

**John James "Jack" Flynt Interview**  
**11 May 2000, 4PM-8PM at his home in Griffin, Georgia.**

**Opening Remarks by Flynt:** The [Georgia] Constitution was unclear on what to do under the circumstances that had arisen by the death of Eugene Talmadge after his election in November of [19]46. And I thought that I read the Constitution provision that called for the General Assembly--the House and the Senate in joint session--to convene and adopt a resolution to immediately adjourn and call a special election to fill the vacancy since the election had failed because of the fact that the final canvas had to be done by the General Assembly in joint session. There were not two living people who qualified under the appropriate constitutional provisions in the event that the governor-elect died.

**Buchanan:** What was your relationship to Herman Talmadge at the time? Had you been part of the Talmadge camp going into the General Assembly?

**Flynt:** Herman Talmadge and I had attended the University of Georgia together during the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, and 5<sup>th</sup> years of his stay at the University, and the 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> years of my stay at the University. Prior to that, he and I, when he was about 14 and I was about 13 years old. His father, in 1927, was Commissioner of Agriculture, and my father was in the House of Representatives of the General Assembly. Both of us worked simultaneously as pages in the House. Our duties were to do whatever the Speaker of the House [Richard Russell] told us to do. We were not there for the entire session. I would estimate that I was there about 2 weeks, maybe a little more. He [Herman Talmadge] was probably there a little longer than I was. I know that I was there about 2 weeks. The legislature met in June then. He and I got to know each other very well during that period. Both of us took our assigned duties very seriously, which was not necessarily true of most of the other pages. Most of the pages in those days were boys, usually aged 12-16. Primarily, they were selected by the Speaker on the recommendation of nearly every member of the House. He [H. Talmadge] and I have always said fortunately for both of us that we were there simultaneously. I think that he and I always thought that most of the others, not all of course, but most of the others would go to a movie whereas we stayed on the job close to 100 percent of the time that the House was in session. We entered into a friendship, and it continued throughout our high school years. He went straight to the University, and I took an additional year of prep school work after I graduated from high school here [Griffin]. So, we did not enter in the same entering freshmen class. After he had been there one year and I entered as a freshmen, we renewed that friendship. It continued reasonably well until I went off to the Army, and he went to the Navy in World War II.

In spite of our friendship, my father did not support his father in the Senate races of 1936 and 1938. In 1936 while still governor, he [Eugene Talmadge] ran against Senator Richard Russell, and Russell won that race. In 1938, he ran against Senate [Walter F.] George, and Senator George won that race. Of course '38 was the year that President Roosevelt came to Barnesville and asked the voters of Georgia not to send Senator George back to the Senate. It probably had the reverse effect of what he intended, because Senator George was reelected. Most political observers in those days that it would have been much closer than the final tally was, if he [Roosevelt] had not come into Georgia and sought to defeat Senator George.

My best recollection was that Herman Talmadge and I did not see each other from the time that I entered the Army in March 1941 until the summer, or maybe the spring of 1946 when his father was a candidate for governor. We were still good friends. When we ran into each other, we renewed the friendship that we had first made in 1927 and had continued in the fall of 1932 until he graduated from law school in, I believe, 1936. I graduated from the Franklin College part of the University of Georgia in 1936, and spent from early July 1936 until June 30<sup>th</sup> 1937 in the 6<sup>th</sup> Calvary of the United States Army at Ft. Oglethorpe, Georgia. I came back to law school in September 1937, but I had a year in the Army in the middle of my law school education.

We were good friends but not extremely close. In fact, after his father died and I had been elected to the legislature, I knew that that would come up. I was not certain how I would vote, because the question of what we would vote on--it was not a question of being for or against either Talmadge--Herman Talmadge or M.E. Thompson or anybody else. The question was--in my mind--was not which side of Georgia politics was involved, but what did the Constitution of the State of Georgia provide in such a case? As a matter of fact, I considered him then, as I consider him now, a warm personal friend. But the same thing was true of Ellis Arnall, whom I had known since 1929 or 30 while he was still in law school, and I was still in high school. Ellis and I were good friends until his death. My father had known M.E. Thompson, I'd say from the early 30s until that time, and he had a high regard for M.E. I'm reasonably certain that during that period of time, during a good deal of which my father was either in the state House of Representatives or the state Senate, there were occasions when M.E. Thompson came by here, sometimes unannounced sometimes he told my father in advance that he was coming. I knew him, but I would not say that I knew him anywhere near as well as I did Herman Talmadge. But I can actually say that I had a high regard for M.E. Thompson, and I considered both Herman Talmadge and Ellis Arnall good friends. To a slightly lesser extent, M.E. Thompson. He was probably older than Ellis and certainly older than Herman. I was the youngest of the four, Thompson, Arnall, Talmadge, and Flynt. I was the youngest of the four, but I knew all of them and had a high regard for each one.

