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# Making Government Manageable

Executive Organization and Management in the  
Twenty-First Century

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(From Stanton)

## The Future of the Postal Service

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The future of the U.S. Postal Service (USPS) is so bleak that the General Accounting Office has placed the USPS on its “high-risk” list, asserting that it may not be able to continue to provide universal service at reasonable rates. Congress insists that the Postal Service be run like a business, but its organizing statute gives it little control over wages and prices. Postal reform legislation has been stalled since 1992.

### The Kappel Commission

In June 1967 I had been executive director of the Federal Power Commission for a year, still trying to get my arms around that talent-rich but change-resistant agency. Lee C. White, my friend and chairman of the commission, walked into my office and said that Joseph A. Califano Jr., President Lyndon B. Johnson’s domestic advisor, told him that the president had established a Post Office commission headed by AT&T’s chairman, Frederick R. Kappel,<sup>1</sup> and that Kappel wanted me as its executive director.

I had never heard of Kappel, knew nothing about the Post Office Department, and told Lee to tell Joe Califano—whom I knew from our Pentagon

days—that I was not interested. It didn't work. Kappel persisted, LBJ insisted, and they prevailed. I assembled a team and went to work for a remarkable group, the President's Commission on Postal Organization, charged to "determine whether the postal system as presently organized is capable of meeting the demands of our growing economy and our expanding population."

The commission consisted of ten men. Kappel and five others headed corporations such as General Electric, Bank of America, and Federated Department Stores. The seventh was George Baker, dean of the Harvard Business School. There were two prominent Democrats, David Ginsburg and David Bell, and, finally, AFL-CIO president, George Meany. Meany never attended a meeting but sometimes sent an aide as an observer. President Johnson wanted him on the commission so that we could brief him, which we did, and he was not an obstacle. Meany aside, there was full attendance at almost every meeting. The commissioners agreed that their substitutes could only observe, not participate.

Their principal finding after a year's study was that the Post Office Department was "not capable of meeting the demands of our growing economy and our expanding population." The primary problem was political management, and they asserted, with the exception of a mild, two-sentence comment by Meany,<sup>2</sup> that political management had to go. Allow me to describe "political management."

#### *How the Post Office Department Was Managed*

The postmaster general (PMG) was appointed by the president. By custom he was the chairman of the political party that had won the previous election. His top executives were frequently chosen from the party faithful. Well over sixty thousand postmasters and rural carriers were selected by the members of Congress, openly and legally. Many more were subject to behind-the-scenes influence.

True story: A speaker of the House of Representatives called the postmaster general and asked that a constituent be hired as an accountant. The PMG said that he would have his legislative assistant, D. Jamison Cain, look into it. As I recall Cain's account, he learned that the man was an automobile mechanic, so he called the speaker. "Mr. Speaker," he said, "give us a break. This guy is an automobile mechanic!" The speaker answered: "Now, Jamie, I know that, but this is a *good* young man. I know the family. It's a *fine* family. Tell the General that this man should have the job." He was hired.

Congress set postal rates, so its members were lobbied hard by mailers. Congress set postal wages, so its members were lobbied hard by the unions. Congress heavily influenced contract awards, so its members were lobbied hard by contractors. Congress influenced the location of post offices and even of individual mailboxes. Postmasters were responsive to those who appointed them, an endemic problem for their putative managers.

The Post Office ran at a loss for 131 of the 160 years before postal reform. Congress appropriated funds to make up for the money the department lost most years, typically running a deficit of 18 percent. In 1967, when the Kappel Commission was created, the Post Office Department collected \$4.96 billion and spent over \$6.13 billion. The \$1.17 billion deficit—nearly 24 percent—was made up by the federal treasury (i.e., by taxpayers, who had the illusion that their stamps paid for the mail). That same year the first-class stamp said “six cents,” but not one American in a thousand knew that customers were paying six cents and taxpayers almost two cents more. Most mail, then and now, is generated by business. In 1967 letters from one person to another constituted 14 percent of the mail stream. Today it is 4 percent. Newspapers and magazines, for example, whose subscribers are generally more affluent than average citizens, were highly subsidized by taxpayers, including many non-subscribers.

In 1984 journalist David Whitman prepared a two-part case study for Harvard’s Kennedy School of Government called “Selling the Reorganization of the Post Office.”<sup>3</sup> In it he wrote: “No department of the Federal government was so shackled by vested interests, by stultifying personnel practices, by archaic regulations and equipment, by an absence of elementary management practices, and last but not least, nowhere was the sauce of political patronage thicker than at the heart of the lavish office of the Postmaster General.”

#### *The Commission’s Recommendations*

Against that background the Kappel Commission recommended:

- a self-supporting government corporation;
- elimination of patronage, which controlled all top jobs, 33,000 postmaster jobs, 30,000 rural carrier jobs, and, less visibly, many other positions;
- that rates be set by a board of directors after due process hearings by a judicial panel;

- that labor-management impasses over contracts or pay be referred to the president, who “would be free to establish whatever *ad hoc* methods he chooses to resolve the matter.”

These recommendations were described by *Business Week* (March 28, 1970) as “the most comprehensive overhaul of a U.S. public institution ever considered.” Supported by President Richard M. Nixon, Congress enacted the commission’s recommendations in the 1970 Postal Reorganization Act,<sup>4</sup> but with a number of changes. Of these two were critical: binding arbitration to settle wage disputes; and a politically appointed, full-time Postal Rate Commission. Postmaster General Winton R. Blount, the Nixon administration’s point man for the overhaul effort, said that these regrettable provisions “were the price we paid for postal reform.” The vote in the House was 359 to 24 and in the Senate 76 to 10, a great surprise to the pundits and insiders who had assured me that the commission was wasting its time, since Congress would never give up its precious patronage.

