

lace at a greatly reduced price. That is circumstantial evidence.

Conceivably, the defendant could prove that the necklace was purchased by him. There could be testimony that the defendant's fingerprints were found in the showcase. That is circumstantial evidence.

Conceivably, the defendant could prove that he was in the store on some recent occasion and had touched the showcase. There is a point in the accumulation of even circumstantial evidence where reason tells us the likelihood of innocence is too slender and the probability of guilt is strong—where we finally feel there can no longer be any reasonable doubt of guilt.

Consider for a moment whether in the case concerning respondent there is any evidence, or possibility of evidence, which even though circumstantial, would be so unequivocal by its existence—or by its absence—that reasonable men would have to agree that the likelihood of guilt—or innocence—is overwhelming; evidence so persuasive that reasonable men would have to agree that it is clear and convincing of guilt, or that it does not meet the standard.

The evidence, or possibility of evidence, which I have in mind is fingerprint evidence. If it could be shown that respondents' fingerprints were found on monthly statements of the secret Riggs bank account, the likelihood of some innocent explanation would be so remote that we would feel no reluctance to find the respondent had actual knowledge of the account.

If it could be shown that respondent's fingerprints were found on the travelers checks which Minchew said were given personally to respondent by the donor—Schramm—then respondent's testimony that he had not seen the checks would be impeached and his involvement in the scenario appearing on the controversial document known as Q-1 would be tightly woven.

If it could be shown that respondent's fingerprints were found on Q-1 and Q-2, said by Minchew to have been handed by him to respondent in their dawn meeting on June 14, then we would have solid evidence respondent has lied, and reason to believe he is concealing a significant element of his meeting with Minchew.

If it could be shown that respondent's fingerprints were found on one or more of the \$100 bills which Mrs. Talmadge said she found in respondent's overcoat, then, although it would still not establish proof of his knowledge of the Riggs account, it would prove he handled the bills, corroborate Mrs. Talmadge, and discredit respondent's sworn testimony.

If all, or several, of these postulates materialized, they would constitute clear and convincing evidence of respondent's guilty knowledge.

On the contrary, what if respondent's fingerprints could not be found on any of these documents? If the documents were actually examined, and found to be devoid of his fingerprints, would that circumstance mean he could not be guilty? Not absolutely, but the possibility of guilt would be slim, and it would seriously detract from the weight of any other cir-

cumstantial evidence. I recognize, of course, the possibility that under exceptional environmental conditions, a finger touching a piece of paper might not leave a distinguishable mark, or might be indistinguishable due to overlay of other prints. But the probability of identifying a print from a document touched by a human finger is scientifically established.

Certainly, it is arguable that respondent could have known of the Riggs account without ever having handled the bank statements. But Minchew said he did handle them. The absence of his fingerprints then would constitute not only further proof of lying by Minchew, but positive corroboration of respondent's testimony.

It is also arguable that respondent could have known Schramm delivered the travelers checks and that Minchew cashed them—for respondent's personal use—without respondent ever having handled the checks. But Minchew said he did. The absence of his fingerprints then would constitute not only further proof of lying by Minchew, but positive corroboration of respondent's testimony that he didn't know Schramm had delivered the checks.

It is arguable that respondent could have had contemporaneous knowledge of the circumstances described in Q1, whether or not his fingerprints are on Q1; that if his fingerprints are not on Q1, it proves only that he did not see the document before it was shown to him by his attorney, as he claims. But in that event, Minchew is again proved lying, and respondent corroborated.

Could respondent have placed the 77 \$100 bills in his overcoat without leaving any fingerprints on them? It is not likely. If his fingerprints cannot be found on any of the bills, he is corroborated in denying knowledge of the bills.

No fingerprint evidence, however, has been presented. We know, of course, that Minchew alleges the bank statements cannot be found. This seems highly unusual, considering his personal habits and the mass of other documents he kept. Since they were admittedly in Minchew's possession, a presumption should be made that he has failed to produce them because they would weigh against him—perhaps in the realm of fingerprints.

Similarly, Minchew says he is unable to locate another key document which, if it ever existed, would bear respondent's prints; the note concerning money for Mrs. Talmadge which Minchew says he was given by respondent.

But other documents are available, or could have been available for fingerprint examination: The travelers checks, Q1 and Q2, and the \$100 bills.

