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Transcript for Episode 39: Through a Reporter's Eyes: A First-hand Look at 1970s Montana Government & Politics

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[Begin Chuck Johnson - Montana in the 1970's Seen Through a Reporter's Eyes]

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[Music]

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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.

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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.

00:01:16

Evan Barrett: Welcome back to In the Crucible of Change. We have a real special program here tonight. We are not discussing this with a practitioner from the time, but an observer of the times. Our special guest is Chuck Johnson. Chuck we'd like to call him as the Dean of Capital Reporters since he first was sitting in the Capital taking a look at things happening in the 1971 session. Chuck has been involved as a reporter, one of the best in Montana,

all the time until today, 42 years. So he's been through it all; he's seen it all. And his observations are very, very important to getting a sense of the period. So Chuck it--welcome to In the Crucible of Change.

00:02:07

Chuck Johnson: Thanks for having me Evan.

00:02:08

Evan Barrett: Yeah; you know when you first went to work in this period, remembering we're talking about that magnificent change that took place between 1965 and 1980-- progressive change that really reshaped the State of Montana, you went to the Legislature in '71. And you were an intern at the time, but you were specifically covering a couple major issues on behalf of your mentor at the University of Montana. Can you tell us a little bit about what your mission was and how it all got started?

00:02:43

Chuck Johnson: Yes; my mentor was Ellis Waldron, a long-time political science professor at the University and there were four of us interns. And he assigned us each a topic to follow during the Session and even before the Session and then write a paper on it afterwards. And I originally was going to do redistricting which I thought would be very interesting given the history of it.

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But then he said no; I think you ought to look at executive reorganization. And to be honest I was a little disappointed and I still kind of peeked around at the redistricting just because it was interesting. But I'm glad I covered what I did, and I--I went to all the hearings. I listened to all the debates. I took notes. I gathered materials. And then--then went back and wrote a pretty lengthy paper on it all afterwards.

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Evan Barrett: What I want to know about that paper is this; did you get an A?

00:03:36

Chuck Johnson: I did [*Laughs*] for length maybe more than anything.

00:03:40

Evan Barrett: Well actually though, actually that is one of the most thorough and accurate contemporaneous report on that major activity that was done. You know when--newspapers, you--it's always got to be abbreviated and shortened up. There were no formal reports by the government that followed other than the implementation. So your report stands out as something very, very important and it kind of resurfaced a couple years ago when you reminded me of it in the Governor's office. And so I got it and copied a few extra copies and we've circulated it around because it really tells the story from a very objective way and very thoroughly. I compliment you on the effort but it's a very important document.

00:04:24

Chuck Johnson: Well thanks Evan. It was a--it was fascinating to cover because the whole Upstate Government got changed by this effort to reorganize and it was highly controversial and you know there was some doubt whether it would even pass because all the--all the affected agencies generally were against it and all the interest groups that were served by these various Boards and Bureaus stood against it as well. So it was a real challenge to get through but in the end it passed in a bipartisan fashion through the House and Senate and Governor Anderson signed it into law. And it was his baby.

00:05:01

There was a--there was--it--it was his singular achievement I think, passage of the Executive Reorganization.

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Evan Barrett: You know he always thought that he--that--that was the--the biggest thing that he did and if he did nothing else even if it didn't help him, I think Alec Hansen that reported that on one of our previous programs was that even if it--it didn't help him immediately it would help all future Governors in terms of having those lines of authority and responsibility. How did--how did you see portrayed the condition of State government before that happened? What was the challenge there?

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Chuck Johnson: There--there--it was a--it was the way I think a lot of State governments were originally set up. And it--they didn't trust authority or want direct responsibility. So they had all these Boards and Commissions and Bureaus and the way it worked for most State agencies I think at the time was the Governor would appoint a Board and the Governor didn't get control of that Board. There were usually seven-person Boards and the Governor put a person on every year. So a Governor didn't get control of the Board until his fourth year in office.

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And I believe it was these Boards in general that picked the--the Director. So if there were troubles in one of the agencies, they--those Directors reported to the Board, not the Governor. So it was an easy way for Governors to duck responsibility; they said well it's the Board of Livestock or the Board of Institutions or the Board of This or Board of That. The Revenue Department had a three-person--it was a three-headed agency, the Board of Equalization. And it just wasn't efficient and very hard for Governors to--to come in with an agenda and want to get it passed.

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Evan Barrett: It's kind of revolutionary to have a Governor say I not only want to enjoy the perks of being Governor but I actually want to govern.

00:07:00

Chuck Johnson: Yeah.

00:07:01

Evan Barrett: Which is basically what Forrest Anderson was saying--.

00:07:04

Chuck Johnson: It's--it's like the Federal government. You have a--an Executive, the President or the Governor, a straight line down to the Department whether it's State or Commerce or Agriculture.

00:07:14

Evan Barrett: One of the things that I guess I would submit and we've discussed it in other programs is that in addition to the people who were in the Departments or were on the Boards who certainly didn't want their life upset by doing anything differently which is kind of a natural thing but they were always standing in opposition to the change and some of the interests that were served were looking the same way. But the case has been made that in fact, a--a government, Executive Branch that was not managed well for purposes by elected officials meant the State was more easily dominated by the special interests of the State; that they in fact could prevail--their will could be carried out a lot better when you had a weak Executive Branch and what was at that time even prior to that a weak Legislative Branch without modernization--that those two things made it easy for people like the Anaconda Company and the other--whatever you might call the special interests of the State to actually you know get their way.

00:08:25

Chuck Johnson: I would agree. You had a weak Legislature which was one that was pretty easily lobbied and you had a weak Executive and--

00:08:35

Evan Barrett: So who's in charge?

