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Testimony in Support of Sections of LD 1823

LD 1823, An Act to Respect and Protect the Right to Food

Before the Joint Standing Committee on Agriculture, Conservation and Forestry

Presented by David Trahan, Executive Director of the SAM-Institute for
Legislative Action

Wednesday, May 10th, 2023

~~Senator Brenner, Representative Gramlich, members of the Environment and
Natural Resource Committee,~~ my name is David Trahan, representing the
Sportsman's Alliance of Maine, Institute for Legislative Action and I am testifying
in support of Sections 21, subsection 18-A and 29-A that clarifies the word "harvest
in the statute as it relates to the Right to Food Constitutional Amendment ratified
by the voters in 2021

We hold these rights to be self-evident, all men are created equal, that they are endowed by their creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness Governments are instituted among Men, deriving the powers from the consent of the governed Declaration of Independence, 1776

Everything you need to answer the question whether the Right to Food amendment included hunting is in those magnificent words generated from the hearts of our nation's first Americans. First, there is no life without food and water, that is why armies slaughtered Buffalo, pillaged crops or targeted food supply lines to defeat the enemy It is no coincidence Vladimir Putin tried to extort and starve the world into supporting his war in Ukraine by cutting wheat shipments from Ukraine Governments that control food, control life itself

American patriots knew it, they had just defeated a King that owned the wildlife In 1776, there were no game laws, no departments of government, no hunting licenses Any citizen in America could take wildlife with no limit, for food or commercial sale

The state did not become a state until 1820 and the Department of Inland Fisheries and Wildlife was created in 1880, 104 years after the Declaration of Independence Yes, the state can regulate the taking of wildlife, but responsibility for managing the wildlife is the duty of every citizen and the power to regulate is granted to the agencies by the governed

The Sportsman's Alliance of Maine was a leading voice in passing the Right to Food Amendment, throughout the lawmaking process and advocacy for the amendment, hunting and foraging were part of the debate I have provided you a SAM position paper widely distributed before the referendum vote and a Kennebec Journal article that clearly explains each component of the debate from various special interests that debated whether hunting was part of the amendment

The reason this statute is being proposed is because our Attorney General is involved in a Sunday Hunting lawsuit and is arguing that hunting is not part of the RTF amendment A legal argument does not make it so We would not be here if government, the Attorney General, wasn't staking the state's claim that the state owns the wildlife, not the people The state has the authority to regulate, that power is granted by the people We should not have to clarify "harvest" in the amendment includes hunting That was settled in the legislative process and in the

referendum debate Opponents of this clarification will use the same arguments today that failed in 2021

If you buy this Attorney General's argument and reject this clarification, it will have profound implications First, the King, our government, will own the wildlife once again Second, you will nullify the will of the people when they passed the RTF amendment when they clearly knew hunting was a part of the amendment, and finally, you will reinforce the power of government to control an important source of food and deny every Mainer's right to Life, in addition, you will gut the RTF amendment to the right to have a garden on your own property and the right to shop at Hannaford I remind you of the phrase, "we find these rights to be self-evident, all men are created equal, that they are endowed by their creator " Government is not our creator and no government can take any person's right to life.

Posted December 8, 2021

David Trahan: Question 3 gives us the right to hunt – and to a vegan diet

Maine passed a landmark law Nov 2 that will keep extreme animal-rights groups at bay

BY DAVID TRAHAN

In early October, I received an email invitation from the Maine Farm Bureau to join a call with their special guest, Wayne Pacelle, to strategize opposition to Question 3, the Right to Food constitutional amendment that was on the ballot this fall

For those who know the name Wayne Pacelle, you can imagine my surprise to see his name on any political effort in Maine. Pacelle was the director of the Humane Society of the United States during the last Maine bear-hunting referendum and since lost his job under the cloud of scandal. Like a bad penny, he was back, and the organization he represents had a new name, the Animal Wellness Action. Most people will never know that he and AWA funded the lion's share of the "No on 3" opposition to the "Right to Food" amendment. (Full disclosure, The organization I work for, the Sportsman's Alliance of Maine, ILA, supported Question 3)

