

Mae Nan Ellingson and Sarah Vowell, 2021 September 20

Sarah Vowell [00:00:00] This is Sarah Vowell, and I'm here with Mae Nan Ellingson, who was a delegate to the 1972 Constitutional Convention. We're speaking on September 20th, 2021, at the University of Montana in Missoula. Mae Nan, where were you living in 1971? What was your occupation and what was your political party?

Mae Nan (Robinson) Ellingson [00:00:25] I was living in a 14 by 40 trailer house on South 5th West in Missoula. And, uh, I was a Republican.

Sarah Vowell [00:00:49] Let's and let's see. You were the youngest delegate. You were 24, right?

Mae Nan (Robinson) Ellingson [00:00:59] Yes. I turned 24 in June of 1971, and the elections for the Constitution were held primary in September and then a general in November. And under the old constitution, you had to be 24 to be eligible to run.

Sarah Vowell [00:01:24] And why, why did you want to run as a delegate and why did you think you would be a good one?

Mae Nan (Robinson) Ellingson [00:01:29] Well, I was studying political science at the university and my primary...

Sarah Vowell [00:01:38] At the University of Montana?

Mae Nan (Robinson) Ellingson [00:01:39] Yes, yes. And my primary interests were state and local government. And so I learned about the convention, and my professor and mentor was a man named Dr. Ellis Waldron. And he too was very interested in state and local government, and he encouraged me to run. He thought I would be an excellent delegate just because of my interest in state and local government, as well as my burgeoning knowledge of state and local government through my course of study.

Sarah Vowell [00:02:26] So when you were running to be a delegate, I heard you ran radio ads and your campaign's theme song was Simon and Garfunkel's 'Mrs. Robinson.' Is that correct?

Mae Nan (Robinson) Ellingson [00:02:37] Yes. Yes, there it was. It was a little catchy, a little catchy gimmick, but yes.

Sarah Vowell [00:02:43] So that seems obvious because your last name was Robinson at the time, but you were running as a Republican, and it doesn't seem like a completely obvious Republican campaign song. Can you talk about the Republican Party back then? Was there, was it a bigger tent, say, or?

Mae Nan (Robinson) Ellingson [00:02:59] Well, so I guess 'Mrs. Robinson' was apropos only by name. I had recently been widowed at age twenty-one, and, uh, I don't even know if I'd seen the movie 'The Graduate' at that time. I just liked the song and thought it was a catchy, a catchy gimmick. But certainly the Republican Party, both nationally and within the state of Montana, was very different than it is now. I had growing up in Texas, I had always been interested in politics, and my role models or my favorite politicians were Republicans like Edmund Brooke and John Lindsay and Nelson Rockefeller and Jacob Javits and Everett Dirksen. People I thought of high moral conviction and kind of a conservative fiscal policy, but not a conservative on social issues. Growing up in the South, the Democratic Party at that time was pretty much a segregationist party. And then when I came to Montana, I in doing my political science work, I did a thesis on, uh, roll call analysis of the... It would have been the 1971 Legislature. And there were a great many Republicans that were very, very far reaching in their thinking, I mean, I think of George Darrow from Billings, who had sponsored the first MEPA and Harrison Fagg....

Sarah Vowell [00:05:26] What's a MEPA?

Mae Nan (Robinson) Ellingson [00:05:26] Montana Environmental Policy Act. So it was really kind of a precursor of environmental regulations even before the Constitution and Harrison Fagg, he was really active in subdivision review. So it was it was a different party.

Sarah Vowell [00:05:51] And when you got to the convention in Helena, the delegates were seated alphabetically instead of by party. How do you think that influenced the proceedings?

Mae Nan (Robinson) Ellingson [00:06:03] Well, I think it influenced it greatly. I mean, one, I think just the notion that we wanted to do that made it pretty clear that none of us really viewed the party as having a position on any of the main or the provisions of the Constitution. Early on, there was a meeting that I didn't attend. It was kind of caucusing about who the leadership would be. And I didn't attend that caucus. And then after that, there were no more caucuses after the initial one about who the leadership of the convention would be. So I hardly thought, of course, it made sense to be seated alphabetically.

Sarah Vowell [00:07:07] You were seated in the same row as the septuagenarian newspaper editor Miles Romney from Hele-, from Hamilton. And I read, um, you told a thesis student at the University of Montana that your first impression was that he was an old windbag. And then you changed your mind. How did he win you over?

Mae Nan (Robinson) Ellingson [00:07:29] Well, he he he was very, very loquacious. I will stick by, I'll stick by that judgment. But he was so well informed, not only about our state, but about the role of constitutions, about legislative process. And his ideology, I mean, he really cared about the working man, and I grew up from a family, in a family of very hard workers. And I just ended up with a great rapport from him. Actually, my oldest son has Miles as his middle name, and it was in part an homage to Miles Romney.

Sarah Vowell [00:08:33] So out of 100 delegates, I think nineteen were women.

Mae Nan (Robinson) Ellingson [00:08:37] Yes.

Sarah Vowell [00:08:38] And one, I mean, one of the driving forces to rewrite the old '89 Constitution have been the League of Women Voters. But still, the male delegates probably had very little experience with working with that many women on an equal footing. I would imagine. I mean, how did that go?

