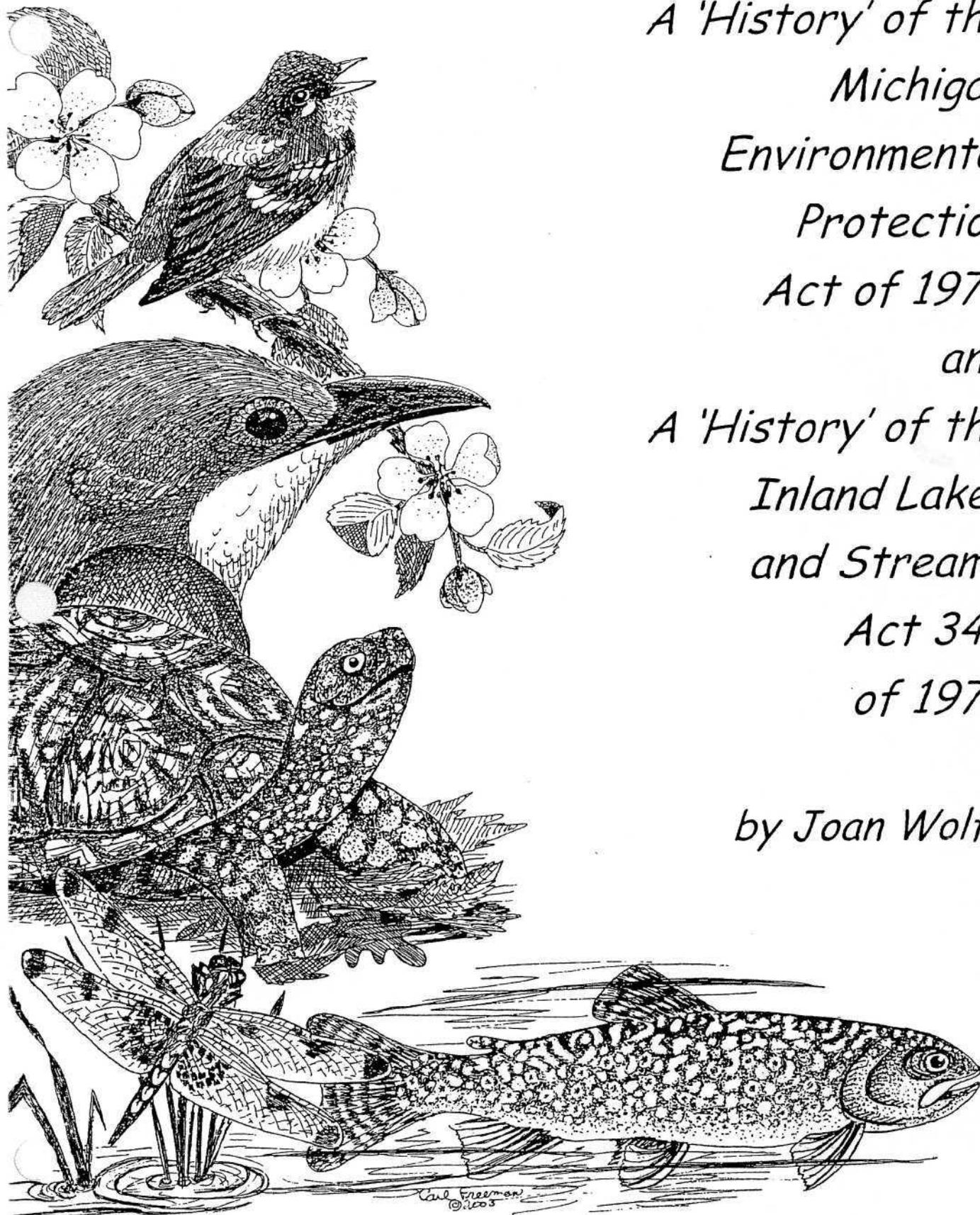


*A 'History' of the
Michigan
Environmental
Protection
Act of 1970
and
A 'History' of the
Inland Lakes
and Streams
Act 346
of 1972*

by Joan Wolfe



A 'History' of the Michigan Environmental Protection Act of 1970

originally titled *The Thomas J Anderson, Gordon Rockwell Environmental Protection Act of 1970*

by Joan Wolfe

At the request of Dr. Joseph Sax, Joan Wolfe wrote this history shortly after the Act was passed.

It is now shortened and edited for publication.

"None of us is as smart as all of us." (source unknown) "Nothing we do...can be accomplished alone." - Reinhold Niebuhr

On June 26, 1970, Michigan conservationists won an outstanding and unprecedented victory when the Michigan legislature voted overwhelmingly to pass, in strongest form, the "Environmental Protection Act." Citizens, agencies and governments in Michigan were thereby given the right to go to court to stop the pollution, impairment and destruction of their environment. Without the hard work, cooperation and imagination of many, many groups and individuals, the Michigan Environmental Protection Act would not be reality today. The history of this hard-won victory deserves attention as an example of how bills that have "no chance of passage" get passed, and what conservationists must do to create necessary laws.

On January, 1969, the West Michigan Environmental Action Council, after much discussion about environmental protection initiatives, took the suggestion of conservation-consultant Robert (Bob) Burnap that we write to Dr. Joseph L. Sax, environmental law authority at the University of Michigan Law School. As Council chair, I asked him if he would draft a bill that would be a new tool to help protect the environment. Dr Sax agreed to our request, and after much thought and research, he wrote the "Natural Resource Conservation and Environmental Protection Act of 1969." He also sent a tremendously useful explanation of the legislation. We obtained the funds for Sax's work from John Hunting.

