional expenses which could not be recovered immediately with an appropriate adjustment in their rates. For example, during the early days of the Department's air taxi mail program, and after the rates as approved by the CAB had been set, the Department, or the Federal Aviation Administration, or both changed the "rules of the game" by requiring the operators to incur

additional expenses by meeting new requirements covering aircraft equipment, aircraft crew training, and operational procedures. At the same time, some airport authorities imposed and/or increased landing and ramp fees on the air taxi mail operators. Most of these changes and the resulting costs were required on very short notice, often without any opportunity on the part of the operator to consider the resulting costs of doing business under contract to Uncle Sam. Often the postal region would request a change next week with the statement that "your increased costs will be covered." Air taxi operators were not familiar with the proper costing techniques. And at this early date the POD had not established a standard procedure for requesting rate changes. Furthermore, the postal regions were not completely conversant with CAB regulations and the difficulties of securing approval for rate changes to compensate the operator for increased costs. Although these costs were completely beyond the control of the air taxi mail operator, changes in rates to reflect cost increases ordered were not received for months, and in some instances, as much as a year. Much of the delay in effecting proper rate changes was caused by negotiations between the operator, the postal region, and the POD in Washington, D.C., in an effort to reach agreement on the additional costs incurred in order that an agreed upon rate petition could be presented to the CAB.

During the period in question, the CAB's economic regulations required that mail authority be held only by those air taxi operators with a final mail rate. Between points with service by certificated carriers, it was required that there be an agreed upon rate between the operator and the Postal Service. This regulation was made to reduce rate petitions by air taxi operators direct to the CAB. It accomplished this purpose; however, it also prevented the air taxi operator from petitioning for an open rate with final rate to be determined later. Thus, fixing of an equitable rate justified by changes required by others could not be effective until the operator assembled cost data, had his costing approved by the postal region, and received approval of the POD in Washington, D.C. For this reason, many months frequently elapsed between the time the operator incurred additional costs and the time a petition for an agreed upon rate was presented to the CAB. The CAB, in turn, was prevented from making rate adjustments retroactive beyond the date of filing. This was established by a Supreme Court decision, *TWA v. CAB* (336 U.S. 601).

In conclusion it can be said that during the early days of the air taxi mail program, many operators suffered severe economic losses due to their inability to secure quick adjustments of their rates for causes completely beyond their control. And as they were not financially able to hire attorneys to interpret the law and fight their cause, they looked to the POD, CAB, and other Government agencies to give them appropriate relief. Now, therefore, is the time to fulfill their faith in the American system of free enterprise for the common man.

Thank you, Mr. Chairman, for giving me this opportunity to speak in behalf of legislation which is so much in the interest of correcting an unequitable situation that a few air taxi operators have lived with for over 4 years in the hope that somehow in some way their small voice would be heard and acted upon by the legislators who care about, and believe in, fair play.

Senator HOLLINGS. Mr. Miles, the Postal Service has testified that they consider the bill a private bill covering really only two carriers and they would not oppose it if we just go ahead and name the two carriers. You do not think that bill for just two people would fulfill the faith of the American system of free enterprise for the common man; is that your position?

Mr. MILES. That is correct, sir.

Senator HOLLINGS. You want to make certain it is a general bill for all of those who are unduly injured as a result of the change in the rules of the game after it started.

How many carriers do you think it would encompass if we made it a general provision for reimbursement?

Mr. MILES. We are told during that period that the Post Office Department had under contract about \$3,400,000 and Ross Aviation and SMB who had filed and are eligible under this act accounted for about half of those contracts. Now based upon the testimony this morning evidently they have filed claim for approximately \$35,000 to \$38,000. We would estimate that if there were other eligible air taxi operators during that time the additional expense would not exceed another \$38,000. So, the total exposure would probably be less than \$80,000.

Senator HOLLINGS. And what about the procedures so as not to be too cumbersome but to make a determination of what are their reasonable expenses over and above their regular contracts as a result of operating equipments? How is that amount determined? How would you arrive at that \$38,000? Are you familiar with the Ross application at all?

Mr. MILES. I defer that question to Mr. Henderson.