00:08:35

Chuck Johnson: Yeah; who's in charge? And it was a Governor that maybe functioned well in times when there wasn't much going on but you know as we entered the 1970s, I mean Montana's population was growing. We had a--a lot of change. We had the Environmental Movement, the Women's Movement. We had coal being re--mined out in Eastern Montana. I mean it just wasn't efficient to run this creaky old system like we'd had in the '20s.

00:09:04

Evan Barrett: Yeah; so looking at that they had six hearings at night. Everyone lined up to say what a wonderful idea this was I presume.

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Chuck Johnson: Oh no; it was widely condemned by the--the Boards and Bureaus and widely condemned by the industries that were regulated by these Boards and Bureaus. There was little support except from groups like maybe the League of Women Voters. It was--nobody liked change.

00:09:34

Evan Barrett: Well you know I guess that's a human condition. However, you know and again in one of our programs it focused on Executive Reorganization. I know Representative Tom Harrison who was on the Commission and then later carried one of the Bills to get it implemented made the point that the Legislators looked up and saw this opposition and thought to themselves well what do we expect?

00:09:57

Chuck Johnson: Yeah.

00:09:57

Evan Barrett: You know and they eventually kind of dismissed all that negativity and said obviously this is going to get done. But one of the reasons that happened was that Constitutional Amendment in 1970 and you reflected on that in your paper, *The Impact of the 20's-Plenty on the Amendment on the Reorg Process*.

00:10:14

Chuck Johnson: Yeah; it was--it was a Constitutional Amendment that was passed pretty--pretty widely--by a pretty wide margin. And they came up with this 20's Plenty which was a nifty slogan that said hey; that's all we need and you can throw all these squares and rectangles and circles within the confines of the 20 Departments.

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What happened at the hearings was interesting. Probably the most strenuous opposition that carried the most sway came from the--the cattle industry, the Montana Stock Growers. And they were able to keep the Livestock Department the same way it was probably run since the beginning of the State. The Board runs the Department. The Board picks the Director. They call it the Executive Officer. I think fair to say it maybe hasn't been one of the best run departments in State government over time with some exceptions. They've had some good Directors. There was an effort by environmental groups to do the same with the Department of Fish and Game. And the--there was an ongoing political feud between the Director Frank [Dunkle] who was kind of a hero to environmentalists at that time and the Anderson Administration.

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And in that case they turned down that--

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Evan Barrett: It kind of looked as if Forrest said I'm going to give you one to the stock growers in hopes that it will get the Bill through. He did--but I'm not giving on this fish and game thing.

00:11:46

Chuck Johnson: He didn't yield on the fish and game thing. And the interesting thing is a few years later, maybe eight years later I guess, [Dunkle] was the Regional EPA Director down in Denver in the Reagan Administration and I think fair to say the environmentalists thought of him as not such a friend then. [Laughs] He was--he was--he was working for Jim Watt and the Reagan folks.

00:12:10

Evan Barrett: Yeah; now also in the--and again I would--I think we have digitized your report and it's going to be available online through all the libraries in Montana. So your report is going to get much wider recognition now. But in addition to this reorganization the other big ticket item in the '71 Legislature was the sales tax, which as I recall caused them to go through the Regular Session, the 60-days, and two additional Special Sessions and Summit Committees and Foothills Committees and God knows what until they finally resolved in terms of putting it on the

ballot. What were your reflections on--on what happened in the Legislature on the sales tax and then we'll talk a little bit about what happened afterwards?

00:13:00

Chuck Johnson: Yeah; Montana has a revenue crisis at the time and there was already a 40-percent surtax on income taxes. And the--the Republicans wanted to get rid of the surtax and add a sales tax, 2-percent sales tax. And there was a--a strong battle between two extremely strong leaders, Governor Anderson and the Speaker of the House Jim Lucas, a powerful Republican Representative from Miles City, and often thought to be you know a potential Governor-candidate.

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And it went--they had a number of battles and they finally decided let's give the voters a choice. There was going to be this Special Election in November anyway for Constitutional Convention Delegates. So they put it on as a Referendum. And--

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Evan Barrett: And again my recollection was that there was a--a 40-percent income tax surcharge or the alternative was a 2-percent sales tax and a 10-percent surcharge.

00:14:01

Chuck Johnson: Yeah lowering the surtax to 10.

00:14:03

Evan Barrett: Yeah and that's what they--unlike today you could have an either/or choice in those days on the ballot.

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Chuck Johnson: That's right. And so you have this Election in November anyway so yeah; well let's settle it there.

00:14:14

Evan Barrett: Piggyback?

00:14:16

Chuck Johnson: Yeah.

00:14:20

Evan Barrett: And then we got into the politics of sales--the sales tax politics which we've discussed in some other programs but it was obviously a tough sale for Montana and it was obviously a corporate-backed effort that you know one of your compatriots Dan Foley had a lot to do with exposing who was putting the money behind the sales tax as I recall.

00:14:38

Chuck Johnson: Yeah; there were two--there were two groups. COST was the against sales tax group--

00:14:44

Evan Barrett: Citizens Opposed to Sales Tax.

00:14:46

Chuck Johnson: Yeah and then there was the SOS, Save our State, and that was an interesting story in that I believe the--Harry Billings and the--as part of COST went to court to say let's see their records. We didn't have the--the same laws making those records available now. And the guy who was the Treasurer for--for--

00:15:11

Evan Barrett: Ken [Nybo].

00:15:12

Chuck Johnson: Ken [Nybo], I was wondering--he said he was hunting and he was out hunting and nobody could reach him. Well Judge Victor Fall, I believe it was the day before the election ordered a hearing--

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Evan Barrett: Show Cause Hearing, yeah.