Here is the wording of the amendment "Section 25 Right to Food All individuals have a natural, inherent and unalienable right to food, including the right to save and exchange seeds and the right to grow, raise, harvest, produce and consume the food of their own choosing for their own nourishment, sustenance, bodily health and well-being, as long as an individual does not commit trespassing, theft,

poaching or other abuses of private property rights, public lands or natural resources in the harvesting, production or acquisition of food ”

The key word for sportsmen and women in the new amendment, is “harvest ” Animal rights groups know the word “harvest” — it is defined in Maine law several times to mean various types of hunting, fishing and foraging The passage of Question 3 could spell disaster for the animal rights cause championed by Pacelle and AWA

In testimony presented Feb 23 to the Committee on Agriculture, Conservation and Forestry on behalf of the Humane Society of the United States regarding what would become Question 3, Katie Hansberry said, “the term ‘harvest’ is frequently used to describe the killing of wildlife through regulated hunting Putting a right to hunt in Maine’s Constitution, something that has been attempted and failed several times, is unnecessary ”

The group “Animal Rights Maine” was very clear in their testimony “codifying hunting, farming, and fishing rights in our Constitution would render all future efforts to improve our relevant state laws a Constitutional matter, with much higher thresholds to meet to pass improvements in law ”Exactly! Animal rights activists will find it far more difficult to push their extreme agendas in Maine

After presenting her initial concerns with the “Right to Food Amendment” Hansberry asked the legislative committee to accept an amendment striking the words “raise, harvest sustenance and harvesting” and added legal wording to place animal welfare protections into the amendment Had the committee accepted her amendment, it would have guaranteed the right to a vegan

diet and placed animal rights protection into a constitution meant to establish human rights I will let you chew on that for a while

The sponsor of the Right to Food resolution, Rep Billy Bob Faulkingham, reinforced the fact that “harvest” meant hunting and fishing in his floor speech in the House of Representatives and furthermore, because the Agriculture, Conservation and Forestry Committee and the Maine Legislature rejected the opposition’s arguments and pleas to remove any reference to “harvest” and, because the amendment contains other hunting- and fishing-related words such as trespassing, poaching, natural resources and harvesting, the legal consequences are now profound

The animal rights activists knew if Maine people approved Question 3 and placed it in the Maine Constitution, it would establish legislative intent and legal standing for a lawsuit in the future to reject or overturn any future attempt to ban a certain type of hunting

While Mainers were consumed by the Central Maine Power corridor issue, also on the ballot in 2021, something special happened and few know of its relevance Maine passed a first-in-the-nation, hybrid, far-superior version of the right to hunt and fish amendment Maine’s version, (23 states have the right to hunt and fish) establishes a personal choice for all forms of legally acceptable food sources, including the right to vegan diet, “right to save and exchange seeds and the right to grow, raise, harvest, produce and consume the food of their own choosing for their own nourishment, sustenance, bodily health and well-being ”

Vegans in Maine should celebrate along with those that make wild food sources a part of their diet

Question 3 is not absolute, just like all the constitutional amendments that make up the state and federal constitutions. State game departments and the Legislature will still have statutory and regulatory authority over wildlife, foraging, the humane treatment of animals, seeds and protecting natural resources, as no right is absolute

What the Legislature or regulators can't do, now that Question 3 has passed, is take that right away altogether

David Trahan of Waldoboro, a former state legislator, is executive director of the Sportsman's Alliance of Maine. This column does not necessarily reflect the opinion of that organization.

10/19/21

Sportsman's Alliance of Maine Institute for Legislative Action Endorses Question 3, Right to Food Constitutional Amendment. Referendum Vote November 2nd, 2021

Prepared by David Trahan,
SAM ILA Executive Director

Question 3 Could Impact Sportsmen and Women by Establishing Reasonable Boundaries Protecting us from Animal Rights Activists and Unaccountable Government Regulators

In early October, I received an e-mail invitation from the Maine Farm Bureau to join a call with their special guest, Wayne Pacelle, to strategize opposition to Question 3, the Right to Food proposal on the ballot this fall. For those who know the name Wayne Pacelle, you can imagine my surprise to see his name alongside the Maine Farm Bureau. Just a few weeks ago, and under intense pressure, the Maine Farm Bureau was forced to sever relations with Pacelle.

