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# Transcript for Episode 34: Ending Exploitation: Natural Resource Extraction and 1970s Legislature

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## **Begin Ending Exploitation-Natural Resource Extraction and 1970s Legislature]**

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**[Music]**

00:00:03

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

00:00:14

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

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

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*. We're having an exciting program in this segment. We're going to be dealing with the issue of the ending of the exploitation related to the extraction of natural resources here in Montana. Historically starting with the development of mining and timber products related to mining, back in the 18<sup>th</sup> or 19<sup>th</sup> century, our first Constitution was drafted by a Convention headed by the Copper

King, William A. Clark, and although that wasn't adopted because we didn't become a State, five years later we had a new Constitution adopted and W. A. Clark was the President of that Convention as well.

00:02:06

And they crafted a Constitution that was very, very favorable to mining interests and to those who were extracting minerals. And the history of Montana has been that the resources were extracted, the money was gathered, and the money ran out of state and never came back again. That's maybe overly-simplistic but that's kind of what was happening. And that was part of the change that we had to take--that had to take place during the--the *crucible of change*, after 75 years of this type of colonialism of Montana. So that's what we're going to be exploring today, the ending of that exploitation.

00:02:52

And we have two fantastic guests with us today. We have a Representative--former Representative Harrison Fagg from Billings. Harrison is an architect of some renown in Montana who began serving in 1969 and served for 18 years in the Montana Legislature, all during the period we're talking about here.

00:03:16

And we're also joined by former State Representative but former--mostly former State Senator Tom Towe of Billings. We have a Democrat Tom Towe, a Republican Harrison Fagg, reflective of the cooperation of the period for getting things done. Tom started in 1971 and served with the minor break, served a total of 20 years in the Montana Legislature. So we have very seasoned Representatives here who were right in the middle of the battle of changing us from a State that was exploited to one that could take advantage of its own resource extraction. So welcome to both of you. I'm glad--

00:03:53

**Tom Towe:** Thank you Evan.

00:03:55

**Evan Barrett:** --glad to have you here. Let me start off by just asking a general question and we'll start with you Harrison and then to Tom. Give me your just quick but short reflection on what was it like to serve during that

period of time? A lot of change took place and you were right in the middle, but what was it kind of like as a Legislature?

00:04:09

**Harrison Fagg:** It was a real period of change, but the thing I think that was different than today, it was a period of friendships and--and working across the aisle and getting things done. There--we didn't have the issues these--we had the issues but we found an end and a way of meeting those issues. And it was a challenge every single day; we were going from one period of time and we didn't really realize it--at least I didn't realize it--what a job we were making in terms of the State of Montana going from more of a colonial State to a progressive State. And this is the--the period we were in and I frankly didn't recognize it at the time. Looking back on it, now I see it was really a period of change and an awful lot of things happened.

00:04:47

**Evan Barrett:** Yeah; Tom your--your thoughts on that and--?

00:04:50

**Tom Towe:** Well I think it would be fair to say that we happened to arrive in 1971. I think Harrison came about that same time--

00:04:58

**Harrison Fagg:** Sixty nine.

00:04:59

**Tom Towe:** --'69 okay and by that time the stranglehold that the Anaconda Company, the copper company held on the Legislature had been broken. It--it was--there was still some vestiges of it; it was still strong but it wasn't like it used to be. It used to be in order to introduce a Bill, if you wanted it drafted you'd better get it drafted well or it would be tossed out right away.

00:05:26

**Harrison Fagg:** Or they drafted it.

00:05:28

**Tom Towe:** And that you went to the--to the top floor of the Placer Hotel where all the lawyers for the Anaconda Company were and they would be delighted to draft it for you. And they would be happy to take care of it. There was always on the top floor of the Placer Hotel, there was always an opening. Any time somebody was hungry they could go up. There was always food available. There was people to talk with.

00:05:50

**Evan Barrett:** Liquid refreshments perhaps?

00:05:52

**Tom Towe:** Liquid refreshments in particular. That was pretty much gone by the time I got there in 1971. But--but the influence was still there and as J. Kinsey Howard said with the Montana Twins, the Anaconda Company and the Montana Power Company, the power company was gradually getting stronger and stronger and it was really more of the Power Company's situation by the time we got there.

00:06:18

**Harrison Fagg:** But even in our time, Tom, they had the hospitality rooms.

00:06:21

**Tom Towe:** But they did have the hospitality rooms.

00:06:22

**Harrison Fagg:** And same kind of--you go up after the session. Anything--anything you wanted basically from a sandwich to a--to a drink it was available.

00:06:30

**Tom Towe:** I don't think I ever went to those.

00:06:32

**Harrison Fagg:** No; they were there.

00:06:32:

**Tom Towe:** And I guess--

00:06:33

**Harrison Fagg:** You had one Power Company and Green Stamps; they had three rooms. And maybe they were closed down by the time you got there.

00:06:38

**Evan Barrett:** Now we're dating ourselves when we talk about Green Stamps.

00:06:41

**Harrison Fagg:** Yes; but they're--there was a Green Stamp room. *[Laughs]*

00:06:46

**Tom Towe:** But I think that--that one of the--the changes that was taking place is that there were a number of younger people like in those days Harrison and I were both fairly young and Dorothy Bradley and the--

00:07:00

**Evan Barrett:** Bob Brown came in then.

00:07:01

**Tom Towe:** Bob Brown came in at that same time.

00:07:02

**Harrison Fagg:** Well I think--there at that time.

00:07:03

**Tom Towe:** And a whole bunch of others.

00:07:05

**Evan Barrett:** Lots of young people.

00:07:04

**Tom Towe:** A lot of young people that were there and--and they didn't go for this--this kind of lobbying that used to prevail in the Legislature, so that was another part of the whole atmosphere.

00:07:16

**Harrison Fagg:** And we knew to drop the names; we don't--don't forget George Darrow. He was a stellar; he was just a real solid stellar Legislator that really stood on principle and got things done.

00:07:28

**Evan Barrett:** Yeah a lot of--when I talk with people about the kind of changes we're talking about here that relate to natural resource extraction and environmental things George's name always come to the fore.

00:07:37

**Harrison Fagg:** He was probably the--the leader of the thinkers if I want to say. He--he was very, very deep and had a real sense of reasoning, a great deal of ability.

00:07:46

**Tom Towe:** Yeah; he understood the environment and the environmental issues and--and Leland Schoonover on the other side--

00:07:52

**Harrison Fagg:** Yeah Leland Schoonover; yeah.

00:07:53

**Tom Towe:** Schoonie, yeah; I--you know I think Harrison was telling me earlier that he sat right beside George Darrow. And I was privileged; my first session I sat right in front of Leland Schoonover. Whenever I had something I didn't understand I'd just turn around and say Leland tell me about this. *[Laughs]* And it was--that was huge. He just--

00:08:13

**Harrison Fagg:** Like George Darrow, I said what--what are we going to do with the solid waste George? He said dry gulches. We can fill them up and then we--this is George. He had a quick answer for everything.

