

Roundtable, Sarah Vowell with Rick Applegate, Bruce Sievers, and James Grady, 2021 November 4

[Ed: 20 minutes of chatting deleted at Vowell's request; one participant was late. Transcript begins when roundtable starts]

Sarah Vowell [00:36:39] This is Sarah Vowell in Bozeman, Montana, and I'm here virtually with three of the research analysts for the 1972 Montana Constitutional Convention. Rick Applegate, who researched the Bill of Rights. James Grady, who researched suffrage and assisted the General Government and Constitutional Amendment Committee. And Bruce Sievers, the research analyst for the Education and Public Lands Committee. We're speaking on November 4th, 2021. So welcome, researchers. The three of you were hired by the Montana Constitutional Convention Commission in 1971 to prepare research materials for the delegates, who would convene the following year to write the new state constitution. Can you tell me how old you were at the time, how you got those jobs and what appealed to you about this work? Rick, we'll start with you.

Rick Applegate [00:37:48] Well, thank you Sarah. And I'm glad you put this together. I was just about to turn 22, as I recall, still 21, hired by Dale Harris and we got acquainted a bit during the 1971 Montana State legislative session, where I was working with Senator Luke McEwen on executive reorganization. The appeal is something I heard about while I was at graduate school in New York City. I knew there was going to be a convention. Of course, at the time, I had no idea that I would be employed working past full time for over a year.

Sarah Vowell [00:38:28] And and Bruce, how old were you? In 1971?

Bruce Sievers [00:38:33] Was 30 years old.

Sarah Vowell [00:38:35] You were how old?

Bruce Sievers [00:38:36] 30.

Sarah Vowell [00:38:37] 30. You were an old man compared to these...

Bruce Sievers [00:38:41] I was the old guy. But it was a bunch of 20 somethings, plus a 30 something. There were gathered together, I had just finished the internship with Senator Lee Metcalf at the time and come back from Washington and was in the middle of writing my dissertation for a doctorate in political science at Stanford. And along came a phone call saying, "Would you be interested in working with the Constitutional Convention Commission?" And I said, "Yeah, that sounds like a great opportunity." So that's that's how I came into the process.

Sarah Vowell [00:39:27] And Jim?

James Grady [00:39:29] I was drifting around the Univers-, I was 22 years old. I was drifting around the University of Montana and as ridiculous independent studies program that I thought would give me shelter to write fiction. And one of the Convention Commission staff had quit, I think with some, some some health issues and they needed somebody who could write fast. And a graduate student, a woman friend of mine from journalism school literally pulled me aside on campus. And the next day I was in Helena interviewing with Dale Harris, who asked me all the right questions and I had all the wrong answers, but he hired me anyway.

Sarah Vowell [00:40:20] Would you were, were you? You were all kind of--is the word affordable?

Bruce Sievers [00:40:29] Yeah, sure. Yeah. Yeah, that's right.

Rick Applegate [00:40:37] I can't resist on that one. Yes, I was very affordable. I'd work in the Legislature and I was in a an apartment down by the Old Post Office in Helena. Thirty dollars a month.

Sarah Vowell [00:40:49] Do you guys remember how much you got paid, actually?

James Grady [00:40:55] I don't even know if we hit \$9000. I mean, I mean, I think I was, I think I was because I was the least qualified. I probably I hope I hopefully I got less than the others. But it it seemed like a princely sum at the time.

Rick Applegate [00:41:10] I believe it was 850 a month and that was getting close to what Secretary of State Frank was making. I thought it was a lot of money in those days, so.

Sarah Vowell [00:41:23] Jim, you. I really like this description you described Dashiell Hammett's 1921 novel "Red Harvest," which was set in Butte as the "Old Constitution's Montana." Can you elaborate on what the old 1889 Constitution's Montana was like and what was the goal of creating a new Constitution's Montana?

James Grady [00:41:50] Well, if you look at the history of Montana that that the Constitution came from, we were we were really under under the control of the Copper Kings. I mean, there were, you know, outlying places in northeastern Montana that didn't really get affected. But it that era and that level of kind of political corruption was was the core of Hammett's first novel. And we, the state, had cleaned up a lot by the time the the campaign for the Convention started. But it was still there were the old document. I don't want to say clunky, but it didn't, it didn't reflect the times and what I think. All of us who work for and many of the delegates wanted the state to have, which is more freedom for its citizens, greater responsibilities in a good way and a better chance at regular good life.

Sarah Vowell [00:43:03] Do you all had, I guess, a few months in 1971 to prepare the research for the Convention before the Convention convened? How did you start and what were your work days like? Rick? Can you start? How like, how did you get started? "I'm going to help frame this new Constitution," what do you do?

Rick Applegate [00:43:25] Well, I think we all went into panic mode first, realizing...

Sarah Vowell [00:43:28] That sounds reasonable.

Rick Applegate [00:43:31] Yes, it was because not a lot of material had been assembled. In fact, the 1884 constitution, the prior one before the old timer 1889 one could not be found was discovered rank in the basement of Secretary of State's office shortly before we did our work, so we had a chance to plow through those handwritten transcripts. But basically, it was a matter of getting into your office. Mine was huge, had two massive tables in

it. I put a what amounted to later a chapter on each. I got a table in the law library thanks to Katherine Orchard, where I was even able to come in early and stay late. She gave me a key. I could eat there, which was forbidden. No crumbs could be left on the table, and we basically pushed well past full days rounding up material. And keep in mind, we did not have the internet. So what was in the law library, what was readily accessible from the University of Montana and what we could get on rush from other libraries around the country through what was charitably called interlibrary loan. It was like the Pony Express without horses, I guess. So we were we were operating under some very severe deadlines. Fortunately, the Commission members were very well studied on the topic and they reviewed all of our material. Alexander Blewett, Ellis Waldron, Marge Brown, Eugene Mahoney and others were there, and they didn't, they didn't try to censor anything. They just tried to make sure we were fair and full in sorting through all the material we had available to us. But it was it was rushed work. I described it as a wind tunnel test, I guess, and that's what it felt like.