Wayne Pacelle is the most radical anti-hunting animal rights activist in America. He was the Director of the Humane Society of the United States when we fought the last Bear Referendum. Under several allegations of wrong doing, Mr. Pacelle was forced to resign his job at HSUS and is now working for, and created the new, Animal Wellness Action organization <https://protecttheharvest.com/news/animal-wellness-action-animal-extremist-group-founded-by-wayne-pacelle/>

Here is the wording of the amendment: **"Section 25. Right to Food. All individuals have a natural, inherent and unalienable right to food, including the right to save and exchange seeds and the right to grow, raise, harvest produce and consume the food of their own choosing for their own nourishment, sustenance, bodily health and well-being, as long as an individual does not commit trespassing, theft, poaching or other abuses of private property rights, public lands or natural resources in the harvesting, production or acquisition of food."**

The key word for us in the proposed amendment, question 3, is "Harvest." Animal rights groups know the word harvest—it is defined in Maine law several times to mean various types of hunting, fishing and foraging—could spell disaster for their cause. They are correct to be concerned.

The sponsors and supporters of the amendment clearly viewed "harvest" to mean hunting and fishing in their testimony and debate. The animal rights activists know if Maine people approve and place question 3 language in the Maine Constitution, it could establish intent and the standing for a lawsuit in the future to reject or overturn a future HSUS-backed law or a referendum to ban a certain type of hunting, etc.

We agree, as 23 states currently have the right to hunt and fish (harvest), in their Constitution. We, and the lawyers we have consulted, agree the language in question 3 could have the same effect as Right to Hunt and Fish amendments do in 23 states.

Question 3 is not absolute, just like all the Constitutional Amendments that make up the state and federal Constitutions. If Question 3 passes, state Game Departments and the

Provided by SAM ILA

Legislature will still have statutory and regulatory authority over wildlife, foraging, humane treatment of animals, seeds and all other resources The most important thing Question 3 will do is essentially stop animal rights groups from trying to ban certain forms of hunting altogether and codify the right to personal dietary choices for persons in Maine

Several organizations are partnering to kill Question 3, the Right to Food The Maine Farm Bureau, Humane Society of the United States, Maine Municipal Association and Maine Veterinary Medical Association are the most prominent Their claims and reasons to defeat Question 3 are exaggerations and some plainly misleading

I will address each, as they are laid out in this Humane Society "so-called" fact sheet https://aaf1a18515da0e792f78-c27fdabe952dfc357fe25ebf5c8897ee.ssl.cf5.rackcdn.com/2253/Factsheet+-+Maine+Right+to+Food+Ques+3.pdf?v=1634133130000&fbclid=IwAR3Wi1pbCGEDInEPmAMM-U_PsQrefL2OnF4C2pAtnT8edaSaKDjZ70tVc6l

Claim- Cruelty Laws undermined,

"Due to the glaring omission of animal cruelty in the list of limitations Maine's animals could be deprived of even minimal protections"

This claim is fear mongering and completely false Constitutional Amendments are always intentionally broad They establish the rights of individuals, that are born in our state, and then guaranteed in the Constitution These rights are absolute only in the sense that they are the enumerated rights of all citizens and therefore the Legislature can't ban them completely But the government can still pass laws and regulations restricting each amendment This National Geographic article sums in up nicely,

The role of the state and federal governments

"These limited powers are set forth as what are termed "enumerated powers" in Article I, Section 8 of the Constitution These enumerated powers include, among other things, the power to levy taxes, regulate commerce, establish a uniform law of naturalization, establish federal courts (subordinate to the Supreme Court), establish and maintain a military, and declare war

In addition, the Necessary and Proper Clause has been interpreted by the Supreme Court to define "implied powers," those which are necessary to carry out those powers enumerated in the Constitution In McCulloch v Maryland, Justice John Marshall set forth the doctrine of implied powers, stating, that a government entrusted with great powers must also be entrusted with the power to execute them "

<https://www.nationalgeographic.org/article/roles-state-and-federal-governments/>

All state laws currently on the books to address animal cruelty will remain on the books In the future, the Legislature and other regulatory bodies will still have the power to pass laws and regulations protecting animals from cruelty

The amendment grants two rights related to seeds and **"grow, raise, harvest produce and consume the food of their own choosing"** and then the amendment limits these new rights with this line, **"as long as an individual does not commit trespassing, theft, poaching or other abuses of private property rights, public lands or natural resources in the harvesting, production or acquisition of food."**

The amendment does not have to speak to how people raise and treat animals because those animal welfare laws already exist. And animals are also considered private property and the amendment makes it clear that abuse of private property is not allowed.