Mae Nan (Robinson) Ellingson [00:08:57] Well. You know, in in all honesty, I didn't feel that I didn't feel that tension, um, though there were no shrinking violets, except one maybe of the nineteen women, and most of them me, me accepted because I was I was a

student at the time, but a great many of them had had experience on school boards or being mayors or being on city council. And so almost all of them were used to working, you know, in predominantly male environments. And none of them, I think, were intimidated by that. Nor did I feel, for the most part that the men delegate tried to intimidate the women.

Sarah Vowell [00:10:08] So, many of the stand out delegates were not Montana natives. Dorothy Eck came from Washington state. Daphne Bugbee grew up in San Francisco. Jean Bowman was from New Mexico, Arlyne Reichert moved to Montana from Buffalo, New York, and you were originally from Texas. How do you think coming from somewhere else affected how you saw Montana and your hopes for Montana's future?

Mae Nan (Robinson) Ellingson [00:10:36] Well, that's interesting. That's a question I've never been asked. And to be honest, I don't know that it, I don't know that it had an effect on me. I think probably what may have had an effect on me more than growing up in Texas was the year that I spent in Alaska from 1968 to 1969, where my husband was flying helicopters and he worked for an offshore drilling platform. And the owner of that company was friends with Walter Hickel and I became very interested in what was going on in Alaska environmentally and what was going on in the nation environmentally. And, you know, I became acquainted a little bit with that before we moved to Alaska from Montana. And then I saw it in Alaska. And that was just the beginning of so many environmental crises and environmental questions. And the familiarity with Hinkel being the Secretary of the Interior really piqued my interest in the environment. And so it was really that experience, probably more than my growing up in Texas that made me realize how important the environment was in Montana and that the Constitution was an opportunity to do something long term to protect it.

Sarah Vowell [00:12:41] Well, as as a delegate, you represented Missoula, which had a national reputation for air pollution back then. And in Missoula, I think you were a member of GASP, right? This is Gals Against Smog and Pollution. And they were protesting pollution from the lumber and wood pulp mills and water pollution from the mines and I think helped inspire Earth Day to a certain

extent. Can can you talk about the influence of living in Missoula and just the air quality in Missoula and how that affected...?

Mae Nan (Robinson) Ellingson [00:13:16] Well, that. Yes, that that affected me a lot. I we, my husband and I lived in married student housing, and there were days when I looked out the window and you simply could not see Mt. Sentinel behind you. You know, when it was a thousand yards away and I I just I couldn't believe not only the lack of visibility, but the stench. And so that's what really inspired me to join in with these women and form Gals Against Smog and Pollution. And to be honest, that march on Hoerner Waldorf was really my very first act of civil disobedience.

[00:14:16] This was one in the mills, right?

[00:14:18] Yes, so Hoerner Waldorf was the big pulp and paper mill out in Frenchtown and was really one of the largest employers in Missoula in and really a very important contributor to the Missoula economy. But the pollution, not only from that, they weren't the only culprit. The other culprits were we had teepee burners everywhere. You probably don't even remember what a teepee burner is, but they were everywhere and then the pulp mill. And then of course, we had fireplaces. And so all of that just contributed to a horrible, horrible problem in Missoula.

Sarah Vowell [00:15:06] One of the standout phrases and rights in the '72 constitution is the right to clean enough for the environment. And is it true that you're the one who introduced that language to the convention? And where did that language come from?

Mae Nan (Robinson) Ellingson [00:15:19] Well, I had delegate proposal. There were several delegate proposals that contained various provisions for an environmental article and certainly my delegate proposal, which was joined in with others had and this was not for the Bill of Rights per say, but it was really for the Environmental and Natural Resources article of the Constitution. Interestingly enough, the provision for the clean and healthful environment in the Bill of Rights didn't come in until after we had adopted the article that deals with natural resources. But clean and healthful environment had been used in different federal clean,

clean water and clean air legislation, so it wasn't totally unique to me or anyone else.

Sarah Vowell [00:16:34] Can you tell me about the arguments among the delegates about including those words, a clean and healthful environment? Everybody was just for it right off the bat?

Mae Nan (Robinson) Ellingson [00:16:44] Well, no, no, no, no, no, no, no, no, no. It, uh, that was probably the hardest spot of all of the provisions of the Constitution. And there was a great deal of concern about elevating something like that to the Constitution. I think only one other constitution at the time had made any provisions regarding the environment. So this was really new ground and the lawyers of the convention and some of the lawyers, you know, really sounded the alarm bells, 'Oh, we can't do this. It will just result in all kinds of litigation and who knows what clean and healthful means' and so on and so forth. And so I mean, there were several days of debate over this particular article, and there were there were there was a proposal in to have a public trust doctrine which really alarmed everyone. And that would have been a much more stringent requirement or provision than what we ended up with. But the chair of the Natural Resources Committee was a woman from Glendive, Montana named Louise Cross and she of all of the women who I think were quite beleaguered, she would say, and I think she did say she felt beleaguered by all of the men in cowboy boots on her committee, and she was a very strong advocate for the right to a clean and healthful environment. And she was the only chair of a committee that did not get her report as the majority report, the right to a clean and healthful environment was actually in the minority report. So the job was made that much harder, but she certainly she felt very, very beleaguered. I think she was the only woman on on that committee. And yeah, I should have maybe gone back and looked up some of her quotes. But some of them came after and it was a very difficult time for her. And it was a very wonderful victory when on that last vote that last go round, we were able to reinsert clean and healthful in into the environmental article.

