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Transcript for Episode 19: Legislative Legacy: 1972 Constitution Brings Legislature Closer to the People

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[Begin Legislative Legacy-Big Changes in Legislative Article of 1972 Constitution]

00:00:00

[Music]

00:00:03

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

00:00:14

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

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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 of Change*. This segment of our series is a really, really important one and it's going to be a lot of fun to go through this discussion with what is an amazing group of panelists. We're going to be talking about the Constitutional Convention and the Legislative Article of the Constitution as it was rewritten back in 1972.

00:01:46

Now our panelists today, to my right is Jerry Loendorf. Jerry is a Con-Con Delegate from Helena who was a Vice Chairman of the Legislative Committee of the Con-Con. And to his right is Arlyne Reichert. Arlyne is from Great Falls. And she was a member of the Legislative Committee as well.

00:02:07

And finally directly across from me is--it's Rich Bechtel. Rich was the staff member on the Constitutional Revision Commission, on the Constitutional Convention Commission and in the Constitutional Convention itself where he was the person who was doing all the lead staff work for the Legislative Article. So we have an amazing group of panelists here and a very, very important Article to talk about and that is what are we going to do with our New Constitution and the Legislative Branch which many people have suggested is--was one of the driving forces of getting the Constitution Convention called in the first place, discontent if you will about the Legislature around the State of Montana for a lot of reasons.

00:02:53

But before we dive into the causes and that let me just--we'll get a little personal here and chat a little bit with the folks about what caused them to want to be part of this magnificent change that occurred in the--in the part of the Constitution. So Jerry I wondered if you might reflect a little bit about what--what made you as a young attorney in Helena decide I want to be part of this process?

00:03:16

Jerry Loendorf: Sure; well I was always interested in the Constitution. From school I had courses in the Constitution in both Undergraduate School and Law School. And then being in Helena you're always involved in the government to some degree it seems. So my first job was with the Supreme Court where I worked as a Law Clerk. And then I became interested in the Legislature, living there too. And I never really thought about running though until the Supreme Court decided that elected officials could not run. And that eliminated all Legislators and there were really no candidates out there. So the election became wide open.

00:03:57

Evan Barrett: So you were looking for an easy route were you? *[Laughs]*

00:04:03

Jerry Loendorf: Sure.

00:04:03

Evan Barrett: Well it was helpful I think to take the usual suspects if you will off the list, the folks who would-- really desperately wanted to be part of the Convention were the Legislators.

00:04:11

Jerry Loendorf: Right.

00:04:14

Evan Barrett: And the Supreme Court ruled on that did they?

00:04:15

Jerry Loendorf: Yes; there's a provision in the 1889 Constitution which has been carried over into the present Constitution, too that said in effect that people who were elected to an office couldn't be appointed--was the word that was used in the Constitution to another office during the term for which they were elected. And the Legislators were concerned about that and they're the ones that brought the proceeding in the Supreme Court to have that determined.

00:04:46

And the Supreme Court decided even though that term appointed was in there that it included elected officials and therefore, these people could not run for the Convention.

00:05:00

Evan Barrett: And you ran from Lewis and--was it a three-county district was it or--?

00:05:05

Jerry Loendorf: Yeah; it was District 12, Lewis and Clark, Jefferson, and Broadwater Counties were combined.

00:05:10

Evan Barrett: And how many people were elected from there?

00:05:12

Jerry Loendorf: Six.

00:05:14

Evan Barrett: Six; so do you remember where you came in on the six?

00:05:16

Jerry Loendorf: I came in fifth--fourth in the General and fifth in the Primary.

00:05:21

Evan Barrett: Okay; okay, well good. And--and Arlyne, how did you get kind of your heart into this thing? What--what brought you to the Constitutional Convention and what level of involvement did you have up on the front-end?

00:05:34

Arlyne Reichert: I was always interested in government but I became a member of the League of Women Voters as a young mother, five children, and it was a wonderful organization. And ultimately I was on the State Board with Marg Brown. Marg Brown was a very important person in this whole Constitutional Convention concept. And what we did though when I was in the League of Women Voters in the early days is go to Helena to cover hearings and cover meetings and it was horrible because we'd go into the Committee room and the various Legislators would talk about the issues. Oh yes; this is a great idea. This is a nice idea. But when it came time to vote they said we're in Executive Session. That's what they called it. The press and the people, everyone had to leave; everything was secretive. And I thought this is terrible. I mean how does--how do the people know what's going on? And we didn't know in those days because they didn't reveal the votes. A third reading, you'd see how it went but you never

knew what was going on. And we thought--the League of Women Voters thought we have to open up this system. This was years and years before the Constitutional Convention. So I had a basic interest in government.

00:06:47

Evan Barrett: Now you were running from Great Falls and that was a--within--how many people were elected from within that county?

00:06:52

Arlyne Reichert: Twelve.

00:06:53

Evan Barrett: Twelve; and how did you fair by the way?

00:06:56

Arlyne Reichert: Well there were 56 people running--

00:06:59

Evan Barrett: During the Primary they were 56 filed?

00:07:00

Arlyne Reichert: Yes. [*Laughs*]

00:07:01

Evan Barrett: Wow; a big interest.

00:07:03

Arlyne Reichert: Big interest but I was very delighted as Jerry said because the Legislators couldn't run. I was delighted that I lost the previous election. I ran for the Legislature in 1970. And I was mortified--

00:07:17

Evan Barrett: Thank God I got beat, right? *[Laughs]*

00:07:19

Arlyne Reichert: Yeah; but at the time it deflated my ego and I hated being a loser. One of my sons said, you always say it builds character to lose. Well I lost, but--

00:07:28

Evan Barrett: And you became a character.

00:07:29

Arlyne Reichert: Yeah; but had I not lost I would not have been eligible to be a Constitutional Convention Delegate. So I'm very grateful. And I lost because I--nobody knew me but when I lost I went to the television network, Montana television network and proposed having a program on upcoming hearings, because at that time nobody knew when a hearing was to be held, where, when and I devised this television program and they accepted the concept. And so I did a television program before I ran for the Constitutional Convention and I got all that *[Laughs]*--it was just happenstance. I mean I didn't do it because I wanted to be--run for--I didn't realize I was going to run for anything, but as it happened when I ran for the Constitutional Convention out of 56 I came in 2nd.

