Claire Rhein: This is Claire Rhein, today is 6 May, 1980, interviewing Dan Kemmis, hopefully just on the subject of Dan Kemmis and how he sees what is happening. So, to ask a loaded question—when we talked two years ago, I asked you what you thought about state versus national level of politics as far as where your concerns were and at that time we talked state. How are you feeling now after a very successful legislative session?

Daniel Kemmis: Well, I don’t know how successful the legislative session was, but I appreciate these chances to talk to you because it gives me a reason to evaluate where I’ve been and where I seem to be going. For me the last several years have been very interesting, and I feel that both of my careers have progressed to a certain extent. It’s really hard to know where it may be going, but I think both of them are very much in a state of maturation for me and I certainly hope that they are. One thing that I will probably face not too far in the future is a time when I have to choose which of them is going to be given predominance whether it mainly a lawyer or a politician. Right now I’m at a stage where I’m just playing that stage off as long as I feasibility can. I guess I’m at one of the few things I can remember learning in political science was its always good decision making to put off decisions as long as you can. Keep your options open as long as you can.

As you know I served a term in the legislature, and then I took time off to go to law school. Partly because I felt if I was going to stay in politics I needed some kind of a professional occupation that would sustain me, and at the same time because I thought that law was something that I could do with what talents I had that they were appropriate to that profession of talking and writing. I guess. I felt that having training as a lawyer would increase my effectiveness as a legislator. One of the interesting things in the last session was to find out whether that was true or not, and I think it was true. It’s true to a certain extent because of the myth as a lawyer because people think that you know a lot of things that you don’t know. They think that there is some special storage of knowledge there that you have a pipeline to, and because of that myth, the lawyers in the legislature have more power than they deserve. Apart from that though, the fact is that legislation is a matter of making laws, and so there is a natural correspondence between the two activities. Because of that, I felt this last legislative session that my effectiveness was increased because of my training. In this case it was only increased because of my training because I had no experience as a lawyer during this last session. If I had stayed in the legislature while I was gaining experience as a lawyer, than my effectiveness would increase accordingly. That is being able to speak not only from an academic knowledge of the area of the law but with some practical knowledge of the law my effectiveness increased—I hope so anyway.
To me it’s interesting to watch the factors come into play in terms of what makes them an effective legislature or a less effective legislature. I’ve begun to feel a little bit of a frustration that I see so many of the younger legislators feel in Montana that there are so many leadership positions available, and somehow people get impatient for those positions or it’s hard to explain what it is there. I guess you have to back up a little bit and say that the Montana Legislature—the way that it’s set up—it seems to be set up for young people and for old people and not the people in the middle very much. The people in the middle are driven out because they can’t afford to be there.

CR: They can’t wait until they reach their seniority elite?

DK: What happens, I think, is just in economic terms and in terms of career development that young people can come into the legislature, and they can spend a couple of years there because they are in the days of life where they can keep their options open and play around a little bit. Society is structured in such a way that you can play in life for a little while, okay. Then you have to settle down and choose something. Well, I think what happens is, maybe it gets back to what I was saying earlier, that people have to make a choice as they get into middle life that they have to choose, “Is my career going to be politics? If it is then I’m going to have to be more than a back bench legislator because sooner or later I’m going to need a job in politics, and in order to do that I cannot remain a back bencher for very long.” So there is a tremendous pressure for leadership in the legislature. I don’t know if there is an analysis of it, but I have seen it happening to an awful lot of young people. I shouldn’t say young—I’m no longer young—but the early 30s is when people begin to push up against that, and a lot of them go through leadership and then they have to go somewhere else. Leadership itself can’t be an end to that either. It’s a weeding out sort of thing but then people go on to something else.