After Joe Sax accepted our request, I called our Grand Rapids Representative, Peter Kok (R), to ask if he would introduce our "model bill for the environment." The Michigan House of Representatives had a better conservation record than did the Senate, so our first goal was to get it passed in the House. Rep. Kok generously recommended that it would get further ahead if it were introduced by someone in the then-majority party, and suggested the highly respected Thomas Anderson, Democratic chairman of the conservation committee.

Rep. Anderson accepted and said he would introduce it in the fall. At Bob Burnap's suggestion, his committee met with Joe Sax so Joe could explain this unprecedented legislation before he left for a year's research in Washington.

That summer (1969), Rep. Anderson sent the bill to the utilities and other industries for their reaction. Opposition grew, and he was well aware of the bombshell he held.

Also that summer, Bob, Joe Sax, the Michigan Audubon Society and the Michigan Pesticides Council met at the headquarters of the United Auto Workers (UAW) to discuss a DDT issue with Olga Madar, head of the UAW's Conservation and Recreation Department. I took the opportunity to tell the group about "The Sax Bill" and distributed copies of his explanations. Olga called in the UAW attorney (who complimented Joe on the clarity of his explanations), and the UAW became an early ally in the battle to pass this legislation.

After that, whenever I learned that an environmental group composed of many chapters was meeting, I asked to speak five minutes about the bill. Whenever I spoke, I also distributed the Sax explanations. Thus many groups heard about the bill and agreed to bring it to the attention of their member organizations.

Except for a growing awareness of the bill,

however, nothing much was happening. Our Council Board decided that we would make this legislation a major goal, that we would leave no stone unturned in promoting it, and that we would spend our money freely without question until it ran out.

We decided that wide coverage was necessary. Therefore, we reprinted a thousand copies of the bill and its thirteen-page explanation to send to our members, organizations, and newspapers. Later we reprinted another thousand for legislators, citizen requests, and more newspapers. (Today with email and other avenues so available, such hands-on action is not as necessary, especially as people hear about the cause. However, I strongly believe that in the early stages, printed copies and personal contact are still crucially important before one's subject is well supported and well known.)

It ought to be noted what kind of organization we were. Although we were on our way to growing to a membership of 45 organizations that year, at the time, we numbered 21 civic and conservation organizations - all with their own needs - and about 300 individual members. Our budget was laughable; we had no office (though Pat Davis did find us free space and help from the TB Society in February, 1970) - and, until that summer, we still did not have an office typewriter (finally provided through a student fund-raiser organized by our son John.) No one in the organization was paid, and the only expenses we reimbursed individuals were for telephone calls, printing, and postage.

By December 1969, good things began to happen. The *North Woods Call* published a huge editorial saying, "This could be the most important piece of conservation legislation ever to pass the Michigan legislature." *Science Magazine*, published by the American Association for the Advancement of Science, in touch with Dr. Sax, discussed conservation law and the Sax bill in particular. As time went on, other columnists and editorial writers began mentioning it enthusiastically.

At Christmastime, we received word that we were on our way - a hearing on the bill would be held in the committee room on January 21, 1970. Rep. Anderson told us there was powerful opposition to the bill, so we knew our first job was

to show overwhelming citizen support. We felt that even Rep. Anderson, though sympathetic and interested, had no hope that the bill would get anywhere. Later he wrote that originally no legislator would even co-sponsor the bill. Hence, we began our campaign.

[Note: Up until the middle of January, the main interest and work necessarily came from our own organization. Later, individuals in many groups became involved. Their leadership and work in promoting the bill inside and outside their own organizations, gathering information, and keeping us informed, were crucial to our final success. I hope I make this obvious with the many examples that follow. Although WMEAC's leadership was necessary for coordination and much information, everyone became dependent on everyone else. I also note that this was before other so-named environmental organizations came into being.]

I called the presidents and active representatives of every major conservation organization in the state to tell them about the hearing and to ask that they come and support the bill. However, I found that most of them hadn't paid a lot of attention to it, and they were unsure how they would react. This was a major disappointment. I urged them to read the material and hurriedly sent out the bill and explanations all over again.

WMEAC now sent out thousands of copies of an SOS explaining the bill, telling about the hearing, and telling people how they could help. We suggested that organizations attend the hearing themselves or allow our Council to represent them. Michigan State University's EQUAL reprinted our SOS and handed it out at several environmental lectures the University was holding.

Peter Steketee (a young Grand Rapids attorney and next chairman of WMEAC) and I thought that it was important to find out how agencies potentially affected by the bill felt about this legislation. We had already seen a damaging report by the Attorney General's office saying the bill would disrupt proven methods of control. We also wanted to try to persuade the governor to support

the bill. It was important, also, to hear arguments in favor of changes - since there might indeed need to be changes - and Peter wanted to discuss the comments with Joe Sax and other attorneys so that they might evaluate them. Finally, interviews in Lansing would be useful in order to answer any arguments that we thought had no merit.

We went to Lansing twice. The Water Resources Department felt that the bill had been written directly to harass the Department. The Natural Resources Department was less paranoid, though admitted they could be embarrassed by such a law. Director Ralph MacMullan agreed with us that they ought to be making good enough decisions to hold up in court. Still, he gave no commitment.

James Kellogg, the Governor's conservation assistant, was friendly but raised some issues. However, he invited us to return to discuss the subject further.

Finally the time for the hearing arrived. Rep. Anderson had already received "hundreds" of letters and arranged to hold the hearing on the floor of the House of Representatives.

