

WEDNESDAY, OCTOBER 22, 1975

U.S. SENATE,
SELECT COMMITTEE TO STUDY GOVERNMENTAL OPERATIONS
WITH RESPECT TO INTELLIGENCE ACTIVITIES,
Washington, D.C.

The committee met, pursuant to notice, at 10:08 a.m., in room 318, Russell Senate Office Building, Senator Frank Church (chairman) presiding.

Present: Senators Church, Mondale, Huddleston, Hart of Colorado, Goldwater, Mathias, and Schweiker.

Also present: William G. Miller, staff director; Frederick A. O. Schwarz, Jr., chief counsel; and Curtis R. Smothers, counsel to the minority.

The CHAIRMAN. The hearing will please come to order.

Today the committee continues its investigation of the mail-opening program, endeavoring to determine in depth how it happened that for 20 years mail was opened by the CIA and the FBI, contrary to the laws of the United States.

Yesterday, we heard from members of the Inspector General's Office of the CIA, an office that conducted periodic reviews of this program and an office which concluded that it was of marginal value, in terms of the intelligence collecting, so much so that it was recommended to the Agency, finally, that the program either be discontinued or turned over to the FBI. There was little expression of concern about its illegality, but there was evident fear that the exposure of the program would make for a considerable embarrassment to the CIA. On that basis, it was explained, particularly in the wake of Watergate, the recommendation was made that the CIA discontinue a program that had had little intelligence benefit.

Today, we are continuing to pursue the matter by asking former Postmasters General of the United States what they were told about the program and to what extent they approved it since it was their responsibility under the law to protect the integrity of the land.

For that purpose, our first witnesses are three former Postmasters General, Mr. J. Edward Day, Mr. John A. Gronouski, and Mr. Winton M. Blount.

I shall ask all three to come forward and sit as a panel for purposes of questioning. If you gentlemen will do that now. Please remain standing and take the oath.

Do you and each of you solemnly swear that all of the testimony you will give in this proceeding will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. DAY. I do.

Mr. GRONOUSKI. I do.

Mr. BLOUNT. I do.

The CHAIRMAN. Thank you very much.

Mr. Schwarz will commence the questioning.

**TESTIMONY OF J. EDWARD DAY, FORMER POSTMASTER GENERAL,
ACCOMPANIED BY JAMES F. REILLY, SR., COUNSEL; JOHN A. GRONOUSKI, FORMER POSTMASTER GENERAL; WINTON M. BLOUNT, FORMER POSTMASTER GENERAL, ACCOMPANIED BY DOUGLAS ARANT, COUNSEL**

Mr. SCHWARZ. Are any of you gentlemen accompanied by counsel?

Mr. DAY. Yes; I am, by Mr. James F. Reilly.

Mr. BLOUNT. I am, by Mr. Douglas Arant.

Mr. GRONOUSKI. I am not.

Mr. SCHWARZ. Before questioning these particular people, may I call the committee's attention to a chart which is headed, "Postmasters General," and which sets forth the names and dates in offices of all of the Postmasters General from the commencement of this program to date, indicating in the right-hand column whether or not there is any evidence whatsoever, or any claim on behalf of either the CIA or the FBI, that anything was disclosed [exhibit 6¹].

Mr. Summerfield, of course, is dead. We will deal with the subject of disclosure and what kind of disclosure was made to him when Mr. Helms testifies.

Mr. Day is here as a witness. Mr. Gronouski, who was not informed, is here as a witness. Mr. O'Brien and Mr. Watson have testified they were not informed, and there was no claim made that they were informed. Mr. Blount, of course, is here as a witness. And Mr. Klassen, who succeeded him, was not informed, and there is no claim made that he was informed.

I am going to start with Mr. Gronouski.

The CHAIRMAN. First of all, Mr. Schwarz, is this summary based upon the testimony that has heretofore been obtained in executive session?

Mr. SCHWARZ. The testimony and the documents, yes.

The CHAIRMAN. So that this summarization can be distributed to the press?

Mr. SCHWARZ. It can be and has been.

The CHAIRMAN. And can be authenticated as based upon sworn testimony in executive hearings?

Mr. SCHWARZ. Yes. Moreover, in every case where it says "not informed," there is no claim made by either the CIA or the FBI that the persons so named were informed.

Mr. Gronouski, I am going to start with you and explain why you are here, even though you were not informed, because you have an important story to tell the committee.

You were Postmaster General in the period 1963 through when?

Mr. GRONOUSKI. November of 1965.

Mr. SCHWARZ. Now, during the time you were Postmaster General, was there an investigation into generally the subject of privacy by a Senate subcommittee, headed by Senator Edward V. Long of Missouri?

Mr. GRONOUSKI. Yes. The Long committee on mail coverage.

Mr. SCHWARZ. And in connection with that, did you submit information to the Long committee on the subject of mail?

Mr. GRONOUSKI. Yes, I did.

¹ See p. 202.

Mr. SCHWARZ. What did you tell them?

Mr. GRONOUSKI. Well, after reading the Rockefeller Commission report and noticing my name mentioned, I tried to figure out what testimony I had given before the Long committee, because my recollection was that I had never testified before the Long committee. But I got out some of those old hearings and I found a couple of letters that I had submitted and were in the record.

One letter had to do with explaining a relationship that had existed by law with the IRS, having to do with the treatment of mail as personal property which could be seized by the IRS at the time they had a judgment against a taxpayer who had not paid his taxes. I discovered this, and Lord knows I did not remember this from my recollection. I reread the letter of August of 1964, which was about 6 or 8 months before the Long committee was in existence, that developed this question.

This disturbed me no end, because of the main thing that one who gets involved with the Postal Service feels the bottom line is the sanctity of the mail, both in terms of no interruption of delivery and opening the mail. And obviously this was a violation. It was an illegal violation of what I thought was fundamental. So I wrote a letter to the Long committee, recommending—oh, I informed them that on noticing that and learning of this, in August of 1964, I called Doug Dillon, who was then Secretary of the Treasury, and we personally agreed to put in—to stop the practice. And, subsequently, Joe Bower agreed on this, too.

But this, of course, was a personal agreement, and there was a law still on the books which made it legal for this to happen. So in this letter, I recommended to the Long committee that they change the statute to prohibit the treatment of mail as personal property subject to IRS lien. I can't for the life of me remember what they did about it, but I offered them the use of two Post Office attorneys to help them draft legislation.

The other letter had to do with my refusal to submit to the Long committee a list of all of the mail covers that had occurred over the last 2 years. And I explained the reason for that refusal that was related to the fact that so many people who had been subject to mail covers were totally innocent of any concern by a Government agency.

Mr. SCHWARZ. When you say "mail cover", that is the examination of the exterior of an envelope and not the opening of it?

Mr. GRONOUSKI. That's right. And in that letter I specifically defined mail cover, and it is the only item that I think the CIA memorandum could have referred to that I know of. I explained that, very clearly, it was not delaying the mail, looking only on the outside, recording and not opening the mail or delaying it.

I might say, also, I explained how a year earlier, I had been concerned about mail covers also and had put in very tight restrictions on the authorizations of mail covers. That is my recollection.

Mr. SCHWARZ. In any event, in that letter, which was largely about the subject of mail coverage, you indicated that there was no mail opening program going on?

Mr. GRONOUSKI. That's right. I flatly stated there was not.

Mr. SCHWARZ. And that you did not know about mail openings, did you?

Mr. GRONOUSKI. I did not know about it.

Mr. SCHWARZ. All right.

Mr. GRONOUSKI. Except I was not sure in August of 1964 what the lien by the IRS meant. It did stop the mail, because it prevented the delivery to the addressee, and I had some presupposition that they stopped it and took it to collect taxes. They probably hoped that there was some money in it, and that very much concerned me, and that's when I put a stop to it.

The CHAIRMAN. But did you know during that period that the CIA was busily engaged in opening the mail?

Mr. GRONOUSKI. I did not.

The CHAIRMAN. Your only concern, then, was with what you knew about the IRS? That was legal at the time, and you recommended that the law be changed?

Mr. GRONOUSKI. And administratively the practice was changed immediately.

The CHAIRMAN. And you recommended a change in the law that would make it illegal, and within your Department you ordered administrative changes that stopped the practice?

Mr. GRONOUSKI. An agreement with the Treasury Department.

Mr. SCHWARZ. Mr. Chairman, at this point I would like to read into the record from exhibit 7,¹ what the CIA subsequently said about Mr. Gronouski, in a memorandum for the files dated April 23, 1965. This supports your view, Mr. Gronouski. It does not change anything. It is interesting in what it shows about the attitude of the CIA.