With one exception, which I will discuss later, Nixon kept his word to Blount to support postal reform. Republican leadership in Congress hammered Blount hard to give them patronage opportunities before shutting the door, but he stood firm, and Nixon backed him. In fact, Section 1002 of the 1970 Postal Reorganization Act prohibits members of Congress and other public and party officials from intervening in an appointment or promotion. If they do, the law requires that the Postal Service send it back appropriately marked as “in violation of this section.”

### *The Postal Unions Strike*

Blount had developed a reform legislative package that included pay increases. The unions regarded reform with horror—and the pay increases as inadequate. When he went forward, there was a furious union reaction. Letter Carriers Branch 36, which covered Manhattan and the Bronx, took a strike vote on St. Patrick’s Day of 1970 and walked out. Other unions followed. By March 21 one-third of the workforce was on strike, the first major strike by federal workers since the founding of the republic. They shut down 671 post offices, including all but one of the ten largest. The impact was immediate and crushing; huge parts of the business sector ground to a halt. Administration lawyers got back-to-work court orders, which were ineffective. Postal inspectors went to the homes of union leaders, telling them they were in violation of

the no-strike law and might be subject to arrest and prosecution. The union leaders claimed that they had lost control of their members.

Blount demanded that troops be called out. Secretary of Labor George P. Schultz strongly disagreed. Faced with Blount's threat to resign if the president didn't support him, Nixon declared an emergency and on March 23 announced that he would send the National Guard into New York City to move the mail. The strike was over in two days.

There's a superficially appealing linkage between the strike and postal reform. Some argue that the strike brought about postal reform and a better deal for postal workers. That is the view of recently retired National Association of Letter Carriers (NALC) president, Vincent R. Sombrotto, who headed Branch 36 in 1970. In his "President's Message" in the NALC's *Postal Record* of October 2002, he minced no words, claiming that "The quality of life *you* enjoy—the wages you earn, the home you live in, the education your children have received—is a direct result of the courage and even recklessness of a relatively small band of letter carriers more than 32 years ago."

He is surely right about "recklessness," since strikes by federal employees violate the law (Title 5 U.S. Code 7311) and subject such employees to fines and imprisonment for up to one year and a day (Title 18 U.S. Code 1918). The Nixon administration lacked the political will to "faithfully execute the laws" by prosecuting violators, but one may wonder what the result would have been if it had at least targeted strike leaders. President Reagan's swift firing of the striking air controllers seems to have dampened strike talk among federal workers.

It is not possible to weigh the strike's effects with precision, but "correlation is not causation," as the axiom goes. The strike may have been a contributing factor to reform, but some believe that it may even have been a setback. On March 25, when the strike ended, George Meany said: "We are not even going to talk about postal reform. We're back at work, but all we want to bargain about is wages. We intend to get a lot more money."<sup>5</sup> Labor was feeling its oats at that point. It had pulled off the biggest strike of federal workers in history and gotten away with it.

Blount would not back off, which set the stage for a White House end run, offsetting Nixon's support of Blount. Charles Colson, often termed one of Nixon's hatchet men, called James Rademacher, president of the National Association of Letter Carriers, who, like other union presidents, had militantly attacked postal reform. Still, Rademacher was one of the few union presidents

in the country to support the Nixon campaign and the only postal union president to do so. Colson and Rademacher drafted new provisions that would give postal workers binding arbitration, a 6 percent increase retroactive to December 27, 1969, plus an 8 percent increase when the bill became law. Rademacher then publicly reversed his position on reform and was picketed by his own members, who called him a traitor. It is a great irony that his deal on wage arbitration has been a boon for the unions and a burden to customers. There is no precedent in American history for arbitrating federal employees' wages.

#### *The Origins of the Postal Rate Commission*

The Postal Rate Commission (PRC) also came about in a convoluted way. The Kappel Commission's concept was to have judges recommend rates that would be subject to review by presidentially appointed directors. Judicial review would also be available, and, of course, the Congress could step in if the system produced a bizarre outcome.

The 1984 Harvard study referred to earlier had concluded, in this connection, that "the House presented relatively few problems . . . but several special interest groups, particularly the airlines, managed to work provisions into the Senate bill that modestly diminished the rate-making autonomy of the postal corporation. . . . About the only major concession Blount was forced to make by Senator McGee was the addition of an independent Postal Rate Commission." Senator Gale McGee (D-WY) was chairman of the Senate Committee on the Post Office and Civil Service. This change, which was far from "modest," was cast in terms of protecting the public interest. Public administration scholars and practitioners may not agree that the public interest is protected by creating a bureaucracy to set prices and otherwise supervise the actions of another bureaucracy. Since the Postal Rate Commission has been around for over thirty years, many assume that's the way government works. It is not. It is a unique and dysfunctional arrangement.

It takes the Postal Service about five months to prepare a rate case, usually followed by ten months of hearings in which anywhere from 60 to 120 parties are represented by counsel, economists, accountants, and assorted experts. Three more months are needed to set up the procedures for the new rates. In eighteen months market conditions may have changed considerably. The PRC's five presidential appointees, with a permanent staff of about sixty, are full-time second-guessers of nine presidentially appointed part-time postal

governors. PRC's chairmen have sought even broader authority, not unusual for regulatory agencies, and the draft bills in the House would have done just that. The nine postal governors may override the PRC only if they are unanimous, which has happened only two or three times in thirty years. There is a simpler way.