Sarah Vowell [00:20:03] What was what pushed it over?

Mae Nan (Robinson) Ellingson [00:20:06] You know, I wish I knew. I don't know if we just wore them down or if if they finally

realize the ridiculousness of their position, you know, is one of their last acts or the penultimate act was to strike those words in the Constitution was going to read something to the effect all we were going to have an environment in. And I think you may have recalled Bob Campbell getting up on the floor and saying 'What? You're going to tell the, your voters, that you voted for Montana to have an environment?' And really that was pretty laughable. So on his motion to reinsert it, we got the necessary votes. I mean, it was it was so interesting because I had had a substitute motion two votes before that went. That was very similar, that went down by two votes, but we just kept at it. And I don't know if some phone calls were getting placed or if notes were being put in front of legislators. And to be honest, I can't really tell you who changed, who changed their vote on that last go round.

Sarah Vowell [00:21:44] Do you think the opposition they saw themselves as just representing their districts and it was the Treasure state and the whole state economy was built on mining and timber and exploitation of natural resources? Was that it, an economic fear?

Mae Nan (Robinson) Ellingson [00:22:00] Oh, I think, of course, there was an economic fear, and then I think a lot of the lawyers put a fear in about, 'Oh, there's going to be all these, all these lawsuits and it's going to...'.

Sarah Vowell [00:22:16] They were right weren't they?

Mae Nan (Robinson) Ellingson [00:22:16] No.

Sarah Vowell [00:22:16] No? There haven't been a lot of...?

Mae Nan (Robinson) Ellingson [00:22:18] Well, there have there have been some. But when you look at 50 years, I mean, there certainly haven't been any more lawsuits about the clean and healthful environment article than there have been about the right of privacy and any other number of provisions of the Constitution. I mean, I think any time you're writing or thinking about a constitution for the future, you know, that there will be lawsuits trying to determine what exactly some of these things mean. I mean, that's why you have a Supreme Court and also the Legislature. The Constitution delegated to the Legislature, directed

the Legislature to implement these articles because we knew that you can't and shouldn't put so much detail in the Constitution that it becomes a code book. You want to establish a right and then you want the Legislature to implement that right, and then you want the court to interpret that right. If if they need to. And so I feel like that is that is what has happened over the years, not only with that article, but with others.

Sarah Vowell [00:23:55] You you mentioned Bob Campbell and you and Bob were the two principal drafters of the very lovely preamble to our constitution. And I was wondering if you would if you would read it out loud for me. And then we can talk about it.

Mae Nan (Robinson) Ellingson [00:24:13] Of course, of course. 'We the people of Montana, grateful to God for the quiet beauty of our state, the grandeur of our mountains, the vastness of our rolling plains and desiring to improve the quality of life, equality of opportunity and to secure the blessings of liberty for this and future generations, do ordain and establish this constitution.'

Sarah Vowell [00:24:42] Can you tell me about when you and Bob wrote that?

Mae Nan (Robinson) Ellingson [00:24:44] Well, yes, he I was living in the basement of the home up on North Flowerree, and we decided that after this...

Sarah Vowell [00:24:58] Is this in Helena?

Mae Nan (Robinson) Ellingson [00:24:58] In Helena. So we lived in Helena during the week and came home on the weekends. And so after the adjournment of business that day, we decided we needed to write a preamble or a delegate proposal because everybody had the opportunity to submit proposals for the preamble. And so one night we stayed up, I don't know, four or five hours kind of working it through changing the language.

Sarah Vowell [00:25:35] Where were you, were you in the Capitol?

Mae Nan (Robinson) Ellingson [00:25:36] No, no. We were in my apartment up on Floweree Street with Dr. Moore's. Dr. Moore's House, when we wrote that.

Sarah Vowell [00:25:47] And was there a moment when you realized 'We really have something special here'?

Mae Nan (Robinson) Ellingson [00:25:52] Well, we we both thought it was quite lovely and... I mean, the way it turned out is not exactly the way we wrote it. It was subjected to some changes and several other people also submitted delegate proposals, and they all went to the Bill of Rights Committee and then got recommended out of the Bill of Rights Committee. And and I think certainly ours was the what was recommended out was certainly the closest to what we proposed, but we had proposed grateful to our Creator. And when it came out of the committee, as I recall, it said, 'grateful to our Creator.' But there ensued a debate on the floor not about anything else in the preamble, but the use of creator and our thought was to be much more inclusive with Native or Native Americans and so on. But several delegates felt like the Constitution wouldn't pass if there wasn't a reference to God in the preamble. Now, I think I recently looked again, and I don't think God was in the 1889 Constitution, but I can't be 100 percent sure, and we certainly know he was in the U.S. Constitution. He or she.

Sarah Vowell [00:27:36] And you...did you just decide to not press that or was it up to you?

Mae Nan (Robinson) Ellingson [00:27:43] Well, we voted. I mean, the whole thing was voted on. I didn't vote for the change, but it passed.

Sarah Vowell [00:27:53] And speaking of the indigenous population, there were zero delegates who were American Indians, right, in the beginning, the delegates. So how did you feel about that lapse and what, if anything, did you and the other delegates do to address it.

Mae Nan (Robinson) Ellingson [00:28:15] To this day, I.... well the reason, I think that there were no delegates that were Native Americans at the convention, as we did not yet have single-member districts. People were elected on a plurality from a county.