Every member of the House Conservation and Recreation Committee attended. Rep. Warren Goemaere was now chairman of the committee, and Rep. Anderson was co-chairman. Much to our relief, most of the conservation organizations were there to testify. So was Liz Kurnmer for the Michigan PTA Council; Olga Madar for the UAW; August Scholle, president of the AFL-CIO; and Amer Pederson, all the way from the Upper Peninsula, to speak for the organization Save Our Air. Even the Department of Zoology and the Regional Planners from the University of Michigan testified.

Having sent them our statement ahead of time, I spoke for WMEAC and 27 other organizations - many of whom wired or wrote their permission at the very last minute. They included such diverse organizations as the Federated Garden Clubs, the Black Unity Council, and local service organizations.

Dr. Sax spoke first, explaining why such legislation is needed, and giving auspicious support for his arguments by citing a recent opinion by

Chief Justice Berger:

The theory that the commission can always effectively represent the (public) interests ... without the aid and participation of legitimate (citizen) representation fulfilling the role of private attorney general is one of those assumptions we collectively try to work with so long as they are reasonably adequate; when it becomes clear, as it does to us now, that it is no longer a valid assumption which stands up under the realities of actual experience, neither we nor the Commission can continue to rely on it...

A surprise witness was Dr. William Pierce, respected chairman of the legal research department at the University of Michigan. He did much to allay fears about the bill. After Dr. Pierce spoke, Rep. Anderson told the hearing that he had heard from the deans of all Michigan's law schools saying that this was an excellently drafted piece of legislation.

Two things especially impressed most of us: the tremendous outpouring of support by such a wide variety of groups and the response of the students who testified, especially Roger Conner from the University of Michigan Law School. (About 1973 he became executive director of WMEAC.) Roger showed how carefully the students had done their homework as he discussed the bill, point by point, arguing its merits. By their responsible approach, the students helped get some listeners off the fence.

The newspapers carried the story of the hearing in detail, and further support gathered. The college students, stimulated by the approaching Earth Day activities, became more and more involved, and our Council received requests for information from virtually every college in the state. Citizens groups of all kinds - ladies study groups, men's clubs, etc. - began to make the bill a matter for study and decision. Editorial writers and columnists discussed and promoted the bill.

Governor Milliken was interviewed on TV by the Grand Rapids media and myself. I pressed him about supporting it, and he expressed support for the "concept" but withheld further comment. I continued to speak, distribute information, and gather support from more organizations. MUCC covered the bill in great detail in all copies of its

monthly magazine, and the Sierra Club was constantly informative.

After many letters and phone conversations, several of the organizations agreed we needed easier coordination. The UAW invited us to meet in their legislative offices, and in February we began to hold frequent meetings. The most active members of the coalition were Ann Arbor's Nina Johnson, representing her local and (eventually) state League of Women Voters; Kathy Bjerke, legislative chairman for Michigan's Sierra Club; Elizabeth Kummer, PTA Council; Martha Reynolds, international representative for UAW; and I, for the West Michigan Environmental Action Council. Others met with us from time to time and kept in close touch.

Although opposition was rarely obvious, in January the State Chamber of Commerce published a potent, critical analysis of the bill. (Interestingly, it arrived the day after the appearance of the Chamber's exciting and horri fying discussion of the various environmental crises we face.) The Chamber's view was:

This proposed act would supercede every established procedure now being followed ... and would shift all of this to an individual action on each individual case in the court of law, sitting as a court of equity.... [It] would create a serious threat to the operation and growth of business and industry ... a complete bar to the current method of voluntary and workable cooperation between industry and government...

The State Chamber's analysis didn't impress a large majority of people. After all, even industrialists at their cottages, seeing the effluent from the local paper mill or canning industry, were aware that "voluntary and workable cooperation" isn't always effective. Grand Rapids' Chamber executive, Stuart Cok, responded to the State Chamber by asking what alternative to the bill they would suggest. After lengthy discussions, his own Chamber supported the bill with minor changes.

Chrysler, Detroit Edison, and the Pest Control Association took courage and publicly opposed the bill at the hearing. In response to my request that Ford support the bill (on the basis that Henry Ford

had claimed that Ford would go to all ends to clean up the environment, and their support would prove it). I received a very lengthy long-distance telephone call from the Ford lobbyist: "It could put us out of business." Indeed, in historian Dave Dempsey's book, *Ruin and Recovery*, the author quotes one of Anderson's frantic letters from industry - this from an industrial development association: "If the bill, as written, ever became law, there'd be no need for anyone, anymore, to feel the slightest concern for further plant development. There wouldn't be any."

Rep. Anderson knew much better than we just how strong the opposition was, and he knew that if the bill were to pass, it would have to continue to have the strongest kind of public support. I am convinced that until just before the hearing, he had no idea that it had any chance of passage in the House. Even then, he and Rep. Goemaere indicated that it could never get through the Senate.

However, once we showed our strength, he did everything he could to help keep it up. He began a series of hearings that alarmed and dismayed the politically nai've - and probably the people who were working the hardest on the bill were the people who were the most politically nai've. Jim Rouman, the executive director of Michigan United Conservation Clubs, and the real veteran in conservation legislation, saw no chance for its passage. Neither did other seasoned fighters. One does not, we were told, pass this kind of legislation on the first round.

Rep. Anderson announced a hearing for February 26 in the Grand Rapids area. We had about two weeks to summon the troops, so again, I called organizations - this time local organizations belonging to WMEAC and statewide organizations who had not testified in Lansing. Again, we sent out a printed appeal with information about the hearing. And again, the response of the public seemed worth all our effort, even though we still did not realize how necessary the hearings were to get the bill passed, and we groaned each time one was called.