00:08:20

Evan Barrett: A-ha. Now we're amongst someone who is really powerful here in--. Now Rich you were a young guy then. I mean this was some of your early work.

00:08:33

Rich Bechtel: Oh yes.

00:08:34

Evan Barrett: And you were with both the Revision Commission and the Preparatory Commission. They called it the Convention Commission as well as the Convention itself. Tell us; where did your interest in this come from?

00:08:46

Rich Bechtel: Well I was doing a Master's Degree in History and I was studying the election of 1920 and it was--

00:08:56

Evan Barrett: Ah when Joe Dixon was elected Governor?

00:08:56

Rich Bechtel: Yes. Mr. Dixon and Mr. Wheeler and it--

00:09:00

Evan Barrett: Yes.

00:09:01

Rich Bechtel: --it was the first time that the companies didn't control either of the candidates for the Governor.

And one of the--the most interesting issues in that campaign was constitutional reform.

00:09:14

Evan Barrett: Because the laws of the--the--especially the tax provisions for mining and things like that--that were in the Old Constitution--

00:09:22

Rich Bechtel: That but--but both Governors wanted to be able to administer the State. And the way that the State Constitution--

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Evan Barrett: There's a radical thought.

00:09:29

Rich Bechtel: --the way the Constitution was constructed no Governor could run this State.

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Evan Barrett: In fact it stayed that way until--

00:09:37

Rich Bechtel: It was intentionally done that way.

00:09:37

Evan Barrett: --until *20's Plenty* passed in the 1970 election.

00:09:44

Rich Bechtel: Right.

00:09:46

Evan Barrett: And so with the un-governability. But you were doing a study and so then you just said--?

00:09:51

Rich Bechtel: So I saw that they were starting to talk about convening a--a Study Commission and a Convention itself if it were to pass, a Convention, so I just sent a letter off to the House and Senate, the Majority Leader and the Speaker and said I'd like to apply for a job if one comes up. And eventually they found that letter [*Laughs*] once everything happened.

00:10:17

Evan Barrett: Now by the way, well touch on this because as a staff person you did a lot of work with Dale Harris.

00:10:24

Rich Bechtel: Oh yes.

00:10:24

Evan Barrett: Can you comment a bit on him because he's not around anymore and yet he was an extraordinarily important individual in this whole process?

00:10:31

Rich Bechtel: He to be honest was an organizational genius.

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Arlyne Reichert: Uh-hm.

00:10:37

Rich Bechtel: And Dale had a vision of constitutional reform and he by circumstance staffed both Legislative Council Commissions that were created to review whether there ought to be a Constitutional Convention or not. And that was over about a four to six-year period. So he had amassed a phenomenal knowledge of our Constitution and what was happening elsewhere. And he went to the University of Chicago Law School. And I don't think he was totally happy with that but he also saw this dream might become into fruition. So he came back and he--and he then became the Staff Director for the Preparatory Commission and much after that Convention he--as I say he was a genius in organizational--. And the Advisory Committee on Intergovernmental Relations which was the Cadillac national organization or Study Commission created by the President that studied intergovernmental issues. They would bring him in periodically for many years after the Constitutional Convention to help them figure out how to organize large-scale issues. So he was quite a fellow.

00:11:51

Evan Barrett: Well this was kind of a springboard for you in your youth.

00:11:53

Rich Bechtel: Oh absolutely.

00:11:55

Evan Barrett: You learned an awful lot I presume and--

00:11:57

Rich Bechtel: Yeah.

00:11:57

Evan Barrett: Yeah; now I think it's reasonable to say that the most visible challenges in the Constitution were the legislative to the average citizen because of the 60-day Session.

00:12:16

Jerry Loendorf: Correct.

00:12:16

Evan Barrett: Was that--?

00:12:19

Jerry Loendorf: That was a big issue. It was an issue I campaigned on and it was a big issue in the Legislature. There was no opposition to getting rid of that 60-day limit where the issues--the issues were--were you know just how much more time should we give them, how often should we allow them to meet; those were the two big issues that developed in preparing a Legislative Article.

00:12:51

Evan Barrett: You know I think it's hard for people now that we've been--we're 40-years plus into this New Constitution. It's hard for folks today to realize the old 60-calendar day limit, not work days; 60 calendar days. And at the end of 60 days if they didn't finish their work they would stop the clock at 11:59 and put a shroud over the clock and pretend like they were still on the--on the 60th day--

00:13:15

Jerry Loendorf: That's right.

00:13:16

Evan Barrett: --for a while unless it was too long. I remember in '71 they had a 19-day Special Session and a 27-day Special Session but quite often they would hang that shroud over there and work for a week or two and not get paid but they were trying to finish their work, so it was pretty clear that it wasn't a functional system.

00:13:34

Jerry Loendorf: Yeah; to really understand how the problem occurred you have to look back to the time the '89 Constitution was adopted. You know at that time Montana was a--a very small State population-wise and in every other way. It had I think 16 counties, 38 State agencies, and appropriated only \$200,000 that's Legislature. By '72 the Legislature was appropriating \$380 million. Now that's like a small amount--

00:14:02

Evan Barrett: Now but still--

00:14:04

Jerry Loendorf: --compared but it was a huge increase. But the--the big thing was the Legislature by '72 was dealing with a lot more legislation. They were dealing with over 100 Bills a Session and a lot of those Bills were lengthy and complex. It wasn't just a number; it was--you probably know. You were involved in the Executive Reorganization process and that Bill I think was--yeah it was about 404 pages. So I mean that's a project by itself to handle in 60 days.

00:14:39

Evan Barrett: Yeah.

00:14:40

Jerry Loendorf: If you had to you know analyze that thing and decide how you're going to vote on every provision in it--.