Three retired judges could be retained or administrative law judges borrowed from regulatory agencies to hear rate cases, with full due process procedures. Experienced judges should be able to compress the present ten-month process. Their initial decision should be reviewed by the postal governors, who should be authorized, based upon the hearing record, to accept, reject, or modify it by a two-thirds vote, with appeal to the federal courts, as at present. Restructuring the board along the lines suggested later in this chapter will be necessary to accommodate its more demanding role.

### The Effects of the 1970 Postal Reform

The results of the 1970 statutory reform have been impressive, and the Postal Service has much to its credit. It is 99.5 percent self-supporting, service is good, and the thirty-seven-cent stamp in 2003 costs the same in real dollars as did the six-cent stamp in 1968, which, as noted earlier, covered less than 80 percent of postal costs. Further, patronage is long gone. These are no small accomplishments.

Management miscalculations, however, have exacerbated statutory weaknesses, and a serious and embedded blunder came to pass in the first collective bargaining agreement after postal reform. The statute, in Section 101(c), speaks of compensation for postal employees "comparable to . . . compensation paid in the private sector." This was intended to refer to compensation for similar work, but then Postmaster General Elmer T. Klassen, pressed by mailers who feared strikes, agreed to interpret the phrase to mean compensation comparable to wages in highly unionized industries, even if unrelated to mail processing and delivery.

That agreement also made concessions on cost-of-living adjustment (COLA), layoffs, and employment of part-timers. On top of binding arbitration, it laid a foundation for subsequent arbitrators' awards. Today postal clerks average \$52,000 a year (including health and retirement benefits). The average for letter carriers is \$55,000. New postal employees receive, on average, a 28.4 percent wage increase over their old jobs.

## Management of the Postal Service

Postal executives function within a system of constraints which make effective management impossible. If the nation's best executives occupied every top postal position, they could not comply with the statute's mandate for efficiency, since the statute itself precludes efficiency. They would run an organization that has only marginal influence over how much it pays its people and how much it charges its customers. They would have great difficulties in closing unprofitable post offices, combining processing centers, or making service changes that might make sense. These are core management responsibilities.

Labor issues are at the heart of effective reform and create more tensions than any other. When Republicans gained control of the Congress in 1994, there was some loose talk about "smashing the unions." Democrats circled the wagons, the postal unions flexed their muscles, and Republicans not only backed off but became as leery of taking on labor issues as the Democrats. On both sides of the aisle, true reform has taken a back seat.

Binding arbitration, as noted earlier, has been a boon for postal unions and a burden for postal customers. After billions of dollars invested in research and automation, 79 percent of postal costs still go to wages and benefits, of which 19 percent are benefits. In 1968 the figure was 83 percent, of which 8 percent were benefits. Some have argued that this is because postal work is "labor intensive." United Parcel Service (UPS) and FedEx are also labor intensive, but their comparable labor percentages are much lower. FedEx's labor costs are 42 percent of its total costs; the UPS figure is 56 percent. Public employees' wages should be set by public officials under congressional guidelines, not by private arbitrators who have no management responsibilities.

The effects of binding arbitration are not well understood, even by some observers of the Postal Service. Rick Merritt, executive director of Postal Watch, stated: "The USPS self-admittedly pays its workforce 30 percent more than its private sector counterparts. This is Congress' fault?"<sup>6</sup> Well, yes, to a substantial degree.

An example of an arbitrator's impact: The National Association of Letter Carriers and the American Postal Workers Union (APWU) clerks had been at "level 5" parity since 1907. On September 19, 2000, neutral arbitrator George Fleischli fractured that pattern, promoting NALC carriers to level 6. There was

virtually no possibility of appeal from Fleischli's award; the 1970 Postal Reorganization Act provides that such awards are final. Arbitrators are not driven by the same values or the same dynamics that drive top managers. It may not be "fair," for example, to deny a wage increase, but a financial crunch and responsibilities to customers may be compelling, as in the case of some airlines. Although it was not a legally binding precedent, Fleischli's award seriously affected later negotiations and arbitrations with other unions. Its last paragraph virtually challenged other unions to press for identical wage levels. While noting that the agreement put negotiations with the NALC "out of sync" with APWU clerks and mail handlers, Fleischli asserted that it ought not prevent the USPS from pursuing its goal of negotiating identical and moderate wage increases with its major unions.

Within hours after the award was announced, the clerks, the rural carriers, and the mail handlers were gearing up. APWU president Moe Biller said: "APWU will accept nothing less than full equality. We will leave no stone unturned and no tactic overlooked—whether lawful or otherwise—to secure economic justice for our members."

Sure enough, APWU-USPS collective bargaining failed, and the APWU went to arbitration. Stephen B. Goldberg, the neutral arbitrator, perhaps influenced by the Postal Service's dire straits, awarded the union relatively modest increases on December 18, 2001. On January 11, 2002, he issued a supplemental opinion, which stated flatly that there is "powerful support" for the argument that "the Postal Service provides a wage and benefits package to APWU represented employees that is better than that available for comparable work in the private sector." Goldberg also noted that "Postal Service jobs are highly sought after, and once obtained, are held onto. Applicant queues are long, and the quit rate is all but non-existent. Employees represented by APWU have total job security, an extraordinary benefit package, and wages that have fully kept up with inflation."