The result of the 1947 session of the legislature actually brought me closer, after the session was over, because I had at the last minute after my resolution was ruled out of order by the President Pro Tempore of the State Senate who presided over the joint session meeting. My father was still living then. He was not as active. In fact, he was almost a physical invalid, but his mind was clear till the day of his death. Naturally, with him having served something like 28-30 years in the House and Senate combined and having served as President of the State Senate and me about to enter my first term in the House of Representatives, which incidentally was my only term in the House of Representatives, he and I talked about what would take place and what my position would be. I remember fully well whenever I asked him what he would do, his reply would be, "it's not for me to say what I would do. I have enough confidence in your judgement that it's a question of what you will think."

Spalding County had not gone for Eugene Talmadge in the 1946 election. My recollection that James B. Carmichael, the Arnall candidate, had carried Spalding County by a comfortable plurality, maybe by a majority. Carmichael carried Spalding County. I think Eugene Talmadge was second in Spalding County, and I think Rivers was third. My first thoughts that went through my mind when discussing it with my father and my mother, but primarily with my father, and of course I was married then so my wife joined in these discussions too. My first thoughts revolved around whether

I should vote the way that Spalding County had voted in the Democratic primary or whether I should cast a personal vote. I think early on that I decided that I had studied constitutional law in law school. In fact, I had either 2 or 3 courses in constitutional law. I don't think that a single one of the constitutional law legal textbooks ever had much to do with the Georgia Constitution. But the constitutional question, which eventually had some bearing on this particular election of governor by the General Assembly, was covered in one or more textbooks on constitutional law. I tried to learn as much as I could about what had happened in other states. I don't think that there have ever been more than five or six states in all 48 states, which there were then, since the beginning of this country. We did find at least two states where a governor-elect had died. Maybe two or three more, which I have no vague recollection of.

The newspapers for the period of time between the death of Governor-elect Talmadge and his funeral raised the question although they did not give it the coverage that they did after the funeral. The question arose, "what happens now?" It is often referred to as the two governor contest of 1947. I've always looked on it as the three governor contest, because in some ways--everybody doesn't agree on this--I'm inclined to think that there were three possibilities. Either the legislature, if it saw fit, could elect between the two persons still in life--I'm quoting now from memory--in the general election of November 1946. Everybody thought that the write-in votes of which more had been cast for Carmichael than anybody else, but he immediately declined to be involved. So, that left the next highest, the third candidate in the Democratic primary Ed Rivers who received a scattering of votes, but the person still in life on the day of Governor-elect Talmadge's death up to and including his funeral was a man named D. Talmadge Bowers from Franklin County. I've forgotten whether he had 200 or 300 or 500 or 600 votes. They found some votes which had not been previously been tallied for Herman Eugene Talmadge, all of which were in Telfair County, Georgia. After those were "discovered," the question arose whether the legislature should elect a governor from the two persons then in life, who received the highest number of votes following and below the votes cast for Eugene Talmadge and the other write-in votes who received more than either Bowers or Herman E. Talmadge.

