

## HERMAN E. TALMADGE INVESTIGATION

OCTOBER 3 (legislative day, JUNE 21), 1979.—Ordered to be printed

Mr. STEVENSON, from the Select Committee on Ethics,  
submitted the following

## REPORT

[To accompany S. Res. 249]

The Select Committee on Ethics, reports favorably an original resolution and recommends that the resolution do pass.

## I. INTRODUCTION

## A. BACKGROUND

In April 1978, a number of articles were published in connection with a lawsuit brought in Georgia by Senator Herman E. Talmadge to recover the proceeds of certain stock from his former wife. These press accounts focused on Senator Talmadge's testimony during the litigation that he did not know the source of his spending money, although the checks he had written to cash totalled only \$600.00 over a five-year period. Senator Talmadge subsequently indicated that his cash came from small gifts from supporters. Later news stories noted possible inaccuracies in campaign reports filed by Senator Talmadge in connection with his 1974 campaign for re-election to the Senate, and in financial disclosure reports filed by the Senator pursuant to Senate Rules. Other newspaper articles concerned alleged overpayments to Senator Talmadge by the Senate resulting from incorrect vouchers submitted by the Senator; allegations that Senator Talmadge had exerted improper influence in connection with certain real estate transactions; and allegations that Senator Talmadge failed to report gifts and to pay gift taxes due on securities given by the Senator to his former wife.

These allegations came to the attention of the Senate Select Committee on Ethics and the Chairman and Vice Chairman determined

that a preliminary inquiry, as provided by the Committee's Rules of Procedure, should be made into these charges.<sup>1</sup>

On May 24, 1978, Senator Talmadge wrote to the Committee and requested that the Committee review his practice of accepting small cash gifts (See Appendix B). On June 7, the Committee appointed Carl Eardley, former Deputy Assistant Attorney General in the Department of Justice, as Special Counsel. The Committee unanimously agreed that an initial review should be conducted into the allegations concerning Senator Talmadge. Senator Talmadge was notified by letter of the Committee's decision on June 9, 1978 (See Appendix C). On August 18, 1978, after auditors for the Committee and for Senator Talmadge had reviewed the Senate reimbursements paid to the Senator, Senator Talmadge repaid to the Senate the sum of \$37,125.90 for excess reimbursements made to him for the period January 1, 1972 through June 30, 1978.

Following a careful study of the confidential report submitted by Special Counsel at the conclusion of the initial review, the Committee determined that there was substantial credible evidence that violations within the jurisdiction of the Committee had occurred. On December 18, 1978, the Committee voted to conduct an investigation as provided by Senate Resolution 338, as amended, and in accordance with Rule 5 of the Committee's Rules of Procedure. At that time, the Committee also concluded that the allegation that Senator Talmadge had exerted improper influence in connection with certain real estate transactions was without foundation and should be dismissed.

#### B. AUTHORITY OF SELECT COMMITTEE ON ETHICS

Article I, Section 5, Clause 2 of the United States Constitution provides that: "[e]ach House [of Congress] may determine the Rules of its Proceedings, punish its Members for disorderly behavior, and, with the Concurrence of two thirds, expel a Member." This constitutional authority to investigate and report to the Senate possible unethical conduct was delegated in 1964 to the former Senate Select Committee on Standards and Conduct, and in 1977 to the newly created Select Committee on Ethics. It is the duty of the Committee pursuant to its authorizing resolution, S. Res. 338, as amended in 1977, to:

[r]eceive complaints and investigate allegations of improper conduct which may reflect upon the Senate, violations of law, and violations of the Senate Code of Official Conduct and violations of rules and regulations of the Senate, relating to the conduct of individuals in the performance of their duties

<sup>1</sup> S. Res. 338, 88th Cong. 2d Sess. (1964), as amended by S. Res. 110, 95th Cong. 1st Sess. (1977), sets forth two stages to be followed by the Committee in connection with any inquiry involving the conduct of a Member, officer or employee of the Senate. The first stage is an "initial review" by the Committee to determine whether there is reason to believe that possible improper conduct or a violation of a rule or law within the jurisdiction of the Committee may have occurred. If the Committee finds that there is substantial credible evidence which provides substantial cause to conclude that the improper conduct or violation within its jurisdiction has occurred, the Committee is then mandated to conduct an "investigation". The Committee adopted, pursuant to Sec. 2(f) of S. Res. 338, as amended, written procedures to be used in conducting inquiries, and in addition added an introductory stage to the investigatory process, a "preliminary inquiry". See Appendix A, where the relevant Rules of Procedure are set forth.

as Members of the Senate, or as officers or employees of the Senate, and to make appropriate findings of fact and conclusions with respect thereto. . . . (S. Res. 338, 88th Cong. 2d Sess. Sec. 2(a)(1) (1964), as amended by S. Res. 110, 95th Cong., 1st Sess. Sec. 201 (1977))

In order to fulfill this mandate, the Committee is authorized to hold hearings, issue subpoenas, administer oaths, take testimony orally or by deposition and retain outside counsel. The Committee is further authorized, with the prior consent of the department or agency involved, to utilize the services, information and facilities (and to employ the services of personnel) of any such department or agency of the Government.

#### C. LAWS AND SENATE RULES RELEVANT TO THE INVESTIGATION

Rule 44 of the Standing Rules of the Senate (in effect from July, 1968 through December 31, 1977) required each Senator to file an annual report listing all gifts with an aggregate value of \$50 or more received from a single source during the calendar year. Such gifts have been interpreted to include cash, free hotel lodging and clothing. (See e.g., Report accompanying S. Res. 266, Report No. 90-1015, March 15, 1968 at page 14) Each Senator was also required to report any interest in real or personal property having a value of \$10,000 or more which he or she owned or in which the Senator had a beneficial interest at any time during the prior year. These reports were to be filed annually on a confidential basis with the Comptroller General of the United States on or before the 15th of May of the following year.

Rule 44 also required each Senator to file a confidential copy of his income tax return for that calendar year, and to file a public report with the Secretary of the Senate listing all campaign contributions and honoraria received.

Senate Resolution 110, agreed to on April 1, 1977, amended the Standing Rules of the Senate by striking Rules 41 through 44 and substituting a new disclosure rule and other requirements.

Rule 42 (in effect from July, 1968 through December 31, 1977) prohibited a Senator from converting campaign contributions to his personal use. This prohibition is currently set forth in Senate Rule 46.

Senators are required by statute, section 58(a) of Title 2 of the United States Code, to certify the correctness of claims submitted to the Government for payment. Criminal penalties for persons who knowingly make a false, fictitious or fraudulent claim against the Government are set forth in section 287 of Title 18 of the United States Code. In addition, section 1001 of that Title imposes criminal penalties for making false statements to the Government and section 371 sets forth criminal sanctions applicable to persons who conspire to defraud the Government.