So, for example, in Missoula, Missoula had eight delegates. We were all elected at large. The chances I think of and in the counties where there are populations of Native Americans, my guess is that their numbers would not have been sufficient- assuming, assuming non-Native Americans were not willing to vote for a Native American, and I don't know that to be a correct assumption. But the the county-wide districts were not conducive to, I think, the election of Native Americans and one of the one of the things we did in the Constitution, interestingly enough, with the encouragement of Jeannette Rankin, who came to speak to us, was adopted single member districts. So you had these much smaller districts so that minority groups would have a better chance. I mean, in one example, one of the big proponents of this was my friend Chet Blaylock from Laurel. In Yellowstone, you know, Yellowstone County, there were some Democratic, you know, pockets. But on the county-wide basis, Democrats could hardly ever get elected. So once we did single member districts, I think that has enhanced the ability of Native Americans to be elected. And you see that I think we've seen...

Sarah Vowell [00:30:28] ...reservations would have more presence in a smaller district?

Mae Nan (Robinson) Ellingson [00:30:31] Yes. Yes. You've divided. Yes. And so I mean, and I think now our reapportionment commissions do a very good job of trying to also take that into consideration and consider reservations, you know, when they're drawing these boundary lines. But notwithstanding the fact that there were no Native Americans serving, I think a great many of the delegates acutely felt acutely the need for preservation and recognition of our native culture. And so you will see in the education article of the Constitution a requirement of Indian Education For All. And so I mean, I think that was fairly unique among constitutions as well.

Mae Nan (Robinson) Ellingson [00:31:35] I know a couple of high school girls, I think from Fort Peck came and testified for that. Were, did you witness that testimony?

Mae Nan (Robinson) Ellingson [00:31:45] I did and uh...

Sarah Vowell [00:31:46] And they were in high school, weren't they?

Mae Nan (Robinson) Ellingson [00:31:48] They were in high school.

Sarah Vowell [00:31:49] That must've been something to see.

Mae Nan (Robinson) Ellingson [00:31:51] Yes, it was. And they were so...

Sarah Vowell [00:31:53] So I guess you weren't that much older than them?

Mae Nan (Robinson) Ellingson [00:31:56] Yeah. Well, yeah, I was a bit older and there was also a very influential woman. Her name was Michelle Robinson, and she, I think, had been Miss Native America and Miss Montana Native American. And she may-made her presence known. She was married to a very prestigious Butte lawyer. And they they devoted time and effort into being at the convention and advocating advocating for this as well.

Sarah Vowell [00:32:43] In terms of committee, you served on the legislative committee, right?

Mae Nan (Robinson) Ellingson [00:32:45] Yes, yes.

Sarah Vowell [00:32:47] And what were the main priorities of that committee?

Mae Nan (Robinson) Ellingson [00:32:50] Well, for...It was a great committee and it there were a number of former legislators on that committee. As you know, current legislators could not run for the Constitutional Convention, but previous legislators could. And that was very, very helpful that they were there. The chairman of our committee was a former legislator from up on the High Line. And for me, it was strengthening the Legislature. I had felt it just in my brief time here and doing my master's work on the Legislature that the Legislature was by far the weakest branch of government. They didn't have a staff of any kind, they met every other year. They were largely dependent without a staff on lobbyists and on the executive branch. So I very much wanted to strengthen the citizens

branch of government. So I was a very strong advocate for annual sessions, making sure that there was adequate staffing for the Legislature. And I also was very strongly interested in some of the reforms that ended up not just in the legislative article, but elsewhere in the Constitution. The right to know and the right to participate and because at that time they did not have to do roll call votes on second reading and second reading was always the time where bills either passed or were defeated. So requiring roll call votes, requiring that the committees hearings be open, that there be notice of committee hearings. On the one hand, I thought the Legislature was really a weak branch, but on the other hand, they really like to do their business in secret, and the public really didn't have that much of an opportunity to participate. So I felt like you need to strengthen the Legislature and make it more open to the process to participation in the public's right to know.

Sarah Vowell [00:35:33] And the convention itself was open to the public, right?

Mae Nan (Robinson) Ellingson [00:35:36] Oh, totally. Every everything, everything was open to the public. All committee meetings, all votes.

Sarah Vowell [00:35:44] And do you think was that the League of Women Voters influence or?

Mae Nan (Robinson) Ellingson [00:35:52] I, I, well, I'm sure to some extent, but I think so many of the people who ran for the convention were very schooled and not very reform minded. And it was a period of time across the country of an organization led by John Gardner called Common Cause. And a lot of states were passing things that they call sunshine laws. I mean, they weren't necessarily amending their constitutions, but everybody was talking about getting government in the open. So in all honesty, I don't think it was a very controversial thing. It was just like, 'Yes, this has to be done.' I mean, there were some naysayers and some concerns about competing interest of right to privacy and right to know. But I think every, you know, most of us believe that there could be valid exceptions. And so we made a valid exception. But by and large, the default is public. Meetings are open and people have a right to participate.

Sarah Vowell [00:37:18] Would you say that's self-evident?

Mae Nan (Robinson) Ellingson [00:37:23] It was yes, it was self evident, I just I mean, I can't even imagine that the Constitution wouldn't have had that.