The No on 3 campaign claims “Question 3 will lead to litigation.” That may be said to be true of all Constitutional freedoms. What is established in Question 3 is the explicit enumeration of a protected right to food, subject to reasonable laws and regulation, like any other right.

Claim “Dogs, cats and horses also at risk”

“The, “consume the food of their own choosing” phrase is so broad that it could open the door to eating any animal.”

This claim is again, false and deceptive. If this amendment passes, a person can't kill and eat endangered species like the California Condor because they are protected by federal law. Any laws on the books will still be in effect. Just like the Bald Eagle, that is no longer an Endangered Species, it is still protected by federal law. So are horses, dogs and cats, they are banned by federal law, from slaughter and consumption. Ironically, in both instances when federal laws were passed protecting horses and pets, (during the Trump Administration), the No on 3 groups were active participants in those debates.

Past supporters of continuing the practice of slaughtering and consuming horses were the Farm Bureaus and the American Veterinary Medical Association. The Humane Society of the United States was opposed to the slaughter and consumption of horses and ultimately won the debate. The opponents of Question 3, Farm Bureau and American Veterinary Medical Association can explain their conflicting past positions in support of slaughtering and consuming horses and why they knowingly misled Mainers into believing they are now against it.

Regardless, I am positive Maine people would support bans on the slaughter and consumption of Fluffy the cat, Mack the Labrador and Nellie the Pony.

<https://www.wrdw.com/content/news/President-Trump-Signs-the-Farm-Bill-Making-Dog-and-Cat-Meat-Illegal-in-the-United-States-503308841.html>

<https://www.usatoday.com/story/news/politics/2018/03/26/ban-slaughtering-horses-meat-gets-last-minute-renewal-spending-law-trump-signed/459076002/>

<https://www.farmanddairy.com/news/farm-bureau-blasts-horse-slaughter-ban/427.html>

<https://www.usatoday.com/story/news/politics/2018/03/26/ban-slaughtering-horses-meat-gets-last-minute-renewal-spending-law-trump-signed/459076002/>

“However, the American Veterinary Medical Association does not support the ban, saying it is worried what will happen to unwanted horses if they cannot be sold for meat.”

<https://www.foodsafetynews.com/2021/02/a-permanent-ban-on-horse-slaughter-might-replace-that-yearly-budget-proviso/>

[https://horseracingsense.com/why-dont-we-eat-horse-meat/# ~ text=Can%20you%20buy%20horse%20meat,sell%20horse%20meat%20into%20America](https://horseracingsense.com/why-dont-we-eat-horse-meat/#~:text=Can%20you%20buy%20horse%20meat,sell%20horse%20meat%20into%20America)

Claim “Doesn’t relieve hunger”

“The measure makes no provisions for providing more affordable food for low-income Maine residents ”

This claim is a deflection from the purpose of the amendment. There was no legislative record or intent to guarantee welfare food benefits to the poor. Even a cursory review of the record will show what sponsors of the amendment intended.

As more Americans move to urbanized cities, growing food, animal farming, foraging, hunting and fishing, are limited or banned by municipal ordinances, as a result, people rely on commercial farming for sustenance. As people learn what is in their food, like growth hormones, chemicals, etc., they make a conscious decision to seek what they believe to be healthier wild and organic foods.

In some parts of the world, U.S. beef and pork and other products grown in the United States are banned because of the chemicals and processes used to preserve meat and produce. <https://www.eatthis.com/american-foods-products-banned-in-other-countries/>

We are not making a judgment about the movement to seek an organic diet, but we understand and respect that choice. Commercial farming is crucial to feeding the world, without it, millions in third world countries would starve. We support all farming.

This is where the rubber hits the road on Question 3! The Humane Society of the United States and groups like those run by Wayne Pacelle want to end all use of animals in any of our products and diets. We understand and appreciate their position.