Sarah Vowell [00:45:21] Bruce, do you remember getting started on researching education?

Bruce Sievers [00:45:26] No, I actually came on a little later than the others, so I was really more of a jam, so much of my work. I came in a little late, I believe, during the last draft of the study, but it got finished. But I do remember there was some material collected by the time I got there. But I also remember, I think I came in September. So if I remember rightly and so some some material had been gathered and which was helpful. But it was, um, it was a crazy time and we were all I remember many late nights in the Capital and in the various parts of the Capital, including running off and some answers on the Xerox machine, which we all felt incredibly privileged to be able to use to do, run as much off that machine as we could for free. And it was it was crunch time from from the very beginning in terms of getting research done. But I also agree that, you know, we didn't really we couldn't just tap a computer and got information. We had, if we wanted something that was that was out there, we had request it and wait for it and so on. That was that was a challenge as well.

Sarah Vowell [00:47:04] Jim?

James Grady [00:47:04] Yeah, I it's funny, I was hired like two days before Bruce, and we actually we'd known each other briefly in Washington, D.C. and [Senator Lee] Metcalf's office, but I was initially going to be working on the education stuff. Bruce was hired. He was far, much more experienced and capable for that. I then came over to be Rick's assistant on Bill of Rights for, I think, all of two or three weeks. And then I was given the assignment to take care of the leftover stuff like suffrage, you know, recall provisions and to do what we had to do in that short period of time. I don't think any of us got there later than 8:30 in the morning, and I don't think any of us really left until around 9:00 at night. The Xerox machine, the state capital... In those days, Xerox machines were were this magic device. And I think, sometime before I arrived, they realized these these these researchers, these young men and women were kept coming into offices. They put it in the Hall of the Capitol, and we were all sort of schedule a lot of our our Xeroxing time. It was you would and you would every day check the mail to make to see it, could you could the copy of the Constitution of Hawaii's report on, you know, something... had it, could it have arrived today? No! So it was there was there was a large... we all saw the deadline coming. We also all wanted to give it the best job we could. We had Jerry Holloron being kind of our substantive editor...

Sarah Vowell [00:49:16] And he had been a journalist, right? Or was he a journalist at the time?

James Grady [00:49:20] Yes. Well, he had been a journalist and I would argue his reporting and Chuck Johnson's reporting helped sell the Constitution as an idea to the population of Montana. And it was it was a wonderful time to work. Each day I got to work with these brilliant people and for a common good. We all knew what we were doing was incredibly important. And we just I think there is I don't know about the other got people, but there was a huge sense you cannot screw it up.

Sarah Vowell [00:50:00] Mm-Hmm. You mentioned waiting for the Constitution of Hawaii to show up. When you were writing your reports, you were researching previous state constitutions and conventions, right? What did you learn about what worked and what had failed from the other states' efforts? Rick?

Rick Applegate [00:50:22] Well, yes, we actually assembled, you know, in the Bill Rights study, I assembled a number of the interesting provisions from other constitutions, for example, including a slightly different individual dignity provision that was written into the Bill of Rights in a different form. So there were literally dozens of other provisions worth looking at for comparison. And, you know, even now, the state constitutions are being changed. I believe New York state just passed a right to a clean and healthful environment in some form 50 years roughly after when Montana did, and Maine has adopted some kind of a position that I haven't been able to look to on the right to food. And it's not so much a right to basic necessities as it is dealing with the whole food sovereignty. As to failures, we were operating in the shadow of the fact that several states under the guidance of the National Municipal League in this wave of interest in state constitution revision had actually prepared documents and submitted them for approval by their states and three of them, including Maryland, which shocked people, turned them down. We didn't have a wave of approvals right in front of us. So the delegates when they arrived were aware as we were because we told them about these difficulties, and it was amazing to me that those conversations were short didn't discourage them at all. They concluded that we're going to write the best document they could and move forward. But there were there were plenty of strengths and weaknesses out there that we were fortunate able to get our hands on.

Sarah Vowell [00:52:14] Bruce, do you remember a state constitution that was really helpful to you or a reading about the convention proceedings of a state?

Bruce Sievers [00:52:24] Yeah, I I don't think there was a one single model, but for various parts of the education piece of the Constitution, there were different states that had different features. That were, we aspired to to follow. So, for example, California and Michigan were the exemplars for me, at least in terms of constitutional autonomy of the university system, which was very important. And this proved to be very important, after all. And and to have, have a university mentioned in the Constitution gave it a certain independent status, at least theoretically enabled it to to fend off some of the political forces that came along. Mm-Hmm. But yeah, we did it for different, for different aspects of the provision we were writing in this constitution. We looked to other states for

their their particular document doctrines and. Offhand, I can't think of another one right now, but there were a whole range out there and education in such a kind of fluid subject for constitutions because it just doesn't immediately come to the mind as something that would be built into a into a constitution. And yet it's it's a very important single part of state government and in terms of expenditures. So there was a lot of flexibility there and a lot of ability to to to look at other states and other kinds of provisions that might provide a model of some sort.

Sarah Vowell [00:54:35] Do you all do any of you remember? So the delegates being seated alphabetically to avoid partisanship or to promote nonpartisanship, I guess. Did that come from another state's convention? Do you remember where that idea came from? Anyone?

Rick Applegate [00:54:56] I don't believe it came from any other state, I think it came from a couple of the delegates in the conversation someone might remember specifically. But the one thing I would say is, I think the reason that happened, apart from whether there was a precedent or not, is these delegates arrived as a kind of a different breed in Montana politics, something I hope someday can be repeated because they were singularly not interested in partisan politics to the person. We very seldom encountered anything like that. Obviously, they had different views on the political spectrum, but that didn't have to do with parties in lockstep, either supporting or opposing major measures. And as a result, there was virtually nothing resembling the kind of gridlock, contentiousness, even frankly rather vile behavior that seems to be at the center of our diminished public lives in these days, something I hope we can get away from.