Sarah Vowell [00:37:33] Your committee and the con-, and the convention floor debated on whether or not to change the Montana Legislature from bicameral to unicameral. Which side of that argument were you on?

Mae Nan (Robinson) Ellingson [00:37:46] Well, I joined my good friend and seatmate Arlene Reichert, in being a unicameralist and I I very much supported and had done a lot of research about the Nebraska model. I'm still...

Sarah Vowell [00:38:06] They're still the only state?

Mae Nan (Robinson) Ellingson [00:38:06] They're still the only state, and I suspect they may well always be the only state that that goes down that path, mostly because of tradition, I think. But you know, if once once the Supreme Court ruled that one house with respect to state legislatures, both houses had to be based on population. I mean, the whole notion was based on the federal model. You know that the Senate represents states in the House, represents people. States adopted that same model. You know, so back in the day, every county had two seats at the Legislature and the House was elected based on population. But the U.S. Supreme Court cases that came down in the '50s and '60s said, 'No, you have to have one man, one vote.' And so to my way of thinking, there was really no longer a need for this upper house that was based on representation by county and a lower house based on population. It was all based on population. So why not have the economies of one house?

Mae Nan (Robinson) Ellingson [00:39:42] Is the argument against that, that the leader of that one house would become inordinately powerful?

Mae Nan (Robinson) Ellingson [00:39:48] No, I don't think so. I mean, it is true that in Montana's history, we've had a system of one party controlling one house and one party controlling the other.

And some people like to think of that as checks and balances. But that species checks and balances is one branch checking the other branch, not the two branches check, you know, not the two houses checking one another. But I there were all kinds of reasons against it. One just sheer change. You know, why would we do this when our only one other state has done it? And I felt like, you know, just my having studied a little bit about the two houses. I mean, if there's a lack of accountability or can be a lack of accountability, I mean, I've seen one house pass something just to get it killed in the other house, you know, and they can say, 'Oh, I voted for it,' but they know it's going to get killed in the other house. And so I thought one one house would increase accountability, would be more cost effective. But as you know, I don't think any of us felt that if we put that in the Constitution, per se, well, I think we felt that if we did, it might not pass. And so for that reason, and I totally supported putting it on as a side issue and letting people decide.

Sarah Vowell [00:41:42] It was on the same ballot as the Constitution and it lost, right?

Mae Nan (Robinson) Ellingson [00:41:46] Yes. Mm-Hmm. So there were these four separate side issues that were presented to the voters.

Sarah Vowell [00:41:53] And when you said you thought it was more economical, was that the Republican in you, that like fiscal watchdog?

Mae Nan (Robinson) Ellingson [00:42:01] Well, I wonder, I don't know. It just seemed to make sense to me just economically.

Sarah Vowell [00:42:09] You have written about the delegates who were attorneys and their influence on the convention. Can you tell me about them and whether or not they influenced your decision to attend law school after the convention?

Mae Nan (Robinson) Ellingson [00:42:22] Well, there's no question that the answer to that is yes, it yes, I. I was both dismayed and impressed at the same time of the power of lawyers. You know, people just trusted what lawyers had to say. I mean, and I think in some ways in good read with good reason when

you're dealing with matters of law in matters of constitution. But at the same time, I saw a belief or an adherence to a statement by a lawyer that I felt was totally unfounded. I mean, it was just an opinion, just like any of the rest of us had. But it had way more deference granted to it because it was being uttered by a lawyer.

Sarah Vowell [00:43:36] Do you think they were risk averse?

Mae Nan (Robinson) Ellingson [00:43:39] Who?

Sarah Vowell [00:43:39] The attorneys.

Mae Nan (Robinson) Ellingson [00:43:43] No. I think a lot of attorneys make their money by risk. I mean, some of them, some of them had clients or their firms had clients that were affected or could be affected by some of these provisions.

Sarah Vowell [00:44:07] Can you talk about one of these attorneys you found inspiring?

Mae Nan (Robinson) Ellingson [00:44:12] Oh, I found I found a lot of them inspiring. I mean, Jim Garlington of Missoula he, his speech at the end of the convention was probably the most eloquent, beautiful tribute to the Constitution and the work that we did there that I've ever seen or heard. I mean, it was amazing.

Sarah Vowell [00:44:45] What did he talk about?

Mae Nan (Robinson) Ellingson [00:44:47] Well, he talked really about what we've accomplished and the legacy, and I think he ended up by saying that what we have, we have given to our children the finest gift that anyone could ever give them. I mean, it was it was just a stunning speech. And, you know, I mean, the lawyers, I definitely don't want this to be negative about a lawyer. I mean, I wanted to be one. And during the convention, one of the lawyers came back to talk to me and said, 'A few of us delegates have been talking and we think you should go to law school. We think you would be a really good lawyer.' So I had huge encouragement from them. But they have a skill set. You know, I, in just getting back. I mean, they were listened to in part because of the skill set. They had one of analysis, one of practical experience, one of speaking ability, and Wade Dahood, who was

the chairman of the Bill of Rights Committee. Probably, he was also incredibly eloquent and persuasive in his presentation. Yeah.

Sarah Vowell [00:46:31] The the delegates who had not been legislators, who weren't attorneys. You, you clearly see their value as well. Right? The just the there was a beekeeper, I think.

