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A LITTLE HISTORY AND A FEW OF ITS HEROES

Daniel Kemmis

I came a bit later on the scenes recalled in this book than some of my fellow authors, but I hope that delayed entry might have given me a different enough perspective on those events to shed some helpful light on them. I'm going to start with a little autobiography, not because my own story matters much, but because it is a convenient way to introduce my theme of heroes and history.

I grew up on a small, dryland family farm in Richland County, attending grade school in Richey and high school in Sidney. Our drafty, lonely little farmhouse boasted very few elegant items, but no visitor could miss the oval hickory-framed portrait of a dapper young man, surrounded by a cloudy nimbus vaguely suggestive of George Washington. This, I learned very early, was "Uncle Walter," actually my father's uncle, who had served off and on in both houses of the Montana Legislature, starting in 1912.

That year, Walter D. Kemmis had launched his political career by departing temporarily from his family's Republican roots to run on the Progressive ticket, headed by Theodore Roosevelt, who was seeking to ride his Bull Moose candidacy back into the White House. Roosevelt lost that race, of course, but Uncle Walter and many other Progressives—temporary renegades from both the Republican and Democratic parties—won. In doing so, they became part of a series of transformative events of a scope and scale that Montana wouldn't see again until the events described in this book.

During Walter's freshman session in 1913, for example, he and every one of his colleagues, whether elected on Progressive, Democrat, or Republican tickets, voted to send Thomas J. Walsh to the United States Senate. Montana was then still bound by the United States Constitution's requirement that state legislatures choose United States Senators. But Montana citizens, disgusted with the recent debacle of W.A. Clark bribing legislators to name him to the Senate, and determined to have a direct say in choosing their own Senators from now on, had used their newly-fashioned democratic tool of citizen initiative to set up a straw vote for Senator and then to require their legislators to abide by the results. By 1912, enough states were using this ingenious work-around to force the United States Senate to support the amendment to the Constitution that would provide for direct election of all the nation's Senators starting in 1914.

Not only was Montana ahead of the curve on this major change in our system of representative government, but we had also joined most

other western states in giving women the vote (and then proceeding to send the first woman to Congress) several years before another amendment to the United States Constitution made women's suffrage the law of the entire land. And it was in 1912 that Montana citizens adopted another ballot initiative that prohibited corporations or labor unions from making contributions to political candidates—a law that remained on our books for exactly a century until the United States Supreme Court struck it down in its *per curiam* decision in *American Tradition Partnership, Inc. v. Bullock*¹ in June of 2012.

My point here is not to recall the specifics of these historic efforts to strengthen democracy a century and more ago. Rather, it is to remember that there are indeed times “in the course of human events” when the people can make some astonishing strides toward claiming control over the places they inhabit and the rules by which they live together in those places. Walter Kemmis' freshman year fell right in the middle of just such a transformative time. Sixty-two years later, motivated in no small part by the heroic work of people like Uncle Walter and his neighbors, but motivated too by a newer crop of Montana heroes, I followed Uncle Walter into the House chambers, and found myself right in the middle of another remarkable era in Montana history, with the people once again asserting their determination to be fully in charge of governing themselves.

But, of course, I was not Uncle Walter, my legislative colleagues were not his colleagues, and the self-governing challenges we faced were not the same as theirs. Montana (and Montanans) had changed in some important ways over those decades, but it turned out that we were going to need to pay very close attention to our history and learn everything we could from its heroes if we were to deal effectively with what we now encountered. My own journey, following Walter's footsteps into that House chamber, isn't of any particular importance for its own sake, but only for how it might illustrate the larger journey that Montana had made from one historically remarkable period to another. In that spirit, I'll return for just a minute to my childhood hero.

Whether it was the elegance of that oval frame hanging in our little farmhouse, the subtle evocation of George Washington in the penumbra behind Walter, or just the way my parents spoke with such pride of his legislative career, the fact is that I found myself as a boy absolutely fascinated with politics and bursting with Montana pride when I learned as an eleven year-old that our own Senator Mike Mansfield had been chosen as the majority whip of the United States Senate. By that ripe old age, I had already decided to follow these heroes into politics if I could figure out

1. 567 U.S. 516 (2012) (*per curiam*).

how you would go about doing that. I read every political biography I could get my hands on; in due course, I chose a college that seemed to specialize in producing politicians, and I transplanted myself to New England with the intention of coming back to Montana as soon as I could to pursue that political career. Then came the Vietnam War, the resistance to it, and the anti-establishment counterculture of the 1960s. By the time I graduated from college in the extraordinarily tumultuous year of 1968, both Montana and politics had come to seem more than a little beside the point.

