

Michigan Resource Stewards

Resource Professionals Continuing a Tradition of Service

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Constitutional Protection of the Environment Michigan Constitution of 1963 Constitutional Convention Record Summary Article IV Sections 51 & 52

A Michigan Resource Stewards White Paper

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BACKGROUND & ISSUE STATEMENT:

This white paper has been prepared in an attempt to discern the history and development of two sections within the current Michigan Constitution (passed by the voters and effective in 1963). The context of two sections of the Constitution, specifically Article IV, sections 51 and 52 pertaining to public health, the environment, and natural resources is important to a current constitutional review of pieces of legislation passed in 2018 by the Michigan Legislature. Governor Gretchen Whitmer has a current request for this review pending with Michigan Attorney General Dana Nessel, who has requested public comment on the Governor's request. On February 20, 2019, the Michigan Resource Stewards (MRS) submitted a letter to the Michigan Attorney General concerning concern over the legality of legislation created near the end of 2018 creating various governmental environmental entities. These statutes created an Environmental Rules Review Committee and an Environmental Permit Review Commission that many contend puts polluters and regulated for profit parties in the position of excessive influence over the regulator agencies of the Michigan Executive Branch of government. This background while the Michigan Constitution establishes that public health is of primary concern and protection of air, water and other natural resources are of paramount concern.

In the letter from MRS to AG Nessel, MRS stated the following, in part:

"MRS strongly encourages you review Act 267 of 2018 and Act 268 of 2018 for their legality. Acts 267 poses a serious Michigan Constitutional crisis since the make-up of the environmental rules committee places a majority, potentially a super majority, of the members from the camp of the regulated or those whose interest leans towards economic development over environmental protection and public health. Act 268 establishes an arguably unneeded appeals panel and, again, establishes a mechanism for the regulated community to have significant influence over the approval of permits and decreases public access and influence in the process.

Nowhere in the Michigan Constitution is economic interest provided any special leverage or concern. To the contrary, the aforementioned constitutional provisions establish public health as a "primary" concern

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and mandate the legislature to pass laws for protection and promotion of public health. Our natural resources are declared to be of “paramount” concern and mandates the legislature to protect them from degradation and damage. The 2018 legislative justification for passage of these two bills was to promote economic interest and provide increased influence of the regulated parties and lobbies interested in economic development and use of public owned natural resources. The framers of the Michigan Constitution of 1963 were just a few years ahead of the environmental concern awakening that led to Earth Day in 1970. Environmental degradation and over consumption of natural resources almost always stems from economic exploitation. So, the framers recognized the need to mandate making public health, natural resources, and the environment primary over economic interests who often prevail unless these resources are expressly provided the highest level of protection and concern.

Article I, Section 2, provides for equal protection and, arguably, these statutes do not equally protect communities of color or those disadvantaged or lacking influence. The Michigan Civil Rights Commission found a pattern of discrimination in its review of the matters leading up to the Flint Water Crisis. Contrary to last year’s actions by the legislature, this constitutionally created and protected Commission recommended institutional and procedural changes to provide greater access and influence to those likely to be disproportionately aggrieved by state government decisions affecting the quality of life and environment in their communities. These recommendations were ignored by legislators, as were similar recommendations by the special investigative committees of the legislature itself on the Flint Water Crisis. We suggest you request a final order from the Civil Rights Commission on this topic and review their investigative findings.”

SUMMATION:

The Michigan Constitution of 1963 crafting activities resulted in the eventual insertion of the following provisions related to public health, environmental protection, and conservation of natural resources:

Article IV, Section 51, of the Michigan Constitution states:

Public health and general welfare.

Sec. 51. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

Article IV, Section 52, states:

Natural resources; conservation, pollution, impairment, destruction.

Sec. 52. The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment and destruction.

