

## **A History of Notable Senate Investigations prepared by the United States Senate Historical Office**

Citation: "Special Committee to Investigate Air Mail and Ocean Mail Contracts, Notable Senate Investigations, U.S. Senate Historical Office, Washington, D.C."

### **Special Committee to Investigate Air Mail and Ocean Mail Contracts**

Resolution passed: February 25, 1933

Chairman: Hugo Black (D-AL)

Committee members:

Warren Austin (R-VT)

William King (D-UT)

Patrick McCarran (D-NV)

Wallace White, Jr. (R-ME)

### **Origins**

In 1932, with the nation in the grips of a crippling economic depression, members of Congress pledged to rein in federal spending. High on the list of proposed cuts was \$16 million in federal subsidies to finance national air mail service. Intended as incentives to bolster the fledgling passenger airline and merchant marine industries, the subsidies had been criticized as government giveaways to friends and associates of the Herbert Hoover administration.

The November 1932 election handed the Democrats control of the Senate, the House of Representatives, and the White House. During the lame duck months of the 72<sup>nd</sup> Congress, as the Democratic minority prepared to become the majority, the Senate's Democratic floor leader, Joe Robinson of Arkansas, proposed an in-depth study of the air and ocean mail contracts awarded by the Hoover administration.<sup>1</sup> The postmaster general's decision to award four new contracts in the last weeks of the Hoover administration, despite the explicit objection of congressional committees, furthered congressional resolve to investigate.

### **Process**

On February 25, 1933, the Senate approved Alabama senator Hugo Black's resolution 349, to establish a special investigatory committee to inquire into the government's system of awarding of air and ocean mail contracts. The new Democratic majority in the Senate organized the committee at the convening of the 73<sup>rd</sup> Congress on March 4, 1933, and members were selected by the new president of the Senate, Vice President John N. Garner. Garner appointed Black to chair the investigation. The resolution authorized the committee to examine the possibility of altering or cancelling existing contracts, to explore the salaries paid to officers, executives, and employees, to inquire as to the financial status of corporations receiving subsidies, and to ascertain whether companies had actively lobbied public officials for subsidies.<sup>2</sup>

### **Public Relations**

When the special committee uncovered evidence that air mail contracts had not been awarded on a competitive basis, President Franklin Roosevelt asked Congress for the authority to cancel existing government mail contracts. With the passage of the Air Mail Act of 1934, Congress authorized the secretary of war to make military airplanes, landing strips, pilots, and

equipment available to the postmaster general for the transportation of air mail. Tragically, in the following weeks, several army planes flying U.S. mail crashed, severely wounding some pilots and killing others. One newspaper headline read: "Hasty cancellation of mail contracts means the needless loss of lives of courageous Army Pilots."<sup>3</sup> Some Americans blamed Black's committee for the pilots' deaths. The committee struggled over the ensuing years to regain the support of the American public.

## **Investigation**

During the early months of the inquiry, investigators uncovered evidence that top level officials in the Hoover administration, including Postmaster General Walter F. Brown and his deputy, William P. MacCracken, drafted legislation granting the postmaster general broad authority in the awarding of mail contracts. Congress had approved the administration's bill, known as the McNary-Watres Act, in 1930. Black's investigators found that, shortly after the bill's approval, Brown and MacCracken invited airline chiefs to Washington, many of whom were personal friends, and awarded them air mail contracts without a formal bidding process. Brown and MacCracken held stocks of several corporations that directly benefitted from these contracts.<sup>4</sup> Reporters later dubbed the meeting the "Spoils Conference."

When called to testify before the committee, "Spoils Conference" participants proved uncooperative. MacCracken, who then worked as legal counsel to an airline that had received such a contract, declined to provide documents requested by the committee. He asserted that some papers were protected by attorney-client privilege. Relying on the *McGrain v. Dougherty* Supreme Court decision, the Black committee appealed to the Senate, which approved Senate Resolution 143, granting the committee the power to subpoena persons and papers "of all individuals, associations, partnerships, or corporations" involved in air mail and ocean mail contracting with the U.S. government. MacCracken still refused to cooperate and permitted some documents to be removed from his office and destroyed. The Senate authorized the sergeant at arms to arrest MacCracken and three others, and to impound their papers and correspondence.