Certain other statutes are relevant to the allegations which were the subject of this investigation, principally the Federal Election Campaign Act of 1971, 2 U.S.C. 431 et seq., and the Internal Revenue Code of 1954, as amended, 26 U.S.C. 1 et seq.

## D. SUMMARY OF FINDINGS

After its review of the evidence, including the facts stipulated by Senator Talmadge (See Appendix D), the testimony of 36 witnesses during 27 days of public hearings, and the 292 exhibits received into evidence, the Committee made the following findings of fact:

1. From January 1, 1973 through June 30, 1978, fifteen vouchers were submitted to the Senate in the name of Senator Herman E. Talmadge which claimed and recovered Senate reimbursements in the aggregate amount of \$43,435.83 for official expenses which were not incurred (\$37,125.90 having been repaid by Senator Talmadge on August 18, 1978 for over-reimbursements between 1972 and 1978 inclusive);
  2. Senator Talmadge failed to sign, as required by law, and to properly supervise the preparation of all the aforesaid vouchers;
  3. The Financial Disclosure Reports required to be filed by Senator Talmadge under Senate Rule 44 for each of the years 1972 through 1977 were inaccurate;
  4. Senator Talmadge failed to file in a timely fashion the Candidate's Reports of Receipts and Expenditures for 1973, as required by Federal law, and filed inaccurate reports for the period January 1, 1974 through December 31, 1974;
  5. Campaign funds of Senator Talmadge in excess of \$10,000.00 were not reported, as required by Federal law, and were deposited by his Campaign Chairman between July 3, 1973 and November 29, 1974 in an account maintained at the Riggs National Bank of Washington, D.C., in the name of "Herman E. Talmadge/Talmadge Campaign Committee." These funds were disbursed by said Campaign Chairman for non-campaign purposes.
  6. With respect to the allegations concerning Senator Talmadge's failure to report certain gifts or securities made by him to Mrs. Talmadge, and to pay gift taxes due thereon, the Committee was informed that Senator Talmadge's obligation, if any, to pay gift taxes has been disputed by his auditors and is currently the subject of a review by the Internal Revenue Service. The Committee found no evidence to substantiate the allegation that Senator Talmadge's failure to report gifts or to pay gift taxes, if any, constituted improper conduct on the part of the Senator.<sup>2</sup>
- On September 14, 1979, the Committee, by unanimous vote, agreed to report a Resolution setting forth these findings and the Committee's recommendations to the Senate.

<sup>2</sup> In his confidential report submitted to the Committee at the conclusion of the initial review stage of this inquiry, Special Counsel indicated his opinion that a failure by Senator Talmadge to report gifts of securities he had made to his wife and to pay gift taxes due thereon, if proven, would not be sufficiently serious to warrant the imposition of severe disciplinary action; Special Counsel recommended, therefore, that the Committee propose an appropriate remedy, as provided by Rule 4(f)(3) of the Committee's Rules of Procedure. No resolution of this allegation was reached, and the Committee proceeded with an investigation into the allegation, as mandated by S. Res. 338, as amended, and by Rule 4(f)(3). During the course of the investigation, Special Counsel was informed that Senator Talmadge's tax liability on this issue was a subject of dispute between the Senator's auditors and the Internal Revenue Service; Special Counsel decided, therefore, to present no additional evidence with respect to this allegation. The Committee was presented with no evidence during the investigation, therefore, from which it could conclude that any failure to report gifts and to pay gift taxes due was the result of improper conduct on the part of Senator Talmadge. Accordingly, the Committee determined that this allegation should be dismissed.

## II. SCOPE OF INQUIRY

The scope of the initial review authorized by the Committee included the following:

1. The alleged overpayments by the Senate to Senator Talmadge on the basis of official vouchers submitted by Senator Talmadge;
  2. The alleged failure of Senator Talmadge to properly report to the Secretary of the Senate campaign expenditures for his 1974 campaign as required by law;
  3. The alleged failure of Senator Talmadge to properly report gifts, contributions and his interests in property as required by Senate Rule 44 effective from 1968 to 1977;
  4. Allegations that Senator Talmadge had failed to properly declare on gift tax returns gifts of securities he made to his ex-wife;
  5. The allegation that the Senator had used improper influence in connection with certain private real estate transactions; and
  6. The questions raised concerning the Senator's sources of cash.
- On October 30, 1978, at the conclusion of the initial review into these six allegations, Special Counsel submitted a confidential report to the Committee summarizing the evidence with respect to each of the six allegations.

After reviewing Special Counsel's Report, the Committee<sup>1</sup> agreed on December 18, 1978 with Special Counsel's conclusion that allegations of improper conduct by Senator Talmadge in connection with certain land transactions were without foundation and thus should be dismissed. The Committee voted, four to one,<sup>2</sup> to authorize an investigation into the five remaining allegations.

One of the potentially important witnesses in the investigation, Daniel Minchew, former Administrative Assistant to Senator Talmadge, refused to testify unless given immunity. He was granted limited, or "use", immunity, which precluded the Department of Justice from using Mr. Minchew's testimony before the Committee, or any information resulting from his testimony, in any subsequent prosecution against him.

In the course of the investigation numerous witnesses were interviewed by Special Counsel and Committee investigators and voluminous records were examined by Special Counsel and the auditors for the Committee who assisted in the investigation.

Prior to the commencement of public hearings, the Committee ruled on a number of motions filed by counsel for Senator Talmadge and by counsel for Daniel Minchew. These motions included the request that the Committee adopt the standard of proof applicable in criminal cases and require that the allegations against Senator Talmadge be proven beyond a reasonable doubt. Following submission of written briefs and oral argument by counsel for Senator Talmadge and Special Counsel, the Committee denied Senator Talmadge's motion and determined that all allegations be proven by "clear and convincing evidence." (See Appendix E)

<sup>1</sup> During the preliminary inquiry and initial review, the Committee was composed of Senators Adlai Stevenson (Chairman), Harrison Schmitt (Vice Chairman), Abraham Ribicoff, Robert Morgan, John Tower and Charles McC. Mathias. Before the hearings convened, Senators Ribicoff, Tower and Mathias were replaced by Senators Quentin Burdick, Mark Hatfield, and Jesse Helms.

<sup>2</sup> One Member of the Committee was necessarily absent.

Senator Talmadge also moved the Committee to exclude any documentary evidence taken without authorization from the Senator's office by his former Administrative Assistant, Daniel Minchew. After being briefed and argued by Special Counsel and counsel for Senator Talmadge, this motion was denied by the Committee.

Two additional motions, to require Special Counsel to produce any exculpatory evidence and to provide more detail with respect to the allegations under investigation, were resolved by agreement between Special Counsel and counsel for Senator Talmadge.

Finally, upon motion made by counsel for Senator Talmadge, the Committee agreed to issue a *subpoena duces tecum* to Daniel Minchew to require the production of certain documents which had not been previously provided to the Committee.