Mae Nan (Robinson) Ellingson [00:46:50] Oh my gosh. Oh yeah. Oh, I think the diversity. I am so grateful, so grateful for the diversity of the delegates. I mean, when you look and you see one. We have a very strong local government article. And that in part was due to a lot of the women who had been on City Council and mayors and the education article is so strong because there are so many educators. You know, there were farmers and ranchers who had a totally important and valid interest that needed to be represented, given how agriculture is such a prime economic motivator in this state. Don Foster, the beekeeper from Lewistown, I mean, he was he was a young man. He was, you know, I think he was probably thirty-five or so at the time he was elected and he brought a brought to the convention just a sensibility of a small business owner. Jack Ward, a veterinarian from Hamilton, Sterling Rygg from Kalispell, a car dealer. Erv Gysler, he was a tractor, an implement dealer. There were just so many walks of life represented, and I think that something that the made the Constitutional Convention so worked so well and and resulted in a constitution that tried to be mindful of what Montana is and who Montana citizens are.

Sarah Vowell [00:49:00] Let's talk about you for a second. So at 24 years old, you had the self-confidence to run to be a delegate. But then how did being elected by your community, plus the responsibility of helping frame a constitution from scratch... How did that affect how you saw yourself and your future?

Mae Nan (Robinson) Ellingson [00:49:25] Well, I guess I that might be another question that I haven't, haven't been have....

Sarah Vowell [00:49:33] Not a lot of twenty-four year olds....

Mae Nan (Robinson) Ellingson [00:49:33]Haven't had a lot of people ask...

Sarah Vowell [00:49:33]Have that experience.

Mae Nan (Robinson) Ellingson [00:49:39] No, I realize I realize how lucky, how lucky I was. And you know, you kind of wonder, you know, being in the right place at the right time and intervening factors. And there was a time after I got elected where I wasn't sure whether I was going to be able to serve because we were having a preliminary organizational meeting in Helena in December of 1971. And I got a call I needed to go to Texas. My mother was sick, and as it turned out she died and I had, um, an eight year old brother and a twelve year old sister that I needed to figure out what to do with. Um, as I was the oldest in my family, and my father wasn't capable of taking care of them, so I didn't have much time to figure out what to do. And you know, I thought, do I resign the seat and let somebody else do it? Or so that was a time of big turmoil. And then if I kept this, if I tried to do it, what did I do with them? Did I move them to Helena? I'd already....

Sarah Vowell [00:51:14] What did you do with them?

Mae Nan (Robinson) Ellingson [00:51:14] I had.... The friend who worked so hard on my campaign, his sister and brother-in-law were law students, and they agreed to take care of them during the week and I would come home on the weekends. So, you know, it was a tough position for everybody to be in. And you know, my brother and sister, they were like with me only two weeks here in our little trailer house before I had to go to Helena. And it was a gut-wrenching thing. You know, was I putting myself above their interest? And, you know, I got some counseling and talking and ended up deciding to do it, and I hope it was the right decision. You never know. But but anyway, so to be honest, I was, you know, certainly I had so much I was thinking about at the time, you know, thinking about doing a good job, thinking about reading all of the proposals, being current, getting home on the weekend, trying to give some normalcy to my brother and sister that I don't think I really thought a lot about what was going to happen after the convention. I had gotten a job teaching school at Hellgate [High School] in the fall. And that's what I knew I had to do, that I had to support my brother and sister. And so it really wasn't until maybe halfway through the year of teaching school, I realized that it was going to be hard to support them and everything. And so that's when I called the delegate who mentioned to me about going to law

school, and I just said, 'Do you think that offer of help is still available?'.

Sarah Vowell [00:54:00] Financial help?

Mae Nan (Robinson) Ellingson [00:54:01] Financial help. And he said, 'Well, I don't know why it wouldn't be. I will talk-' to the lawyer who spoke with me wasn't the one who was offering the help. The one who was offering the help didn't want to approach me.

Sarah Vowell [00:54:19] Some one of the delegates pitched in to send you to law school?

Mae Nan (Robinson) Ellingson [00:54:21] A delegate did. A delegate did. But yeah, it was a pretty. So anyway, the long story was that I took the LSAT, the delegate talked to, you know, and I've acknowledged, I've acknowledged the man. His name was Dave Drum. He was a Republican from Billings, larger than life kind of guy. And when I went to his funeral, I realized that I was not the only person that he had helped with their education over the years. But I, uh, so I taught a year, took the LSAT, arranged, you know, arranged for the financing. I mean, it was \$5000. I mean it. It made all the difference. I mean, it paid my tuition and everything.

Sarah Vowell [00:55:33] And when you, I mean, it's occurring to me now, when you go out to law school, you must have taken constitutional law, right? So were you the only law student who had framed a constitution?

Mae Nan (Robinson) Ellingson [00:55:45] Yeah.

Sarah Vowell [00:55:46] Yeah. That yeah...

Mae Nan (Robinson) Ellingson [00:55:49] Yeah.

Sarah Vowell [00:55:49] That's...impressive.

Mae Nan (Robinson) Ellingson [00:55:56] So the whole, you know, the whole legal thing. I mean, it just made it made such a difference in my I mean, serving in the Constitutional Convention just made a huge difference in my life for so many reasons, not the

least of which, you know, was being encouraged in and getting the help to get law school.

