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Transcript for Episode 08: Big Battle - Serious Stakes: The Big 1967-71 Sales Tax Fight

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[Begin Big Battle - Serious Stakes - The Big 1967-1971 Sales Tax Fight]

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[Music]

00:00:03

Narrator: From the beginning of Montana's distinctive yet troubled history, the Treasure State was dominated both economically and politically by powerful outside interests who shipped in capital and bought control of the State.

00:00:14

Historians tell us that as the Anaconda Company and its friends ran Montana, economic and political power flowed out into the hands of distant capitalists and corporations.

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Policy was determined in far off New York City and control of the press was rigid. Anaconda's corporate dominance in Montana's political affairs was unique in American history. For its first 75 years, Montana was a one-company State. But then big winds of change roared across the Treasure State; between 1965 and 1980 Montanans ripped off their copper collar, transforming Montana from a corporate colony into a free modern State.

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The people finally controlled their own destiny. The pitched battle between the people and the established power structure was not easily won but fired In a Crucible of Change a new Montana was born. Join Evan Barrett and real history makers of the time as they shine the light on this remarkable era.

00:01:20

Evan Barrett: Welcome back to *In the Crucible of Change*. You know we've been covering a lot of big important issues as we've advanced through this series, but today--today is an episode that focuses on giants. The giant issue of the time politically was the sales tax of that period. And so we're going to focus in on the sales tax along with other items related to our special guest, who also was a giant.

00:01:57

Jim Lucas was one of the governmental and political giants of the period and we're so pleased to be able to have him on here. Jim was Speaker of the House in 1969 and 1971, a critical timeframe *In the Crucible of Change*. Prior to that he had been Majority Leader in '67, Minority Leader in '65; he was elected six times to the Legislature. And I think--I can say that were it not for the sales tax he probably would have been Governor of Montana, a highly-respected and still highly-respected person, citizen of Montana, and former Speaker of the House. And Jim we couldn't be more pleased than to have you join us to discuss this important period and these important issues. Your--you've been practicing law for a long time, but boy when you were in the middle of things you were one of the driving forces in Montana politics and government during that period. And it was a terrific period of change and I know you've had some time to think about what--what was it to--to facilitate it and brought about this kind of change? As someone who was right in the middle of it, I was just a young guy coming up at the edges of this thing; you were right in the heart of it. How did you see the period in terms of the--the movement toward change that was occurring at that time?

00:03:32

James Lucas: Even before I get into answering that question I want to first thank you and thank also the person Ellis Waldron who put together the Atlas of Montana [Inaudible] because without your knowledge and his printed books and others that say the same, I probably would have a very difficult time in remembering 50 and 60 years ago.

00:04:08

My wife claims I can't remember beyond yesterday but regardless, and if I--if I had to do this--create this program I would do one change and that is I would make you the responder and I would be the interviewer because you have that great, great background.

00:04:28

Evan Barrett: Well thank you.

00:04:29

James Lucas: Evan of course is the Director of the Community and Community Outreach for Highland College, part of Montana Tech. And he also has made great strides through the years representing the Democrat Party, much of the time nationally, much of the time on behalf of Governors--just great. I've told him that he--he is to be admired because he's done such a great job. And if he continues on this path the Republican Party may still consider having you come across to them. *[Laughs]*

00:05:08

Evan Barrett: My grandmother was watching me carefully. *[Laughs]*

00:05:12

James Lucas: Well let me talk for a minute about the changes. In the 1960s these were turbulent times in the Montana Legislature and today we're going to talk about the period mostly from 1960 to 1975 and of course the great thing during those times was the sales tax and what it did in Montana politics.

00:05:42

When the Constitution was written in 1889, Montana was a rural State but by 1960 the census showed we had become urban. There were--there were obviously unequal representation at that time in that the cities, larger cities could out-vote the rural people considerably. In fact, one time the vote could be 49 to 7 with the 7 being the farmer/rancher people.

00:06:22

The question of the--the mounting concern about the adequacy of the Constitution of Montana whether it still filled the bill, the question of mandated legislative reapportionment, and the United States Supreme Court mandating legislative reapportionment, all those things came crashing together in the early 1960s and that was an era then of marked change, trying to catch up with the--with the requirements of the time in those days.

00:07:02

Evan Barrett: There has been a lot of talk and I think that you're bringing up reapportionment and the malapportionment that was there just by the nature of the beast prior to that was such a massive shift that it really was very disruptive of the whole I think comfort level of the people of the State about well how does this system

work? And we've had quite a few people discussing that throughout the series and that was--that was a big deal. And it--and eventually of course it skewed particularly the Senate toward urban representation more than the rural representation used to be, yeah.

00:07:42

James Lucas: Yeah; there was a lot of feeling at that time that States' rights were being submerged. There was a--a lot of feeling that the--question does the Legislature still fulfill its obligation as it was originally designed and thought of? All these things became into the picture. And we--we really are talking about two things today; one is the--the chronology of the sales tax in Montana from 1960 through 1971 and beyond there. And then the second thing is to focus on those years in which the sales tax was dominant and in which there were incredible things going on.

00:08:35

Evan Barrett: It first popped up about 1960 didn't it but not in a big way but was that Governor Nutter or--?