On April 30, 1979, the Committee began public hearings into the charges against Senator Talmadge. A Stipulation of Fact was entered into by Senator Talmadge on that date and was introduced as Joint Ex. 1. (See Appendix D) Special Counsel concluded his presentation on June 30, 1979, after having called 26 witnesses to testify before the Committee. Counsel for Senator Talmadge then filed a Motion to Dismiss the charges against Senator Talmadge on the ground that Special Counsel had failed to establish a *prima facie* case with respect to the allegations under investigation. The Committee took the Motion and the Memorandum filed by Special Counsel in opposition to the Motion under advisement. (See Appendix F and G) Counsel for Senator Talmadge then informed the Committee that he did not intend to call any witnesses and would rely on the Memorandum filed in support of the Motion to Dismiss.

The Committee determined that the testimony of Senator Talmadge was critical to the resolution of the allegations before the Committee and, on June 26, 1979, Senator Talmadge was formally requested to appear before the Committee. Senator Talmadge agreed to testify and the hearings were resumed on July 9, 1979 and concluded on July 12, 1979, following the testimony of ten witnesses called by Senator Talmadge and the sworn testimony of the Senator.

During the hearings, the Committee heard the testimony of 36 witnesses; 2793 pages of testimony were transcribed and 292 exhibits were received into evidence. All testimony heard by the Committee was given under oath. At the conclusion of the hearings, Special Counsel and counsel for Senator Talmadge were asked to file supplemental briefs on the Motion to Dismiss which was pending before the Committee. (See Appendix H and I)

As required by the Committee's Rules of Procedure, Special Counsel then submitted a confidential report to the Committee for its consideration.

### III. SUMMARY OF EVIDENCE WITH RESPECT TO ALLEGATIONS SUBJECT TO INVESTIGATION

#### A. OVERREIMBURSEMENTS FROM U.S. SENATE

##### 1. Senate procedures

On January 1, 1973, the United States Senate adopted new procedures for obtaining reimbursement from the Senate for expenses in-

curred by a Senator in connection with official Senate duties. As provided in Section 58(a) of Title 2 of the United States Code, Senators are entitled to reimbursement for, inter alia, official expenses incurred for: (1) airmail and special delivery postage; (2) office expenses incurred in the home state; (3) telephone service charges incurred outside Washington, D.C.; and (4) subscriptions to newspapers, magazines, periodicals and clippings or similar services. The statute provides for reimbursement of these expenses, up to a specified limit per Member, upon submission of a voucher by the Senator certifying that the expenses were officially incurred. A Senator's consolidated allowance for these expenses is computed on a calendar year basis; in any given month a Senator may draw down one-twelfth of his annual allowance plus any balance remaining from previous months. No bills, receipts or other supporting documentation were required to be filed with the Senate Disbursing Office in order to obtain reimbursement for these expenses.<sup>1</sup> Every month, the Senate Disbursing Office sends each Senator a copy of any vouchers paid during that month and a monthly statement indicating the balance available to the Senator for reimbursement. At the close of the calendar year, the Disbursing Office also sends each Senator a copy of each voucher submitted by the Senator for reimbursement.

##### 2. Overreimbursements to Senator Talmadge

Senator Talmadge maintained a checking account at the Trust Company of Georgia, in Atlanta, for deposits for reimbursements from the Senate and from other sources received for travel and other expenses, for deposits of honoraria and for payment of official and campaign expenses. This account was called the "Special Account"; all checks covering official expenses incurred by Senator Talmadge were drawn on this Special Account and virtually all checks on the account were signed by Senator Talmadge personally. (Tr. pp. 262, 271, 289, 2621-2622). All reimbursement checks received from the Senate, with two exceptions, were deposited into the Special Account. (Tr. pp. 224, 1055)

In June, 1978, following the publication of newspaper articles alleging irregularities with respect to reimbursements received from the Senate, Senator Talmadge requested an audit of the Senate reimbursements paid to him for the period January 1, 1972 through June 30, 1978. On July 18, 1978, the Senator's auditors issued a report to Senator Talmadge which estimated the aggregate amount of reimbursements received by Senator Talmadge in excess of allowable expenditures for this period at \$36,219.00 (R. Ex. 121). The Committee's auditors reviewed the audit and concluded that the amount of over-reimbursements for the period covered by the original audit was \$50,020.57, of which \$43,435.83 had been received for the period January 1, 1973-June 30, 1978, when the consolidated, or four-part voucher system was in effect. (See Paragraphs 1 and 2 of Stipulation of Fact; Ex. 42 and Ex. 45). The \$50,020.57 included \$900.50 in additional over-reimbursements which the Senator's auditors and members of his staff subsequently agreed were not allowable, and two reimbursement checks

<sup>1</sup> On May 23, 1979, Senator Hatfield, on behalf of himself and the other Members of the Committee, submitted a resolution to the Senate which would require vouchers to be accompanied by supporting documentation. (S. Res. 170, 96th Cong., 1st Sess., agreed to August 2, 1979).

totalling \$12,894.67 which had not been deposited into the Special Account and which were not included in the original audit. (See discussion at page 23, below). On August 18, 1978, Senator Talmadge repaid the Secretary of the Senate the sum of \$37,125.90, the amount of over-reimbursements received for the period January 1, 1972 through June 30, 1978, less the \$12,894.67. (See paragraph 2 of the Stipulation of Fact)

The evidence before the Committee establishes that, in each of the years 1973-77, reimbursements were made to Senator Talmadge on the basis of vouchers claiming amounts greatly in excess of allowable, or in many cases actual, expenditures:

1. During 1973, the only voucher which was submitted by Senator Talmadge's office to the Senate was \$10,604.68; allowable expenditures for the entire calendar year were \$1,300.23. (Tr. p. 1318; Ex. 442). As is discussed at page 23 below, the proceeds of that voucher, which bore a facsimile of Senator Talmadge's signature from an autopen machine, were never deposited in the Special Account, but were used by Daniel Minchew, Senator Talmadge's Administrative Assistant and Chairman of the Talmadge Campaign Committee, to open an account at the Riggs National Bank in Washington, D.C., in the name of "Herman E. Talmadge/Talmadge Campaign Committee." (Tr. pp. 295, 952-964, 1737, 1739)

2. In 1974, two vouchers were submitted on behalf of Senator Talmadge. The first was in the amount of \$5,885.85 and included \$3,685.85 for home office expenses. During this period, there were no allowable home office expenses and the total allowable expenditures for the period were \$2,204.81. (See Ex. 12.6, Ex. 42). This voucher was signed by autopen. (Tr. pp. 955-956). The second voucher submitted in 1974 was for \$2,289.99, and also was signed using an autopen machine. (Ex. 12.7, Tr. pp. 955-956) This voucher was prepared by, or at the instance of, Senator Talmadge's Administrative Assistant, Daniel Minchew, and its proceeds deposited by Mr. Minchew into the Riggs account. (Tr. 1802)