Still, after another four years of fairly aimless hanging out in New England, I began to hear Montana whispering my name. Politics seemed to have nothing to do with it, though. When I drove my new little family in our old Volkswagen van across the country in 1972, it was to begin doing graduate work in philosophy at the University of Montana (“UM”). After settling into what I hoped would be a purely academic pursuit, with the real world held at a safe and unobtrusive distance, I was a little annoyed to find it intruding after all. For a few months I could pretty much ignore the fact that Montanans had approved a brand-new constitution just two months before I arrived, but it was harder for me to ignore the persistent and very disturbing reports of plans (and more than plans) for vast new energy developments out in my native eastern Montana plains.

Before long, terms like “facility siting” and “mining moratorium” were competing with teleology and epistemology for my attention, while names like Aristotle and Descartes were losing ground to new ones—like Bardanouve and Bradley. That last one in particular caught my attention, because she was said still to be in her twenties but seemed to be both fearless and deeply committed to protecting my native homeland. Still, I kept my nose in my books all through that 1973 session, and through the following spring and summer.

Then, on Labor Day weekend, my family and some friends took a day trip to Helena to do some sightseeing and in particular to visit the historical museum, which none of us had ever seen. At some point, my inner introvert took over and I decided to enjoy some solitude by walking up the hill to the Capitol, which I had also never visited. I was surprised to find the Capitol unlocked on this very quiet holiday weekend, so I walked into an empty corridor, mounted an elegant but empty staircase, and wandered down the hall until I came to a room with a sign above the door proclaiming this to be the Senate chamber. And there, to my amazement, arose the image of Senator Walter D. Kemmis, reminding me in a flood of memories of that childhood fascination with politics and government that I had thought was buried for good. In a bit of a daze, I walked on through the lobby, found my way up to the House balcony, and sat for as long as I

thought I could decently keep my family and friends waiting, just absorbing the aura of what I still consider the most awesome room in Montana, hearing the voices of Bardanouve and Bradley and other inspiring figures from the floor below me. By the time we got back to Missoula, I had made up my mind to run for the Legislature.

That was an absolutely ridiculous decision, of course. The only people I knew were philosophers, and there were precious few of them. One of them, though, Henry Bugbee, was married to one of those (fairly numerous) League of Women Voters constitutional convention delegates, and Daphne began introducing me to some of the people I was going to need to know. I quickly encountered another stumbling block, though, as I started attending meetings of Democratic legislators. Nineteen seventy-four would be the first election involving the single-member districts created by the new constitution. The veteran Missoula legislators like Elmer Flynn, Bob Watt, and Bill ("Doc") Norman weren't entirely sure what that change to single-member districts was going to mean, but it quickly became clear that, at a minimum, it meant that they would be running in all the good Democratic districts. When I finally got their attention and said that I'd like to run, too, they very kindly directed me toward a nice district in the South Hills. Since the Republican incumbents had been engaging in their version of these same calculations, it was really no surprise that I found myself running in a solidly Republican district against the longest-serving member of the House, Tom Haines.

But, in addition to the influence of history and heroes, politics is often shaped by what Machiavelli called "Fortuna," and in 1974, luck was with me in more ways than one. For one thing, Tom had never run in a single-member district before and had no notion (nor any intention) of going door-to-door. And then, too, this was the fall of 1974, with Watergate flooding the airwaves right through Richard Nixon's resignation on August 9th. It was the best possible year to be a totally unknown Democrat running against a deeply entrenched Republican. Democrats swept into majorities all across the country, including Montana, where we ended up with sixty-seven seats in the House. So many of us were freshmen that no one was really surprised when one brand new member (Mike Meloy) was elected Majority Whip.