John Driscoll becomes Speaker and then runs for the United States Senate, and John is back. John is, I think, he has a good thing going now because he is running for the Public Service Commission, and he is cut out for that to a certain extent but knowing John he won’t be Public Service Commissioner very long. He’ll run for Congress or something. Dorothy Bradley gets into leadership, and then she has to run for Congress. Mary Yuso (?) gets into leadership and she runs for Lieutenant Governor this year although she doesn’t get chosen for it. That’s part of the process that I’m observing now. This year, when George Thurman (?) ran for lieutenant governor, I spent a week considering very seriously whether I should run for Public Service Commissioner or not. That was I suppose on stage of choosing which of my careers I was going to go to. Do I make a choice now? I think I could have won if I could have become Public Service Commissioner because I have in the last year gained quite a bit of visibility—considering for a legislator a fair amount of visibility—in northwestern Montana which is the Public Service Commission district. So I think I would have had a good chance to win that, but I would have been giving up my law career to do it and I would have been narrowing my political basis and narrowing my political concerns too for one particular kind of concern so I decided not to do it. But it is the kind of decision that I see so many people having to make.
CR: Let’s talk briefly about the business of being a lawyer (unintelligible).

DK: This firm has quite a bit of public interest law, and I do a fair amount of it. I would think at least half of my practice is public interest. That doesn’t mean that it’s free but certainly at a reduced rate. A fair amount of it is also free, but you can only do so much for free and as a matter of fact, we probably do more public interest law than we can afford to do.

CR: Give me a quick definition of public interest.

DK: Well, it is defending clients who are essentially trying to speak for the public generally and not to speak for their own private interest. For example, the Northern Tier Information Committee whom I represent, they are not concerned so much to defend their own public interest as to defend the interest of all Montanans and the environment. The Ravalli County League of Voters whom I represent, they are not representing themselves. They are representing all the people of Ravalli County.

CR: Then it’s still a largely public field and it doesn’t pay!

DK: No it does not. That’s right.

CR: Is this because you are strengthening your political basis?

DK: Exactly, the reason I say that I would have a chance to be elected to the Public Service Commission is because I’ve had visibility with the public interest work that I have done. The two fields play into each other in a very interesting way. I haven’t worked out the optimum solution but the public interest work that you do in law doesn’t give you greater visibility and maybe greater credit with the public; although, there are segments of the public that say, “That is the kind of lawyer he is and we can pigeon hole in that he is on the left wing or whatever kind of lawyer.” The other influences from the opposite direction is that when you are involved in politics, it generates some legal business of a general practice kind it generates divorces and probate work and such.

CR: So what I understand you are saying is that if you are in and get into a leadership position, you are almost forced to consider the national scene as the logical next step?

DK: Well, it may not be how it happens because so many times what people run for after leadership is Congress that is the place where everybody seems to want. Then there seems to be an expansion of the option, for example this year in the Democratic Party alone, three very able candidates for Secretary of State. Exceptional and able. There very well could have been more because Dorothy Bradley was going to run for Secretary of State, and what was going on there is that we got all this ability but there is just no place to go so whoever gets it will use it as a stepping stone.
CR: Interesting that the person in that secretary position has been in it for a very long time.

DK: That’s right, but the next one won’t be. The next one will be either Jim Orphanheir (?) or who won’t stay there for that long or the three Democrats who all have ambitions beyond Secretary of State.

CR: Why is there three Democrats against one—?

DK: Well, the primary will choose who runs for it. I don’t think it will be a bitter campaign. From what I heard at the Jefferson - Jackson circuit people are enjoying the Secretary of State candidates, and I don’t think they will do each other harm.

CR: There is an upcoming election, and I understand that you will be running unopposed?

DK: As far as we know. Remember last time there was a Republican that filed for District 94, but you can nominate yourself by write-in if you get about 200 people to get to write you in. That is something they could do this time, but if they don’t then I will be running unopposed.

CR: Well, certainly in the Democratic primary.

DK: Yes, I’m unopposed there.

CR: (unintelligible) That means you are out campaigning, and the time and expenses will be light. Does it give you a chance to maybe work for others and those who could be running for office (unintelligible)?