The lines were drawn pretty close, and everybody knew that it was going to be close in the first vote of the joint session of the General Assembly, where the total tally was both House and Senate turned out to be 128-127 on the key vote. The key vote was not on the election of Talmadge. The key vote was on whether the General Assembly shall immediately precede to elect the governor. In the meantime, I suddenly became an expert on constitutional law--that's facetious of course. I decided that there was a written provision in the constitution, which everybody had overlooked until I found it. There was at that time in the constitution a provision in, I believe, Title II. One of the sections of Title II relating to the election of the governor provided that the election shall be held on the date provided for by law. The constitution, as I recall, provided that within 2-3 days after the convening of the General Assembly after the election that the entire General Assembly in joint session shall canvas the votes cast in each county and determine whether any candidate received a majority. If so, that candidate shall be declared duly elected governor and shall be inaugurated. Which meant that when the General Assembly met in joint session and the candidate with the highest number of votes being dead and the candidate with the second highest number of votes declining to let his name be considered by the joint session. That left the names of Talmadge Bowers and Herman Eugene Talmadge, then in life, with the highest number of votes. If any case not covered by this section, the General Assembly, in joint session, shall immediately declare that the election failed.

The General Assembly, in joint session, shall then declare a special election to be held within 30 days and immediately adjourn and come back after the special election. A man by the name of Gibson Ezzell from Monticello, Jasper County, Georgia always took credit for being the person who brought that provision of the constitution to the attention of the Talmadge family and Roy Harris, who figured prominently in that 67 day period.

There's another provision in the Constitution of Georgia in Title I pertaining to the General Assembly. In it, it said that all power rests in the people, and the elected representatives are at all times amenable to the will of the people. I either found or interpreted the constitution to mean that the a special election should be held. So, I prepared me a joint session resolution, which I do not have with me, providing that the General Assembly, in joint session, hereby finds that the election of the governor in the general election of November 1946 failed, and that no person then in life was elected. A special election should be called and adjourn and go home. Then, watch the campaign begin and then reconvene after the election. I think that I got 9 co-sponsors. At one time, I had a lot more than 9. Most, if not all, were young men like myself returning from World War II. My recollection was at least half-dozen had not served in military service in WWII and had considerable experience in the General Assembly. I think that all the co-sponsors were listed as co-signers of the resolution. My name appeared first, Mr. Flynt of Spalding and then the others. Believe it or not, they were pretty much equally divided between people who eventually voted for the Thompson position and the people who voted for the Talmadge position. Of the nine, there were five who eventually voted for Talmadge and four who eventually voted for Thompson--actually voted on whether or not the General Assembly had the authority to proceed to the election.

Bill Dean, William T. Dean, of the 34<sup>th</sup> Senatorial District which included his home county of Rockdale, called the joint session to order, and he and Fred Hand, Speaker of the House, were sitting up on the rostrum together. Immediately after he called the joint session into order, I was on my feet, And I was very much surprised that he recognized me, but I guess he knew what was coming and wanted to get that out of the way. He [Dean] said, "for what purpose does the gentleman from Spalding, Mr. Flynt, arise?" I said, "I have a joint session resolution at the clerk's desk and ask that it be read." Upon the reading of it, I started down to speak on behalf of it. I think his [Dean] words were this, "the chair declares the joint session resolution #1 out of order." I did not appeal the ruling of the chair. I hadn't expected that, although I should have. If I had to guess, we convened at 10:00AM that day. It took less than five minutes after we were called to order. I thought then and thought now that that was what ought to be done, although nobody thought it except me.

Of course, when he [Dean] ruled it out of order, and I didn't appeal the ruling of the chair, which in hindsight, I could have done, but I didn't. At least 2/3 of the members knew that my joint session resolution had been designated as #1. They knew it was going to be offered, but they didn't know when. I've always believed that if the resolution had been ruled in order by either the chair initially or by the joint session on my motion to appeal, I believe it would have passed, because sentiment was as near divided down the middle as it could be. For what it was worth, I had counted about 120 on each side--the Talmadge side and Anti-Talmadge side would get at least 120 votes. There were 15 others, because one member had not been sworn in. I don't remember if that was J.L. Black of Webster County, but one member had still not been sworn-in. The Senator-elect from the 1<sup>st</sup> District was from Effingham County. The 1<sup>st</sup> District at that time consisted of Chatham and Effingham. The incumbent senator was Grayson of Chatham under the rotation system. He didn't run for re-

election. Anyway, the Senator-elect had died--either George Fessel or Mr. Guyton. The Senate about an almost equally divided vote had voted that since the senator-elect had died that they could either declare that seat vacant or call a special election to elect a new senator. They voted to give Spence Grayson to continue to serve until the next election. Of course, that gave one more vote to the Talmadge forces.