00:08:23

**Evan Barrett:** Well I will tell you that--interesting how you both schooled on some Veterans but Veterans who were very progressive in their thinking. And then also you were able to work with each other a lot. One of the great things about you're both from Billings, different Parties but you worked together a lot and that was one of the reasons why we were so happy we were able to get both of you at the table together.

00:08:47

**Harrison Fagg:** Yeah; Tom redrafted a couple of my Bills for me I recall where you were having trouble getting them through and he said if you'd change here and you'd change there I think we can get it passed. And that's what--we worked back and forth and I think I helped him a couple times on--on his Bills when they were in Conference Committee particularly.



00:09:00

**Evan Barrett:** Uh-hm.

00:09:01

**Tom Towe:** Yes; that's right. Sure do--

00:09:03

**Evan Barrett:** But you played a real big role when Tom was the introduction of the coal severance tax was there because it was because of you that Tom got to be the lead on that even though he wrote it all.

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**Harrison Fagg:** Yeah; well of course that is an interesting twist because we had the Coal Tax Bill and--or Ora Halverson had submitted a Bill in the House and Tom in the--in the Senate. And by the time--

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**Evan Barrett:** She was from Kalispell.

00:09:28

**Harrison Fagg:** Yeah; she's from Kalispell. And she was a Republican and Tom was a Democrat.

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**Tom Towe:** Yeah; she was a Democrat.

00:09:31

**Harrison Fagg:** Oh she was a Democrat, too that's right.

00:09:34

**Tom Towe:** Yeah; she was a Democrat.

00:09:33

**Harrison Fagg:** By the time it got to Conference Committee, her Bill and Tom's Bill were identical, not a word different. And so we got in the Conference Committee, well who's going to get the sponsorship? Well the House people wanted the House member to get it and the Senate people wanted the Senate member to get it. And I was on the Conference Committee and I said well, why don't we just flip a coin? And we flipped heads Tom and tails Ora, or something like that. The next day in the paper the headline was *Fagg Flips a Coin for \$60 Million*.

00:09:59

**Evan Barrett:** And it became Tom Towe's Bill.

00:10:01

**Harrison Fagg:** It became Tom Towe's--

00:10:02

**Evan Barrett:** Which was good because it--

00:10:03

**Harrison Fagg:** It should have been his Bill. It should have been his Bill; yes, because he certainly was the former--

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00:10:08

**Tom Towe:** I spent so much time working on that Bill and I--you know I worked with the Senate and made sure that the Committee were all right and everything when I was on the Committee on Committees to pass that Bill. But what happened was I think Bill Christiansen who was also a Democrat, at the time the Lieutenant Governor thought that when I put the coal tax in at 30-percent that was too high; that wouldn't go. And so he engineered Ora Halverson to put in a contrary Bill that was lower but the--the same thing, same tax, same way and--and that's--and then pretty soon Ora Halverson got all wrapped up in it herself. And it was just--

00:10:49

**Evan Barrett:** There was no accounting for that; you know people do get engaged and involved and so on but--but the 30-percent did pass.

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**Tom Towe:** It did.

00:10:56

**Evan Barrett:** And though it--a dozen years later it was reduced, but--

00:11:01

**Harrison Fagg:** Yeah.

00:11:02

**Evan Barrett:** --but it did pass and--and--

00:11:03

**Tom Towe:** It was reduced the day--the year I got unelected. *[Laughs]*

00:11:08

**Evan Barrett:** You weren't there to protect it. It is a very interesting thing but the--let's not forget that during this period the--what we did have was this New Constitution came in. And it had a--a quality of life side to it that is we're going to protect ourselves and make sure our resources are to the benefit of the people and so on. And--and that helped set some tone; even the Legislators were--and then some of those folks left the Con-Con and ended up in the Legislature.

00:11:44

**Tom Towe:** That's right.

00:11:45

**Harrison Fagg:** Well I think the Con-Con made the big split. It went from one poll to another poll and that opened the door for the things we did. I don't think we could have had the success we had at the time we had it, if we had not the Constitution.

00:11:58

**Tom Towe:** Well the open meetings and the--the fact that every--every vote had to be recorded and the fact that we had to be--that we had to allow people to come in when the Committee went into Executive Session to take action on Bills. A lot of people said oh that will never work. The--it's--business doesn't work that way. But it worked just fine.

00:12:19

**Evan Barrett:** This was the public's business.

00:12:20

**Tom Towe:** And it was the public's business and it made--that had an atmosphere too; that made a big difference. That all came about because of the Constitution.

00:12:28

**Evan Barrett:** In our segment of the Constitutional discussion in--in the series we have discussion of the Legislative Article with Arlyne Reichert Reichard and Jerry Loendorf and Rich Bechtel and it's a marvelous discussion and I hope everyone who is watching this gets a chance to look at that because it covers those issues very well.

00:12:46

Now let's talk; perhaps the coal was the driving immediate issue. The Coal Tax and then the Coal Trust Fund in--in sequence; the tax came first isn't that right?

00:13:04

**Tom Towe:** Well that's--it virtually came the same time but it was--by time by days it was--

00:13:11

**Harrison Fagg:** Or by passage.

00:13:11

**Tom Towe:** --the Coal Tax.

00:13:12

**Harrison Fagg:** The tax went first.

00:13:13

**Tom Towe:** The tax went first. That was a Bill that was passed to the Legislature but at the same time that--that was passed we also put in a Bill to put onto the ballot at the next General Election a Constitutional Provision that created the Coal Tax Trust. And that passed at the next General Election; took effect about the same time as the Coal Tax.

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**Evan Barrett:** Now the people voted overwhelmingly for that--for the Coal Trust Fund.

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**Tom Towe:** That's right; that's right.

00:13:39

**Evan Barrett:** And there were some really--if you think about legacy and you gentlemen both created a lot of legacy when you were in the Legislature, one of the preeminent legacies that was created was this trust fund and it has sustained itself over time and is now nearly a billion dollars.

00:13:59

**Harrison Fagg:** About a billion dollars; yeah.

00:14:00

**Tom Towe:** That's right. Yeah; well it--perhaps I could tell a little story about that because at the time and during--when I wrote the--the argument before--for the Voter Information Pamphlet on its adoption and then after that time when I defended it in Congress, when I defended it in speeches all over the country I was asked to come and talk about the--the Coal Trust and the Coal Tax, but I used to say this--that--that the people of Montana were used to exploitation by the mineral companies, the mining companies. Then as you mentioned in your opening that was very true; the mining companies were very, very dominant. The--the original Constitution did not allow the Legislature to pass a tax on minerals. *[Laughs]* And--and fortunately Joe Dixon corrected that back in the 1920s but it--but he lost the election for Governor in order to do it. But--but by the time we got there there was still a problem. And--and I used to say this many times--that the people of Montana were very much aware that we are the Treasure State. We have minerals that are very valuable. But we have allowed those minerals to be mined and taken and what do we have to show for it? What do we have now that the copper, the--the--the greatest hill on earth is virtually mined out? What do we have left?