DK: Well, that’s very perceptive, Claire. I should make you my campaign manager! (laughs) Well, that is exactly how my advisors and I have looked at the situation. First of all, we always thought campaign that we conducted two years ago deserved a lot whole of attention because it was more than a campaign for one term. We knew that if we won that almost certainly we would win more than one term, and that nobody would seriously challenge us this time. That’s one of the reasons that we put so much energy into that 1978 campaign, and it has worked out exactly as we thought that it would. Then what you suggested is exactly what we are trying to do now instead of putting any effort into campaigning for District 94. I’m pretty much assured of being elected. What we are doing is a two-fold effort.

First of all, to develop some issues—what we feel are our long term political issues and beyond that—something that would be a benefit to the state is primarily working on a program of getting legislation ready for the investment of the coal tax trust fund in Montana industries. We have actually...I’m involved in promoting that on a number of fronts and the other thing that we are involved is pretty extensively is to organize statewide support for the University of Montana and for the University system to the extent that they are compatible. I plan to be out on the
road next fall while contacting legislative candidates who show they will promise of being supportive of the University system and putting them in touch with those who are concerned about the University. In that way I hope to build contacts for the University and in some way at the same time try to drop my on contacts with legislators.

CR: Will you think that you will be able to...You’ve given an awful lot of effort to the University system and thank god you are willing to do a lot more. How do you avoid having the University draped on your shoulders forever as far as your own political career goes?

DK: Well, I don’t know about that, for one thing I just cannot worry about things like that. I think...I don’t know Claire. I guess the way I look at it is this. The reason I’m in politics is not to get one office or another. I’m in politics because I believe in the state of Montana, and I really want to do whatever it is that I can do to make it a better society. Well, I cannot conceive of Montana being a great society without Montana having a very strong university so that the support that I give to the university is just a natural part of the entirety of my political program. I can’t see how you get along without it. The state needs a good university no doubt about that and so I don’t...I happen to be in a position where it is widely expected of me that I should be a spokesman for the university. I’m willing to do that to the best of my ability.

CR: What is the positions statewide feel about the coal tax? You’ve been involved in a legislature and drafted legislation that was in ’75. Is it out of the courts yet?

DK: Well, it’s not out of the courts. It’ll be a while, and it will be fought in Congress for a while. Sooner or later, one way or another, we will have a serious showdown in the state’s right to extract that tax.

CR: Oh, it’s being extracted?

DK: Yes.

CR: And I would assume large amounts of money?

DK: Yes.

CR: Are there already expenditures in that fund?

DK: Yes, we spent half of it now, and we saved half of it.

CR: I was wondering. Was there portions designed that say a portion go to parks and recreation and a portion to others?

DK: Yes, it’s divided up. Some of it—as you say, a small percentage—to parks, part of it goes to alternative energy research. Let’s see, some of it goes to renewable energy development, a fair
portion of it goes into the general fund, and half of it goes into a permanent trust fund. But it’s that portion that goes into the trust fund that is the most interesting to me. This, because—

CR: It just sits there right?

DK: No it is invested. It is invested the way that any bank would invest it, and that’s to make the highest possible monetary return so it’s invested outside Montana.

CR: Ah. I recall you mentioning before about using this money in the state for development economically. This has been and could benefit industry if it stayed in the state using the resources in the state.

DK: Right. The way that I look at the trust fund is first of all that...Well, I go back to the question of why we passed that tax in the first place, and the way that I answer that is that the people of Montana have learned their history to a certain extent because we got some pretty good historians among other things. This kind of history has been popularized fairly effectively so that people know now that our history has been one of exploitation of resources. We have had one resource taken with little return for it. But that is something that not just a few people in Missoula say but everybody in Montana knows. So in the early ’70s when it came time to talk about coal development, there was a very widespread determination to ensure that wouldn’t happen again. If you are going to take this resource, we are going to get something for it. Then the state went one step further, and what they said was, “What you are taking in a non-renewable resource, it’s something that is a legacy that we inherited that can’t be replaced and...”

What we said is that, “Since this is something irreplaceable if it is going to be taken, then we would like at least something that is going to be irreplaceable in its place.” So what was created was the permanent trust fund.