00:14:48

Evan Barrett: Yeah; you think about that in the '71 Session where that was brought forth and the sales tax was on the--on the--it was the big issue and education funding--along with routine Bills. It's how could they possibly do the work?

00:14:59

Jerry Loendorf: Yeah and they couldn't. I think that Session lasted 109 days and in fact in the last 24 years leading up to '72 no Legislature had ever completed its work within that 60-day limit.

00:15:15

Evan Barrett: So that was the driving force. The secrecy I think was a driving force, although the secrets were so well-kept that maybe average citizens didn't know what was being kept away from them.

00:15:23

Rich Bechtel: Yeah.

00:15:23

Jerry Loendorf: Yeah.

00:15:24

Evan Barrett: But it was pretty tough to figure out. I think accountability may be a word.

00:15:28

Arlyne Reichert: Very important, but in contrast the Constitutional Convention was assigned to write the new Constitution in 60 days.

00:15:36

Evan Barrett: Sixty days.

00:15:37

Arlyne Reichert: And they were given so much money and interestingly because of the nature of the Constitutional Convention Delegates we wrote it in 54 days and we actually gave money back to the State which is kind of unheard of. I mean but there were so many factors that entered into that because we sat alphabetically and that helped tremendously. We were elected on Party lines but we decided early on we were going to sit alphabetically and also we had Leo Graybill as President and he could manage that group so beautifully. And he never cut off debate and yet, we wrote that Constitution in 54 days.

00:16:15

And I believe, too, thanks to people like Richard who educated me on the Unicameral **[Laughs]** structure; we had a Unicameral Constitutional Convention. We met in one House. We met in the Chamber. There were 100 of us. There was nobody down the hall. I really feel that had there been another Chamber that--

00:16:36

Evan Barrett: You'd have never gotten it done in 60 days, yeah probably.

00:16:39

Arlyne Reichert: We wouldn't have gone it done at all I don't think. **[Laughs]**

00:16:42

Evan Barrett: Yeah; well there were a lot of challenges in that but that--by the way the Unicameral gets to the-- mentioning that one House meeting so to speak in the Convention which was different than the Bicameral which is the normal Senate and House and Bills have to pass between them, so we had a little experiment in Unicameralism right there--

00:17:02

Arlyne Reichert: Right; right there.

00:17:02

Evan Barrett: --but the issue of Unicameral versus Bicameral was one of the more substantive issues to come before the Committee, the Legislative Committee that you guys served on. Tell us a little bit about that.

00:17:16

Arlyne Reichert: Well--

00:17:17

Evan Barrett: Whichever one of you wants to start.

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Arlyne Reichert: I feel that we were well-informed beforehand. Rich was one of the--he was the researcher for the Legislative Article and we had all kinds of material on Nebraska specifically because Nebraska had--is the only State that has a Unicameral system.

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Evan Barrett: I think it's important. Most Montanans probably unless they took civics recently don't know that there is a Legislature in the United States, a State Legislature that is a one-by Legislature and that's Nebraska.

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Arlyne Reichert: Right and they've been claimed as the most accountable Legislature, but that's all water under the bridge. The point is that our group of 100 Delegates had to vote at one point whether we favored Unicameral or Bicameral. And interestingly when we took the vote, 60 of the Delegates were in support of Unicameral as opposed to 40 in support of Bicameral. But there was such an air of civility then and compromise. I mean you can disagree without being disagreeable and that's what we did. We--

00:18:18

Evan Barrett: There is a radical thought. *[Laughs]*

00:18:20

Arlyne Reichert: --we decided that our Committee would write majority proposals on both the Unicameral and the Bicameral. And we supported both to be proposed but we realized in order to be practical that it was not wise to put the Unicameral issue within the body of the Constitution without the public having a chance to decide. So we offered it as one of the three sub-options, and I think Richard you can attest to the fact that--

00:18:53

Rich Bechtel: Very wise.

00:18:54

Arlyne Reichert: Yeah; that was a wise move.

00:18:54

Evan Barrett: I think in one of our subsequent programs we're going to discuss the way the ballot was structured so that there was a choice put not to the Delegates. The Delegates gave the choice to the voters. You can be a one-House or a two-House Legislature but there were other things that were in there no matter what. I mean the secrecy stuff was resolved throughout--either way right?

00:19:18

Jerry Loendorf: Right; the two Articles were essentially the same except for that one provision whether you had a one-House or two-House Legislature. And you know looking back on it the Convention as Arlyne has mentioned itself favored a Unicameral system. But the people in the State did not and I speculated about that a lot. I think one thing, the group that made up the Convention spent a lot of time studying the two systems and all the studies available at that time indicated the Unicameral was--you know less cost obviously, no duplication, more accountability, all those things, but so why do people favor the Bicameral Legislature which they often voted on? And if you look at our education system you know we're taught from elementary school and secondary schools that you know here's how a Bill becomes law. It goes through these two Houses and one always checks the other if they're doing something wrong.

00:20:27

Well--

00:20:27

Evan Barrett: We've idealized the US Constitution that way.

00:20:31

Jerry Loendorf: Yeah; you know and it's almost become part of our culture I think, a Bicameral Legislature. But when you start to look at it, the second House really doesn't check the first House to that extent. We, at least the studies at that time revealed that 90-percent of the Bills that were killed were killed in the House that they were introduced in, not by the second House. And then there was evidence of that some will refer to as buck passing. Legislators in one House sending a Bill over to the other House; they didn't really want to vote against it for some reason--

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Evan Barrett: Let someone else kill it.

00:21:11

Jerry Loendorf: Yeah; but they wanted someone else to do the dirty work.

00:21:14

Evan Barrett: You know it is interesting that prior to the--the Reapportionment coming on and forcing people representation in both the House and the Senate that Montana like many States that they used the counties to apportion out Senators. So it used to be in the old days that Petroleum County with 800 people had 1 Senator and Yellowstone County right next door with 80,000 people at the time, 100 to 1 difference had 1 Senator. So it was kind of like a mirror image of the Federal so that you could almost make a case for a Bicameral under those conditions but as soon as Reapportionment came in and both bodies were apportioned based on population that rationale went away. But nonetheless people seemed wedded to it.

