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Oral History Interview with Gene Boyce
November 8, 1979, Washington, DC Proofed

BOYCE INTERVIEW

By Peter Daniel

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12-22-80

I'm originally from ^{Clinton,} ~~Clem~~ Samson County, North Carolina. I grew up in Raleigh and went to college at Wake Forest and ^{then} went on to Wake Forest Law School ² finished there in 1956, went into the army, and was in the Army Judge Advocate General Corp for three years, ^{and} when I finished that tour, ² went to the army law school and did court ^{marshal} ~~marshal~~ work, mainly down at Fort Bragg for the last two years, ^{and} knew Senator Morgan to some extent from Wake Forest and ^{then} got to ^{know him} doing a little bit better during the latter part of my army tour when I was trying to make up my mind ^{where} ~~whether~~ to practice law. I had been associated with Justice Lake, ^{in practice,} for about nine months, and when I got out of the army, I sublet an office from him when he was running for Governor, ^{and} that's when Senator Morgan was active in his campaign, and I got to know Senator Morgan then, ^{and} he was practicing law in Lillington; ² worked with him some on litigation ^{while} and he was also involved in the campaign, ^{and} I practiced by myself for a while and ^{then} went into a partnership. ^I Worked with Judge Lake and his son for several ^{years,} and ^{when} they went on to the Supreme Court and the Attorney General's Office, I started my own firm in Raleigh, ² continued to work with Senator Morgan from time to time, politically ^{and} to some extent ⁱⁿ and the Attorney General matters when he was the Attorney General, ^{my} office was located next door. In ~~1972,~~ I managed Ike Andrews' campaign for Congress, ² when he was elected, ² came to Washington in the early part of ~~1973~~ to help him set up his office, ^{and} became involved with Senator ^{Ervin} ~~Erving~~ and his staff in ~~the~~ early ~~1973,~~ ^I took a leave of absence from the law firm in Raleigh and was Assistant Majority Counselor for the Watergate Committee. In ~~1973~~ on until November ~~1973,~~ ^{of} stayed up here in D.C. during that

period of time and worked a number of phases of that Senatorial hearing, then ^I went on back and resumed practicing law in Raleigh. Then in April of this year, I was involved in a security fraud case down in Florida, ^{that} lasted about six weeks, ² during that time, Senator Morgan tried several times to get in touch with me. He was moving back and forth, and so was I. Finally, I finished down there on April 23rd; the jury trial in Florida was concluded on April 23rd. I came back to Raleigh April 24th and finally got in touch with him, and he told me what he had been after me about ~~and what he wanted~~ to talk ^{with} ~~to~~ me about. So the very next day ^{after that} I came to Washington, ^{to} with him, and we began ^{the} hearings the following Monday. My wife still doesn't believe that. ⁹ The investigation basically had ^{already} been done pretty much. ^{had} we ^{had} access to the FBI investigation to some extent, we had access to Talmadge's lawyers and his investigators, ^{the} the work they had done we had gained access to that. The Ethics Committee staff had done an investigation and then the special prosecutor, Mr. Erdley, and his staff had done an investigation, and there was a high degree of cooperation with reference to sharing those materials. I was denominated counselor to the committee assigned to Senator Morgan specifically. Another lawyer from Raleigh, Brent Adams, who had not had any congressional investigating experience, but who was very much interested in it, joined Senator Morgan's staff and participated right much in a lot of the legal research and a good bit of the review of the investigation that other people had done. We also had ^{Don} ~~done~~ Sanders working with us. Don was a regular member of the Ethics Committee staff, and he had worked with Senator Morgan on, ^{I think,} the Intelligence Committee. Don and I had worked together in 1973 on the Watergate Committee, in fact, Don was the ~~Minority Counselor~~ and I was the ~~Majority Counselor~~ on the investigative team that did the

Butterfield Interview.

PETE DANIEL

Were you there?

BOYCE

Don and I both were there.

PETE DANIEL

How did you react to that?

BOYCE

Absolute astonishment, some fear, *yes, some fear.*

PETE DANIEL

After you found that, how did you translate ^{met} to the Committee?

BOYCE

I was in the room right here on the next floor. We worked in teams, ~~where~~ each investigative team had a majority counselor, a minority counsel, a staff investigator, and usually a stenographer ~~or~~ either a court reporter or just one of the staff stenographers who would just not take it down verbatim but just paraphrase the questions and answers. It was a two hour interview. I set up the interview, and Butterfield attempted to ~~counsel~~ ^{cancel} out a couple of times because of commitments, in fact the interview was on Friday the 13th which was a hard day to forget all by it self. It was the date after my birthdate, so it was a very significant time there, and I was anxious to get back to North Carolina because it had been my birthday and I had been away from home a lot. So he broke the appointment a couple of times that morning and was going to reschedule, because he was due to go to Moscow ^{on} Monday. So he said, "well I'll come on over and lets get it over with." So we set the appointment up again about ^{two} 2 o'clock in the afternoon. We interviewed him until about 4:30 or so. It was

well into the interview when Don / (the investigator spent about two hours asking his questions) then we took turns, and Don was second, and he asked his questions, and there were a couple of things that would take too long to tell you, for this, I'll tell you some other time how it developed, it was not an accidental discovery as part of the investigative procedures that we had set up, and he was on our witness list from the very beginning. It was on my part of the witness list. He came and was very frank and readily admitted what we were seeking when we got to that subject matter; he open up pretty quickly. He said, "2 he figured you all were going to would get around to this, so here it is." We were mainly interested in taping system in the Oval Office and were really suprised by the disclosure of the extensiveness of the taping system being in the cabinet room, being at Camp David, being in the EOB. It was a much more widespread thing than we thought. So Don and I were involved in that. of course, so we immediately reported that to the Chief Counsel and to the Assistant Chief Counsel. We figured that it would be a news leak over the weekend. That was the only significant thing that happen on the committee that never was leaked to the press ahead of time. We put Butterfield on the witness stand at 2 0'clock Monday afternoon and put him under subpoena right away, and he immediately had to counsel his trip to Moscow for a couple of days.