00:08:42

James Lucas: Yeah; yeah, Governor Nutter was talking about the sales tax although a Bill was not introduced in the Legislature at that time. But Nutter was the first one I think that significantly rattled the sword of the sales tax and its need for the State of Montana. It was his feeling that the--we needed a tripod of--of taxation in Montana, property tax which was being highly criticized at that time because it was quite extensive, income tax--same way, and then the third leg of the three-legged stool or tripod was the sales tax.

00:09:28

And of course a lot of talk we're missing the income from out of state tourists, things of that kind but that was Don Nutter talking but it took about six years, seven years before the sales tax as such was submitted and voted on for the first time in those years of Montana's--

00:09:52

Evan Barrett: You know just for context for our viewers, Governor Nutter was elected in 1960. He was the third consecutive elected term for Republicans because Governor Aronson was in '52 and '56 and then Governor Nutter. He passed away in an airplane crash.

00:10:11

James Lucas: That's right.

00:10:11

Evan Barrett: And his Lieutenant Governor Tim Babcock, who coincidentally was of the same Party because back in those days you didn't have to be in the same Party but became Governor and then Governor Babcock, was reelected in '64 and that was the fourth consecutive term of Republicans. And--yeah fourth consecutive term--and it was in his second term that it kind of came to fruition. I mean it really started to gel but what seemed to me in my research, it was--a lot of it as differentiated from today was about adequacy of the money to be able to spend on public services.

00:10:50

James Lucas: That's--that's what drove--that drove the--the sales tax, the feeling that you could accomplish several things. One is if--if property tax was too high, if income tax was quite high, you couldn't load more on them, but what you could do is adopt a sales tax which was dominant in almost every State at the time. I think there are only three or four without it. And--and then you could have a new flow of tax revenues that were needed.

00:11:24

There was some estimate at that time that about the time that Governor Babcock suggested to the Legislature that they consider the sales tax that there was about a need, foreseeable need of about \$50 million more increase in revenues to take care of the needs of the State of Montana and that the sales tax was the most equitable way provided that there was some reductions in the other taxes, that you exempt certain things and--and--and in that circumstance, the devil was in the details because a lot of people that allegedly were for the sales tax, and organizations began to drift away when the farmers and ranchers wanted everything excused from taxation. That was one bunch who lost. And the teachers and so on--

00:12:22

Evan Barrett: Isn't that the classic though? I think this is a wonderful tax except not for me.

00:12:28

James Lucas: Yeah.

00:12:28

Evan Barrett: You know; you kind of run into that *[Laughs]* on a lot of things don't you?

00:12:33

James Lucas: And when you say a lot of the things, it reminds of the letter I got one time from a lady writing on *[Inaudible]* Springs and said that she had a relative and visited him over there and she said it was terrible that when one got sick all got sick. There wasn't enough room, enough treatment, and she said I hope you'll do something about this as Speaker. And then she said but don't raise any taxes on me. *[Laughs]* Same kind of stuff--

00:13:05

Evan Barrett: Yeah; so but after Governor Babcock assumed the--the Governorship in--when Governor Nutter had the plane wreck and then ran for reelection in '64 against Roland Renne and won. And it was on his own as Governor for the first time. That was the '64 election. It took two years later when they kind of have seen this \$50 million shortfall that you were Majority Leader in the House in '67 and Jim Felt was Speaker?

00:13:36

James Lucas: That's correct.

00:13:37

Evan Barrett: And then Felt was the primary sponsor of what was the Governor's Bill for a 3-percent sales tax.

00:13:44

James Lucas: And that was probably the simplest the sales tax issue ever got because it just went down. It was the end of it and--

00:13:54

Evan Barrett: That was a--I found interesting, the Bill was number--House Bill 333 [*Laughs*]. They kind of reserved that number for it a little bit. [*Laughs*]

00:14:05

James Lucas: To make sure it got the limelight.

00:14:06

Evan Barrett: Yeah; yeah.

00:14:08

James Lucas: Well then--

00:14:09

Evan Barrett: But you guys passed it out of the House.

00:14:11

James Lucas: Yes.

00:14:11

Evan Barrett: Mostly on Party line.

00:14:14

James Lucas: That's right. And Senate went down.

00:14:18

Evan Barrett: That was a big battle in the Senate. I mean what I meant was there was straight Party line in the Senate. And they became the fire--the firewall against the sales tax essentially and the hero of that was Gene Mahoney. He was the Majority Leader and so those who didn't like the sales tax kind of deified Mahoney.

00:14:38

James Lucas: Who later ran for Governor but was defeated by Forrest Anderson.

00:14:41

Evan Barrett: That's right in a close race because in '68--I mean the story of the sales tax is interesting because it is a--an ongoing story that in '67 it came up. You guys passed it out, you know overwhelmingly, mostly Party line. You lost a couple people. I think you lost Ted Smith and you lost to Gary [Marabout], and--

00:15:08

James Lucas: Perry.

00:15:09

Evan Barrett: --Lou Perry yeah. And one other I think or there were two others in fact. Just I think you lost--well it's not all that--oh Tom--Tom Haines and--and Ken Wolfe voted against it.

00:15:21

James Lucas: That's right.

00:15:23

Evan Barrett: That's right. Haines was with the Retail Association so he probably was thinking we don't want to have to collect it.

00:15:27

James Lucas: Yeah.