00:15:37

Now I looked around and even the copper kings, the people who became fabulously wealthy, William Clark, Marcus Daly, Heinze, all these other people, they didn't leave things to Montana. I looked around and I found that William Clark endowed the Los Angeles Symphony Orchestra, the--the--William Clark built a Library at Stanford University, William Clark built the Law School at the University of Virginia, the Corcoran Art Gallery, one of the finest art galleries in the world in Washington, DC was all started by William Clark, and what do we have to show for that? The only thing I could find is that William Clark gave \$20,000 to build a theater inside the walls of the state prison. And I said--and I since learned that yeah William Clark gave a little money to the University of

Montana, too. But I--I kept telling people that the people of Montana were aware of that and--and they were not about to let that happen again. And for that reason--

00:16:39

**Evan Barrett:** Well in fact--

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**Tom Towe:** --we wanted to set something aside for the future generations, so we could look our--our grandchildren and our great-children in the eye and say we allowed the mining of coal but we did not squander your inheritance. We have something to show for it. It's that billion dollar trust fund that can't be touched in the principal but all the income is available every year for the Legislature to use to help Montanans.

00:17:07

**Evan Barrett:** To make it current and topical in this sense, in addition to what you looked at, we've all in the last--we've all in the last little while had a chance to reflect upon what W.A. Clark's daughter, Huguette Clark who recently died at about 104 or something and is the subject of that book *Empty Mansions*, has huge unbelievable estates all over this country and--and--

00:17:38

**Tom Towe:** And not used.

00:17:38

**Evan Barrett:** --and not even used and yet what we kind of had was a hill in Butte that was decimated and an environment that was decimated and all the money went out of state. And--

00:17:53

**Tom Towe:** I have said many times that--that I felt that Montana before the '70s, Montana was really a colony. We were--even though we were given statehood status, we were really a colony. People were exploiting the colony

of Montana particularly in the mineral area. And I think with the Coal Tax in particular but also with a lot of other Bills that got passed in the--in the '70s, we broke that copper collar. We became our own State and we no longer are allowing with the 30-percent coal tax, we are no longer allowing the exploitation for benefit of other people, not the people of Montana.

00:18:36

**Evan Barrett:** You know one of the things you know if you--if you take a look at it and you say well, we got jobs. Montana got jobs. At one point the Anaconda Company signed three-fourths of the paychecks in the State of Montana, okay; so we were always I think as a State grateful for the jobs but there was only--that was only one side of the equation. This lack of reinvestment in Montana in either the infrastructure or the niceties of the culture of Montana was--was one of the challenges. So--so we had this trust fund and it's emblematic. Now let's talk a little bit about what you did with the trust fund because you did have a tax and ultimately the tax, the Constitutional Amendment to create the trust said half of the tax had to go into the trust fund.

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**Harrison Fagg:** Right.

00:19:28

**Evan Barrett:** And once in there could only be spent if it had a vote, the corporate--could only be spent--

00:19:36

**Tom Towe:** The principal; uh-hm.

00:19:37

**Evan Barrett:** --the principal of it could only be spent if it was three-fourths of each House of the Legislature voted to spend it. And so it's--that is a high barrier and that has actually protected that trust fund from--from what is a continual assault of people who say I'm looking--if I don't want to raise your taxes by five-cents I'll go take it from the trust fund. And that's been the challenge of decades' challenge.



00:20:01

**Tom Towe:** Every single Governor since the Coal Tax was passed, every Republican Governor has asked--has tried to bust the trust either capping it or taking money out of it or in some other way, pulling money out of the trust fund in order to fund the general government.

00:20:18

**Evan Barrett:** And they couldn't break that three-fourths--

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**Harrison Fagg:** Well the three-fourths; that's really mission impossible to get three-quarters of the Legislature to decide on something.

00:20:25

**Tom Towe:** Well but--

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**Evan Barrett:** It happened once.

00:20:26

**Tom Towe:** Don't forget--no; it's happened--

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**Evan Barrett:** One little small thing--

00:20:28

**Tom Towe:** It's happened more than once. It's happened several times.

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**Harrison Fagg:** It can happen but it's really difficult.

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**Tom Towe:** On water projects, we have said okay; it's with a really minor thing only to support the bonds if the bonds are--are default or something, but we have--we have busted the trust if you want to put it that way with a three-fourths vote of each House of the Legislature on several occasions if it's really justified. It generally is not.

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**Evan Barrett:** But everyone agreed on those because they were general--and small. They were not big.

00:20:55

**Tom Towe:** It was small and very little--

00:20:55

**Harrison Fagg:** While we're on the subject; a person who has protected the trust as much as any is Vern [Inaudible]. He--he's a stalwart, a fighter for the--for to keep the trust as it is.

00:21:05

**Tom Towe:** And a Republican.

00:21:06

**Harrison Fagg:** And a Republican; yes.

00:21:07

**Tom Towe:** And he was--he was Chairman of the Montanans for the Coal Trust that was organized for the specific purpose of protecting that trust.

00:21:15

**Harrison Fagg:** Yeah; and he's at the Legislature every time there's an attack on it and he doesn't leave until it's over with. [*Laughs*]

00:21:19

**Tom Towe:** And I hope he can do it again.

00:21:21

**Harrison Fagg:** I hope so, too. He's getting along in years.

00:21:22

**Evan Barrett:** Well we hope it wouldn't be under assault but--but I think it--I think it speaks to vision, not just commitment--to vision and understanding that you can--you have to write into the Constitution and into laws protections; that just the idea that well this is so worthwhile it will be protected inherently just doesn't work.

00:21:43

**Tom Towe:** Virtually every other State that's had a trust fund has lost their trust fund with one exception, Alaska. And that's because they did not protect it like we did. We had a--we had another trust fund by the way. We had a trust fund that was created out of the Coal Tax pie for higher education. Higher education in Montana has never had its own trust fund or separate income. The--the--the lower--the schools K through 12 have school lands to help support the schools. Nothing is there to support the higher education. We put 20-percent of the Coal Tax into a higher educational trust fund. But guess what? We didn't protect it with the Constitution. And--and I can remember on the Floor--

00:22:29

**Evan Barrett:** I remember when it happened; yeah.

00:22:30

**Tom Towe:** --in 1985 in the last Session there was an attempt to raid it and--and that was because a bunch of Democrats from Butte thought we ought to build a Library at Montana Tech with some of that money and--and it--and it passed on the third reading, but I noticed that one of the Parties from Butte was not in their chair. I jumped up and said Mr. President I think there may be somebody here that's button got pushed even though they're not in the presence of the Legislature--the Senate. And--and the President agreed with me and I think we better vote again. And we did and it lost by one vote. So it was protected.