PETE DANIEL

Yes, I remember.

BOYCE

I was sure it was going to be in Sunday's paper, I scared it was going to be in Sunday's paper from North Carolina, and I knew who would get blamed for the leak. But it did not leak. Woodney and Bernstein, claimed in their book that they knew about it, but I don't believe

it because anything of ^{that} significance, if they had known about it, it was the biggest news story of the proceedings, and they claim ^{ed} after the fact that they knew about it.

PETE DANIEL

^{that's}
~~It's~~ easy to do.

BOYCE

If I had known about and I was a reporter, I would have put it in Sunday's paper. But it was fairly well kept over the weekend. We told Senator Ervin about it. Decided to go ahead and put Butterfield on as quickly as possible [^] out of turn, the press knew something was going on when they found out we were put ^{ting on} a witness ^{on} out of turn, they were just hooping all over this place trying to find out what on earth was going on. ^{It} So anyway, Don and I really uniquely had an opportunity to team up together. We reviewed all of the materials which were quite extensive, all ^{of} the investigative materials, which was quite extensive. We talked with ^{me} a special prosecutor and found out what the real issues were, quickly ^{saw that} solved ~~were~~ a number of the charges, ^{were} probably unprovable, even though the Committee had decided to go ahead on the full set of, I think ^{it was} ~~were~~ five charges, ^{to} although they just thought that it was best that we concur ^{to} and go ahead and air the whole thing even though it was almost a ^{foregone} ~~full grown~~ conclusion ^{that} of several of the charges were not going to be substantiated by them or any evidence that they had. It was very obvious in the early stages even a day or two before the hearings ^{when} ~~before~~ I first got into it that the investigation had pretty much revealed what appeared to 99.9% ^{percent} of the evidence, and it was going to be a lengthy process to present all that evidence in an orderly fashion. There were discussions, ^{It} oh, incidently the counselor ^{for} for Senator Talmadge, Jim Hamilton, also

worked on the Watergate Committee, he was the Assistant Majority Council^{set} also. So Don and I were acquainted with Hamilton, who was Talmadge's lead ^{counsel} ~~council~~ from the past, and it gave us ^{an} ~~the~~ opportunity to have an open door so ~~that~~ we could receive materials that their investigation had produced, some of which was rather significant, none of which was of any great magnitude, but it kind of help^{ed} ~~clarified~~ some ~~of~~ the issues and ^{it} ~~kind of~~ helped us to determine what direction the hearing would probably go in. It appeared to me that there were some members of the committee who were more determined, or who had put more emphasis on negligent conduct in office and did not seem to have it in perspective ~~and~~ that there was a difference between negligent mismanagement in your office and intentionally filing false claims. It appeared pretty quickly, and our discussions with the special prosecutor and their investigations and their conclusions, indicated that there was an absolute lack of direct proof that Talmadge had any guilty knowledge of events, contemporaneous knowledge of events as they transpired. ^{it} A lot of knowledge in retrospect as to what his assistant ^{Minchen} ~~Minshultz~~ had been doing. It was an obvious case of failure to manage on his part, but simply no real proof ^{and} ~~or~~ no real ^{even} circumstantial evidence that he had contemporaneous guilty knowledge. Seeing that at that point, there was an attempt to have some serious discussions as to how we might save some time and money if everybody knew what the facts were, if everybody ^{was} ~~were~~ satisfied that the investigation had been properly done and ^{run had been} ~~that it was~~ an indepth investigation and no stone had been left unturned, ~~and~~ that it was going to be a very lengthy and expensive thing. There were discussions, some of which I had nothing to do with, but ~~some of~~ which I am informed

occurred and believed occurred and which Senator Stennis, who had a good and long standing working relationship with Senator Talmadge and could apparently talk with him on a personal basis and there was an expectation that the probability was that in the ultimate analysis if we went through a six-week or three-month hearing that the end result ^{was} would going to be a characterization of the conduct in ^{terms} ~~terms~~ of some type of verbal punishment. It was not a case for ~~expulsion,~~ exposure and it was not a case for a mere slap on the wrist, ^{or} you know, you've been a bad boy, ^{ever} so don't do this again, type of thing. It was more serious than that, but it simply did not rise to the level of conduct ^{that} which was crooked, criminal, fraudulent; it did not reach that category. ^{It} So there was an exchange of some correspondence, and I think ^{that} I've preserved all that, in an effort to come to some resolution by agreement to avoid the expense ^{and} from the committee standpoint the time ^{and} the expense and the time that the Senators were obvious going to have to utilize away from their regular duties which ^{are} were tremendous to start off with. I suppose from ^{Senator} Talmadge's side to avoid the ^{attendant} attempted humiliation and continued press and also because he had some staff members ^{that} who admittedly had ^{done} some things wrong ^{who} was still with him and who ^{were} were apparently had no prior record of any kind of misdeeds or anything. They were apparently pretty good people ^{but} who got into the custom ^{and} practiced trap, as they explained it. Also, it was apparent that Mrs. Talmadge ^{would} ⁱⁿ of all likelihood ~~would~~ be involved and they were, I think from Talmadge's side, they were anxious ^{not} to ~~not~~ fan the fires of that domestic controversy. My ^{personal} conclusions were ^{and} I think Senator Morgan agreed with me or I agreed with him; I think ^{it} probably was a mutual conclusion based on what he ^{had} read about the investigation and the way he studied it