The day arrived, and we had one of the worst snowstorms of the year. Yet the legislators came from Lansing. Rep. Sietsema from Wyoming chaired the meeting in his own district. Senator

Sander Levin gave a hard-hitting speech (he was running for governor) and challenged the governor to do more than make "Sunday School lectures," and to support this bill. Senator VanderLaan offered a list of suggested improvements on the bill. Levin's speech was widely quoted, and it could not have been lost on the governor that this could give Levin a dandy campaign issue

Despite the snowstorm 450 people attended. Many organizations had sent representatives, and other people testified for themselves (including the Grand Rapids mayor-elect). Thirteen of the speakers were presidents of organizations and the speeches ranged from the Kent County PTA Council (a homey, articulate and earnest appeal) to the direct, legally-oriented statement for the American Civil Liberties Union, to the appeal by the president of the Muskegon Save Our Lake Committee, who was also the president of a chemical company ("In the past we did not know what we were doing - we were all guilty - but now we must be responsible," he said.). The appeal on behalf of the Grand Rapids Audubon Club was made by the former Grand Rapids chief of police. Students, civic groups, union locals, and conservation organizations added their keen support. Russell DuBois, who had been working steadily to gain Jaycee support, spoke on behalf of several West Michigan Jaycee groups. Never one to mince words, Russ made it very clear that to be against this legislation was to not be re-elected. All of us were rough stones, new to the legislative process. I wonder if we will ever again be able to be, as effective!

We had by no means recovered from this effort before another hearing was announced for Friday, March 6, in Macomb County. I called the "coalition" and asked that they call everyone they knew in the Detroit area. We printed thousands of copies of another "news flash" and rushed them off to people we knew in Detroit, including the college near the hearing location. We really could not do too much more at a distance.

I was too exhausted to worry, but I was concerned. I needn't have been. The Oakland Township Association, with whom I had been in contact, had a strong group, active and eager to

testify. The Sierra Club brought out its members, and the UAW was in touch with such groups as the Downriver Anti-Pollution League. *The Detroit Free Press* "Action Line" made note of the hearing. Again, the room was crowded and the hearing was a great success. Detroiters showed, as they would continue to show, that they were not too apathetic about pollution to make an effort. As much as any, this hearing showed the concern and frustration of people who had had little voice - such as area homemakers and a Black union member, who in poignant terms, described his hopes for his son and his son's son with whom he wanted to enjoy fishing.

Only one hearing was less than a success, and that was one called by Rep. Sackett and Senator Stamm at Kalamazoo College. It was the only hearing held during the day and at a college. We had sent the students literature, but the students had just had a riot over the Vietnam War issue and their minds were evidently on that. (Testimony was taken in a room with broken windows.) The disappointing turnout evidently didn't sway Rep. Sackett. He was one of the five Republicans who didn't vote for a single weakening amendment when the bill finally came to the floor of the House.

Also, the hearing would have been worthwhile if only for Dr. C. T. (Ted) Black's testimony for the DNR. In an unequivocal statement of support, he said that the Department would support it even without those amendments the DNR had previously suggested.

If the students in Kalamazoo were disappointing, the students at Ann Arbor ("ENACT") and elsewhere made up for them. One of the finest coups of the legislative journey was pulled off by attorney Clan Crawford and Doug Scott, energetic and imaginative chairman of the University of Michigan's March Earth Day Activities. In a late-night stroke of genius, they sent Attorney General Frank Kelley a telegram requesting his presence at the Teach-in to "explain his opposition to the bill." On March 11, the Attorney General replied by letter that other commitments prevented his attendance, but

/ would appreciate your putting the record straight on my views concerning House Bill

3055. I favor the passage of that bill.... In the past, attorneys on my staff who represent various agencies of the government affected by this bill, such as the Natural Resources Department and the Department of Agriculture, have expressed the need for certain amendments to the bill. Their reservations resulted in the issuance of a bill analysis under the date of April 21, 1969, stating this office was opposed to this bill. This memorandum was in error since I have personally always supported this type of legislation and continue to do so.

Thus Doug and ENACT had put a formidable obstacle - an unfavorable analysis from the Attorney General's office - to rest. When the Attorney General's early analysis was later brought up as an argument against the bill, we reprinted his letter and distributed it to the legislators.

The Conservation and Recreation committee began to meet regarding the bill. A new hero emerged: Dr. William Pierce, who had surprised us with his articulate support at the first hearing. After the Lansing hearing, Dr. Pierce had agreed to Joe Sax's request that he act as advisor to Rep. Anderson when Joe was in Washington. Dr. Pierce would analyze suggested changes and make his recommendations to the committee.

All of us know that we had an extremely important ally in Dr. Pierce, who helped convince the committee that the bill wasn't just a wild attempt at conservation legislation, and who added validity and impressiveness to the entire undertaking. He returned at the request of the committee week after week.

In the meantime, Peter Steketee, two members of the League of Women Voters, and I met with Sen. VanderLaan, the Chamber of Commerce representative, and the governor's legal advisor, Joseph Thibedeau; as well as with the Senate Conservation and Tourist Industry committee chairman, Gordon Rockwell. Senator VanderLaan had arranged the meeting so we could discuss our differences. The chamber thought we were being unduly hard on industry in Michigan. We countered that industrialists themselves wanted a clean environment, and would be able to use the courts to

ensure that their competition was doing as well as they were. Sen. VanderLaan then introduced us to Sen. Richardson, whose Senate Judiciary Committee held the identical Sax bill as introduced by Senators Levin and Bursely (S. 1269, though the Senate number was later dropped and the House number 3055 used). Sen. Richardson discussed the bill with us at length and sent us on our way with a cheerful, "Tell Sen. VanderLaan I say he'd better back this bill..."

