

STATE OF MAINE  
SUPREME JUDICIAL COURT  
SITTING AS THE LAW COURT

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LAW COURT DOCKET NO. KEN-22-411

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VIRGINIA PARKER and JOEL PARKER  
*Plaintiffs-Appellants*

v.

JUDITH A. CAMUSO, COMMISSIONER OF THE  
MAINE DEPARTMENT OF INLAND FISHERIES AND WILDLIFE,  
*Defendant-Appellee*

---

On Appeal from a Judgement of the Superior Court  
Kennebec County, No. CV-2022-87

---

**APPENDIX**

March 16, 2023

Andrew Schmidt, Bar No. 5498  
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Borealis Law PLLC  
97 India Street  
Portland, ME 04101  
(207) 619-0320  
*Attorneys for Plaintiffs-Appellants*

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VIRGINIA PARKER - PLAINTIFF  
39 CHURCH ROAD  
READFIELD ME 04355

Attorney for: VIRGINIA PARKER  
ANDREW ARTHUR SCHMIDT - RETAINED  
04/27/2022  
ANDREW SCHMIDT LAW PLLC  
97 INDIA ST  
PORTLAND ME 04101

SUPERIOR COURT  
KENNEBEC, ss.  
Docket No AUGSC-CV-2022-00087

DOCKET RECORD

JOEL PARKER - PLAINTIFF  
39 CHURCH ROAD  
READFIELD ME 04355

Attorney for: JOEL PARKER  
ANDREW ARTHUR SCHMIDT - RETAINED  
04/27/2022  
ANDREW SCHMIDT LAW PLLC  
97 INDIA ST  
PORTLAND ME 04101

v.

JUDY CAMUSO - DEFENDANT  
41 STATE HOUSE STATION  
AUGUSTA ME 04333

Attorney for: JUDY CAMUSO  
PAUL SUITTER - RETAINED  
OFFICE OF THE ATTORNEY GENERAL  
6 STATE HOUSE STATION  
AUGUSTA ME 04333-0006

MAINE DEPARTMENT OF INLAND FISHERIES AND WILD - DEFENDANT  
41 STATE HOUSE STATION  
AUGUSTA ME 04333

Attorney for: MAINE DEPARTMENT OF INLAND FISHERIES AND WILD  
PAUL SUITTER - RETAINED  
OFFICE OF THE ATTORNEY GENERAL  
6 STATE HOUSE STATION  
AUGUSTA ME 04333-0006

Filing Document: COMPLAINT  
Filing Date: 04/27/2022

Minor Case Type: CONSTITUTIONAL/CIVIL RIGHTS

Docket Events:

04/27/2022 FILING DOCUMENT - COMPLAINT FILED ON 04/27/2022

04/27/2022 Party(s): VIRGINIA PARKER  
ATTORNEY - RETAINED ENTERED ON 04/27/2022  
Plaintiff's Attorney: ANDREW ARTHUR SCHMIDT

Party(s): JOEL PARKER  
ATTORNEY - RETAINED ENTERED ON 04/27/2022  
Plaintiff's Attorney: ANDREW ARTHUR SCHMIDT