In conclusion, Mr. President, in deciding whether Senator TALMADGE is to be believed when he swears under solemn oath that he had no actual, contemporaneous knowledge of the over-reimbursements from the Senate or of the conversion of campaign funds, his prior reputation, as that of any defendant, must be taken into account.

Senator TALMADGE has served with distinction in the U.S. Senate since 1957. Prior to coming to the Senate, he served

the State of Georgia as Governor from 1948 until 1955. During his many years of public service to his State and Nation, there has not been any hint of a breach of the public trust.

Indeed, even his staunchest political foe has vouched for his honesty and integrity. All witnesses who testified before the committee, except Mr. Minchew, whose own testimony was thoroughly discredited, testified that the Senator's reputation for honesty and integrity was excellent.

For example, former Gov. Ellis Arnall of Georgia, long a political foe of the Talmadge family and of Senator TALMADGE in particular, told the committee of his "bitter and acrimonious" political battle with Senator TALMADGE over the Georgia governorship. In spite of years of political controversy between himself and Senator TALMADGE, Governor Arnall testified that:

SENATOR HERMAN TALMADGE is a man of good personal reputation, good personal repute, good personal character and impeccable personal integrity.

Senator TALMADGE's long standing reputation for honesty and veracity must be weighed in the balance with all other evidence in assessing whether his misconduct in the present circumstances was intentional, and whether he has told the truth when testifying before the committee. The U.S. Supreme Court has consistently held that testimony of good character is relevant in resolving probabilities of guilt. Such testimony alone, the Court has said, may be enough to raise a reasonable doubt of guilt. *Michelson v. U.S.*, 335 U.S. 469.

The conclusion I have drawn in weighing all of the evidence before the committee is that the improprieties which occurred in Senator TALMADGE's office were the result of his negligence, not any willingness on his part. I believe this is the message which the committee resolution and report are intended to convey, and I urge their acceptance by my colleagues.

Mr. President, I ask unanimous consent that my statement be printed in the RECORD prior to the vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENSON. Mr. President, I move the adoption of the resolution.

The PRESIDING OFFICER (Mr. EXON). The question is on agreeing to the resolution. The yeas and nays having been ordered, the clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 81, nays 15, as follows:

[Rollcall Vote No. 347 Leg.]

YEAS—81

Armstrong	Byrd,	DeConcini
Baker	Harry F., Jr.	Dole
Baucus	Byrd, Robert C.	Domenici
Bayh	Cannon	Durenberger
Bellmon	Chafee	Durkin
Bentsen	Chiles	Eagleton
Biden	Church	Exon
Boren	Cochran	Ford
Boschwitz	Cohen	Garn
Bradley	Cranston	Glenn
Bumpers	Culver	Goldwater
Burdick	Danforth	Gravel

Hart	Mathias	Sarbanes
Hatfield	Matsunaga	Schmitt
Heflin	Metzenbaum	Schweiker
Helms	Morgan	Simpson
Helms	Moynihan	Stafford
Humphrey	Muskie	Stevenson
Jackson	Nelson	Stewart
Javits	Packwood	Stone
Jepsen	Pell	Tower
Johnston	Percy	Tsongas
Kassebaum	Pressler	Wallop
Kennedy	Proxmire	Warner
Leahy	Pryor	Weicker
Levin	Randolph	Zorinsky
Lugar	Riegle	
Magnuson	Roth	

NAYS—15

Hatch	Long	Stennis
Hayakawa	McClure	Stevens
Hollings	Melcher	Thurmond
Inouye	Ribicoff	Williams
Laxalt	Sasser	Young

ANSWERED "PRESENT"—4

Huddleston	Nunn	Talmadge
McGovern		

So the resolution (S. Res. 249) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas from January 1, 1973, through June 30, 1978, fifteen vouchers were submitted to the Senate in the name of Senator Herman 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 overreimbursements 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 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, District of Columbia, in the name of Herman E. Talmadge/Talmadge Campaign Committee and were disbursed by said campaign chairman for noncampaign purposes: Now, therefore be it

Resolved, That 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.

SEC. 2. 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.

SEC. 3. That Senator Herman E. Talmadge be required to reimburse to the United States Senate the sum of \$12,894.57 plus interest on overreimbursements 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 overreimbursements.