Reading from paragraph 7 into the record:

Mr. Karamessines brought up the question of what persons outside the Agency have been briefed as to the actual operations of HTLINGUAL. He was told that, at the present time, there were no officials in the post office or elsewhere in the Government who had been so briefed. Karamessines suggested that consideration be given to possibly briefing Postmaster General Gronouski after the [Long] subcommittee activity has been discontinued. The writer stated that he would recommend against this in view of various statements by Gronouski before the Long subcommittee. Karamessines agreed with this thought and suggested that, in his opinion, the President would be more inclined to go along with the idea of the operation.

And we are going to take that up with Mr. Helms this afternoon, that part of the document.

Well, Mr. Gronouski, unless you have got something further to say about your reaction to the treatment you now know you received, I am going to pass to the other witnesses.

Mr. GRONOUSKI. I just wanted to add that when this news broke, I thought it was incredible that a person in a top position of responsibility in Government in an agency should have something of this sort that is very illegal going on within his own agency and did not know about it. It is not that I did not try to know about these things. I think it is incumbent upon anybody at the top office to try to know everything that goes on in his organization.

And to that effect, long before the Long committee, I asked Mr. Montague and also my information officer, Ira Kappenstein, to very carefully investigate the mail cover and any other associated problems that we had, all the way from pornography to what have you, to find

¹ See p. 203.

out what was going on, what we did, and whether it was in conformity, not only with the law, but in good administrative practice.

And I think it is incredible that I could have held that office for only the short time of 2½ years, in the middle then—during an investigation of mail coverage, that no how, no way did any information seep up to me. And I think that is a very serious concern.

The CHAIRMAN. I do, too.

Mr. SCHWARZ. Mr. Day, when did you hold the position of Postmaster General?

Mr. DAY. January 21, 1961, until August 9, 1963.

Mr. SCHWARZ. Was there a time when Mr. Helms and Mr. Roosevelt and Director Dulles came to visit with you about the subject of CIA and mail?

Mr. DAY. They came to visit me, yes, on February 15, 1961, about 3 weeks after I took office.

Mr. SCHWARZ. All right. There is a document in your book which is exhibit 8,¹ dated February 16, 1961, the day after—

Mr. DAY. I don't have any book of that kind.

Mr. SCHWARZ. Mr. Blount can show it to you. It is right there. This is a CIA document, written by Mr. Helms, reflecting the fact of the meeting and stating in the second sentence of the paragraph, "We gave him the background, development, and current status, withholding no relevant details."

To your recollection, were you told that the CIA was opening mail in New York City?

Mr. DAY. No.

Mr. SCHWARZ. Do you deny that you were told that, or is it simply that you do not recollect it?

Mr. DAY. I don't recollect it. And I do have several very distinct recollections of that meeting, which are inconsistent with this memorandum of Mr. Helms.

These three gentlemen came to see me. I knew Mr. Roosevelt from past years. Mr. Dulles, after some preliminary visiting and so on, said that he wanted to tell me something very secret, and I said, "Do I have to know about it?" And he was somewhat taken aback by that. And he said no.

I said my experience is that where there is something that is very secret, it is likely to leak out, and anybody that knew about it is likely to be suspected of having been part of leaking it out, so I would rather not know anything about it.

What additional things were said in connection with him building up to that, I don't know. But I am sure, from my recollection of that meeting, and, actually, from other things in your own record, that I was not told anything about opening mail.

Mr. SCHWARZ. What are the other things you refer to?

Mr. DAY. Well, for example, there is the memorandum, I believe you read part of it, that was prepared by the CIA staff before they came to see me. They really were laying for me. I barely found out where my office was when they came over there. It said, if the Postmaster General asks if any mail is being opened, tell him that it is being opened. Well, obviously, I didn't ask them if any mail was being opened.

¹ See p. 205.

Also, there is the subsequent memorandum that indicates that I was not told. I don't know what that subsequent memorandum said specifically, because I have not had an opportunity to see it.

Also, I can't see, thinking back on this situation, why I would so clearly recall that I told them that I did not want to know about this if they had already told me about it. It doesn't make sense. As far as Mr. Helms' statement that I said I did not want to be told the details, what are the details? If they had said they were opening mail, that they were opening mail, that would have been the details.

Mr. SCHWARZ. So the thrust of your testimony—and this is based, you say, upon a clear recollection—is that Mr. Dulles said it was highly sensitive or secret. You said, "I am worried about leaks. And, therefore," you said "please do not tell me."

Mr. DAY. Correct.

Mr. SCHWARZ. Even though you knew it was a matter which significantly concerned the Department for which you were responsible?

Mr. DAY. Of course.

Mr. SCHWARZ. All right. One further question to you, Mr. Day. Did the FBI ever tell you they were opening mail?

Mr. DAY. No.

Mr. SCHWARZ. Did they ever discuss with you the subject of mail covers?

Mr. DAY. They may have. All kinds of important people seemed to come to see me or send for me immediately after I was appointed. Mr. Hoover came over and had lunch with me.

As I recall that conversation, it was largely about the importance of a close working relationship between the Postal Inspection Service and the FBI and law enforcement activities in general. It is conceivable he might have mentioned that. I have no recollection of it. I doubt very seriously if I knew what a mail cover was until some weeks after I took office.

Mr. SCHWARZ. You mean he came in and he also just told you something, and you did not find out what he was talking about?

Mr. DAY. No; he was talking—it was a meeting in which he wanted to be sure that I was sympathetic with the cooperative activities between the Postal Inspection Service and the FBI and wanted to see that I had the right attitude, which I did, about working with them cooperatively on their law enforcement efforts. And as I say, I don't recall him saying anything about mail covers. I can't say definitely that he didn't, and if he did mention it in passing, I probably didn't even know what he was referring to.

Mr. SCHWARZ. All right. Mr. Blount, did you ever have a meeting with Mr. Helms in which the subject of a CIA project relating to the mails was discussed?

Mr. BLOUNT. Yes, I did.

Mr. SCHWARZ. Did that meeting take place in June of 1971?

Mr. BLOUNT. Yes, it did.

Mr. SCHWARZ. What did Mr. Helms tell you?

Mr. BLOUNT. Well, as I recall, Mr. Helms explained to me about a project that he told me had been going on for a great number of years. I don't know whether he said 15 years or what, but there was some indication in my mind that this had been going on for at least 15 years, that it was an ongoing project. It was a project of great sensitiv-

ity and great importance to the national security of this country and that he wanted to inform me about it.

I don't recall this being a very long meeting. I guess my memory is not as good as Mr. Day's but this was over 4 years ago, as far as I was concerned, and I hadn't thought much about this until all of this matter came up this spring. I hadn't thought at all about it.

But my best recollection is, he told me this was a project in which the Post Office was cooperating with the CIA, that there were a couple of postal employees in New York City that I believe he told me were the only ones who really were involved or knew about this project, that the way in which it operated was that the postal employees would remove from the mail stream letters going to the Soviet Union and give it to two or three CIA employees, and whatever they did with it, it was reintroduced into the mail stream the next day. That's about the ending of my recollection.

Mr. SCHWARZ. Did you not ask them what they did with it?

Mr. BLOUNT. No, I don't recall doing that.

Mr. SCHWARZ. Did he not tell you what they did with it? Is it not a fact that he told you that the CIA was opening the mail in New York City?

Mr. BLOUNT. Not to my recollection.

Mr. SCHWARZ. Well, now, did you not raise with him the question of legality?

Mr. BLOUNT. Yes, I did.

Mr. SCHWARZ. Why would you have raised the question of legality with him unless he had told you that the CIA was opening the mail in New York City?

Mr. BLOUNT. Well, I think, Mr. Schwarz, this is a perfectly legitimate and obvious thing for a prudent man to do.

Mr. SCHWARZ. But as you describe it, he just came in and gave you a vague description. I don't understand why, on the basis of your description of the conversation, there would have been any reason to raise the question of legality, which you admit you did do.

Mr. BLOUNT. Well, maybe you don't, but I do.

Mr. SCHWARZ. What is the reason?

Mr. BLOUNT. Well, just let me tell you. Mr. Helms was the Director of the CIA. He is the man who had and continues to yield long and distinguished service to this country. I had great respect for him and have great respect for him. He was telling me about a matter, a secret matter, of great importance to this country. I don't recall talking very much about the details about it. I didn't ask him what they were doing.

I asked him—I raised the question of legality. I raised the question of bringing, as I recall, the General Counsel of the Post Office Department into the meeting, and as I recall, Mr. Helms said that the Attorney General was going to be involved in the case.

I have seen from testimony by Mr. Helms and documents that he had seen the Attorney General prior to the meeting with me, and I have no quarrel with that. I had assumed he was going to see the Attorney General, but if he had seen the Attorney General, well, I find it even more logical, and that the Attorney General had no problem with that as far as the legality was concerned, and I thought then

it was a project that I wanted to give full cooperation with the CIA within the limits of the law.