James Grady [00:55:59] I wond-...

Sarah Vowell [00:56:01] Yes, Jim?

James Grady [00:56:02] I want to go back to your other, your other, your first question and also comment on Rick's. When I started looking for models of other states, how their constitutions handled suffrage and elections and things like that, what struck me was the amazing amount of racist holdover in constitutions from in the southern states. And yes, Louisiana had a part in the

Napoleonic code that was there too. But I would find it clearly directed at keeping the black population subservient in state constitutions. I can't remember any of them now, and it was that was appalling to me, and it was it was what I learned from looking at the other constitutions was more not what to do, but what not to do. So and the delegates, I think that Rick hit it right on the head. We had a couple leaders of both the Democratic Party and the Republican Party who worked together side by side. There was there was not any... God. The idea that there would be name calling at the Convention among the delegates is unheard of. It was the everybody was trying to be open and aware of, I think the no- that I don't want to say nobility, but the importance of the task that they had been elected to do and they came from, you know, weird backgrounds. So it was great.

Sarah Vowell [00:57:42] Weirder than yours, Jim? No. [laughs]

Rick Applegate [00:57:45] It contributed to that spirit as well, I think was when they ran for office. If I'm not mistaken, they ran for the positions of being a delegate. They didn't do it on a partisan basis, right, and then?

Sarah Vowell [00:58:01] They ran as members of a party. They were elected and there were more Democrats elected than Republicans.

Rick Applegate [00:58:10] I was thinking they did not...

James Grady [00:58:13] Well, they were not. If you had held office in the last legislative session, for example, then could also not become a delegate. So you in this class of of of of political leaders, was locked out of the convention. I think that was a brilliant move on the old framers, right?

Sarah Vowell [00:58:38] And do you think because it meant more different kinds of people would run?

James Grady [00:58:43] Yes, absolutely.

Bruce Sievers [00:58:45] You or in the capacity of doing a delegate representing Republicans or Democrats in the current Legislature?

Sarah Vowell [00:58:59] Yeah, let's let's not think about them right now. Well. Let's talk about Dale Harris. Max Baucus told me he didn't he he thinks Harris is so important. He does, he doesn't know if there would be a new constitution in '72 without Harris. He was the executive director and your boss. Can you tell me about what kind of guidance you got from him and just what the citizens of Montana should know about his contribution? Rick, you want to start?

Rick Applegate [00:59:29] Sure, happy to do that. I actually shared an apartment with Dale while I was looking for a place to live after Legislature, got to know him quite well. I didn't know him very much before, but I certainly...

Sarah Vowell [00:59:40] You were everybody's roommate, weren't you? You were also Jim's roommate at some point?

James Grady [00:59:45] You don't have a good description of those stories, but if you want to make a tape another day, the two of us would be happy to fill it up.

Sarah Vowell [00:59:58] So, Dale Harris, yeah.

Rick Applegate [01:00:00] Dale Harris was an amazing person. He was very hardworking, but he worked himself to the bone during the Convention, past the bone. And he he had a way of looking forward at the objective of getting a convention called, getting it structured, getting it written and getting it ratified. He was he was important at virtually every stage of that and and afterward, and he was in many ways an ideal boss. And I don't say that just because he hired me. He was all along the way because he paid attention to the substance as well as the whole process. But he trusted the people he hired. Like Jim, I feel very fortunate to have been able to work with the talented bunch of researchers. And I do think that that people are not sufficiently aware of the role he played. And I don't think there would have been a Constitution without him. There are others who played a strong role as well, but he was central from the get go and he, together with a number of others, League of Women Voters and a number of other organizations of that kind were very deeply engaged in the entire process. We're very lucky.

Sarah Vowell [01:01:28] Bruce, can you talk about his mind a little bit? Dale Harris reading through some of the things he wrote in the archives. He's a very high minded person. What? How did how did that? How did he inspired that in the staff and the delegates?

Bruce Sievers [01:01:48] I don't think I knew him as well as some of the others. Again, because I came on later on and well, there was a kind of interesting paradox about Dale, part of it was that he had the vision to see where this might be going and how you know it can work and strategically planning at the same time. There was a kind of, can I say, bureaucratic aspect that Dale had that we all kind of made fun of. But the fact was it worked and that got us organized and channeled in the right direction. And he did once he hired us, my experience was he just sort of let us go and said, "Go out and do this work and come back with the product," and that's what we all did.

Sarah Vowell [01:02:38] Jim?

James Grady [01:02:39] Dale had actually been working on getting the Constitutional Convention off the ground when he was in grad school at the University of Montana. I was a work-study student in the political science department and he was a grad student then, and I watched him talking about this thing. And it was no one else in the department was... The professors, they were aware of it, but they I think they kind of thought it was not going to be possible. And Dale had, as Rick said, a vision. And he actually also like, like Bruce said, had the whole bureaucratic plotting steps on how to go from from just a notion to an actual event. And he did them, you know, it was it was amazing what he what he helped pull off.

Sarah Vowell [01:03:35] Do you do any of you remember how many researchers there were?

Rick Applegate [01:03:47] I looked over my study the last couple of days. It takes a week to read through the thing. But I recall there were about a dozen or so listed.

Sarah Vowell [01:03:57] That sounds right. You guys want to single anyone out that you think should be remembered among the researchers? Jim?

James Grady [01:04:07] I think Rich Bechtel, who actually had the legislative part, was was great. I know Sandy Muckelston and Roger Barber should should, you know, get a lot of credit. It was funny because the the number of researchers for the Commission was smaller than the ones for the actual Convention. We were, those of us who were there in the good old days of the Commission were a core. But then these new other research researchers showed up and we didn't get to know them as well. But they worked incredibly hard and I thought, did a really wonderful job.