The record of the deliberations and proposals of the Michigan Constitutional Convention (hereafter “Convention”) demonstrates that the framers of this most recent constitution sought to insert constitutional language into the 1963 Constitution addressing absences of language in the earlier constitutions concerning the constitutional right to quality health, a clean environment, and sustainable natural resources for future generations. The record contains draft versions of these sections attempting to address these concerns while considering the economic impact of such protective language. In the end, the final version of these sections omitted language providing for economic

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impact influence and clearly declared the importance of public health, quality environment, and conserved natural resources; and, the obligation of the Legislature to provide for protection.

THE CONSTITUTION RECORD:

Recently, research began to analyze the Convention's creation of these specific provisions and how the promulgated constitutional language came to be. The record is published in printed form including delegate proposals, committee proposals, action journals, convention journals, the official record of the Convention (where verbatim debate is recorded), and explanatory information supplied to the electorate near the time of the vote on passage. Additional information is contained in delegate papers and organizational papers, but this research has not delved into those records due to considerable time demands related to viewing this non-official record. Research for this paper was primarily the digital record of the University of Michigan, which has scans of printed Convention materials (Google scans), and review of the published records at the Michigan Law Library in Lansing. The record is huge and review time consuming, but every attempt was made to locate information specific to these two 1963 Constitution provisions. This paper should not be considered to be a complete review of the record. Copies of consulted provisions of the record are contained in the files related to this white paper, but are not included within this paper.

Initial Convention Actions on Natural Resources (December of 1961)

Regarding the record of Article IV, Sections 51 and 52, the first proposal language on these health and natural resources topics appears in delegate proposals. Specifically, delegate proposals 1635, 1636, and 1686 were introduced the the Convention. The proposals:

- 1) A 12/11/1961 proposal to direct the use of legislative power with respect to natural resources for the public interest and to grant state and local government the power to acquire land (creates a new Article) – Mrs. Judd,
- 2) A 12/11/1961 proposal to provide a new Article on natural resources,
- 3) A 12/13/1961 proposal to provide for a program of natural resources development for recreational purposes (Amends Article XVI)

Generally, these proposals were very broad statements of concern and were referred to two standing committees of the Convention, the Committee on Legislature and the Committee on Miscellaneous Provisions and Schedule for follow-up. Research found no evidence of the Committee on Legislature taking up these proposals (though the record of this committee is extensive and time did not permit an exhaustive search).

The Committee on Miscellaneous Provisions did work on these proposals with the first journal entry found dated 12/14/1961, summarizing a public hearing titled on the subject of natural resources. Much of the debate concerned, what appears to be, a large concern at the time on submerged lands and those private landowners aggrieved by the effect of Department of Conservation actions on their real estate deeds. Also, discussion occurred on state retention of mineral rights, taxation of some state lands, riparian rights, and the need for a state land agency to resolve land disputes concerning submerged lands. The committee did document testimony from Gerald Eddy and George Taack from the Michigan

Department of Conservation and referenced a Department of Conservation written proposal (not obtained in this research) containing five recommended proposed Article sections :

Eddy: "It was his belief that the Constitution should contain a section recognizing the fundamental importance of natural resources and placing a mandate on the Legislature to enact such statues as may be necessary to insure their management in the best interests of the people."

Taack: "...the State Administrative Agencies should have the right to appear in court to defend and protect the public trust, the public interest. A great deal of damage has been done to our public waters in the past 50-60 years. It is being done now and will be done in the future unless the State takes a more active interest in protecting our resources." "The demand for private and riparian frontage is going to become greater. The areas which we should carefully maintain and control in certain locations such as our wet lands, our so called "swamp lands", our so called "shallow water" areas are disappearing fast." "I believe that there should be a declaration of the trust existing on the waters of the State which are capable of a beneficial public use. The declaration, I think, could then be implemented by legislation on new problems as new uses arise, which they will."

Mr. Hilding Carlson, City of Muskegon Commissioner, submitted a three section proposed Article on natural resources (not found in records) stating, "We believe wholeheartedly that there ought to be a basic statement in the Constitution relative to the right of the State to enact laws for the protection and conservation of our natural resources." "It is incumbent upon the legislature to enact laws which would tend toward to preserve and guard our natural resources."