Facing such firm opposition, Chairman Black relied on the creativity of committee investigators to secure vital evidence. In one case, two postal workers sorted through trash bags searching for scraps of subpoenaed papers. After hours of tedious work, they succeeded in piecing several documents back together and the reassembled letters were found to contain information relevant to the investigation. The committee charged four men with contempt for attempting to destroy subpoenaed materials.<sup>5</sup> The Senate found two of those men, including MacCracken, in contempt of Congress and held them in the District of Columbia jail for 10 days. A Supreme Court decision, *Jurney v. MacCracken* (1935), upheld Congress's right to punish private citizens for contempt.

## **Outcome**

The Black committee's final reports found that all parties bore some responsibility for the corrupt practice of awarding air and ocean mail contracts. The committee blamed legislators for drafting and passing "ill-advised" laws. It singled out public officials, such as Walter Brown, who "flagrantly betrayed their trust and maladministered those laws," and accused individuals "publicly posing as patriots" for taking advantage of those laws for their "private profit." The committee recommended implementing a program of competitive bidding for air and ocean mail contracts and reducing or eliminating taxpayer subsidies, believing these measures would save the government "millions of dollars ... in the future." Based on the committee's exhaustive

inquiry, Congress passed legislation to reform existing laws and practices in the years following the air mail and ocean mail inquiry.<sup>6</sup>

In addition to saving American taxpayers money, Congress designed new laws to provide greater oversight of the awarding of mail contracts and of the development of fledgling industries such as passenger air service and the U.S. merchant marine. Senators Hugo Black and Kenneth McKellar co-authored air mail legislation in 1934. Signed by the president on June 12, the Air Mail Act of 1934 established a commission tasked with making recommendations to Congress concerning the development of a national aviation policy. It restricted the postmaster general and other top officials from granting contracts to companies in which they had a personal financial interest. The Air Mail Act of 1935 granted the Interstate Commerce Commission oversight of contracts and provided for the annual review of “rates of compensation,” and “all forms of expenditures of said companies” of those agreements. The Merchant Marine Act of 1936 created the U.S. Maritime Commission and provided for the “development and maintenance of an adequate and well-balanced American merchant marine, to promote the commerce of the United States [and] to aid in the national defense.”

---

<sup>1</sup> Lawrence Sullivan, “Brown Makes Plea for Air Mail Funds, States Elimination Would Nearly Ruin Industry; Award Now Seen,” *The Washington Post*, 4 Feb 1933, 1.

<sup>2</sup> “Air Mail Investigation,” *Wall Street Journal*, 22 Jun 1933, 15.

<sup>3</sup> Capt. Eddie Rickenbacker, “Army Planes Unfit; the Boys are Sacrificed!” *The Washington Post*, 25 Feb 1934, B5.

<sup>4</sup> U.S. Congress, Senate, Special Committee on Investigation of Air Mail and Ocean Mail Contracts, *Investigation of Air Mail and Ocean Mail Contracts*, “Testimony of Walter F. Brown,” 73d Cong., 2d sess., 19 Feb 1934, 2372-2373.

<sup>5</sup> Hugo L. Black, “Inside a Senate Investigation,” *Harper’s Monthly* (Feb. 1936), 275-286; Senate Special Committee on Investigation of Air Mail and Ocean Mail Contracts, *William P. MacCracken, Jr., et al., Extracts from the Congressional Record Containing the Proceedings and Order in the Case of the United States vs. William P. MacCracken, Jr., et al., Alleging the Respondents in Contempt of the Senate of the United States in Connection with a Subpena [sic] to Produce Certain Papers Before a Special Committee Appointed to Investigate the Awarding of Air and Ocean Mail Contracts*, presented by Mr. Hayden, 73d Cong., 2d sess., 1934, 109.

<sup>6</sup> U.S. Congress, Senate, Senate Special Committee on Investigation of Air Mail and Ocean Mail Contracts, *Preliminary Report*, 74<sup>th</sup> Cong., 1<sup>st</sup> sess., 1935, 2-3.