Leadership was well off in the future for me, but Fortuna was apparently still smiling on me, as I discovered when Francis Bardanouve, now the Dean of the House, showed his gratitude for my having removed Tom Haines from that position by asking me to take the seat in the front row next to the new dean. This long-lasting tradition of Francis asking a freshman to sit next to him was political mentorship of the highest order, and it was a gift to me that I will always treasure. During that remarkable

session, as we proudly adopted the highest coal tax in the country, apportioning major fractions of it to meeting local impacts, supporting alternative energy development, etc., we seemed to me to be paying attention as few legislatures ever do to the lessons of our history—and of our historians. Not least among those was K. Ross Toole, who over the years had taught more than a few of the future members of that legislature in his immensely popular lectures on Montana history, and who had influenced many others with books like *Montana: An Uncommon Land* and then, in 1976, *The Rape of the Great Plains*. The history that Ross taught us, of repeated depletions of natural resources, leaving the state with almost nothing to show for it beyond horrible environmental degradation, was now steeling the resolve of the people around me in that room, as it had been steeling the determination of so many of their constituents to make sure that this time, it would be different.

In fact, my own journey from that naïve, childhood fascination with politics to this fortunate opportunity to participate in Montana's reassertion of control over its own destiny had paralleled in some ways the journey that Montana itself had taken to this place and time. Not surprisingly, another of my teenage heroes had been John Kennedy, which meant that in January of 1961, I had shared millions of others' straining efforts to hear Robert Frost read the poem that he had composed specifically for Kennedy's inauguration. The opening lines of "The Gift Outright" described with an almost eerie precision the transformation that Montana was about to claim as its own:

The land was ours before we were the land's.
She was our land more than a hundred years
Before we were her people.²

When Montana adopted its first constitution in 1889, "the land was ours," perhaps—in no small part because of how brutally we had displaced the people who had inhabited it for centuries—but by 1972, "we were the land's," and it was as the people of this land that we were now determined to govern ourselves, as the preamble to our new constitution so humbly and eloquently proclaimed:

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

2. Robert Frost, *The Gift Outright*, written for and read at President John F. Kennedy's inauguration (Jan. 20, 1961).

quality of life, equality of opportunity and to secure the blessings of liberty for this and future generations do ordain and establish this constitution.³

The living history that had made us the people of this land, and determined to act accordingly, came into focus for me in a deeply memorable way one day late in that 1975 session when I overheard (from my fortunately provided front-row seat) a conversation between Francis Bardanouve and Miles Romney, a senator from Ravalli County. Romney, whose father had himself served in the Montana Senate back in the Progressive Era, had been elected to the upper body following his service as a constitutional convention delegate in 1972. Now Romney was asking Bardanouve to join him in proposing an amendment to that new constitution—an amendment that had everything to do with the history that Montanans were so determined to remember and, where necessary, transcend. Pleased with the just-accomplished enactment of the coal severance tax, Romney wanted to guarantee that some sizeable portion of that revenue would be set aside for the benefit of Montanans yet unborn. The result, of course, would be the coal tax trust fund, placed on the ballot by that legislature, overwhelmingly approved by Montana voters in 1976, and still standing (and working) today as a living reminder of what a self-governing people can do when it remembers its history and listens to its heroes.⁴

POSTSCRIPT

K. Ross Toole had become one of my own heroes while I was studying at UM, years before I had the chance to get to know him in a different and, as it turned out, unforgettable context. My colleagues elected me Speaker of the House for the 1983 session, and one of the people I asked to assist me in the Speaker's Office was Joan Toole, Ross's wife. Joan and Ross had rented the bottom floor of their friend Donna Metcalf's home directly across the street from the Capitol. Ross, who knew that he was dying of cancer, was still determined to stay on top of what the Legislature was up to, so he asked Joan to tape record the House floor sessions and then direct him to the portions he could most benefit from listening to. Ross would then ask me to stop by occasionally to visit about the floor debates and their possible significance for the future of his beloved Montana. I know that I got far more out of those conversations

3. MONT. CONST. pmbi.

4. *Id.* at art. IX, § 5, approved by MONT. CONST. amend. 3, § 1 (Nov. 2, 1976).

than Ross could ever hope to extract from me, but they provided me with one more unforgettable memory of the way that history and its heroes were still shaping what we were doing in that majestic building up on the hill.