00:15:23

Chuck Johnson: --and the records became public and it showed what everyone suspected that the largest corporations in the State were bankrolling the pro-sales tax campaign.

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Evan Barrett: And pretty amazing to see on Election Day as people got up to vote here on the front page of all the papers was a story about the corporations pushing the sales tax. You couldn't buy advertising like that [*Laughs*] if you're on the other side of the issue.

00:15:45

Chuck Johnson: Yeah; yeah and they would have been much smarter to put it out earlier. But so the voters go to the polls and they reject the sales tax 70 to 30. They go for keeping a 40-percent surcharge on income taxes and no on the sales tax.

00:16:00

And at the same election they're electing Con-Con Delegates. Now as I recall there were 58 Democrats elected, 36 Republicans, and 6 Independents. If you go back and look at the makeup of the Legislature in the 1970 election, Republicans had about a six or seven vote lead in the House; Democrats about the same in the Senate. So the Con-Con Election I think definitely was influenced by the sales tax vote and I think it gave Democrats a big boost.

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Evan Barrett: Well I think it was the tilt that the Republicans were obviously identified with the sales tax. The Democrats were big opponents to it. And as a result of that you know they picked up significant strength in comparison to before.

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Chuck Johnson: No question about it.

00:16:44

Evan Barrett: Yeah; yeah.

00:16:44

Chuck Johnson: No question.

00:16:46

Evan Barrett: Now that sales tax election having impacted, and again I look at it as kind of the serendipitous thing that happened, if you were a Progressive that all of the sudden you had that tilt to the Democrats but the reality was that in those times there were a lot of Progressive Republicans and especially those that ran--and Independents--and especially those that ran for the Con-Con. And there was a reason for that in terms of who could run for the Con-Con.

00:17:17

Chuck Johnson: Yeah; the--there was a debate in the Legislature about whether Legislators and other current elected officials could run for the Con-Con post. And so they filed a--kind of a friendly lawsuit with the Montana Supreme Court to get an answer. And in the Legislature of '71, the Court said no; you can't run if you're already holding another job. You'd be holding two offices at once.

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And I think the Legislature was very disappointed. Legislators wanted to run for Con-Con the off year. And so they were not happy with that decision. But that was another key to me why the Con-Con did so well.

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Evan Barrett: Because of that; it wasn't round up the usual suspects. Now there were about a third of them were former Legislators or maybe--maybe a quarter of them were former Legislators but there--it couldn't be any sitting Legislators. So it took it kind of out of the realm of everyday politics into maybe where it should have been which is thinking about the long-term structure of Montana and how it should work.

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Chuck Johnson: That's right Evan. I mean you got people like one guy was a beekeeper. You got Catholic Priests, the Methodist Minister, Congregational Minister; you got--

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Evan Barrett: So we had God on our side when we wrote our Constitution. **[Laughs]**

00:18:34

Chuck Johnson: Well George Harper was the Methodist Priest and he came up with the slogan; he said what became the slogan on the bumper stickers--*Praise the Lord and Pass the Constitution*.

00:18:43

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

00:18:44

Chuck Johnson: But you had a really interesting mix of people from all over the State. Some were Legislators, some were--former Legislators, some had been County Commissioners or Mayors; you also had a--I think 19 women. And--and in the 2000--pardon me, in the 1971 Legislature there were two women out of the whole Legislature. Dorothy Bradley was a freshman in the House and Toni Roselle was a long-time Senator in the Senate.

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Evan Barrett: One Democrat and one Republican woman and if you go back in through the early part of the '60s, into the '60s and I've looked at that there was another Republican woman somewhere in there. But--but it was pretty lean pickings when it came to women. And a case can be made that--that the doors were blasted open for women's participation at the electoral level by the Con-Con.

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Chuck Johnson: I don't think there's any question about that and it might be worth now talking about the role of the League of the Women Voters. It was a very significant group then probably more than now and they--they were among the leading advocates for a new Constitution and I think for Executive Reorganization. And they--they were really--played a key role and a couple of the key people that lobbied at the Legislature became Delegates, Dorothy [Eck] of Bozeman and Daphne Bugby of Missoula, both became Delegates. And they'd play a very key role as--as lobbyists.

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Evan Barrett: Well you know we're lucky enough to still have Dorothy [Eck] who will appear on one or two of our programs in this series. We don't have Daphne around anymore, like so many of the Constitutional Convention Delegates. We--every year we have a reunion and the rooms get smaller.

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Chuck Johnson: Dorothy was one of the officers. I think she was the Western District Vice President.

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Evan Barrett: She was the third--yeah; she was the Third Vice-Chair. They balanced it out rather interestingly because they had--essentially it was almost a partisan vote for the Chairman and Leo Grable was elected and people wondered but there was--he turned out to be one heck of a Chairman of that Convention. But then I think they picked Bruce Brown out of Miles City as a Republican and First Vice-Chair and then they had Dorothy and then they had Jean Bowman was the Secretary out of--

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Chuck Johnson: John Toole too.

00:21:10

Evan Barrett: And John Toole; yeah he was the first--yeah. So you know they did a good job of balancing it out. But Dorothy was--Dorothy and Jean Bowman were officers of the Convention. So again I think it did blast the doors open.

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Chuck Johnson: No, no question about it. The other thing that they did at the Convention that I think the Legislature ought to look at doing too is they didn't seat people the normal way where the Democrats were on one side and the Republicans were on the other. They sat alphabetically and it was a definite effort to say we're not going to be partisan. And I remember the newspaper folks met with the--the Editors met with the Con-Con leaders before the Convention and they were telling us we should not put you know Delegate Daphne Bugby (D) Missoula; we should just say of Missoula because that would introduce partisanship.