At that point in time, when Bill Dean ruled Joint Session Resolution #1 out of order, honest to goodness I had not made up my mind which way I was going to vote. I was torn between voting the will of voters of my county or doing what I wanted to do personally, and I leaned very strongly to voting the will of the electorate of Spalding County, which meant I would have voted differently from what I did. Several things happened during that day. We took in on the day that we debated and voted on this at, I think, 10:00AM, and I think we voted--I know it was after midnight. We had a debate like you wouldn't believe. I don't think I participated in the debate. I don't think anyone, except I, knew how I was going to vote until they reached the "Fs" when calling the roll, and I don't even remember whether they called the Senators separately and the House members separately or whether they had a new roll call with everyone listed alphabetically. Something happened, and I don't remember what it was that tilted me from voting to sustain the vote of this county, who voted for Carmichael. The Carmichael-Arnall-Thompson forces solidified. Arnall withdrew his claim to holdover for either two years or four years or until a special election. By that time, Arnall knew about my joint session resolution, because I had shown it to him, and I think I recall him saying something to the effect that that is what ought to be done. But I remember giving him a copy of it. He [Arnall] remained in the governor's office while the debate was occurring.

After I had done as much research as I could and had talked to Dean Hirsch, who had been dean of the law school while I was there, I also consulted with Dr. Harlan Caldwell, who had been dean up until the time that he was elected President of the University of Georgia. I think both of them agreed with me that that was the solution [a special election]. I know Hirsch did, because his family were Talmadge supporters. I think the Caldwell family, who came from Meriwether County, were Talmadge supporters. Notwithstanding that, both [Hirsch and Caldwell] agreed that the action that the General Assembly should have taken was to follow the language in Joint Session Resolution #1, but I have nothing to verify that. I have no notes, and my memory on it is not clear. A vague recollection, which is subject to error, was that both of them said that is what ought to be done, but it would be hard to get passed. If that had been voted upon [Joint Session Resolution #1], I'm not saying it would have been passed, but I believe it would have. I honestly believed, and still do, that that section of the Constitution of Georgia was in effect at that time. I believe that enough of the House and Senate members might have voted for it. Most people were in a position that I was of coming from a county who had voted for or against Talmadge in the Democratic Primary, and they were on the other side. A lot of people did not want to go on record on a strictly Talmadge/Anti-Talmadge vote, which is made manifest by the fact that the second vote which was to elect between Talmadge and Bowers. 161 voted for Talmadge, which was a helluva a lot more than had voted for the key vote on whether the General Assembly should elect the governor. Of course, the tremendous debate which lasted for more than 12 hours was on the resolution offered by Bob Elliot, the Talmadge floor leader. Bob actually was responsible for Herman Talmadge getting 128 votes, because he convinced enough people to vote to elect the governor. My resolution called for a special election and the General Assembly would go home until the election was held. Bob offered joint session resolution #2 and Everret Milliken, floor leader of the Thompson forces, offered

[resolution] #3. [Henderson (1991) has that this was the Durden-Gowen amendment.] If my estimate of the probable vote was right, it meant that 8 of the undecided voted with the Talmadge forces, and 7 voted with the Anti-Talmadge forces.

The vote was as close as a vote could be without being a tie. The Talmadge forces received 128 and the Thompson forces 127. On the next vote to elect the governor, the Talmadge forces got between 160-170 votes. A great many people, who had voted with the Thompson forces in the key vote, wound up making both sides mad, making the Talmadge forces mad because they didn't vote with them on the first vote and the Thompson forces mad because they stick with them and make the actual vote between Talmadge and Bowers, because that would have given more strength to the Thompson forces during the remainder of that session in 1947. In the Democratic Primary, after M.E. Thompson was declared acting governor [by the State Supreme Court], the constitution required that he seek re-election in the 1948 primary and general election. M.E. Thompson and Herman Talmadge were the two candidates in the 1948 Democratic primary, in which the electorate voted in both the popular vote and the county unit vote. I believe that Talmadge carried both the popular vote and the county unit vote, although the popular vote was much closer. Thompson served from March 1947 until December 1948, because I think that we went back in special session close to the 15<sup>th</sup> of November to declare Talmadge the governor. As opposed to having Thompson serve 67 days into 1949, but I'm a little unclear of what happened in November 1948 however. Thereby, Talmadge served approximately six years whereas if the legislature had elected him, all he could have served was four years. Nobody contested the Supreme Court ruling and everybody also knew that the whole thing would be run over again in the Democratic primary of 1948, but Talmadge would have served four years if he had been installed immediately.