00:15:28

Evan Barrett: Right, and I didn't know Ken Wolfe but those--you had but for those five it went through with the Party line vote, but the Democrats stood firm straight down the line and it died a quick death in the--in the Senate. Those were the days by the way when the whole Legislature was 60 calendar days, right?

00:15:47

James Lucas: I've got a note here about talking about that.

00:15:50

Evan Barrett: Why don't you do that?

00:15:51

James Lucas: Stopping the clock.

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Evan Barrett: I'd love to hear that because--

00:15:54

James Lucas: Well we were in Session allegedly for 60 days for--for quite a while.

00:16:01

Evan Barrett: And that was required by the Constitution; it said 60 calendar days.

00:16:05

James Lucas: Sixty calendar days. And it never proved enough. And so when somebody prior to our time developed the technique of on the 60th day if you weren't through with the business of the Legislature you stopped the clock at midnight, so you're always on the 60th day by stopping the clock even though you might be there another 15, 20 days. And finally under the threat of suit by some taxpayers and so on that it was an artifice and if you're going to have an extra Session beyond that--that you change it. And of course later on the Legislature was increased to 90 days. But we still--there's still these times they could not get all the business accomplished.

00:16:55

Evan Barrett: Now the word I got of that was that--that at 11:59 they stopped the clock, and then it stayed the 60th day. And somebody told me that they sometimes put a shroud over the clock then. Is that symbolic? I mean the 60--the 60-calendar days was a problem.

00:17:25

James Lucas: Absolutely.

00:17:26

Evan Barrett: And there certainly wasn't enough time and under the Old Constitution it became very relevant in 1971 when you had Extraordinary Sessions what we now call a Special Session--we now call a Special Session--had to be called by the Governor. Right now the Legislature can call it under the New Constitution; the Legislature can call itself back in. But back then only the Governor could call them, right?

00:17:51

James Lucas: That's right.

00:17:52

Evan Barrett: And they could only deal with the subject he delineated which was a very powerful thing which is different than today. One of the things why I think we don't have so many Special Sessions in the last decade or so

is that Governors got very wary about once the Legislature came into Special Session they could take up anything they wanted. And that was like oh gosh; you know *[Laughs]*--

00:18:21

James Lucas: Well interesting, because in '67 a big fight then in the Legislature over the sales tax and then you hit--after it was stymied and not passed then you hit '68 where nothing happened except in the background. There was still all the forces for and against the sales tax at war because they were pretty sure it was going to come into the picture again. And then you had '69 and then you had '91--sales tax dominated almost everything.

00:19:02

Evan Barrett: Now is it fair to say, if we take from where we were talking, the Senate Democrats killed it in '67 and Mahoney was the--the hero. He decided to run for Governor and in the Democratic Primary he came in second closely to Forrest Anderson who was Attorney General. Forrest--Mahoney didn't have to provide--prove his bonafidities on the sales tax. He had obviously done it in the Legislature. Forrest had to kind of prove here's where I am on the sales tax for the constituency of the Democratic Party which was anti-sales tax and he came up with that *Pay More What For* slogan and his opponent was Tim Babcock. And in spite of the fact that he was an incumbent Governor he lost by 14-percentage points to that *Pay More What For* slogan. That seemed to hit Legislators who said in the '69 Session maybe this is a fight we don't want to have right now. We just had--we just had it in November. Is that kind of how it played out do you think?

00:20:10

James Lucas: Yeah; with--without much doubt Forrest Anderson's campaign was clever. The Democrat Party was able to come up with some great slogans and *Pay More What For* is one sample of them. And it was the position of the Governor after the defeat in 1969 that the--that the people who really were in favor of the sales tax really never got out there and understood it and got to vote. And they had to re--sort of shape the tax and see what could be done in the future even though he had lost the Governorship. And so that--the--the feeling again was that the sales tax was the fairer tax with other exemptions from taxation and credits and things of that kind.

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And for example one of the Bills that was drafted exempted pharmaceutical and medical things. One exempt farm machinery and equipment and so on. And trying to re-design and reach those groups that should have been traditionally for the sales tax.

00:21:42

Evan Barrett: Trying to move a little of--there's a little inherent regressivity in the sales tax without exemptions. So the idea of taking a little of the regressivity out of it and getting more people from say the middle class to be for it was kind of making it a little more fair and so on.

00:21:58

James Lucas: Well and the other thing was, a surprising thing and that is in most or a great majority of other States which had enacted the sales tax, the moving parties were the Labor Unions and the Teachers Associations and strange because part of the great demand for funds at that time was to pay the teachers, provide proper education and so on. And here the parties that traditionally had been for it in other States were not for it in Montana. And that was the theory then that they just didn't do the job in getting to the right people in the right way and so that stage for the big 1971--.

00:22:51

Evan Barrett: You know and just it kind of gives you--it just goes to show you about the time you think you got things sorted out, all of us there's a wrinkle in it, and here it is the wrinkle in Montana is Montana is just you know the Labor Unions were against the sales tax as--and it wasn't the case in a lot of other States. It really colored it considerably.

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Now Forrest Anderson when he first came in, in '69, you were Speaker. That was an--an important Session because in that Session they set the stage for the Constitution and they set the stage for the 20 Department thing.

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James Lucas: Government Reorganization.