00:23:15

The next year I was out of the Legislature; they took the whole trust fund and it's gone.

00:23:20

**Evan Barrett:** Well I think it speaks to the fact that we need to have statutes, constitutional language, and committed individuals to try to defend these kinds of things that are--

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**Harrison Fagg:** And the committed Legislature. I was told one time the Legislature was like a man looking through a keyhole with blinders on. And very shallow vision and forget the wide vision, and I think this is where we--we fall down as a Legislature. Too many of us in the Legislature are concerned about the next election. We're not concerned about the State of Montana and that's why people like Tom that can see vision made a difference.

00:23:50

**Tom Towe:** And I've always tried to get people to look--raise their eyes a little bit and look at the future. I mean this is not just the next election. It's what's going to happen to the State of Montana in the future? And--

00:24:02

**Evan Barrett:** Well right now every Legislature that meets should you know send a thank-you note to the Legislators of your time because the amount of interest that comes out of the trust fund and appropriate--that can be appropriated by the Legislature, far exceeds the amount of money collected in Coal Tax.

00:24:24

**Tom Towe:** That's right. At the present time there is more money from the interest income of the trust fund than there is coal tax money itself.

00:24:34

**Evan Barrett:** It speaks to the vision and the--and the wisdom. Now there was another trust that was passed at about the same time but it was not done in the same manner and that was the Resource--

00:24:45

**Tom Towe:** That was the RIT.

00:24:46

**Evan Barrett:** --Indemnity Trust, the RIT. And Governor Schwinden in his film that he did with us talked about how he had kind of come up with this idea and talked to Forrest Anderson about it who said you better talk to Tom Judge, he's the new Governor. And they liked it and they put it in and it did pass, but it was different and because of that it hasn't had the impact. Can you speak to--?

00:25:08

**Tom Towe:** There were--there were several things that were different. One of the major things it was a small amount. It was only I think five-percent. And--and it--but it was broader. It was on every mineral, not just coal-- five-percent for the Resource Indemnity Trust, thirty-percent for the Coal Tax and you can see the difference. And the trust fund was not nearly as big but because it pulled for more--

00:25:32

**Evan Barrett:** But it affected oil, too didn't it?

00:25:33

**Tom Towe:** Affected oil and it affected hard rock minerals; it affected all minerals, everything and there was one other major, major difference and that was there was an automatic cap on it. At the time it hit \$100 million it stops. So that didn't happen with the Coal Tax. The Coal Tax goes on and on and on forever.

00:25:54

**Evan Barrett:** I remember when it might have been late when--late in your career, it may have been afterwards. I'm trying to remember when they were reaching that \$100 million figure and the question became well, why don't we raise that because look at what's happening with the Coal Trust Fund? And I remember a Senator from Billings who fought arduously to keep it at the \$100 million. And it was really the--the oil company saying look; don't make us have to pay any more tax. I sometimes look at things and I don't *[Laughs]*--but nonetheless, it stayed at \$100 million. So it's had--it's had good impact.

00:26:37

**Tom Towe:** It has and it's been done--done very well.

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**Evan Barrett:** But it was limited--

00:26:41

**Tom Towe:** Done good things.

00:26:42

**Evan Barrett:** Think about if it was twice as big.

00:26:44

**Harrison Fagg:** Yeah; it could--it was good but it could have been better is what you're saying.

00:26:46

**Evan Barrett:** Yeah; so you know as they say those who do not learn from history are condemned to repeat it. It's worth noting the difference between those two and one is a homerun and the other ones may be a line drive single or maybe a double.

00:27:01

**Harrison Fagg:** Might be a double.

00:27:03

**Tom Towe:** That's probably a good illustration. The other--the other thing that you haven't mentioned and I think probably needs to be into this--into this discussion is the impact that coal itself had on all of the other environmental issues, that all were--many of which were taxed.

00:27:20

**Evan Barrett:** And coal was the developing--the evolving resource, the demand for coal at that time at least was targeted to be pretty big.

00:27:29

**Tom Towe:** The North Central Power Study came out in the early '70s. It was about the time of the '73 Session. Everybody was aware of it and somebody--some government agency and I don't even remember which one it was, but had done this real big study that showed because of all the coal--and by the way, we had a lot of the coal in the--in the world. We have something like 10-percent of the world's coal.

00:27:54

**Evan Barrett:** Ten-percent of the world and thirty-percent of America's.

00:27:54

**Tom Towe:** Twenty-five percent of the coal supply in the United States; fifty-two-percent of the low sulfur coal in the United States is right here in Montana. And--and people were much aware of that and this North Central Power

Study came up showing there were going to be power plants in--all over Eastern Montana. It was going to be huge.

**[Emphasis Added]**

00:28:14

**Evan Barrett:** The projected number was 70 power plants which never happened by the way.

00:28:17

**Tom Towe:** This never happened but everybody was concerned. And--and what happened in the Legislature, there were--there was one Bill introduced in the House that said we should not allow coal mining--period, and because of all the impacts and all the problems. Then the most significant Bill I think in this whole Session--in this whole thing was Dorothy Bradley's Bill on the Coal Moratorium. She said we're going to allow coal mining, but we don't have the--the environmental laws in place yet. We don't have the tax in place. We don't have all of these--the--the condemnation things in place yet. So let's--

00:28:57

**Evan Barrett:** Take a break?

00:28:58

**Tom Towe:** --take a break. Let's put a moratorium. Let's stop the mining until we can do all of these things. Well that was an interesting Bill. It came to the Floor of the House and I'm sure you can remember Harrison; it was tied. We couldn't get enough votes to pass it, but we couldn't get enough votes to kill it, so it just stayed there. And pretty soon somebody came up with the idea, well let's just set it on the shelf. We'll just put it up there; it's always there, it can be brought down at any time, and let's see if we can get some of these other Bills all passed. And if we can get--if we can show some good progress then we can leave that alone; if we don't, then we still have the option of bringing it down. That worked. That exactly happened and that's when we got a Clean Air Bill, we got a Clean Water Bill, we got a Subdivision--I mean a--a Strip Mine Law passed; we got Harrison's Bill passed on--on Hard Rock Reclamation and--and although we didn't get it that Session, at the next Session we got the Coal Tax. So all of those happened primarily I think because people were concerned about the Northwest--Coal Study but also they



were concerned that Montana had the laws that were necessary to control the development so it would take place at our beckon call and not at the exploited company--corporations' beckon call.