Mr. SCHWARZ. Well, it doesn't make any sense to me, but you have your explanation on the record. I don't see, according to your explanation of the conversation, why there is any reason to discuss legality, which you agree was discussed.

Mr. Chairman, I do not have anything further.

Senator MONDALE [presiding]. Mr. Smothers?

Mr. SMOTHERS. Thank you, Mr. Chairman.

Just briefly, back to Mr. Day, if we might, for starters.

Mr. Day, at the time Mr. Dulles and Mr. Helms came to see you, you have a pretty clear recollection of your indication that you did not want to be made privy to secret matters that might leak. Do you have any other recollection of the subject of that conversation?

Mr. DAY. No, I don't recall the subject of that conversation. There was some purely social talk because of the fact that I had known Mr. Roosevelt during Navy days, and I don't recall the specific statements that were made. It is not surprising to me because I am more inclined to remember things about people and my reactions to them than I am to remember all of the details of some conversation, and I can recall that very distinctly, my reaction to their approach.

Mr. SMOTHERS. Is it your recollection that this visit was a social call?

Mr. DAY. Oh, no, of course not.

Mr. SMOTHERS. I am a little concerned. The Director of the CIA comes out to chat with you about a matter of some importance to your Department, and all you recollect from that is that you asked him not to tell you about it?

Mr. DAY. That is correct. And I have explained previously why that is true. I would do it exactly the same way if I were doing it today. I figured then that the CIA had their own lines of authority and their own responsibilities, and I had absolutely no control over them, any more than I did over the Air Force.

Mr. SMOTHERS. Even if they were opening mail, for which you were responsible?

Mr. DAY. I don't know. The thought of opening mail didn't enter into my mind, because I didn't hear anything about it that I can recall.

Mr. SMOTHERS. To what would this authority on their part have related?

Mr. DAY. Probably, as I began thinking about it afterward, it probably had to do with the extent of the mail covers that the CIA was using. That is what I thought later might have been the purpose of the visit.

Mr. SMOTHERS. Yes; but going back to the conversation and why, if at all, it made any sense, you previously indicated that you had no idea at that time even what a mail cover was.

Mr. DAY. That is correct. I said afterwards, when I began surmising what they might have been coming to talk to me about, it struck me that it was probably mail covers.

Mr. SMOTHERS. I understand the surmise afterwards. What I am concerned about is what kind of strange conversation this must have

been at the time. You have a specific recollection about a very small part of it, the part that indicated that you did not want to know anything. But what did you talk about?

Mr. DAY. I didn't say it was a very small part of it. I said that there was a certain amount of conversation with Mr. Roosevelt and undoubtedly some get-acquainted conversation. I have stated that I do not recall the statements that were made as a buildup to the statement they wanted to tell me something very secret. But I do recall what my reaction was, and I told them I did not want to know anything about it.

Mr. SMOTHERS. Mr. Day, in your assessment, and with the information that you now have as to the subject matter which would have been discussed with you, is it your impression that you were simply duped in this process, or was it more a case of your saying hear no evil, see no evil?

Mr. DAY. Neither one. It wasn't my responsibility. The CIA had an entirely different kind of responsibility than I did. And what they had to do, they had to do. And I had no control over them. I don't know whether it was clear to me at the time they came to see me, but it is clear they did not come to ask me if they could do something; they came to tell me it was happening. And that was their responsibility. I don't recall over that.

Mr. SMOTHERS. And it was your view that the CIA could do whatever they wanted to with the mails, and it was your further view that you would hope they wouldn't tell you about it?

Mr. DAY. I don't know if I particularly focused at the time on thinking they could do whatever they wanted to, because I didn't know the various alternatives of things they might be doing. But as I developed more knowledge of the situation—and right now I am not at all sure it was illegal for them to open the mail.

Mr. SMOTHERS. Let me turn to Br. Blount for just a moment.

Mr. Blount, going back to your meeting with Mr. Helms, is it your recollection that at that meeting Mr. Helms discussed the mail of specific persons that had been opened?

Mr. BLOUNT. I have seen testimony that the name Eldridge Cleaver was mentioned in the conversation, and I seem to recall that name being mentioned.

Mr. SMOTHERS. Did you discuss the contents of Eldridge Cleaver's mail?

Mr. BLOUNT. I don't recall that.

Mr. SMOTHERS. Did he tell you anything about what the Agency might have learned from opening Eldridge Cleaver's mail?

Mr. BLOUNT. I don't recall him talking about opening the mail, Mr. Smothers, and I don't recall his talking about what they had learned from it. I recall the name being introduced into the conversation, and these were as an example of the kind of mail that would be interrupted.

Mr. SMOTHERS. By example, are you saying that he showed you samples of mail that had been opened?

Mr. BLOUNT. I don't recall any of that. I am talking about the example of the kind of people whose mail was valuable to interrupt as far as the CIA was concerned.

Mr. SMOTHERS. What kind of people are we talking about?

Mr. BLOUNT. Well, people that were avowed, in my view, at any rate—who had vowed they were enemies of this country.

Mr. SMOTHERS. So if the CIA determined that someone was an enemy of the country, in your view it was all right for the Agency to open the mail?

Mr. BLOUNT. I did not say anything about opening the mail, Mr. Smothers. I raised the question of the legality of the CIA operations. This matter was disposed of in my mind by the fact that the Attorney General had agreed, or was going to agree, or was going to be briefed about this matter, and he would deal with the legality of it. I understand he had been briefed prior.

Mr. SMOTHERS. Did you ever speak to the Attorney General about this matter?

Mr. BLOUNT. I don't recall any specific conversation with the Attorney General. I may well have said something to him in passing. I had many conversations with him. I just don't recall.

Mr. SMOTHERS. Did you ever raise the matter with your counsel at the Post Office Department?

Mr. BLOUNT. I talked about, during this meeting, of bringing in the counsel of the Post Office Department. And when it was indicated that the Attorney General was going to be involved in this, I decided to let the Attorney General handle the legality of it.

Mr. SMOTHERS. In other words, after this briefing, after being told effectively that the mail of certain persons was being opened—

Mr. BLOUNT. I don't recall that, Mr. Smothers.

Mr. SMOTHERS. OK, depending on what impression you drew from the conversation regarding Cleaver's mail, one may or may not conclude that you had such knowledge, but certainly you knew there was a CIA project relating to the mails and that the CIA was using this as a source to get some kind of information; you knew that much.

Mr. BLOUNT. That is precisely what my impression of the meeting was.

Mr. SMOTHERS. Did you do anything after this knowledge had come to you? After you had been advised of this much, was there any follow-up on your part to find out what the Agency or the FBI was doing, or what anyone else was doing in this regard?

Mr. BLOUNT. I don't recall that. I have seen testimony that I called Mr. Cotter who was the Chief Inspector and related the fact that we had such a meeting. I don't recall that conversation. I could well have had it. I had many conversations with Mr. Cotter, but I simply don't recall it.

Mr. SMOTHERS. I have nothing further, Mr. Chairman.

Senator MONDALE. Thank you very much.

Mr. Blount, according to a memo, which I gather you have seen, dated June 3, 1971, exhibit 4,¹ the following is a statement:

The DCI then indicated that yesterday, 2 June 1971, he had seen Postmaster General Blount. Mr. Blount's reaction, too, was entirely positive regarding the operation and its continuation. He opined that "nothing needed to be done" and rejected a momentarily held thought of his to have someone review the legality of the operation as such a review would, of necessity, widen the circle of witting persons. Mr. Helms explained to the PMG that Mr. Cotter, Chief Postal Inspector, has been aware of the operation for a considerable period of time by virtue of having been on the staff of the CIA's New York Field Office. Mr. Helms showed

¹ See p. 197.

the Postmaster General a few selected examples of the operation's product, including an item relating to Eldridge Cleaver which attracted the Postmaster General's special interest.

Would you disagree with any part of that memo?

Mr. BLOUNT. Senator, I don't recall seeing any document. As to Eldridge Cleaver, I do remember the name being introduced into the conversation.

I do not recall any conversation about Mr. Cotter. I simply don't recall it. I mean, it may well have been in the conversation. Again, I don't recall a conversation with Mr. Cotter after this meeting. I have seen testimony by Mr. Cotter that I did call Mr. Cotter. I don't have any quarrel with it; I just don't recall it. And I don't recall anything in this meeting about Mr. Cotter's name being mentioned or being shown any documents.

Senator MONDALE. Is it your testimony, then, that you do not recall being told that the mail was opened?

Mr. BLOUNT. That is correct.