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Jerry Loendorf: Right and I think it goes back to the--you know Federal Constitution; that's what we started with. But when you look at the reasons they have two bodies at the Federal level it was a big compromise between the more populated States with the States that were not well-populated. The smaller States would have probably not come into the Union except for the Senate. So they were given an equal vote in the Senate and then the House-- people were elected to the House by population.

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Evan Barrett: They drove a good bargain when they were in the driver's seat so to speak.

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Jerry Loendorf: Right.

00:22:38

Rich Bechtel: Sure did.

00:22:39

Evan Barrett: [Laughs] You know and once it's in there it's in. Yeah; so--so Unicameral and Bicameral was a big deal. The secrecy stuff--again that was a big deal; how did you resolve that in the Legislative Article?

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Jerry Loendorf: And that was resolved rather easily. We just said essentially that all meetings of the Legislature including Committee meetings are open to the public. And with regard to voting which is just as important, the Constitution says all votes will be recorded and made public. And if you don't have provisions like that there's no way for people to tell what their Legislators are doing for them or two them or whatever.

00:23:22

And if you're going to evaluate a candidate in an election and you can't see a record of what he's done, you're really hamstrung. You're limited then to the brochures they send out.

00:23:36

Evan Barrett: One of the themes of this whole series is about the empowerment of people, about--and--and clearly nothing represents that empowerment perhaps more than making sure that they're informed before they vote.

00:23:48

Jerry Loendorf: Correct.

00:23:49

Evan Barrett: You know this is a--this is a real way. I remember trying to do a voting record on the '69 Legislature and when I went through there I thought well it doesn't tell you anything. You can't come up with any; you come up with third-reading votes only and by that point you know everyone would be 99 to 1 on every vote because everyone knew it was going to pass and we'd just go with it and nobody knew-- So accountability and-- that's part of the empowerment of people that is representative of the *crucible of change* we're talking about here. So, the open meetings and recorded votes--what about the single subject thing?

00:24:27

Jerry Loendorf: That was important to me. It's a provision that was in our prior Constitution and if you compare the State of Montana after the Federal government you can see how important it was. Maybe first I should say what the single subject provision is. It says a Bill can only contain one subject except for General Appropriation Bills which wouldn't be practical to try to limit them to one subject. And you know I just read in the paper the other day where the Federal government when they passed the provision allowing guns in Glacier Park that was attached to a Credit Card Accountability Act. And so you know these things don't pass on their merits necessarily at the Federal level. It's possible both of those pieces of legislation would have failed if they were not brought together.

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In Montana at least you know Bills have to pass on their merits.

00:25:27

Evan Barrett: So were maintaining a constitutional provision of some importance in that case--interesting, interesting. And--and let's speak a little bit about single-member districts. Rich did you do any research on that at all?

00:25:42

Rich Bechtel: Well the whole State had a--there were major--it was I think it's called *Reynolds v. Simms* that the Federal Supreme Court decision which mandated the--the Houses be apportioned by population, one man, one vote. But the whole State had a civics lesson as two Legislatures tried to reapportion themselves and--and really couldn't do it. It eventually went to the Court.

00:26:13

Evan Barrett: We had a Federal Court determine what counties were going to vote together and which ones weren't.

00:26:16

Rich Bechtel: Absolutely, and you know for a Legislator they're--they only have 60 calendars at this time, huge Bills, and then try to apportion themselves at the same time and it's a very personal decision. How do--this is will I

come back or not, and so it was almost an impossible task. And we had witnessed that as a State. And so that was a very important provision and that's where they developed the Committee approach to have a Reapportionment Commission to take that out of the Legislature and allow a bipartisan body to develop it, send the recommendations as I remember to the Legislature for comment, but the final decision remained with that Commission. And I think that the appointed--the--weren't they appointed by the Speaker and the Minority--

00:27:08

Jerry Loendorf: The Majority and Minority Leader in each House.

00:27:11

Rich Bechtel: --and Majority in each House and then they appointed a Chair.

00:27:14

Evan Barrett: And if they couldn't the Supreme Court does it.

00:27:15

Rich Bechtel: Right.

00:27:16

Evan Barrett: That's the way the provision is written. So the Supreme Court finally will appoint the Chairman, the fifth member if the other members can't do it and sometimes they've resolved it themselves and sometimes they haven't. There's been a number of these. By the way in one of our programs Pat Williams who is known for many other things--

00:27:34

Rich Bechtel: Absolutely.

00:27:35

Evan Barrett: --talked quite a bit because he was one of the members of the first Reapportionment Commission.

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Rich Bechtel: On the first; absolutely.

00:27:40

Evan Barrett: When they didn't really know how to crunch the numbers the way they do with computers today. They did a lot of hand maps and other things, but it is interesting that--that right now a majority of the States still has Legislatures doing it, and it is still a mess--in most States. Every one of these things--or in the other States that they do it that way--are challenged to the Federal Court levels for being discriminatory or this or that. So this was a very forward looking provision that you put in. But it didn't have to--by the way, the Reapportionment itself did not necessitate single member districts.

00:28:20

Rich Bechtel: No.

00:28:20

Evan Barrett: Let's talk a little bit about the actual single member district portion of it.

00:28:24

Jerry Loendorf: Well the importance of single member districts I think is if you look at what we had before particularly where you were from Arlyne, Great Falls--

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Arlyne Reichert: At large.

00:28:34

Jerry Loendorf: Cascade County elected 12 people to the Legislature. Everybody in the County voted on all 12. Billings was the same way. They elected 12 people to the Legislature. And around the State we had multi-member districts. So again to help a voter if they have to evaluate 24 candidates if you're voting for 12 and you have 2 on each side and the end plus you went through a Primary where you even had more.

00:29:02

Evan Barrett: Hey that's a full-time job. *[Laughs]*

00:29:05

Arlyne Reichert: It was.