and the way I ~~had~~ studied it, was it would probably be best if that was ^{what} ~~the way~~ it was going to happen to go ahead and work something out that would be a proper conclusion in a short time. We exchanged ideas on that and so far as I know, the Senators kicked it around among themselves. [#] My best information was ^{that} Senator Schmidt had pronounced the opinion that a Senator ^{is} ~~was~~ guilty until he proved himself innocent, which kind of went against the grain of the lawyer types involved, ~~but~~ even though I think there is an idea of a higher standard on the part of lawyers involved ⁱⁿ ~~on~~ disciplinary procedures or Senators involved it, ~~they do or they don't,~~ they shouldn't sit back and wrap themselves ^{up} in a cloak of innocence, ~~and that~~ they have a duty to the public, ~~and that~~ they are not an average citizen, and if they do something criminal, they are not an average criminal, so ~~there is~~ ^{there is} some justification ^{for} of treating them differently, but Senator Schmidt, being a geologist, had no reservations about ^{it} ~~and~~ ^{he} did not appear to ^{me to} have the background ^{and} in training to ^{perceive} that there was a difference between negligent ^{conduct} ~~contact~~ and intentional conduct. [#] ^{I know} Now, our feeling was if there was proof of intent, ^{it} ~~there~~ was not a ~~centure~~ ^{censure} proceeding, it ^{would be} ~~was~~ a question of expulsion and I'm satisfied ^{that} Senator Morgan, if he had been satisfied that Talmadge knew everything that ^{Minchew} ~~Minshultz~~ was doing, then Morgan would not have voted for reprimand, ^{censure,} ~~centure~~ or anything else; he would have said, he has no place in the United Senate. [#] So we were trying to be objective, the staff, we had a lot of difficulties, ^{with the staff.} ~~am I talking too much?~~

PETE DANIEL

~~No, just go on this is great.~~

BOYCE

We had ~~from~~ what I perceived ⁱ difficulties with the staff although we related well to them, ~~there was~~ a prosecutorial atmosphere that I perceived without any questions ^{or} of reservation, ^{I saw that} there were those who did not like Talmadge, who made fun of him, who made jokes about it, who tended to put everything into light most unfavorable to him, ~~and~~ I think admittedly ~~there was a bit that probably~~ that created some defensive attitude on our part, my part, Don Sanders' part, Brent Adams' part, and perhaps Senator Morgan's part, but he would have to answer that for himself. ^{It when} We attempted to look into the possibility of resolving ^{it} on what apparently ^{were} ~~was~~ the true facts, there was some resentment and opposition to that, the special prosecutor ^{was} at that point, ^{I think,} was being very objective about it, but the Ethics Committee, some of the staff people, seem to be more inclined to go through with the hearing. Right at first there was a considerable issue ^{would} about whether it ~~should~~ be televised or not, and, ^{I think} generally speaking, ^{the} staff people in Washington ^{love for} things to be televised. They build their career like some of the Watergate people did. They build a career around the television exposure, which is good for them in Washington. The way things work up here, it ^{can} ~~could~~ help a career. ^{It} It appeared that there were forces that were hell bent on having a hearing, and they were being very optimistic about how quickly ^{that} it could be done. I think probably more out of being anxious to have the thing ^{man} ~~then~~ being objective about their estimate of how much time it would consume. There were hundreds of documents, a very good investigation I thought. I think they did a very good job in investigating it. Most of the substantial

leads were followed up, ^{I remember} by our own Senator Morgan, During the hearings the record will show ~~that~~ there were a few things that they dropped the ball on but nothing of any great consequence. [#] We started to follow up on the Riggs Bank investigation, ~~but when all of the~~ Riggs Bank account part of it, ^{but} it became apparent that ^{that} ~~it~~ was a dead end street because nothing ^{of other than} ~~of them~~ the documentation was available and that spoke for itself. The bank people were not privy to any information from ^{Minchew} ~~Minschultz~~ ^{and} or apparently Talmadge had no contact with the Bank whatsoever at any time, ^{and} we were looking for that possibility, [#] but it did not materialize. So anyway, while some ~~of the~~ discussions were going on about a resolution of the thing, the hearings began, and there were several points at which we ^{were} inquiring ^{as to} whether the prosecutor had come up with anything new or whether we were still sailing along, in effect presenting to the public what everybody already knew, which could have been presented in documentary form and investigative report type form rather than this. [#] The hearings were very slow, they were on half-day hearings which stretched it out because of the other pressing business that the Senate had. The Senate was very busy during this time. There were a lot of floor votes. I can't remember the legislation, but we would recess two and three times a day for the Senators to go over to the floor and cast a vote, ^{and} there ^{was} ~~were~~ a lot of cranking up and cranking down involved. [#] There was a pretty startling start when Senator Talmadge made his opening statement that was very dramatic, and the television press people captured that, ^{and} ^{he} pretty much spelled out his defense in his opening statement. It was a suprise ^d that he made it himself, rather than his counsel, which is the usual practice ^d for the attorney to make the opening statement. They introduced him as an attorney from

Georgia.