Important things began to happen in the House committee. Each time it met, members of the "coalition" and other members of the West Michigan Environmental Action Council (we made sure they represented a variety of organizations) sat in on meetings. Events were moving quickly. The Chamber of Commerce and the other lobbyists made pleas for crippling changes; Dr. Pierce went through the Chamber arguments and challenged them point by point in what our members felt was brilliant rebuttal. His appearance was of special significance. Not only did he demolish the Chamber arguments, but he simply impressed the committee by his presence; his father had died that morning, and he interrupted his mourning to appear.

Young Joe Thibedeau had presented his criticisms of the bill in writing. Chairman Goemaere sent it to Peter Steketee for analysis. Peter replied with a strong rebuttal to Thibedeau's arguments, which contained many false assumptions that continually plagued supporters of the bill. The governor was not always well served by him. However, in the next week, at the governor's direction, Thibedeau was in constant touch with both Dr. Pierce and Sax in Washington, and Anderson. By the following week, Thibedeau was armed with a slightly revised version of the bill.

The committee met that following week, March 18. Again, a nervous group of citizens watched. We sat around the edge of the room, feeling that this must be the day.

Rep. Anderson passed out a page of suggested amendments. Joe Thibedeau arrived and passed out the "substitute bill." Dr. Pierce entered and was handed the substitute to readjust before the meeting began. All committee members were in attendance and were supposedly new to the substitute bill.

After a few remarks, Rep. Anderson asked Dr. Pierce if Joe's substitute was satisfactory. Dr. Pierce appeared distraught, but whether this was because of the suddenness of the change, the sad personal events of the week, or the bill itself, we were unsure. In any case, we were caught by surprise. The committee asked very few questions. Rep. Davis cheerfully wanted to know if the Chamber was satisfied, because "if it is, there is something wrong with the bill." No answer. Without even discussing Rep. Anderson's amendments, the committee voted to pass the substitute bill - the Sax bill as rewritten by Thibedeau. It had been slightly shortened and clarified, though with some confusing wording creeping in and a soon-to-be-controversial word added. Only Rep. Goemaere protested and voted against it. He said none of the opposition was there - he smelled a rat - something was wrong, and he hadn't had a chance to check the bill carefully enough. He didn't want to look silly on the floor of the House if he decided to oppose something there. The one word that made a difference, added to define pollution, impairment and destruction, was "unreasonable." Rep. Anderson seemed relieved and said that this was a reasonable change and would placate industry. We all were relieved, but a bit concerned at the ease of the passage. I rushed to Peter Steketee's office in Grand Rapids to show him the bill.

He looked through it and immediately caught a couple of poorly worded phrases and called Joe Sax. Sax agreed with Peter and said he thought that Thibedeau had merely mistaken some advice he had given him, and it could be easily changed. No problem. As for the word "unreasonable," both men felt that it was not a seriously harmful word since the question would be part of a determination anyway. Because of the quick acceptance by the committee, we all felt that there was no use fighting it, and that without a fight, the word would not have great significance.

The "coalition" met, though MUCC couldn't attend. Olga Madar presided, and Gus Scholle came for the AFL-CIO. Everyone's attorneys, it seemed, felt that the word was no great worry and we agreed not to fight it.

And then a bomb exploded. MUCC, long harassed by the word "willful" in the Water Resources Act, which determined the type of pollution that could be prosecuted, decided that here was another loophole word. Industry would have too good an out, and the word simply could not be countenanced. Rep. Goemaere, a politician to his toes (and a keen conservationist), decided that this was a political issue. The Republicans had sneaked in the word, and the Democrats should take it out. The rest of us were in a quandary. MUCC had supported the bill from the first hearing and had done an excellent job of keeping its members informed through lengthy articles in its monthly magazine. Nevertheless, it had never held much hope for its passage, and we were distressed that now it was simply adding a negative reaction to a good bill that we felt could pass.

The National Wildlife Conference was held in Washington, and Rep. Goemaere, Rep. Anderson, Sen Rockwell, Joe Thibedeau and Jim Rouman (MUCC) all took this opportunity to meet with Joe Sax in Washington to discuss the bill. Sax agreed with Jim Rouman and MUCC that the bill would be even better without the confusion of the word "unreasonable" and that "if you think you can get it passed without it, all for the good, but it is still a very strong bill with the word in."

Earlier, our council had sat down with our area legislators to discuss the bill and to tell them we supported it as now passed by the House committee with the word "unreasonable" included. A week later, I called the legislators to inform them that we had reconsidered and now opposed the word "unreasonable" and hoped that they would vote against it. Our position had hardened because we finally felt we had no choice; once the word was given significance in the history of the legislation, it would be given more significance in the courts. If the governor was confused at our reaction, he was justified. Earlier, I had told him directly, "we don't like the word, but we accept it as being a question that will be part of the court decision anyway."

All the organizations were now sending hurried new messages to the Representatives. We sent every Representative a packet of information: the bill, the explanation, the "answers to questions commonly

asked," and a letter urging support, but without the word unreasonable. ENACT put together a coalition of 13 college groups in the state, and on the day of the vote in the House, Rep. Payant showed me his impressive file folder (frantically put together by Doug Scott late the night before) given him by the student groups with a "Give Earth a Chance" button attached to the cover and good information inside. There was no doubt in the legislators' minds that citizens knew this bill well.