3. In 1975, When T. Rogers Wade served as Administrative Assistant to Senator Talmadge, over-reimbursements to Senator Talmadge resulting from the two vouchers submitted for the year totalled \$15,868.23. (Tr. pp. 2784-2785; Ex. 42) The vouchers submitted for the period January 1-June 30, 1975, to which Mr. Wade signed Senator Talmadge's name, claimed \$8,172.36 in reimbursements, including \$6,500.00 in home office expenses. (Tr. pp. 44-45, 50; Ex. 12) There were no allowable home office expenses for that period, and the total amount of recoverable expenses was only \$446.85. (Ex. 42) The second voucher submitted in 1975, which also was signed by Mr. Wade using Senator Talmadge's signature, claimed \$9,212.00, including \$7,000.00 for home office expenses. During the relevant periods there were no allowable home office expenses and allowable expenditures totalled \$1,068.98. (Tr. pp. 50; Ex. 42)

4. In 1976, three vouchers were submitted, resulting in an aggregate over-reimbursement to Senator Talmadge of \$8,824.64. (Ex. 42) The voucher for the period January 1-June 30, 1976 was signed by Senator Talmadge. (Tr. pp. 299, 952; Ex. 17) It claimed total reimbursable expenses of \$9,394.31, of which \$8,052.56 was

claimed as home office expense. The total reimbursable expenditures for that period were \$1,540.99, \$60.00 of which was allowable as home office expense. (Ex. 42)

5. In 1977, the total amount of over-reimbursements to Senator Talmadge for the six vouchers submitted in that year was \$5,027.81. (Ex. 42)

Most of the over-reimbursements received for these years resulted from excessive claims for home office expenses. For the years 1973 through 1977, a total of \$42,744.32 was claimed by Senator Talmadge for home office expense. (Tr. pp. 1331; Ex. 42) During this period the total allowable home office expense was \$2,172.23, resulting in an over-payment of \$40,572.09 in non-existent home office expenses. (Ex. 42)

Because salaries related to the operation of Senator Talmadge's home office are paid by the Senate and office space is provided by the General Services Administration, the amount of allowable home office expense generally has been negligible. (Tr. pp. 51, 214-15, 2619) The nominal expenses which actually were incurred were paid by Senator Talmadge by checks drawn on the Special Account. (Tr. pp. 224, 430, 2621-22)

In 1975, for example, when \$13,500 was claimed as home office expense, only eighteen checks for allowable expenses, totalling \$1,500, were drawn on the Special Account for the entire year. (Ex. 42, Ex. 53a; Tr. 2621-22) Similarly, the voucher for the period January-June 1976, signed by Senator Talmadge, claimed home office expenses of \$8,052.56, when the actual expense was only \$60.00 (Ex. 42)

According to testimony before the Committee, Senator Talmadge signed virtually all of the checks drawn on the Special Account (Tr. pp. 291-292); he occasionally examined the checks on both the front and back sides (Tr. pp. 292, 355, 489) and reviewed the monthly bank statements (Tr. pp. 221, 292, 354-355, 488). Senator Talmadge's accountant received copies of financial data relating to the operation of Senator Talmadge's office, including bank statements, deposit slips, checks and, for some years, copies of Senate vouchers (Tr. 354-355, 403, 1057, 1159) and used this information in preparing Senator Talmadge's tax returns. (Tr. pp. 1074-1077) A reconciliation of these documents would have revealed the discrepancy between actual expenditures and those being claimed for reimbursement. Senator Talmadge and his accountant both stated that no such reconciliation was undertaken before June of 1978 even though they had been informed in 1977 of the possibility of such a discrepancy. (Tr. pp. 1065-1070, 1177, 2621-2622, 2648-2652)

In explanation, Senator Talmadge has testified that office financial matters were given a "low priority". (Tr. pp. 2613, 2615-2616, 2625, 2633) The evidence before the Committee is conflicting on this point. Several witnesses testified that Senator Talmadge was concerned about, and involved with, the office budget and other financial matters. Congressman Ronald ("Bo") Ginn, who served as Senator Talmadge's Administrative Assistant from 1966 to 1971, testified, for example, that during his tenure as Senator Talmadge's Administrative Assistant, Senator Talmadge "kept very close observation over all office matters" and that the Senator's grasp of details and figures was "the best he's ever seen." (Tr. pp. 2493, 2497-2498) This characterization is confirmed by the testimony given by Mrs. Allyne Tisdale, Senator

Talmadge's financial secretary, by Mr. Lawrence Earls, Senator Talmadge's accountant, and, to some extent, by Senator Talmadge himself. (Tr. pp. 287-288, 292, 345-346, 1286, 2744-2745)

However, other testimony heard by the Committee would bear out the Senator's statement that office matters were given a low priority. For example, Senator Talmadge has acknowledged his failure to supervise the preparation of vouchers and the use of the autopen or facsimile signatures by his staff in signing the vouchers submitted for the period 1973-1975. (Tr. pp. 44-50, 2613-2615, 2621-2622, 2760-2701) Furthermore, Mrs. Allyne Tisdale, the member of the Senator's staff most qualified to handle bookkeeping matters was, according to her testimony, not given responsibility for preparing Senate vouchers until late 1976. (Tr. pp. 293, 304) The allegedly low priority given office financial matters might also serve to explain how Senator Talmadge's former Administrative Assistant, Daniel Minchew, could have diverted more than \$12,000 in Senate funds without being detected, despite the monthly statements of reimbursements and year-end copies of vouchers provided by the Senate Disbursing Office. It may also explain why Senator Talmadge failed to take any action to verify information he received in August, 1977, and his accountant received one month later, as to possible over-reimbursements from the Senate. (Ex. 18, p. 57, Ex. 91, pp. 13-15; Tr. pp. 2648-2652) Finally, it is consistent with the fact that no disciplinary action has been taken against present members of Senator Talmadge's staff whose "staff errors" resulted in over-payments to the Senator of \$29,720.98 for the years 1975-1977. (Tr. pp. 15, 261, 2631; Ex. 42) This evidence could, however, also lead to the conclusion that Senator Talmadge knew that reimbursements received from the Senate greatly exceeded allowable expenditures.

**B. FAILURE TO FILE ACCURATE REPORTS OF GIFTS AND ASSETS AS REQUIRED BY SENATE RULE**

Rule 44 of the Standing Rules of the Senate, in effect from July, 1968 through December 31, 1977, required each Senator to file a Confidential Statement of Financial Interests with the Comptroller General of the United States. Senators were required to include in this statement (1) all gifts having an aggregate value of \$50 or more received from a single source in a calendar year; and (2) all interests in real or personal property and all beneficial interests in trusts having a value of \$10,000 or more.

For the years 1972-1977, Senator Talmadge filed statements disclosing gifts as follows:

Date filed	Period covered	Gifts reported
May 14, 1973	1972	None.
May 10, 1974	1973	Talmadge birthday, etc., \$1,600.
May 6, 1975	1974	Talmadge birthday party committee, \$2,000.
May 6, 1976	1975	None.
May 5, 1977	1976	Do.
May 11, 1978	1977	Do.

