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# Transcript for Episode 25: Razor Thin Win: ConCon Ballot, Campaign, Ratification Vote & Court Fight

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**[Begin Razor Thin Win-The 1972 Constitution Ballot, Campaign, Ratification, & the Courts]**

00:00:00

**[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.

00:00:26

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.

00:00:55

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 for Change*. And you know we've done a huge amount of our analysis of the change period in Montana; has been built around the Montana Constitution of 1972. It was the fulcrum upon which a huge amount of change occurred. We've talked about it all kinds of different ways during his series. And today we're going to take a look at kind of the almost aftermath; what happened after the Delegates did their work on the Constitution? What about the shape of the ballot? What about the actual campaign to ratify the

Constitution? What about the Court cases that came as a result of a very, very close vote? This is an exciting part of the Constitutional Convention story and we're blessed with two wonderful guests today, the youngest and the second youngest Constitutional Convention Delegates, Mae Nan Ellingson--Mae Nan was Mae Nan Robinson at that point; now she's--well known around the State Mae Nan Ellingson and she was the youngest Delegate out of Missoula, and joined by Mick McKeon. Mick is from the McKeon family in Anaconda, well know political family but was a young attorney, was the second youngest Constitutional Convention Delegate out of Anaconda. So welcome to both of you to this series of *In the Crucible for Change*.

00:02:52

**Mick McKeon:** Thank you Evan.

00:02:53

**Mae Nan Ellingson:** Thanks.

00:02:55

**Evan Barrett:** The--before we get too far into this I wanted to ask you again to recap your reasons; why did you decide to become part of a constitutional change in Montana? What motivated you to say I want to throw my hate in the ring and run for this and Mick why don't you take that first? What--why did you decide to do this?

00:03:18

**Mick McKeon:** I'll be happy to Evan. I had just graduated from Law School. I graduated in June of 1971. Nobody ever claimed that I was one of the outstanding students in my class, but--

00:03:34

**Evan Barrett:** We don't have to; you know don't want to admit too much here. **[Laughs]**

00:03:37

**Mick McKeon:** That's as far as I'm going to go. But my family had been involved in politics. My dad had been the State Senator from Deer Lodge County. My uncle Willis had been the County Attorney up in Phillips County. I had a number of other relatives involved in politics and they thought it was a good idea that I do it.

00:03:58

They prodded me a bit. I jumped in and started campaigning, started debating and became really interested in the vital issues that were before the people and saw the opportunities that were for changes.

00:04:19

**Evan Barrett:** There were quite a few people--ran in the--in the County of Deer Lodge as I remember.

00:04:23

**Mick McKeon:** Yeah; there were. There were.

00:04:24

**Evan Barrett:** Yeah; so it was a high-degree of interest in it.

00:04:26

**Mick McKeon:** There was extreme interest. Large turnout; in the end I think Deer Lodge County ended up with the largest plurality in favor of the Constitution in the State. But getting back to your--

00:04:43

**Evan Barrett:** As a--as a--what a marvelous opportunity as an emerging young attorney to have the--the chance to do this. I'm sure that--that was something in some ways maybe your dad and uncle thought they could but of course your dad couldn't run could he?

00:04:58

**Mick McKeon:** Right; he was a member of the Senate.

00:05:02

**Evan Barrett:** So the previous Supreme Court decision that said if you're a sitting Officer including a Legislator you cannot run. So there they said you know Mick why don't you do it, huh?

00:05:11

**Mick McKeon:** I recognized the importance of it, the significance well into the campaign and was thrilled to be a part of it.

00:05:22

**Evan Barrett:** Yeah; that's good. Now Mae Nan, you ran an extraordinarily strong second as the youngest person on the ballot there in Missoula. Tell us what--what motivated you to even jump in on this thing?

00:05:36

**Mae Nan Ellingson:** Well at the time I was working on my Master's Degree in Political Science, so and I had a great mentor with Dr. Ellis Waldron and he was very interested in my education and I guess political career. I had just turned 24 which was the requisite age to run and he said you know you really ought to do this. I think you would do an excellent job. And I thought about it and thought well why not? And I don't know if I really thought I had a chance because like in Deer Lodge County, there was a great interest. Missoula County elected 8 Delegates but in the Primary, we started off with 64 people vying for those eight seats in terms of all the people who had filed as Republicans, who had filed as Democrats, and then there was a healthy dose of Independents in--from Missoula.

00:06:43

**Evan Barrett:** Even some New Reform.

00:06:43

**Mae Nan Ellingson:** And New Reform, right; right. So--so out of the 64 in the General Election those--or in the Primary those were winnowed down to 24 in the Primary. There were eight Democrats, 8 Republicans and 8

Independents. And how I ended up getting the second highest number of votes after John Toole, I don't really know. I just thanked my lucky stars I did though.

00:07:14

**Mick McKeon:** If I could interject Evan? Mae Nan was remarkable at the Convention, absolutely remarkable but just as remarkable is the fact that out of the huge number of incredibly well-qualified candidates who ran from Missoula County, the fact that she was second on the ballot I found amazing.

00:07:38

**Evan Barrett:** Yeah; you know it--by the way, some disclosure here. I've known both of you since all the way back then and in fact I knew you when we were in Graduate School. I was in Graduate School and you were still in Undergraduate.

00:07:50

**Mae Nan Ellingson:** Right exactly.

00:07:50

**Evan Barrett:** Back then in 1968 or '67--'68, and then I've known you and your family all these years. And so we like to always say that let's disclose that we all know--Montana is a small town with really long streets.

00:08:05

**Mick McKeon:** Yes.

00:08:06

**Mae Nan Ellingson:** *[Laughs]*

00:08:06

**Evan Barrett:** The other thing is to--to mention that this is not an interview. This is a conversation. And so I'm liable to jump in and intervene and say something goofy but feel free at any time to throw in. And if you want to head another direction because these are important things to talk about and as we got to the--to the end of the Constitution, the election was held in November. And the--the Convention convened on the 17<sup>th</sup> of January of 1972 and then you finished your work actually early; is that right?