00:30:31

**Evan Barrett:** You know at the time that concept of 70 coal plants in Eastern Montana, there was a--one of the company guys came and said would you like to have us build 10 cities of 20,000 each or 1 city of 200,000 in Eastern Montana? What would be your preference? Well now--now we ended up having coal strips built and it's only a few thousand, but that was the sense of it at that time and--

00:31:01

**Tom Towe:** Yeah; that's right.

00:31:02

**Evan Barrett:** --in fact--

00:31:03

**Tom Towe:** It was expected to be a lot bigger than it was; yeah.

00:31:05

**Evan Barrett:** --and so that threat really made people focus. And the threat was not just the coal development but the water--Tenneco as you recall was the company that was up here starting to appropriate water because of the huge water demands and that type of thing. And so as a result of that I think everyone was intently focused on this idea of well, if we're going to do it, we ought to at least do it right. To do that we have to have these tools and I think that's maybe one of the differences that emerged out of that period and is constantly a challenge even today, is--is how do you responsibly develop resources, get the economic advantage of it, but not destroy the quality of life that we have in Montana? Now most you and people who were working at that period knew that you probably could do both if you work at it and do it right. There are some folks who still maintain it's an if--either/or proposition. You really got to have hell-bent, all the jobs, and no good reclamation or no good environmental protections or the

people who say it's all about this; you can't mine, you can't do this because we got to protect it completely. The balance is where we end up if we're--I think Montanans at their best--are to do it right, do it but do it right.

00:32:29

**Tom Towe:** And I think we did a good balance in the early '70s. I think the Legislature was fortunate to have the people who were concerned about that sufficient to get I think a very good balance so we can say that--we can--we can look our future generations in the eye and say we didn't squander your inheritance. We didn't--we didn't mess up the environment so bad that nobody wants to live here anymore. It could have happened.

00:32:54

**Harrison Fagg:** I think the Hard Rock Mining Bill that we--we talked about a minute ago was an example of this. It became so apparent we needed some type of hard rock mining legislation and people were saying well it can't be done; it can't be done. And it needs an interim study and--. Well I went to the Head of the Mining Industry and asked him to send down to me a lawyer and went to the Head of the Forest Service and said will you send over a man that can sit down and draft a Bill? So I got the two people together from both sides and I said I've got--I had a Committee Chairmanship then and I said I got a Committee Office and I want you guys to go in that office and don't come out until you have a Bill.

00:33:27

And it was written jointly between industry and the environmentalist and it's worked out to be quite well. I'm sure it's been amended since it was passed but I think it's worked out quite well.

00:33:36

**Evan Barrett:** Tell us about the trigger for that, your little hike up on a plateau that--?

00:33:43

**Harrison Fagg:** Yeah; it is a kind of interesting story. I--I have done a lot of backpacking and mountain climbing in my life and one of my trips to the mountains--was to Wood Plateau which is--overlooks the Stillwater Valley and overlooks the mining industry work down below. And as I was walking up what used to be a trail it was now a road.

It was a Jeep trail but a road all the way to the top of the plateau. And I thought that was peculiar. I got up on top and walked out on the plateau--and my uncle called it the golf course; it was just a beautiful plateau up there. There were CAT tracks all over the--scarring the plateau. And there had been one little tree of probably two-feet high and somebody had chopped it down. And for no apparent reason whatsoever; well I took the picture of the tree--

00:34:24

**Evan Barrett:** Must have been in the way of those vehicles.

00:34:25

**Harrison Fagg:** Yeah; it had to be in the way of those bulldozers [*Laughs*] but a little tree like that I'm sure took 20 years to grow and maybe 30 years to grow--

00:34:31

**Evan Barrett:** Yeah because you're way above the timber plain.

00:34:33

**Harrison Fagg:** We're way above the timber; yeah. And they had chopped it off. So I took a picture of the tree and that was part of my lobby too. I would take it to these people and say this wasn't necessary. Don't you think--don't you think we should do something about the hard rock mining in Montana?

00:34:45

And at that time they--we had a little difficulty getting it passed, but it did pass and it passed primarily because Mary [Donahoe] was the County Commissioner of Stillwater County. She called Bill McKay who was a State Senator and said Bill they got this Bill out of the House; you get it out of the Senate [*Laughs*] and that's how it happened.

00:35:03

**Evan Barrett:** Yeah; and--and Bill is a Republican.

00:35:07

**Harrison Fagg:** Bill was a Republican.

00:35:07

**Evan Barrett:** From Carbon County and--and Stillwater County.

00:35:10

**Harrison Fagg:** Right exactly.

00:35:11

**Evan Barrett:** And his--his family stayed engaged in--in kind of progressive development and ranching and--

00:35:19

**Harrison Fagg:** Right, but in those days we didn't have the barrier between the Democrats and Republicans. I think the--close friends from both sides of the aisle, we partied together, we--we traveled together, we'd sit and visit together, and I go up to the Legislature now and I don't see that environment. And it's appalling.

00:35:35

**Tom Towe:** Yeah and I would--I would echo that. At the time that I served in the Legislature we had great respect for the people on the other side of the aisle.

00:35:43

**Harrison Fagg:** Exactly.

00:35:44

**Tom Towe:** We might have disagreed and we might have argued with them, we'd argue in the Committees, we'd argue on the Floor and we would--we would go as much as we could to make the best argument we could but we would--we had great respect and we really enjoyed visiting with it. I--I for instance, my wife and I went to Bob

Brown's wedding when he got married [*Laughs*] in Forsythe. We drove all the way over there just because I had that respect for some of the other people in the Legislature. And I can remember Bill Mathers, who was the principal opponent of the Coal Tax, he supported the tax but he thought it was--30-percent was way too high. And he did everything he could to get that reduced.

00:36:23

**Harrison Fagg:** Everything; yeah, uh-hm.

00:36:24

**Tom Towe:** And Walter Olmert from Miles City also did. But I have the greatest respect for both of those gentlemen even though we fought as hard as we could [*Laughs*] on--on the issues. And why can't they do that today?

00:36:35

**Harrison Fagg:** I don't know; when I was up there--

00:36:37

**Tom Towe:** More civility?

00:36:37

**Harrison Fagg:** --Senator James when he brought me to the Legislature said remember; one thing. He said your biggest enemy today on the floor will be your friend tomorrow. He said--[*Laughs*]--

00:36:46

**Tom Towe:** That's right; that's right. And you got a mark for that.

00:36:48

**Harrison Fagg:** They seem to have forgotten that lesson who is--

00:36:50

**Evan Barrett:** Well I think it's fair to say that the Legislature when you gentlemen were there was a big contrast with the past for 75 years.