PETE DANIEL

Who?

BOYCE

Senator Talmadge. They said the opening will be made by the distinguished attorney, pause, pause, from the state of Georgia, the Honorable Herman Talmadge.

PETE DANIEL

Well, was anybody expecting that?

BOYCE

Nobody was expecting that. Nobody that I know of was, and Hamilton knew it, of ^{course,} ~~course,~~ and ^{he} had the press release ready.

PETE DANIEL

When he made that, from the news releases I read, I mean it was just a bomb shell. He came out very aggressively in defense of himself.

BOYCE

It was very aggressive, it was very well done, it was very well delivered from a speech-making standpoint, it was a magnificent job of oratory. He did ^{it} again for the television cameras, as I recall, outside, ^{or} parts of it. The prosecutor started presenting the case, and there was an early phase in there that Senator Morgan and I, along with the others that were working with us, concluded that the initial evidence, ^{since} ~~sense~~ there could be no real consenses ^{about} ~~of that~~ working out by stipulated facts, both sides agreeing that this is ^{what} ~~apparently~~ ~~what had~~ happened and this is the result. These are the conclusions and this is what the opinion of the committee is as to punishment.

We were going to go the first phase of the evidence and get that in and then perhaps, at least ^{save two-thirds} ~~saving about 2/3~~ of the time by resolving it at that point. We never got the feeling that there was, or we could

not develop a feeling of unanimity about that, and there were still people ^{that} who wanted to go ^{on with} with the hearing, they wanted to ^{through} go ~~on with~~ this process.

PETE DANIEL

This was mostly staff?

BOYCE

Yes, mostly ^{Erdly and McCullough, the} of the staff. I think once ~~Erdly and McClullum~~, special prosecutor and his assistant, once they got cranked up, they were, I think, less inclined to try to work anything out. Senator Talmadge's attorneys were always interested in trying to work something out. I think from their view point they saw the ultimate probable end, that it was a type of hearing that somebody in Talmadge's position, even if he had won completely, which was unlikely, he still couldn't win. ~~It was the politically~~ you know the proceeding, as I perceived it, was an Ethics proceeding, a part of the Senate ~~Self-Displanary~~ process, and political ramifications should not be a consideration. How you would ever accomplish that, I don't know, particularly in Talmadge's position, him approaching an election year. [#] The press was extremely interested in the case, although it didn't stay on ~~the~~ front page because it was not that dramatic, there was still really an optimum amount of press coverage, more at first, some of the national reporters started drifting away to the Salt hearings; and they got rather bored because there ^{were just} was no new disclosures and nothing particularly dramatic. It just kind of ^{plodded} plotted along and unfolded one sheet at ^{the} a time. As it proceeded, we continued, those ^{of us} who were assisting Senator Morgan, we continued to study and investigate some of the minor points that were involved. We got heavily into the problem of the polygraph question. There had never, generally speaking, in the courts, ^a polygraph is not

admissible, with the sole exception ~~and~~ possibly in some cases ~~back~~
~~in Senator~~ ^{by consent of the} parties, but even then it has not been recognized as a
satisfactory and ~~acceptable~~ ^{acceptable} investigation ^{tool} ~~to~~ or reliable ^{tool, to} to be
universally ~~accepted~~ ^{accepted} and some courts will not even ~~accept~~ ^{accept it by} back-and-
~~forth~~ ^{consent} of both parties, but Erdly, ~~even~~ ^{although} though the polygraph evidence
was detrimental to his case, he did not attempt to oppose it, ~~as~~
~~a matter of~~ ^{In} fact Erdly was very open about letting any evidence in.
His attitude was, I think I know everything that happened, and I think
we turned over all the stones, and rather than object to anything ^{since} ~~sense~~
there is no real appeal or anything and don't have a record to protect
like a lawsuit, I am just to let everything in, and I don't care what
it is. If it comes close to being pertinent, let it all in. So that
is what he did on the polygraph.

PETE DANIEL

Could you go into detail on that?

BOYCE

The polygraph part of the hearing was this, ^{Minchow's} when ~~Minshultz~~ ^{Minchow's} part of
~~the~~ testimony was challenged, he made ^{the} a statement that, ^{and} I forgot how
he had put it, but ^{Minchow's} you'll see in the transcript, was a very smart
person and very clever with words, really a dynamite-sharp mind,
scheming, but smart, was my impression. For example, he would never
in any of his testimony admit that he had lied; that word was not
in his vocabulary, or that he had not told the truth, and he got by
even on cross-examination with the phrase, ~~that~~ I was less than
candid about that, and time and time again he would only go so far
as to say, ~~that~~ I was less than candid. ^{Minchow} But the thing that really
demonstrated to me that ~~Minschultz~~ ^{Minchow} prowess was ⁱⁿ playing with words
without much emphasis on the morality of the situation or the right
or the wrong, ^{was} In one of the instances of evidence they had against ^{him}