00:08:44

**Mae Nan Ellingson:** Yeah.

00:08:45

**Evan Barrett:** You saved a couple of days and in that process saved a little money.

00:08:50

**Mae Nan Ellingson:** Uh-hm.

00:08:51

**Evan Barrett:** Kind of a little nest egg there for some purposes.

00:08:53

**Mick McKeon:** About \$40,000--\$45,000.

00:08:55

**Evan Barrett:** Yeah and--and it was signed by all the Delegates on the 24<sup>th</sup> of March. And the election was set for the 6<sup>th</sup> of June, the normal Primary Election. So there was just a--maybe 10-weeks--maybe 10-weeks to campaign for this amazing document but before it was--went to the ballot there were some big decisions that were made inside the Constitution, some of which were pragmatic and some maybe philosophical but there were three big side issues. So when it was on the ballot there were four things--ratify and three other issues. Can we dive into those a little bit as to--to--to what--? Maybe let's start with the Unicameral Legislature.

00:09:51

**Mick McKeon:** Well there were three side issues. The first being Unicameral which means one House--

00:10:00

**Evan Barrett:** Instead of there being a House and a Senate there would be just one legislative body.

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**Mick McKeon:** Right and--and I think it was designated as 100 Delegates.

00:10:09

**Evan Barrett:** Yeah and that was kind of patterned after Nebraska.

00:10:12

**Mae Nan Ellingson:** Right.

00:10:12

**Mick McKeon:** Right.

00:10:13

**Evan Barrett:** Which was deemed by many to be--when we had a report and a discussion with the Legislative Committee, they said almost uniformly the Nebraska Legislature was looked at as being perhaps the most functional in the nation, so why not have Montana do it? And furthermore, your body was a unicameral body.

00:10:32

**Mick McKeon:** Right.

00:10:32

**Mae Nan Ellingson:** Exactly.

00:10:33

**Evan Barrett:** So that was--but why was that put on this side instead of in the main document because the main document--?

00:10:41

**Mick McKeon:** Mae Nan may or may not disagree with me, but my recollection is that while the Delegates--I think the majority of the Delegates were for the Unicameral Legislature; we were concerned that the voters might not be. It was a highly controversial issue and our concern, and this applied to the other side issues, was that it could bring the Constitution down.

00:11:12

**Evan Barrett:** If it had controversial stuff in it and--? What was your take on the Unicameral--?

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**Mae Nan Ellingson:** Well I--I was in the Legislative Committee and I was a big proponent of the Unicameral Legislature.

00:11:22

**Mick McKeon:** As--as was I by the way.

00:11:23

**Mae Nan Ellingson:** And the majority of the people on the Legislative Committee recommended legislative--or Unicameral Legislature but there were some really thoughtful Constitutional Convention Delegates. Chet Blaylock for one and Grace Bates for another, who really cautioned that if you put the Unicameral Legislature in the body of the Constitution it's so unusual; it's so--such significant change. I mean there is only one other in the United States

that it would be just too much to bite off on. And--and even though I favored it, I--I agreed. I--I think that--that was totally right that it probably would have been too much of a change for most--for most people.

00:12:24

**Mick McKeon:** I think it would have been difficult for the voters to digest.

00:12:29

**Evan Barrett:** By the way Grace Bates was a Democrat from Manhattan and Chet Blaylock was a Democrat from Laurel.

00:12:37

**Mick McKeon:** Both highly respected people. Their voice must have been important in that. It seems to me that most citizens don't draw the lines of distinction between the structure of the State government and the structure of the Federal government. And since the Federal Constitution has a Senate and a House I think it's fair to say in my judgment that most voters would have said why are we not doing what is our great American tradition? And--

00:13:11

**Mae Nan Ellingson:** I think the other really big argument for most people is that they have a rough understanding of checks and balances and while they don't necessarily admit that it should be the Legislature should check the Executive or the Judicial and vice-versa, a lot of people really like the check and balance between the House and the Senate. I mean you know some of us would call that stalemate more than checks and balances. But--but that is a built-in counter--it's just a built-in prejudice or limitation I guess that people want everything balanced.

00:13:59

**Evan Barrett:** Well and if you think about it from a Federal perspective that is what the objective was. The objective was to not let the great unwashed run crazy through the House of Representatives with stuff. It had to get balanced out by that Senate over there and--and--

00:14:17

**Mae Nan Ellingson:** Right but of course all of that got wiped out--that whole rationale got wiped out in the late--you know what 1966 with *Reynolds v. Simms* and *Baker v. Carr* where you can't have voters representing cows. I mean you--you've got to represent people in both Houses of the Legislature, so that historic reason for the Upper House just disappeared after those Court decisions.

00:14:50

**Evan Barrett:** From a legal perspective however I think one of the things we've discovered going through this series of programs is that reapportionment was a lynch pin for a lot of the change that occurred in Montana, but it also built up a huge amount of resistance and particularly in the rural areas of Montana. And that was evidenced in the final vote on--

00:15:11

**Mick McKeon:** Absolutely.

00:15:11

**Evan Barrett:** --all this stuff. There was a significant rural/urban split but--but we did put the Unicameral on the outside. And that was a safety measure so to speak, a pragmatic decision.

00:15:22

**Mae Nan Ellingson:** Yes.

00:15:22

**Evan Barrett:** Notwithstanding the--maybe the majority of the Delegates wanting to go Unicameral.

00:15:30

**Mae Nan Ellingson:** Right.

00:15:30

**Mick McKeon:** If I could interrupt for a minute. Ironically at the Federal Constitutional Convention in 1883 Unicameral Legislature, Unicameral body was widely discussed and seers such as Thomas Jefferson and others who opposed a House of Lords and House of Commons which they found repugnant because the House of Lords literally bought the House of Commons.

00:16:04

**Evan Barrett:** In England?

00:16:04

**Mick McKeon:** Yes. They were for a Unicameral Legislature.

00:16:09

**Evan Barrett:** But they didn't prevail down--by the way; here's the vote, here's the vote on the Unicameral. That was a side issue, so that 50, a little over 56-percent voted against it and a little bit under 44 voted in favor of it. So the margin was about a 27,000 vote negative on it. So it was fairly soundly defeated.

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**Mick McKeon:** And I think we anticipated that.

00:16:36

**Evan Barrett:** And I think--but I think it does speak to the judgment and the pragmatism of the Delegates who said let's not hang ourselves out on something here. As much as we like it this might be a bad decision.

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**Mae Nan Ellingson:** There--there are plenty of other really good things in the Constitution that we wanted to save without subjecting it to that risk--

00:16:57

**Mick McKeon:** It would have been a really hard sell.

00:17:00

**Evan Barrett:** Yeah; now the other two things that were side issues--one was a big--was kind of an economic issue if you will, a little economic freedom issue which was gambling and the other one was more of a philosophical one which was the death penalty. Let's talk about the death penalty because that was put on the side and it clearly was a very hot issue.