Well, I think to me that is a very significant step, but it’s only a half a step towards what you really want to say. What you are talking about is being responsible to posterity and getting serious about being responsible about that. What you are doing is recognizing that you are depleting their legacy. The coal is something that 500 years they may very much need and we are taking it. So we are saying, “Well, we are going to be serious about giving you something that will allow you to live a good life as we have been able to live.” But what we have done is just taken half a step here, “We will give you this trust fund.” Well, that trust fund what it amounts to is a bunch of United States dollars, and frankly, I don’t think that passing on a bunch of United States dollars is responsible thing to do. I think what we ought to do is pass on to those people the most viable economy that we can possibly pass on. The most stable and lasting economy. I think what we should use that trust fund for is not to accumulate more and more worthless United States dollars but use it to build a transitional economy. An economy that is not dependent on continually depleting these resources, but an economy that is capable of being lasting in sustaining many future generations. That is the heart of my political program.
CR: Well said, and I don’t think there is a sole Montanan that could deny or if they are oriented to the state or plan to stay in the state that somebody has to think this way.

DK: I certainly hope so.

CR: I think it’s more than just a pocket stance. I get the distinct idea that you feel very strongly about this and have come to this soul searching on your own.

DK: Well, I do feel strongly about it, and the question I have is whether there is a way that could be presented to the people...whether we could find out if the rest of Montana people feel that way. To me that’s the political challenge. I don’t know if the rest of the people feel that way, but I suspect that if it is presented in the right way, they will respond to it and they’ll say, “Yes, that is what I want to do to.” That is what politics is to me—is trying to present ideas like that and giving people a chance to respond to it.

CR: Western Montana has been dreadfully exploited with mining and so on. I don’t think eastern Montana has been, but with this interest in coal has been in a sense this may be a perhaps they are hearing more of a common interest not wanting to be exploited—

DK: Well, first of all I am from eastern Montana but the eastern Montana has been exploited when all the buffalo were taken and then the homestead era which was a terrible exploitation of eastern Montana. So the people of eastern Montana know what exploitation is, but they don’t begin to know what the results of the new exploitation would be. Well, I get very sentimental when I go back to eastern Montana. I mean, I think it is so beautiful out there, and the air is so incredibly pure. You can see for 50 miles in every direction, but it’s not going to be that way with if we have coal justification and all the rest of it. I can’t let that happen out there without doing what I can.

[End of Side A]

Daniel Kemmis Interview, OH 036-006, Archives and Special Collections, Mansfield Library, University of Montana-Missoula.
CR: This is a new side of the tape so let’s change the subject a little bit. How do you see the major (unintelligible) in the legislature as whole this year?

DK: I don’t know. I’ve sat down with the list of people who have filed and tried to get some sense of how things are going to go just in terms of the partisan balance. I think there is a very good chance that the Democrats could regain control of the Senate and a fair chance that the Republicans will be in the majority in the House. Although, I would bet that that won’t happen, and if I had to bet right now I would say that the Democrats will control both houses and the governorship again in 1981. But, it will not be again the liberal legislature that we had in the early ‘70s. We will continue to have a moderate to conservative legislature.

CR: Looking at mainly housekeeping affairs, do you think?

DK: Well looking at probably a lot of housekeeping but also a continuation of the struggle between the pro-development forces who will to continue to try to weaken all the environmental laws and those who want to preserve those laws. What I want to do is to begin a dialogue somewhere on a different plane that gets beyond that polarization, and I think the place to do that is to talk about economic development of an economy that is explicitly compatible with the Montana environment. I think if we can begin to talk seriously about, that we can stop calling each other names across the aisle, and maybe begin to agree on some of what it is that...some of the values that we really do share. The fact of the matter is that almost all Montanans are very proud of this state, and if they really believed that there were a way that they could preserve all the grandeur of the state without giving up economic security, they would be all for it. But right now we are just in a situation where people feel that they have to choose one thing or the other, that they have to either protect the environment or they have to be for economic development of the worst kind.