Senator MONDALE. And further, that you never saw any byproduct of such opened mail?

Mr. BLOUNT. I don't recall either of those two things, Senator.

Senator MONDALE. And that your only inquiry, based on this general discussion with DCI, was in effect asking to be sure that it was legal?

Mr. BLOUNT. In effect, that is correct.

Senator MONDALE. As I understand your earlier testimony, you did so because you thought this effort, although not defined for the use of the mails, involved the Nation's security and therefore a higher purpose that would justify it.

Mr. BLOUNT. I don't know what you mean by justify, but I understood that national security was involved, and this was a very sensitive project as far as the CIA was concerned, and that it was important to this country. And my inclination was, and is today, to be fully supportive as long as this matter was legal.

Senator MONDALE. As long as it's legal.

Mr. BLOUNT. And that's the reason I raised the question of legality. And it was disposed of in my mind by the fact that the Attorney General was going to be involved in the legality of it. So I thought that the General Counsel of the Post Office Department should not be involved as long as the Attorney General was going to be involved.

Senator MONDALE. So you would support any national security effort that was legal. But in this case, even though you knew it affected the operation of your Department and had something to do with the mails, you did not ask what it might be or inquire on your own as to the legality; is that correct?

Mr. BLOUNT. My recollection, Senator, is that the extent of the Post Office involvement was to interrupt the mail stream and to turn it over to CIA agents who would then turn it back to the postal employees the next day.

Senator MONDALE. After having read it?

Mr. BLOUNT. I don't know what they did with it, and that is when I raised the question of legality.

Senator MONDALE. But you didn't ask what they were doing with it, either?

Mr. BLOUNT. I did not.

Senator MONDALE. All right. And you didn't—

Mr. BLOUNT. I don't recall that.

Senator MONDALE. You might have asked?

Mr. BLOUNT. I just don't recall. I don't recall any conversation about opening the mail.

Senator MONDALE. But you might have asked. Do you think that you did not ask or that you did ask or that you can't remember?

Mr. BLOUNT. I don't think I ought to speculate as to what I might have asked. I just don't recall.

Senator MONDALE. You may or you may not or you don't recall?

Mr. BLOUNT. I don't recall any discussion.

Senator MONDALE. In any event, you did not inquire as to the legality itself, you inquired, rather, whether they had—

Mr. BLOUNT. Based on the testimony that Mr. Helms has given to others, including this committee, he saw the Attorney General prior to coming to me. I have no quarrel with that. I accept the fact that he saw him prior to coming to me. I had first thought that he was going to see the Attorney General after our meeting. I accept the testimony that he saw him before our meeting, and I am quite certain that he said to me that he had briefed the Attorney General and that the Attorney General had no problem with this matter and that as far as the legality was concerned, that put it to bed, as far as I was concerned.

Senator MONDALE. All right.

Sir, we all take an oath of office—you do, I do, as we go into public office—to faithfully uphold and execute the laws of the land. Do you feel that this use of the U.S. mail should not have raised your curiosity as to what in fact was happening so you would ask those essential questions and having asked them, that you had a duty then, under your oath of office, to execute the law?

Mr. BLOUNT. Well, Senator, just as Mr. Day has testified, I didn't know then, and I don't know now, that what the CIA was doing was illegal.

Senator MONDALE. My point is, you did not ask, apparently, and having not asked, you did not inquire as to its illegality; I was wondering how that squares with one's oath of office which requires us to faithfully execute the laws of the land.

Mr. BLOUNT. I raised the question of legality, and as far as I was concerned, it was settled with the Attorney General dealing with the legality of the matter.

Senator MONDALE. Now, Mr. Day, as I understood your testimony, Mr. Helms, then the DDP, and Mr. Dulles, came to you and said that we have a secret matter to discuss with you affecting the Postal Department. And your attitude was, or your statement was, "Do I have to know? Because when secrets are known then the disclosures can be blamed on the people who knew the secrets." Therefore, you did not want to know. We have heard a lot of that, not just in the executive, but in the Congress.

Maybe if I had been in your position at that time I would have said the same thing. I am not trying to draw moral judgments about it. We had direct statements of Senators back in the early days, when confronted with embarrassing information, that they didn't want to know.

That seems to be the way you dealt with the CIA and the FBI in those days: "Don't tell me, I don't want to know." Do you think that was the right attitude?

Mr. DAY. I definitely do. As I say, I would do the same thing again. I would not agree that it is comparable to embarrassing information. As I said, I felt the CIA had their own lines of authority and their own responsibilities, and they were the ones that knew what they couldn't do.

Senator MONDALE. And so did you. You were the Postmaster General.

Mr. DAY. That's correct.

Senator MONDALE. You had taken an oath to uphold and faithfully execute the laws of the land. Like Mr. Blount, who didn't ask the questions, you didn't want to hear and you wouldn't ask.

I don't want to sound personal, because I think that was the general attitude in those days, but I was wondering now, in the light of what we have seen, the gross illegality that was going on, and the warranted opening of mails which was clearly illegal, I don't think anybody—

Mr. DAY. I disagree with—

Senator MONDALE. Now that you know that, do you think that—

Mr. DAY. I don't agree that it is clear that it is gross illegality, but that is another subject.

My feeling then and my feeling now is that the CIA had overall powers that put them in a different situation than other people, and I think actually, on the law itself, it is not at all clear it was illegal.

Senator MONDALE. That is the first time we have heard that, Mr. Day. The law, I think, is very clear. In order to open mail, you have to do it under court warrant and on the basis of probable cause. Your position is that if you invoke the term national security, you can open anybody's mail.

Mr. DAY. Not just invoking the term national security, but the CIA is and always has been something very different and very special.

Senator MONDALE. We are both lawyers. I do not remember reading that in the Constitution; maybe you can tell me about that exception in the fourth amendment.

Mr. DAY. There is a specific section of that statute, Title 18, U.S. Code, Section 1717, saying it is illegal to send things through the mail that have to do with advocating the overthrow of the Government. And up until shortly before—

Senator MONDALE. And that is probable cause. In other words, if you have probable cause—

Mr. DAY. Well, that is not in that section.

Senator MONDALE. If you feel that somebody is advocating the overthrow of the Government, you can get a warrant and you can open the mail.

Mr. DAY. That is not in that section I am referring to. What I was going to continue, that section I have long since found out, shortly before I was Postmaster General that section 1717 had a provision, right in the same section about the national security, saying that mail should not be opened. And that was stricken out in August 1960 by the Congress.

Senator MONDALE. Well, I must say that the testimony I have just heard from you, Mr. Day, and from Mr. Blount, scares me more than

I expected. Not only have we found gross and unconscionable interference with the mail which threatens the civil liberties of every American, but we have the testimony from two former Postmasters General that they do not think it is wrong, even today.

Mr. GRONOUSKI, in your case, you were not told of these openings, even though you wanted to know. We now know, from a private memorandum of the DCI, that it was decided not to tell you. How can a Postmaster General who wishes to enforce the law do so in that kind of environment?

Mr. GRONOUSKI. Well first—

Senator MONDALE. And how do we know whether the present Postmaster General, if desirous of enforcing the law, can be sure such abuses are not going on today?

Mr. GRONOUSKI. First, Mr. Chairman, if I may I want to disassociate myself with the generalization which you opened your remarks with that in those days it was the general attitude. That was not my attitude and I deplore that attitude.

Senator MONDALE. And I commend you.

Mr. GRONOUSKI. I think anyone in Government that runs an agency has the responsibility of finding anything going on in that agency, and I am terribly upset that the system is such that what happened could happen, because I made every effort to find out what was going on in my agency.

Senator MONDALE. And I commend you.

Mr. GRONOUSKI. And I cannot tell you how to do it either. I wish I could tell you.

Senator MONDALE. Would it be fair to say that you tried, you did not get the answers, and you now find—

Mr. GRONOUSKI. The first moment I learned that according to law and in accordance with law that the IRS was stopping and holding mail, I immediately called the Secretary of the Treasury and, with him, agreed to stop it in 1964. I investigated everything involving the mail that was humanly possible and if I had any idea that the CIA or any other agency was not only opening the mail but delaying the mail, I would have, as I did in the case of the IRS, put a stop to it.

Senator MONDALE. That is why I have always liked John Gronouski. If that attitude had prevailed, we would not have had this mess that we are exploring today, and we would not have had a Watergate, and we would not have gone through this tremendous morass of cynicism and despair that we have suffered. It is a little simple thing called obeying and enforcing the law. And that is what I thought I heard and I commend you for it.

We have a vote. We suspend the hearings until after we vote.

[A brief recess was taken.]

The CHAIRMAN [presiding]. The hearing will come back to order.