Sarah Vowell [01:04:55] Do you mean that the other 21 year olds who had three months less experience than you all? Do you remember any of your colleagues that you think should be well remembered?

Rick Applegate [01:05:11] You include delegates? Or what are you?

Sarah Vowell [01:05:14] I mean, sure, you can talk about your favorite delegate if you'd like.

Rick Applegate [01:05:19] Well, I actually have a longer list than that, but I'll start. I'll do this quickly. But the chairman of the Bill Rights Committee was a Republican, a trial lawyer, and uh,...

Sarah Vowell [01:05:32] Wade Dahood.

Rick Applegate [01:05:34] Wade Dahood. And I described how he would come up to you to talk to you about constitutional law and take hold of your arm. And as the conversation proceeded, you realize the hand was strengthening its grip. And I think I commented in my law review article that that I enjoyed most of those conversations and I've got normal circulation back in my arms. He was very persuasive. He held that committee together. Obviously, Bob Campbell, Dorothy Eck, George James, Chet Blaylock. There is, there's a long list of them that I worked very closely with day in, day out during the Convention and communicated with them afterwards as they were working on on

ratification. In short, it was an amazing group of individuals. I suspect there were probably 15 or 20 who were the main drivers, the most persuasive in Committee and on the floor, and they cut a wide, wide swath throughout the deliberations and kept things on track. But those are those are several that come to mind for me.

Sarah Vowell [01:06:50] Bruce.

Bruce Sievers [01:06:52] Well, I again, I felt so many cases that I was kind of out there doing research and writing and not integrated that much with the rest of the operation. But my chair was Rick Champoux, who was a teacher at the Community College in Kalispell. And he he had a good way of trying to keep in balance the the variety of forces that came into play in terms of education and uh...

Sarah Vowell [01:07:30] Gave a beautiful speech about Indian education.

Bruce Sievers [01:07:33] Yeah, that was another piece that came in. And yeah, he did a really good job of making sure that that stayed in the Constitution. So I would say, um, Rick was probably the person, certainly the delegate, that I most interacted with.

Sarah Vowell [01:07:55] Jim?

James Grady [01:07:56] Well, I want to mention a delegate who is not on my committee, Mae Nan Robinson, who really I mean, she was a little bit. She was essentially our age. I think she was just out of law school.

Sarah Vowell [01:08:11] No, she was. She was still, I think she was in graduate school at U of M and she was 24. And she she went to law school after the Convention.

James Grady [01:08:22] Well, but she the idea, I mean, she's the one who who fought for a lot of the environmental provisions. And you know, it was it was it was wonderful in that era. Remember, we had just came out of the very fractious '60s where there was a lot of generational battles going on and distrust. And here's this young woman coming out of our generation dealing with 70 year old,

conservative in certain ways, Montanans and making bridges between them, it was I thought that was terrific.

Sarah Vowell [01:09:06] Let's let's talk about some of your research, Bruce, you you wrote the Education Committee's research guide, and it seems like one of your main concerns was educational equality and especially public education for students who live in rural areas or on Indian reservations. And can you talk about the special challenges in a state as physically immense as Montana and trying to imagine equal public education in those circumstances?

Bruce Sievers [01:09:45] Well, it certainly was a long history of concern or issue in the state from way from the time it was a territory that the school system was scattered and small and very expensive because of the fact it was so spread out and the resources of the state were never huge. So that that kind of was part of the historical background of education in Montana. But I yes, I mean, certainly was was it was kind of the time also in terms of the resources that were available and the fact there was a lot of, there was growing concern, and this was like in the early '70s because it came out of the, came out of the '60s. A lot of concern just politically for the issue of equality and how how there was radical differences everywhere in terms of what resources were available for public purposes so that that fed into the education issues in Montana. And I would say part of the challenge was the fact that there was there was a general tension inevitably between some sense of providing equal resources or equitable distribution of the resources and educational quality. I mean, that was that was the other side said. Did you have to give up on educational quality or excellence in certain areas in order to gain their equality? And I think that that was a that was just attention and was shown all the way through, but that also connected to the public land side of of this question. They provided the resources for the educational system and the fact that there were in some cases just emerging around the country having to do with the distribution of resources. One was the Serrano decision in California that had to do with mandating much greater equality of distribution of the resources in was for the educational system. So there wasn't enormous differences between wealthy school districts and poorer ones. So we tried to build on the principles from that into the into the Constitution, at least to put it on the table as a question. So the people who had to consider, um, the issue of the distribution of

resources in some kind of equal manner didn't just inevitably advantage just the school districts that had lots of resources and didn't have the kind of expenses that were involved in far flung educational system. So, yeah, I would say that that issue permeated the discussion all the way through the question of arriving in some kind of equitable, balance or reasonable balance between these issues of educational equity and education equality or equality.

Sarah Vowell [01:13:42] Jim, you were writing, you wrote about suffrage in your research book and I mean in 1971, and you cover how in more or less half century before that, the franchise had been expanded for women, for non-whites and had just been extended to 18 year olds. What? So yours your book, is a kind of reassuring a read, actually. But what did you think in 1971 regarding suffrage in Montana? What was left to address?

James Grady [01:14:15] Well, one of the one of the things that is astonishing to me is that in in my committee, which was dealing with essentially how the elections were going to be structured, as well as the fairness and equal- equality of them, no one was concerned about voter fraud on a massive scale, about people stealing elections. And this was after they'd been informed and read about, you know, the the corruptions out of the copper copper state. But the the idea that the those issues of stolen elections and you can't trust election officials that are permeating the 21st century as as we're filming this were unthinkable, then it was it was a sense that we just have to get the structure right because the counties and the and the towns and cities, they're going to be able to run this equitably and fair on their own. And if there is any widespread corruption that's going to come out, well, obviously people will get caught, but we just don't see it on the future. I mean, it was it was. Everyone wanted just to ensure that the election process was as as free and as open and as accountable as possible. And of course, none of us also had the sense that giant money was going to become the major force in elections within, I would say, a decade.