CR: It’s true. It sounds very simplified, but I think it is true.

DK: I think the state is becoming increasingly polarized, and it’s bad. It is not what we need.

CR: Is there an area of the state that seem to feel very strongly environmental is a dirty word.

DK: Oh, yes.

CR: So what do you do about this, Dan? What’s the move? You suggest starting a dialogue, but how do you...you almost have to, it seems, get to people with something very dramatic.

DK: Well, I still feel—and I don’t know whether I beat this idea to death or not—but I think that the best opportunity we have for a dialogue is to talk about a program of economic development and economic independence using that coal tax trust as the tool. I think it’s a
simple idea, it’s a straight forward idea, it’s one that I think appeals to people if they will just sit still for five minutes to listen to it, and it is the best thing I have seen yet. The most promising tool for the beginning of the kind of dialogue that I think would

CR: When the governor was here last week. I was talking to him about western Montana that is a very uncomfortable situation now because of the forest products problems. He suggested using some of the coal tax money, as I understand it, to finance getting people working in the woods for such projects as reforestation. I was wondering what you think about that? Does that fit into your plan, or is this just an expediency?

DK: Well, no, I think that it is a good idea. It is just an expediency the way Judge [Thomas Judge] approaches it, but that’s how he will always approach everything and that is, it’s an election year and he knows very well where the votes are and he has got a pretty good idea about how to corner some of those votes. But, the fact of the matter is, that if what he is suggesting were made part of a larger program instead of just part of an election-year gimmick then that’s exactly the right thing to be doing. What we should be doing is stabilizing the forest industry, and the way to do that is to recognize, first of all, that it is always going to be a cyclical industry because it is always going to depend on decisions that are made by the Federal Reserve Board. But we don’t have to live with that.

One other thing, the forest industry is cyclical in two senses. It is cyclical in the small sense because of decisions about interest rates, but it is also cyclical in a larger sense because of the practices of the industry and the industry dominated forest service that allows overcutting of forests. What the industry has done is to move through one region of the country after another destroying the forests and then moving on to another region. If they are allowed to do it, they will do it here, and then they’ll move back south or some place. What we need to do is to guarantee that the forest will be managed in a lasting way. This what I mean when I talk about a stable economy is that every resource base that you’ve got you make sure that it is not exploited in that way so that it becomes unusable. The forest resource should remain useable in a steady fashion over a period of perpetuity. The way to do that is when you reach a slump in the housing market and you have a lot of people laid off in the mills, you should put them to work in the forests, and if the federal government won’t do that, then the state government should. We should do more than just put them to work in the state forests. We should put them to work in the national forests just in the forests of Montana.

CR: Well the forests are renewable.

DK: Right, but not the way we treat them they’re not.

CR: If that’s an election year, we should...You mentioned this is almost expected for the governor to make very good (unintelligible). The governor also was in Great Falls with the Board of Regents presumably yesterday. (Unintelligible) and what he plans to do for the university system. (Unintelligible).
DK: Yes of course it was. That is exactly what it was, and that’s fine. That’s how the election process works. When I say that Judge is doing things for the sake of an election, that’s how the system works, and I don’t condemn it at all. The fact of the matter is that I admire Tom Judge as a very adept politician because he is. He very often does the right thing, and in this case, he basically has done the right thing. He did one thing wrong and that is he that MSU [Montana State University, Bozeman] should get the Radio-TV building, and they should not. Otherwise, what he had to say is correct. It happened because people in Missoula said...A lot of leaders in Missoula said, well, we may support Tom Judge, but we want to hear what he has to say. So he said what he needed to say.

CR: (Unintelligible) political issue (unintelligible) state.

DK: Well, I do too although I (unintelligible).

CR: You are willing to put your money on a Democratic House, but you still have problems on Democrats that would make it difficult to put a strong unified program through.

DK: Oh, yes. There will be enough very conservative Democrats that I think the conservatives will control the legislature even though the Democrats may control it.

CR: What are you (unintelligible) to do?