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Evan Barrett: Take a second with that for a second because that's where I--I first came into work in State government in 1969 in August with Governor Anderson's Commission on Reorganization which you helped create. And in fact we had your former Assistant or Deputy Tom Harrison on one of our programs; he's the last remaining member of that Commission. And we had a program on Reorganization. But it was pretty clear that the government was broken and needed to get modernized. Can you take a second--separate from the sales tax but just kind of reflect upon the--the attitude people had about maybe we ought to make this thing work?

00:24:12

James Lucas: Well yes and there was also the hope that turned out unfulfilled that by going along with the idea of--of condensing State government making it more efficient that--that was one of the key things that Forrest Anderson was talking about and that perhaps in adapting something that was needed and gave him some kind of kudo that he'd come along and recognized that the sales tax had the same kind of merit to it. But he--he was cagy, cagy and tough, and he--he made a pronouncement rather shortly thereafter that said that if I'm in my terms of Governorship I will not vote for sales tax without a vote of the people.

00:25:12

Evan Barrett: Right and vetoes anything that doesn't have a vote.

00:25:14

James Lucas: That's right; yeah, and so that's--that's sort of the way that all fit together. But that was one of the very important things to the State of Montana--not as important as the sales tax and certainly not with the exposure and attention of the sales tax but still reorganizing State government. There was also a Committee appointed from the Legislature Council to study the taxation laws of all provisions of Montana at the time. And when they got through they came up with the fact that about half of them were probably okay, lukewarm endorsement, and that there were a few of them that--that could be revised and the rest of them ought to be killed.

00:26:05

And that floated around for a while and--and made some headway in being considered.

00:26:14

Evan Barrett: Well when we look at this period of change a key element of change was re--was a strengthening, a reorganization of the Executive Branch. The modernization of the Legislature and staffing up the Legislature was another big step in that period with the Legislative Council which started at the late--in the late '50s but it worked its way through and started to have staff and that when modernization of the Legislature was a big thing to have it balance out with the Executive.

00:26:43

James Lucas: And the modernization of the Constitution.

00:26:46

Evan Barrett: Uh-hm.

00:26:46

James Lucas: It was another big issue at the time and of course ultimately ended up with the Constitution--adopting of a New Constitution being in 1971. And that was by Referendum; that's another whole story.

00:27:07

Evan Barrett: Oh yeah; that is quite a story.

00:27:09

James Lucas: Yeah; you know that--that handling of those things in the--the sales tax and--and talking about Labor, Labor was--was strong of course against the sales tax. In Butte, all eight of its Delegates were strong against the sales tax. And if you can envisage the Chamber of the House at the front one end sits the Speaker's rostrum and the great [Inaudible] painting and if you--and then the lobbyists arraign themselves up in the balconies and at the

upper left side almost directly over where the Butte Delegation sat was Labor's representatives. The ones I remember most were Joe [Inaudible] and Jim Murry, and Ernie Post and [Umber]. And they sat up there and--

00:28:08

Evan Barrett: They looked right down on that Butte Delegation. *[Laughs]*

00:28:11

James Lucas: And the Butte Delegation would look right up at them for direction. And one day we were hung up on something; I forget what it was and we were taking a final vote. And there was either the--the guys up--up above from the Labor Union--didn't get their act quite together or the--Healy and the other Butte Delegates--Delegation didn't get their--but they were having trouble getting their signals. And so I finally said, there will be a momentary--a moment of recess. Would you four gentlemen up there and I named them, stand up and signal a little clearer down to your Butte Delegation so they know how to vote? And--and with that comment, the whole balcony erupted in--in clapping and--and because it was such an obvious kind of line of direction at that time. But that was--

00:29:03

Evan Barrett: *[Laughs]* You know--

00:29:02

James Lucas: --an interesting aside.

00:29:04

Evan Barrett: --you got to have a sense of humor in this stuff, too, don't you?

00:29:08

James Lucas: Oh yes; you do.

00:29:08

Evan Barrett: Sometimes that's what keeps you going [*Laughs*] you know in the midst of all this stuff.

00:29:11

James Lucas: Yeah; yeah.

00:29:12

Evan Barrett: Now I want to have you take a second and reflect on something about the sales tax that is different from today in terms of--because the Republican Party was so strongly for the sales tax but they unlike today when it seems like you don't see anyone in the Republican Party advocating additional money for spending for good things, one of the reasons you guys were with the sales tax was you thought more money was needed for governmental services. And a bit of a difference from today where there seems to be a kind of almost an anti-government approach, I don't believe I remember that being so dominant in your period of time.

00:29:51

James Lucas: No; I--I think what's happened in the--in the follow-up of things is that--that vote on the Sales Tax Referendum in 1971 was so strong. What was it something like--

00:30:11

Evan Barrett: Seventy-percent.

00:30:12

James Lucas: --70/30?

00:30:13

Evan Barrett: Yeah; 69.8. [*Laughs*]

00:30:15

James Lucas: Yeah; that's pretty much a listen and the Republicans [*Laughs*] were tired of getting beaten around and out-maneuvered. It was a lot of legislative maneuvering. You had to be on top of Mason's Rules which were adopted by the Legislature because there was so many motions and counter motions to lay something on the table, a motion to set it down for a future date, just one after the other. And I think what happened is that the--the--the lesson which I think was over-kill but it was a lesson; the lesson was that hey the people in Montana are not going to vote for a sales tax for one reason or another. And so you saw the--the fire go out of that, although I personally still think that the wisdom of the sales tax was good and should have been modified and then codified and become part of the Montana setup because we've had--we've had problems after problems on revenue except for a couple times in the last several years.