Between votes and another hearing over which I have had to preside this morning, I have missed some of the testimony. I do want to say, however, that I have been told of testimony given just before the break for the vote by former Postmaster General Gronouski, and I simply want to strongly associate myself with the view he expressed.

Either we are going to have a Government of laws in this country that is obeyed by all agencies of the Government, or we are going to

have the beginning of a slide that could undermine all individual liberty in this land. We have to recognize the crossroad and take the right road before it is too late.

Senator MONDALE. Could I ask just one question?

The CHAIRMAN. Yes, Senator Mondale.

Senator MONDALE. How does it feel now to know that you were permitted to represent something to the Congress which you then thought to be the truth—namely, that it was only mail cover operations and nothing else—when, in fact, you have now learned that that was not the truth?

Mr. GRONOUSKI. Well, when I heard it, of course, I was indignant and frustrated. And it poses, I think, the real gut issue of government, how you get control of this business. And I thought I had reasonable control when I was in the Post Office. I thought I knew what was going on.

Senator MONDALE. This not only undermines—

Mr. GRONOUSKI. Obviously, I didn't know something very important.

Senator MONDALE. But more than that, they let you represent something to the Congress that you believed to be true but in fact was false, thereby misleading the Congress as well.

Mr. GRONOUSKI. Beyond that, I—it meant a great deal—the proposition of those around me, not only those I appointed, but those who had been Post Office employees before I came there didn't know about that. I may in testimony be dissuaded of that, but I don't think any of the people that I dealt with—the Chief Inspector, legal counsel, or the Assistant Postmasters General—had any notion of this. It was not just me. It seems to be the whole top staff didn't know anything about it.

Senator MONDALE. Thank you, Mr. Gronouski.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Mondale.

I believe Senator Schweiker is next.

Senator SCHWEIKER. Thank you very much, Mr. Chairman.

I would like to address a question to all three of you in sequence. My question basically concerns this: In listening to your testimonies here this morning, I guess you could summarize your three statements with three other statements. One would be, I don't recall. Second would be, I don't want to know. The third would be, I didn't know they were actually opening the mail.

My question is in two parts. First, what is a Postmaster General for, if not to guarantee the sanctity of the mail? Second, where did the responsibility in your particular administration break down?

Mr. DAY. let us start with you. What is a Postmaster General for if he is not to guarantee the sanctity of the U.S. mail?

Mr. DAY. My main concerns when I was Postmaster General, and particularly when I first came in, was to straighten out the very bad employee relations in the Department, to attempt to improve service, and to improve postal facilities. The law enforcement aspect of the Postmaster General's job is rather a peripheral part of that job.

Senator SCHWEIKER. Where do you feel your responsibility broke down?

Mr. DAY. I don't think it did break down at all.

Senator SCHWEIKER. Now, Mr. Day, how can you say that?

Here we see a case of mail opening unparalleled in American history, actually almost falling apart like a sieve. Yesterday we found out that one out of every 13 letters to the Soviet Union was opened, read, photographed, and distributed widely throughout our intelligence agencies. And you say your responsibility did not break down?

Mr. DAY. Yes. Because, as I have already stated several times, it is not clear to me that it was illegal for the CIA to open the mail.

The CHAIRMAN. It is clear to everybody else, including the CIA.

Mr. DAY. I say it is not clear to me.

Senator SCHWEIKER. It is not clear to you?

Mr. DAY. That is correct.

Senator SCHWEIKER. Are you saying the mail was not opened?

Mr. DAY. No, I say it is not clear to me that it was illegal for them to open the mail.

Senator SCHWEIKER. Then you are saying that it really was not illegal to open the mail, and I gather you take issue with your own postal laws protecting the sanctity of the mail?

Mr. DAY. There are more postal laws than the one that has been referred to here. I referred to another one, and there are CIA laws, and there was a CIA position that existed, particularly when I was there, that make it far from clear to me that there was any breakdown.

Senator SCHWEIKER. If it was not clear to you, and if that was really the issue, do you have an opinion in writing from either the Attorney General or the General Counsel to you as Postmaster? Would you not have had that pursued? Would you not have nailed that down? Would you not have asked for a legal opinion if it really was unclear?

Mr. DAY. I had no occasion to ask for it, Senator.

Senator SCHWEIKER. Did Mr. Mitchell ever give you an opinion to that effect?

Mr. DAY. You seem to have me confused with someone else. Mr. Mitchell came on the scene long after I had departed.

Senator SCHWEIKER. Did any of the Attorneys General that served with you give you an opinion in writing that makes your point valid?

Mr. DAY. No. I never asked for one.

Senator SCHWEIKER. Did you not feel it was your responsibility to get one?

Mr. DAY. No.

Senator SCHWEIKER. Well, we do have a problem, there is no question about that, Mr. Day.

Let me ask you, Mr. Blount, what is your response as to whether the duty of the Postmaster General is to guarantee the sanctity of the mail, and where did your responsibility break down?

Mr. BLOUNT. Well, Senator, for one, I don't think my responsibility broke down.

Senator SCHWEIKER. Do you agree with Mr. Day that it is legal to open everybody's mail?

Mr. BLOUNT. I don't know that Mr. Day said that, to begin with. Second—

Senator SCHWEIKER. I am not sure what he said on that point either.

Mr. BLOUNT. He said, if I understood him, that it wasn't clear, and I did not understand at the time that what the CIA was doing was illegal, and I don't understand that now.

I don't intend to engage in a legal debate with you, but—I am not a lawyer.

Senator SCHWEIKER. Did you get an opinion from your lawyer? Did you get an opinion from Attorney General Mitchell?

Mr. BLOUNT. Senator, I have testified that I raised the question of legality in the meeting I had with Mr. Helms. Mr. Helms told me that he had talked to the Attorney General about this, he had briefed him on it, and he had no problem with it.

Now, I had first recollected that he was going to talk to the Attorney General, but the evidence indicates that he had talked to him the day before he came to see me. And I accept that. I have no quarrel with it. It is just a question of what you remember 4 years or more ago.

Now, I think you are dealing with the question, the age-old question, of citizens' rights versus national security; and if I might be so bold as to suggest that this kind of question is best dealt with in an atmosphere different from the one that we are dealing with it today. I think it is a difficult question which people of not only good will but great sensitivity have varying views about. And it would seem to me that one way to proceed on that issue would be to maybe try to construct a different atmosphere from this kind of atmosphere—maybe a distinguished panel to deal with this question.

I do not understand, again, that what the CIA was doing was illegal. I did not understand it at that time. I just do not have an understanding about that matter. I raised the question of legality. It was disposed of by the fact that the Attorney General was going to be involved in that, and I had no problem with it. So I do not think my responsibility broke down.

Senator SCHWEIKER. Are you testifying that Mr. Mitchell told you it was legal, or sent you anything in writing that said it was legal?

Mr. BLOUNT. I am testifying that Mr. Helms told me he had talked with the Attorney General. And he had no problems with that.

Senator SCHWEIKER. The Attorney General does not recall that, of course.

Mr. BLOUNT. I do not know what the Attorney General does recall.

Senator SCHWEIKER. I can assure you that is what he testified to this committee because I took the deposition when he said he did not recall that conversation at all. That is where your point stops, right there.

Mr. BLOUNT. You are talking about people who recall a conversation, Senator; in my own case, 4 years ago; in Mr. Day's case, 14 years ago. I think that is asking a little bit too much of detailed human memory. Everybody can sit up here and make a speech, if they want to. But if you are trying to get at the facts, I would suggest you try to construct an atmosphere where you can deal with these sensitive questions of citizens' rights versus national security. I happen to believe that national security is very important in this country. I also believe that citizens' rights are very important, and I think those two can be and have been, over the years, reconciled.

Senator SCHWEIKER. You said that basically the atmosphere today is different from the time when you were Postmaster General. I would not disagree with that. But the one thing that has been constant for

200 years is the fourth amendment. That has been pretty clear cut, and hopefully it is observed by our own Government. So I think that element of stability somehow ought to be with the system, and I thought it was. But there is obviously a difference.

Mr. BLOUNT. I think it is with the system, Senator. I think that some of the time, we get carried away with some things that make headlines. They are talking about opening the mail. The mail is opened all the time by the Customs Department. It is opened by the Dead Letter Department, and this is by law.

Senator SCHWEIKER. That is a very important distinction, though, Mr. Postmaster General—a very important distinction.

Mr. BLOUNT. Well, as far as I know, the CIA was acting under the laws of this land to—

Senator SCHWEIKER. But you made no effort to get an opinion or a position, even verbally, from anyone who really could give you advice. Because certainly, the CIA was not an objective source in this case.

Mr. BLOUNT. Well, I do not have any comment about that.