00:17:22

**Mae Nan Ellingson:** It is and that's another one where I think practicality won out over the idealism of the Delegates because I think--I'm pretty sure and you correct me if I'm wrong on this, but--but the majority of Delegates if they were voting their own conscience would have voted to abolish the death penalty.

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**Mick McKeon:** Mae Nan is right.

00:17:48

**Mae Nan Ellingson:** And that you know that was something that people really felt--the majority felt very strongly about lead in large measure by Reverend George Harper and he gave some very impassioned pleas about abolishing the death penalty. But that was the issue that we received lots and lots of [mail] about--do not abolish the death penalty. So again, I voted to have it as a side issue.

00:18:23

**Mick McKeon:** Yeah; as did I. We--we talked about this earlier but when we'd go home on the weekends and have town meetings that would always be one of the major topics of discussion in Deer Lodge County. And surprisingly most of the people in Deer Lodge County were in favor of abolishing the death penalty which surprised me.

00:18:45

**Mae Nan Ellingson:** Yeah.

00:18:45

**Mick McKeon:** It was such a visceral issue--

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**Evan Barrett:** Yeah; well I--you know and guess what? The--probably every Delegate that was found in favor of it went to the ballot box and voted it--on it the right--the way they wanted to within their conscience but--

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**Mick McKeon:** Yeah; sure.

00:19:00

**Evan Barrett:** --but again it's an interesting thing to look at this kind of mixture of pragmatism with--with policy and--and principle because so much of the Constitution is about have--what are the right governing principles? And yet if you're not pragmatic about it you may lose it all.

00:19:21

**Mick McKeon:** We had to be pragmatic. We--we felt so strongly the document that we had written was so good and so beneficial to the *crucible of change* that you've mentioned that we couldn't risk it all to use Rudyard Kipling's phrase *on one toss of the dice*.

00:19:45

**Evan Barrett:** Yeah; well so what happened with the--with the death penalty. Overwhelmingly retained; the question put on the ballot was shall we retain it? So positive vote meant keep it. And six--little over 65-percent voted in favor of it and 34-percent against so it was almost 2 to 1. So I think it was probably--looking back on it, it's like boy that was obvious, huh?

00:20:12

**Mick McKeon:** I think--I think we expected that.

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**Mae Nan Ellingson:** But it's so interesting isn't it that every Session of the Legislature nowadays there is a Bill introduced to repeal the death penalty.

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**Evan Barrett:** And it's still--

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**Mae Nan Ellingson:** And it's still but it gets closer every time.

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**Evan Barrett:** Yeah; uh-hm. And you can make a case that--that perhaps it's a statutory issue anyway. I mean it could make that with almost anything. It's a fairly high level issue. But you guys were writing a--a basic document and I suspect life is a big issue.

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**Mae Nan Ellingson:** Uh-hm.

00:20:55

**Mick McKeon:** Yeah; I'm not convinced that it's statutory. I think it's appropriately constitutional.

00:20:59

**Evan Barrett:** Yeah; but--

00:21:01

**Mick McKeon:** It can be both.

00:21:01

**Evan Barrett:** --you guys made the right choice. You made the right choice from a pragmatic perspective. Now the third side issue was gambling. Now there's a hot button issue in Montana.

00:21:14

**Mick McKeon:** Right.

00:21:14

**Evan Barrett:** Everybody has got an opinion on that and the issue was shall we legalize gambling? Is the Legislature going to be allowed to authorize gambling? Isn't that basically how it was laid out?

00:21:26

**Mae Nan Ellingson:** Yes. Yes and I think what's so interesting about the contrast between this--this side issue and the other two side issues is that you could--you know if you were a one-issue person you could vote against the Constitution and still have the death penalty. Same with the Unicameral or Bicameral Legislature; I mean you could vote against the Constitution and you're still going to have Bicameralism. I mean the irony about this side issue and I think it might have been an irony that was lost on the people in Butte because I don't think they got it was that the only way you're going to get gambling is if you pass the New Constitution. And people just didn't grasp that because I mean if you look at the vote in Butte--now maybe there are other reasons for this but Butte voted to be--approve gambling by 70-percent or something like that, whereas they only voted in favor of the Constitution by 47-percent. So I mean you know--

00:22:49

**Evan Barrett:** There's at least 28-percent of them that didn't get it.

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**Mae Nan Ellingson:** Yeah; at least--

00:22:53

**Mick McKeon:** Butte was an anomaly. You would have expected Butte and Deer Lodge, Silver Bow and Deer Lodge County to vote in tandem.

00:23:02

**Evan Barrett:** The same and they didn't.

00:23:03

**Mick McKeon:** Didn't.

00:23:05

**Evan Barrett:** They didn't; now but--but I think that point is critical. Some people might have gotten it that in order to get gambling you got to pass the Constitution.

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**Mae Nan Ellingson:** I mean we tried to tell people that we--for whom we knew gambling was a really big issue that the only way you're going to get it is if you vote for the Constitution.

00:23:25

**Evan Barrett:** Let's explain why that's the case. This--that's the case because--

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**Mae Nan Ellingson:** Because--

00:23:30

**Evan Barrett:** --because if you fail to pass the Constitution you went back to the Old Constitution.

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**Mick McKeon:** Right; right.

00:23:34

**Mae Nan Ellingson:** You had the 1889--

00:23:35

**Evan Barrett:** Which had prohibition.

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**Mae Nan Ellingson:** --so it had--you know the same theory in a way. It had a Bicameral Legislature, so it--you know it allowed the death penalty.

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**Evan Barrett:** No big deal but--

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**Mae Nan Ellingson:** But it prohibited gambling. So you were stuck and--and what's interesting, you know it was about that time that the Attorney General was taking a pretty tough position on gambling, right. I mean--

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**Mick McKeon:** Yeah.

00:24:00

**Mae Nan Ellingson:** --you couldn't you know--

00:24:02

**Evan Barrett:** Yeah; Bob Woodall was chasing down the little old ladies playing Bingo.

00:24:06

**Mae Nan Ellingson:** Playing Bingo, you know and got his name Bingo Bob because--. So it was a big issue and when you talk about it being an economic development issue, it--we really got a lot of letters from like the Chamber of Commerce and people up on the highline wanting gambling as a way to attract Canadians to come into the State. And I think Dr. Waldron's book shows that it--there was a lot of favorable votes for the Constitution up on the highline right because of gambling.

00:24:39

**Mick McKeon:** Yes; Butte did not connect the dots. And there were dynamics at work in Butte that I don't think were prevailing in other counties.