Sarah Vowell [01:16:02] Interesting. Rick, you wrote the report for the Bill of Rights Committee. First, I want to ask you about this. You wrote in that report the right to a "healthful, unsullied environment" is an increasingly common state constitutional

convention. What other states led the way on that? And then can you talk about how that language got changed in the eventual Constitution from what's your wording... Healthful, unsullied environment to the famous "clean and healthful environment." What, what, what, what states were ahead of us on that?

Rick Applegate [01:16:47] You we'll remember that. A good example was the state of Illinois. And interestingly, I did the research in the for the Bill Rights Committee, the Bill of Rights, initially, as proposed to the floor, did not contain a provision on a clean and healthful environment. The Natural Resources and Agriculture Committee took that up. But our chairman, who had said that he wanted to be sure the Bill of Rights Committee and the Natural Resources Committee were talking to each other. And I can just tell you there were a lot of conversations. I'm sure delegates were involved. I felt like I was wearing out the carpet between those two offices while they were deliberating. The natural resources and agriculture provisions did create a kind of the right and an obligation on a clean and healthful environment. And that language was much debated. There was a question whether modifying it to clean in health law would actually weaken the provision. There were folks who said, well, just guaranteeing people an environment was saying nothing. And that one went back and forth. It was the subject of a lot of debate late in the convention after the Natural Resources article, the Bill of Rights came to the floor. And at that point, some people would say out of nowhere. Delegate Burkhardt stood up and expressed an interest in seeing a clean and healthful environment expressed as an inalienable right in the Bill of Rights. And I know from conversations with him that he was concerned that he thought there was an obligation on everybody's part to promote a clean and healthful environment in the other article. But there was nothing in the Bill of Rights article. Chairman Dahood wanted to be sure that Burkhardt proposal was not trying to expand the ability of people to litigate in court beyond what the judiciary was providing for what you needed. So interests that was being damaged. So short version of that is that he was satisfied, Burkhardt said he wasn't an attorney and wasn't entirely clear on all of that. The amendment was adopted, and it has become a very significant matter because the state Supreme Court said they would adopt a strict kind of an inquiry standard where someone with appropriate access to the court was challenging an activity like the the mining that was proposed to occur in the

Blackfoot River some, some years ago. So it became a very significant addition to the document. It ended up being in the right place in the inalienable rights section of the Bill of Rights because as we discovered later, there was a provision in the Welfare Public Welfare article that suggested that the state was going to provide the necessities of life for people. And the Supreme Court ruled that that provision was not in the Bill of Rights, and therefore it did not create a fundamental right of location matters, if you will. So it turned out to be a big deal that the provision can be found in two places. And as I say, it's just recently what you think of as a relatively progressive state, New York got around to adopting similar similar language. Now does that kind of right make it so? And I've written about this. It didn't affect the Superfund in Libby. The asbestos crisis there, probably one of the greatest environmental disasters in North America, but it has clear value, clear benefit and it hasn't been economically disruptive in the way some predicted that it would be. I remember even Chairman Dahood was worried about the potential effects of a operation like the one on mining and smelting activity in his part of the part of Montana.

Sarah Vowell [01:20:55] He's from Anaconda.

Rick Applegate [01:20:56] Yeah, had some beneficial effect and has been enormously disruptive to the economy.

Sarah Vowell [01:21:03] Can you also talk about? So one of the what became one of the most beloved sections of the Bill of Rights of the '72 Constitution is the right to know clause establishing open, open government in Montana. But at the time, it was initially opposed by journalism organizations like Montana Press Association, Montana Broadcasters Association because of the seemingly contradictory devotion to privacy. Can you talk about that controversy and resolving the language?

Rick Applegate [01:21:40] But it was difficult because it was a very hot issue. One of the most contentious the Bill of Rights Committee looked at, and you're right, the newspapers the media very concerned that the right to know could be basically wiped out by the right of privacy. Our view at the time was that you can't deal with one without running smack into the other. And we had some of the hottest hearings that we had, the tough deliberations in the

committee about it and actually had to modify it after the committee proposal had gone to the floor of the convention. And the modification was not a trivial one. It basically said that you had the right to know unless the demand of individual privacy clearly exceeded, clearly exceeded the merits of disclosure. There was still a debate on the floor. Very progressive delegate from Billings remain concerned about and tried to amend the provision, in some, I thought, very disabling ways. But it stood at the end. And the Montana Constitution for quite some time was the only one that had a provision that kind. It's one of nearly a dozen provisions that were marvelously different from clear models that we had anywhere else. And my, one of my one of the professors I had studied directly with him at the New School in New York City, who had written a compilation that was the big thing. The sources of democracy all the way back in history past classical antiquity. And as he worked his way through it and when he republished it in the '70s, we had talked about it some, he the last document in that book was the Montana Bill of Rights. He saw that it was kind of a culmination of centuries of work.

Sarah Vowell [01:23:41] Let's get uncomfortable for a second. I have this article here from the Helena Independent Record from March of '72, and the headline is "Convention Researchers Dismayed at Work Results." And this is an article where all three of you go on the record to complain about the delegates. You deem them too timid, too beholden to the old Constitution and overly focused on ratification. Rick, you said some of the delegates didn't bother to read the research reports. What was the point of airing this dirty laundry? And do you think going public with these concerns inspired the delegates to step up? What was this about? Jim, do you want to talk about this? Do you remember this? You have several quotes in here.

James Grady [01:24:35] Oh yeah, I I tend to let myself let myself run on, as we've seen. I think that the the we first of all, we were all about creating a public document. And for us not to talk to a reporter about what was going on in a way was was was not only contradictory, but but maybe wrong in some levels. I think we were we were all concerned right up until the very end that some of the some of the delegates have not read Rick's report. Are, many of my committee, I actually had to read out loud portions of my my study to the full committee, which was it was like I was teaching.... I felt

like I was teaching first grade again or or something. But it was there was a lot of material we provided them and we were not certain it was, it was getting through them. And we, I think maybe, maybe we, you know, I don't have a judgment on whether or not we should or shouldn't have done that. But at the time, it seemed like, I think the rightness, the good move to do.