00:37:00

**Harrison Fagg:** Yeah; it was huge--huge.

00:37:01

**Evan Barrett:** But also a contrast with the present.

00:37:02

**Harrison Fagg:** Yeah.

00:37:04

**Tom Towe:** Yeah; let--let me tell you another story because when you talk about the past well two--actually two stories. The first one took place in 1901 when Heinze who was the third copper king had this great idea of the apex theory that if--if--if the copper vein came up to the surface on your land, you could follow that as long as it was **[Laughs]**--you wanted, as far as it goes. And it was just making--

00:37:35

**Evan Barrett:** Well that actually was the law but it was the application of that law but the local judges that Heinze owned--

00:37:41

**Tom Towe:** Clancy.

00:37:42

**Evan Barrett:** --yeah Judge Clancy that led to this problem that--and then all the sudden we had what--?

00:37:48

**Tom Towe:** Well--well what happened was the--the Anaconda Company and Marcus Daly's company was getting just terribly frustrated and getting taken because they were losing all of their copper. And--and so they went to the Governor and asked Governor Toole if he would call a Special Session of the Legislature in order to pass a Bill that would allow for the--

00:38:16

**Evan Barrett:** Changes Judges?

00:38:16

**Tom Towe:** --changing Judges, excusing the--

00:38:19

**Evan Barrett:** The venue thing; yeah.

00:38:19

**Tom Towe:** --disqualifying a Judge. And Toole said you know this is a government, you know a private company can't come in and do things like that. We aren't going to do that for a private company. No; we can't do that. They said all right, all right. And as you pointed out earlier, the Anaconda Company controlled something like three-fourths, two-thirds to three-fourths of all the paychecks in the State, all the non-farm laborers in the State. And they--they pulled a lockout.

00:38:49

**Evan Barrett:** They shut her up.

00:38:49

**Tom Towe:** They shut the doors. And about a month later, 40 days later Governor Toole said well I guess maybe we better do that [*Laughs*] and they called a Special Session of the Legislature.

00:39:01

**Evan Barrett:** Can you imagine the economic stranglehold that would--

00:39:05

**Tom Towe:** And the Anaconda Company had ruled the State for the next 50 years, maybe 70 years and that was-- that was the case. The second story, to illustrate that and how much of a stranglehold the Anaconda Company had, K. Ross Toole tells me this story. K. Ross Toole said and it's in--he said this is in his doctoral thesis but not in any of his books but you can go to the University of Montana and get his doctoral thesis. Actually he was the Director of the Historical Society in 1947 and he says that they needed some kind of a reproduction machine that was a fairly big machine and it was before we had all these fancy copying machines you know. And it--and he needed--he needed something really bad for the Historical Society and it would cost a few thousand dollars. It was a significant amount of money. He put--he went through all the procedures. He got it into the Governor's budget. He went into the House Bill 1--House Bill 2 and he went through the Committees and--and supported it on the Committee Floor and on the Floor of the Committees before it got to the Floor of the House. He finally got a chance to visit with the lobbyists for the Anaconda Company and he sat down with the lobbyists of the Anaconda Company and went through all the arguments of why it was so important, why we had to have this or why a few dollars would be well-spent.

00:40:35

And the Anaconda Company lobbyists said okay; go ahead, we'll support you. He said he went out and purchased the machine. He didn't even wait for it to go through the Legislature and be signed by the Governor. It was already done when the Anaconda Company--

00:40:49

**Evan Barrett:** He knew the deal was done. He knew the deal was done.



00:40:51

**Tom Towe:** That's how big a stranglehold the company had on this State. That's broken. It was starting to be broken in the '60s; in the '70s it was totally broken.

00:41:01

**Harrison Fagg:** I think it's not just the Anaconda Company. I think the period of the '70s is the period where the lobbyists took a backseat and when I first went to the Legislature, everybody went to the lobbyists and asked their opinion. There was a handful of them, four or five guys up there that really told us how to vote or told the people how to vote. And as this transition began as you said from a colony to a State and that's a good description I think there was a transition on how the lobbyists and--and their input took in the Legislature and we didn't listen to them like we did at one time. And although there will always be those that don't vote until they talk to the lobbyists, the bulk of the Legislators at least when I was there were going on their own thinking and they were talking things through and between themselves and they were talking in their party and they're talking in their caucuses as to what the vote should be, not how the lobbyists thought the vote should be. I think it was a major transition in the '70s.

00:41:51

**Tom Towe:** Yeah and--and let me--let me tell you a little bit more about that. The Anaconda Company did a very good job of lobbying as you might well know--imagine and then the Montana Power Company--

00:42:03

**Harrison Fagg:** They were excellent.

00:42:04

**Tom Towe:** They kind of took their place. In fact, by the time I got to the Legislature--

00:42:08

**Evan Barrett:** When the trajectory of the Anaconda Company was going on it was going up.

00:42:11

**Tom Towe:** Montana Power Company was going up and the Montana Power Company was becoming even more important. Montana Power Company had--they had a lobbyist for the Republican Legislators. They had a lobbyist for the Democratic Legislators. That lobbyist for the Democratic Legislators would make the round after the election; go talk to every single one in their hometowns.

00:42:30

**Harrison Fagg:** The Republicans did the same thing.

00:42:32

**Tom Towe:** And the Republicans I'm sure did the same thing. They--they were really on top of things and had a huge influence. And that--that is significant because what happened at this point because of the Coal Tax Bill, something really dramatic happened that was almost--almost an accident or a fluke. *[Laughs]* It just so happened that the Anaconda--the--the Montana Power Company's main lobbyist, John Lahr got involved in a slander suit because he called the radio station the day before--the Sunday before election and said that Bob Harper, a Democrat who he was trying to defeat voted for a Contraceptive Bill in his Catholic District, which was wrong. And we sued him; Bob Harper came to me and asked me to bring his suit. We sued the--the Montana Power Company and John Lahr. That suit was pending at the time we met in 1975 for the Legislature. And John Lahr was just devastated. He just wasn't acting like he normally would. And the Coal Council hadn't yet been organized. There was no effective lobby for the coal companies and the consequences that because of that in the lobbying area we were able to get the Coal Tax--.

00:44:03

**Evan Barrett:** Well I think that the--I think that the tone was also set by the Con-Con which told lobbyists you had to disclose how much you spend and what you do.

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**Tom Towe:** It was.

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**Harrison Fagg:** It had a big bearing.

00:44:11

**Evan Barrett:** A number of things like that. Now let me ask you this before we get off the Hard Rock Mining completely. In addition to the Hard Rock Mining Act doing the reclamation issues and things like that it also had a mechanism for helping communities deal with the impacts of startup and--and in fact the big--our biggest mine in Montana today, the Stillwater Mine which has about 1,800 current employees, was developed under the scenario that you put into that Bill. And because of that won many, many--almost environmental awards, but it was an evidence of when you make the companies deal with the communities on the front-end there are ways to do it.