00:24:52

**Evan Barrett:** Well we talked about the larger passage or non-passage, the ratification. I think we're going to talk a little bit about why Butte was the anomaly among the urban centers of Montana. And there are some--some reasons for that. By the way, speaking of disclosure, you mentioned Ellis Waldron and you know those who watch our series are familiar with this book that sits in front of me all the time. This is my bible and this is an Ellis Waldron book that has everything and anything you'd ever want to know about any election of any kind in the State of Montana between 1889 and 1976. And so God bless him, and he was also on the Commission, the Constitutional Convention Commission that did the setup of the Constitutional Convention. So he also--and just as a point of reference was the supervisor or--for Chuck Johnson when he was in the '71 Legislature and wrote that wonderful thing he did on Executive Reorganization which was a big part of our discussion with Chuck. So Ellis Waldron cuts a really swath through that period of time doesn't he?

00:26:07

**Mae Nan Ellingson:** He sure does; he sure does, yeah.

00:26:09

**Mick McKeon:** Yeah; what he--what he wrote is brilliant.

00:26:11

**Evan Barrett:** Yeah; and--

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**Mae Nan Ellingson:** Yeah; he was supervising my Master's Degree which was doing a roll-call voting analysis of the 1971 Legislature.

00:26:22

**Mick McKeon:** Really?

00:26:22

**Mae Nan Ellingson:** Uh-huh; yeah.

00:26:24

**Evan Barrett:** Which by the way a totally side issue was you found out in the '71 Legislature what I found out when I was doing a voting record analysis of the '69 Legislature which is there was very little to analyze.

00:26:40

**Mae Nan Ellingson:** Very little to analyze that's right.

00:26:41

**Evan Barrett:** Because of the rules that said they didn't publicize the votes and the only votes that seemed to be publicized were those third-reading votes that were always 98 to 2.

00:26:51

**Mae Nan Ellingson:** Yeah; you know that--and I'm sure that you've covered this with Jerry Loendorf--

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**Evan Barrett:** We did.

00:26:58

**Mae Nan Ellingson:** --in terms of that being a huge, huge change, maybe one of the biggest changes in our Constitution.

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**Evan Barrett:** And--and--

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**Mae Nan Ellingson:** The roll-call voting.

00:27:08

**Evan Barrett:** Well not only that but I think one of the things we did kind of conclude in that section was that actually the dysfunctionality of the Legislature may have been one of the more obvious reasons the electorate was favorably disposed--or even calling a Constitutional Convention.

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**Mick McKeon:** I agree.

00:27:23

**Evan Barrett:** Because it was like there were a lot of things wrong with it but that was when people understood was that it was pretty much a private club. But--

00:27:34

**Mae Nan Ellingson:** Yeah; private club although--if they were rating it on dysfunctionality of the Legislature some would say it's probably time for another Constitutional Convention. **[Laughs]** But I don't--

00:27:46

**Evan Barrett:** There's a lot of danger in that isn't there?

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**Mae Nan Ellingson:** There's a lot of danger in that.

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**Mick McKeon:** The lobbyists prior to the adoption of the Constitution were literally writing the Bills that went before the Senate and House.

00:27:57

**Evan Barrett:** Yeah; there was certainly plenty of that stuff. Well and by the way, when we talk a little bit about the--this period of progressive change in Montana and then how to keep it that way is one of the sub-texts of what we talk about here but certainly dysfunctionality in Montana whatever it might be pales into insignificance next to the dysfunctionality apparently in Washington, DC.

00:28:24

**Mae Nan Ellingson:** Yeah; I think that is true.

00:28:25

**Evan Barrett:** And so what do you do? You know it's--there's a lot of challenges in this governmental thing but--but there we had--we had three side-bar issues. The gambling thing by the way passed with 61-percent in favor of legalizing gambling and 39-percent against and a 50,000-vote margin, so again a wise pragmatic judgment to put it out there that way. And even though Butte didn't get it, it seemed like some other people did.

00:28:51

**Mae Nan Ellingson:** Yeah; they did.

00:28:51

**Mick McKeon:** A lot of people did obviously.

00:28:53

**Evan Barrett:** So--so now the--the ballot is structured. Everyone signs; all 100 people signed it. Even though some didn't agree with it all 100 signed the Constitution. You had a few days to spare. You'd save \$45,000 to educate the electorate on it. What happened on the--with the \$45,000?

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**Mick McKeon:** The Montana Supreme Court ruled shortly thereafter that--that money could not be spent to educate the voters.

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**Evan Barrett:** Now--well what's your sense of that?

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**Mae Nan Ellingson:** So well there wasn't a lot of time to sit on your hands and--

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**Mick McKeon:** Nope.

00:29:32

**Mae Nan Ellingson:** --and cry about it because the days were ticking off.

00:29:38

**Evan Barrett:** In fact, the day--

00:29:38

**Mae Nan Ellingson:** Until the election.

00:29:38

**Mick McKeon:** Right.

00:29:39

**Evan Barrett:** --the day that--that Supreme Court decision came they ruled on the 21<sup>st</sup> of April that as a Constitution--someone in the Constitutional Convention wanted to run for State Treasurer. And the Supreme Court said you are a Delegate until June 30<sup>th</sup>; therefore the two not holding concurrent--you can't run for something during that term. And they--they stopped it--that and then a week later which would have put it about the 27<sup>th</sup> of April, now think about that, the 27<sup>th</sup> of April that's only five and a half weeks in front of the election they enjoined the expenditure of the money. So the money was hanging in limbo to that point and they said no; you can't spend it. So you had to cobble it together pretty fast.

00:30:23

**Mae Nan Ellingson:** Right; and the plan of how some of that money was going to be used was the preparation and printing and mailing of a voter information packet.

00:30:36

**Evan Barrett:** An objective--?

00:30:38

**Mae Nan Ellingson:** And objective--I mean I think we took pretty seriously--it said to educate. It was for education; it really wasn't to proselytize it or take a position one way or the other and so the--the work that was

being done was just going section-by-section and repeating--or showing what was in the old and showing what was in the new and--and that was in fact the gist of the official campaign. I mean we raised \$10,000 and printed and mailed that 24-page document.

00:31:19

**Mick McKeon:** Now I often disagree with what the Montana Supreme Court has to say particularly this--this Court in the early 1970s but this ruling is a close call and I'm not sure they were wrong.