Note: Par. 7 of stipulation of fact.

These reports failed to include the following gifts made to Senator Talmadge:

Year and name of donor	Nature of gift	Value
1972:		
Richard H. Rich, Harold H. Brockey	Ties, shirt, sport coat	Unknown.
Robert M. Heard	Fruit of the month	Do.
1973:		
Diane B. Andersen	Check	\$100.
Robert M. Heard	Fruit of the month	Unknown.
Robert H. Rich, Harold H. Brockey, Joel Goldberg	Suit, shirt, tie	Do.
1974: R. B. Sewell, Sr.	2 suits	Do.
1975:		
J. F. Hart	Birthday gift	\$100.
R. B. Sewell, Sr.	2 suits	\$80.
1977:		
H. Lowell Conner	4 suits	\$190 (approximate).
Atlanta American Motor Hotel	Courtesy hotel accommodations (no meals)	\$450.
Al and Rol Forsythe	Portable trampoline	150 (estimate).

On July 20, 1978, Senator Talmadge filed amended statements for these years which reported the above gifts. (Paragraph 8 of Stipulation of Fact) Senator Talmadge also provided the Committee with a list of other gifts received during these years, each with an apparent value of less than the \$50 reporting threshold. (Paragraph 9 of Stipulation of Fact). In response to questions concerning the possibility of additional, unreported tangible gifts and gifts of cash, transportation and lodging, Senator Talmadge has stated that he made no effort to keep records of gifts received by him. (Ex. 10, p. 18)

Senator Talmadge has acknowledged that he was provided the following trips by air which were not reported on any Confidential Statements of Financial Interests filed by the Senator:

Date	Destination	Transportation
July 10, 1970	Washington, D.C. to Valdosta, Ga.	Southern Ry. System.
July 12, 1970	Valdosta, Ga. to Washington, D.C.	Do.
June 18, 1971	Washington, D.C. to Valdosta, Ga.	Do.
June 20, 1971	Valdosta, Ga. to Washington, D.C.	Do.
Apr. 14, 1972	Washington, D.C. to Valdosta, Ga.	Do.
Feb. 28, 1973	Washington, D.C. to Bimini, Bahamas	Rockwell International.
Mar. 26, 1973	Washington, D.C. to Athens, Ga.	Southern Ry. System.
June 9, 1974	Atlanta, Ga. to Augusta, Ga.	Southern Co. Services.
Nov. 12, 1975	Washington, D.C. to Columbus, Ga.	American Family Life Assurance Co.
Feb. 5, 1976	Washington, D.C. to Marco Island, Fla.	International Paper Co.
Feb. 6, 1976	Marco Island, Fla. to Washington, D.C.	Do.
June 11, 1976	Washington, D.C. to Palatka, Fla.	Southern Ry. System.
June 13, 1976	Palatka, Fla. to Washington, D.C.	Do.

Note: Par. 16 of stipulation of fact; see also, tr. p. 18-20.

That the trips occurred and were not reported is stipulated. That they should have been reported was not absolutely clear from the text of Senate Rule 44. In July 1977—more than a year after the last trip identified in the stipulated facts—the newly established Select Committee on Ethics was asked to render interpretative rulings under the disclosure requirements adopted by the Senate on April 1, 1977. The Committee held that gifts of air transportation would be reportable under Rule 44 (in effect from July, 1968 to December 31, 1977) and under Senate Rule 42 (in effect from January 1, 1978 through August 3, 1979). (Interpretative Rulings No. 41, dated July 1, 1977 and No. 46, dated July 20, 1977)

During this same period, 1972-1977, Senator Talmadge reported that no interests in property were held in trust for his benefit. (Paragraphs 3 through 6 of Stipulation of Fact)

In 1967, Senator Talmadge purchased, at a cost of approximately \$119,000, an interest in the stock of Terminal Facilities, a syndicate which had acquired substantial holdings of real property. The stock, which was registered in the name of Senator Talmadge's then wife, Elizabeth S. Talmadge, was sold in 1972 for \$750,000. In 1977, Senator Talmadge sued Mrs. Talmadge to recover the proceeds from the sale of the Terminal Facilities stock. On June 27, 1978, the Supreme Court of Georgia issued a decision upholding Senator Talmadge's contention that the stock, and the proceeds from its sale, were held in trust by Mrs. Talmadge for the benefit of Senator Talmadge.

The Terminal Facilities stock and the proceeds from its sale were not reported by Senator Talmadge either as his own asset or as property held in trust for his benefit in any of the financial disclosure reports he filed for the years 1970-1976, although in 1970-1971, the Terminal Facilities stock was reported by Senator Talmadge as being the property of Mrs. Talmadge, and in 1977, Senator Talmadge reported the proceeds as being due to him pending litigation. (Tr. pp. 19, 2603, Paragraph 3 through 6 of Stipulation of Fact)

#### C. FAILURE TO FILE CANDIDATE'S REPORTS OF RECEIPTS AND EXPENDITURES AS REQUIRED BY LAW

As a candidate for re-election to the Senate in 1974, Senator Talmadge was required to submit reports showing campaign receipts and expenditures under Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434). ("Receipts and Expenditures Report of a Candidate for Nomination or for Election to the United States Senate", Senate Election Form 2.)<sup>2</sup> No "Receipts and Expenditures Report of a Candidate" was filed for the year 1973 until June 20, 1978. The report filed in 1978 disclosed that campaign expenditures of \$14,669.11 had been paid by Senator Talmadge in 1973 and that he had been reimbursed for these expenditures by the Talmadge Campaign Committee on January 4, 1975. (Paragraph 13 of Stipulation of Fact)

During the period April 10, 1974 through January 30, 1975, Senator Talmadge filed reports certifying that he had no campaign receipts or expenditures; however, on January 30, 1975, he was reimbursed by the Talmadge Campaign Committee for \$12,243.33 in campaign expenditures he had made in 1974. (Tr. pp. 17, 92-97, 1681-89, 2609-10) On that same day, January 30, 1975, Senator Talmadge had filed a sworn statement, notarized by his Administrative Assistant, T. Rogers Wade, that he had no receipts or expenditures for the period October 25, 1974 through December 31, 1974. (Tr. pp. 30-33) The reports filed by the Talmadge Campaign Committee on March 10, 1975 showed reimbursements to Senator Talmadge of the \$26,912.44 cited above for 1973 and 1974. (Paragraph 15 of Stipulation of Fact) Amended reports were filed by Senator Talmadge on June 19, 1978

<sup>2</sup>In a letter dated April 4, 1974, Senator Talmadge was notified by the Assistant Secretary of the Senate of his obligation to file these Reports and that no such Reports had been received. (Ex. 2)

showing these expenditures and the reimbursement made by the Talmadge Campaign Committee. (Ex. 4)<sup>3</sup>