Very few people who lived through those days find it difficult to believe which way I was going to vote until after Bill Dean ruled my resolution out of order. People who know me well believe that I did not make up my mind until then. I cannot pinpoint now the exact hour when I crossed the Rubicon, so to speak, and vote with the Talmadge forces on the key vote. People who knew me only slightly had trouble believing me. Some even went so far to believe that by formulation and introduction of Joint Session Resolution #1 was a ploy, and that I intended to vote for Talmadge all along. That was not true. I fully wanted the people to elect the governor.

The political history of Georgia from 1946 until at least 1962 would have been quite different had Joint Session Resolution #1 been adopted by the joint session. Naturally, I think it would have been a majority vote for it. That's something we'll never know. What the Anti-Talmadge forces did not realize was that it would have hastened by 16 years the election of a governor by popular vote. Because the election in early 1947 would have been without benefit of the Democratic primary, controlled by popular vote. What the outcome of that election would have been, we'll never know. Who the candidates would have been we'll never know. That was not my purpose though. The only thing was that the will of the people had been thwarted again by not allowing them to elect a governor in a special election. No person in the forefront of Georgia politics has ever commented on that set of facts that I just recited to the best of my knowledge.

Ellis Arnall thought that there were one, or two, or three ways that he could remain governor. He came to the conclusion that he was wrong and that it had to be either [Herman] Talmadge or Thompson. He was out of it. I don't think that this is the forum to discuss the role that Ellis played.

He often during that period, from the death of Eugene Talmadge to the convening of the General Assembly, gave verbal support to the fact that the Lt. Governor-elect should become governor. There were times that he [Arnall] still thought that he could remain governor for two years until the next election, because Thompson was never sworn-in as Lt. Governor. He took the position that he was the governor-elect, but my recollection is that Thompson never took the oath.

**Buchanan:** Was the office [of lt. governor] vacant for that year and a half?

**Flynt:** Bill Dean continued to serve as presiding officer of the Senate, which is one of the duties of the lt. governor. To the best of my knowledge, M.E. Thompson never presided over the Senate.

**Buchanan:** So really, the first lt. governor was Marvin Griffin?

**Flynt:** Yes, that is correct. Although Thompson was Lt. Governor-elect, he never took office. I think J.M.C. Townsend, a member of the Court of Appeals, swore in M.E. Thompson as governor. They had to do that to have standing in the case of *Thompson v. Talmadge*. My recollection was it was a 5-2 decision in favor of Thompson. The two dissenters were W.F. Jenkins, chief justice, and Tom Chandler from Blairsville were the two that voted Talmadge had been properly elected. The other five voted for Thompson. A lot of people don't remember this, but three or four of the five had been appointed by the Supreme Court by Ellis Arnall. They were Lee Watt, W.Y. Atkinson, and Grady Hill were all appointed by Arnall.

**Buchanan:** Jimmy Bentley remembered that before the joint session convened that a minister came in to have a prayer. Bentley remember that during the prayer that Fred Hand, Speaker of the House, and Bill Dean were on the rostrum. Fred Hand started walking toward the podium. As soon as the minister said "Amen," Hand grabbed the gavel and said, "Bill, I'll take care of this."

**Flynt:** He may be right. I don't remember, but I thought Bill Dean. Naturally, the role that I had in those first, opening minutes--I believe that Bill Dean presided. I didn't remember that there was a chaplain's prayer at the joint session, because the House and the Senate had both convened separately before the Senate walked over across the Capitol to the House, but that is entirely possible. Now, my recollection is that both Fred Hand and Bill Dean voted--Hand voted for the General Assembly to elect the governor and Dean voted with the 127. In my mind's eye, I can see both of them up there, and I can see Bill Dean standing and presiding, but I could be wrong.