Senator HOLLINGS. I am wondering, Mr. Henderson, is there something we can include in this bill to make it more specific for the Department to make precise determination of what constituted injury in dollars and cents?

Mr. HENDERSON. Mr. Chairman, I am not familiar with either Ross or SMB. I feel there are references in Washington or in the region for the—covered by the bill which would make it relatively easy to build up the money that is owed for the operators in business at that time.

Senator HOLLINGS. But I am thinking of the general idea of depreciation. If I buy some extra equipment and I use it for a time, how much depreciation do you allow during that period of time? Those kinds of vague things have to be negotiated. In fact, your testimony is that you are trying to negotiate. I think there are certain items of dispute.

Mr. HENDERSON. I don't believe that an item like—as vague as, sir—depreciation is encompassed by this bill, or contemplated, or will be negotiated by this bill. We are talking here specifically, I believe, about those changes which were for additional costs, and resulting in additional costs which were operational procedures ordered by FAA, additional pilot training required by FAA, may be mechanical changes or additions to flight equipment of the airplane. These things, I think, would be readily determined.

Now, I am not saying that it would be a very particularly easy matter to reach the final figure between the postal negotiator and the operator but the Post Office Department did this even since the instruction of the air taxi mail program. They have negotiated these rates so it is not a new thing, sir.

Senator HOLLINGS. I think again one of the things that prompted the change in the middle of the game was the crash of a single engine aircraft and hereafter they said only 2 engines would comply or would be allowed. How do you measure that difference?

Mr. HENDERSON. The particular change, sir, was made before 1967, July 1, 1967.

Senator HOLLINGS. That was made before then?

Mr. HENDERSON. That was made quite early in the program.

Senator HOLLINGS. I see. So, we are talking in general terms of an outside limit of approximately \$80,000. In addition to the two carriers, how many other carriers would be involved, Mr. Miles?

Mr. MILES. During that period of time we believe there would be approximately 30 air taxi operators.

Senator HOLLINGS. Twenty-eight others?

Mr. MILES. Twenty-eight others and they would share half of the contract.

Senator HOLLINGS. Have they corresponded with your organization?

Mr. MILES. No, sir, they have not. We intend to circulate a copy of this testimony to all air taxi mail operators in the hope that we may be able to determine how many of them may be affected.

Senator HOLLINGS. Do you have anything you wish to add?

Mr. MILES. No, sir.

Senator HOLLINGS. We appreciate very much your appearance here this morning.

Mr. MILES. Thank you.

Senator HOLLINGS. D. G. Waite, president of the National Star Route Mail Carriers' Association, come forward please.

STATEMENT OF DONALD G. WAITE, PRESIDENT, NATIONAL STAR ROUTE MAIL CARRIERS' ASSOCIATION; ACCOMPANIED BY BRAD EVANS, ATTORNEY; AND SKIP MARANEY, EXECUTIVE DIRECTOR

Mr. WAITE. Mr. Chairman, my name is Donald G. Waite and I am president of the National Star Route Mail Carriers' Association. With me today are Mr. Brad Evans, the association's attorney, and Mr. Skip Maraney, the executive director of the association. I certainly appreciate the opportunity to testify before this subcommittee in behalf of S. 1989 which I feel, if enacted, will operate to the benefit of the Postal Service as well as star route contractors. I also feel rather uniquely qualified to testify before this subcommittee, not only as president of the association, but, as an actual subcontractor with the Postal Service and I am well aware of the ramifications of subcontracts.

Mr. Chairman, under the old law, contained in 39 U.S.C. 6416, if a prime contractor had subcontracted to another person to perform service, and if he decided not to renew the prime contract with the Post Office, the Postmaster General was authorized to negotiate a renewal of the contract with the subcontractor who was actually performing the service if the service was satisfactory and if the subcontractor had been performing the service for at least 6 months. Under the new provisions of title 39, as Congress enacted Public Law 91-375, the Postal Reorganization Act of 1970, the above language was omitted and the reference to the renewal of contracts is found in section 5005 (b)(2) which states: "(1) A contract under subsection (a)-

(4) of this section may be renewed at the existing rate by mutual agreement between the holder and the Postal Service." The General Counsel's Office of the Postal Service has interpreted the word "holder" in 5005(b) to mean the prime contractor and the prime contractor only. Our Association took exception to this interpretation and maintained that a holder of a contract was the person, firm, corporation, etc., who happened to be providing the service called for in the original contract at the time of renewal. Our interpretation of the word "holder" includes a subcontractor. The General Counsel's Office of the Postal Service disagrees, however, and thus in lieu of litigation, we are compelled to seek the legislation relief contained in S. 1989.