#### *Some Costs Are Uncontrollable*

The Postal Service is required to offer universal service (an undefined concept in the statute) and to break even, but it lost \$1.7 billion in FY 2001, and for the fiscal year that ended September 30, 2002, it may lose close to \$1 billion. Mail volume growth averaged 4.5 percent in the 1980s and half that in the 1990s. Some costs are uncontrollable. About 5,600 new delivery points are added every day, 1.7 million new delivery points a year. That requires not only

4,800 new workers but 80 new facilities as well. The Postal Service has over 215,000 vehicles. A ten cent a gallon increase in gasoline prices comes to \$55 million a year, and the Postal Service can't simply raise prices as UPS and FedEx can.

Retirement costs are similarly uncontrollable. In 1971 the Postal Service was stuck with a generous Civil Service Retirement System (CSRS). In the 1980s Congress decided that the Postal Service should fund the cost of COLAs paid to CSRS retirees and directed the Office of Personnel Management (OPM) to bill the USPS for these costs back to 1971, plus retroactive interest. The FY 2001 payment for this and other CSRS deferred liabilities was \$3.75 billion, which includes \$1.6 billion in interest. The General Accounting Office (GAO) reported in December 2001 that the unfunded retirement and post-retirement health care costs were \$9.3 billion a year, growing to \$16 billion by 2010, an unsustainable situation. On September 12, 2002, Comptroller General Walker recommended that the Postal Service figure out how best to account for and disclose its pension and health care obligations. To stay afloat, the Postal Service borrows from the Treasury. It owes the Treasury more than \$12 billion.

A large part of these costs was incurred before postal reform; they were imposed, willy-nilly, on an organization designed to be self-supporting (i.e., costs are passed on to postal customers). In FY 2001, if not for the \$1.6 billion interest on pension liability, the Postal Service would have had a net income instead of a deficit. Postal customers bear huge costs, which do not flow from the service they are receiving.

On November 5, 2002, this part of the picture changed dramatically. Postmaster General Potter announced that the Postal Service had overpaid its pension obligations for thirty years, based on billings from the U.S. Office of Personnel Management. Instead of being \$32 billion in the red on pensions, the funding gap was "only" \$5 billion.<sup>7</sup> The Office of Management and Budget, the Treasury Department, and the General Accounting Office confirmed OPM's recalculation. Two bills, 5.380 and H.R. 735, were introduced to get this done,<sup>8</sup> and with some changes, have been enacted. The result will be to postpone rate increases for a few years, but the fundamental structural problems remain.

The Postal Service has tried valiantly to cope by freezing capital expenditures and cutting staff. There are about 800,000 workers, down over 50,000 from 1999. It has also raised rates. On March 22, 2002, the Postal Rate Commission approved an increase in the price of a first-class stamp from

thirty-four cents to thirty-seven cents, plus similar increases for other types of mail. If not carefully calibrated, rate increases will further reduce volume and revenues and exacerbate the fiscal shortfall. The Postal Service's suggestion that five-day delivery might be considered drew howls of protest from Congress and many mailers, as do suggestions to remove some of the 323,000 collection boxes or to close postal facilities. On March 2, 2001, the nine governors signed a letter to President George W. Bush asking for his "leadership . . . to modernize the Nation's postal laws."

Having criticized the Postal Service for its failure to grasp the nettle, it is fair to examine what its associated industries and unions propose.<sup>9</sup> After all, a healthy Postal Service is essential to their success and, for some, their survival. In April 2001 a coalition was formed "to preserve the nation's universal mail service." Its members include the Direct Marketing Association, Magazine Publishers of America, Association for Postal Commerce, Alliance of Nonprofit Mailers, Parcel Shippers Association, National Association of Letter Carriers, National Rural Letter Carriers Association, National Association of Postmasters of the United States, National Postal Mailhandlers Union, and other heavyweights.

These groups opposed reducing service, closing post offices, diminishing collective bargaining rights, and increasing rates. They recommended eliminating the "break-even" requirement, improving "core products and services," and increasing borrowing and rate-making authority, within narrow limits. They also favored eliminating inefficiency and improving productivity. So much for real reform. Some stakeholders, such as the Envelope Manufacturers Association, were more realistic. Many major mailers, including most of those mentioned, have since shifted their positions, however, and have asked the president to intervene.

#### *The Governing Structure of the USPS*

Directing the affairs of a \$70 billion enterprise is not just a matter of common sense. Some postal governors have been highly qualified, but many, while successful in their various endeavors, lack the experience gained from running large companies or institutions or serving on their boards. For over three decades the finger has pointed at the singularly inattentive White House. The organizing principle of postal reform was to get rid of political management and permit the Postal Service to operate "efficiently and economically." That requires the appointment of governors and PMGs who know how to do

this. The president might well look to an outside panel to advise on prospective nominees, and the statute should require that appointees have the requisite high-level experience.

The Congress should reconsider the original Kappel Commission proposal: Six part-time governors would select a postmaster general, who would be chairman of the board. These seven would select two more top postal officials, who would also be members of the board. The nine-member board would make rate decisions, after full due process hearings, subject to appeal to the U. S. Court of Appeals for the Federal Circuit.