One entry from Mr. E. A. Kulman, of the River and Harbor Association, illustrates some discussion on the point of view from development interests. He objected to a couple of the provisions of the Department of Conservation proposed constitutional language, stating, "We have looked upon the protection of the public as including not only those who are conservationist in the narrow sense of fish and game, but also those of the public who are interested the means of livelihood and of a job..."

Mr. John Kitchel of Michigan United Conservation Clubs stated, "The Conservation Clubs would like to see language in the Constitution which will protect the gains that have been made to date and provide for the continuation and extension of these gains."

It can be best summarized that these initial actions within the Convention were in general agreement on the need for Constitutional protection and conservation of natural resources while balancing the impact of such protections on development and use of those natural resources.

Creation of the Standing Committee on Emerging Problems (1/9/1962)

As documented in Convention Journal Number 53, of 1/9/1962, health and natural resources delegate proposals were not being handled well by the Convention committees in existence at the time due to these proposals not fitting well into a standing committee's purpose or due to a lack of committee

priority. The leaders of the Convention decided to create a Select Committee on Emerging Problems to handle new issues or matters not currently in the framework of the 1908 Constitution. The journal cited an example of the natural resources proposal submitted by Delegate Judd. Also, the medical community is advocating for a constitutional provision on public health. The action from the Convention was to create a standing committee to handle emerging problems and was generally tasked with development of constitutional language addressing public health, natural resources, atomic energy, pensions, intergovernmental relations, state's rights issues stemming from federal preemption, and any matters referred from other standing committees reference to emerging issues. The natural resources proposals were transferred from the Committee on Miscellaneous Provisions and Committee on Local Government to this new standing committee. The Committee on Emerging Problems is the committee which drafted the first formal drafts of what were to be Sections 51 and 52 of Article IV of the 1963 Constitution. This section of this paper summarizes the deliberations and activities of this committee.

In the Action Journal of the Emerging Problems Committee, of 2/6/1962, a subcommittee (Number 2) was created to handle public health and natural resources and headed by Subcommittee Chair, Charles Figy. Initially, Mr. Figy voiced concern whether any action should be taken on natural resources as far as the Constitution was concerned, but agreed to call witnesses (the subcommittee was commanded by the Committee chair to pursue a complete investigation as documented in the action journal of 1/17/1962). Public health was initially felt to be a police power and a constitutional provision not necessary, but the subcommittee had a responsibility to investigate and make a recommendation. Subcommittee #2 met with Department of Conservation and Water Resources Commission officials. The subcommittee did investigate the sale of state lands and federal domain actions involving Sleeping Bears Dunes and management of state owned lands, but this paper will not delve into that natural resources matter.

On 2/21/1962, in the Action Journal, there was testimony from Gene Sloan, the editor of Air Engineering, who made statements regarding air pollution. "He stated that air pollution is long since an 'emerging problem.'" "When there is growth of industry, there is an increase in air pollution. There is a direct relationship between air pollution and the health of people. A steady exposure of polluted air robs one of his health...people who live in urban areas tend to have more cancer of the lung...The hardest hit by this are the aged, the newborn, the prematurely born, and the ill." "...the State of Michigan is the only state in the Nation that is highly industrialized and has no plan on the books right now to control air pollution." "The State of Michigan is looked to by other states as the leader in occupational health and industry. However, it is the last state looked to in terms of air pollution control." Sloan was asked to submit language for inclusion in the Constitution regarding air pollution (no record found of a language submittal).

On 2/27/1962, in the Action Journal, Subcommittee #2 reported hearing from Dr. Kelly who would submit a draft proposal to the whole committee on public health and natural resources to be included in the Constitution as "guide lines to the Legislature" (no record found of a language proposal).

On 3/20/1962, in the Action Journal, Subcommittee #2 reported having compiled a supporting report for the natural resources proposal. The whole committee decided to have the natural resources proposal submitted to the floor of the convention. It should be noted that the journal reports discussions, but

does not provide details. The public health proposal submittal to the convention was held pending a potential amendment proposed by an interest group.