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We argued that by putting that would show if there wasn't partisanship it would demonstrate it. And so we continued doing that; that's how we always do it with the Legislature. We put the Party--Party abbreviation and then the town they're from.

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Evan Barrett: Uh-hm; well they spent their first few weeks in Committees and then they started doing a lot of floor activity but it was again, Leo Grable seemed to have run a pretty tight ship as far as the management of it. Was there skepticism abounding about their ability to put something like that together or Constitution or--?

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Chuck Johnson: I think the Helena lobbying crew, the Trade Association folks were sort of poo-pooing it saying this will be a big bust and they have all these inexperienced people. It'll never work. And frankly there was some doubt about Leo. Leo was a--I think fair to say a fairly abrasive guy. He'd run for Congress--

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Evan Barrett: Twice.

00:23:03

Chuck Johnson: --twice and lost and--and you know people--there were no mixed--people either liked Leo Grable or didn't. And I'd have to say he turned out to be an excellent--excellent President of the Convention. He--he kept it moving. I believe it finished on time or even maybe a couple of days early and under-budget. So I think he was a strong leader and that's just what the Convention needed.

00:23:29

Evan Barrett: Yeah; and--and I don't know who came up with the alphabetical seating but I think it may have extreme relevance today as we get--divided government is so divided that maybe some kind of a solution like that might be helpful because it's like nothing else seems to be helping. In the period we're in now the divisiveness is so much and it certainly was a divided political arena back then. I mean the Democrats--

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Chuck Johnson: No question.

00:23:56

Evan Barrett: --and Republicans were like cats and dogs. But nonetheless when they sat together like that whether it was the mission itself or whether it was the seating was a big part of it, they were forced to work together. And sometimes you say that's--there's a solution looking for a problem but maybe we have the problem now and maybe we ought to be looking at that. I don't know what your thoughts are on that.

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Chuck Johnson: I think it would be great if the Legislature did that. I don't see what the disadvantage would be sitting next to someone of the opposite Party; it would be--like why not talk to that person? You might get--you might agree on something.

00:24:29

Evan Barrett: It's interesting to reflect from the current time or in between--back--back to that time but wasn't there some kind of a thing that happened at the Con-Con related to the audacity of the Constitutional Convention Delegates to require the lobbyists to disclose their spending or something?

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Chuck Johnson: Yeah; I think the way it had been prior to that with the Legislature, lobbyists had to register with the Secretary of State's Office then that they were going to lobby for these groups. But at the Con-Con they followed what a number of States had done and said okay; you not only register but you file a monthly report and say how much you spent lobbying. And there was great criticism of that by the lobbying groups.

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Evan Barrett: *[Laughs]*

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Chuck Johnson: But they did it you know.

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Evan Barrett: Well they had to.

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Chuck Johnson: And it took another eight years for it--to get the Legislature to pass that and it--it only passed because of a--of an initiative led by people like Paul Richards that--that passed in 1980.

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Evan Barrett: You know it is the pervasive influence of the lobbying crew whether it's on K Street in DC or--or sitting between the--the two Chambers on soft benches in Helena. There's no--there's no way you can underestimate the impact of those folks who are sitting there day in and day out during the Session. And it was interesting to have them take that role.

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I think the Con-Con showed the--a forward-looking approach on many things like that. You know the--now the Constitutional Convention wrapped up. The--I want to talk about a couple provisions that relate to the press and then we'll go into the election. But one of the things since you're a member of the press that may be of some great import in that Constitution is the openness, the transparency, the open meetings, open records, type of provisions that are in the Constitution. Can you reflect on that a bit?

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Chuck Johnson: They--they added a provision that says something to the effect that all meetings shall be open and all documents are open unless the right to individual privacy clearly exceeds the merits of public disclosure.

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That was added late in the Convention and the news media lobbyists strongly opposed it. They felt it was--it would lead to chaos; that it would lead to many lawsuits. And I remember the *Billings Gazette* ran a front-page editorial saying if they kept this in the Convention we're not going to support the--the document.

00:27:09

Evan Barrett: They weren't opposing the openness. They were opposing the balancing act of the--you got to see if offsets the privacy right, and--because we had such a very strong privacy right in the Montana New Constitution too.

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Chuck Johnson: I think we were the first State Constitution to have an explicit right of privacy and I still think-- some it--have an implied one but ours is explicit.

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Evan Barrett: Yeah; so it ended up in there however, but as a result of that would you say that the New Constitution as it's played out and as the implementing legislation took place has really helped with the public being involved and more knowledgeable about what's going on?

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Chuck Johnson: I think so. I think it has led to many lawsuits and I think media groups have won the majority of them. But I think some groups get tired of having to sue all the time. And we've seen some kind of shenanigans where the Montana School Board Association, there's another law in place that if--if a group or a citizen goes to court over a right to know provision and prevails against a government agency the person can ask the court to have his or her legal fees paid.

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And School Boards were prime offenders. And you know where a School Board would meet at somebody's house before the meeting and figure it all out and go through the motions at the meeting.

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In the last five or ten years, maybe five years, School Boards will turn around before that lawsuit is filed and file one against the--the media group that's planning to sue to prevent that fee getting paid.

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Evan Barrett: So just a technical way to avoid the fee?

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Chuck Johnson: Yeah; yeah.

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Evan Barrett: Well you never know about that.

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Chuck Johnson: But we--you know there have been a number of--of documents that have come out over the years that I think we would not have got otherwise.