### Postal Service Problems Are Not New

The Postal Service's difficulties long predated the 2001 anthrax attack on its Washington, D.C., facilities. In 1996 David Ginsburg, Robert Hardesty, David Harris, and I coauthored an op-ed piece in the *Washington Post*. (Ginsburg was a member of the Kappel Commission; Hardesty had chaired the Board of Governors; and Harris had been the board's long-standing secretary.) The first sentence of that article stated, "The U.S. Postal Service is in deep trouble." We had no inside information, nor were we prescient. We knew what everyone knew, that the competitive world in which the Postal Service is a major player was not standing still. The lethal combination of statutory constraints on setting wages and prices and the impact of competitive technology, we said, may reduce the Postal Service to a shell. If the USPS fails, can companies such as UPS and FedEx do the job? Consider: One week's Postal Service volume equals one year's UPS volume; two days' Postal Service volume equals one year's FedEx volume.

It was also clear to us that the legislative process would fail to achieve genuine reform. Competitors such as United Parcel Service (which has 78 percent of the package market) have a stake in a tightly regulated Postal Service and lobby effectively to maintain their advantages. In the last national election UPS and FedEx political action committees (PACs) donated almost \$3 million, plus \$2.4 million in soft money. The postal unions were not about to give up their unique arbitration rights. And many mailers hold fast to the illusion that a Postal Rate Commission is the only way to get a fair shake. In a June 12, 2001, press release PMG John E. (Jack) Potter said correctly that the "current statute no longer provides tools to manage the organization effectively," and in an April 5, 2002, speech at the National Press Club he said, "We now need

legislative change that preserves mail delivery for the next 30 years and beyond.” Understandably, he is trying to reach consensus, but consensus will not give the Postal Service a handle on wages and prices.

In 1967 a colloquy took place between the chairman of the House Appropriations Postal Subcommittee and Postmaster General Larry O’Brien:

*Mr. Steed:* General . . . would this be a fair summary: that at the present time, as the manager of the Post Office Department, you have no control over the pay rates of the employees that you employ, you have very little control over the conditions of the service of these employees, you have virtually no control, by the nature of it, of your physical facilities, and you have only a limited control, at best, over the transportation facilities that you are compelled to use—all of which adds up to a staggering amount of “no control” in terms of the duties you have to perform. . . .

*Mr. O’Brien:* Mr. Chairman, I would have to generally agree with your premise . . . that is a staggering list of “no control.” I don’t know [whether] it has ever been put that succinctly to me. If it had been at an appropriate time, perhaps I wouldn’t be sitting here.<sup>10</sup>

### A Presidential Commission Is Needed

If the legislative process will not deal effectively with the Postal Service’s problems, a reasonable alternative is to appoint a commission. I so testified on November 15, 1995, before the House Subcommittee on the Postal Service. If properly designed, it would have a fair chance of success.

It is a fact, of course, that most commissions fail. In April 1977, for example, a congressional commission’s report on the Postal Service sank with scarcely a ripple; its very existence will be news to many well-informed members of the postal community. The appointing authorities of that commission committed the cardinal sin of selecting stakeholders, including representatives of the two biggest postal unions, major mailers, and, ex officio, PMG Benjamin F. Bailar and PRC Chairman Clyde S. DuPont. The commission was doomed from day one. Its seven members produced two separate dissents, one signed by one commissioner, the other by two commissioners. There were separate “Views” of three commissioners, two of whom had signed dissents, “Supplemental Views” of one commissioner, and “Additional Views” of another. Compare

that to the Kappel Commission, whose bipartisan unanimity gave its report political and moral authority.

Some believe that a commission representing opposing interests will of necessity compromise, thereby producing balanced recommendations. What usually happens is quite different. In such a body there is a struggle for the hearts and minds of the uncommitted neutrals, if any. Analysis of past commissions by a National Academy of Public Administration group has identified the characteristics of effective commissions:

1. The commission should be composed of objective, highly respected people with no close ties to the affected groups.
2. Its mandate should involve a fairly specific social, economic, or political issue that the legislative process apparently cannot handle. Too sweeping a charge generally results in failure.
3. The commission should have real support from the president and key members of Congress, from a fair number of affected interest groups, and from the media.
4. Members should be prepared to support their recommendations personally; they and their supporters should play active roles to persuade decision makers.
5. The commission should be supported by a high-quality professional staff. The notion of ten wise individuals brainstorming their way to a solution is illusory.
6. The commission should have a reasonable deadline.

#### *Commission Reports Are Not Self-Executing*

Point number 4 deserves particular attention, since experience demonstrates that commission reports, however credible and persuasive, are not self-executing. This was well known, of course, to Red Blount and Larry O'Brien, but the first lobby formed to achieve reform, Citizens for a Postal Corporation (CIPCO), didn't have the resources or the clout.

In October 1968 I wrote to Kappel: "What we need is a sustained, well-organized and well-financed effort to bring to bear the weight of public opinion upon the Congress. . . . The opposition from the postal unions is sustained, well-organized, and well-financed. It cannot be effectively countered by a part-time [staffer] working out of a post office box in Dallas."

I was hardly the only one to realize this. CIPCO was dissolved, and a new group, the Citizens Committee for Postal Reform (CCPR), cochaired by Larry O'Brien and Thurston Morton, grasped the laboring oars. Each had been chairman of his political party; both were highly respected. Getting O'Brien was a real coup for Blount. In addition, an experienced lobbyist, Claude Desautels, was CCPR's executive director. Desautels had worked for O'Brien in the Kennedy and Johnson administrations and was his legislative aide in the Post Office Department. The result was a broad-based "marketing plan" developed by William D. Dunlap (on free loan from Procter and Gamble) which reached every relevant sector and interest group: the Congress, the media, labor, business, the public, and postal employees.

A brief examination of a few other commissions may offer further perspective.