00:31:35

Evan Barrett: Now we're going to start talking about 1971 because--but you're--before we do and I want to see if we can show you a picture, a couple pictures here close-up; you're correct however that--on this thing. If you read those journals the motions and the maneuvering in the journals is pretty phenomenal. I mean you are correct. There was a lot--you had to really know the rules because I read--I'm reading those journals now and I say man that is a convoluted path that--that Bill was going on [*Laughs*] over here and over there and up and down and so on. You know in 1971 you were Speaker for the second time and I wanted to hold up this. I don't know if we can zoom on it at all and see that. Let me see there we go; that's--that's Jim in 1971. Yeah; back it up a little bit because it's losing focus but there we go. And next to him is Jim--is Tom Harrison who was a Majority Leader.

00:32:38

James Lucas: That's right.

00:32:41

Evan Barrett: And we had Tom on our Executive Reorganization show. And so that's the Speaker of the House and as I say, a giant in politics of that period, and I wanted to bring this up as well because this is an editorial page of the *Montana Standard*, the day before the sales tax election in 1971 and you can see that picture right here which is Speaker Lucas. And there's his wet-behind-the-ears kid here who is arguing the other side of the case there by the

name of Evan Barrett. And all I can remember is I couldn't figure out--what in the heck am I doing in this fight?

[Laughs] You know I had--I had been named Executive Director of the Party in June of 1971 leaving the Governor's Office and I was 25 when they selected me and I soon became 26, little knowing that by the end of that month you were going to put that Referendum on the ballot. And then suddenly I was thrust into this battle over sales tax and wow what did I know except it was my job to get in there and go fight for it.

00:33:52

James Lucas: Sure.

00:33:52

Evan Barrett: So--so this was symbolic of the fact that I got such a kick the other day when we found that, that I had forgotten that you and I were on the editorial page against each other [Laughs] 44 years ago.

00:34:05

James Lucas: Oh gosh; well you see you recall that much quicker than I did until you showed me the copy and it was very interesting.

00:34:14

Evan Barrett: And your arguments were very salient I got to tell you. You know you gave a good argument in there.

00:34:19

James Lucas: The--the final paragraph is sort of interesting on what I wrote. It said *the issue is not the imposition of a sales tax; it is the adoption of a tax return which will make a--make possible a financing government for the State of Montana.*

00:34:42

Evan Barrett: Yeah.

00:34:43

James Lucas: The whole thing is sort of there.

00:34:44

Evan Barrett: Yeah.

00:34:45

James Lucas: But there's no question about it that the wind went out of the sails of the sales tax proponents.

00:34:52

Evan Barrett: And it--and it not only took the wind out of the sails of the--the sales of the proponents of the sales tax but a result like that with the Parties so diametrically opposed and identified, is it really virtually deep-sixed the Republican Party from any chance of majority status for at least a decade. I mean it--it was way--quite a long time before you know you--we had the--the Republican Party get in the majority of either House.

00:35:21

James Lucas: That's right.

00:35:23

Evan Barrett: It's interesting thing. But the '71 Session was quite a--a donnybrook. The sales tax came up. You were implementing Reorganization legislation at that point but that was more--a lot of work in that but that was not a heavy political fight because it had to be done by the Constitution. But the sales tax was there and you again, you went through this--what remarkably three Sessions in the first six months, two Special Sessions and a--and a Regular Session--

00:36:03

James Lucas: The Original.

00:36:04

Evan Barrett: What's your general recollection of that year? I mean--

00:36:09

James Lucas: Well let me look at my notes here because in talking about the consideration of the sales tax in that year I put in that it was a wild year, a magical moment, great parliamentary maneuvering, harsh feelings sometimes, and strange alliances. Now the strange alliance referred in part to a continuing feeling between the Butte Delegation and our own Delegation meaning our own by Eastern Montana. We sort of worked together on a lot of things that we considered necessary for our respective parts of the State. And of course Butte is always the heart of things and--and was the home of Anaconda Company, as it started to diminish its effect there, and it was--it was just a time that was unbelievable. And certainly the parliamentary maneuvering was something that you had to take a blackboard and start marking out to get the large number of--of motions that were made. For example, a motion to lay a Bill on the table which is usually designed to kill it; in order for it to come off the table and be reconsidered the vote had to be two-thirds.

00:37:39

Evan Barrett: Two-thirds at that point; yeah.

00:37:40

James Lucas: You just--you just couldn't do that unless you had a specific purpose and the Democratic Party did a great job in maneuvering under the parliamentary--

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Evan Barrett: As I look in the--and one of the--one of the things that I ran into repeatedly was that if they really wanted to kill a Bill that as soon as the vote was over within 24 hours you can move for reconsideration if you're on the prevailing side. So as I look at the Senate record, immediately look [McKeon] to jump up and say I move for

reconsideration and then his Majority Leader to jump up and say I move that the reconsideration motion be put on the table, and then when it got on the table it took two-thirds to get it off and it effectively killed the Bill.

00:38:19

James Lucas: Sure.