00:31:38

**Evan Barrett:** I've had several members of the Convention suggest to me that it might have been fortuitous that they said don't spend the money because had the public money being spent, if it was--if that was misrepresented in the campaign as being oh look, they're taking your taxpayers' money and they're spending it to tell you what to do that--that could have been the straw that broke the camel's back when it came to a close election.

00:32:01

**Mick McKeon:** I agree with that logic. I think the Supreme Court may have done us a favor.

00:32:07

**Mae Nan Ellingson:** Uh-hm.

00:32:07

**Evan Barrett:** Inadvertently perhaps. *[Laughs]*

00:32:07

**Mick McKeon:** Inadvertently; yeah. I think their motives might have been different although I'm certainly now a seer, but--

00:32:16

**Evan Barrett:** Now a little colorful--a little colorful story happened that when the Supreme Court ruled that I believe on the \$45,000 a newspaper reporter that the President of the Convention Leo Graybill criticized the Court for it. And the Supreme Court hauled him up immediately in front of the Court within a few days to censor him or at least to--

00:32:43

**Mae Nan Ellingson:** Hold him in contempt.

00:32:43

**Mick McKeon:** Hold in contempt.

00:32:43

**Evan Barrett:** --hold him in contempt.

00:32:44

**Mick McKeon:** Hold in contempt; right.

00:32:46

**Mae Nan Ellingson:** Asked why we shouldn't hold you in contempt?

00:32:48

**Mick McKeon:** Right; now I struggled with that. I've struggled with that for over 40 years. I don't think the Supreme Court has the power to go that far over something so innocuous.

00:33:06

**Evan Barrett:** Well there are provisions in the Constitution for judicial remedies in the legal system for judicial standards and for lawyers' standards and so on, conduct, but--

00:33:17

**Mick McKeon:** There's also a First Amendment.

00:33:18

**Evan Barrett:** But there is--now what happened was as I remember reading was that several of the major newspapers immediately hammered the Court saying what are you doing, trying to tell a guy that he can't express himself because the press is very well-known for defending the Freedom of Speech?

00:33:35

**Mae Nan Ellingson:** Right, exactly.

00:33:37

**Evan Barrett:** And low and behold by the time he got in front of the Court they very, very quickly put it to bed. They said shame on you and he said I'm sorry.

00:33:46

**Mick McKeon:** Well Leo--Leo went in and--and made an apology. It was readily accepted by the Court and the issue was put to--put to rest.

00:33:55

**Evan Barrett:** Was put to bed and then we got onto selling the Constitution. Let's talk about selling the Constitution. Beyond what we've heard many times, the *Praise the Lord and Pass the Constitution*, which was what George Harper came up with.

00:34:08

**Mae Nan Ellingson:** Yes.

00:34:09

**Evan Barrett:** But beyond that tell us about the structure of passing this Constitution and was it--\$10,000 doesn't seem like much today but that was--that was a decent amount of money.

00:34:21

**Mick McKeon:** That was a good amount of money.

00:34:22

**Evan Barrett:** It was a decent amount of money in those days. I remember Max Baucus in 1974 in his Primary election for the Congress spent \$16,000.

00:34:30

**Mick McKeon:** Really?

00:34:31

**Evan Barrett:** So \$10,000 wasn't bad, but it wasn't \$47,000 or--but what did you do? Did you set up a committee or did you have an office or--?

00:34:40

**Mae Nan Ellingson:** We did have that Committee and as I say the big expenditure really was the publication and the mailing to every registered elector--that pamphlet. With respect to the actual ratification campaign, my recollection is that it was fairly decentralized. I mean we would get--Delegates would get invitations just to come speak and I think all of the Delegates just sort of took it on themselves that we're going to go and talk to as many people as we possibly can, wherever we're asked. And there wasn't like any big--or I don't think there was like any big screening or any place in particular where you called and asked somebody to come.

00:35:38

**Mick McKeon:** No.

00:35:39

**Mae Nan Ellingson:** It was just word of mouth and what people locally would call and say can you talk to us?

00:35:46

**Evan Barrett:** Kind of a grassroots(y) thing.

00:35:47

**Mae Nan Ellingson:** It was totally grassroots.

00:35:47

**Mick McKeon:** It was but there was rhyme and reason to it. We were all aware that the urban areas in the western part of the State were the sine qua non that we had to have these areas. So when I'd receive phone calls to be somewhere it was always an urban area or a college. And I think I probably spoke at least once a week until the Constitution was voted on. I was continually on the road; were you?

00:36:21

**Mae Nan Ellingson:** Yeah; oh sure. I--I think I counted up speaking more than 42 times and I got to know Max pretty well because Max went with me and spoke because by that time he was a staffer and he liked getting out and helping explain the Constitution. There were some--

00:36:44

**Evan Barrett:** Plus he--he actually in addition to being a staff person for the Constitutional Convention I think he was called the Committee Coordinator--

00:36:51

**Mae Nan Ellingson:** Yes.

00:36:51

**Evan Barrett:** --he had by that time filed for the Legislature because he ran in 1972 in Missoula. He was elected to the Legislature.

00:37:01

**Mae Nan Ellingson:** Yeah; I didn't--

00:37:02

**Mick McKeon:** I think--

00:37:02

**Mae Nan Ellingson:** --I don't think he had--well I didn't know that he had filed by that point.

00:37:06

**Evan Barrett:** He had to by then because he had to run in the Primary in June.

00:37:09

**Mick McKeon:** I think Max's motives for--

00:37:10

**Evan Barrett:** Well sure.

00:37:11

**Mae Nan Ellingson:** Well yeah of course.

00:37:12

**Mick McKeon:** I'm not--

00:37:13

**Evan Barrett:** But you were out there--you were out there campaigning and you were mixing with Max and--

00:37:18

**Mae Nan Ellingson:** And I also recollect that there were some debates too that even though Missoula is urban, you know there's some rural areas, Nine Mile and Frenchtown and even--

00:37:31

**Mick McKeon:** You bet.

00:37:31

**Mae Nan Ellingson:** --and even down the Bitter Root and the farm. My--the Farm Bureau of course was very, very opposed to the Constitution. The Farmers Union not so much but--

00:37:43

**Mick McKeon:** Right.

00:37:44

**Mae Nan Ellingson:** --I remember debating someone from the Farm Bureau at different places, several--several times.

00:37:54

**Evan Barrett:** They were the primary opponents. The--also the Contractors Association was a big opponent and I think everyone has kind of accepted de facto that the Anaconda Company and the kind of economic powers that be that flourished under the Old Constitution were opposed to it but they were not openly opposed. There was this kind of sub-rosa opposition but it evidenced itself predominantly in Butte where in the--in Butte you had--what was it 68-percent vote or 71-percent wasn't it?