Less obvious is the opposition from the Farm Bureau and particularly, the Maine Municipal Association. I will give my perspective from twenty-five years in the political arena.

Maine Farm Bureau

Maine Farm Bureau is one of the state's leading advocates for pay-to-play and reverse posting. For the purposes of hunting, fishing and foraging, some members of Maine Farm Bureau have taken the public position at the statehouse, in testimony, that all activities associated with natural resources harvested on their property should be deemed illegal without written permission, (reverse posting) and that they be allowed to charge for those activities, (pay-to-play).

Taking property, whether grown by the farmer or growing naturally on private property, posted, “no trespassing” or not, is already considered theft by law. Anyone doing so should seek permission first.

Wildlife, water resources, fish and fowl are a different story. There are hundreds of years of historical law that establishes the Public Trust Doctrine. This is the short version and definition of the Public Trust Doctrine.

"The principle that certain natural and cultural resources are preserved for public use, and that the government owns and must protect and maintain these resources for the public's use"

Each and every Mainer owns the wildlife and waters and all the wildlife that roams the woods. We, (every person living as a resident of Maine and the USA) have a legal and historical obligation to manage our natural resources appropriately.

Through time, state departments like, Inland Fisheries and Wildlife, Marine Resources and the Department of Environmental Protection have been created to ensure these resources are protected and managed appropriately for future generations. Asking permission to hunt, fish and forage is always a good idea, but we must be clear: the wildlife, fish and fowl belong to all of us and must be managed appropriately.

https://www.law.cornell.edu/wex/public_trust_doctrine#~:text=Definition,resources%20for%20the%20public's%20use

Maine Municipal Association (MMA)

Sportsmen and women continue to come into conflict with the Maine Municipal Association and management of natural resources. I once battled the city of Randolph that wanted to charge property taxes on smelt shacks on the Kennebec River. We prevailed. Most recently, I asked the Inland Fisheries and Wildlife (IFW) to explore whether the City of Augusta exceeded their authority by passing an ordinance regulating the expanded archery deer hunting season. One of their rules required each archer to supply proof of written permission on every parcel of land they hunt in Augusta- a DE-facto back door reverse posting regulation for an entire municipality.

An initial review by IFW found over a dozen other municipalities with similar ordinances. Currently, the Attorney General's Office is reviewing these potentially illegal municipal ordinances and will make recommendations soon.

Our negative encounters with the MMA include attempts to pass shooting range ordinances that violate state laws and ignore existing statutory noise protections. Twice, we have had to pass state laws to protect ranges from municipal overreach.

The MMA likely views Question 3 as a limit to their power. Municipal Home Rule is codified in the Maine Constitution. What is not codified in the Maine Constitution is municipal regulation of wildlife and banning certain food from cultivation. If Question 3 passes, MMA can still encourage municipalities to pass ordinances that preserve public safety and public health. For example, they can draft a template ordinance that citizens within heavily populated areas cannot raise livestock where it is a public health risk. What municipalities won't be able to do is pass an ordinance that exceeds their Legislative authority, like, all citizens within their municipal boundaries cannot raise livestock because the residents of the town don't like cows, chickens or pigs. The role of the new amendment is to control government overreach by providing standing for citizens as a defense against the enforcement of a regulation or ordinance that they believe unreasonably infringes their individual rights. If such a case goes before a court, the court will decide the question on the law and the fact. This is not a new phenomenon, but how every law, rule or regulation is measured against a constitutional right.

The same is true of other activities like foraging, hunting and fishing. The Legislature can give authority to a town to regulate any activity, but the power must be granted by law. This amendment gives power to the people to choose an alternative lifestyle that includes living off

the land, **“as long as an individual does not commit trespassing, theft, poaching or other abuses of private property rights, public lands or natural resources in the harvesting, production or acquisition of food.”**

Sponsors of this amendment are decades ahead of the rest of the nation. Productive farm land is disappearing to be replaced by federal and state subsidized solar energy development. Off-shore, commercial wind power development is on the cusp of pushing fishermen off productive fishing grounds and sprawl threatens natural forests all over the world. Supporters of Question 3 are asking the voters to enshrine in the most fundamental form of law their right to make their own choices when feeding themselves and their families and is the very definition of personal liberty, especially in light of the fact that more of our food is coming from places like China.