Senator SCHWEIKER. Mr. Gronouski, I would like to ask you the same question.

Mr. GRONOUSKI. Well, I felt immediately upon assuming the Postmaster General's job, that I had some very serious responsibilities in terms of individual rights. I can recall four cases that ensued. One had to do with keeping lists—the customs office. In effect, what the customs people did was to write to people, and ask them if they wanted to receive mail that came from overseas. The people would have to sign a card and send it back, and this developed into quite a list.

I ordered those lists destroyed, because I felt that kind of a list, given the fact that people were receiving mail from Russia and what have you, might be researchers of universities or what have you, that those lists could be used by a McCarthy in Wisconsin—that is not Gene, that is Joe—and I felt that was a serious matter, and one I did not want to tolerate.

I felt that we had been very lax on a second point, on mail coverage; that anybody and his brother could authorize a mail cover, and the mail covers proliferated extraordinarily—24,000 in 2 years. And I put in a new set of regulations a year before the Long committee brought the subject up, which centralized in the 15 regional inspectors the right to authorize a mail cover.

I have already mentioned the fact that when it came to my attention that the Attorney General had the capacity to seize mail under court order, I objected to that, and arranged with the Secretary of Treasury—two of them—to stop that procedure, and also suggested legislation to change the law in that respect.

Senator SCHWEIKER. And I want to commend you.

Mr. GRONOUSKI. I got very concerned on a fourth point, with how we dealt with pornography. I am not a pornographer, but I also think that this whole question—I do not say I object to what some people call pornography, but I felt it a very serious matter that the Post Office Department has been dealing with this. And, in fact, I wrote an article very early on in my career as Postmaster General in the Yale Law Review—I believe it was the Yale Law Review—explaining

my position on this, and implemented that, which is essentially that the Post Office Department was not to do any censoring of mail in terms of the law.

These are four pursuits I can say I pursued actively. I had no question in my mind all of the time I was there that not only was opening mail illegal, except under court order or under a specific statute; and second, that delaying the mail was illegal. Now, I had had the impression, up until very recently, that the only thing that involved a mail cover was that the postman, when he released his mail, would write down a list of return addresses, and who the mail was going to, and then proceed to deliver the mail the same day.

Obviously, there was a failure in my administration, because something happened that I did not know about. All I can say is, I diligently pursued, and I failed on that score.

Senator SCHWEIKER. I think, Mr. Gronouski, in your case, your record does show that you tried, and tried under very adverse circumstances, to do the job. When I was a Congressman, I got letters criticizing the position you took on pornography, so indirectly that is a compliment to the way that you did protect the sanctity of the mail, and I think you deserve some credit for it.

Mr. Day, you did not want to hear what Mr. Helms told you. In view of the fact that you did not know he was going to talk about employees of yours performing an action that might be illegal, why would you not want to know what your own employees might or might not be doing?

Mr. DAY. I do not recall Mr. Helms saying anything at all to me. Mr. Dulles did all of the talking, so far as I can recall, except the conversation with Mr. Roosevelt. But I was told that it was something very secret, and it was in reaction to that I said I did not want to know about it. I cannot recall having anything said to me that gave me any idea about what the specifics of the secret were.

Senator SCHWEIKER. In your judgment, the word "secret" made it right?

Mr. DAY. I did not say that, Senator, or anything close to it.

Senator SCHWEIKER. What judgment did you make?

Mr. DAY. I have already covered that. The CIA, in my opinion, then and now, has certain special powers. Naturally, the Congress is not going to outline in a statute all the possible techniques for carrying on a spying operation. But to me, there was and is a clear indication in the whole authorization of the CIA and its whole function that it has certain unusual powers. I knew I had no control over those powers. I felt it was up to the CIA to take care of what they had to do in the spying business.

Senator SCHWEIKER. That is all, Mr. Chairman. Thank you.

The CHAIRMAN. Senator Huddleston.

Senator HUDDLESTON. Thank you, Mr. Chairman.

Mr. Gronouski, you indicated that during your tenure as Postmaster General, that not only were you not advised of the extent and nature of the mail opening project, but you did not believe that either your General Counsel or the Inspector General of the Post Office Department had been advised of it?

Mr. GRONOUSKI. That was and is my belief. I could be dissuaded, but that is my belief.

Senator HUDDLESTON. That is not the case with you, Mr. Blount, because during your tenure I believe you employed Mr. William Cotter as Inspector General; is that correct?

Mr. BLOUNT. As Chief Inspector.

Senator HUDDLESTON. Mr. Cotter was Chief Inspector of the Postal Department. Were you aware at the time that he had been involved personally in mail opening projects of the CIA?

Mr. BLOUNT. No, I was not.

Senator HUDDLESTON. Were you aware at the time that there was a secrecy agreement between the CIA and its employees not to reveal certain information to which they were privy?

Mr. BLOUNT. I never heard of it until I testified before the House committee up here earlier this year.

Senator HUDDLESTON. Were you aware that subsequent to the employment of Mr. Cotter, seven other members, former CIA employees, four of whom had been involved in and had specific knowledge of the mail opening, came into that Department?

Mr. BLOUNT. I don't believe so.

Senator HUDDLESTON. You were not aware of that? Did you ever discuss with your Chief Inspector the question of the mail openings and its nature and propriety?

Mr. BLOUNT. Senator, we had many discussions about the operations of the postal inspectors, including mail covers, including mail openings under warrants, including the postal participation in the strike force, as it were, assembled to fight organized crime, and the role that the Post Office played in not only gathering evidence, but evidence that led to convictions of many people involved in organized crime around this country, so that is the kind of thing that I remember that we talked about.

Senator HUDDLESTON. Do you recall how the name of Mr. William Cotter came to you as a potential person to fill this important position?

Mr. BLOUNT. Yes, I do.

Senator HUDDLESTON. How did that follow?

Mr. BLOUNT. When I first came to the office, I had looked at the Post Office Department. I went over to talk to—prior to being sworn in, I was over talking to Mr. J. Edgar Hoover, who was then Director of the FBI. I, like Mr. Day, had some question about whether or not that kind of operation belonged in the Post Office Department, and explored the ideas of whether or not it could be transferred out of the Post Office Department, and other people fulfill that responsibility.

As I looked at that responsibility, however, I began to ask people for recommendations for someone to become the Chief Postal Inspector. I got recommendations from people inside the Post Office Department. I got recommendations from Mr. Hoover. I also got some recommendations from Mr. Helms. I interviewed a number of these people. Mr. Cotter was one of them, and I selected him.

Senator HUDDLESTON. Now, at the time then that you asked for recommendations, you were aware that the FBI and the CIA were involved in mail openings or mail surveillance projects that at least may have some questionable legality?

Mr. BLOUNT. No, sir, I was not at all.

Senator HUDDLESTON. I thought that you just said that you talked to Mr. Hoover about the question of whether or not this was something that ought to be carried out?

Mr. BLOUNT. I am talking about the Postal Inspector, the Postal Inspector Service being lodged in the Post Office Department itself.

Senator HUDDLESTON. I see.

Mr. BLOUNT. I had some question about whether or not that should be lodged in another agency.

Senator HUDDLESTON. But you had no question as to whether or not the projects that the FBI and the CIA were undertaking with the mail were legal?

Mr. BLOUNT. I had no knowledge of that at that point.

Senator HUDDLESTON. Did you discuss with Mr. Cotter when you interviewed him what his experience was and what type of activity he had been involved in?

Mr. BLOUNT. I am certain—I don't recall our conversation, but I am certain I discussed with him his experience, what he had been doing, what his experience had been. I don't recall any discussion relating to the Post Office Department.

Senator HUDDLESTON. None at all, whether he had any knowledge of the workings of the Post Office Department, or what he might be required to do as the Chief Inspector?

Mr. BLOUNT. Senator, I am quite sure we talked about the postal inspectors, and I am quite—I don't recall, but I find it pretty logical that we would have some knowledge about the postal inspectors. I found, after having been in the Post Office Department for a short time, that the postal inspectors were a highly qualified and varied group of investigators in the U.S. Government, and I'm quite sure we discussed the postal inspectors.

Senator HUDDLESTON. You do not recall his indicating to you any knowledge at all about the ongoing projects in New York?

Mr. BLOUNT. I am quite sure I had no discussions with him about that.

Senator HUDDLESTON. And he did not express to you any concern or give you any indication that the fact that he was under a secrecy agreement might present some restrictions on him in giving you a complete picture of what your own Department was doing?

Mr. BLOUNT. To my knowledge, I never heard about the secrecy agreement before I testified before the House committee earlier this year.

Senator HUDDLESTON. You did not know he would be prohibited from fulfilling his responsibility to you because of an agreement with a previous agency?