#### D. DIVERSION OF CAMPAIGN AND OTHER FUNDS

On July 3, 1973, a checking account was opened by Daniel Minchew in the name of "Herman E. Talmadge/Talmadge Campaign Committee" at the Riggs National Bank in Washington, D.C. (Tr. pp. 1737, 1743) Mr. Minchew, who was then Administrative Assistant to Senator Talmadge and Chairman of the Talmadge Campaign Committee, testified that he affixed autopenned signatures of Senator Talmadge to the letter and the signature card used in opening the account. Tr. p. 1737)

From July 3, 1973 to November 29, 1974, a total of \$39,314.67 was deposited to the Riggs account by Daniel Minchew. (Tr. pp. 1368) This amount included the proceeds from a Senate reimbursement voucher for \$10,604.68, dated June 19, 1973, which was prepared by Mr. Minchew with an autopenned signature of Senator Talmadge and used by Mr. Minchew as part of the initial deposit to the account. (Tr. pp. 1739, 1788-1790) Proceeds from a second Senate voucher in the amount of \$2,2289.99, dated March 26, 1974, also were deposited in the Riggs account by Mr. Minchew (Tr. p. 1802)

It has been established that at least \$10,050 of the funds deposited in the Riggs account were campaign contributions in the form of checks or travelers checks made out to Herman E. Talmadge or the Talmadge Campaign Committee, which were improperly diverted to the Riggs account by Mr. Minchew. (Paragraph 12 of Stipulation of Fact; Ex. 44)

These included checks from the following individuals, in the amounts stated:

William Manning	-----	\$1,000
J. C. Shaw	-----	5,000
Thomas Arnold	-----	100
Claude P. Cook	-----	500
H. P. Williams	-----	500
Parke Brinkley	-----	500
John Ray	-----	100
William Fickling	-----	250
Ralph Kittle	-----	100

(Paragraph 12 of Stipulation of Fact)

In addition, \$2,000 in travelers checks made out to the Talmadge Campaign Committee by Howard Keck, Chief Executive Officer of the Superior Oil Company, were deposited in the Riggs account by Mr. Minchew. (See Paragraph 12 of the Stipulation of Fact; Ex. 44) Much, if not all, of the remaining \$11,370.10 deposited to the account also would appear to be campaign contributions.<sup>4</sup> (Paragraph 12 of Stipulation of Fact; Ex. 44) None of these funds were reported on campaign reports filed by Senator Talmadge or the Talmadge Campaign Committee, as required by Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434). Paragraphs 13 and 14 of Stipulation of Fact)

<sup>3</sup>See also discussion which follows.

<sup>4</sup>A campaign contribution of \$5,000 which was deposited into the Riggs account and subsequently withdrawn and deposited in the Talmadge Campaign Committee account is not included in this amount. (Tr. pp. 2691-93, 2757; Ex. 44)

The Committee received into evidence a document described as "Q-1" (Ex. 22) which mentions "the travelers check matter"; an apparent reference to the \$2,000 in travelers checks from Mr. Keck.<sup>5</sup> The upper portion of the document purports to be a memorandum dated August 20, 1974 from Daniel Minchew to Mrs. Allyne Tisdale, Senator Talmadge's Financial Secretary; the lower portion would appear to be Mrs. Tisdale's response and is dated August 21, 1974. It states in part: "Daniel . . . Please give Senator \$500 and then lock in cabinet under TV? Just let me know where you will keep key?" Although Mrs. Tisdale originally stated "I would say that I typed it" and that it was typed in her style (Tr. 391-393), she subsequently testified under oath that she is certain she did not type either that document or a second, referred to as "Q-2". (Ex. 23)

Q-2 consists in part of a photocopy of two envelopes, one with the notation "Ted Lamis, Macon, GA 31201; 6-3-74 \$50.00". The second reads "\$500, Various Coca-Cola (Earl Leonard)". Below the photocopy of these envelopes is the typed statement "Daniel . . . For info: These sums were given today to Senator. None is reported in any form, of course. And he asked this question. Thanks. at 8-6-74. As Senator said, this helps offset some of the campaign expenses which we are reluctant to pay from the Campaign A/C." If authentic, these documents would strongly suggest that Senator Talmadge knew that campaign funds were not being reported as required by law and were being converted to his own personal use.<sup>6</sup>

Mr. Manning testified under cross-examination by counsel for Senator Talmadge that he handed an envelope containing his check for \$1,000 to Senator Talmadge in a meeting with the Senator and Daniel Minchew at the airport in Macon, Georgia. (Tr. pp. 789-791) Mr. Manning stated that Senator Talmadge then gave the envelope to Daniel Minchew. (Tr. pp. 795-796) Mr. Brinkley testified that he had discussed with Senator Talmadge his intention of making a contribution to the Senator, but did not recall if it had been delivered by hand when he met with Senator Talmadge, on August 22, 1974, or if the check had been sent in the mail. (Tr. pp. 899-900)

The Committee's auditors determined that Mr. Minchew received and used for his own benefit approximately \$18,000.00 of the total deposited into the Riggs account. (Ex. 50, rev'd; Tr. p. 1920) Mr. Minchew testified that these sums represented reimbursements to him for expenditures made on behalf of Senator Talmadge; the Committee's auditors found documentation to support a number of such expenditures. (See, e.g., Ex. 47.1-47.8 documenting \$1,776.12 in otherwise unreimbursed expenditures made by Mr. Minchew; R. Ex. 50.3, R.

<sup>5</sup> The Committee also received into evidence a copy of a letter to Daniel Minchew dated August 21, 1974 from Mr. Robert Schramm, a former aide to Senator Talmadge and then employed by Superior Oil Company, giving Mr. Minchew Mr. Keck's address. (Ex. 90) The travelers checks were deposited by Mr. Minchew into the Riggs account on August 22, 1974 (Tr. 825; Ex. 81) and \$2,000 in cash was withdrawn from the account on that same day. (Tr. p. 1864; Ex. 44)

<sup>6</sup> A Questioned Document Examiner from the Department of the Treasury examined these documents and testified before the Committee that the lower portion of Q-1 and all of Q-2 were typed on Mrs. Tisdale's typewriter and, because of certain characteristics in her style, concluded that these documents had been typed by Mrs. Tisdale. (Tr. 975, 994-995, 1774) The Document Examiner also stated that it was possible that the documents could have been fabricated by someone who had studied Mrs. Tisdale's style and consciously attempted to duplicate it. (Tr. pp. 997, 1779) However, since the typewriter used to prepare these documents was returned to GSA in 1975, any fabrication would necessarily have had to take place before that time. (Tr. 2282)

Ex. 51.4; R. Ex. 52.31, Ex. 31.7; Tr. pp. 1636, 1921) Bank records show that the balance in the account as of December 31, 1974 was \$113.67, leaving approximately \$16,000 of the total deposits withdrawn by Mr. Minchew unaccounted for.<sup>7</sup>

#### E. SOURCES OF CASH

In a deposition taken on August 27, 1977, in connection with the suit brought by Senator Talmadge against his former wife to recover the proceeds of the Terminal Facilities stock which had been purchased by the Senator in 1967, Senator Talmadge was questioned about his sources of cash.<sup>8</sup>

When it was pointed out to the Senator that he had written checks to cash totalling only \$600 during a five-year period, the Senator was unable to give the source of his spending money. Subsequently, Senator Talmadge has said in public statements and in testimony before the Committee that his cash came in part from small gifts of five to twenty dollars. (Tr. p. 18; Ex. 9; Ex. 10) On May 24, 1978, Senator

<sup>7</sup> See footnote 4.