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Evan Barrett: Well there's an innate desire for secrecy and you know people who are making decisions and have to worry about justifying them and there's always a flow of paperwork underneath every kind of decision in the government where there's a lot of thinking out loud that is often the kind of stuff you don't like to read in the paper, but the fact is we--we do now seem like we have a lot of transparency.

00:29:31

Chuck Johnson: I would agree--not as much as we'd like but just an example; our papers as well as some other media groups made a request to the Bullock Administration to get all the emails and other documents, earlier this year when Governor Bullock was trying to consider who to appoint to the US Senate seat that he later appointed John Walsh to. And that was interesting. We found some interesting documents.

00:30:00

So I think on the whole it's better. I think there's still a tendency to--to--to be secret. We--we also filed a lawsuit some years ago, a number of media groups to open Legislative Caucuses which had always been closed.

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Evan Barrett: Uh-hm; yeah.

00:30:19

Chuck Johnson: And that's been kind a pyric victory. We won the victory but I think it's driven--we won the case but I think it's driven--

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Evan Barrett: Underground, huh?

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Chuck Johnson: They meet other places but there have been a couple key times when we've been in there and gotten some really significant things like--

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Evan Barrett: Like the time that what's his name from Billings flamed out and [*Laughs*]--

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Chuck Johnson: That was the one I was thinking about. His name was Mike Lang and he was the Majority Leader of the House. But yeah; so we--I think the--the openness is another--is a big part of the Constitution and I think they set the tone at the Constitutional Convention.

00:30:52

Evan Barrett: Yeah; now some other things in the Constitution in terms of women had this great representation of women who played big roles in it, in--in the Constitution itself and its promotion. And--and then the--there were good provisions in the Constitution about equality that are very important. So can you reflect on that in relationship to what is--was the rather rapid evolution of the Women's Movement politically in Montana at that time?

00:31:29

Chuck Johnson: Well I think they--the--the Women's Movement was occurring at the same time and we have a strong human rights provision. You know some people--people might have it--some people at the time said we had a stronger one than was proposed in the Federal ERA which Montana ratified but it's never taken effect. And important to remember, too, one of the Speakers at the Convention was Jeannette Rankin, the first woman elected to Congress and twice elected to Congress for Montana.

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The Delegates tried to bring in prominent people to offer their--their thoughts and Charles Lindberg came to speak.

00:32:07

Evan Barrett: Lindberg came; yeah, yeah.

00:32:07

Chuck Johnson: Jeannette Rankin.

00:32:12

Evan Barrett: Two people who opposed World War II interestingly [*Laughs*].

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Chuck Johnson: That's right. And there were some others I think that came and it had a--just had a feeling different than the Legislature. It was like we're here for serious business and we want to hear from the people. And they--they put all their--their Bills out, their proposals out and they also invited the public to offer their ideas. And so each Committee then took up the public ideas and I think incorporated some of them in what they ultimately adopted.

00:32:41

Evan Barrett: Well I suppose that's basically what it should have been about which is a--and the fact that they weren't there representing their Parties or anything like that but--or their special interest group for that matter. The breakout was kind of--kind of interesting. Now it passed; I mean it was--it was written up and it was signed by all the Delegates although a number of them said I'm going to sign it, but I may not support it.

00:33:06

Chuck Johnson: I think about 10 or 15 ultimately campaigned against it.

00:33:10

Evan Barrett: Uh-huh.

00:33:10

Chuck Johnson: And it passed by the skin of its teeth. You know very, very small majority, slight majority it passed by.

00:33:18

Evan Barrett: You know my recollection was that 10 counties voted in favor of it and 46 counties voted against it but there was enough of a majority in the 10 counties to carry the day.

00:33:32

Chuck Johnson: And these were I believe most of the urban counties.

00:33:35

Evan Barrett: Urban counties; there was a significant urban/rural split on that vote. Now the Constitutional Convention allocated, I think they had some money and they allocated \$45,000 to promote the Constitution. And but they wanted to do it; somebody filed a lawsuit to stop them from doing that?

00:33:56

Chuck Johnson: Yeah; I think it was the Montana Taxpayers Association and some other business groups went directly to the Supreme Court and said they don't--they can't spend public money on an educational campaign. And the Supreme Court agreed.

00:34:11

Evan Barrett: Which is really by the way kind of interesting since just only two years before in the 1970 ballot there was money spent to put out the 20s Plenty message.

00:34:22

Chuck Johnson: Yeah and I think it was a split decision by the court and Leo Grable was speaking somewhere a day or so after that decision and criticized the decision. And they hauled him before the--the court on--with a threat of contempt. So he had to kind of make up to the court but it was--it was seen as a pretty outrageous move.

00:34:43

Evan Barrett: My recollection was reading the--was at the time it became a real almost cause; well what's with-- what's the Supreme Court doing? They're saying you can't spend money and if someone says something they're dragging them in front of the court like it's the Middle Ages or something? And I think it started to hit on the Court and they kind of backed away it seemed like after they--they let the--they did a little thing like this to Leo, okay because I think they were afraid to go too hard on him?

00:35:10

Chuck Johnson: As I recall Evan, they got blasted by the--the newspaper editorials and widely condemned around the State for basically interfering with his free speech rights.

00:35:20

Evan Barrett: Yeah; so meanwhile of course I think a private group was formed and ginned up about \$10,000 to spend on that campaign and I think--did they operate out of the Colonial Inn or something?