00:29:05

Jerry Loendorf: You just can't do it. And so the single member district you've got somebody you can identify as your Legislator and in fact he's likely to come to your door campaigning.

00:29:16

Arlyne Reichert: More than once.

00:29:18

Jerry Loendorf: You'll probably meet them if you don't know them. And you know I thought it was just a--a great leap forward in terms of helping people deal with the voting process.

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Evan Barrett: Well it is; I mean it's stunning to think of trying to evaluate 24 candidates at one time, if you're a Great Falls voter at that moment. So when you ran later--

00:29:46

Arlyne Reichert: Yes; I ran in--

00:29:47

Evan Barrett: --you were in a single member district.

00:29:47

Arlyne Reichert: Yes and I hit every house in my district at least once. I visited with each and every person because it's feasible. You couldn't do that when you run at-large. But having served as Constitutional Convention Delegate I was elected to the Legislature in '79 and I thought well maybe it's not as bad as I thought it was but it was worse. *[Laughs]*

00:30:10

Evan Barrett: What were the--by the way what were the experiences in the Legislature that after we did some reform what still was a problem from your perspective?

00:30:18

Arlyne Reichert: Well it was a problem because the very nature of the Legislature, transmittal deadline is horrible. By the 45th day every Bill that's introduced in one Chamber has to go to the other. People don't know what they're voting on. It's just chaos. And I like to think I studied every Bill so I knew what was going on but I still couldn't keep up with it. And that 45th day was horrible but even worse than that there is the abominable Conference Committee. When the House and the Senate can't agree at the end, six people--three Republicans, three Democrats--get to decide, take it or leave it. You vote on it; it's a horrible way to run the government. But from personal experience I had one Bill and Marg Brown helped me with it. It was a State/Local Revenue Sharing Bill.

00:31:09

Rich Bechtel: Oh yes.

00:31:09

Arlyne Reichert: And it was very well-done. You know Marg was an expert at that and the Legislative Council was enthusiastic and the House was very enthusiastic. I was in the House; it passed beautifully. It got to the Senate, we couldn't even find it. The Senate--Senator who was supposed to work on it he said I can't find it. They had shunned it to the Agricultural Committee where good Bills go to die, you know and it went from one Committee to the other. I never did find--we couldn't testify so the Bill just died in the Senate. But I mean that was an example. And I thought you know this isn't good. After being in the Constitutional Convention where everything was open, right at the beginning when I sat down, the Democrats were on one side and the Republicans on the other. I had a lot of friends on both sides you know but there's an immediate confrontation, so alphabetical seating would have helped somewhat.

00:32:01

Evan Barrett: Yeah; let's go back and reflect on that a little bit because that is not required in the Constitution. That was left--that was just a decision by the Delegates themselves to--by rules seat themselves alphabetically. And obviously the subsequent Legislatures did not adhere to that principle. It's not required.

00:32:22

Did you--was that a frustration point with you and how did you think the--the divided form of Democrats on one side and the Republicans on the other which you experienced in 1979, how did that compare with the sitting alphabetically?

00:32:37

Arlyne Reichert: It made all the difference in the world. I mean I--people didn't even know at the end of the Convention whether your seatmate was a Republican or a Democrat or an Independent. We had five Independents. We didn't know and we didn't care. We looked at issues. And I think that all of government would be so much better if you didn't have this divisive confrontation. So alphabetical seating is a very simple matter. You know it's just a rule-change that could be done. Whether the Legislatures will ever do it I don't know but our former Chief of the Supreme Court, Karla Gray was one of the strong advocates. She came and spoke to us as--when we had one of our Constitutional Convention reunions. She said I'm all for that alphabetical seating. And I think many people are. Maybe we should get an initiative going.

00:33:20

Evan Barrett: You know I wonder if maybe it's one of those types of change that has to be imposed upon because people are pretty hide-bound about doing things the traditional way and--and that's one of them. Now let's see what else we have. Would you Rich take a second and talk a little bit about the front-end before we got into the Convention about kind of the sense of change that was going on with the Kestnbaum and the Eisenhower Commissions and this whole idea that--that the Old Constitution basically was the people against themselves so to speak? Would you--because that was part of what you were doing with your life at that time?

00:34:05

Rich Bechtel: The commentators in the late 1800s they basically called our Constitution and the ones of our surrounding States, Americans--the American People Against Themselves. And but it was for a reason. There's a public consciousness you just operate from and at the time, America in the--in the--after the Civil War it was a time of great growth, internal infrastructure, canals, highways, all those kinds of things. If you needed a divorce or if you wanted to incorporate a company you had to have an active State Legislature to do that; we had no general instruments of government. And so there was fast--it became fast corruption and at the same time, we mentioned before they had just come out of reconstruction after the Civil War and all the Territories had appointed Governors and in the South they had what they called Carpetbagger Governors. And so all the Constitutions written during that time were designed to absolutely make it impossible for an administrator, a Governor to administer the State and for Legislatures they felt if you could control--keep them out of the Capitol and then when they're there only let them meet for a few days they could do you the less harm and that's exactly what the mentality was that created our first Constitution.

00:35:39

And then in the '50s and in the '60s we started having terrible problems addressing our issues in each State. And President Eisenhower created the Kestnbaum Commission and they studied government across the country and they found that power was flowing to the Federal government, exactly opposite of what most of our States wanted but because we couldn't address our issues. And so there was commissions and study groups created all over the United States and--and Montana had study groups in almost every town. There was a Committee on

Legislative Reform, there was a Committee on Court Reform; they were all over the place. And so it was in the air that we needed to be able to step up and address the issues that were arising for us, not allowed just to go to the Federal government.

00:36:37

Evan Barrett: So the context was pretty amazing in terms of the--

00:36:41

Arlyne Reichert: Absolutely.