Mr. Chairman, there are sound economic reasons why this legislation would be beneficial to both the Postal Service and the star route contractor, as well as provide better mail service to the American people. Historically, the renewal program has proved its worth beyond the shadow of a doubt, as it has provided the Postal Service with reliable and efficient contractors and has eliminated contract bid price cutting which, in the past, resulted in breakdowns of service at a cost of thousands of dollars to the Postal Service. The contractor is now able to amortize his equipment over a longer period of time, thus enabling him to hold his contract price down. The Postal Service, under their present interpretation of what constitutes the "holder" of a contract, will find it difficult to find a contractor willing to assume a subcontract because he will not be willing to invest capital for equipment to run a subcontract without the assurance of having a number of years to provide for his investment. The Postal Service will thus lose the services of good and reliable subcontractors and will find themselves dealing with persons whose character and reputation for service are unknown to them.

Mr. Chairman, it is for the reasons stated herein that I come before you today in support of S. 1989, and I thank you once again for your invitation. I will be more than happy to answer any questions you or the members of your subcommittee might have.

Senator HOLLINGS. Mr. Waite, we appreciate you and your colleagues appearing here. But I think you should clarify one thing with respect to your testimony. You mentioned you resorted to legislation. The idea is expressed that a legal right exists to renew such contracts. Now, this is only permissive authority on the part of the Postal Service, isn't that correct?

Mr. WAITE. That is correct.

Senator HOLLINGS. So, let's say I am the Postmaster General, and I don't want to renew any contracts; do I violate that law?

Mr. WAITE. No, sir.

Senator HOLLINGS. I want to make clear that it is permissive. As your testimony indicates, the equipment can be amortized. This bill also creates a greater reliability as a business practice in bringing forward thereby responsible subcontractors. Because of that policy on the part of the Department and in light of the savings to the public and the Department, better service results. That is fine. I take it from your experience, that is the way it has proved out?

Mr. WAITE. Yes, sir.

Senator HOLLINGS. But they didn't think when it began that it could extend to the subcontract at all?

Mr. WAITE. That is correct.

Mr. MARANEY. Mr. Chairman, if I might, that is the legal end to what we disagree with the Postal Service, not on whether they could have authority to renew or not, that is well established, but on what constitutes the holder of a contract.

Mr. MENTON. Are you engaged in a loss?

Mr. MARANEY. Nothing has developed thus far, but there is legal correspondence that has transpired in various discussions.

Mr. MENTON. Over how long a period?

Mr. EVANS. I would say approximately 2½ months.

Mr. WAITE. And they renewed subcontracts. In the certification or renewal is at the present and prior to June 30, 1971. And those renewals state the Postal Service made every effort to renew with existing subcontractors in those areas. However, this does not include the subcontractors operating in States that will become renewal next year or the year after.

Senator HOLLINGS. Mr. Waite, they have renewed them with prime contractors without rebidding?

Mr. WAITE. No, sir; with contractors that were operating contracts as subcontractors prior to June 30 of this year. They renewed, the Postal Service renewed, the contracts for a 4-year term with the existing subcontractors that had been operating.

Senator HOLLINGS. Without a further public letting or public bidding?

Mr. WAITE. That is correct.

Senator HOLLINGS. So, they found it to the advantage of the Department in certain cases?

Mr. WAITE. Yes, sir.

Senator HOLLINGS. And the question, of course, is why not give them that authority in all instances if that is what they desired, because you have subcontractors who invested in equipment and are ready, willing, and able to provide adequate service.

Mr. WAITE. That is correct.

Senator HOLLINGS. Well, do you have anything further you wish to add?

Mr. WAITE. No, sir.

Senator HOLLINGS. We appreciate your appearance here. Thank you. That concludes the hearing.

(Whereupon, the hearing was concluded.)

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