^{that} it involved an obvious case of embezzlement of funds. He cheated a partner in a real estate deal, and he spent money that was embezzled from the Senate on his own real estate projects, and the abuse was so clear, it was obvious what kind of person he was, to me. He characterized, when he was questioned about the embezzlement, he would not use the word embezzlement or theft or any of those harsh descriptive words, his phrase for embezzlement was his self, let me see, embezzlement was his self-help reimbursement proceedings. That's in the transcript somewhere. Senator Morgan and I just about feel out of our chair when he came out with that one, as he referred to it as a self help reimbursement proceeding. A phrase similar to that. When ^{Minchew's} Minschultz's lawyers first got into it, Talmadge was represented by an Atlanta attorney, who withdrew the first day of the hearing, by the way, and ² we never ^{did get} got the ^{in depth} ^{local} ^{who was an elderly} ¹ ² ³ ⁴ ⁵ ⁶ ⁷ ⁸ ⁹ ¹⁰ ¹¹ ¹² ¹³ ¹⁴ ¹⁵ ¹⁶ ¹⁷ ¹⁸ ¹⁹ ²⁰ ²¹ ²² ²³ ²⁴ ²⁵ ²⁶ ²⁷ ²⁸ ²⁹ ³⁰ ³¹ ³² ³³ ³⁴ ³⁵ ³⁶ ³⁷ ³⁸ ³⁹ ⁴⁰ ⁴¹ ⁴² ⁴³ ⁴⁴ ⁴⁵ ⁴⁶ ⁴⁷ ⁴⁸ ⁴⁹ ⁵⁰ ⁵¹ ⁵² ⁵³ ⁵⁴ ⁵⁵ ⁵⁶ ⁵⁷ ⁵⁸ ⁵⁹ ⁶⁰ ⁶¹ ⁶² ⁶³ ⁶⁴ ⁶⁵ ⁶⁶ ⁶⁷ ⁶⁸ ⁶⁹ ⁷⁰ ⁷¹ ⁷² ⁷³ ⁷⁴ ⁷⁵ ⁷⁶ ⁷⁷ ⁷⁸ ⁷⁹ ⁸⁰ ⁸¹ ⁸² ⁸³ ⁸⁴ ⁸⁵ ⁸⁶ ⁸⁷ ⁸⁸ ⁸⁹ ⁹⁰ ⁹¹ ⁹² ⁹³ ⁹⁴ ⁹⁵ ⁹⁶ ⁹⁷ ⁹⁸ ⁹⁹ ¹⁰⁰ ¹⁰¹ ¹⁰² ¹⁰³ ¹⁰⁴ ¹⁰⁵ ¹⁰⁶ ¹⁰⁷ ¹⁰⁸ ¹⁰⁹ ¹¹⁰ ¹¹¹ ¹¹² ¹¹³ ¹¹⁴ ¹¹⁵ ¹¹⁶ ¹¹⁷ ¹¹⁸ ¹¹⁹ ¹²⁰ ¹²¹ ¹²² ¹²³ ¹²⁴ ¹²⁵ ¹²⁶ ¹²⁷ ¹²⁸ ¹²⁹ ¹³⁰ ¹³¹ ¹³² ¹³³ ¹³⁴ ¹³⁵ ¹³⁶ ¹³⁷ ¹³⁸ ¹³⁹ ¹⁴⁰ ¹⁴¹ ¹⁴² ¹⁴³ ¹⁴⁴ ¹⁴⁵ ¹⁴⁶ ¹⁴⁷ ¹⁴⁸ ¹⁴⁹ ¹⁵⁰ ¹⁵¹ ¹⁵² ¹⁵³ ¹⁵⁴ ¹⁵⁵ ¹⁵⁶ ¹⁵⁷ ¹⁵⁸ ¹⁵⁹ ¹⁶⁰ ¹⁶¹ ¹⁶² ¹⁶³ ¹⁶⁴ ¹⁶⁵ ¹⁶⁶ ¹⁶⁷ ¹⁶⁸ ¹⁶⁹ ¹⁷⁰ ¹⁷¹ ¹⁷² ¹⁷³ ¹⁷⁴ ¹⁷⁵ ¹⁷⁶ ¹⁷⁷ ¹⁷⁸ ¹⁷⁹ ¹⁸⁰ ¹⁸¹ ¹⁸² ¹⁸³ ¹⁸⁴ ¹⁸⁵ ¹⁸⁶ ¹⁸⁷ ¹⁸⁸ ¹⁸⁹ ¹⁹⁰ ¹⁹¹ ¹⁹² ¹⁹³ ¹⁹⁴ ¹⁹⁵ ¹⁹⁶ ¹⁹⁷ ¹⁹⁸ ¹⁹⁹ ²⁰⁰ ²⁰¹ ²⁰² ²⁰³ ²⁰⁴ ²⁰⁵ ²⁰⁶ ²⁰⁷ ²⁰⁸ ²⁰⁹ ²¹⁰ ²¹¹ ²¹² ²¹³ ²¹⁴ ²¹⁵ ²¹⁶ ²¹⁷ 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were very cleverly or carefully worded and were not really the right way to ask the questions, they were not put in the proper form to get the proper answer according the FBI polygraph people later on. You have to be very careful about how you phrase the questions on ^a the polygraph. So thinking that ^{Minchow} Minschultz had passed with flying colors, they bought him to Washington and said sure, we'll submit him to the FBI polygraphist, they did, and in what apparently was an impartial polygraph examination, he flunked. ^{ff} At that point the FBI and a private polygraphist ^{her} got together and said something is wrong here. So they did a third test, in which ^{Minchow} Minschultz ~~was~~ in effect ^{was} deemed to be deceptive, and ^{it} was a joint test between the private guy and the FBI, and the private polygrapher on the third test agreed with the FBI that their conclusions were correct. So then, after that, he had, ^{Minchow's} Minschultz's lawyers, had a fourth examination done by a third polygraphist ^{her} who was ^{a fellow} from D.C. all of these private polygraphers were apparantly reputable polygraph experts, but the fourth exam by the D.C. private expert resulted in a ^{conclusion} favorable to ^{Minchow} Minschultz, but on that one, the questions very carefully avoided, ^{and} in the Atlanta Constitution was involved in that polygraph examine, which disturbed us and disturbed Senator Morgan quite a bit. They had offered to pay for one, they had submitted questions, they had offered to pay for it ^{would} if they ~~were~~ to ask their questions, and there was a very unique and strange involvement of the constitution in that. We had also heard that the ^{lady} ~~later~~ who owns the Atlanta Constitution and Mrs. Talmadge were on a vacation on the Greek Islands at that time, because of the domestic involvement, ^{it} which made us even more suspicious of just what the press was doing. We couldn't figure out how an independent press could get that involved to the extent of paying for polygraphs, or supplying questions or being present when the examination was ^{taken.} ~~taking~~