#### *Internal Revenue Commission*

The 1995 National Commission on Restructuring the Internal Revenue Service (IRS) and the 1998 statute that it spawned were, on balance, failures. This has yet to be widely acknowledged, notwithstanding the resultant steep drop in tax collections. Cochaired by Senator Bob Kerry (D-NE) and Congressman Bob Portman (R-OH), the commission's seventeen members included stakeholders of every stripe: four members of Congress, three federal officials, a state official, two members of anti-tax interest groups, the president of the Treasury employees union, and accountants and lawyers with IRS practices.

In focusing on alleged excesses of IRS staff, the commission gave short shrift to conflicting evidence and rode the antibureaucrat wave. Although some IRS agents may have been culpable as charged, the statutory remedy was flawed and the assumption that many IRS agents routinely and egregiously abused large numbers of taxpayers could not be corroborated by General Accounting Office investigators. The GAO's April 24, 2000, report exonerated the IRS on charges of personal vendettas and other misconduct, charges that drove the commission's recommendations. (A panel headed by William Webster, former FBI and CIA director, had reached the same conclusion in April 1999.)

The GAO works for Congress and has every incentive to support its masters' views. It was therefore a shock to many on the Hill to read a GAO report that said it could find "no corroborating evidence" that criminal investigations were "retaliatory." Nor could it "independently substantiate" that IRS

employees had conducted “vendettas.” It could “not find any evidence” that IRS employees had improperly dropped large tax assessments to curry favor with potential private employers.

Kudos to the GAO’s integrity, but the sharp drop in tax revenues was widely predicted. The *Washington Post*, whose supine position on tax reform earned it no credit, finally editorialized, on February 7, 2000: “The message to agency employees was that if they leaned on resisting taxpayers, they risked being fired. They and the resisters both reacted to that about as you would expect.” And the *New York Times* asserted on August 19, 2000: “Congress’s assault on the agency has been needlessly damaging. . . . Audits of large corporations have fallen by almost 40 percent since 1992. Seizures of property of delinquent taxpayers are down 98 percent.”

In 1996, 1.9 million individual tax returns were audited (1.6 percent). In 2001, 732,000 were audited (0.49 percent). Even for taxpayers earning more than \$100,000 a year, the audit rate was less than 0.8 percent. If the chances of an audit are less than one in a hundred, count on it, some will play the odds.

#### *Internet Sales Taxes Commission*

The Advisory Commission on Electronic Commerce (ACEC) was another preordained disaster. Consisting of “business commissioners” who didn’t want to be taxed and “government commissioners” (state, local, and federal) who wanted to tax goods sold over the Internet, it dissolved without consensus on March 21, 2000. Retailers charged that most business members represented high-tech companies. Government members abstained on every vote. The report was signed only by the “business commissioners.”

#### *The Two Hoover Commissions*

The first Hoover Commission was created by the Congress in 1947, at President Harry S. Truman’s behest. The twelve-member body focused primarily on organizational structure and simplification. Of its 273 recommendations, 116 were fully adopted and 80 partially adopted, an astonishing accomplishment.

Among its major recommendations were the creation of a Department of Welfare to run Social Security, welfare, and Indian affairs; cutting the number of federal agencies from sixty-five to twenty-three; giving department heads central authority, including the transfer of hiring from the Civil Service Commission; establishing an Office of General Services for buildings and supplies;

giving the secretary of defense real authority over the military services; and consolidating all housing activities in one agency.

In 1953 President Dwight D. Eisenhower initiated the second Hoover Commission. Its charter encompassed the elimination of government programs if they were not essential or if they competed with private business. Among its recommendations were terminating the college housing loan program; ending Commodity Credit Corporation loans to farmers; ending the Export-Import Bank's short-term loans; closing some Veterans Administration hospitals, stopping building new ones, and making veterans pay for treating nonservice disabilities; negotiating Defense Department food and clothing procurements rather than soliciting bids; and selling off federal power facilities. Its reach was too broad, and its 1955 report achieved little.

Other commissions that support the principles set forth in this chapter are the Brownlow Commission (Roosevelt, 1937); the Heineman Task Force (Johnson, 1967); and the Ash Council (Nixon, 1969).

### The Postal Service's Minimalist Approach

The USPS is a treasured part of our culture and is essential to our economy. Far more than the 800,000 Postal Service jobs are at stake. The mailing industry employs nine million workers and constitutes about 8 percent of our gross domestic product. Its situation is deeply troubling and calls for strong and clear leadership.

For years postal officials have refused to speak plainly and specifically about the contradiction between congressional demands that the Postal Service behave like a business and the statute's insurmountable barriers to businesslike behavior. No "business" ever functioned with arbitrators setting wages, without the ability to adjust its prices, without the right to change its services, and without the ability to shut down money-losing operations.

Until recently, postmasters general and postal governors have been reluctant to go public, they said, because such initiatives would be "dead on arrival" on the Hill. Deborah K. Willhite, then USPS senior vice president for government relations and public policy, said: "There is no sense in us getting out there with a vision if we are going to get slammed. . . . Political dynamics necessitate that the agency come forward with a more pragmatic report, detailing how it will manage itself back to health and what legislative tweaks it needs to get there."<sup>11</sup> This mind-set continues to represent Postal Service thinking.

Of course, the USPS will “get slammed” if it proposes substantive changes, whether on labor, pricing flexibility, universal service, monopoly, or whatever. If the operating principle is not to get slammed, by all means hunker down and propose “legislative tweaks.”