On 3/21/1962, as documented in Convention Journal #104, Committee on Emerging Problems chair, Frank Millard, presented Committee Proposal #125 (hereafter "Committee Proposal" abbreviated with "CP") to the Convention with the recommendation that it pass:

"The state holds a paramount interest in the air, waters, and natural resource of the state, in the interest of the health, safety, and welfare of the people. The legislature shall enact appropriate legislation to protect the air, waters, and other natural resources of the state against pollution, impairment, or destruction, so that the interest of the people may be preserved."

Mr. Millard explained the reasons and support for CP#125:

- 1) Growing awareness and concern on preserving water resources and protecting air and water from pollution,
- 2) Adopting comprehensive public policies to protect natural resources from wastage and spoliation,
- 3) Constitutional provisions from other states using the language of paramount public interest,
- 4) Rapid development and related air pollution,
- 5) Language is declaratory and not "self-executing" and not intended to alter existing water law or alter the common law definition of control of air space above real property; nor disturbing existing vested rights in natural resources
- 6) Two beneficial results,
 - a. Legislature to guard the public interest in air, water, and other natural resources, with full discretion, but the responsibility for evolving public policy is emphatic,
 - b. Seeming probable that courts will be involved in this police power, the clear designation of public welfare and the growing interest of public in the general aspects of conservation is desirable

On 4/3/1962 the whole committee discussed the public health proposed amendment which included discussions on some changes relating to public welfare, physical fitness, and rehabilitation services, which did not pass, but resulted in the following language pertaining to public health:

"The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health."

This language was embodied in Committee Proposal #126 as published to the convention on 4/4/1962.

On 4/4/1962, as documented in Convention Journal #114, Committee on Emerging Problems chair, Frank Millard, presented Committee Proposal #126 to the Convention with the recommendation that it pass:

“The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.”

Mr. Millard explained the reasons and support for CP#126:

- 1) Number of states have strong constitutional provisions declaring the state’s interest in maintaining public health,
- 2) Some states have detailed listings of public health protections, while others are merely declaratory
- 3) This language is declaratory and instructing the legislature to adopt appropriate public health measures

On 4/12/1962 the committee decided to add language pertaining to the promotion and development of health and physical fitness into CP#126. Second Reading to the floor:

“The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of public health. The promotion and development of health and physical fitness shall always be encouraged.”

On 4/14/1962, the Emerging Problems committee revisited CP#125 (natural resources). Mr. Hatch proposed their revision (Second Reading to the floor):

“The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety, and general welfare of the people. The legislature shall provide for the protection of the air, water, and other natural resources of the state from pollution, impairment, and destruction.”

The committee record explains that the language was derived from several state laws, notably Minnesota and California, and cleared with the people of the University of Michigan Law School that the language did not alter the intent of the Convention or this committee.

Convention Review and Decisions

Debate transcripts are summarized in the next section of this paper with this section intended to summarize the timeline.

On 4/18/1962, the 124th day of the Convention, the delegates debated as a Committee of the Whole on CP#125 (natural resources) and CP#126 (public health). The Official Record of the Convention contains verbatim transcripts of delegate motions and comments. The floor discussions on this date were lengthy. The activities on CP#125 included a number of revision proposals, some which included elimination of substantial language.

At the end of the 4/18/1962 session of the Convention, the following provisions passed with substantial margins in favor of approval for addition to the new Constitution and in the following form

CP#125: “The people of the state holds a paramount public interest in the air, waters, and natural resources of the state, in the interest of the health, safety, and welfare of the people. The legislature shall enact appropriate legislation to protect the air, waters, and other natural resources of the state against pollution, impairment, or destruction, so that the interest of the people may be preserved.”

CP#126: “The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health. The promotion and development of public health and physical fitness shall always be encouraged.”