04/28/2022 Party(s): VIRGINIA PARKER,JOEL PARKER  
OTHER FILING - ENTRY OF APPEARANCE FILED ON 04/27/2022

Plaintiff's Attorney: ANDREW ARTHUR SCHMIDT

- 05/27/2022 Party(s): JUDY CAMUSO  
SUMMONS/SERVICE - ACK OF RECEIPT OF SUMM/COMP SERVED ON 05/20/2022
- 05/27/2022 Party(s): JUDY CAMUSO  
SUMMONS/SERVICE - ACK OF RECEIPT OF SUMM/COMP FILED ON 05/27/2022
- 05/27/2022 Party(s): JUDY CAMUSO  
ATTORNEY - RETAINED ENTERED ON 05/27/2022  
Defendant's Attorney: PAUL SUITTER
- 06/14/2022 Party(s): JUDY CAMUSO  
OTHER FILING - ENTRY OF APPEARANCE FILED ON 06/10/2022  
Defendant's Attorney: PAUL SUITTER  
ON BEHLF OF JUDITH CAMUSO
- 06/14/2022 Party(s): JUDY CAMUSO,MAINE DEPARTMENT OF INLAND FISHERIES AND WILD  
MOTION - MOTION TO DISMISS FILED ON 06/10/2022  
Defendant's Attorney: PAUL SUITTER  
WITH MEMORANDUM OF LAW, DRAFT ORDER, NOTICE OF HEARING DEF MOTION  
TO DISMISS FOR FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED  
EXHIBIT FILED
- 06/14/2022 Party(s): MAINE DEPARTMENT OF INLAND FISHERIES AND WILD  
ATTORNEY - RETAINED ENTERED ON 06/10/2022  
Defendant's Attorney: PAUL SUITTER
- 07/05/2022 Party(s): VIRGINIA PARKER,JOEL PARKER  
OTHER FILING - OPPOSING MEMORANDUM FILED ON 07/05/2022  
Plaintiff's Attorney: ANDREW ARTHUR SCHMIDT  
RESPONSE IN OPP TO DEF MOTION TO DISMISS
- 07/19/2022 Party(s): MAINE DEPARTMENT OF INLAND FISHERIES AND WILD  
OTHER FILING - REPLY MEMORANDUM FILED ON 07/15/2022  
Defendant's Attorney: PAUL SUITTER  
DEF REPLY IN SUPPORT OF HER MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM  
UPON WHICH RELIEF CAN BE GRANTED
- 12/05/2022 Party(s): JUDY CAMUSO,MAINE DEPARTMENT OF INLAND FISHERIES AND WILD  
MOTION - MOTION TO DISMISS GRANTED ON 11/30/2022  
DEBORAH CASHMAN , JUSTICE  
COPIES TO PARTIES/COUNSEL DISMISSED WITH PREJUDICE
- 12/05/2022 Party(s): VIRGINIA PARKER,JUDY CAMUSO,JOEL PARKER,MAINE DEPARTMENT OF  
INLAND FISHERIES AND WILD  
FINDING - DISMISSED WITH PREJUDICE ENTERED ON 11/30/2022  
DEBORAH CASHMAN , JUSTICE
- 12/05/2022 FINDING - FINAL JUDGMENT CASE CLOSED ON 12/05/2022

12/20/2022 Party(s): VIRGINIA PARKER,JOEL PARKER  
APPEAL - NOTICE OF APPEAL FILED ON 12/16/2022  
Plaintiff's Attorney: PETER MANCUSO


12/20/2022 Party(s): VIRGINIA PARKER,JOEL PARKER  
APPEAL - NOTICE OF APPEAL SENT TO LAW COURT ON 12/20/2022

01/17/2023 TRANSFER - PERMANENT TRANSFER GRANTED ON 12/22/2022  
FILE SENT TO LAW COURT 1/17/23

Receipts

04/27/2022	Misc Fee Payment	\$25.00	paid.
04/27/2022	Misc Fee Payment	\$150.00	paid.
12/20/2022	Misc Fee Payment	\$25.00	paid.
12/20/2022	Misc Fee Payment	\$150.00	paid.

A TRUE COPY  
ATTEST:

  
\_\_\_\_\_  
Clerk

STATE OF MAINE  
KENNEBEC, ss.

SUPERIOR COURT  
CIVIL ACTION  
Docket No. CV-2022-87

VIRGINIA PARKER and JOEL PARKER, )  
)  
Plaintiffs )  
)  
v. )  
)  
JUDITH A. CAMUSO, in her official )  
capacity as Commissioner of the Maine )  
Department of Inland Fisheries and Wildlife, )  
)  
Defendant. )  
)

**ORDER DISMISSING  
COMPLAINT**

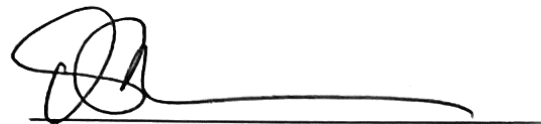
Upon consideration of Defendants' Motion to Dismiss for Failure to State a Claim Upon Which Relief May Be Granted and Plaintiffs' opposition thereto, and after review of the entire record herein, the Motion is hereby GRANTED; the Court hereby FINDS as follows:

- 1. Plaintiffs have failed to state a claim upon which relief may be granted;

Accordingly, it is hereby ORDERED as follows:

Plaintiffs' complaint is DISMISSED with prejudice.