On the night of April 20 the vote began. Members of the various supporting organizations watched nervously. Some Republicans tried to force the vote on the amendment to remove the "unreasonable" wording because they saw that the Democrats didn't have enough votes. With the help of other Republicans, the vote was delayed until the next day. Representatives also tried to pass an amendment allowing a judge to impose a bond of unlimited amount on a plaintiff. This disastrous amendment was defeated. The evening's session ended and frustrated observers had to return or send substitutes the next day.

The following afternoon, a small group of supporters gathered again in the gallery. The parties had caucused. We heard through the grapevine that the Republicans would vote in a body against the amendment offered by Rep. Anderson to take out the word unreasonable. It had become a political issue, with each side angry at the other for supposed treachery.

Before that issue was taken up, an even more serious one was tackled. Rep. Geerlings (from the very polluted Muskegon area) offered an amendment that would tie the bill down to the standards that already existed at the time of a suit. So no matter how bad the standards, a suit could not raise them. This horrifying amendment was voted down 57 to 28.

Then, the amendment to remove the word unreasonable came up for a vote. Rep. Kok agonized over his vote while his former Grand Rapids secretary, Katherine Stilwell, a quiet, unassuming person who had merely intended to come with me to show support, got him off the floor and told him in strongest terms how he should vote. We learned later that the State Chamber of

Commerce was phoning legislators at their desks moments before the vote

By the exact vote required, five Republicans (including Rep. Kok) voted with all the Democrats, and the bill was amended back to its original, strongest meaning without the word "unreasonable."

MUCC, of course, deserves full credit for raising the issue, making the whole vote possible and paving the way for a really strong bill. The hue and cry raised over the one word brought home to the legislators even more forcefully that the citizens were carefully watching the bill and knew what was going on.

A lesson should be learned from this. To raise such an issue demands that you must succeed. In this case, success came by the exact number of votes required to make the proposed change. That was too close for comfort. If Peter Kok's former secretary, for instance, hadn't decided to go with us at the last minute, and if she hadn't used all her persuasive powers, Rep. Kok might not have voted to make the change, and the change would not have been passed.

If we had not succeeded, the word "unreasonable" would have probably been given undue emphasis. In view of the success, we are glad the hue and cry was raised.

Another amendment was offered to permit a bond for \$300 on the plaintiff, and this passed with no legislative or public objection. The Senate later raised the amount to \$500.

On Tuesday, April 22, after rejecting all weakening amendments, the House overwhelmingly passed the Thomas J. Anderson Environmental Protection Act of 1970. Only three legislators voted against passage. Joe Thibedeau, in consultation with Joe Sax and Prof. Pierce, had slightly clarified and reworded it, and the House had rejected all weakening amendments. On April 21, the day before Earth Day, the bill went to the Senate with its original intent totally intact.

PASSAGE THROUGH THE SENATE

MUCC and some House Representatives had told us that the Senate would be our downfall. The rest of us lacked enough experience to be daunted and rushed on more determined than ever. MUCC,

of course, never quit either, and its experience and skepticism ensured that we never relaxed.

The Environmental Action Council had been sending out letters to its members and to anyone who showed an interest - that is, if they called, wrote to us, or sent an environmental letter to the editor, they were put on our mailing list. Each time a change took place, we sent out a new letter urging that they contact their legislators, organizations, etc. Our new letter mentioned amendments that might be included (such as those tried in the House), and we urged citizen opposition to them. But the Senate Conservation and Tourist Industry Committee did not meet to discuss the bill, so nothing much happened.

Kathy Bjerke - as she had done in the House — went to each committee member to find out objections and to get the feel of the committee. She found that only Sander Levin was wholeheartedly in support of the bill, with Senators Lodge and Bouwsma raising many objections and committee chairman Senator Rockwell hedging.

Peter Steketee and I visited the senators and had breakfast in Lansing twice with them. Our first breakfast was very interesting. In an attempt to show the legislators strong home support, I invited the UAW to send a Flint representative (for Sen. Rockwell) and called James Stariha, attorney, and Dr. William Jackson, chemical company president, to ask them to represent Muskegon (for Sen. Bouwsma). Sen. Bouwsma sent word that he had gone home overnight, though Dr. Jackson hadn't been able to reach him the night before. Dr. Jackson had gotten up before five to come to the breakfast. Both Jim Stariha and Bill Jackson were impressive. Jim confirmed and further explained Peter's positions, and Bill tried to impress upon Sen. Rockwell that it is not unreasonable to expect industry to have to clean up its effluent as part of doing business. Senators Lodge and Levin attended, but their positions (against and for) were already quite well defined. (Although I think - in the last analysis - it was citizen pressure that determined the votes, I'm sure that the hearings and conversations throughout these months did help change general attitudes of legislators and especially the governor's. He showed great courage

in the face of tremendous pressures.)

Three weeks went by and no committee meetings on the bill had been held in the Senate. Rockwell reminded us that it had been in the House for a year, and we ought to be a little patient. But the session was nearing recess and our patience had run out.

Citizen support continued to build. Even the Grand Rapids Junior League, at Gwen Hibbard's urging, studied the bill. During an evening of discussion with new majority leader Senator VanderLaan, the League proved just how informed they were - correcting him when he misinterpreted it, pointing out that they had been to a committee meeting where something had been explained, etc. There was no question about how closely his constituents were paying attention. Shortly afterward, the Senator issued a press release stating that he would support the bill as passed by the House. Later, the Young Republicans of Kent County came out in support, as did the Young Lawyers of the Michigan Bar Association.

