

Environmental Article Offers Something New

This is the seventh interpretation of a part of the proposed new constitution by University of Montana faculty members, under the auspices of the UM Bureau of Government Research.

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The draft constitution offers a substantially new article on environment and natural resources where there are no comparable provisions in the present constitution.

Provisions of the proposed Article IX omit almost entirely the features of an article submitted by delegate Louise Cross, along with other proposals submitted by environmentalists, but the article still has merit compared with coverage of such matters in the present constitution. The proposals are conservative, but not ultra-conservative, and they are thus worthy of consideration.

This review is submitted by two environmentalists who concede limited ability to interpret these provisions from a legal point of view. The perspective is the extent to which the proposed constitutional language on environment and natural resources may reasonably be expected to advance the environ-

mental goals declared in the document.

A provision that "the state and each person shall maintain and improve a clean and healthful environment in Montana for present and future generations" is potentially the most sweeping proposal. It puts the burden of maintaining a livable environment upon the citizens of the state, yet fails, without legal interpretation or statutory amplification of the statement, to set forth clearly what legal recourse citizens would have against those who knowingly and willingly degrade the environment.

There is provision for the reclamation of land disturbed by taking natural resources such as coal and hard rock minerals. A vast area of the land surface of Montana overlays coal reserves which it is now economically feasible to recover. But the delegates treated the subject lightly with a two-sentence provision that leaves to the legislature the entire burden of setting standards and of providing administration of such reclamation. Power company lobbyists did their job well on this subject of reclamation as did agricultural and industrial lobbyists on the water rights provisions.

All of the present provisions on water rights are retained, but the convention refused to include recreation as a beneficial use of water. We believe there is no reason for concerned citizens to accede to this apparent assumption. We believe that future citizen pressure will gain full recognition of recreation as a beneficial use of water.

A significant new provision would place all waters of the state — surface, underground, flood, and atmospheric — in trust. As trustee the state would have responsibility to manage the appropriations and uses of this water. Another provision declares that the legislature shall provide for the control, administration, and centralized records of water use. These provisions come at a critical time for a western state. In 1968 Congress enacted the Colorado River Basin Project Act. As stated in this legislation, "the secretary of the interior shall conduct full and complete reconnaissance investigations for the purpose of developing a general plan to meet the future water needs of the western United States." At the present time Montana water records are kept in their respective counties. This provision will facilitate the conduct of such an inventory allowing for a more complete and accurate estimate of the available water in the state.

An inventory is also critical because estimates of the consumption requirements of the power-generation and coal-gasification industries planned for Montana and Wyoming will require approximately 75 per cent of the available water resources within a 13-state area bounded by Montana, Wyoming, Colorado, Kansas, Missouri, Iowa, Minnesota, and North Dakota.

Another section of the draft constitution covers resources such as cultural, scenic, recreational, and historic areas which the legislature shall identify, acquire, restore, and administer. This provision has much potential benefit for the environment if citizens inform and force the legislature to fully implement it.

As with most older constitutions, environmental concern was largely unrecognized in the 1889 Montana Constitution. The emphasis then was on resource development. Constitutions of the past decade, however, have increasingly recognized environmental degradation and have reflected this awareness in their language.

In 1970, Illinois included an "environment" article in a new constitution. This article mandates the legislature and each person of the state to achieve and maintain a healthful environment and commands the legislature to provide necessary regulations to implement this general policy. The article further recognizes each person's right to a healthful environment and provides that each person may enforce this right through legal proceedings.

Michigan adopted an environmental protection act in 1971. We believe that statements recognizing the need for environmental safeguards in the Montana draft constitution will provide an important stimulus to future legislatures. Rather than precluding legislative action, it frequently commands that "the legislature shall provide . . ." The scope and strength of legislation is, therefore, discretionary with the legislature.

Article IX of the proposed constitution does not clearly state individual authority to implement its obligations (as does the Illinois constitution). However, Article IX of the draft constitution states: "All persons are born free and have certain inalienable rights. They include the right to a clean and healthful environment . . . and seeking their safety, health, and happiness in all lawful ways."

The nature of action which may be enlisted to implement these rights will be decided by the legislature and courts of Montana. It is our belief that this language in the declaration of rights is equivalent to (enforcement provisions) of the Illinois constitution and should be so interpreted.

Article IX of the draft constitution is a far cry from articles on the environment that were proposed to the convention. However, unlike the present constitution, the draft provisions recognize and allow legislative and citizen action on many issues concerning environment and natural resources. While we believe that it is a conservative article, as are most other articles in the proposed constitution, the whole proposed constitution deserves support by the citizens of Montana. (Next: Local Government).

Anderson Unique, Says Brown

HELENA (AP) — A former governor of California said Monday he hopes "A building or something" will be named for Montana's retiring Gov. Forrest H. Anderson.

"What did they name after you?" a newsman asked Edmund G. "Pat" Brown as the former two-term California governor visited Anderson in the Capitol.

"Nothing—not even a ditch," he replied.

Brown, who received an honorary degree at Carroll College in Helena Sunday, said he believes Anderson is one of the few governors—if not the only one—who has served in all three branches of government.