Dated: Nov 30, 2022



Justice, Superior Court

STATE OF MAINE  
KENNEBEC, ss

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. CV-

VIRGINIA PARKER and JOEL PARKER,

Plaintiffs,

v.

JUDY A. CAMUSO, in her official capacity as  
COMMISSIONER OF THE  
MAINE DEPARTMENT OF  
INLAND FISHERIES AND WILDLIFE,

Defendant.

### **COMPLAINT**

In November 2021, Maine voters enshrined the unalienable Constitutional right to harvest food, superseding the old religious ban on Sunday hunting that previously prevented the Department of Inland Fisheries and Wildlife from issuing permits to hunt on Sundays. Virginia and Joel Parker bring this action for declaratory and injunctive relief against Defendant Judy A. Camuso, in her official capacity as Commissioner of the Maine Department of Inland Fisheries and Wildlife (the “Department” or “IFW”). Hunting is a crucial method of food harvest for many families, including the Parkers. While Article I, Section 25 of the Maine Constitution (the “Right to Food Amendment,” or the “Amendment”) contemplates that harvest of food through hunting, and other means, may be regulated for reasons like protecting natural resources through hunting limits and promoting public safety, Maine’s ban on Sunday hunting is a historical and religious anachronism that hamstring the Department’s natural resource management and safety goals. The statute must be declared void as applied to the Department’s ability to issue permits for hunting on Sundays to individuals who harvest food for themselves and their families.

## **SUMMARY**

1. Plaintiffs Virginia and Joel Parker (“the Parkers”) are a married couple who live, together with their five children, in Readfield, Maine.

2. The Parkers rely on hunting game, especially deer, to supplement their family’s food and nutrition.

3. Maine law currently, by statute, prohibits hunting on Sunday. As a result, the only day of the week that the Parkers can typically hunt as a family is Saturdays. This restricts their ability to harvest food for their family through hunting.

4. Article I, Section 25 of the Maine Constitution, recently enacted by Maine voters, provides that “All individuals have a natural, inherent and unalienable right to food, including the right to . . . harvest . . . 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.”

5. The Parkers bring this action seeking a declaratory judgment that Maine’s prohibition on Sunday hunting, found at 12 M.R.S. § 11205, violates Article I, Section 25 of the Maine Constitution as applied to individuals who hunt to harvest food for themselves and their families. The Parkers further seek injunctive relief enjoining enforcement of that statutory provision, thus authorizing IFW to issue licenses for individuals to hunt for food on Sundays.

## **PARTIES**

6. Virginia and Joel Parker are residents of Readfield, Maine, located in Kennebec County.



7. Defendant Judy A. Camuso is the Commissioner of the Maine Department of Inland Fisheries and Wildlife.

8. IFW is tasked with, among other responsibilities, implementing Maine's hunting laws and regulations, and has authority over the issuing of permits for hunting. As such, IFW believes the ability to issue Sunday permits is constrained by Maine's Sunday hunting ban.

### **JURISDICTION AND VENUE**

9. This action arises under the Maine Constitution and the Maine Declaratory Judgment Act, 14 M.R.S. §§ 5951-5963.

10. Jurisdiction is proper in this Court under 4 M.R.S. § 105, based on the Superior Court's general civil jurisdiction.

11. Venue is proper in Kennebec County under 14 M.R.S. §§ 501-508.

### **FACTUAL ALLEGATIONS**

12. Harvesting meat by hunting is integral to the diet of the people of Maine. It has been since statehood, and for millennia before that.