Another hero emerged. Frank Mainville (outdoor and environmental writer for the *Lansing Journal*) discovered that an agriculture committee had invited only pro-pesticide persons to attend a hearing on pesticides. He wrote a scathing article and then told Senator Rockwell that if he didn't want the same kind of treatment, he had better hold a public hearing. Rockwell responded by calling a hearing less than a week away. The UAW's Martha Reynolds alerted us. We had even less time than usual to inform the bill's friends — most people heard about it only the day before the May 12 hearing.

We were concerned that the short notice meant we could never fill the auditorium. As usual, we shouldn't have worried. I called Audubon's Joan Brigham and she spread the word in Lansing. The UAW contacted the Detroit office and Charlene Knight arranged for busses to bring concerned people from the Downriver Anti-Pollution League. How the word spread so fast, I don't know, but besides the people we had gotten out to testify, there were the many citizens from Lansing and Detroit to swell the crowd.

The hearing was a dramatic event. It started

smoothly with an overview by Rep. Anderson, followed by new and old faces supporting the bill. Bob Hire spoke on behalf of his local and Michigan Izak Walton Leagues; representatives of Michigan Trout Unlimited and other conservation organizations also spoke. And Gus Scholle gave a forceful and heartfelt presentation as president of the AFL-CIO.

On the opposite side, the agriculture community strongly opposed the bill, fearing litigation against the use of pesticides. However, Dr. Howard Tanner responded for the ecological point of view and past experience. Helen Tanner was there on behalf of the Lansing chapter of the Association of University Women. Students from Michigan State and the University of Michigan testified, with the persuasive Roger Conner impressing Senator Basil Brown so much that, thereafter, Brown maintained close contact with the Environmental Law Society. The students may have been a very important factor in changing the course of the bill.

As testimony went on, the evening became eventful and emotionally charged, though the audience remained remarkably stable. Senator Lodge lunged across table and chairs and heckled speakers. One political scientist, giving a scholarly discussion of the need for citizens to have legitimate relief from unfair practices so that they would not vent their frustrations in revolution, was suddenly accused by Senator Lodge of threatening the legislators. A gasp of dismay at the unfair charge brought Senator Lodge's thundering accusation that we were about to start a riot! The audience, shocked beyond belief and imagining headlines destructive to the bill, sat back almost afraid to breathe. Later, a young minister's wife from one of Detroit's southwest suburbs told the Senators that if they wanted respect, they should act accordingly.

Equally dramatic was the testimony of Paul Herbert, past president of MUCC. Clutching heart pills in one hand, he launched into an articulate and emotional accounting of why citizens were frustrated, the rape of the land, and why we needed HB 3055. Again we held our breath, unsure throughout his impassioned testimony that he would be able to finish.

Several citizens from the Downriver group testified, and their straightforward accounts of life in a polluted city were poignant, and to us, effective. One mother talked about her children who could not play outdoors in the polluted air; another talked of painting and repainting his house until he put on aluminum siding, which was destroyed within two years by corrosive air pollutants. Black and white citizens were present to testify.

Russell DuBuis, who had diligently gone through the Jaycee legislative process to win final statewide Jaycee support for HB 3055, spoke for the Jaycees in his usual direct and forceful style. He ended his testimony by asking where the opposition was. It was a pertinent question.

The following day Sheila Faunce and Winnie Reece (from the League of Women Voters), Dr. Black from the DNR, Jim Rouman from MUCC, and I attended the committee meeting which was, we had discovered, finally going to discuss the bill. There we found the answer to Russ DuBuis' question. Evidently, the lobbyists still didn't want to identify their organizations, so about 40 of them watched as the Michigan Farm Bureau, Michigan Manufacturers' Association, and the Michigan State Chamber of Commerce presented their views.

The Farm Bureau suggested that if a plaintiff lost his case, he should pay double costs, damages, etc. The Chamber echoed the others' request that the word "unreasonable" be returned to the bill and made other suggestions, and finally, the Michigan Manufacturers' Association suggested that a little word "and" be changed to the word "or." As written, the defendant's affirmative defense was that he had "no feasible and prudent alternative AND that such conduct is consistent with the promotion of the public health, safety and welfare in light of the state's paramount concern for the protection of its natural resources." The second phrase following the AND merely means that the polluting defendant must be engaged in a useful activity - not, for instance, making buggy whips or plastic Mickey Mouse pillows. With the Michigan Manufacturers' Association change, the defendant wouldn't have to show that he had no reasonable alternative; he would only have to prove that he was doing something useful!

Sheila testified briefly afterwards. I had taken copious notes and intended to rebut the lobbyists' testimony, but I felt that it was so patently bad that the legislators wouldn't dare make such changes. I was wrong!

The following week the bill was finally reported out of committee. Sheila called to tell me about it. I asked her to quote me each change and thereupon learned how bad things were. It was easy to miss the significance of what seemed like minor wording: just *and* to *or*]

Both League women had overheard much of the conversation through the committee door and got a special and important insight into what was happening. The lobbyist for the MMA was also listening nearby, giving every indication he knew how the committee would eventually act. Senator Levin and the other legislators were inside shouting at each other, Winnie reported.

The committee had indeed changed the word *and* to *or*. It also added a phrase making the doctrine of collateral estoppel too definite; the change could perhaps be interpreted by the courts to mean that a suit similar to one once tried could not be tried again. Basil Brown had introduced all the changes in the committee. Only Sander Levin opposed them.

Whether Senator Brown had a change of heart due to citizen outrage and pressure, or - as we suspect — his changes were a device to get the bill out of committee, we have no way of knowing. In any case, he almost immediately went into conference with the University of Michigan Environmental Law Society students, to reword the changes and amend the committee-passed bill on the floor. Interestingly, no senator tried to reinsert the word "unreasonable." It had become too hot a political issue. Now we had to do the same with the word "or" - a less clear-cut issue for the public to understand.