I believe that political dynamics work in a very different way. Leaders who have the vision and courage to propose clear and bold changes, even if short-term prospects are bleak, begin the debate. That will attract both supporters and critics and, with a sound public information effort, the attention of the citizenry as well. Most postal executives also have come to disagree with the USPS’ minimalist approach. In a survey of senior postal executives, of 272 respondents, 7 out of 10 said that the Postal Service should become “an efficient deregulated, quasi-governmental organization focused on supporting universal service through innovative, flexible and market responsive services.”<sup>12</sup>

#### *The GAO Report on the “Deteriorating” Outlook*

In April 2001 the General Accounting Office urged the Postal Service to act when it placed the USPS’s transformation efforts and long-term outlook on its high-risk list, the GAO equivalent of the animal kingdom’s “endangered species” list. In a February 28, 2002, report to the chairman and ranking minority members of the Senate Committee on Governmental Affairs (and its relevant subcommittee), the GAO described the Postal Service’s financial outlook as “increasingly dire” and its basic business model as “increasingly problematic.” The GAO not only called for “prompt, aggressive action” but repeated its earlier advice “that Congress must revisit the statutory framework under which USPS operates and take actions to deal with the systemic problems facing USPS that call for a transformation if USPS is to remain viable in the 21st Century.”

Specifically, the GAO’s fifty-nine-page report recommended that:

- USPS’s Board of Governors and postmaster general provide proactive leadership for transformation by informing its employees, Congress, stakeholders, and the public about the need for change and by identifying in its forthcoming transformation plan (1) actions that USPS can take within its current authority, (2) specific congressional actions that would enable USPS to take a number of incremental steps to address its growing financial and operational challenges, and (3) a process to

address a range of comprehensive legislative reforms that will be needed to address key unresolved transformation issues;

- USPS improve the transparency of its financial data by posting monthly and quarterly financial reports on its Web site in a more timely manner;
- Congress consider and promptly act on incremental legislative changes that would provide USPS with some additional flexibilities while incorporating appropriate safeguards to prevent abuse. In addition, comprehensive legislative changes will be needed to address key unresolved transformation issues. Congress could also consider how best to address issues, such as infrastructure and workforce, which may require input from a variety of stakeholders and will involve some shared sacrifice. One option could be to create a commission to address unresolved transformation issues and develop a comprehensive proposal for consideration by Congress.

The Senate Governmental Affairs Committee's four top members, Senators Joseph Lieberman (D-CT), Fred Thompson (R-TN), Daniel Akaka (D-HI), and Thad Cochran (R-MS), quickly responded to the GAO report, urging the USPS to present to the committee a sweeping but workable transformation plan. They also made plain their support of statutory changes to give the Postal Service greater flexibility. On April 4, 2002, the 450-page Transformation Plan, signed by board chairman Robert F. Rider and Postmaster General John E. Potter, was presented to the committee and to its House counterpart. The following day Potter, a career postal employee and the son of a career postal employee, described the plan in a speech at the National Press Club and made copies available to the press and the public.

#### *The USPS Transformation Plan*

The Plan set forth steps that the USPS will take which do not require new legislation and other steps that would require changes in the Postal Organization Act of 1970. In the first category Potter announced that:

We are lifting the moratorium that management put in place four years ago on closing small post offices;

We no longer need some of the 400 processing centers we have nationwide;

We are going to get even more aggressive in purchasing;

We will improve our dispute resolution processes . . . to reduce the \$300 million a year we spend on labor-management disagreements;  
We will move to modernize the rate process under the existing regulatory framework.

In addition, the plan suggests many operational and marketing changes, such as a campaign to sell more stamps from vending machines or contract postal units than in post offices, where the cost for each transaction is much higher. Many of these initiatives seem sensible and promising, and the USPS deserves credit for the plan's professionalism and detailed analysis.

Of the steps contemplated by the plan which would require legislative action, the most important is the proposed reorganization of the USPS into a federally owned "Commercial Government Enterprise" (CGE). Rejecting return of the USPS to its pre-1971 status as a cabinet department and rejecting privatization, the CGE model would eliminate the break-even mandate of the 1970 statute and permit the Postal Service to retain its "earnings" (i.e., profits), which would finance capital projects, provide a cushion in hard times, and develop new sources of revenue through the broader use of thirty-eight thousand post offices and the delivery network. Those retail facilities and the delivery network, Potter said, "could be made available to private enterprise as a joint-profit-making venture."

The Transformation Plan proposes that legislation be enacted to:

- eliminate binding arbitration and substitute mediation and the right to strike under the Railway Labor Act;
- permit the USPS to set prices on monopoly mail within broad PRC and Board of Governors parameters;
- permit the USPS to set prices on non-monopoly mail at its discretion, subject to antitrust and fair competition laws.

Earlier in this chapter I described the consequences of the 1970 strike. Nothing in the Transformation Plan deals with the possible effects of a nationwide strike, or even local strikes, on our citizens and our economy. Nor does the plan deal with the precedent such legislation may set for other federal employee unions. Federal employees have never had such a "right." They give it up, presumably, because of the advantages and benefits of federal employment. In the private sector a strike is a test of economic strength between labor

and management. Labor can withhold its work; management can close its plants or hire replacements. It is hard to imagine the Postal Service closing post offices to combat a strike. If there is a sound public policy argument for such a sea change, it is missing from the plan. Similarly missing is a projection of the probable effects of strikes, in economic and human terms. Labor reform seems to be framed as an “either-or” issue: binding arbitration or right to strike. But postal workers are federal employees, and the model not mentioned is the one that exists for all other federal employees—that is, wages are set under congressional guidelines by government officials authorized by law to do just that. No wage arbitration, no right to strike.