It was news worthy, but they seem to have gotten a stronger than natural interest in participating in the thing. ^{FF} So anyway that's what the polygraph evidence was back and forth and ⁱⁿ the fourth examine, the questions just didn't come close to zeroing in on Talmadge's knowledge of the fraudulent expense vouchers or the Riggs account. It skirted that issue completely; I don't remember the questions but they are in the record and you can read those for yourself. ^{and see} ~~They~~ ^{how they} were not framed to get to the issue. So we did some research, and Senator Morgan made a statement in the record ^{about} that normally he would not put a great deal of reliance on the polygraph, but since it was by consent and since it would of some assistance that he would go along with the Chairman in letting it in as a valid part ^{of no evidence} in the proceedings, ^{but} he would treat it with some degree of skepticism ^{cism} because of the lack of a high degree of reliability, ^{and} so that evidence came on ^{in,} ~~it~~ and it mostly favorable to Talmadge, ^{and} I think at that point, ^{it} seemed that that was sort of the peak of the proceeding because it was at that point, ^{that} you began to see what ^{minchen} ~~Minschultz~~ was going to be like and how his accusations, being unsupported by documentary evidence, unsupported by any corroborative testimony with his, ^{and} unsupported by the lie detector evidence for what it was worth, ^{that} ~~and it was~~ pretty much. The battle was over trying to prove intent on the part of Talmadge, which had substantiate ^d our earlier conclusions. ^{FF} At sometime along in there, the effort was revived to see if we could reach this very probable end result of some type of ^{verbal} ~~verable~~ reprimand, censure, something, and all during that time, the considerations were simply playing games with words. ~~It was~~ ^{boiled down to} ~~oriented~~ from the very first it ~~borned out of~~ which words were going to appropriately describe what the true facts indicated. How do you characterize it, how can we characterize ^{it} in our resolution

that would be acceptable to the majority of the Senate and that the committee, hopefully, could be unanimousⁱⁿ and the committee wanted to be unanimous if it could, because it was six people looking at the very same evidence and the very same witnesses, and there were some disputes, the most inexplicable evidence against Talmadge, which we had trouble with, were the documents, ^{which} are in the records, called Q-1, and Q-2 because it tied in some type of conduct with Mrs. Tisdale, who was the Senator's personal secretary. It was troublesome, ^{because} we couldn't explain ^{the memos;} them, they didn't make sense. But even then it still didn't get that knowledge directly to Talmadge. It didn't tie it in closely enough to impute direct knowledge to him, ^{and} all the other evidence was that he was having a lot of problems during that period of time. Nothing much came out in the evidence at all about his drinking, but ^{it} he was in the press, and everybody assumed that he had been an alcoholic or was an alcoholic and had a severe problem and everybody knew about his marital difficulties, and that had already erupted and had been concluded in the civil court. So really you won't find much about drinking and what somebody referred to as womanizing in the private records. It never did come out in the hearings. Of course, ^{a tawdry} it was a target sort of thing, generally is avoided, and you really don't know how meaningful that sort of thing is. Talmadge had already really admitted his lack of exercising ^{or} discretion in due care in the operation in his office, ^{That} and he did not keep his finger on things as any boss should. So he admitted his indiscretions and admitted his short ^{comings} in that regard. So we tried during that period of time to crank up, ^{and} there again, ^{now} Talmadge's attorneys were trying to hold the conclusion to a slap on the wrist and we were satisfied that the negligent conduct in letting things go