00:35:32

Chuck Johnson: It's interesting; Betty Babcock, the former First Lady and her husband, Tim Babcock the former Governor owned the Colonial Inn at the time. And Betty said well we'll just open an office here. I don't know if Tim necessarily agreed but the--the joke was always that maybe they--their vote split on the Con-Con but Betty donated office space, a copier machine, and all that. And they had a big--big number of volunteers that were sending out mailers, sending out things, and they all worked out of the Colonial. They didn't have an advertising campaign per se; they just sent out mailers and--and things.

00:36:09

Evan Barrett: And praise the Lord and pass the--

00:36:11

Chuck Johnson: Yeah; *Praise the Lord and Pass the Constitution.*

00:36:14

Evan Barrett: Yeah.

00:36:15

Chuck Johnson: And on the other side were--were the groups you'd expect, the--the utilities, the railroads, the taxpayers, the Farm Bureau, kind of the--kind of the conservative interests of Montana. And they were the Ag groups particularly were concerned about the water rights that might come out of this--this document. And I think that's one reason it failed so--so badly in rural Montana.

00:36:40

Evan Barrett: Now you know I guess you could make an evaluation about things generally in a sense that those who are comfortable with the way things are will always fight for the status quo. And that is what was happening here. It was those who were comfortable.

00:37:01

Chuck Johnson: I think that's a fair assessment; yeah.

00:37:04

Evan Barrett: Those who were not comfortable or were looking for change, here's an interesting dynamic that goes on all the time and that--now, now the Constitutional Convention had three side issues because they I think very wisely said if we put gambling, Uni-Cameral Legislature or the death penalty in--make the choices for people,

we put them in the main body, it'll--it'll sink the thing. And there would be so much divisiveness about what--what to do or not do. So they put them on the side issues didn't they?

00:37:34

Chuck Johnson: They did. And I think--I think the majority of the Delegates might have voted to put a one-house Legislature, the Uni-Cameral Legislature in. But I think wiser heads said let's leave it up to the voters. The death penalty--same thing and that's always controversial whether we should have the--have the death penalty or--or repeal it. The gambling under the 1889 Constitution, it--it prohibited the Legislature from even legalizing any gambling. So what the net effect was, we had this statewide ban but gambling was sort of a local issue. And in some parts of the State it was fairly wide open and others it wasn't. And from that provision that passed, the next Legislature came in and legalized Bingo and Keno and through some Attorney General-opinions and court decisions, Keno became poker and anyway--a long list of--of changes got made.

00:38:37

But it was a smart decision. The problem it created was more people actually voted on the side issues of--of--on the ballot in June of '72 than the Constitution itself. So the Montana Farm Bureau and others went to court and said if you look at the number of people that picked up a ballot, a minority actually voted for the Constitution and a majority voted against it.

00:39:04

Evan Barrett: And since the Constitution said a majority of those voting they alleged that it didn't pass and that did go before the Supreme Court?

00:39:12

Chuck Johnson: It went to the Montana Supreme Court and it survived--the election survived on a 3 to 2 decision and then it went--the Farm Bureau and others went to the US District Court to challenge that, to appeal that and it--it failed. But you know it was--it was a legitimate point they were making, although--and you know some places like Silver Bow County they voted against the Constitutional Convention, against the new Constitution, but for the gambling provision, although gambling wouldn't take place unless the Constitution passed.

00:39:49

Evan Barrett: That's right. You had to have the Constitution passed to have the side issues work. It was kind of-- kind of interesting; the net effect of that of course was that a narrow decision, 5 to 4 or 3 to 2 reminds me of what's going on in the US Supreme Court today. Every--almost every significant decision that's divided--divisive at all is 5/4 and so you don't feel too comfortable about it. But that being the case, once it became the Constitution it was the Constitution. And it is looked upon as perhaps the best State Constitution in the nation. Maybe it's just a product of its time, but--

00:40:30

Chuck Johnson: Well I think it was a product of its time. I think if we'd had the Constitutional Convention 15 years later or 15 years earlier we would have gotten a completely different product.

00:40:40

Evan Barrett: Or if we hadn't had the sales tax vote on the ballot the same time [*Laughs*]-as I say, a lot of accidents happen in politics but that may be one of them.

00:40:49

Chuck Johnson: Yeah and you know I think a lot of the--the credit goes to the Delegates that they got a lot of flak from the--from the powers that be, the current--the current Legislators at the time, people saying you couldn't get it done, and they got it done and they did it in time and under-budget.

00:41:09

Evan Barrett: Well remember that the theme of this series In the Crucible of Change is in fact that a--the people arresting power away from the powerful and empowering themselves somewhat. And the Constitution was clearly the fulcrum upon which a lot of that stuff was balanced and tilted.

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Chuck Johnson: I would agree Evan and it--you know they made wholesale changes in--in State government. The Bill of Rights was expanded. There's a provision that didn't get actually implemented until oh six--seven years ago but it was the--the right of Indian--that everyone in--in Montana schools should learn about our Indian heritage. It wasn't funded until like six or eight years ago. So that was I think the last provision to be funded and it was like yeah, yeah; we'll have Indian education. We just won't fund it. And now every student in Montana schools from start to finish learns about our--our ancestors.

00:42:12

Evan Barrett: I was always--I worked with Governor Schweitzer at the time when he proposed that--that we really actually do what we said we were going to do and that was I think a very proud moment that we were--in terms of who we were doing it with and for, but also that--to actually ignore a provision of a Constitution seems to be for political convenience or whatever or maybe philosophical convenience--who knows. It's nice to have something like that come to fruition finally.

00:42:43

Chuck Johnson: I would agree. The other thing it did, it actually put a--puts a measure on the ballot every 20 years on whether Montanans want to call another Constitutional Convention to--to go through the process again.

00:42:57

Evan Barrett: We just had that.

