

Yes, You Are Getting More Politico Mail; And It Will Get Worse

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Each Congressman Will Mail
900,000 Letters Free in '74;
Should Frank Be Canceled? ♦

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WASHINGTON—As Rep. Walter Hayes described it in 1893, his amendment to restore the free mailing privilege for Congressmen was "very limited." Noting that earlier scandals had forced revocation of the privilege, he emphasized that his measure wouldn't allow a return to the time when the "members used to send their washing home under the frank."

If Mr. Hayes were still around, he might wonder at what he wrought. For if they aren't sending their washing home, there's little else members of Congress aren't mailing under their franks, all under the authority of the "very limited" amendment Rep. Hayes got passed 80 years ago.

Before this fiscal year ends June 30, the Postal Service estimates the 435 House members and 100 Senators will dispatch 288.6 million pieces of franked mail at a cost to taxpayers of \$23.1 million. That's more than double the volume of five years ago and, with higher postage rates, nearly triple the cost. Not coincidentally, the skyrocketing use of the frank has occurred since postal authorities in 1968 gave up trying to regulate congressional mailings and decided to accept any mail that members of Congress themselves declared "nonpolitical" and hence eligible for free mailing.

And next year, an election year, the Postal Service anticipates another gigantic increase in "nonpolitical" franked mail—the newsletter, baby-care booklets and other materials Congressmen send constituents to impress them with their representatives' devotion to duty. The Postal Service is asking for a record \$38.1 million for fiscal 1974 to pay for a predicted volume of 476 million pieces of franked mail, or about 900,000 pieces for each member of Congress.

Advantage for Incumbents

Not surprisingly, lawmakers proclaim that the flood of franked mail serves the democratic ideal of promoting communication between Congressman and constituent. It also serves the lawmakers' ideal of getting themselves reelected. Free mailings give incumbents an "immeasurable" advantage over challengers who, of course, must pay for their own direct-mail broadsides to voters, says John Calkins, director of the House Republican Campaign Committee.

The incumbents' advantage is becoming so great that some people want a law passed that would restrict use of the frank, particularly for "junk mail" broadsides the present law allows House members (but not Senators) to send to every "postal patron" in their districts. "We think it is extremely important that there be developed sufficient controls over the use of the frank to prevent incumbents from having an undue financial advantage over their opponents," says Fred Wertheimer, lobbyist for Common Cause.

It seems that a new franking law may indeed be passed, although the lawmakers may draw it in such a way that they give up few, if any, advantages. The lawmakers are worried that if they don't act, the courts may act for them.

Last fall, for the first time, challengers persuaded federal courts to restrain mass mailings by two House members. In one case, a court ordered Democratic Rep. Frank Annunzio to stop sending unsolicited franked mail into a new Illinois district where he was running as a result of a redistricting plan; the court ruled that 100,000 questionnaires the Congressman had mailed couldn't "reasonably be viewed as an effort to inform himself" but actually were "for the purpose of advancing his candidacy."

Even tighter restrictions were imposed on Democratic Rep. Henry Helstoski by a federal court in New Jersey. Responding to a complaint from his Republican challenger that the Congressman had mailed under his frank nearly 900,000 letters within seven months, Judge Leonard Garth ruled that henceforth Mr. Helstoski could only use his frank for the extremely limited official mail Congress had sanctioned specifically 80 years ago. That effectively barred not only district-wide mailings by Mr. Helstoski but also his plan to send reproductions of the Declaration of Independence to schools in his district.

Bipartisan Fear

Mr. Helstoski won reelection anyway (as did Rep. Annunzio), but the judicial ruling still stands. Now Mr. Helstoski is appealing the decision and, meantime, plans to ask Judge Garth to allow the mailing of a newsletter under the frank this month. If the judge refuses, Rep. Helstoski says he will sue to restrain GOP Sen. Clifford Case from mailing his newsletter to New Jerseyans. Democrat Helstoski reasons that if he can't mail newsletters under the frank, Republican Case shouldn't be allowed to either, especially since "Case got Garth appointed" to the bench.

There's bipartisan fear in the House that precedents have been set for further court rulings against incumbents. Congressmen are particularly alarmed that the two courts ruled franked mail illegal on the ground that its primary purpose was political.

"If (the courts) can get us on motive, they'll put all of us in the pen tomorrow," says Texas

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Democratic Rep. Jack Brooks. "Every letter that comes out of my office better damn sure make me look like I'm doing a good job or I'm an idiot for signing it," he adds.

Rep. Brooks and a lot of other Congressmen have a simple solution: pass a law forbidding the courts to decide complaints about franked mail; instead, Congress would enact broad guidelines and appoint a committee to enforce them.

Mr. Wertheimer of Common Cause thinks this would make matters worse. No matter how good the guidelines, he maintains, Congress wouldn't enforce them because its members have "an inherent conflict of interest." So he wants a law allowing courts to retain jurisdiction as well as imposing tough new franking restrictions. Among other things, Common

Cause urges that mass mailings under the frank be disallowed after a Congressman has filed for reelection, which in many states would restrict franked mail six months or more before the election.

Rep. Morris Udall (D., Ariz.), sponsor of a franking bill the House Post Office Committee is considering, advocates a middle course. His measure would give Congress rather than the courts exclusive jurisdiction to regulate use of the frank, but it also would set statutory restrictions. His bill would bar mass mailings to "postal patrons" in the 60 days before both primary and general elections and would ban outright appeals for political support when the frank is used.

Mr. Udall insists that Congress can prevent abuses once rules are established. Indeed, he maintains there is a "self-correction mechanism" against obvious abuses. Flagrantly political mass mailings tend to backfire, he maintains, citing a case in Georgia last fall. In the Senate race there, GOP Rep. Fletcher Thompson sent franked mass mailings all over the state at a cost to taxpayers of about \$232,000; his opponent, Democrat Sam Nunn, made this a major issue and won the election.

Most mailings under the frank aren't flagrantly political, however. They don't need to be. A stream of matter-of-fact mail that gives the impression of a hard-working Congressman is deemed much more effective than a blatant pitch for votes. "You don't have to say 'vote-for-me'; it's implicit," says one Congressman.