00:38:20

Evan Barrett: It was almost like clockwork watching that stuff going on, you know. **[Laughs]** And--and you really did have to know the rules.

00:38:26

James Lucas: Yeah; it was--it was great.

00:38:29

Evan Barrett: Now--now in the Regular Session the Democrats introduced a Referendum Bill which was quickly killed. And then the Republicans introduced, I think it was House Bill 522 that **[Christensen]** and **[Fosman]** and those guys put in was to put it on the ballot in November of '72.

00:38:49

James Lucas: That's right.

00:38:49

Evan Barrett: But that died quickly and was followed quickly by the Republican version which was House Bill 586. And that did look like it was going to pass and it--had a Committee Report that made it out but you were 55--you had 55 Republicans and 3 of them broke ranks.

00:39:15

James Lucas: Yeah; that--that Bill was--as soon as it came out was referred to the Ways and Means Committee and of course the Minority Report was killed. The Majority Report is the one where--

00:39:29

Evan Barrett: And it passed, so then the Bill was on second reading.

00:39:32

James Lucas: That's right and they waved the rules to get it up there to a third read. And then, the do not pass recommendation of the Committee Report was adopted which means its main result was it killed the--

00:39:51

Evan Barrett: You did go to third and when it got to third it was a tie.

00:39:58

James Lucas: Tie and the Governor had to step--the Lieutenant Governor was--

00:40:03

Evan Barrett: Well that was in the Senate side. In the House side it just died.

00:40:07

James Lucas: Oh that's right.

00:40:07

Evan Barrett: Because you lost--three of the other guys from two years before; you lost Perry and [Marabout] and Smith, right.

00:40:15

James Lucas: Right.

00:40:15

Evan Barrett: And so you went from 55 to 52 and the Democrats went from 49 up to 52 and you had a tie vote and it--and that was in the end of it--as I read it and it never even got over to the Senate then in the Main Session--in the Main Session.

00:40:35

James Lucas: Yeah that's right. Main--that was the end of it.

00:40:37

Evan Barrett: So Forrest called an immediate Special Session four days later.

00:40:45

James Lucas: That's right.

00:40:45

Evan Barrett: Did he consult with you guys and was there kind of discussions among leadership to do--like figuring well let's come back in here or--?

00:40:58

James Lucas: Well I'll tell you; Forrest was a different kind of a Chief Executive. You--you didn't do much conniving back and forth. Forrest's way of handling a matter was to say you will do such and such. **[Laughs]** And you know he had a lot of criticism; it didn't bother him. It rolled off his back like water off a duck. And he--he moved forward. There was some--the real negotiation of where to go and what to do, came in the later Committee works and there with people like **[Zvi]** quite active and others. But--but Forrest was not the most cooperative Chief Executive.

00:41:49

Evan Barrett: Well you--when they called you back in and the sales tax was one of the two issues; I think the other was long-range building but you had two issues. And--and that Special Session which that went 27 days.

00:42:10

James Lucas: That's right.

00:42:11

Evan Barrett: Twenty-seven days, the entire month of March right up into the early part of April in an effort--and again there was--in that case the big Bill was House Bill 16 and House Bill 40 when I was looking through this thing. The 16 went from the House into the Senate; again you passed it on a--a third reading 54 to 50. The only guy that broke ranks then--break ranks then was Perry. So when you finally passed it, it went to the Senate but they--they just killed it on a Party line vote. So then you brought up this House Bill 40 and that's all the way in the 22nd legislative day by the time that came in so you had been there already three weeks.

00:43:01

James Lucas: Yeah and that Bill was the one that was sponsored by Murphy in the House, Republican and some other--I think there were five other Republicans sponsoring that and bringing that out to the front.

00:43:16

Evan Barrett: Let me ask you about your--your leadership style. Were you as Speaker--and you had the majority and you had your team, how did you decide moving things forward? Did you have a core team that you worked with or how--?

00:43:32

James Lucas: Well pretty much. You know there were--there were a lot of good knowledgeable people on the Republican side in that Legislature and it--we--we formed sort of a cadre of those people and worked with them. Most of the decisions were mine but they were mine--well-fortified by my cohorts.

00:44:01

Evan Barrett: Your leadership style was to get them in the room and bring them along and then generally you had an idea of where you wanted to go and--

00:44:11

James Lucas: That's right.

00:44:12

Evan Barrett: --got them to go there. Well that's leadership.

00:44:13

James Lucas: Well on the--*[Laughs]* it worked out pretty well anyway.

00:44:17

Evan Barrett: You know I told you before that you were formidable and you were a frightening thing to--to Democrats, who looked at you and said now there's a guy if he was running for Governor, he'd be one heck of a candidate and he'd be really tough to beat. Now the sales tax made a difference in that but I got to tell you, the--the level of respect that the Democrats had for you as an opponent was extraordinarily high--extraordinarily.

00:44:48

James Lucas: Well that's--that's a nice thing to--to hear.

00:44:54

Evan Barrett: He probably didn't say it that day. *[Laughs]*

00:44:57

James Lucas: No; no, but I had great feeling for Montana and great feeling for the Legislature and what it could and should be doing. And in that process we made a lot of friends on both sides of the aisle. And so it--it was sort of a wonderful time to be working even if things didn't go our way.