The language was referred to the Convention Committee on Style and Drafting, which resulted in changes to CP#125, but no change to CP#126. To explain the process in this white paper, committee proposals are directed to the style and drafting committee for crafting of language that fits into the general style and structure of the overall Constitution while maintaining the intent of the referring standing committee, which in this case, was the Emerging Problems Committee. Resulting CP#125 language:

“The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety, and general welfare of the people. The legislature shall provide for the protection of the air, water, and other natural resources of the state from pollution, impairment and destruction.”

On 4/26/1962, the Convention revisited these topics at the 129th session. The Convention held a second reading on CP#125. The proposal passed 95 to 5, and was referred to Style and Drafting. A second reading was done on CP#126. The proposal was amended to delete what was described as removal of redundant language and passed. A second motion by Delegate Donnelly was discussed, to remove the entire remaining proposal, as unnecessary in light of proper medical care being covered by other actions of the Convention and statutorily by the Legislature. Counter debate was capsulized by Emerging Problems committee member, Mr. Figy, “And yet, looking to the future, we think we should take a stand on this thing here and I think you should vote against this Donnelly amendment and support the committee proposal.” The Donnelly amendment did not pass by substantial margin. A vote on the proposal as amended was held and passed 67 to 27: Resulting CP#126 language:

“The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.”

On 5/11/1962, the Convention in its 136th day announced the following versions of CP#125 (natural resources) and CP#126 (public health) as to be incorporated into the Constitution and to be referred to the Michigan electors:

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Article IV. Section 51. The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

Article IV. Section 52. The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of the health, safety, and general welfare of the people. The legislature shall provide for the protection of the air, water, and other natural resources of the state from pollution, impairment and destruction.

Summary of Delegate Debate re: Committee Proposals 125 and 126 – Held on 4/18/1962

The Official Record of the Convention, as transcribed in the 124th session, is extensive as well as detailed. Contrary to committee reports, which are basically minutes and summaries, the official record is a transcription verbatim of the debate. This paper attempts to distill these discussions to best encapsulate the discussions in succinct fashion, since this record comprises over a dozen small font pages of text. **This debate is likely the most reflective of the intent of the framers of what would become Article IV, Section 51 and 52 of the Michigan Constitution of 1963.** It is noteworthy that most of the votes on revisions of the proposal were taken on “division” which required a request and sufficient support; the process entailed going beyond a voice vote to a machine tally. In one case, a proposal revision was passed in the verbal vote while overruled by a division tabulation. This voting record left a record of substantial support for the proposed constitutional amendments on public health and natural resources.

A. Committee Proposal 125 - Natural Resources Protection Debate:

- The Committee on Emerging Problems moved to amend the proposal to include language to revise the last sentence to say (caps being the amending language, as follows), “The legislature shall provide for the protection of the air, water, and other natural resources of the state from pollution, impairment, and destruction AND TO REGULATE THE USE AND DEVELOPMENT THEREOF, so that the interest of the people may be served.” This suggested revision ultimately did not pass, but the debate is illustrative of the delegate priority concern over natural resources protection.
 - The suggested amendment was intended to emphasize the need and responsibility of the legislature to conserve and not just merely preserve natural resources. Delegate Judd crafted this suggestion out of concern that the constitutional proposal not emphasize protecting and saving of natural resources over use of these resources subject to regulation in the interest of the people
 - Those against the suggested revision
 1. The amendment was characterized as totalitarianism
 2. A usurping of private property rights
 3. “a germ of socialism”
 4. A delegate voiced concern as a farmer who could be told what to plant or not to plant
 - Those in support of the revision
 1. Merely declaratory in nature