that far deserve^d more than just a rap on the knuckles, but it was still a question of words and how different people would look at them. We never strongly considered censure, mainly because censure had a historical significance, and it just did not seem, we did not view Talmadge's conduct to be in the same category as Joseph McCarthy's conduct. It was a different type of case,^{it was} a different type of mentality, it was a different type of ethics or whatever you want to call it on the part of the two situations, and to have ~~construed the conduct to~~ characterize^d that different conduct with the same word, just did not seem historically appropriate or just did not seem fair. So we were really still dealing with words, and then, the next phrase was when Mrs. Talmadge was going to testify, we ~~made an effort at that time~~ and by then Senator Morgan and myself, I was living with him at that time, ^{so} and we got to see each other every day and every night and were really like ^{ten} ~~10~~ or ^{twelve} ~~12~~ hours a day on the thing, during the heavy part of it. We would get to one point and ^{would} conclude that it's gone this far and really let's go ahead and let this evidence, you know, let the public see it, let the press see it, that although it is ^{apparent we're} ~~appropriately~~ wasting a hell of a lot of time. It's really silly to ^{sit there} ~~can~~ ^{could just} go through all these things just to read the same thing that we can say, here's what's already ~~has~~ been said under oath. Still maybe the process, since it was the first real trial under the new ~~Ethics new~~ Ethics rules that it would probably be best ^{not} ~~and~~ any effort to save time ^{and expense} and money might look like a whitewash, and so we finally reached ^{the} ~~a~~ conclusion ^{too,} ~~to~~ that rather than trying to be conservative about that, just go ahead and waste all that time, that maybe ^{ultimately} ~~alternately~~ it would ^{not} be a waste of time, ~~that maybe it~~ ^{but} would have some cleansing effect and that there were some defects in the Ethics procedures

as the rules ^{had} ~~that~~ originally had been written ^{that} we wanted to work on after the hearing was over because it became apparent than that there serious deficiencies in the Senators trying to discipline their own kind and not having an independant judge ruling on ~~the~~ evidence. There were a lot of procedures ^{not} we thought would come out better. ^A So it carried on to a conclusion and when all ^{of} the evidence was in, there was an effort to resolve it ^{when} the prosecutor said, I have no farther evidence, there were some motions made, and then Talmadge said he wasn't going to testify ^{and} that upset all the committee members, because they were looking forward to ^{the defendant} ~~him~~ defending himself. Normally, when the prosecution evidence is weak a defendant says, well, I don't have to prove anything, ^{the} burden of proof is on you, and that was true; the burden of proof was on the prosecutor, we followed the usual court rules, ^{the} evidence had to be clear ^{coherent} ~~coaching~~ and convincing, because it was an allegation of fraud; that's a usual standard, ^{the} burden of proof on the prosecutor, the defendant does not have to testify, ^{the} response to that was very negative, and it was a kind of a little maneuver that Hamilton and Senator Talmadge pulled when they suddenly announced that they weren't going on to put on any others. ~~They were not going~~ ~~So they're going~~ to dignify it with evidence ~~here~~. It was a good legal maneuver, but it was a very poor public relations maneuver, and it was totally unacceptable. I think, just about every member of the committee felt that it was an inappropriate thing, ^{well} like in a lawyer disciplinary procedure ^{ing}, a lawyer better testify. I mean he doesn't have to, but ^{it is the caesar's syndrome;} ~~see its this wife syndrome~~, you got to be more than a criminal defendant down in the recorder's court ⁱⁿ and your attitude in what your obligations are. ^A So there ^{was} a lot of hassle

about that, and we encouraged Hamilton to go ahead and let Talmadge testify, in fact, we thought if he ^{id gone} go ahead and put him on, he would have gotten into it, through it, and by it much better than going ^{through} this, again, dramatic procedure of not ^{testifying,} testify and ^{refusal} the newspaper had a bit of heyday on Talmadge's ^{refusal} refused to testify, instead of exercising his right not to. It is the refusal to testify, ^{it hurt him.} that hurt him, It was not a very smart manuever in my opinion. So then, they back tracked, the committee wrote him a letter, ^{and} ineffect demanded that he testify, ^{at} there were some events in the McCarthy proceedings, ^{and} When McCarthy, ⁱⁿ ineffect, told the committee that was investigating him to shove it, you know, ^{and} that was one of the, I think, three reasons that McCarthy was ^{censured} ~~centured~~ because of his attitude during his hearings in refusing to cooperate with the committee, ^{and} I don't know that the staff and the prosecutor intended to set up Talmadge for that, ^{but} and I think that's what would have happened if he had not refused, they would have added that as an additional charge, failure to cooperate. So he came around and decided to testify. ^{at} ^{Minchow} The ~~Minschultz~~ testimony was the greatest area for Talmadge to make points, but it was, I think, as the record will show, at least for effect, it was a very weak cross-examination, ^{Minchow} Minschultz was a very clever witness, a difficult witness for any lawyer to handle because he was smart, ^{He was verbose.} he was very cleverly evasive in his answers, he had a way with words, he had his stock expressions that he really did cling to, ~~you know~~ and he really got by with murder, and a more skillful and a better directed cross-examination would have disclosed a whole lot more about him than was disclosed. He was a ^{vulnerable.} very ~~volunable~~, ^{his} actions, provable activities, made him very ^{very} volunable to cross-examination, but the cross-examination, in my

judgment as a lawyer, did not go over particularly well. It was not
~~The~~ skilled cross-examination that I think would have been possible.