13. According to IFW, "Deer hunting in Maine provides many families with wild game meat that is high in nutrition, sustainable, free range, and organic. On average, a 150-pound field dressed deer will provide close to 70 pounds of meat. Last year's deer kill provided over 1.5 million pounds of meat to hunters and their families."<sup>1</sup>

14. IFW works tirelessly to protect the natural resources of Maine. These responsibilities include, among others, determining the length and timing of hunting seasons in Maine, issuing hunting licenses, and creating and implementing the other necessary regulations to ensure that hunting in Maine is safe and that natural resources are well-managed.

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<sup>1</sup> <https://www.maine.gov/ifw/news-events/single-release.html?id=817287>

15. A statute in Maine purports to prohibit hunting on Sunday. That provision, found at 12 M.R.S. § 11205, specifically stipulates as follows:

Hunting on Sunday

1. Prohibition. A person may not:

A. Hunt wild animals or wild birds on Sunday; or

B. Possess any wild animal or wild bird taken in violation of paragraph A except as otherwise provided in this Part.

2. Penalties. A person who violates subsection 1 commits a Class E crime.

16. Virginia and Joel Parker are a married couple living in Readfield, Maine and have five children, ages 6-14.

17. The Parkers are a hunting family and are among the many families in Maine who supplement their family's diet and nutrition through hunting, especially deer hunting.

18. Joel Parker works the five weekdays each week, including during the fall, and because of his work schedule cannot plan his time off around hunting season. He is therefore mostly limited to Saturday hunting.

19. Without the ability to hunt on Sundays, and because of both work and their children's school schedules, the Parkers have only one day per week when they can teach their children to hunt or hunt together as a family. Moreover, due to the ban on Sunday hunting, the Parkers cannot plan a full weekend hunt as a family in more remote areas of the state because they only have one day per weekend to hunt.

20. For all these reasons, Maine's statute banning Sunday hunting cuts the family's hunting time significantly.

21. On April 15, 2022, Virginia Parker called IFW and asked if IFW would issue Sunday hunting permits for herself and her husband so that her family would have the ability to hunt together as a family. Ms. Parker was told that was not possible given the current law.

22. In November 2021, Maine citizens passed the Right to Food Amendment to the Maine Constitution, now found at Article I, Section 25. That Amendment guarantees all persons “a natural, inherent, and unalienable right to food, including . . . the right to grow, raise, harvest, produce, and consume the food of their own choosing . . . .”

23. The Right to Food Amendment is not absolute, however, and extends only “as long as an individual does not commit theft, poaching, or other abuses of private property rights, public lands or natural resources in the harvesting, production, or acquisition of food.” Maine Constitution, Art I., Sec. 25.

24. The Sunday hunting ban is superseded by the Right to Food Amendment. The ban is a religious and social construct that does not fit into any of the Amendment’s exceptions, as it cannot be justified by the need to protect private property rights, public safety, or natural resources.

25. Like many states, Maine’s Sunday hunting ban has its origins in the “Old Sunday Law” that restricted most activities—such as shopping and other business activities—from taking place on Sundays for religious reasons.<sup>2</sup> In 1883, when Maine enacted its first hunting laws, including setting hunting seasons, Sunday was excluded from the hunting season in line with Sabbath law.

26. The “Old Sunday Law” was chipped away until even alcohol could be sold on Sunday mornings in 2015. And similar hunting bans in other states fell away, with only Massachusetts still currently enforcing a full ban on Sunday hunting.

27. It is the official position of the Department of Inland Fish and Wildlife that the Sunday hunting ban is social and not biological in nature. During a hearing on the topic of Sunday

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<sup>2</sup> See, e.g., *A Voice from Northern Maine*, published in THE DEFENDER: A MONTHLY MAGAZINE PUBLISHED IN THE INTEREST OF THE NEW ENGLAND SABBATH PROTECTIVE LEAGUE, Vol. IX, No.3 (April, 1904), at p. 8.

hunting, the Department Resource Management Director for IFW testified to the Maine legislature on behalf of IFW that “. . . I would say this information reinforces this as a social issue, not a biological discussion.”<sup>3</sup>