00:38:32

**Mick McKeon:** Yeah in Deer Lodge County.

00:38:33

**Evan Barrett:** In Deer Lodge County--

00:38:34

**Mick McKeon:** Seventy-one-percent.

00:38:35

**Evan Barrett:** --and in Butte right next door they had 47-percent and that was probably indicative of the Montana Power and Anaconda Company saying well we don't need this thing.

00:38:46

**Mick McKeon:** Yeah and their mantra was jobs.

00:38:51

**Mae Nan Ellingson:** It had to be that because you know when you look at all of the major battles or the popular battles that the Butte Delegation entered into during the Convention, I mean they won. I mean the Butte Delegates were very much in favor of the Convention, of the Constitution.

00:39:12

**Mick McKeon:** Absolutely.

00:39:13

**Mae Nan Ellingson:** So yeah; they're--it had to clearly have been something sub-rosa as you say because they were out there working very hard for the Constitution.

00:39:25

**Evan Barrett:** Well you know--

00:39:25

**Mick McKeon:** You have to recognize the number of people the Anaconda Company still--and the Montana Power, and some other corporations employed in Butte. And they were--

00:39:39

**Evan Barrett:** When you raise the specter of is your job maybe in danger?

00:39:43

**Mick McKeon:** You bet; you bet.

00:39:45

**Evan Barrett:** That's a sensitivity issue.

00:39:47

**Mick McKeon:** That's a powerful incentive to keep your job.

00:39:50

**Evan Barrett:** That by the way is part of the story of the first 75 years of Montana.

00:39:56

**Mick McKeon:** It is.

00:39:56

**Evan Barrett:** Which the *crucible of change* was about modifying.

00:40:01

**Mick McKeon:** Right.

00:40:01

**Evan Barrett:** Was that--in our first program we--we talked about what was--what was that 75 years and what was that copper collar all about?

00:40:09

**Mick McKeon:** This wasn't as violent, overt, but it was--and it was much more subtle but it was every bit as real.

00:40:24

**Evan Barrett:** But there's no other way to explain the Butte vote.

00:40:27

**Mick McKeon:** Totally unexplainable--otherwise.

00:40:29

**Evan Barrett:** It just makes no sense. So clearly--

00:40:31

**Mae Nan Ellingson:** Every urban area has to--every urban area.

00:40:36

**Mick McKeon:** And I have to be honest with you Evan; I thought Butte, Silver Bow, or Silver Bow County would go the way Deer Lodge County went.

00:40:45

**Evan Barrett:** Yeah; oh how--oh how naïve you were at that time.

00:40:48

**Mick McKeon:** Uh-huh; yeah I was a young naïve--

00:40:51

**Mae Nan Ellingson:** It was shocking really when you think about it.

00:40:54

**Evan Barrett:** Well let's talk about that overall vote because the--the urban areas, the campaign was conducted. It was very much grassroot(y). There was some coordination out of I think an office they had in the colonial end. Some of the male Delegates have told me that the women were way ahead of the curve on this stuff and really had their eye on ratification way earlier than a lot of the men Delegates and how they were going to argue it and get a team together to talk about it.

00:41:23

**Mick McKeon:** I agree with that by the way 100-percent.

00:41:26

**Evan Barrett:** You know the--

00:41:27

**Mick McKeon:** The women Delegates when we came to the Constitution were way ahead of everybody else.

00:41:33

**Evan Barrett:** And as we've noted by the way they broke down the doors so to speak from a Legislature which used to have one, two, or three women to all of the sudden nineteen out of the hundred. And then from that point forward, you know the doors were--were broken down.

00:41:51

**Mick McKeon:** I'm digressing a bit, but we were looking for our seats and the women Delegates were halfway through preparing--. *[Laughs]*

00:41:59

**Evan Barrett:** Now by the way, the ratification vote came out very tight and that is part of the ongoing saga that we have to discuss here was 116,000-plus to a--almost 114,000. The difference was 2,500 votes. It was 50.55-percent to 49.45-percent. So there you go; it passed--or did it pass? And that is the whole controversy. Now--now the--the--apparently it went to the Governor for the Governor to sign it and say the election results and say I certify these results and give them to the Secretary of State.

00:42:43

**Mick McKeon:** And he did.

00:42:44

**Evan Barrett:** And he signed it and he sent it over to the Secretary of State Frank Murray who said I don't think it passed.

00:42:51

**Mick McKeon:** Right.

00:42:51

**Evan Barrett:** And I'm not going to recognize the Governor's signature anyway which was an interesting side thing because the Governor then said oh yeah? And he marched down the hallway and sat himself down with his staff and said bring in Frank Murray in here. I'm going to sign it right in front of him and he did--.

00:43:07

**Mick McKeon:** A bit of theater.

00:43:08

**Evan Barrett:** Yeah; a bit of political theater, but there was--Murray alleged that there was not enough votes for the--for the body of the Constitution. That was an interesting challenge and it went right to the Courts. Tell us about it.

00:43:21

**Mick McKeon:** It went to the Montana Supreme Court first. We prevailed--proponents of the Constitution prevailed before the Montana Supreme Court 3 to 2. Mae Nan and I have discussed this. If you read the 1889 Constitution I have to be honest it was a close call.

00:43:48

**Evan Barrett:** It was an arguable issue. Now the issue was that when you added the number of people voting in the side-bar issues, the gambling and so on, more unusually but more voted for the hot-button issues than voted for--on the main issue and therefore you could say hey not half of the voters who voted, voted for it.

00:44:12

**Mae Nan Ellingson:** Right.

00:44:12

**Mick McKeon:** Right.

00:44:12

**Evan Barrett:** Is that the crux of it?

00:44:13

**Mae Nan Ellingson:** Exactly; so the Court--the Court mad a determination that they were going to look at whether the Constitution passed by looking at whether a majority voting on that issue--

00:44:28

**Mick McKeon:** The Constitution itself.

00:44:29

**Mae Nan Ellingson:** --on the Constitution itself where a majority of those voted on it, so they narrowed it down. Now I mean what the Old Constitution said was it would pass--it would be deemed to be passed if it was voted by 50-percent of those voting at the election.