Mr. BLOUNT. I never heard of a secrecy agreement.

Senator HUDDLESTON. To what extent does a Postmaster General rely on or seek information relating to illegal activities relating to the mails from his Chief Inspector?

Mr. BLOUNT. Well, I think generally they rely on the General Counsel for that.

Senator HUDDLESTON. What kind of reports does the Chief Inspector make to the Postmaster General?

Mr. BLOUNT. Oh, there are a great number of reports, Senator, a great number of meetings. There is a great amount of discussion about the kind of activities that the postal inspectors are involved in.

As far as I was concerned, they were involved in a massive upgrading of the postal inspectors, recruiting from colleges for the first time and bringing in qualified, highly qualified people, and conducting extensive training programs. We had many meetings on all of these subjects.

Senator HUDDLESTON. But when they encountered something they considered illegal in the course of performing their duties, you would expect them to advise the Postmaster General, would you not?

Mr. BLOUNT. Well, there are many times that the Chief Inspector would bring to me matters that not only were illegal, but—you know, the question of security of the mails, the organized crime effort to break the mails, and when I got there, there had been an enormous amount of stealing from the mails.

Senator HUDDLESTON. Would you have expected the person you put in as Chief Inspector, if he had any reason to have any serious question about the legality of any activity relating to the mail, to at least consult with you or the General Counsel or someone?

Mr. BLOUNT. I'm quite sure we had conversations relating to those kinds of matters, from time to time. I don't recall any specifics.

Senator HUDDLESTON. You do not recall any incident where he came to you and discussed specifically the mail openings by the FBI and the CIA?

Mr. BLOUNT. I never recalled anything about that until Mr. Helms came to see me in June of 1971.

Senator HUDDLESTON. Nothing subsequent to it from your own Department?

Mr. BLOUNT. I do not have any recollection.

Senator HUDDLESTON. Thank you, Mr. Chairman.

The CHAIRMAN. I must say that I have found some of the testimony this morning both astonishing and unsettling.

First of all, when you say, Mr. Blount, that there is lots of mail being opened every day in the Post Office Department and cite the opening of dead letters and the opening of mail that is opened under court orders as examples of letter openings, you certainly do not mean by that to imply that lawful mail opening is no different than unlawful mail opening, do you? That just because letters are opened, it really does not matter whether they are opened in accordance with the law or contrary to the law? Is that your position?

Mr. BLOUNT. I didn't make any comment about that, Senator.

The CHAIRMAN. You said quite clearly you did not understand why this committee was so concerned about this matter because lots of mail was being opened all the time.

Mr. BLOUNT. I don't recall making that statement that I don't know why this committee is so concerned, Senator.

The CHAIRMAN. Well, you certainly conveyed that impression to me because you then went on to say that there were lots of letters being opened in various ways.

Mr. BLOUNT. That I did.

The CHAIRMAN. Well, then, just to clarify the issue, you did not mean by that to imply that unlawful opening of the mail was unimportant or ought not to be examined?

Mr. BLOUNT. I certainly did not.

The CHAIRMAN. All right.

Since several of the witnesses, including Mr. Day, said they were unclear about the legality of this CIA mail opening program, I think that that matter should be laid to rest right here and now. As I understood your testimony, Mr. Day, you said you were told there was a secret, and you did not know what the secret was. You did not want to know what the secret was.

I must say, that attitude has existed in lots of places. It has existed in the Congress. When I first came to the Congress, I would hear senior Members of the Congress who were part of the watchdog committee for the CIA make the same statement. They would say, "I don't know what the CIA is doing, and furthermore I don't want to know."

But I suggest to you that if that is the prevailing attitude of the men who hold the responsible positions in Government, then we are just inviting the very kind of trouble that did in fact ensue, the very things that this committee is now charged to investigate. All kinds of illegalities and wrongdoing may never have occurred if public officials had said, "Yes, it is my responsibility to know what is going on in my Department, and even if it is a secret, I want to know about it. I do not want to turn my back on it."

Do you not think that as Postmaster General of the United States you had a responsibility to know what is going on in your Department, even though they told you it was a secret?

Mr. DAY. No, I didn't think I had a responsibility to know what the CIA was doing. I want to emphasize, Senator, I think there is a big difference between Senators on an oversight committee and the Postmaster General. Senators do have an important oversight responsibility in the total Government. I had no power whatever over the CIA.

The CHAIRMAN. No, you had no power over the CIA, but you did, as the Postmaster General, not only have power over your agency, but you were charged with the laws of governing the Post Office Department. Those laws clearly made it illegal for first-class mail to be opened, and there should not have been any question in your mind about the law.

Let me just cite the law on this subject. First of all, there is a statutory law, 39 U.S.C. 36-23 (d) provides—and I read the pertinent part: "No letter of such a class"—being first class—"of domestic origin shall be opened except under the authority of a search warrant."

That is pretty clear, and then there is the Post Office Department regulation, 39 C.F.R. 115.1, and that regulation provides, pursuant to the statute, "First-class mail is given absolute secrecy while in our custody." That is pretty clear, too.

Mr. DAY. Under sections—

The CHAIRMAN. Let me just continue, and then I will invite any comments you would like to make.

And then there is the decision of the U.S. Supreme Court on this question, in the case of the *United States v. Van Lewin*. It quotes from an 1878 decision of the Supreme Court. I happen to refer to this one because it is one of the latest decisions of the Court. Let me read the Court's decision on the question:

It has long been held that first class mail, such as letters and sealed packages subject to letter postage, as distinguished from newspapers, magazines, pam-

phlets, and other printed matter, is free from inspection by postal authorities except in the manner provided by the fourth amendment.

Then in the 1878 case which established the sanctity of the mail and made it subject to the protection of the fourth amendment of the Constitution, which is the highest law of the land, the Supreme Court said :

Letters and sealed packages of this kind in the mail are as fully guarded from an examination and inspection, except as to their outward form and weight, as if they were retained by the parties forwarding them in their own domiciles. The constitutional guarantee of the right of the people to be secure in their papers against unreasonable searches and seizures extends to their papers thus closed against inspection wherever they may be. Whilst in the mail, they can only be opened and examined under like warrant issued upon similar oath or affirmation.

Then, there is a criminal statute which says, 18 U.S.C. 1702, Obstructions of Correspondence, and it says, reading that pertinent part :

Whoever takes any letter or post card or package, opens, secretes, embezzles, or destroys, the same shall be fined not more than \$2,000 or imprisoned not more than 5 years or both.

So it would seem to me that as a Postmaster General of the United States each one of you gentlemen were charged with knowing what the postal laws were, what the Supreme Court had said about the Constitution in its guarantees of privacy, and there ought not to have been any question about that. I would further suggest that it was not your prerogative as a Postmaster General to decide how much authority the CIA had. You did not even want to know what the secret was, so how could you know what they were doing in your Department?

But you did have a responsibility, it seemed to me, to make certain that the mail that passed through the Department was being given that degree of protection referred to in the laws and the Constitution of the United States.

If you take a different view of your responsibility, I invite you to express it.

Mr. DAY. I will not attempt, Senator, to give a long legal argument, although I would bet a dollar that in 1878 whatever spy agency they had was opening mail, but there was not any CIA as such then.

There is a thing that Mr. Gronouski touched on that I think is very revealing as to the difference in the atmosphere in which I operated from the atmosphere that may have come about subsequently. There was still a lot of McCarthyism in the air and in the Congress when I was Postmaster General. The Congress passed a law which said that if you were the recipient of some open, non-first-class publication mail from a Communist country, the Post Office couldn't deliver it to you unless first you sent in a card saying you wanted it. That was not something I thought up. That was passed by the Congress. I thought it was ridiculous, but that's the kind of atmosphere in which I operated.¹

The CHAIRMAN. I recognize that, but let us draw the distinction. However foolish the law may have been, you were obliged to comply

¹ Mr. Day requested that the committee include in the record an addition to his remarks concerning the CIA's mail opening program. These have been appended at p. 259.

with it because it had been enacted by the Congress, and it was part of the law of the land. That law, incidentally, was later declared unconstitutional quite properly.

But this is quite a different matter. We are talking about mail openings which are contrary to the law. Now, let us not confuse this issue by saying that there may be some inner sanctum that exists within the intelligence community that can decide that it has greater authority or higher authority or need not attend the laws of the land, a very dangerous and pernicious doctrine for anyone who wants to see a free society preserved. But we do not even have that issue here, that notion which seems to have grown in so many minds, that the CIA can do what it pleases because it is charged with national security, the laws to the contrary, the Constitution to the contrary, notwithstanding, because we have plain evidence—even the intelligence agencies recognize that what they were doing was unlawful. They did not contend that what they were doing complied with the law.