28. IFW has pointed to no tangible benefit to landowners from the Sunday hunting ban, and has even acknowledged that, among private landowners, views on Sunday hunting differ widely: while some individuals would “prefer to have Sunday as a day that they can enjoy their land and allow other stewards opportunity to recreate[,]” other landowners “feel they should be allowed to decide when and where to use their land.”<sup>4</sup>

29. Absent the Sunday hunting ban, landowners would be able to allow or restrict hunting on their own land as they see fit on Sundays—just as they can now for any other day of the week. Thus, the state cannot justify keeping the Sunday hunting ban in place simply to maintain the status quo: the ban restricts the right of individuals to harvest food of their own choosing through hunting, and removing it would not impact the rights of property owners.

30. Nor is there any public safety reason for the Sunday hunting ban: there is no evidence to indicate that hunting on a Sunday—by the same methods and in the same areas where such activity would be legal any other day of the week—is inherently more dangerous.

31. IFW has indicated that there is no need to ban Sunday hunting for the biological needs of any animal population or for wildlife management purposes, with the exception of

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<sup>3</sup> Testimony of Jim Connolly, Resource Management Director, Department of Inland Fisheries and Wildlife, before the Joint Standing Committee on Inland Fisheries and Wildlife on April 21, 2021. Available at <https://mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=154372> (last accessed April 25, 2022).

<sup>4</sup> Testimony of Jim Connolly, Resource Management Director, Department of Inland Fisheries and Wildlife, before the Joint Standing Committee on Inland Fisheries and Wildlife on April 21, 2021. Available at <https://mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=154372> (last accessed April 25, 2022).

migratory birds which are subject to agreements with federal regulators incorporating the Sunday ban. According to testimony from a representative for IFW, states that have repealed their Sunday hunting bans “have not documented an increase in harvest as a result of Sunday hunting. Neither have any states documented an overall increase in participation due to Sunday hunting.”<sup>5</sup>

32. Accordingly, the Sunday hunting ban does not fit within any of the exceptions that the Right to Food Amendment contemplates. Because the Sunday hunting ban cannot be justified based on the need to protect private property, public safety, or natural resources, the ban is superseded by the Right to Food Amendment and thus unconstitutional as applied to the Parkers, who are Maine citizens who wish to harvest food for their own consumption through hunting.

33. Plaintiffs have sought permission to hunt on Sundays and have been denied, and therefore will continue to be deprived of the right to harvest food of their choosing—a right now guaranteed by the Maine Constitution—so long as IFW enforces the ban.

## CLAIMS

### **Action for Declaratory Judgment and Injunctive Relief Pursuant to 14 M.R.S. §§ 5954, 5960.**

34. Plaintiffs re-allege and incorporate by reference all of the above allegations.

35. Under Section 25 of the Maine Constitution, Plaintiffs are guaranteed a right to harvest food through hunting to feed their family.

36. Maine’s prohibition on Sunday hunting unconstitutionally infringes on and violates the rights of Plaintiffs, who seek to hunt on Sundays as a means of providing food for themselves and their family.

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<sup>5</sup> Testimony of Jim Connolly, Resource Management Director, Department of Inland Fisheries and Wildlife, before the Joint Standing Committee on Inland Fisheries and Wildlife on April 21, 2021. Available at <https://mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=154372> (last accessed April 25, 2022).

37. Plaintiffs bring this action pursuant to 14 M.R.S. § 5954, which provides that: “Any person . . . whose rights, status, or other legal relations are affected by a statute, municipal ordinance, contract or franchise may have determined any question of construction or validity arising under the instrument, statute, ordinance, contract or franchise and obtain a declaration of rights, status, or other legal relations thereunder.”

38. Plaintiffs accordingly seek a declaration from this Court that Maine’s Sunday hunting ban, 12 M.R.S. § 11205, is unconstitutional as applied to those individuals who are hunting as a means of harvesting food for their families because it has been superseded by the Right to Food Amendment to the Maine Constitution.