00:45:23

Evan Barrett: Uh-hm; it was really interesting. Well in this House Bill 40 you passed that out and you only lost Perry. And so you sent it across and again, they very quickly disposed of it. I think the only Republican that broke ranks was McCallum, Senator McCallum.

00:45:40

James Lucas: Well and I think he broke ranks more to have the right to reconsider.

00:45:48

Evan Barrett: That was another little gambit people would do is if you thought a Bill was going to lose you could vote with the prevailing side so you might be able to get a reconsideration motion.

00:45:55

James Lucas: Get another shot at it.

00:45:57

Evan Barrett: Yeah.

00:45:57

James Lucas: Yeah.

00:45:58

Evan Barrett: And it--but that died quickly and all of a sudden the 27th day it was on the table, two-thirds vote needed, everyone went home.

00:46:08

James Lucas: That's exactly right.

00:46:11

Evan Barrett: And sat around for two months, two months until the next Special Session. Was there a lot of dialogue amongst folks in that two months or was it--?

00:46:22

James Lucas: Quite a bit of dialogue, not the--not the dialogue between Committees that would be established and would be working on it but involving many of the same people. And there was--there was an effort to see if anything would come up and every phone call ended up in the conclusion. Hey this is an impasse.

00:46:46

Evan Barrett: Well you know and you were having an impasse between the Democrats and Republicans and you had the Governor taking the position that he would not support anything that didn't have a vote of the people. There had been previous efforts to have it put on the ballot in November of '72 but that was too late to meet the needs of the State.

00:47:03

James Lucas: That's right.

00:47:04

Evan Barrett: So when you--the Governor called you back in, in early June, you're getting awful close to the beginning of the fiscal year and about to run out of money. Action had to be taken. It took 19 days but the first Bill again House Bill 12, the one that became law, became the Referendum called for November of '72 as the election but then it was shifted to November of '71 and--or September of '71.

00:47:35

James Lucas: September of '71. There--there was the feeling there that you just couldn't pile that onto the vote on the Congressional--on the establishment of the Constitution. You had to have separate consideration, more time, and it should be earlier in the fall than November.

00:47:58

Evan Barrett: But was the consideration when they did--when we did move it forward to--to happen in November concurrent with the Con-Con was that more of a fiscal issue that it cost money to run elections so let's be piggybacking because it eventually became--?

00:48:13

James Lucas: Well that--that was a consideration but I'm not sure that--that was the moving consideration.

00:48:21

Evan Barrett: Yeah; uh-hm.

00:48:22

James Lucas: Just felt it was more time and more time for people however it went to be working on--on things before the--ample time before the Constitution because much of what the Legislature would do would be have some influence on the Constitutional Convention when it came along in '72.

00:48:47

Evan Barrett: Now the--what emerged and the consensus came and once the consensus came the votes started falling into place--was to have this thing on the ballot and to have it be a choice between a two-percent sales tax and a--two-percent sales tax with the ten-percent income tax surcharge or a forty-percent income tax surcharge. It was a clear choice between two sources of revenue which I don't think we can do under the Constitution today under the rules but under that Constitution we could.

00:49:23

James Lucas: At that time.

00:49:24

Evan Barrett: So it was a really clear choice put forward and once that happened boy the votes really came didn't they? I mean--

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James Lucas: They did.

00:49:31

Evan Barrett: Yeah; you kind of have to get out of the way when the votes are there. You know it's like the dam bursts and water comes.

00:49:39

James Lucas: Yeah; yeah especially when you take into consideration the frustration of a lot of people, a lot of voters in Montana, a lot of Legislators themselves. They are--you're in your third--you're in your third Session for that year of the--the original first Extraordinary Session and then the second--that's three times the Legislature was meeting on those issues.

00:50:06

Evan Barrett: Uh-hm; now here we are at the end of June. It's--it's virtually July 1st; something is on the ballot the 1st of November effectively. There's a four-month period and suddenly there has to be a campaign. And from what I could see that the pro-sales tax advocates of which you were one and a major one grabbed hold of the shell group called the SOS, Save Our State, which had been left over from a previous election and--and used that name and used that entity. And your Clerk of the House Zach Stevens became the--the Director of that and there was a fellow named **[Nybo]** who was the President, but that--that became the vehicle that promoted the sales tax.

00:50:52

James Lucas: Uh-hm; that's right.

00:50:54

Evan Barrett: And you remained a major proponent, spokesman, you were out there giving speeches; you were giving knowledgeable speeches. I was pretending to give some knowledgeable speeches. **[Laughs]**

00:51:08

James Lucas: Well I--I would take issue with that. But that's--that's precisely what happened. And as the thing played out it was designed to give more time on the sales tax result. In fact there was a contingency in there--I can't remember just exactly where it came in but if the sales tax passed then the surtax on the--that's right, the surtax on income tax would go down so it wasn't just totally putting a new tax on the people.

00:51:47

Evan Barrett: So it was the same amount of money basically just divvied up in different ways and--but it seemed like in--and again in living through it, and again I was a young guy just learning the ropes and living through it, while we were out talking the issue, the politics in the newspapers played out almost differently. The focus seemed to be who is supporting it and there seemed to be a big consternation about is big--is big business supporting the sales tax or not and that became a very dominant headline grabbing thing.