00:42:57

Chuck Johnson: We just had it; it's been--it's been on there well--

00:43:00

Evan Barrett: Twice; that would be the second time.

00:43:01

Chuck Johnson: --twice.

00:43:02

Evan Barrett: Yeah and I don't remember about the vote--but I suspect it was fairly overwhelmingly against it. In fact, I may have voted against it. In fact, I think I did vote against it.

00:43:12

Chuck Johnson: Well the other thing it did--

00:43:13

Evan Barrett: The Local government review is a 10-year thing and one of the things that was interesting was the opportunities that were presented in empowerment of Local government which was--is a creature of State government.

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Chuck Johnson: Yeah and--and through that I think Butte and Silver Bow County became a consolidated government as well as Deer Lodge County and Anaconda, the only two in the State. And I think it's proven pretty successful in both of those areas.

00:43:40

The--the Constitution also gave for the first time the right of citizens to do initiatives to amend the Constitution. They could do initiatives to change law, but this gave them the right to do initiatives to amend our Constitution. So it was a people-oriented process that really restored a lot of power to the people or gave it to them for the first time.

00:44:02

Evan Barrett: So suddenly we have the Executive Branch reorganized. We have settled the sales tax issue for a significant number of years. We have a new Constitution. We're faced--while the Constitution was being drafted, we were choosing a new Governor. It kind of just happened; it was very important to all those playing but while this

was--while it was going on, we ended up in the fall of 1972 with Tom Judge, former Lieutenant Governor running against State Senator Ed Smith. And he won a very--Tom Judge won a fairly comfortable victory and became the new Governor.

00:44:47

And it was--remembering that Forrest was the first Democratic Governor, one-term only, selected after 16 years of Republican Governors, and then you had a new--a new Democratic Governor as a transition which aren't automatic but there was an amazing amount of continuity between those two Administrations, which maybe helped carry forward these reforms that Forrest was seeking. Have you thought about that at all?

00:45:17

Chuck Johnson: I think Tom Judge kept a lot of the key people that Forrest Anderson had appointed. And one of the top priorities that Tom Judge had was he had now had to implement the new Constitution and the Legislature that--that Session had to do it. And we were faced in '73 with the first Annual Legislative Session in State history; that was a key reform of the Constitutional Convention and there were Annual Sessions in '73 and '74 and unfortunately the Legislature didn't get to meet before all that happened to put--to put out new rules.

00:45:55

So what happened so often in '73 was if your Bill looked like it was going down, you'd say Mr. Chairman I'd like to postpone consideration of my Bill until 1974, so a lot of the work got delayed until '74 which provoked a lot of criticism.

00:46:14

And then some of the business groups, the Farm Bureau, the Chamber of Commerce put an initiative using I think it was the first initiative to amend the Constitution that was used to go back to Annual Legislative Sessions although longer than before. So we only got to try Annual Sessions those two years and they really didn't get a chance to work.

00:46:36

My take is with Annual--with Biennial Sessions and now with term limits we have a Legislature that's considerably weaker than it was in those days and it--it--they really--

00:46:49

Evan Barrett: It was weak and it's weak in a different way because--

00:46:51

Chuck Johnson: Yeah.

00:46:52

Evan Barrett: --it does have staff and it does have structures like the Legislative Council and the Legislative Auditor and--and they have a Fiscal--they have a lot of stuff that going for them.

00:47:01

Chuck Johnson: No question about that.

00:47:03

Evan Barrett: But--but they're meeting every two years in a modern day.

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Chuck Johnson: Yeah; they do have a great Legislative staff with top-level researchers and attorneys, auditors, but they meet--they meet for 90 days every two years. I mean can you imagine a corporation meeting like that or-- they're not there to address breaking problems and Governors really don't like having them around much. They-- they run things when they're--when the Legislature is not around and the Legislature sits home and says we wish we were there.

00:47:42

Evan Barrett: Well I was there when we had the back-to-back Legislatures and it was a--it was a difficult thing to adjust to, remembering we went from 60 calendar days to 90 Legislative days twice. And it was difficult to get--and I remember in the Judge Administration which I had gone back to, saying well gee are we ever going to get a chance to govern because we're either preparing for, in the middle of, or recovering from a Legislative Session?

00:48:12

That being said, I mean the vote was fairly overwhelmingly to go back to Biennial Sessions and there's two times since then it's been tried to change it back. It hasn't succeeded.

00:48:26

Chuck Johnson: Yeah; the--the standard joke you hear from people is the Legislature meets for 90 days every two years and the people of Montana wish--wish it met for two days every 90 years. But I think--I think the Legislature in--in the current position is--is a weakened Branch with that and also term limits despite having an excellent staff. And I wish that's one we could revisit sometime.

00:48:55

Evan Barrett: Yeah; so--so we have--we now have a new Governor and they're starting to implement this stuff. And so things like open meetings for example, I mean the general language in the Constitution doesn't take you anywhere. You got to have specifics to--to guide you. In addition, the same thing with Executive Reorganization; even when the Department's structure was put in place in '71 there was a lot of things that--underneath that had to keep being implemented, you know rules and regulations and processes and everything else.

00:49:29

What was your reflection looking back on it as a young reporter about that time? Was--did it--what reflections do you have in terms of its--its impact, how difficult or easy it was, or--?

00:49:45

Chuck Johnson: Well there was an enormous amount of work to do. I mean just things like changing the name from the--the Board of Equalization to the Revenue Department; you know hundreds of changes of names in State law. And so lots of sort of procedural changes but also some significant ones to implement the provisions. It created a--one of the things it did is directed the creation of a Consumer Council Office that had to be implemented in law. It created a--it gave constitutional autonomy to the University System through the Board of Regents. All that had to be implemented in law. And so it was--this is in addition to all normal things that come before the Legislature so there was a lot of legislation to be written and implemented. And I think fair to say, the--the Legislature and the

Judge Administration were--were drinking water through a firehose. I mean it was just many--hundreds of Bills that had to be put into place and probably good there were the two years to do it.