The pricing flexibility proposals raise difficult questions. Monopoly mail would be priced more or less as at present, unless the PRC agreed to change its procedures. Non-monopoly products would be priced by the USPS to meet market conditions subject only to antitrust and fair trade laws. But prices are based upon costs as well as market factors. This would seem to require two cost tracking systems, one for monopoly mail, the other for non-monopoly mail. Would employees who sort or handle both types be clocked to insure that each type bears the appropriate cost burden? Would separate postal vehicles be assigned to each type? Answers to such questions do not appear in the plan.

#### *The Plan Neglects Several Key Issues*

The GAO’s February 28, 2002, report posed a critical question: “What type of governing board is appropriate for USPS, given the complex mission and role of this \$70 billion entity with its nearly 900,000 employees?” The plan is silent on this core issue, without explanation. There are several alternatives, with permutations. For example, the board could consist of three or five full-time appointees who would hire the postmaster general and perhaps other top executives. The PRC would be abolished. The Tennessee Valley Authority, a wholly owned government corporation, has functioned under this structure since 1933, with a three-member board of directors appointed by the president with Senate approval. Under this model the governors (or directors) would establish rates, after due process hearings, subject to appeal to the U.S. Court of Appeals for the Federal Circuit.

Another model, recommended by the Kappel Commission, would also eliminate the PRC and, as in the previous example, would vest rate-making authority in a board of directors, of which the top three full-time postal execu-

tives would be members, presumably the postmaster general, the deputy PMG, and the chief financial officer. The PMG would chair the board, thus eliminating—or at least minimizing—the tensions between the board and postal management.

I would add a footnote on foreign postal services, in view of a general impression that they have been privatized. The plan summarizes the changes in seven nations: Canada, United Kingdom, Germany, New Zealand, Sweden, Japan, and the Netherlands. These postal services have been granted more flexibility, in some cases a great deal more. As the plan states, however, each continues to be regulated by its government, “usually through an independent regulator.”

In a revealing sentence the plan states that successful transformation depends in part “on adoption of moderate regulatory and legislative reforms.” Its right-to-strike proposal is surely not “moderate.” It may radically alter the relationship between the federal government and its employees, with unforeseen and possibly grave results.

The other legislative proposals, however, are indeed moderate, in keeping with the long-established reluctance of postal leaders to make the case for management flexibility. The Kappel Commission model that PMG “Red” Blount proposed to the Congress emphasized that the “essential element for the success of the Postal Corporation is a Board of Directors with full authority for postal management.” That principle was undercut in the Postal Organization Act of 1970. It should be revived.

### The Critical Issues

This is the overarching issue: What kind of Postal Service, if any, would best serve the American people? That is not the same as asking, “What is best for the Postal Service?” The critical subsidiary issues follow.

1. What should be the Postal Service’s mission? (Should it be free to engage in any postal-related activity, and who defines *postal-related*?)
2. Should the Postal Service be privatized or “commercialized” with a degree of public control, as in some countries?
3. In view of its present universal service mission, should the Postal Service, now supported by customer revenues, be partly supported by taxes? Or should it return to tax-supported cabinet status?

4. Should universal service be redefined, abolished, or modified?
5. Should the monopoly on letter mail be abolished or modified?
6. How should postal wages be determined? Should collective bargaining exclude binding arbitration? If so, what happens if there is an impasse? Should *comparable pay* be defined by law to refer to similar work in the private sector?
7. Should postal union members have the right to strike?
8. Should the Postal Service be free to close some of the sixteen thousand post offices that lose money? Or are these small post offices justified for noneconomic reasons or to maintain universal service?
9. Should business mailers continue to be required, by law, to subsidize nonprofit mailers? Nonprofits such as Johns Hopkins, Harvard, the AARP, and the Beer Drinkers of America pay only 60 percent of what businesses pay to send advertising mail.
10. Should all or some of the part-time governors be replaced by, say, three full-time governors? Should the statute guide the president's nominations by requiring experience in large corporations or institutions?
11. Should executive salaries in this \$70 billion organization continue to be held to levels that are a joke by private sector standards? (The postmaster general's annual pay is \$166,700.)

On October 1, 2002, Michael J. Critelli, Pitney Bowes CEO and president of a new group, the Mailing Industry CEO Council, issued a press release stating: "If we are going to have a viable and competitive mailing system in the 21st century, we cannot afford to wait any longer for the serious reforms that will be necessary. It is increasingly clear that we need a Presidential Postal Commission to kick-start the legislative process, and we strongly urge the Administration to consider this idea." The council's board of directors includes the CEOs of companies such as Lands' End, ADVO, Reader's Digest, and Lockheed Martin.

That same month, in an earlier draft, I had written, "There is now some reason to hope." On December 11, 2002, *mirabile dictu*, President Bush established a commission on the Postal Service by Executive Order (app. 2). Cochaired by James A. Johnson, vice chairman of Perseus, and Harry J. Pearce, chairman of Hughes Electronics, it was hailed by postal officials and most mailers as a responsible step. The largest postal union was highly critical, and others are reserving judgment.

While applauding the appointment of a commission, I was dismayed to note that it was authorized only four staffers and was given a July 31, 2003, deadline. Both are severe handicaps to producing a bold, high-quality report. In fact, its July 31, 2003, report, *Embracing the Future*,<sup>13</sup> failed to grapple fully with the critical issues of binding arbitration and rate setting. A great opportunity to perform a significant service for our society has been lost.