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2. Proposal does not contain the word “conservation”, but probably should in that conservation means use without abuse and for the greatest good of the greatest number
 3. Does not say the state is going to develop all these resources, but revision is intended to regulate this development
 4. Institutes an obligation to conserve in the interests of the people
 5. Citing history of spoliation in the Upper Peninsula, matters of conservation is of the utmost importance to guarantee mass exploitation and spoilage shall not again occur
 6. Emphasizes wise conservation , wise development, and wise use
 7. No intent to change the State’s interest in private ownership
 8. “We are just asking them [*Legislature*] to look out into the future for our natural resources, the air and the water, and to make some regulations so that they will not be used up for the other generations that will follow.”
 9. This Committee on Emerging Problems was asked by the Convention leadership, “to look forward, to look ahead, and these problems, if they are not apparent today, believe me, will be apparent during the lives of your children.”
 10. “...think we are duty bound to pass on to our heirs at least as much as we have received, as we inherited.”
- Delegate entered a motion to remove the word “paramount” from the proposal. The motion did not carry. The vote was 68 to 37.
 - Those in support of the revisions
 1. This is concerning in that “paramount” means “superior” or “supreme”; “highest in superiority”, “authority”, “dominant”
 2. It implies that it overrides, “any deeds that citizens might have” or “any corporation”
 - Those against the revisions
 1. The language speaks for itself and there is no intent for the state to take vested property rights from citizens
 - Delegate motioned to delete the sentence, “The person of the state holds a paramount public interest in the air, waters, and natural resources of the state, in the interest of the health, safety, and welfare of the people.” The amendment was defeated 67 to 46, but an insertion of the word “public” after “paramount” did.
 - Those in support of the revision
 1. New York enacted similar, even more specific, language in its constitution and ran into problems with unintended interference with development because they had, “forgotten to not say anything about development and use” and their constitution had to be amended
 2. Objection to the word “shall” in relation to the Legislature. If the language is meant to only memorialize the message to the Legislature, then “‘shall’ goes too far”
 - Those against the revision
 1. The University of Michigan Law School does not see such unintended consequences to current law
 2. The proposal is in proper form and does exactly what it says it does, “it memorializes to the Legislature. It brings to their attention some of the things that might happen in the future.”

3. The committee will support putting the word “public” between “paramount” and “interest”
 4. “...the constitution is a design for government, an ordering of values. It sets forth here a value upon the health, safety, and welfare of the people in terms of preserving air, water, and natural resources of this date, and I think we do proclaim by this constitution a high value on these matters...”
 5. The proposal, as is, is in line with many other states
- Delegate proposed to add the phrase, “People of the state holds” before the word “paramount” in order to reinforce that “people have rights.” The motion for revision carried by voice vote.
 - Delegate proposed to change the language of one sentence to say, “The Legislature shall ‘have power’ to enact appropriate legislation.” It was offered to temper the word “shall”, but in the end did not pass as an amendment to the proposal on voice vote.

After this debate, Committee Proposal 125 passed and was sent to Style and Drafting for review:

CP#125: “The people of the state holds a paramount public interest in the air, waters, and natural resources of the state, in the interest of the health, safety, and welfare of the people. The legislature shall enact appropriate legislation to protect the air, waters, and other natural resources of the state against pollution, impairment, or destruction, so that the interest of the people may be preserved.”

B. Committee Proposal 126 - Public Health Protection Debate:

- Delegate proposed to add an additional sentence, “The promotion and development of health and physical fitness shall always be encouraged.” The revision was in the spirit of the President of the United States interest in physical fitness and the poor fitness of military draftees. It was intended to provide direction to the Legislature. This revision carried after voice vote.
- Delegate proposed a revision to insert language, “and the protection of the consumer.” Debate briefly ensued that consumer protection was already addressed in state law and by the Attorney General. Essentially the day was getting long and the Convention was not supportive of any further significant topical additions of the proposed amendment. A voice vote defeated this revision proposal.
- Delegate proposed a revision of the committee proposal to add language emphasizing county health department primary role in public health and mandating the county levy of taxes to support them; with the quality of county programs overseen by the by a state council of health. A lengthy oration ensued on the problems with the extensiveness and capability of the county health department system and the negative impact on public health. Further, that the county level health department system was the best place for public health administration, but needed state support. There was little support since it was felt that the language did not belong in the Constitution. The proposed revision did not pass

After this debate, Committee Proposal 126 passed, as amended, and was sent to Style and Drafting for review:

CP#126: "The public health and general welfare of the people of the state are hereby declared to be matters of primary public concern. The legislature shall pass suitable laws for the protection and promotion of the public health. The promotion and development of public health and physical fitness shall always be encouraged."