00:52:24

James Lucas: Well to the--to the point that within a few days prior to the actual election on it the--the--an issue was thrown in the Court of Judge Fall--

00:52:39

Evan Barrett: Victor Fall in Helena.

00:52:39

James Lucas: --Victor Fall in Helena and it was to rely on a provision in the Constitution that could force one side to reveal its fund--fund sources and votes. And so the--the group--

00:53:00

Evan Barrett: Cost--

00:53:01

James Lucas: --Cost got into court and got an order from the Judge. Mr. [Nybo] who had the books and information was gone on a hunting trip. This was--this was all played out not over five months at a time but more like five days.

00:53:21

Evan Barrett: Five days; yeah.

00:53:23

James Lucas: Yeah.

00:53:25

Evan Barrett: Pretty intriguing stuff that suddenly there's a lawsuit and he's hunting and doesn't show up in Court and that makes the Judge really mad and he--

00:53:34

James Lucas: He sets it again and he still doesn't show in the Court.

00:53:38

Evan Barrett: And--and the net effect of it was I--I almost have never seen something like that but there was a newspaper story that started with the words *oh where, oh where has Ken [Nybo] gone; oh where, oh where can he be? He's off a-hunting with the--with the books that Cost wants to see or something like that.*

00:54:04

James Lucas: Yeah; I remember that.

00:54:05

Evan Barrett: Gosh almighty; when you read that it's like how--. So it seemed to me the issue of the--what the sales tax meant was argued out by the participants like you very thoroughly and like me and like Jim Murry at the AFL-CIO or Clyde Jarvis and--and the Head of the Chamber of Commerce were all arguing the policy but the politics was playing out in the headlines. Who is supporting it and how much money and--

00:54:34

James Lucas: Dig not at the--necessity of was it good, was it bad, but what were the currents flowing behind it was really what's involved. You mentioned Clyde Jarvis. I have to quickly tell you one instant; Clyde Jarvis was--when I mentioned that some of the movement in the House battle on the sales tax was harsh, Clyde Jarvis who was--had a radio program at 8:00 in the morning--

00:55:08

Evan Barrett: *Featuring the Facts* he called it.

00:55:10

James Lucas: --*Featuring the Facts*.

00:55:10

Evan Barrett: Sponsored by the Farmers Union.

00:55:12

James Lucas: Farmers Union, and most of the time it was spent on lambasting me. [*Laughs*] But the thing is I could count on the phone ringing in my office about 8:10 and my wife would be on the phone and she said did you

hear what he--did you hear what he said today? What are you going to do about it? **[Laughs]** So he--he got under somebody's skin.

00:55:39

Evan Barrett: Isn't it the truth that when you're in the political arena yourself you have defenses and offenses. You can protect yourself. You can fight it out the next day. But the spouses have no defense.

00:55:57

James Lucas: That's right.

00:55:58

Evan Barrett: And it's--and it hits them and they're saying do something about this and--and it's--

00:56:03

James Lucas: Your family definitely is aware of these things that go on of that type.

00:56:09

Evan Barrett: Yeah; I've often found that they--they get--they hurt a little more than the protagonists do.

00:56:16

James Lucas: Yeah; no question about it. You're--you're not there to make a response to and from and--. Well that was--that was--

00:56:27

Evan Barrett: But--but because of this suddenly both the policy I'm sure and the--and the politics were playing out wrong. The vote was 70-percent against it.

00:56:37

James Lucas: Yeah.

00:56:38

Evan Barrett: And it was a killer.

00:56:39

James Lucas: That's right.

00:56:41

Evan Barrett: And one of the things it did and I want to focus a little bit on this and this is personal but you were the logical candidate for Governor in 1972 and a scary formidable candidate for Governor but that sales tax made a difference with you on whether or not you pursued that or not. And you opted not to.

00:57:02

James Lucas: That--that's correct. It took a lot of soul searching to reach that conclusion. I'd already set up a number of Committees around the State in preparation of running for the Governorship. And after that happened in that fashion so thoroughly my wife and I and our family sat down at home and you had to ask yourself, well let's supposing you go through the battle and you win and you're there. What does that do with your family which at that time happened to be my wife and myself and children? And we--we finally decided that life had a little more to hold for us in backing away. And it was--it was a hard decision to make believe me. And it's--it just went that way. It was--we were in the battle for this Special Session at the time. I mean for the Annual Session and I was of the opinion that the Annual Session would be voted on and would be sustained and if you're going to say in, you're in just deeper.

00:58:26

Evan Barrett: You'd be going every year to the Legislature and--

00:58:28

James Lucas: That affects your law practice, it affects your family, all those things and so--

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Evan Barrett: Well we're running out of time. This hour has gone by so fast I can't tell you. And it's been such a great pleasure. I wanted to say that you stepped out and after one more term in the Legislature but your presence was missed in all kinds of ways, the leadership that you provided for this State was extraordinary leadership. Even those who disagreed with the direction you might want to go had the highest degree of respect for everything you brought to the table. And I got to tell you that--that it's been a great pleasure for you to be able to join us *In the Crucible of Change* and give us your reflection on this marvelous time. And so with that I'm going to have to close quickly and let you know that we'll look forward to seeing you on the next episode.

00:59:24

[*Music*]

`01:00:24

[**End Big Battle - Serious Stakes - The Big 1967-1971 Sales Tax Fight**]