00:36:41

Evan Barrett: --desire for change. It wasn't unique to Montana albeit we had worn the copper collar for a long time. And the structures of the Legislature, the secrecy of the Legislature, the constraints on both legislative power and executive power seemed to have historically--at least good Montana historians say it served the interest of the outside interests that people with economic power held sway over political government power based on the structures. So now that--that showed itself by the way in terms of when the vote came for calling the Convention, for example, the urban rural split was there pretty much that the rural areas were mostly against calling a Constitutional Convention. The urban areas were for it--for calling the Convention. An exception was in the Butte/Anaconda area and that is of course where the Anaconda Company and the Montana Power its sister company were so strong politically that they were voting against change because that was a change that the power structure that those counties did not want.

00:38:00

Arlyne Reichert: To follow-up on what Rich said about people all over the State being interested, that carried over to our Constitutional Convention. We had Citizens Groups all over the State and when we had hearings we had people coming and groups supporting the Constitution or working against certain issues but there was a great deal of interest because of this public concern emanating from what Rich was talking about.

00:38:24

Rich Bechtel: Even in the Legislature there were many, many Legislators trying to make their organization effective. We had the--the reform that occurred to create a Legislative Council and--and many Legislators, they're the ones that voted to put the Constitution on the ballot. So there was a lot of folks within the Legislature itself that wanted to see the change because they were experiencing it day-to-day.

00:38:48

Evan Barrett: There was a study done I believe of the--of the Old Constitution by a Legislative Council Committee. They thought they would have a Commission. It didn't pass the Legislature so the Legislative Council created a Commission. Senator Groff and Senator [Inaudible] were in charge of that and they found that 20-percent of the--of the provisions of the Constitution were okay. But bottom line was 30-percent of the constitutional provisions had to be--should be thrown out. They were totally archaic.

00:39:22

Jerry Loendorf: That's what I recall of the results of the study. I recall they thought half were okay; 30-percent should be thrown out--

00:39:28

Evan Barrett: Twenty-percent could be changed and--

00:39:31

Jerry Loendorf: Yeah; yeah the--the big I think thing that they needed to change very badly that didn't let them operate, you know you mentioned that 60-day limit and if they took Sundays off they had 58 days. But where they were really hamstrung was when they got to the 60th day. They were done. And the Legislature could not call a Special Session; only the Governor could at that time and then the Session--

00:39:59

Evan Barrett: Yeah; now they can call it themselves but back then they couldn't.

00:40:01

Rich Bechtel: Yes.

00:40:04

Jerry Loendorf: Right and the Session was subject to the scope of the Governor's call. In other words, he controlled them after the 60th day. They couldn't take up anything he didn't authorize. And that--for what 305 days out of the year the Governor controlled the Legislature. So it's illusory to say that a Legislature was a real check on the Executive back in those days.

00:40:28

Evan Barrett: Uh-hm and that is why they would hang that shroud over the clock and stay as long as they could under the so-called magic 60-day thing. I thought--well the first time I saw that happen I couldn't--I actually couldn't believe it. I was there at midnight and--yeah, one minute to midnight they stopped the clock. They physically stopped the clock and it was 11:59, covered it up, and kept going. And you know I hadn't thought about it but sure they were totally under the control of the Governor after that.

00:41:00

Now that is under the New Constitution and the Legislative Article, the Legislature is empowered to call itself into Special Session.

00:41:06

Jerry Loendorf: Right; it needed to be. And the other thing and this was the reason I was never too concerned how many days--what limit we set whether it was 80 or 90 or 100 or whatever, there's a provision in there that says the Legislature can extend that limit for future Sessions, so 50 years from now they may see the current 90 days we have is not enough. It won't take a Constitutional Convention or a Constitutional Amendment even to change that. The Legislature can vote that change.

00:41:42

Evan Barrett: Uh-hm; now in the Legislative Article, you came up with a divided approach which was a Unicameral/Bicameral and that went on the ballot as a choice.

00:41:51

Jerry Loendorf: Correct.

00:41:51

Evan Barrett: But both of them were Annual Sessions.

00:41:54

Arlyne Reichert: Right.

00:41:55

Rich Bechtel: Absolutely.

00:41:56

Jerry Loendorf: Yes.

00:41:57

Evan Barrett: Now tell us about the decision to go Annual Sessions.

00:42:00

Jerry Loendorf: Yeah; well that--the Legislative Committee proposed Annual Sessions and Annual Sessions of 90 days or less. The Convention as a whole modified that to a 60-day Session, a 60-day Annual Session. And then in '74 I believe it was an initiative changed it to a 90-day Biennial Session which we've had ever since. So the Annual Session never really got off the ground. We had one Session of it. What that initiative did besides extending the date, there were a couple other provisions in that Legislative Session Article that made an Annual Session functional and that was the provision that the Legislature would be a continuous body and as such, it could take up a--a future

Session, a Special Session, or even another Annual Session--could take up Bills at a prior Session with the same status they were left off. If a Bill had passed the House--

00:43:10

Evan Barrett: Didn't die when the Session ended; yeah.

00:43:12

Jerry Loendorf: Yeah; so you needed that provision for management. Otherwise if you had Annual Sessions and you--everything was considered dead at the end of the first Session you'd be right back the next Session with that whole pile of Bills. So you had to have good management and that gave you one of the tools for it. Like a Legislature in Annual Session could provide that you know any Bill killed in this Annual Session cannot be re-introduced, even a similar Bill that makes small changes at the second Annual Session within the Biennium for which you have the same Legislature elected.

00:43:54

And you know if you did that and you would have to allow for the introduction of some Bills, you might want to regulate that by allowing only Committee-authorized Bills to be introduced that second time. But it--it--

00:44:09

Evan Barrett: But you did conclude as a body that you wanted to have Annual Sessions?

00:44:14

Arlyne Reichert: Right; we did.

00:44:15

Evan Barrett: There were some--now Arlyne can you reflect on your thoughts on the Annual versus Biennial that--because it came out of the Annual Sessions?

00:44:22

Arlyne Reichert: I was very much in support after viewing the Legislature as a League of Women's Voter and also just on the basis of the practicality. I thought an Annual Session would be much--after we were handling millions of dollars and maybe billions now--and we have to project over a two year period. I mean it's--you wouldn't run a business that way but to run the State that way, it kind of held us back.