Mr. STEVENSON. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. SCHMITT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TALMADGE addressed the Chair. The PRESIDING OFFICER. Under the previous order—

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Georgia be recognized at this time and that the previous order, returning to consideration of the foreign assistance bill, be held in abeyance until he has completed his statement.

Mr. MORGAN. Mr. President, will the Senator yield?

The PRESIDING OFFICER. Is there any objection?

Mr. TALMADGE. Mr. President, I do not know if any other Senator desires to make comments or not. If they do, I desire that they be granted that privilege.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senators who wish to speak on the matter that has just been disposed of may be permitted to do so up to not to exceed 1 hour; and that the order then that was entered on yesterday be carried out.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. TALMADGE. Mr. President, I yield to my distinguished friend from South Dakota.

Mr. MCGOVERN. Mr. President, I just wanted to explain to my colleagues why I voted "present" on the recent rollcall.

I serve on the Committee on Agriculture and have for the past 17 years. I am the ranking majority member on that committee. In that sense, I am in line for the chairmanship, depending partly on what happens in Senator TALMADGE'S future. Under those circumstances, it seemed to me inappropriate and, perhaps, unfair for me to vote on this particular question. It did seem to me to present a conflict of interest. Under those circumstances, I voted "Present."

I thank the Senator from Georgia for yielding.

Mr. CANNON. Mr. President, will the Senator yield to me?

Mr. TALMADGE. I yield to my distinguished friend from Nevada.

Mr. CANNON. Mr. President, I just want to say a few words to my colleagues. I voted "aye" on this vote and it was a most difficult vote for me to cast. But in recognition of having served formerly as a member of the Committee on Ethics and then, thereafter, as chairman of the Committee on Ethics, I felt that the committee itself—I know—had worked diligently. I felt I had to give considerable weight to their presentation and to support them in this instance. But I want to say that when I served on the Ethics Committee and as chairman, I served with HERMAN TALMADGE on that committee. I have found him to be completely honorable, to be reputable in every manner and form. Every time he said something, you knew you could depend on it.

In matters of complaints that came up for consideration against his fellow colleagues here, in the Senate, and others

who worked for the Senate, he was eminently fair in every respect. I have the highest personal regard for his integrity.

I thank the Senator.

Mr. TALMADGE. I thank my distinguished friend.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Chair controls the time. The Chair recognizes the junior Senator from Georgia.

Mr. ROBERT C. BYRD. Mr. President, I say respectfully, the senior Senator from Georgia has the floor.

Mr. NUNN. Mr. President, I should like to make some remarks, but I do not want to interrupt my senior Senator if he would like to precede me. I should like to make brief remarks.

Mr. TALMADGE. May I complete my own remarks; then I shall yield to my distinguished colleague at that time.

Mr. President, first, I want to thank my distinguished colleague, the Senator from Nevada, for the generosity of his remarks and those of other Senators on the floor, none of whom were solicited on my behalf.

Mr. President, I did not rise to contest the resolution offered by the Ethics Committee.

That resolution criticizes me for neglect of duty.

But from the beginning of these proceedings, I have admitted that I was negligent in overseeing office and campaign financial matters.

As I have said repeatedly, I deeply regret my negligence.

I regret the concern it has caused the State of Georgia.

I regret the burdens it has placed on my colleagues in the Senate, especially those of the Ethics Committee.

As I testified before the Ethics Committee, if I could relive the past, I would handle matters differently.

I would not delegate so many financial responsibilities to my aides. I do not do so now.

I suspect, however, that most Senators have not kept their own books or personally handled office and campaign finances. It is also clear that the Senate vouchering system left much to be desired.

I thus applaud the Senate and the Rules Committee for acting to reduce the possibility of error and abuse—which has existed for a long, long time—in the handling of Senate offices expenses.

Mr. President, it is most important that the Senate clearly recognize what the committee did not find.

It found me guilty of neglect, it did not determine that I have engaged in any intentional wrongdoing.

One member of the committee moved for a resolution of censure based on a finding of willful misconduct.

That motion was defeated 5 to 1.

That result was proper. I did not engage in or knowingly allow any misconduct.

The evidence does not show that I did.

Had the committee sought censure or made a finding of intentional wrongdoing, I would have fought such action with every ounce of strength I possess.

For I did not steal money from the Senate.

As a matter of fact, Mr. President, my