00:44:51

**Mick McKeon:** Yes.

00:44:51

**Mae Nan Ellingson:** So I mean reasonably I think the Court could have literally interpreted it the other way. But--but when you look at it as a practical matter, it's--it's confusing how all of that got presented in--in probably the fairest way. I mean I do believe the fairest way to determine what the voters intended about approving the Constitution was on that question itself; shall the new Constitution be passed or not?

00:45:25

**Mick McKeon:** Right; what--

00:45:25

**Mae Nan Ellingson:** So clearly a majority of the people voted in favor of approving the Constitution. Because to rule the other way it--it just--it gives too much power to a no-vote.

00:45:41

**Mick McKeon:** Yeah; while I agree with everything Mae Nan says, the Court wrote a lengthy decision and did bring to the attention of the reader the fact that there was authority out there from other jurisdictions that held

opposite our position. So the Court could have followed other precedent from other States and ruled that the Constitution did not receive an adequate number of votes.

00:46:14

**Mae Nan Ellingson:** Well and not only that, even when you look at the language of the 1889 Constitution there was one Section where they actually used--the framers used a more precise term of like voting on the issue and in this clause they didn't use voting on the issue. And so I mean that also kind of makes you think well maybe they should have held the other way because these people voted at the election.

00:46:44

**Evan Barrett:** But this speaks kind of to the issue of precision of legal language.

00:46:48

**Mae Nan Ellingson:** Oh yeah. [*Laughs*]

00:46:49

**Evan Barrett:** That--that what better example of be careful how you write something.

00:46:53

**Mae Nan Ellingson:** Exactly.

00:46:53

**Mick McKeon:** Mae Nan and I just took a few minutes before we started our discussion to re-read that Section and we both turned a little pale.

00:47:04

**Mae Nan Ellingson:** Yeah; yeah, it--

00:47:05

**Mick McKeon:** It was close; it was a close call.

00:47:08

**Evan Barrett:** Well you know let's take a look at the Court, too because this almost sounds like a 1972 Montana version of the Roberts Court in DC.

00:47:18

**Mick McKeon:** Sure.

00:47:19

**Evan Barrett:** Where virtually all the hot-button decisions come down 5/4. This was a 3/2 and the Court in the early '70s had James T. Harrison, Sr., who was the Chief Justice and Wesley Cassell who was the more senior of the Associate Justices. And I think it's fair to say that in the political world of the time, everybody knew if there's such a thing as knowing or fully expected that they almost always came down on the sides of the vested economic interest of the State.

00:48:00

**Mae Nan Ellingson:** Yes; absolutely.

00:48:02

**Evan Barrett:** And the track record was--was--

00:48:04

**Mae Nan Ellingson:** Long and--long, long. [*Laughs*]

00:48:08

**Mick McKeon:** Yeah.

00:48:09

**Evan Barrett:** And then you had Frank Haswell who was a District Judge in the Flathead who had been appointed by Tim Babcock, was a very progressive guy, later became the Chief Justice, and--and Gene Daly who was a Democratic County Attorney from Great Falls was appointed by Forrest Anderson.

00:48:26

**Mick McKeon:** And extremely liberal.

00:48:27

**Evan Barrett:** And everybody looked at those guys and said oh, they'll probably be for this Constitution so they'll try to find a way, which left the man in the middle, who was John Conway Harrison--

00:48:39

**Mick McKeon:** Yes.

00:48:40

**Evan Barrett:** --the second Harrison on the Court who was from East--who was a Lewis and Clark County attorney before becoming a Judge and--and always seemed to be the guy that was either tilting this way or that way. And the way that decision was written you could almost think that they had written to have the decision go the other way.

00:49:03

**Mick McKeon:** I'm going to sit here right now some 42 years later and say that the decision was political. Do you agree?

00:49:14

**Evan Barrett:** Political? Well that's not bad politics. That may be--

00:49:17

**Mick McKeon:** Good politics.

00:49:19

**Evan Barrett:** That's good politics; I don't know.

00:49:20

**Mick McKeon:** Good politics but you--you're right. I'm also being facetious that the fact is the way the 1889 Constitution read and the precedent that was out there on both sides left the decision open to politics.

00:49:45

**Mae Nan Ellingson:** But--but well I don't know what you mean by that exactly.

00:49:51

**Mick McKeon:** I'm talking liberal and conservative. If you look at--

00:49:56

**Mae Nan Ellingson:** Okay as opposed to somebody being bought?

00:49:58

**Mick McKeon:** Oh I'm not--I'm not--

00:49:58

**Mae Nan Ellingson:** Oh okay; okay.

00:50:00

**Mick McKeon:** --saying that, no, definitely not.

00:50:02

**Mae Nan Ellingson:** I mean I--I certainly think if you are trying to give weight to what the voters have just done as opposed to legalese you would have voted the way the Court did because it's really clear. I mean the vote on the Constitution itself it--to me was the--that is the issue. Did more people favor this Constitution or disapprove of it? More people favored it. And I think it would have been a more-strict constructionist position to say well notwithstanding the fact that the majority of the people voted in favor of the Constitution. We're going to go here and say it didn't pass because all these other votes tally up.

00:50:58

**Mick McKeon:** Yeah; but you're--you're going to agree with me that the language was such that was an ambiguity.

00:51:05

**Mae Nan Ellingson:** Absolutely an ambiguity; absolutely an ambiguity.

00:51:09

**Mick McKeon:** And that left room for--

00:51:10

**Mae Nan Ellingson:** Interpretation.

00:51:12

**Mick McKeon:** You bet. And if you look at the way the members of the Court who traditionally voted with the conservative element and the State voted as opposed to the more liberal element I think that my opinion that it was political is apparent.

00:51:34

**Evan Barrett:** I'm going to now as the only non-lawyer at this table [*Laughs*]

00:51:40

**Mick McKeon:** And maybe I've said something highly controversial but--

00:51:42

**Evan Barrett:** No, no; I've heard--you see it's an arguable issue. However, it would strike me if I would put myself in the head of John C. Harrison and I want to ask you a little bit about--one of you told me something sketchy he said about John, who was a very honorable guy--but put myself in the head of John C. Harrison and look at it as you said that is that the vote on the main issue was clearly a win and that to say it was a loss required a lot of--a little bit of this twisting and turning--that would you want to be known as the guy who said we just defeated a Constitution on a--what the public would see as a technicality?