00:44:50

Evan Barrett: So I think it's important and let's take a second and go look a little bit beyond the actual adoption of the Constitution to this Amendment to change it back--to change it back to Biennial rather than Annual, it--that was brought up it would appear by substantially--although there were Legislators from both Parties and including urban leadership--some of them supported it, but by and large it did represent kind of an urban/rural split to begin with. And it was brought by the Farm Bureau among others who were one--they opposed the Constitution when it was being adopted and once it was adopted immediately after we had in the '73 and '74 years we had Annual Sessions.

00:45:37

Arlyne Reichert: Right; they didn't give it a chance.

00:45:39

Evan Barrett: By the end of '74 the election, they put it up and it passed. It was an initiative. It was not done by the Legislature--an initiative and it was passed by only 6,000 votes. And you know it's interesting that all the urban areas voted for it except for two which was Butte/Anaconda, which was similar to the situation we just described, which is clearly the powers that be there wanted the old system because it represented kind of the powerful structure that they could function in and Great Falls which was your community didn't vote to the degree for it that it maybe should have. What--what--?

00:46:14

Arlyne Reichert: There was a strike going on at that time.

00:46:15

Evan Barrett: A strike; what kind of a strike?

00:46:17

Arlyne Reichert: Newspaper strike.

00:46:19

Evan Barrett: Newspaper strike?

00:46:19

Arlyne Reichert: Yeah; that's right and so that I think affected the vote. But--

00:46:23

Evan Barrett: So people were not tuned into the arguments because there was no newspaper.

00:46:27

Rich Bechtel: Nor an endorsement from the paper.

00:46:30

Arlyne Reichert: No endorsement; there was not much involvement.

00:46:32

Evan Barrett: It's an interesting reflection on the power of the press.

00:46:33

Arlyne Reichert: Right.

00:46:33

Rich Bechtel: Yeah.

00:46:35

Evan Barrett: You know we tend to dismiss that sometimes but--but with the narrow 6,000 vote loss because of the Butte/Anaconda situation and the strike in the Great Falls, the *Tribune* Strike, perhaps we'd be in Annual Session still.

00:46:50

Arlyne Reichert: Well there's been attempts since. I mean I think for 45-day Sessions you know to handle fiscal things one year and regular Bills the other and there were all kinds of proposals but they just haven't gone. And people--some people just don't feel that this Legislature should meet every year.

00:47:06

Evan Barrett: Well you know I worked for three Governors and one of the standard jokes you know among the Governors is that the Legislature meets for 90 days every 2 years but we'd prefer if they met for 2 days every 90 years. *[Laughs]*

00:47:19

Arlyne Reichert: I've heard that before.

00:47:20

Evan Barrett: But it's understandable the Executive would feel that way. But actually a lot of reform occurred, not every bit of reform occurred, and not all of it was retained. But all in all how would you--the two of you reflect on the change and how it's held up over time or not?

00:47:41

Jerry Loendorf: Yeah; well except for that change to Biennial Sessions I think it's a--essentially the same. And I think the changes that were made, opening up the Legislature, requiring votes to be recorded, allowing people to be in the Committees have made the Legislature a lot more responsive to--to what's going on. That Conference

Committee even though it has a lot of authority at the end there's now people in there watching them. There might even be a television camera, you know focused on them while they're making decisions. So there's--I think the risk of people doing mischief is essentially gone. And the--the other thing I think is you know the voter himself has been empowered to a large degree. They now know their Legislator better, have better contact with them, and can communicate with them while they're in Session; they can find out what's going on there and you know it seems to be a better process.

00:48:50

But that said you can never take politics out of a political system and you know the politics get kind of tough sometimes. You wish they were a little different, people got along a little better, but that's something we just have to live with in a political system. You--no matter what type of Legislature structure you devise or system you have, the people who ultimately run it have to make it--.

00:49:19

Evan Barrett: There's no utopian system.

00:49:21

Jerry Loendorf: Yeah.

00:49:22

Evan Barrett: And I think that right now perhaps the times are different in the sense of there's a harshness to--to politics these days but there's a lot of reasons for it.

00:49:35

Arlyne Reichert: To follow up on that, one of the negative approaches that have made since the Constitution passed--term limits; a lot of people say we've lost a lot of continuity, a lot of expertise. I think of people like Francis Bardanouve who was long-remembered for his action on the Appropriation Committee who served term after term--thank goodness, because he had the expertise and there were many like him. And now with term limits, I think that's

one of the problems with the Legislature today. We have all these people coming in. They haven't really learned what it's all about. A learning process takes a while and by that time they're out; they can't run any longer.

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Evan Barrett: An argument can be made that the term limits empower bureaucrats and lobbyists.

00:50:26

Arlyne Reichert: Exactly.

00:50:26

Evan Barrett: Because Legislators can't get on top of the game well enough before they're suddenly gone. It is a complex process.

00:50:33

Rich Bechtel: There's no institutional memory.

00:50:35

Jerry Loendorf: That's right.

00:50:36

Evan Barrett: Now everything is a double-edged sword, you know that when the argument of freshness and newness has some validity too. You know some people can be in there so long and they're of no value but they-- they're still there because you know don't throw old Joe out you know. But that is no longer prevalent and now we do--we're now experiencing that one edge of the sword which is we have fresh new people but we--boy we lose some of the continuity and historical memory is somewhat important in these processes.

00:51:10

So that's one I guess that's just hanging out there still.

00:51:15

Arlyne Reichert: But on balance, the Constitution has been great. I mean other than the Legislative Article, we have to think of the Right to a Clean and Healthful Environment, we have to think of the Right to Privacy. The Federal Constitution doesn't guarantee a Right to Privacy but our State Constitution does. And we have other innovative provisions.

00:51:33

Evan Barrett: Our think of Bill of Rights is a rather outstanding list of things that we're covering in another program. As a document per se, I think it was--it continues to be well-received and perhaps maybe the best in the nation of a State Constitution.

00:51:47

Rich Bechtel: It is.

00:51:50

Arlyne Reichert: Model document they call it.