00:44:56

**Harrison Fagg:** Yeah; well it's--the story of mining is a boom and a bust. The mining comes in and there's a huge boom. You see it right now in the Stillwater Valley. And extra school rooms are necessary. There's extra cars, there's extra restaurants; there's an influx of people. That Stillwater Mining is--is going to leave and there has to be a way to compensate for it and we did cover that in the Bill. I mean the--the Bill was comprehensive. It started out with a--with the exploration and went through the mining and then it went through the reclamation and went through the after-effects of the reclamation. And again, it was a Bill that I take pride in the fact that it was written by both sides of the fence. They both saw the need and it's too bad we can't have more of that today.

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**Tom Towe:** And the companies paid for it.

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**Harrison Fagg:** And the companies paid for it; yes.

00:45:38

**Tom Towe:** That was a--that was a--the stalwart thing of the Bill. The companies actually paid through fees. Now I maintain [*Laughs*] that one of the reasons they were willing to do that is because I had a Bill that was ready to tax them much like the Coal Tax and they were afraid of it. And so they went and said oh we'll take care of all those things, right away, with--in your Bill.

00:46:01

**Harrison Fagg:** That very well could have but they took care of all of them; I know that.

00:46:04

**Tom Towe:** Yeah; they did.

00:46:04

**Evan Barrett:** And I think--I think the fact that there's 1,800--1,900 workers down there in a mine, paychecks, good economy, of course it is underground which helps. That helps with reclamation but--but nonetheless the Stillwater Mine is maybe a poster child--

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**Harrison Fagg:** It is a poster child. I've got a cabin three miles from the mine. You would not know they're even there. They've done a beautiful job; they're doing a great job in reclamation. I think the Stillwater Protective Association may have something to do about that but they have done a wonderful job in what--in the way they reclaim, the way they mine, the way they've taken care of, they're running back and forth rather than have the employees drive up for example. They have many things they're doing that are progressive.

00:46:47

**Evan Barrett:** And it takes--but it takes the steam out of the argument that somehow this stuff is punitive and that--and that if you pass these laws you'll stop everything. It's always good to turn to a Stillwater Mine and say see it does work.

00:47:03

**Tom Towe:** They have a great--they have a great community organization they get--they work with the community, they--they listen to the community, they help with the community and always--they are doing their best to be a good citizen and I think people appreciate that.

00:47:17

**Harrison Fagg:** Well they meet regularly with environmentalists in the Valley. They're--they're--they've been very, very cognizant--

00:47:21

**Tom Towe:** They do.

00:47:22

**Harrison Fagg:** --of the environment and they're doing a remarkable job.

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**Tom Towe:** But there's one thing that's missing.

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**Harrison Fagg:** What's that?

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**Tom Towe:** *[Laughs]* And, that is we haven't put enough money aside for future generations, once that--once that platinum and palladium is gone it's gone forever.

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**Harrison Fagg:** It's gone.

00:47:35

**Tom Towe:** And it'll never come back. And our future generations won't have any part of that.

00:47:39

**Evan Barrett:** I think the two of you ought to rise up and create a trust fund out of Hard Rock Mineral--

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**Tom Towe:** Well there's a more important one to do and that is oil right now.

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**Evan Barrett:** Yeah; now let me--let me ask us to dive into something before we finish up. We got a while to go here yet but still, and that is facilities siting, because with the threat of the--when the threat of the [chemical] water consumption in the 70 plants in Eastern Montana and which--which got so big a cause that Ross Toole quit writing history books and wrote a book called the *Rape of the Great Plains* projecting what would happen discussing the past and so on and--and out of that a Facilities Siting Act was passed which had fairly significant--and continues to have significant impact in terms of if things are going to happen how should they happen?

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**Tom Towe:** I took an interest in that and tried to do something about it and didn't get very far. But Francis Bardanouve did. He had a real concern that this needs to be taken care of. We need to make sure that we're going to protect the environment if we let a power plant come in that's the communities--is taxed properly, is--is the community doesn't suffer economically. And he introduced the--the Plant Siting Act which was a major piece of legislation. It didn't come until the '75 Session. So that was after the moratorium. They didn't get the Plant Siting Act until later but we did get it in '75; '75 was a great year as well. And--and what happened in--in the Plant Siting Act was--was really quite remarkable because it really did make sure that--that the people were protected and that the companies had to pay for their impact on the environment.

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Now a lot of people have since said that that's really impeding further development and there has been a huge change in the Plant Siting Act since Francis was no longer in the Legislature.

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**Evan Barrett:** But you know it has expanded to include certain sized pipelines and certain length pipelines and certain sized transmission lines as well as the actual plants themselves. It does--it's always under assault. I mean I think it's worth--one of the sub-titles of this series is the--how we've moved from a corporate colony to a citizen-oriented State and the challenge of keeping it that way. And--

00:50:09

**Tom Towe:** Well I recognize there has to be a balance. There has to be a balance in jobs on the one hand and environment on the other.

00:50:14

**Harrison Fagg:** Well that's why the--that's why the Legislature needs to agree [inaudible]. I think we have--they've been pretty fair about doing that and I think the--the thing we're talking about is the pace we've set in the '70s and they--and the major imprint as moving forward.

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**Tom Towe:** It does.

00:50:25

**Harrison Fagg:** You know I know Francis Bardanoue, Harold Gerke another great Legislator, was--was active in the Plant Siting and I was a co-sponsor of the Bill. There--there were just a lot of things that were happening in those days and--but it's always going to be under attack and the argument you brought up a minute ago, it's always going to stop development. You'll always hear that and a good Bill does not stop development.

00:50:46

**Evan Barrett:** Uh-hm; well and--and it's always driven by economics and you know if you have an insatiable desire for the bottom line to be bigger no matter what there is a social responsibility. We have a social compact with each other in a State that we will do it in a way that benefits as many people as possible and not just rip and run. But we can't build a fence around Montana.

00:51:09

**Harrison Fagg:** No, but you know--

00:51:09

**Evan Barrett:** But we also can't rip and run and take off and leave nothing.

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**Harrison Fagg:** But the Stillwater Mine has got a huge--or not a huge but a large mountain sheep that--that live on--live down there on the winter on the mine. They just love it--

00:51:19

**Tom Towe:** Yeah; right across the road from your cabin.

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**Harrison Fagg:** That's right across the road; yeah. *[Laughs]* They're down there every year.

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**Tom Towe:** Seen the most sheep I've ever seen right there.

00:51:27

**Harrison Fagg:** Yeah about 30 or 40 sheep.

00:51:28



**Tom Towe:** And I had a cabin down there once, too and my cabin burned and your cabin burned and you rebuilt yours; I never did mine. *[Laughs]*

00:51:35

**Harrison Fagg:** That's right. But there again it shows that a good Legislature can--will allow development and allow reclamation and allow the future. And--and it opens the door also as I say for the amount of sheep in this case.