DK: In the next session?

CR: Yes, you’re going to (unintelligible) for some leadership?

DK: No...I don’t think so. I don’t know. I just don’t have any plans. I’m going to go into the session with as many friends among the newcomers and the old timers as I can have so that whatever I decide to try to do I’ll have as much support as I can get. I would like to be chairman of the Judiciary Committee sometime, but that will depend on there being a vacancy in the chairmanship. That’s very important committee and one that is very close to my legal profession, of course. I would very much like to be chairman of that committee someday.

CK: We talked and touched briefly on the matter of Montana Law graduates taking the Montana Bar Exam, and you found yourself almost ambiguous to this (unintelligible). Has that straightened out any for you?

DK: Well, for one thing it doesn’t much matter how I feel about it. The Supreme Court has straightened it out. The Supreme Court has struck down the diploma privilege now, or has removed it so that anyone who enters law school beginning next fall will not have the diploma privilege. They’ll have to take the bar exam.
CK: (Unintelligible).

DK: Yes, that’s right. It’s hard to believe.

CK: Well, that’s resolved for better or worse.

DK: I think it’s for better. I think it’s better that they should do that. I’d be a better lawyer if I’d had (unintelligible).

CK: I find that a surprising statement, Dan.

DK: It would force me to review all areas of the law, and I’d have known a little bit more because of the review.

CK: What is the state of the Democratic Party right now?

DK: Well the Democratic Party suffers from the polarization that I’ve talked about earlier. The Democratic Party, I think, it’s sound, but the troubles that it has, it has because it’s committed to different very worthy goals and hasn’t yet learned how to resolve those commitments. It’s always been committed to people. It takes that commitment to mean that it is committed to jobs, and it takes that to mean that it is committed to development. At the same time, it is committed to posterity and to the earth, and it hasn’t yet learned how to resolve those. There are some very interesting things going on in the Democratic Party as there are in Montana. Interestingly enough, the little county of Lincoln, I think, is the workshop right now for Montana politics generally and for the Democratic Party also.

CR: As a result of the—

DK: The reregulating dam. Mainly, there are three big projects proposed in Lincoln County. The reregulating dam, the Kootenai Falls project, and the Asarco mine. Those three things together have sharply divided that county. The county is predominantly Democratic, and it has sharply divided the Democratic Party in Lincoln County. That’s a good place to watch and see what’s going to happen.

CR: (Unintelligible). We went to Libby last year for our history conference and it dealt with the Canadians who were also involved in the Kootenai River project. It was very interesting. My first trip up there. Somehow, it seems a strange place to have the focus of so many eyes.

DK: Yes, it is. It really is.

CR: There’s a lot going on. Plus, that international complication in Libby, Montana. (Unintelligible) what is it 56?
DK: That’s right. Although they are not that small in Libby.

CR: Well, this is grassroots.

DK: Yes.

CR: Is there anything that you want to add to anything that we’ve already talked about or that I haven’t asked.

DK: No I feel like we have covered everything I really wanted to talk about. Good interview.

CR: As usual, I always appreciate your responses. I feel so good about them because...Not only that. They come out great on paper.

DK: Really?

CR: Yes. So the question is, does politicking ever start or stop for a legislator? How busy are you during the off-season? Is there an off-season?

DK: There is, of course. The session is so absolutely consuming that anything else by contrast is easy. There is always a lot of politics to do and it depends on whether what you are trying to do is just be the legislator for that particular district, if that’s the case, well then there’s less. If you have projects in the mill that you are really hoping to get through next time, as I do, then you have to be involved with more things. I’m afraid I spend a third of my total time on politics and politically related activities probably. Of course, next fall for six weeks from the middle of September until the election, it’ll be that much more.

CR: Again, there is a real financial sacrifice here.

DK: Well I am afraid there is. As I said it works both ways to a certain extent. I get business because of my political involvement, but—

CR: If you would have time to do it.

DK: That is exactly right. I don’t. I just don’t have time to do it.

CR: Thank you, Dan.

[End of Interview]