00:51:52

Evan Barrett: You know I always say with people--if someone comes from 50 miles away with a briefcase they're an expert, so there have been a lot of people who come in as experts and said boy Montana put together a good Constitution. How do you feel about your role as a Constitutional Convention Delegate, now--looking back 42 years now?

00:52:09

Jerry Loendorf: Looking back, I wouldn't have done much different, but I--I wish I hadn't put that one provision in the Legislative Article that said the Legislature is a continuous body because so many people seem to misinterpret that to mean the Legislature will be in continuous Session. If I could write that one provision over I'd do it, but other than that you know you have to accept compromise. There's a lot of things in the Constitution that I would

have done differently. For example, I would not have an Education Article. I'd just like all the recent Constitutions there were six of them written right before we did which were helpful to me. I read them; they were New Constitutions. But they all left that up to the Legislature. The Legislature shall provide for a system of public schools--one sentence. We've got a pretty big structure with regard to our educational system in the Article.

00:53:09

Now I went along with that because it--you know you just have to accept other people's ideas. Everything can't be just like you know you would like it, so--but all in all I was really pleased and if I had to go there again I'd certainly elect Leo Graybill as the President. I--I read through some of the transcript in preparing for this meeting with you, you know it's been 42 years since we've been there, and I was amazed at you know how undisciplined we were at times. We were not used to the parliamentary type process and Leo, the way he controlled that Convention, people were making motions, making substitute motions, amending the substitute motions and he had--kept track of every one and kept them in order. They were decided in order. And--

00:54:11

Evan Barrett: He had a very-disciplined mind.

00:54:13

Arlyne Reichert: Oh my yes.

00:54:14

Jerry Loendorf: He did.

00:54:15

Arlyne Reichert: And a great wit. On one occasion one of the lay people asked him Mr. President, knowing he was a lawyer, would you please assign someone in this room who is a lawyer to explain to us what the other lawyers are talking about? Leo Graybill said that is virtually an impossible task. **[Laughs]** He had a wonderful sense of humor.

00:54:39

Evan Barrett: Let me take one second before we move--and we're getting close to using up our hour which goes so darned fast, but there was one person on your Committee, Bob [Kelleher] who was an advocate of a parliamentary system. Can we just take a second and--and reflect on Bob's efforts [*Laughs*] and--and I assume people gave him the credit of good thought about his processes but they didn't go there.

00:55:06

Arlyne Reichert: Highly intelligent man but Unicameral wasn't enough for him although he was ready to support the Unicameral. And interestingly when we had the two majority proposals before us which Jerry had helped to compose, Bob [Kelleher] voted with everyone else for the majority proposal citing a Unicameral. When it came to the Bicameral all of us supported the Bicameral except for Bob [Kelleher]. He wasn't going to even give the support one vote.

00:55:36

Evan Barrett: I suspect that we--there was no room in his parliamentary procedure for a House of Lords. [*Laughs*] But we--but we would have had to have had a prime minister instead of a Governor in trying to make that work. It was pretty radical. And it didn't make it but Bob you know stayed with that for the rest of his life.

00:55:57

Arlyne Reichert: And so bright, very bright; we--we had so many bright Delegates. And what's sad now when we have reunions, we just had a reunion a couple months ago and of the 100 Delegates there are only 25 of us still alive.

00:56:12

Evan Barrett: And not all of them come to the meetings.

00:56:13

Arlyne Reichert: No; some of them can't.

00:56:14

Evan Barrett: It's a very small room.

00:56:15

Arlyne Reichert: But of the women we had 19 women and there are 5 of us of the 19 and of the men of the 80 there are 20, so--.

00:56:24

Rich Bechtel: Wow.

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Arlyne Reichert: It's sad.

00:56:26

Evan Barrett: As one of those 19 women I want you to know that it looks--I mean when one looks at the actual record it looks as if that was breaking a glass ceiling like you wouldn't believe. The Session before there were only 2 Legislators who were women, Toni Roselle and Dorothy Bradley and it was kind of the pattern through the '60s with maybe 1 or 2, maybe 3--one Session and then all of the sudden there were 12 and 15 and 17--that's still not a representative amount but--but clearly when the women such as yourself ran and had such a role out of the 100 in the Constitutional Convention it made a big difference for future women in the Legislature.

00:57:05

Arlyne Reichert: That's right but we--one of our happiest moments, Jeanette Rankin was one of the guests who was invited and she was 92 years old at the time and when she came she invited the 19 women to have a special dinner. I kind of felt sorry for the men. *[Laughs]* But she had a special dinner for all the women Delegates and she told us so many things. She had so many great ideas.

00:57:26

Evan Barrett: Fascinating woman.

00:57:26

Arlyne Reichert: Fascinating and the main question that was asked during her--after her talk was--Vietnam was raging. She was asked, what would you do if you were in Congress now? And she said I would send those same ships and planes that took those young people over there and bring them right home. At that point we'd have saved thousands of lives.

00:57:44

Evan Barrett: She headed a Peace March in Washington, DC right after that, too. You know it's very, very interesting and we've used up our time. You've been an extraordinary panel. Your knowledge is--is amazing. Your recollection is good. You dealt with such an important Article, the thing that really drove a lot of the New Constitution to come into existence. I mean Rich you emerged with a career after this that--from what you learned. You both remained leading citizens of Montana through all these years. We are so pleased that you were able to come here and reflect on this important Article.

00:58:21

Arlyne Reichert: Thank you for giving us this opportunity Evan.

00:58:23

Rich Bechtel: Yes.

00:58:24

Arlyne Reichert: We really appreciate it.

00:58:26

Evan Barrett: This series is about the empowerment of people and you I think had that in your minds as you did everything in this Legislative Article and it's--it's stood the test of time and we want to thank you for what you did for the citizens of Montana. And thank you for being with us on *In the Crucible of Change*.

00:58:47

Arlyne Reichert: Thank you.

00:58:50

[Music]

00:59:48

[End Legislative Legacy-Big Changes in Legislative Article of 1972 Constitution]