When the agencies got together and made a special report to the President of the United States recommending that he approve certain unlawful actions, which later became known as the *Huston plan*—which President Nixon did approve and then rescinded 5 days later—they referred to the opening of the mail in this fashion and in their own report, signed by J. Edgar Hoover, Director of the FBI; Mr. Helms, Director of the CIA; General Bennett, the Director of the Defense Intelligence Agency; Admiral Gayler, the Director of the National Security Agency. These are the top spokesmen for the entire intelligence community. What do they say about it?

They say: "This coverage, not having the sanction of the law, runs risk of an illicit act, magnified by the involvement of a Government agency."

So there was not anybody anywhere who pretended that this was lawful, and I would suggest to you gentlemen that as Postmasters General of the United States charged with seeing that the law of the land is recognized in connection with the delivery of the mail, you had some responsibility to inquire about secrets in your agency. When you were told about this practice, you had some responsibility to determine whether or not it was legal by referring it to the proper authorities and obtaining from them the proper kind of opinion, and your failure to do so, in my judgment, was a serious omission.

We will question Mr. Helms. As we try to get the whole story pieced together, we will question others as to why each of you was not told the particulars of this operation. But that does not excuse each of you from the duty to make certain that the Post Office Department was being operated in conformity to the laws and the Constitution of the country.

Mr. Mondale?

Senator MONDALE. Mr. Blount, would you agree that the CIA had a duty to tell you that they were opening mail?

Mr. BLOUNT. Gee, I don't know, Senator, what the responsibilities of the CIA are.

Senator MONDALE. So you do not know whether they had a responsibility to tell you or not.

Mr. BLOUNT. No, I don't know whether they do or not.

Senator MONDALE. So, the Postmaster General does not have the duty to ask the CIA, and the CIA may not have the duty to tell the Postmaster General. How then does anybody faithfully execute the law?

Mr. BLOUNT. I raised the question of the legality of this matter and just to be specific about what I recall of our conversation, as far as the postal employees are concerned, I am—well, let me back up—I do not understand the postal employees had any involvement in this matter except to turn certain mail that was going to the Soviet Union over to the CIA and the next day carry it on.

Senator MONDALE. That was not something you asked about. That was just something you assume, you have indicated.

Mr. BLOUNT. No, that's not correct. That was something I was told.

Senator MONDALE. By the CIA?

Mr. BLOUNT. By Mr. Helms.

Senator MONDALE. So the postal officials and employees had no knowledge or complicity whatsoever with the mail opening functions of the CIA?

Mr. BLOUNT. My understanding was absolutely that the postal employees were not involved in anything but turning the mail over to the CIA, and this operation was going on in New York.

Senator MONDALE. And that was based upon what Mr. Helms told you?

Mr. BLOUNT. That was my only knowledge about it.

Senator MONDALE. Did you inquire yourself, through your Department, whether that was true?

Mr. BLOUNT. I don't recall any other conversations about this matter.

Senator MONDALE. You accepted Mr. Helms' word that that was the case?

Mr. BLOUNT. That is all I know about the issue.

Senator MONDALE. Mr. Blount, you said earlier that you think it would have been preferable to discuss this matter in a different environment, with a different approach. Could you describe what you think is the appropriate way the requirement in this matter should have been worded?

Mr. BLOUNT. I was addressing myself to the question of the matter of individual citizens' rights versus national security. I said that I didn't have any magic suggestion in that regard. I suggested it is a question of the most serious nature and a question of the nature that is most or better dealt with in an atmosphere where serious scholars or people that have knowledge or views about this matter can sit down and debate these issues away from the public glare, and try to come up with some suggestions that might be useful to the Congress in guiding the enactment of the laws that deal with these problems.

Senator MONDALE. In these public hearings, we are trying to determine issues of accountability and whether the law has been violated, in this case with mail openings. Do you think that public hearings of this kind are improper?

Mr. BLOUNT. No; that was not my point at all, Senator.

Senator MONDALE. Do you think they are desirable.

Mr. BLOUNT. I think sometimes public hearings in the light of the glare of publicity, in matters that are headline grabbing, can go too

far. I think that the question of national security is a major question for this country, as is the question of individual citizens' rights.

Senator MONDALE. Do you think the hearings today were proper and desirable?

Mr. BLOUNT. Well, I have testified to this committee in August the same things I testified today, no different.

Senator MONDALE. The only difference is that it is in public and the reason for that—

Mr. BLOUNT. The only reason it wasn't public was because the Senate committee decided it not to be as far as I was concerned.

Senator MONDALE. That is correct. But what I am trying to get at is that I thought you doubted the propriety of public hearings on this matter. But I gather from what you say, you do not.

Mr. BLOUNT. That was not the question I was raising.

Senator MONDALE. So you consider these hearings to be proper and desirable?

Mr. BLOUNT. I don't know that I have any opinion about that. If it is helpful to the Senate, I think that is useful.

Senator MONDALE. You will not say it is desirable?

Mr. BLOUNT. Well, I don't know whether it's desirable or not.

Senator MONDALE. That is what I said, you will not say it is desirable.

Mr. BLOUNT. I think there have been plenty of hearings that were not desirable.

Senator MONDALE. I am talking about this one.

Mr. BLOUNT. I don't have any quarrel with this one at all. I just testified to the same thing I testified before.

Senator MONDALE. Thank you.

Senator HUDDLESTON. Mr. Chairman?

The CHAIRMAN. Senator Huddleston?

Senator HUDDLESTON. Just one brief statement, Mr. Chairman. It seems to me that what we encounter here today is very similar to what we have seen in many instances. Perhaps one of the most significant differences between our system of government and some others is that we believe that Government can break the law and it and all of its agencies are potential law breakers that should be held accountable when they do.

But we cannot hold them accountable if we have a procession of people who are charged with certain responsibilities that do not take the time and the trouble to find out whether or not what the government might be doing is legal or illegal, even when there is a substantial question raised in the minds of many people about the legal status of these government activities. It seems that no matter what kind of laws we might pass, if we do not have this interest and this effort by people in responsible positions to at least ascertain and make sure that this determination is made to the best and the fullest extent possible, whether or not the law is being broken, then our law becomes ineffective and our citizens' rights are infringed upon. Furthermore, those rights are not protected in the way that those charged with the responsibility of protecting them should see that they are.

And we have had witnesses say time and time again, during the entire course of this hearing, concerning the matter of individuals

in high positions all the way down to the low-level operatives that are implementing programs, that we just assumed that because so and so said this was the policy of the country that it was proper and legal. And we carried out those instructions without question. I think that therein lies much of the problem that we have encountered in going too far, going beyond the charter, going beyond the law in carrying out what people perceive to be their responsibility and thereby infringing on the rights and privileges of the citizens of this country.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Huddleston. I have no further questions. I want to thank you gentlemen for your testimony.

Mr. REILLY. Mr. Chairman, I know the rule prohibits the counsel to ask questions, but would you and Senator Mondale and Senator Huddleston—Senator Schweiker has left the room—but may I have an opportunity to make some observations for 1 or 2 minutes that I might have?

The CHAIRMAN. Are you counsel?

Mr. REILLY. For Mr. Day.

I am James Francis Reilly and I served under all three of these gentlemen in *pro bono publico*.

The CHAIRMAN. Do you desire to testify as a witness and be sworn?

Mr. REILLY. I will do anything I want so I can make my observations.

The CHAIRMAN. You can make your observations.

Mr. REILLY. I will testify.

The CHAIRMAN. You will have to put under oath and be heard as a witness.

Mr. REILLY. That's all right, that's perfectly all right.

The CHAIRMAN. Mr. Day, I think you should stay if your lawyer is going to testify.

Mr. DAY. I will stay behind him and advise him.

Mr. REILLY. That doesn't say I will accept it.

The CHAIRMAN. If the other gentlemen will withdraw and if you will take the oath, please.

Do you swear that all the testimony you are about to give in this proceeding will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. REILLY. I do.

TESTIMONY OF JAMES REILLY, SR., COUNSEL FOR J. EDWARD DAY

Mr. REILLY. Mr. Chairman and Senators, the observation I want to make: 40 years ago on October 12, I was admitted to the bar in the District of Columbia. I have been in all phases of the law and even today in retirement—you've got a young man on your staff who knows something about this, Mr. Bayley.

I try cases, I have been in all the courts and I was privileged to be a member of the Post Office Advisory Board by appointment of President Kennedy and I resigned in 1964 and we wrote two reports. I think you ought to know—now this is not a trial. I understand that—and in talking about memory, when I went to a little school, Mount Saint Mary's up where Mother Seton is now buried in that area, founded in 1808; I claim it's the first Catholic college. Georgetown disagrees.