because you had a lot to work with, a lawyer had a lot of meat to
really chew into the ^{minchow} ~~Minschultz~~ because as Talmadge had characterized
him, he was a crook, a cheat, and an embezzler, a liar, a cheat and ~~an~~
embezzler. Virtually, it was documented. ~~I abbreviating to get you~~
~~though, we'll do some more later on.~~

PETE DANIEL

~~Yes, that'll be good.~~

BOYCE

A That's about how it ^{wound} ~~wind~~ down at that point, ~~and~~ the evidence was over.
There were several weeks of contemplation. Senator Morgan and I went
back and reviewed the things ~~that~~ we had done from the very first in
a search for the appropriate words. Senator Morgan had taken the
position that if he is guilty of what they had tried to prove him
guilty of, he would have voted to expelled him in a second. No question,
if Talmadge had knowⁿ about the secret Riggs account, if he had in any
way directly or effectively authorized the submission of the fraudulent
vouchers, but based on the fact that he turned his operation over to
his staff members and did not follow up and did not manage it and
did not oversee it, that was bad, but ~~it was not~~ bad enough to show
guilty knowlege and intent and therefore, we're still dealing with
words rather than explusion, ~~and now~~ that was the line of demarcation.
~~and~~ ^A Senator Schmidt was very strong on ^{censure,} ~~censure~~ because I think he
knew that it had a strong historical significance, and it was the
worst that could be done short of explusion, so that's what he
wanted to do. Senator Helms, we had a minimal amount of contact
with him during the hearings, ~~at one time~~ ^{it} had appeared at one
time, and I can't remember what ~~the~~ evidence was being presented

at the time, that he was leaning toward Schmidt's view. Senator Burdick went back and forth a few times, as far as we could tell on what his view ^{of} on the thing was, depending on the witness at the particular time. Ultimately it appeared that Senator Helms and Senator Morgan, independently of each other, ^{I'm} satisfied, came to the same conclusion [^] that it was just no evidence of intentional wrong doing, no reason to characterize that conduct as being comparable to being Joseph McCarthy's conduct. When we got into the deliberations, the staff and the prosecutor were pushing for gross negligence, and they were pushing for ^{censure,} ~~centure~~ or at least words almost as strong as ^{censure} ~~centure~~ and the Senators were consulting dictionaries, thes^{es}aruses, synonyms andonyms books and all kind of things, and I remember ^{during} one of the recesses, Senator Hatfield went back into the room with four books under his arms, two dictionaries, ^{a Thesaurus,} ~~thysarus~~ and a synonym and ~~an~~ ^{anonym} book. The press, and one of the reporters said, what's going on Senator? and he said, words. That's what was going on, and that's ^{what} had been going on, and that's what went on from the very first. I think that the records that we ^{we} maintained will show the things that we had considered in the early part was about what the result was [^] only the Senators participated in the deliberation, and the staff tried to worm their way into ^{it,} but we sat there and outsat them until Senator Stevens asked everybody but the Senators to leave, ^{the} staff members were trying to stay in the deliberations ^{and} for me and Sam Curran and Brent Adams to leave the room, but we sat like pillows of salt and didn't move, and finally, they moved everybody out. So when they deliberated, I think that Senator Morgan had a great deal of influence in the deliberations, because of the ultimate decision. He did it apparently in a very ^{quiet} ~~quite~~ and effective ^{and} ~~in~~ ^{quietly} ~~quietly~~ ^{persuasive} ~~perfectly~~ way and made them ~~see~~ take a proper and objective

look at the evidence that they had. He was criticized as being a defender of Talmadge. We didn't look at it that way, because we knew that if they proved the case against Talmadge, he would vote to expel him, and that certainly would not be that partial toward Talmadge. We felt more like we were defending the evidence in the light of what we thought ~~what~~ the truth was rather than worrying about Talmadge one way or the other. Senator Morgan is very philisophical about Talmadge in ^{the} a sense that he ^{is} has made his bed and he will lay in it, and we couldn't properly help him out of bed unless he had hired us as his attorney, we could have helped him present a better case, but being a member of the panel, Senator Morgan, all the way through, wanted to be as a juror and the way some of the other members ^{of the committee} were reading newspapers and being influenced by outside things, was quite disturbing to him and to me, and that we thought that it ought to be more like a ^{jury,} juror because it was a too important ^a thing to the Senate, to the Ethics Committee, and to the individual who was involved, Talmadge, was not to do it on the up and up completely as a jury would, and Morgan was upset about some of the Senators, ^{there was} was a little row there at one time, some of the Senators were missing some of the evidence, and I don't believe ~~that~~ Morgan missed five ^{minutes} minuetts of evidence, now he may have missed some of the accounting evidence on one day that was all in writing anyway, but as far as the ^{substantive} substance of evidence, he was there every minute of the proceeding and felt like the others, and he read very few of the newspapers, he stayed away from reading accounts and accusations and characterzations in the newspapers and tried to act as if he were a juror ~~or~~ in a criminal or civil case. I think the end result was to his liking, ^{in that} and he thought that the result was in line

with what the provable truth was and I think pleased that it was
able to come out when it could have been headed in an ^{entirely}~~entirely~~
different direction, and a result that really would have been unfair
and probably would have been set a dangerous precedent.

UNITED STATES SENATE

WASHINGTON, D.C. 20510

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Robert Morgan
U.S.S.

Oral History Interview with Gene Boyce

Nov. 11, 1979

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