<sup>8</sup> Senator Talmadge testified in the deposition as follows:

Q. Now, are there any other items, Senator, that you would normally or routinely pay by cash?

A. That's about it, I guess.

Q. Food, I guess, was usually by cash?

A. Yes.

Q. Would you mind telling me what the source of that cash is?

A. Comes from personal funds.

Q. I found only one check for cash in five or six years out of the check stubs that you furnished us. I wondered where the cash came from.

A. I usually have a few dollars around and use that.

Q. You would not be willing to tell me what the source of that is?

A. My personal funds.

Q. Well, I assume that your personal funds, if you have them—I'm asking you where the cash comes from, physically?

A. I don't know.

Q. Do you receive any money in cash, Senator?

A. Very rarely, and I haven't received any since my last campaign.

Q. I'm going to get into that, too, but I wanted to ask if you don't write checks to cash and cash the checks and people don't give you cash except in connection with the campaign, what is the source of the cash that you use to pay the expenses that you have just described that you pay in cash?

A. Oh, I don't know. I've had a little money around the house there and I write some checks from time to time and I guess it came from one or the other sources.

Q. I want to be fair with you. We have only found one check of \$300 to cash in all of the checks that you furnished to us.

A. Most of my transactions except very limited expenses are by check. I buy most of my food with cash and that's about all I spend cash for except token amounts I give Cel, or did give her so long as she was acting as maid down at the house.

Q. But if you didn't cash any checks, Senator, for cash, then where did you get your pocket money? That is what I am asking.

A. I don't spend much pocket money. I've got I think \$100 or so in my pocket now, I don't recall where I got that.

Q. You don't know where the \$100 you have got in your pocket came from?

A. I don't know whether it came from cashing a check or cash I had on me. I don't know.

Q. Well, if it came from cash on hand, do you have any more cash on hand?

A. No.

Q. Have you had cash on hand other than in banks?

A. Modest amounts, yes.

Q. And modest amounts would be approximately what?

A. Oh, a few hundred dollars.

Q. A few hundred dollars?

A. Yes.

Q. And what would be the source of those few hundred dollars?

A. I don't know.

Q. What could it be, Senator, if you didn't cash any checks for cash?

A. Well, it could have been contributions from friends, gifts, honorariums or something of that nature. I think those, however, are articles—

Q. So your best recollection here today is that you can't tell us where any cash you might have on hand came from?

A. No.

(Ex. 18, pp. 27-31.)



Talmadge requested the Committee to review his practice of accepting cash gifts. (See Appendix B)

Witnesses before the Committee testified that it was a common practice in Georgia for constituents to express their support of local political figures in the form of cash gifts. (Tr. pp. 2434, 2447) One of the witnesses, former Lieutenant-Governor Peter Zack Geer, testified that on several occasions he had seen Senator Talmadge receive such gifts from supporters. (Tr. pp. 2248-2251)

The Senator's former wife, Betty Talmadge, testified that during their marriage Senator Talmadge kept large supplies of cash which Mrs. Talmadge used to pay personal and household expenses. (Tr. pp. 2217-2218, 2242) According to Mrs. Talmadge's testimony, this cash was kept in the pocket of an overcoat belonging to Senator Talmadge when they were in Washington; at their residence in Lovejoy, Georgia, the cash was kept in a drawer. (Tr. pp. 2217, 2225) Mrs. Talmadge further testified that the 77 \$100 bills which she turned over to the Committee had come from an estimated \$12,000-\$15,000 which she had taken from this supply of cash. (Tr. pp. 2224-2225) Senator Talmadge testified that he did not maintain large supplies of cash and that he has no knowledge of the source of the \$100 bills which were supplied to the Committee by Mrs. Talmadge. (Tr. pp. 2606-2608)

#### F. FAILURE TO REPORT GIFTS AND TO PAY GIFT TAXES

Senator Talmadge stated in his deposition taken on August 27, 1977 (Ex. 18) that during the period 1959-1971 he purchased the following securities which were given to his then wife, Betty Talmadge:

Name of security	Year of gift	Value at time of gift <sup>1</sup>
American Home Products (Originally the E. J. Brach Candy Co.)	1959	\$5, 143. 00
Central Bankshares Corp. (formerly Central Bank & Trust Co. of Jonesboro)	1964	2, 500. 00
Genuine Parts	1967	12, 425. 00
Second Fiduciary Exchange Fund, Inc.	1967	3, 013. 00
	1968	3, 443. 00
Citizens & Southern National Bank	1967	9, 156. 00
Interfinancial, Inc.	1964	2, 273. 00
	1971	2, 672. 00
	1972	2, 425. 00
Pet, Inc. (formerly Stuckeys)	1960	1, 000. 00
Servomation	1969	3, 000. 00
	1970	1, 200. 00
	1971	1, 200. 00
Solanta	1968	13, 250. 00

<sup>1</sup>This information was provided to the committee by Senator Talmadge's office.  
<sup>2</sup> Estimate.

Note: Ex. pp. 41-50, 104-105, 110-111, 116, 125-126, 145.

Committee auditors have estimated the amount of gift tax due on these gifts at approximately \$1,000.00 (Ex. 46) Senator Talmadge's auditors have disputed this figure. The Senator's obligation to pay taxes on gifts is being reviewed by the Internal Revenue Service. The Committee found no clear and convincing evidence of a failure to report gifts or to pay gift taxes thereon, if any, that constituted improper conduct on the part of Senator Talmadge. Accordingly, the Committee determined that this allegation should be dismissed.<sup>3</sup>

<sup>3</sup> See note preceding.