Sarah Vowell [01:26:02] Bruce, you have any thoughts on this?

Bruce Sievers [01:26:05] Not really.

Sarah Vowell [01:26:06] Remember it?

Bruce Sievers [01:26:06] Not really. I don't remember that particular episode, but I'm so glad we did it, I guess in retrospect. But. I think there was some, you know, there was a youthful exuberance on all of our part.

Sarah Vowell [01:26:25] I think that's a good phrase for it.

Bruce Sievers [01:26:27] Then there was some probably a frustration that maybe some of the delegates needed were, to do their homework or were kind of too stuck in the traditional ways. But as it turned out, there's the fact that the Constitution passed ultimately just barely. I think it was ultimately a kind of right balance happened between the more progressive ideas and the more sort of traditionalist approach to these things. I think, you know, I think we all, as you were saying it was it was so close to any single provision that could have gone further and in the sort of progressive way could have sunk the whole Constitution. So we were we were so happy with all balanced out in the end.

Sarah Vowell [01:27:25] Yeah, Rick, do you remember this? Was it awkward around the office the next day?

Rick Applegate [01:27:33] Yes, Sarah, this is the journalist in me, I know it's very good

Sarah Vowell [01:27:37] For the writer in me. It's just a bunch of writers saying, "Hey, why don't you people read what I write?"

Rick Applegate [01:27:44] I actually wrote about this. Dorothy Bradley put together a compilation of essays, Public Land and Resources Law Review. U of M put it out this past summer, and I wrote, I wrote a piece on the Bill of Rights and I included a reference to this. My inclination at the time was that as the delegates were developing provisions, over and over, I was hearing the voters in Montana will not approve this. And what worried me is that based on some intuition about that, we were putting together a document that contained measures that people believe would be adoptable. And I honestly felt that that was the wrong way to do it. We should build a high quality document and then the deliberations would occur on where you go from there. And you know, part of my reaction to this is, you know, to be young again.

Sarah Vowell [01:28:44] Yeah, I mean, I think Jim, young Jim here says, I don't think the people of Montana are afraid of innovation. So you clearly had faith in the people to step up, I guess.

Rick Applegate [01:29:02] Yeah, sure. One other quick thing, if I could, yes, about how it was in the office the next day. I think we were basically worried that that what we had done, I mean, it was in public. I think there's a video of it would be very upsetting to a number of delegates. There was very little reaction to that. A lot of the reaction, including from journalists, was way to go. You know, somebody needed to say it and even from some, some delegates and I didn't detect any negative reaction or any talk of termination or anything like that. And my other view of that is the delegates as they worked. I don't know that it was because of that at all. But but they took on nearly everything we toss their way. Bill of Rights committed with capital punishment abolition on the ballot as a separate item for the reasons Bruce mentioned, there was a chance it could sink the whole document as a separate item that went down two to one. The right to die with dignity was a very hotly discussed topic. It did not go in the document and there was a legitimate, substantial concern. I think that that could have sunk the entire document. Now, of course, that's been addressed by the courts in Montana. The public trust doctrine in the environmental section was another example. That was something that was an old, old doctrine, common law. But in in in the state at that time was ahead of its time. So it didn't make it.

Sarah Vowell [01:30:33] In terms of ratification. Obviously, the the Montana Constitution was ratified by a very narrow margin. Some of the other states you had studied, you mentioned this earlier, their their constitutions were not ratified. Why? Why do you think Montana's succeeded, where other states failed? Anyone want to weigh in on that?

James Grady [01:31:04] Sheer luck. I mean, I think part of it was that when the delegates for the most part went home to to Ekalaka and Troy and, you know, Bozeman and...

Bruce Sievers [01:31:20] Shelby.

James Grady [01:31:21] Yeah, and to Shelby. They were still the same people that the voters had sent there and that that they were able to convince most of the people in their hometowns that they did a good job. Not just that we did the best we could, but they did a good job and it was going to be good for them for the future generations of Montana. One of the things that disappointed me greatly was the chairman of my committee, a man named Mark Etchart campaigned against the concept, of the Constitution's ratification. He had signed the document like every other delegate, and that seemed to me a strangely opportunistic and kind of hypocritical thing to have done. And another delegate, who I don't want to name, got a lot of really personal flak from from his constituents and did not do well with it, but it was, I believe that. I don't know, I think I think that I think that Montanans were optimistic that they were hopeful and that they they had sent their neighbors who were not professional politicians and who were not ostensibly bound to special interests, to Helena to write this document for everybody. And I think the bottom line became was that most Americans, most Montanans or at least 51 percent of them, thought they accomplished that and did a good job.

Sarah Vowell [01:33:07] Bruce?

Bruce Sievers [01:33:07] I think we also conveyed the sense of just the sort of atmosphere political atmosphere in Montana at the time was was kind of unusual just in the sense of people not being hard, hard wired into particular positions. But did there was a kind of openness and sort of sense that you could have Republicans or Democrats being in charge of certain pieces of the government and

it was OK. So I I think part of it was just the mood of the time. Maybe it was a combination coming out of the '60s, moving into the '70s and having a population that was not, you know, dug into to particular positions. So I think it was kind of a lucky time in terms of of the political mood.

Sarah Vowell [01:34:10] There, something that Chuck Johnson wrote about it, the reporter, where he talks about how if it had been written 10 years earlier or 10 years later, it would be a much different, more conservative document. Do you think that's true, Rick? And...