00:52:29

**Mick McKeon:** No.

00:52:31

**Evan Barrett:** You know and so I wonder if he didn't think that.

00:52:32

**Mick McKeon:** But it--I don't know what anybody thought, but I don't know if you'd want to be seen either as the guy who--

00:52:40

**Evan Barrett:** Passed it on a technicality? [*Laughs*]

00:52:42

**Mick McKeon:** Passed it--right, or defeated it on a technicality.

00:52:47

**Evan Barrett:** And the interesting thing is the tenor of the times may have been part of it as much as well, too.

00:52:51

**Mick McKeon:** Sure.

00:52:51

**Evan Barrett:** Remember we're talking about a period of dramatic change going on, not just in Montana but across the entire country. There was a lot of real significant change going on and blocking that change would have been an interesting thing after all that effort. But that being said, once the Supreme Court of Montana said 3 to 2 it was done. The opponents who were the--predominantly at that point the Farm Bureau which represented the rural interests which were strongly voting against this kind of change, they went to Federal Court. Is that right?

00:53:27

**Mick McKeon:** Right immediately.

00:53:29

**Evan Barrett:** Yeah and we had two--two Federal cases.

00:53:35

**Mick McKeon:** Right, both of which raised different legal arguments and the argument that was raised before the Montana Supreme Court. I've read the decisions. The decisions deal with the Fourteenth Amendment. They're so obfuscated, obscure that they're almost nonsensical.

00:53:58

**Evan Barrett:** Nonetheless they were made.

00:54:01

**Mick McKeon:** And they were made.

00:54:01

**Evan Barrett:** And it took how long? Was it almost a year later?

00:54:04

**Mae Nan Ellingson:** Another year.

00:54:04

**Mick McKeon:** Yeah.

00:54:04

**Mae Nan Ellingson:** Another year; uh-huh.

00:54:06

**Evan Barrett:** So we actually--the implementation date of the Montana Constitution was to be June 30<sup>th</sup> of '73 is that correct?

00:54:15

**Mae Nan Ellingson:** Right.

00:54:15

**Mick McKeon:** Right.

00:54:16

**Evan Barrett:** Was adopted in June--early June of '72.

00:54:20

**Mae Nan Ellingson:** June 6<sup>th</sup>.

00:54:22

**Evan Barrett:** Implemented a year later; just before that the final Federal Court ruling occurred.

00:54:29

**Mae Nan Ellingson:** Yes.

00:54:30

**Evan Barrett:** So right up to that point there was at least the possibility--

00:54:33

**Mae Nan Ellingson:** That it hadn't passed.

00:54:35

**Mick McKeon:** Yeah.

00:54:35

**Evan Barrett:** Even though there had been a subsequent Legislature to--

00:54:39

**Mick McKeon:** Right.

00:54:39

**Mae Nan Ellingson:** Right and I also think that--I was very scared up until the Montana Supreme Court ruled, but I really felt that the argument that they made before the Federal Court--and I wasn't a lawyer then--didn't have much merit. I mean--

00:54:58

**Mick McKeon:** It had none.

00:54:59

**Mae Nan Ellingson:** --after all we were interpreting the Montana Constitution and so they had the Federal Court-- had to really find a Federal constitutional issue. And they really--it was just hard to make the case that the Montana Supreme Court shouldn't be the final arbiter of whether a Montana Constitution had passed.

00:55:22

**Mick McKeon:** Well if you think about it Evan, the voters passed the Constitution. The Montana Supreme Court albeit 3/2 upheld the Constitution. A Federal Court wasn't going to--

00:55:38

**Evan Barrett:** Not likely.

00:55:38

**Mick McKeon:** No; no, and then of course I may be ahead of us, but then it went to the US Supreme Court on a-- what's called writ of certiorari.

00:55:49

**Evan Barrett:** Take it up please, right?

00:55:51

**Mick McKeon:** Yeah and a writ of certiorari is an appeal often used and extremely rarely granted.

00:56:03

**Evan Barrett:** Yeah; well let me ask you guys because we're getting close to the end here. And I want to ask you to give a quick reflection on what it meant to you as a young--emerging young attorney to be in this Constitutional Convention and what it meant to you as an attorney just very quickly?

00:56:18

**Mick McKeon:** You know Evan, after the Constitution--I'm being honest with you--I got on with my life. I had a family. I had to support myself. I started a law practice, devoted decades to building I think a very successful law practice. As the decades went by I began to ponder and cogitate about what I had been part of. And I had a telephone conversation with Marshall Murray, God bless him, who called me from Oregon because he couldn't make our Convention, and he said--in June, and he said Mick, he said the older I get the more proud I am and the more I think about the wonderful things that we did, and I said Marshall you've taken the words from my mouth. I think--

00:57:12

**Evan Barrett:** Mae Nan--?

00:57:12

**Mick McKeon:** --of all of the things in my career and there have been some great successes, the most important thing happened when I was 25.

00:57:22

**Evan Barrett:** Yeah; now Mae Nan--

00:57:23

**Mick McKeon:** You agree?

00:57:25

**Evan Barrett:** I'm going to ask you because you were a graduate student. You've often said to me that your appetite for becoming an attorney came out of this Constitutional Convention. Is that right?

00:57:35

**Mae Nan Ellingson:** Well not only my appetite but sort of the wherewithal to even do it. Two things happened; one, I really saw the power that lawyers had and people really deferred to them in terms of debate, even if what the lawyer was saying wasn't all that valid, I didn't think. So they had--there was an unwieldy, a disparity of power just by virtue of being a lawyer that I became totally aware of. But the real thing for me in terms of being a lawyer is one day Marshall Murray came over to me and said, you know I think you should--some of us have been talking and we think you should go to Law School. And I don't know much you know--

00:58:26

**Evan Barrett:** Eventually you did.

00:58:27

**Mae Nan Ellingson:** And I did and because Dave Drum, a Delegate to the Convention gave me the money to go.

00:58:35

**Mick McKeon:** Really?

00:58:35

**Evan Barrett:** That's an amazing story. By the way we are running out of time and I want to thank both of you for your insights about this wonderful ending and interesting ending of the Constitution *In the Crucible of Change*.

Thanks very--

00:58:48

**Mick McKeon:** You know I think I speak for both of us; it's been a wonderful experience Evan and it warms my heart to--

00:58:54

**Mae Nan Ellingson:** Share it with him and--yeah.

00:58:56

**Mick McKeon:** --or share it with you and share it with the viewers.

00:58:59

**Evan Barrett:** Thanks.

00:59:00

**Mick McKeon:** Thank you.

00:59:02

[*Music*]

01:00:00

[**End Razor Thin Win-The 1972 Constitution Ballot, Campaign, Ratification, & the Courts**]