**Buchanan:** Did the Thompson crowd drug Talmadge supporters?

**Flynt:** I've never heard--I'm drawing a fine line between drugs and alcohol--I did hear that efforts were made to get some pro-Talmadge supporters drunk, but I've never heard the word "drugged" mentioned.

**Buchanan:** Was there a great deal of drinking?

**Flynt:** There was some, but I would not say a lot. I think, at the time, that I knew one who was drinking very heavily, but I can't remember who it was. The answer is yes there was some drinking going on. I would estimate, 53 years and 4 months ago, that there was some drinking going on, but

I would qualify that by saying no more than on any other all night session. I've heard Talmadge say that there were 128 members of that General Assembly whose name were engraved in stone.

**Buchanan:** Some accounts report that legislators were bribed from both sides by offers of new road paving in their counties and other favors. Did this occur to your knowledge?

**Flynt:** I don't know. I don't know.

**Buchanan:** You weren't approached though?

**Flynt:** Yes and no. The reason I say yes and no is that the only approach made to me could be construed either way. I think my answer was, "let's both agree that that statement was never made." If I was approached, that was my response. It was highly possible that the person that made the approach, what is intent was I don't know. I didn't consider it that, but I expect that there was a lot of "trading" going on, but I don't think any were illegal overtures.

**Buchanan:** Accounts become clouded is what took place when the Talmadge delegation arrived at the governor's office after the inauguration. Herman Talmadge says that he ordered locks on office doors, via Marvin Griffin, and takes over office around 7AM on the 15<sup>th</sup>. Arnall recalls a dual governorship on the 15<sup>th</sup>, and Talmadge changes locks on the 16<sup>th</sup>, no mention of Griffin. Also, Talmadge claims that the door was not barricaded, while Arnall claims that the Talmadge crowd kicked down the doors. Recall these events.

**Flynt:** I was one of the committee of escort. Arnall was physically carried out. Talmadge said, "I'm assuming the office of governor," and Talmadge was backed up by a lot more than the 15 escorts. Arnall's reply was that, "I do not recognize you as governor." I think Talmadge turned to 2 or 3 people and said "remove Arnall from his desk and this office."

**Buchanan:** Was Marvin Griffin directly involved in the locks and escorting Arnall back to Newnan?

**Flynt:** Now that you bring it up, I think I do. I believe Griffin was there, but my memory on that is not as clear. I know I was there on the committee of escorts. My recollection is that Arnall was carried out. I don't think he walked out. I think he was carried out in a Boy Scout basket carry. One of them was a giant of a man. I have no recollection of who the other man was.

**Buchanan:** Talmadge says in his autobiography that he took control of the governor's office around 7AM on the 15<sup>th</sup> of January. Arnall doesn't mention at all that he was physically carried out of office. Arnall says on the 15<sup>th</sup> that both he and Talmadge shared the office. On the 16<sup>th</sup> of January, Talmadge had the locks changed.

**Flynt:** I have in my mind's eye a clear picture of Ellis Arnall being carried out by two very large men. My recollection is that the Boy Scout basket carry was the way he was carried out. I think that the door was broken down rather being opened. Someone had to forcefully break down the door to the outer office. I think Talmadge told Arnall that he was assuming the office, which includes this desk and this chair.

**Buchanan:** Did Arnall use the word "pretender?"

**Flynt:** I don't know. I don't know.

**Buchanan:** What about the disputed Telfair votes? Did anyone in the Talmadge camp order "the dead be voted" as some claim?

**Flynt:** I think Talmadge's position was that they were *bona fide* votes. He never acknowledged that they were fraudulent. I'm not sure about this, and I don't know if I simply heard this or saw documentation on this. A great number of the votes were in alphabetical order. I don't recall that in those days that we had to sign the voter's list. Gibson Ezzell's story, which no one ever believed, was that the votes were actually cast on election night, not Election Day. To the best of my knowledge, Talmadge never acknowledged that he was a party to it on Election Day or thereafter. Now, I don't think those votes took place on Election Day but took place afterwards. The ballots were there, but the voters list was in alphabetical order. They had to be in a lot of different precincts. I don't think that question was ever raised in the courts. I think the votes were manufactured though. My recollection is that counties didn't always count the votes but estimated them.