Rick Applegate [01:34:28] Well, yes, I think it was a somewhat more progressive time in Montana history. You can look at the compilation I mentioned through the '70s that that persisted. And I think Montanans were much less polarized then than they are now. I mean, there was an urban rural rural split. There was a Democratic Republican split and so on. And it reminds me of of some old Canadian tag that I've raised before. The question is, why did the Canadian cross the road? And the answer is to get to the middle. And whether you're on the left or the right, people who have been involved in public life get the point of that. The other thing I'd say about the Montana Constitution is it was, yes, it was ratified. In a sense, it was ratified by one vote. It went to the state Supreme Court. And the question was whether a majority of those voting on ratification approved it, it was a plurality, but there were actually more people who voted on some of the side benefits like gambling. And this was a three to two US state Supreme Court, I should say, state Supreme Court decision that sustained that ratification vote, if one vote had gone the other way, it would have been in the immediate attention for, you know, the one that gets emptied at the end of every day.

Bruce Sievers [01:36:00] He was going to mention is that I think we very lucky that this is pre-internet. And my guess is if if they had the internet had been out there at the time, it could have gone the other way easily because some of the more vocal people on either side could have could have easily torpedoed it.

Sarah Vowell [01:36:26] Jim, you had a pretty interesting decade in the 1970s, and I'm going to ask you about this. So after you have your job as a ConCon researcher, you wrote your novel "Six

Days of the Condor," which is a story about drugs and paranoia and the CIA, and was adapted into that movie "Three Days of the Condor" with Robert Redford. And what was it like? So you're going from this idealistic, public spirited civic milestone in Montana in which you help re-imagine open government at the state level. And then you went to conjuring the shady underbelly of a corrupt federal agency? Like how? How did, what was that like?

James Grady [01:37:18] Well, I, you know, I never thought of it that way, but I had seen the best that our American political system could do.

Sarah Vowell [01:37:26] And you done with that right?

James Grady [01:37:28] And I I also had some inkling of the the worst, and we were still in the midst of the Vietnam War, where government deception and corruption was, you didn't you didn't have to scratch the surface of the newspaper headlines to figure it out. And for me, it was the same kind of ideals that that made me excited and happy to work for the Constitutional Convention. I kind of drove me as a core to to talk about the bad stuff that was going on at the time.

Sarah Vowell [01:38:17] It makes sense.

James Grady [01:38:18] Now, and it was, you know, it's I still think I remember Lee Metcalf, Senator Lee Metcalf in '74 when I was had Bruce's old job. We were talking and I said, you know, I think that working for the Constitutional Convention would be the best thing I ever do with my life, and he looked at me and he said, "I think you're right." And this was after me, I had a fair amount of literary and cinema success on my horizon, and I still feel like the ConCon was one of the luckiest and best things that ever happened to me.

Sarah Vowell [01:38:58] Bruce, can you talk about that, how about just carrying the Convention with you into the rest of your life's work?

Bruce Sievers [01:39:07] So you're absolutely right. I often tell people we hear these 20 year olds, we all felt like the framers out there instead of giving us the task of doing something for good

government and had the opportunity to do it. So I think that, that the

Sarah Vowell [01:39:24] The framers, you mean you felt like the founding fathers?

Bruce Sievers [01:39:29] Yeah.

Sarah Vowell [01:39:29] Is that what you mean?

Bruce Sievers [01:39:30] There was a spirit like, you know, we were free to, somebody handed us this responsibility and we just jumped on it and we are all working together. And it was a great group of people we were interacting with, I'm thinking the other research analysts at this point. And then, of course, with the delegates as well, but especially this this this little group, you know, gathered together all day and half the night in the Capitol to frame this new document. So that certainly left an impression on the rest of my life for sure. And I was I spent a lot of it in in working in philanthropy and running foundations and the kind of questions and issues that sort of precluded the work at the convention translated into a lot of what else I was involved with later on. And then I can name that as well. Same thing, I felt that the influences from ones you mentioned really were very strong in the rest of my life.

Sarah Vowell [01:40:42] Rick?

Rick Applegate [01:40:44] Well, this when Jim was writing the book, if part of that time he and I were roommates. And what I saw...

Sarah Vowell [01:40:52] Because it's Montana and we all live in the same big house.

Rick Applegate [01:40:56] It's either that or next door, you know? And what I what I saw in him was a struggle that I think many were going going through because he had seen Montana a kind of a pinnacle. You know, some of the some of the finest work that's been done in Montana public affairs. At the same time, it was clear he was willing and very able to take a look at the underbelly, the darker side to fully frame history, which is something we're

struggling with even now, there seems to be an inability to deal with the good, the bad and the ugly of our history. And to the extent you don't do that, then you can be trapped by these myths that are only partially reflect what the country has gone through and what it's going through now, and that the failure to do that adversely, the failure to look at the whole history adversely affects your ability to meet challenges that are right in front of us even now, so you can take the work Jim did at the Convention. I'm glad you picked up on the suffrage issue. We treated it just a bit in the convention and reminded the delegates that there was this other history. And I'm very glad that you wrote the book. He wrote that I suffered through it, I think, but. But ultimately it proved to be an incredible story. And the movie itself stands up. I mean, I highly recommend it to people all the time that it stands up very, very well, given what we're what we're seeing now so that you've got to look at it history fully, not just pick pieces that make you sort of feel good about it. If you're really going to learn from it.

Sarah Vowell [01:42:57] Every 20 years, the voters of Montana decide whether or not to rewrite the state constitution, so if that happens, what advice do you have for future researchers? And what parts of the '72 Constitution do you want to keep or change? Bruce, do you have any advice?

Bruce Sievers [01:43:20] Um, it's a good question, I um, part of my inclination is to say it was a great document and still stands as one of the best constitutions in the country and you know keep it going in the state that it was written and passed. And the I mean, clearly lots of issues have come up that do relate to things like expression through the internet and all kinds of things like that that it would have to be taken into account in the media version. But given what's happened in the last, say, 10 or 20 years in terms of American politics, I would be very worried about community and constitutional convention at this point, simply because I think the forces of sort of working for just sense of public good and the common good that permeated what we were doing at the convention and that the media these days and maybe maybe waiting for another to become on us with that might have promised for for sort of a sense of the common good might go into the creation of such a new document. That might make sense. But I think if we could have another Constitutional Convention tomorrow, it would be very scary.