A call to Joseph Sax had confirmed the significance of the *and/or* change, and Peter Steketee and Joe were also concerned about the collateral estoppel clause. Hence, once more we concentrated on ways to get to all the legislators. The day after the committee reported out the bill, Mary Swain left her preparations for her daughter's

evening graduation and dashed to Lansing with WMEAC's urgent new letter to each Senator. Tom Washington from MUCC (Jim Rouman was now in the hospital, seriously stricken) was knocking on legislators' doors. The UAW was in action shortly after.

For the umpteenth time, I called organizations around the state to alert them to what had happened, and we sent out an "EMERGENCY" letter to our mailing list across the state explicitly telling of the changes and how to help. We also sent another letter to the Senators, this time outlining both the committee changes we opposed and also a number of other changes we knew might well come up on the floor.

When no reaction seemed to be heard from the Senators, I called the "coalition" and received their support for a joint news release, which urged Senate support of an "unweakened bill" such as was passed in the House. The news release named the PTA Council, the Jaycees, League of Women Voters, MUCC, UAW, AFL-CIO, Michigan Sierra Club, and WMEAC. It went over the AP wire and received good coverage.

These weeks were frustrating and eventful. Friendly legislators called with frightening rumors; the bill had been sent to the appropriations committee to be killed; the bill was going to pass the Senate as reported out of committee, and they would wait until after the primary elections so that the heat would be off. Letters and wires flew.

Peter Steketee called Senator VanderLaan, who calmly assured us that the bill had not been sent to Appropriations and that, yes, the committee changes were a "mistake," and that Senator Rockwell would lead the move to change the bill back into shape on the floor.

On June 18th, I left on our family vacation, almost in nervous collapse. On the 20th, Joe Sax returned to Michigan.

The week of the 21st brought more rumors, including the news that the bill would be on the floor for action, so each day citizens filed into the Senate gallery to watch. Joe Sax; Peter; Rep. Kok's persuasive secretary; the Ann Arbor contingent; and the League of Women Voters returned day after day. By Thursday, the bill had still not come to the

floor, and rumors again circulated that the Senators would wait until after the August primary election. Completely losing patience, Peter, who was by then our new chairman, and I (communicating by long distance telephone) decided WMEAC should send wires to every single senator, threatening strong citizen reaction if they waited. Peter urged the Jaycees to do the same, which they did. MUCC and the UAW, I understand, were also forceful.

Finally, on Friday, June 26th, 1970, the last day of the legislative session before recess for the primary, the bill went onto the Senate floor. Many of the same citizens were back to watch: Peter (reportedly looking haggard after many sleepless nights), students from Michigan and Michigan State, the League of Women Voters, the PTA, and many other people who had worked and worried for so many months. Joe Sax unfortunately couldn't make it for the final day. And I was still stewing on vacation.

The bill passed in beautiful shape, as if there had been no opposition at all. Senator Brown explained the intricacies of the law and moved to amend the committee changes to put the bill back into proper shape. Senator Rockwell praised Senator Brown's intelligence and backed the amendment. Senator Lodge made a lovely speech in praise of the bill, and Senator Levin gave his usual keen analysis and support.

Amendments were made, and the bill, if anything, became stronger than ever. Passage quickly followed. Again, there were only three votes in opposition.

Reps. Goemaere and Anderson, watching closely, checked with conservationists to make sure that the few changes made were agreeable. Assured, they moved to dispense with a conference committee to compromise the differences between the House and Senate versions, and instead brought the Senate version right back to the House for a vote. The House approved the Senate version, and House Bill 3055 was enrolled for the governor's signature.

On July 27, in an official office ceremony suggested by Rep. Anderson, Governor Milliken signed what had now been named by the Senate, "The Thomas J. Anderson, Gordon Rockwell

Environmental Protection Act of 1970."

Before and after the House vote, Governor Milliken had called for this legislation in practically every public speech he had made. He, too, was of tremendous importance in the legislative journey. Many, many people played a vital part before the bill's final enactment.

THE LESSONS WE LEARNED

After enactment of Michigan's Environmental Protection Act, several important environmental Acts passed in rapid succession. Citizens had created a momentum, and legislators had learned that environmental protection was important to more than "just" the traditional environmental activists. More importantly, all the leaders of that ensuing legislation used the lessons of MEPA's success. The ingredients of success are obvious as one reads the history of MEPA and the Inland Lakes and Streams Act. Certainly one ingredient is to disseminate information (including answers to questions) to as many people as possible, including friends in the media, and to keep in touch personally as much as possible.

Two ingredients may not be obvious. One is the importance of a coalition agreeing on one priority at a time, and the other is to persist - persist until the ink is dry.

But the lesson I want most to emphasize is the need for the leader/coordinator to reach out and *actively encourage* a diverse spectrum of individuals and groups to adopt the issue as their own and take some initiative, so that information and work are shared and grow at an exponential pace, and imaginative ideas and help that can make a pivotal difference are more likely to happen.

Think of the woman who went to Lansing just to help swell the crowd, and ended up persuading Peter Kok to vote for a crucial amendment that passed by ONE vote. Think of the creative idea and initiative by two Earth Day leaders that, when publicized at a pivotal point, defused a powerful report from the Attorney General's office. Think of the parts so many individuals played.

In summary, I go back to the quotes that preceded this account: To me the greatest lesson is: "None of us is as smart as all of us," and "Nothing we do can be accomplished alone." »