Sarah Vowell [00:56:28] Let's talk about the education in the '72 Constitution, it continued the no aid clause from the previous constitution to, no aid to private religious schools. Then in 2020, Montana ended up in the middle of this big court case. *Espinoza v Montana* was over tax credits for donations to private religious school scholarships, and it was heard by the U.S. Supreme Court and you went to D.C. to watch the court's deliberations, right? What... What was that experience like for you?

Mae Nan (Robinson) Ellingson [00:57:06] Well, prior to going, I participated in putting together an amicus brief.

Sarah Vowell [00:57:16] Wonderful. I don't read a lot of amicus briefs, but it's a wonderful read.

Mae Nan (Robinson) Ellingson [00:57:21] Thank you. So I I. There were two lawyers out of D.C. who had taken on filing the brief pro bono. And so my task was to see if I could convince other delegates to join in this brief because there was no question in our minds about the clarity of the constitutional provision and what it meant. I mean, the debates and everything I think were crystal clear. And if you read the brief, I mean, that's really what we tried to show is what the delegates intention really was.

Sarah Vowell [00:58:14] And that it was about public education?

Mae Nan (Robinson) Ellingson [00:58:17] Yes.

Sarah Vowell [00:58:18] Not religious...?

Mae Nan (Robinson) Ellingson [00:58:19] It it. Yes, it was not about discrimination against Catholics, which they tried to argue that it was anti-immigrant, that it was anti-Catholic. I mean, nothing could have been further from the truth. And you know, you met, well, Gene Harbaugh, one of the ministers at the, who was serving in the convention. And there were five ministers, as I recall, and they all supported this no aid provision. And some of them promoted it, you know, as a way of once you let the state pay, you're going to be inviting control. But every every minister

supported this no aid provision. So it was not hard to get the remaining delegates to sign on to the amicus brief.

Sarah Vowell [00:59:32] Because it was about the principle of the separation of church and state?

Mae Nan (Robinson) Ellingson [00:59:37] The principle of... Oh for sure, which carried over from the 1889 Constitution and also what was really at play equally well was a strong belief in public education. And you probably recognize that the Constitution itself is very strong on establishing an obligation of the state to find an equal quality education for all Montanans. And certainly, the notion was that if public funds got siphoned off to provide private education, there would be less for, for the state. So those two things went hand in hand. I would add, you know, that we did one thing in that article, though, that was a difference from the 1889 Constitution. And that is we added the clause that the pro-prohibition against state money going to private, parochial schools would not be deemed to preclude any federal money coming to the state for private institutions, because at that time, the federal government was starting to fund all kinds of programs in states for all schools equally. And so we we did not want to let that let our provisions stand in the way of keeping private schools from getting their fair share of public money.

Sarah Vowell [01:01:26] That education....so the clause in the Constitution, it's something like it's the duty of the state to help each student live up to their educational potential or words to that effect, right?

Mae Nan (Robinson) Ellingson [01:01:39] I don't think that's exactly it. I mean, what I mostly remember is the obligation to provide an equal, quality education for all.

Sarah Vowell [01:01:55] And that's very expensive in a state like this.

Mae Nan (Robinson) Ellingson [01:01:57] Yes. Well, yes. I mean, it's the biggest. It's the biggest expenditure. And so it was, you know, you can't say that because you're not, you know, the Montana Supreme Court declared unconstitutional the law that was passed that granted tax credits. What happened is that the law

gave tax credits to all nine public schools, whether they were religious or not. And so the Department of Revenue in interpreting this statute, they said the tax credits could go to private schools that weren't church related. And in the Montana Supreme Court upheld that. Well, wait, no, I well... Now I think they ruled that was discriminatory. I mean, what got what caused the loss ultimately...

Sarah Vowell [01:03:28] Because the Supreme Court ruled against you?

Mae Nan (Robinson) Ellingson [01:03:33] Yes.

Sarah Vowell [01:03:34] Against the delegates? Against the Montana Constitution?

Mae Nan (Robinson) Ellingson [01:03:34] Against, against the Montana Constitution. But they were presented with a case that was awkward in terms of how it applied it to the particular legislation. It was, it was disappointing. Just it was disappointing, and it makes me sad because the very next legislative session after that they passed a tax credit bill that significantly put more money into private schools than public schools.

Sarah Vowell [01:04:21] Yes, which is what you were all trying to guard against.

Mae Nan (Robinson) Ellingson [01:04:24] Yeah. Yeah.

Sarah Vowell [01:04:26] You win some, you lose some.

Mae Nan (Robinson) Ellingson [01:04:27] Yes. And we've lost. You know, we've lost a few. I, you know, I've been thinking about the Constitution as it currently exists and the Constitution as it was passed. And there are several amendments to the Constitution that really disappoint me and make me and, you know, make me just kind of emphatically say, it's not it's not as forward thinking now as it was when we adopted it. And I think the one that bothers me the most is the constitutional amendment that prohibits same sex-marriage. And it's interesting to me how many people don't realize that that amendment was passed and that that is part of now part of our constitutional legacy. And I don't know. I mean, right now, people would say it's not so relevant as long as the federal law and

the federal Constitution, the interpretation by the Supreme Court of the federal Constitution continues as it is. But you know, it just makes you realize the importance, I think, of state constitutions for ultimate protections. You know, and I think we're going to be seeing more of that, you know, in terms of voter voters' rights, restrictions on voting, I think we're going to start seeing a federal Supreme Court that granting more deference to states. And if you have not strong state constitutions, then those rights are going to be dissipated.