Sarah Vowell [01:45:02] Jim?

James Grady [01:45:03] I agree with Bruce, I also like to say that if if that day comes, to do what Rick said about, you know, you have to completely know your history and you have to be honest about it, and to quote Ziggy Marley of all people, you know, you don't know your past, you won't know your future. And I think one of the benefits of what you're doing today with with these three old guys is trying to give a picture to tomorrow's generations that you know, you have to be honest. You have to be fully aware of what you're doing and your consequences. And you have to have sort of a trust in all the ideals that have gotten mankind so far that are worthy, you know, hell with racism, slavery, you know, sexism. But the idea of individual dignity of human beings? Yeah, that's a good one. Let's keep that one. The environmental protection. What a good idea. Let's keep that one. And I think just honesty and a and a drive to get it right is is what I would hope any other future Convention would would come, come to or at least have as its core.

Sarah Vowell [01:46:30] Rick?

Rick Applegate [01:46:32] Well, I was scrambling to see if I could find that Thomas Jefferson quote that I had in my doorstep study. He basically counseled that in revising the Constitution, you should be careful that you're in a situation where integrity and unity are characteristic of the body politic. And I guess what I would say is we're so far from that now. I don't see how we could have a good result. And I don't just mean Montana, obviously, but but in many, many places around the country. And so I would approach the whole thing cautiously. And if if someone ended up being a researcher or a delegate, my best advice was don't go near an ideological set of pronouncements in a fundamental law. That's not what this country needs. That's not how it was founded. I mean, there were plenty of problems of the founding with slavery and an attitude toward Native Americans that was positively foul. But just we don't we don't need to have the ideological divisions that plague us now dominate our politics and especially in a time where a reasonable respect for the truth, a modicum of facts seems to be something that's extraordinarily difficult for us now. And I scratch, I cared about them a lot. I don't understand them, how we can have so many so bogged down in so much untruthfulness and deception

and disinformation, willful or not about public life that degrades what we should be doing in our public space. And it can only bring great harm. My fear for now is it's going to take a generation, maybe more, to have a chance of getting out of this and during that time is something we should very be very careful about how we approach fundamental structural problems in this country. That makes it a very difficult undertaking.

Sarah Vowell [01:49:00] And Rick, what what are you proudest of? What what, what do you think is the most worth keeping in the '72 constitution?

Rick Applegate [01:49:09] Well, I would basically keep the whole document. I don't see anything in it that is so terribly flawed that it should be changed, obviously. I am most proud of the Bill of Rights. I think it's a marvelous, unexpected compilation of a very forward looking, strong provisions or there are some things I wish were in there. Of course I do. But you can. You can go right down the list, the right to a clean and healthful environment, the right to know, the right of privacy, the original abolition of sovereign immunity, the individual and nondiscrimination provisions that applied not just to the public sector, but for one of the first times in any constitution applied to the private sector. Those are the kinds of things that stick out. As I say, I don't I don't see anything that fundamentally needs to be retooled right now, particularly, as I say, in this kind of hyper inflammatory environment that we need to find a way through. We have got to get out of this somehow, or we're in deep trouble and the world is noticing this. I mean, you can see thinking people around the world are looking at the United States and just kind of shaking their heads. In some ways, they know our history, but they can't believe we are. But we find ourselves in this position in our own called it dark times, referring to other dark times. We are there now, I'm afraid.

Sarah Vowell [01:50:38] I wonder. We just end talking about the Convention itself. And I wonder when you think back on it, just what is what? What's one? What's one of your lasting memories of the convention? Bruce, can you talk about just something you think about?

Bruce Sievers [01:50:56] Well, one thing I was going to say is I do think were the key concept here is trust. And I think there was

that it was a kind of high point of trust in the government and in American culture. That point, if you look at the data since then, you asked the question about, do you trust the government to do the right thing all the time? And most of the time it was like 80 percent, and it's down to 20 percent now. It's just a steady decline over the years. And I think that that says a lot that had to do with how people were looking at connecting with each other and connecting with the political system and so on. So I would say and the fact that there was this high element of trust, I think both led to the document itself, the Constitution and the fact that it was passed. And in terms of other sort of lasting elements of what we're doing. So to be highlighted and kept. I guess some. Well, and a second ago, and I lost it right now, but I just think that this sense of. Of. So good citizenship, good connection to others and when sort of reverence for some sort of principles that go beyond just sort of assertion and say individual liberty or now assertion of some larger sense of of common interest that's keeping that balance in the foreground is something I think it would be essential as a part of a of illustrative of going on.

Sarah Vowell [01:53:35] Jim, I'll end with you. You're the you're the novelist. What's your, what's your lasting memory that you think of when you think of the Convention?

James Grady [01:53:48] I think that out of that Convention came the sense that we're all in it together. You know that we that the brilliance of the Bill of Rights sections, that some of the stuff in the education and even in the judiciary, the public lands all of that. I watched the whole state, as exemplified by these delegates from all over, from tiny rural to to the metropolises like Bozeman, come in in to Helena and realize that we were all in this together and that we were in it for us, I think the document itself says for future generations. And that memory and that feeling and even with all some of the contentious things that were not that we all rose above the petty and the mean spiritedness that we see now on top of the body politic. And there was we came together for future generations and a realization of where we were all in it together and we should all go forward together. Those memories and those emotions are I I. They swell in me at least two or three times a day. And I think that, you know, it was a wonderful time for all Montanans. But all Montanans today and tomorrow should be proud of and should try to to go back and get the best of it.

Sarah Vowell [01:55:42] Well, gentlemen, thank you so much for your time and thank you for this service to the state of Montana.

James Grady [01:55:52] Thank you.

Bruce Sievers [01:55:53] And thank you for doing this.

[Ed: closing chatter deleted at Sarah Vowell's request]