00:50:49

And you know but eventually it got done. Some of it faster than others, and then we had this new government in place. And people were getting used to it and used to open meetings, used to the University System having a constitutional autonomy. I remember when they asked the Legislature for a lump sum budget; just give us the money and we'll--we'll divvy it up as we see--see it should be done, the Regents said, and why Francis [Bardno] and the top Legislators were appalled. How could that not be a legislative function? There were a lot of tensions between the Legislature and some of these--the new--the new agencies created, the new powers. And but eventually they got--they got straightened out; it just took a while.

00:51:40

Evan Barrett: Now your reflections on Forrest Anderson are predominantly driven by your singular experience in '71. And you were not really heavily involved beyond that before he suddenly wasn't there. There were--I'm one that goes to the belief that the Governor is the single, most important election in the State because it impacts the direction of State. He--he or she impacts the direction of State government more than anybody else.

00:52:06

Chuck Johnson: I would agree.

00:52:08

Evan Barrett: And--and it's not far away to Washington, DC, so and there's only 50 of these folks and so who the Governor is makes the biggest difference in my estimation. And so we had Forrest and then we had in this period of change, we had two terms with Tom Judge. Can you give whatever reflections you might have on Forrest as you knew him or--or had it reported to you and then your reflections on Tom Judge's--particularly in the implementation of all this stuff?

00:52:38

Chuck Johnson: Well Forrest Anderson, and I interviewed him a few times after he was Governor and--and watched him in action as a Legislative intern. He was a tough customer. I mean he--he was probably the most qualified Governor in State history.

00:52:54

Evan Barrett: Amazing resume; yeah.

00:52:55

Chuck Johnson: Yeah; he had been a Legislator, a County Attorney, a Supreme Court Justice, and Attorney General before he was Governor.

00:53:01

He was a hands-on operator, not much into the PR. He just did what he thought was needed.

00:53:08

Tom Judge on the other hand--

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Evan Barrett: You could tell that when he went to Miles City and said farmers and ranchers don't pay their taxes. Do you remember that? [*Laughs*]

00:53:13

Chuck Johnson: Yeah; he was--he was I think without question the best-qualified Governor we had ever had in terms of his background.

00:53:22

Tom Judge came up from the Legislature. Tom Judge was also a public relations man and had an agency and was much better at the public relations. Tom was also the youngest Governor in State history. Tom was probably the Governor who I think sort of brought government to the people. He'd have meetings out in--out in the State with people in Billings and Havre and Bozeman. He'd--and Tom was--Tom was kind of a young Kennedy(esque) Governor in his own way.

00:53:59

I don't know that Tom was interested in all the details as much as someone like Forrest Anderson was. I think he was more interested in the big--in the big picture than kind of what made it all work, but he had pretty capable people around him top to bottom.

00:54:15

Evan Barrett: I would have to say that 80-percent--I'm pulling that number out of the air but I feel comfortable with it, probably 80-percent of the leadership of the Anderson Administration in terms of department heads and other key administrators were retained by Governor Judge so he certainly wasn't trying to start from ground zero.

00:54:36

Chuck Johnson: No and that was a smart move. And they had to implement; they had to put in place all these new departments and provisions of the Constitution. So he--he did have an enormous number of people that had served in--under Governor Anderson.

00:54:50

Evan Barrett: Uh-hm; now again looking at this thematically Chuck that the--the period of change that took place here was progressive change and it was predominantly an empowerment of people in one way or another as compared to the previous power structure of Montana which was clearly we were a--almost a colony of the Anaconda Company unlike any other State in the nation. They were so dominant compared--for 75 years. One, could you just quickly reflect and then we'll be wrapping it--just quickly reflect on the empowerment of people and your--whether you thought that really occurred?

00:55:34

Chuck Johnson: Well no question about it and he was responsive to the Environmental Movement that wanted to regulate the strip mining of coal to put in the Coal Severance Tax, so that some of the proceeds remained in Montana. It didn't just get sent out of state as it did with the copper mine. We had Human--the Human Rights Commission was created under Tom Judge, again implementing the Constitution. Workers gained the right--State

employees gained the right to collectively bargain for the first time. That was implemented under Tom Judge. Over and over again you saw that kind of thing happening.

00:56:14

And it didn't happen all at once. But it--it--enormous things; on the environmental--I think there were a Commission to deal with women, issues related to women, there were health issues that came up, but over and over again the attitude was more let's--let's bring in the public and hear their opinion, not just--not just top--top down but bottom up.

00:56:40

Evan Barrett: Uh-hm; well the empowerment of people is--and at least in our system of government--is an objective we all should try to seek out. And well, we're about to run out of time here. It's amazing how time flies. I only have about 10 more things to ask you about. But if you'll hang around for a little--a few more years we might do another program.

00:57:00

Chuck Johnson: Okay.

00:57:01

Evan Barrett: Anyway it's been a pleasure to have you here Chuck. You've added a dimension of thought here that comes not from as a participant but as an objective and one of the best objective observers of what went on *in the crucible of change* during all that period of time, so thank you so much for your participation.

00:57:18

Chuck Johnson: It's been my pleasure Evan; thank you.

00:57:21

[Music]

00:58:42

[End Chuck Johnson - Montana in the 1970's Seen Through a Reporter's Eyes]