Sarah Vowell [01:06:40] Every 20 years. The people of Montana decide whether or not to rewrite the state Constitution. If that happens, what parts of the '72 Constitution? Would you encourage them to keep or change?

Mae Nan (Robinson) Ellingson [01:06:56] Well, I certainly would like to go back. I think we ought to go back to full sovereign immunity. I think that was a very unfortunate watering down. I certainly would get rid of the amendment that prohibits same sex marriage. I would, um, I would do away with term limits. I think term limits, particularly for the legislative branch of government, has eroded the Legislature. I think it's had a negative effect on the congeniality and the ability of people to work together. I mean, they're there a short period of time. They don't need to worry about building up long term relationships. But more importantly, state government is complicated. Our state tax system is complicated. This school funding is complicated. The Coal Severance Tax Trust Fund is complicated. My experience since we've gone back to term limits is I do not think many legislators have the time to build up an expertise in some of those areas to be a really effective leaders on tax policy on school policy and become much more beholden to the executive branch and to lobbyist. I can remember before the term limits, I mean, there were people who... Francis Bardanouve, he really knew and understood the state's tax system as a legislator and so tax legislation, which is so much better thought out. Because it was somebody in the legislative branch who really understood it. So I think with term limits, we are weakening back again the Legislature. So that would be something I would encourage them to put back in the Const- or get rid of in a new constitution.

Sarah Vowell [01:09:20] And what would you keep from the '72 constitution otherwise?

Mae Nan (Robinson) Ellingson [01:09:25] Well, I think I would keep almost all of it. I mean, I think I think the Bill of Rights is, you know, an incredible statement of protections, rights and responsibilities for Montana. I think the local government article of the Constitution, which gives local governments more power, does home rule, is critical. I think the control of the university system by the Board of Regents, I mean, that was a very huge, huge victory. I think that has served our state well. I think the education article. You know, again, there were many, many lawsuits about that. But in every case, the court has said yes, they mean they meant equal educational opportunity. So you can't have a school district in Florence spending \$2,000 a year per student, and a school district over in Colstrip, spending \$10,000 per student. And that's what was happening before the Constitution and every time the Legislature lets it slip, but we go back to court, people go back to court and say, 'No, you've got to equally fund this.' I would totally keep that. I would keep our system of uniformity of taxation across the state. Prior to the convention counties did their own appraisal and you could have huge disparities in property values from county to county. So I think I think that was positive. So I guess you're probably getting to 'Oh, she really likes this Constitution.' I do. I there's there's...

Sarah Vowell [01:11:46] It's why we're here.

Mae Nan (Robinson) Ellingson [01:11:47] That's not, there's not much I would change. I'd change more of the amendments. I mean, the Montana Board of Realtors got an amendment through that prohibited a realty transfer tax. That's legislation, it shouldn't be in a Constitution, but they had a lot of money and there's nobody organized to oppose it. Maybe, maybe we've maybe we made it too easy to amend the Constitution. I mean, I know some scholars have felt that it's too easy to amend it, but I think we were of the view that we might not know everything there is to know. And you know, people may need to change these things to make them work. So I think there's a there is a balance there. You don't you want a constitution to be a constitution. You don't want it to be a book of laws. And I think we did that. But I think there may be a

tendency by having made it easy to amend that it could become more legislative the way a lot of state constitutions have.

Sarah Vowell [01:13:09] And finally, in the future, if a new constitutional convention is called, what advice do you have for those future delegates?

Mae Nan (Robinson) Ellingson [01:13:19] Well, I may be one I may run. Let's see. I would be.... It's up for a vote in, what, 20...

Sarah Vowell [01:13:31] 2030?

Mae Nan (Robinson) Ellingson [01:13:31] 2030. So that's nine years from now. Oh my God, I'll be eighty three. I don't know. That might be too that might be too old to run. We'll see. We'll see. We'll see how my faculties are doing. If I still, I might be the only one who could claim any experience in writing a state constitution.

Sarah Vowell [01:13:59] That's true. You might be the...being the youngest...I. Say, I mean, say it happens. What do you tell those delegates what, what is your advice?

Mae Nan (Robinson) Ellingson [01:14:09] My advice would be to know what, know the purpose of a constitution, know the purpose of a constitution.

Sarah Vowell [01:14:21] And that is?

Mae Nan (Robinson) Ellingson [01:14:23] And that is to frame the government of your state to establish the rules and regulations under which you as a democratic society want to live. What powers you want to reserve to yourselves. What rights do you want to reserve to yourself. What powers you want to give to the other branches of government. What restrictions you want those branches of government to have. And you know, in some ways, you just need to be a good citizen. I mean, none of us when we ran had any experience of writing a constitution. We were all novices at the job. But fortunately, the state had spent money in preparing documents for us, readings, to really learn what a constitution is. So it's not like we all went in there on day one with no clue because from the time we were elected until the time we met, we were

bombarded with all kinds of material so that we could all be prepared to do the job that we are being called on to do.

Sarah Vowell [01:15:57] So do your homework.

Mae Nan (Robinson) Ellingson [01:15:59] Do your homework. Yeah. I think, don't just do your homework when you're ready to run for something, but do your homework about government every every day. You know, pay attention, pay attention and vote.

Sarah Vowell [01:16:18] Thank you, Mae Nan.

Mae Nan (Robinson) Ellingson [01:16:19] You're welcome.