Anderson, stepping down at year's end after one term as governor, has served as an associate justice of the State Supreme Court and as a member of the Montana House of Representatives.

Both Anderson and Brown were state attorneys general before becoming governor. Brown was defeated in his bid for a third term by Gov. Ronald Reagan.

Montana Guard Preparing for Idaho Training

BOISE, Idaho (AP) — Idaho National Guard engineering units from north Idaho began two weeks of annual training this weekend and are hard at work improving roads and gunnery ranges on the southwestern Idaho desert.

They are the first of 6,500 National Guardsmen who will undergo summer training maneuvers at Gowen Field this year.

The roads and gunnery ranges will be used later by armored cavalry units from Idaho, Oregon, Nevada and Montana.

The Idaho cavalry unit will arrive in Gowen Field May 27 and the first and second Squadrons of Montana's 163rd Armored Cavalry will arrive June 10.

Grazing Group In Beaverhead Gains \$60,000

WASHINGTON (AP) — A loan of \$60,000 from the Farmers Home Administration has been approved for the expansion of grazing areas in Beaverhead County.

Rep. Dick Shoup, R-Mont., said the loan would be made to the Big Hole Grazing Association. The association will use the funds to purchase 640 acres of land to increase the carrying capacity of its range.

The association is a nonprofit organization of 16 farmer-ranchers who share use of the association range to increase their livestock production.

The loan is repayable within 40 years at 5 per cent interest.

U.S. Pondering Role in Consumer Aid

BILLINGS (AP) — William Erxleben, regional director for the Federal Trade Commission, told a hearing today that the FTC is trying to determine its role in consumer protection in Montana.

Erxleben said the Billings hearing would not solve any consumer problems, but might bring some to the surface.

He said past criticism of the FTC for allegedly not enforcing consumer-protection laws has resulted in internal changes within the federal agency for greater involvement with the public.

There is no FTC office in Montana at this time.

Montana's Biggest Oil, Gas Auction In Three Years Expected June 13

HELENA (AP) — Montana's largest auction of oil and gas leases on state-owned land in about three years is scheduled for the Capital City on June 13.

Director Ted Schwinden of the State Department of Lands said leases on 246,416 acres will be offered to bidders in 530 tracts.

All but eight of the tracts are accounted for by checks for the minimum yearly rental of \$1 an acre, which means they will go under lease even if no competitive bids are received.

Eight tracts on which leases

have expired are being offered by the State Land Board for indefinite-term leases.

Many of the tracts going on the auction block in the state agency's second lease-sale of 1972 are in the natural-gas area of Chouteau, Fergus, McCone and Judith Basin counties.

September 1969 was the last time the guaranteed revenue to the state was close to a quarter-million dollars prior to a state auction of oil-gas leases.

At this year's first auction,

held in March, rentals and bonuses for leases on 91,689 acres brought the state \$144,687, an average of \$1.56 an acre.

Visit Postponed

TOKYO (AP) — U.S. presidential adviser Henry A. Kissinger again has postponed his unofficial visit to Japan and expressed hope that he would come to Japan at an early date after his visit to Moscow with President Nixon, Japanese newspapers reported Sunday.

Water Users Invited to June 10 Meet

HELENA (AP) — A Legislative Council subcommittee seeking ways to improve the administration of water projects in Montana has invited representatives of some water-user groups to a June 10 meeting.

Rep. Albert E. Kosena, D-Anaconda, chairman of the nine-man subcommittee, said a cross-section of water-user associations is being invited.

"They range from major associations to smaller ones so the subcommittee can get a true picture," Kosena said. The meeting was scheduled to give the members a chance to ask some "pertinent questions" before adopting preliminary recommendations.

Final recommendations for legislation will come at a June 24 meeting of the subcommittee.

A 1971 House resolution called for the study of the Water Resources Board which now is part of the State Department of Natural Resources.

Some Kalispell Carpenters Walk Off Jobs

By Tribune Correspondent KALISPELL — Pickets were up Monday morning on some construction jobs in Kalispell.

But the Carpenters District Council of Northwest Montana said not all contractors are affected by the strike.

Bob Harris, president of the Council, said the strike approved early Monday by union members, affects from 40 to 50 carpenters in Kalispell.

He said, "it's less than 5 per cent of the working carpenters in the area. Affected, he said, "are construction firms which are members of the Flathead Contractors Association. As of May 4 he said, that included Arrowhead, Montana Builders, Collins Const., Lloyd Cyr, Bob Ross, Sandton Const., Noble Homes, and Matelich Const.

Work continued on the buildings being continued by firms which have signed contracts. These include the new Buttry's complex and a drive-in. Harris said roofers were allowed to complete work on the Sportsman Surplus building because of the chance of rain-damage to the store's merchandise.

No Brotherly Love Shown 13 Persons

PHILADELPHIA (AP) — Thirteen persons were killed here over the weekend in what homicide investigators described as "one of the most violent weekends the city has ever had."

Sgt. Edward Funk of the homicide division said the killings included nine shootings, one strangulation, one stabbing and two beatings.

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