Statement of the Convention to the Voters

On 8/1/1962, the Michigan Constitutional Convention published and distributed a guide to voters concerning the proposed new state Constitution, titled, "What the Proposed New State Constitution Means to You." "The task of the delegates is done. The convention is adjourned. Now the people will decide the issue." Reference the public health, environment, and natural resources topics in this paper; the voter guide identifies "New Problems Recognized":

- 1) Conservation of natural resources,
- 2) Legislative authority over state lands,
- 3) The protection and promotion of public health,
- 4) Recognition of the use of atomic and other forms of energy which may be developed in the future,
- 5) Provisions for intergovernmental cooperation by Michigan and its political subdivisions with those of other states and the Dominion of Canada

The guide frames proposed Article IV, Sections 51 & 52 as follows

"PUBLIC HEALTH.

Section 51. The public health and general welfare of the people of the state of state are hereby declared to be matters of primary concern. The legislature shall pass suitable laws for the protection and promotion of the public health.

This is a new section, declaratory in character, instructing the legislature to adopt whatever public health measures it deems appropriate."

"NATURAL RESOURCES.

Section 52. The conservation and development of the natural resources of the state are hereby declared to be of paramount public concern in the interest of health, safety, and general welfare of the people. The legislature shall provide for the protection of the air, water and other natural resources of the state from pollution, impairment, and destruction.

This is a new section, recognizing public concern for the conservation of natural resources and calling upon the legislature to take appropriate action to guard the people's interest in water, air and other natural resources."

CLOSING THOUGHT:

The intent of this paper was to attempt to discern the objective and intent of the Constitutional Convention in proposing the creation and inclusion of public health and natural resources constitutional recognition of rights and protections into the Michigan Constitution that was eventually approved by voters and is now known as the Michigan Constitution of 1963. The review of the Convention documentation was extensive, but not necessarily exhaustive, in that the documentation is literally volumes and access to some of the information difficult. However, this paper is believed to have captured the creation and progress of the language that eventually became Sections 51 and 52 of Article IV under which Michiganders are now governed.

The record shows that public health, environmental protection, and natural resources had risen to a significant level of concern in the early 1960's and was in such an early stage that these issues were eventually considered "emerging problems" and given to a select standing committee of the Convention for consideration. Early on in that committee's deliberations, it was considered that constitutional language may not be necessary for public health, environmental protection, or natural resources conservation. Perhaps, they deliberated, traditional police powers were adequate. As the committee investigated, heard testimony, and considered proposed language; they concluded that public health is a primary concern and there is a paramount interest in the conservation and wise use of natural resources. Further, more than making just a declaratory statement of that concern, language in the new Constitution was crafted to encourage a responsibility on the Legislature to protect public health and natural resources in the interest of the people of Michigan.

The language of these two constitutional provisions was heavily debated, sometimes hotly debated. Concerns were voiced that the language usurped private property and development rights. On the other side, horrors had occurred in Michigan history concerning despoilment, waste, and pollution of our air, land, and water. The emphasis was on learning from the past and creating an obligation to look into the future and preserving our finite natural resources. Reading of the record indicates concern over creating a governmental system that protected natural resources to a level of preservation that they could not be used, developed, or enjoyed. But, there also existed a position that government must be, especially the Legislature, cognizant that use and development poses a serious hazard to the existence of these vast natural resources for future generations. The deliberations indicate a profound interest in finding balance between preservation and use. It is safe to say that there was never any intent of the Convention to hold one interest in a position of power over the other, e.g. development/use over natural resources preservation, or vice versa. But, there is an established bottom line that spoilage, over use, waste, pollution, degradation, negative impacts on public health was not to be condoned or legislated. The conclusion is that the constitution designates sustainment of resources and health as a right of the people. In conclusion, this white paper restates what the framers wanted the public to fully understand in its message to the voters, "...calling upon the legislature to take appropriate action **to guard the people's interest in water, air and other natural resources.**"