#### IV. CONCLUSIONS

From the facts set forth above, the Committee found that the record before it establishes, by clear and convincing evidence, the following:

1. that vouchers were submitted in the name of Senator Talmadge from January 1, 1973 through June 30, 1978, which claimed and recovered excess reimbursements totalling \$43,435.83, and that Senator Talmadge failed to sign, as required by Section 58 (a) of Title 2 of the United States Code, and to properly supervise the preparation of all the aforesaid vouchers;

2. that the Financial Disclosure Reports required to be filed by Senator Talmadge under Rule 44 of the Standing Rules of the Senate (in effect July, 1968-December 31, 1977) were inaccurate for each of the years 1972 through 1977;

3. that Senator Talmadge failed to file in a timely fashion the Candidate's Reports of Receipts and Expenditures for 1973, as required by Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) and inaccurate reports were filed for the period January 1, 1974 through December 31, 1974; and

4. that campaign funds of Senator Talmadge in excess of \$10,000, were not reported as required by Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) and were deposited by Senator Talmadge's Campaign Chairman between July 3, 1973 and November 29, 1974 in an account maintained at the Riggs National Bank of Washington, D.C. in the name of "Herman E. Talmadge/Talmadge Campaign Committee" and were disbursed by said Campaign Chairman in violation of Rule 42 of the Standing Rules of the Senate (in effect 1968-1977).

The Committee further concluded that Senator Talmadge either knew, or should have known, of the acts and omissions set forth above and, therefore, by the gross neglect of his duty to faithfully and carefully administer the affairs of his office he is responsible for these acts and omissions, and should reimburse the Senate for \$12,894.67 representing over-reimbursements deposited to the Riggs account, for which the Senate has not yet been reimbursed.<sup>1</sup>

The Committee found no clear and convincing evidence of a failure to report gifts or to pay gift taxes thereon, if any, that constituted improper conduct on the part of the Senator. Accordingly, the Committee determined that this allegation should be dismissed.<sup>2</sup>

#### V. RECOMMENDATIONS AND REFERRAL TO DEPARTMENT OF JUSTICE

##### A. RESOLUTION

On September 14, 1979, after a careful review of the evidence before it, the Committee, by a unanimous vote, agreed to report to the Senate the recommendations contained in the following resolution:

Whereas From January 1, 1973 through June 30, 1978, fifteen vouchers were submitted to the Senate in the name of Senator Herman E. Talmadge which claimed and recovered Senate reimbursements in the aggregate amount of \$43,435.83 for official expenses which were

<sup>1</sup> See discussion which precedes.

<sup>2</sup> See note preceding.

not incurred (\$37,125.90 having been repaid by Senator Talmadge on August 18, 1978 for over-reimbursements between 1972 and 1978 inclusive); and

Whereas Senator Talmadge failed to sign, as required by law, and properly supervise the preparation of all the aforesaid vouchers; and

Whereas The Financial Disclosure Reports required to be filed by Senator Talmadge under Senate Rules for each of the years 1972 through 1977 were inaccurate; and

Whereas Senator Talmadge failed to file in a timely fashion the Candidate's Receipts and Expenditures Reports for 1973, as required by Federal law, and inaccurate reports were filed for the period January 1, 1974 through December 31, 1974; and

Whereas Campaign funds of Senator Talmadge in excess of \$10,000.00 were not reported, as required by law, and were deposited by his Campaign Chairman between July 3, 1973 and November 29, 1974 in an account maintained at the Riggs National Bank of Washington, D.C. in the name of Herman E. Talmadge/Talmadge Campaign Committee and were disbursed by said Campaign Chairman for non-campaign purposes.

*Resolved*, it is the judgment of the Senate that Senator Talmadge either knew, or should have known, of these improper acts and omissions, and, therefore, by the gross neglect of his duty to faithfully and carefully administer the affairs of his office, he is responsible for these acts and omissions.

*Resolved further*, It is the judgment of the Senate that the conduct of Senator Talmadge, as aforesaid, is reprehensible and tends to bring the Senate into dishonor and disrepute and is hereby denounced.

*Further resolved*, That Senator Herman E. Talmadge be required to reimburse to the United States Senate the sum of \$12,894.57 plus interest on over-reimbursements in the aggregate amount of \$43,435.83 at such rates and for such periods as are determined by the Secretary of the Treasury, in accordance with established procedures for collecting over-reimbursements.

The facts in this investigation are distinguishable from those of earlier matters in which the Senate "censured" or "condemned" a Member. The Committee therefore expresses its judgment and its recommendation with respect to the conduct of Senator Talmadge and the effect of that conduct on the Senate with words that do not depend on analogy to dissimilar historical circumstances for interpretation.

#### B. REFERRAL TO DEPARTMENT OF JUSTICE

A number of witnesses who testified under oath before the Committee gave testimony that conflicted in material respects with the sworn testimony of other witnesses before the Committee. The Committee must conclude, therefore, that one or more of these witnesses (not all of whom are Senate employees) gave false testimony under oath. Furthermore, the statements made by certain witnesses, if true, and the import of certain documents, if authentic, would indicate that other serious violations of law have occurred. Such violations on the part of various individuals, could include the following: the making of false statements to the Government; the making of false, fictitious or fraudulent

claims against the Government; conspiring to defraud the Government; willful evasion of income and gift taxes; failure to keep adequate records as required by the Internal Revenue Code; failure to comply with the requirements of the Federal election laws; and receiving campaign contributions in a Federal building in violation of Federal law. Since the prosecution of such violations is within the jurisdiction of the Department of Justice, the Committee has made its files available to the Department for such action as the Attorney General may take to determine if violations of law have occurred. Should the Department of Justice find evidence leading to the indictment or conviction of any Member, officer or employee of the Senate, the Committee will take such additional action as is appropriate.

#### C. LEGISLATIVE RECOMMENDATIONS

Certain inadequacies in accounting procedures within the Senate became apparent during the course of the Committee's investigation of Senator Talmadge. For example, there are currently no guidelines available to aid a Senator's office in establishing a sound bookkeeping system. To correct these deficiencies the Committee recommends the following:

- (1) that bookkeeping procedures be developed by the Committee on Rules and Administration which would require the maintenance of separate books and accounts for Senators' personal, official and campaign funds;
- (2) that rules governing the proper submission of vouchers be adopted;
- (3) that rules concerning the use of the autopen be issued; and
- (4) that a mechanism be developed whereby audits of a Senator's financial accounts, including the reconciliation of a Senator's office records with those of the Senate Disbursing Office, could be conducted in circumstances suggesting the existence of possible irregularities.

It also became evident during the Committee's hearings that a great deal of confusion exists on the part of Senators and members of their staffs as to what constitutes an official expense for which reimbursement may be received, particularly with respect to the Member's Ten-percent Allowance. The Committee recommends the adoption of rules which clearly define "official" and "reimbursable" expenses.

The procedural recommendations set forth in this Report reflect the Committee's belief that each Member of the Senate is responsible for the personal, official and political funds used in connection with his office and is accountable to both the Senate and the public for the misuse of all such funds.

We approve the submission to the Senate of the Report of the Select Committee on Ethics concerning the investigation of Senator Herman E. Talmadge.

ADLAI E. STEVENSON, Chairman.  
HARRISON H. SCHMITT, Vice Chairman.  
QUENTIN N. BURDICK.  
ROBERT MORGAN.  
MARK O. HATFIELD.  
JESSE HELMS.