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**Evan Barrett:** Well I mean this period that we're talking about with Hard Rock Mining, with Resource Indemnity Trust, the Coal Trust, the Coal Tax itself, the Facility Siting Act and numerous other Bills was a fairly remarkable period.

00:52:07

**Harrison Fagg:** Yeah but why it was so remarkable and I'd hate to see the program end without saying this is because the Democrats and Republicans worked together. We were friends and we--and we commonly saw Montana, we saw what needed to be done, and although we argued vigorously and you and I have argued on many cases, we've always remained very close friends and we--at the time we worked together for the good of the State.

00:52:29

**Tom Towe:** And I would say one thing further. In--in those early days the--the real--the real impetus for some of the Environmental Bills came from the Republicans. It was George Darrow and it was Harrison Fagg that were working on these things and yes; we went--we went in and supported it and that's how it got passed.

00:52:49

**Harrison Fagg:** And another thing that we did is--so we haven't talked about the Conference Committees; how important they are. The Bill is passed and all the sudden it goes to Conference Committee to--to--you get the final Bill and it was so key that the Democrats and Republicans worked together on the Conference Committees. And I don't know that that's happening today. And I hate to say that--I think we're taking a step backwards.

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**Tom Towe:** And I would echo that. I would echo that.

00:53:11

**Evan Barrett:** You know it's good to remember that the EPA, Environmental Protection Agency federally is a creature of one Richard Milhous Nixon.

00:53:25

**Harrison Fagg:** Yeah.

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**Tom Towe:** Well Montana--

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**Evan Barrett:** And that--but that's an important thing to know when you talk about the kind of bipartisan sense that we need to make sure we do things right when we deal with the environment and jobs together.

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**Tom Towe:** That was one of the first things that came out of the '70s; 1971 George Darrow wrote the Montana Environmental Protection act.

00:53:46

**Harrison Fagg:** Right.

00:53:47

**Tom Towe:** And he got that passed. That was one of the first things that we did in the '70s. That was important.

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**Evan Barrett:** So again that speaks to the bipartisan nature which--

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**Tom Towe:** Yeah; it's a Republican.

00:53:59

**Evan Barrett:** --and because Republicans were putting up good Bills. Democrats were putting up good Bills. People were working together. Now I don't want to overstate this like it's nirvana back in the '70s and because you're right. There were big fights on other policy issues.

00:54:16

**Harrison Fagg:** And on the environment, too. We--we argued but we came to a conclusion jointly.

00:54:21

**Tom Towe:** I could--I should probably tell you a little bit more about the Coal Tax itself. I introduced the Coal Tax in the 1974 Session. I introduced a Bill in the '73 Session and it didn't go anywhere. In the '74 Session I introduced it and a major Bill and it didn't go very far either. We did--I think we did get it out of the House but we never got it through the Senate. There were some problems with it; there were issues and that was put into an interim study where we always have equal Democrats and equal Republicans. And they generally--and they'd pick those Committees very well. Bill Mathers was on that; Walter Olmert was on it, and--and I was on it, Ora Halverson was on it. We--we--what happened was we worked all the details out in that Committee. We were able to--to provide--we came up with a Bill that--that was not controversial at all with one exception, the amount of the tax. And we argued over that. We didn't argue over how it was to be levied, how it was to be handled or any of the mechanics; it was FOB Mine. We haven't talked about that; that's another issue. But we made sure that it was--that--that it was a percentage of the price that the coal companies got for the tax when they sold the coal. And I was told that--that was because they used an FOB mine price. And that's what we put in the law.

00:55:47

**Evan Barrett:** And--and it passed. Like I said a decade and a half later it went down some, but in the meantime it has always been under assault in terms of the Supreme Court challenge, the US Supreme Court, challenges in the Congress, and so you kind of think well maybe I was doing something right here when we all--when it was all put together but it--but economic interests always want to challenge that at least 30-percent, 15, and--

00:56:12

**Tom Towe:** It was challenged in the Courts and Mike really defended it. He was the Attorney General at that point. He was on--it was in the '75 Session and voted for it and then he defended it in the Courts and went all the way to the United States Supreme Court. We won in the Supreme Court and then they went to Congress and they tried to get a Bill passed which would limit the amount of taxes that anybody could--could levy and any State could levy and--and I--I went back to Washington many, many times--

00:56:38

**Harrison Fagg:** Yeah; the Coal Oversight Committee, I went back many times, too.

00:56:40

**Tom Towe:** And--and Dorothy Bradley came and joined me once and we--we visited many, many Congressmen and their offices, Congresswomen.

00:56:48

**Evan Barrett:** Well it does speak to the--

00:56:50

**Tom Towe:** And we passed--we got the--we succeeded in getting that Bill killed. We did hire a lobbyist; Mike Billings eventually took it over and lobbied on behalf of the State of Montana.

00:57:00

**Evan Barrett:** Now you said Mike; I want to ask you. Did you mean Leon?

00:57:03

**Tom Towe:** No.

00:57:04

**Harrison Fagg:** It was Mike Billings.

00:57:05

**Tom Towe:** No; it was Mike.

00:57:05

**Evan Barrett:** From here, not--not his brother who worked for [Musky]?

00:57:10

**Tom Towe:** I think that's correct; it was not Leon, no.

00:57:13

**Evan Barrett:** No; okay.

00:57:13

**Tom Towe:** But at any rate it was--we defended that in Congress and we succeeded and then the coal companies [Laughs] came to the State Legislature and tried to bust the trust.

00:57:22

**Evan Barrett:** Now let me--we're going to have to wrap up here. Let me just take 10 seconds and say one other thing that we'll try to cover in our taxation stuff on another program which is the movement from a net proceeds tax on minerals and coal to a gross--or minerals into a gross proceeds tax, which meant a lot. And that was one of the

Bills that we haven't had a chance to cover here. We're--we're running out of time; it always happens that--that there's so much to cover and you--and you know there's nothing better than being in my position where I get the chance to have a conversation which we do as friends. We've known each other for many years--have a conversation with really smart good people. And [*Laughs*]--and it's a pleasure to have been at this table with both of you. We look back on it again, a period when we're talking about Coal Severance Tax, we're talking about the Coal Trust Fund, we're talking about the Resource Indemnity Trust, Hard Rock Mining, Facilities Siting, Taxes on Gross Proceeds, all of this stuff occurred and more in a period of joint cooperation in Montana, a period of progressive change.

00:58:34

**Harrison Fagg:** Uh-hm.

00:58:36

**Evan Barrett:** A remarkable story, a remarkable story in the history of Montana. Both of you--big, big players in that history and those of us and those in the future who look at this series on *In the Crucible of Change* will always be thinking about the role that you played in it and thank you so much for being here. And for all of you, thank you for joining us *In the Crucible of Change*; we'll see you on the next show.

00:59:02

[*Music*]

01:00:02

[**End Ending Exploitation-Natural Resource Extraction and 1970s Legislature**]