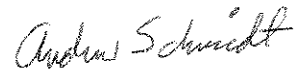
#### **Prayer for Relief**

39. Plaintiffs respectfully request the following relief:

- a. An order of this Court declaring that 12 M.R.S. § 11205, as well as any associated implementing regulations, is in violation of Article I, Section 25 of the Maine Constitution, and therefore unconstitutional and invalid;
- b. An order of this Court, pursuant to 14 M.R.S. § 5960, granting injunctive relief and enjoining enforcement of that unconstitutional statute;
- c. An award to Plaintiffs of costs and attorney fees; and
- d. Such other relief as this Court deems just and proper.

Dated: April 27, 2022

Respectfully submitted,

A handwritten signature in cursive script that reads "Andrew Schmidt".

Andrew Schmidt, Esq.  
Bar No. 005498  
Andrew Schmidt Law, PLLC  
97 India St.  
Portland, Maine 04101  
(207) 619-0320  
Andy@maineworkerjustice.com

MAINE JUDICIAL BRANCH

Virginia Parker and Joel Parker Plaintiff

"X" the court for filing:

Superior Court  District Court

Unified Criminal Docket

County: Kennebec

V.

Judy A. Camuso, Commissioner of the Defendant

Location (Town):

Maine Dept of Inland Fisheries & Wildlife Other Party (if any)

Docket No.

ENTRY OF APPEARANCE

The Clerk will please enter my appearance **as counsel** for  plaintiff  defendant  other party, (print party's name)

OR

The Clerk will please enter my appearance **as a self-represented**  plaintiff  defendant  other party, (print your name)

Date (mm/dd/yyyy): 04/27/22

Signature: Andrew Schmidt

Name: Andrew Schmidt

Bar Number: 005498

Address: 97 India Street

Portland, Maine 04101

Telephone: 201-619-0320

Email: Andy@Maineworkerjustice.com

**PLEASE NOTE:** This Appearance should be signed by a member of the Bar of Maine or by the party if appearing pro se, filed with the Clerk and a copy served upon each of the parties.

**ADA Notice:** The Maine Judicial Branch complies with the Americans with Disabilities Act (ADA). If you need a reasonable accommodation contact the Court Access Coordinator, [accessibility@courts.maine.gov](mailto:accessibility@courts.maine.gov), or a court clerk.  
**Language Services:** For language assistance and interpreters, contact a court clerk or [interpreters@courts.maine.gov](mailto:interpreters@courts.maine.gov).



AARON M. FREY  
ATTORNEY GENERAL



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OFFICE OF THE ATTORNEY GENERAL  
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TEL: (207) 626-8800  
TTY USERS CALL MAINE RELAY 711

June 10, 2022

**HAND DELIVERED**

Michele Lumbert, Clerk  
Manager of Kennebec County Court Operations  
1 Court Street, Suite 101  
Augusta, ME 04330

RE: *Parker et al. v. Camuso*;  
Kennebec County Superior Court, Docket No. CV-2022-87

Dear Ms. Lumbert,

Please find enclosed for filing in the above-referenced matter a Notice of Appearance and a Motion to Dismiss with Incorporated Memorandum of Law.

Thank you for your consideration.

Sincerely,

/s/ Paul Switter  
PAUL E. SUITTER  
Assistant Attorney General

Enclosures

cc: Andrew Schmidt, Esq. and Peter Mancuso, Esq. (via email)

STATE OF MAINE  
KENNEBEC, ss.

SUPERIOR COURT  
CIVIL ACTION  
Docket No. CV-2022-87

VIRGINIA PARKER and JOEL PARKER, )  
)  
Plaintiffs )  
)  
v. )  
)  
JUDITH A. CAMUSO, in her official )  
capacity as Commissioner of the Maine )  
Department of Inland Fisheries and Wildlife, )  
)  
Defendant. )

**NOTICE OF APPEARANCE**

Please enter my appearance as counsel on behalf of the above-named defendant, Judith A. Camuso, in her official capacity as Commissioner of the Maine Department of Inland Fisheries and Wildlife.

Dated: June 10, 2022

Respectfully submitted,

AARON M. FREY  
Attorney General

  
\_\_\_\_\_  
Paul E. Switter

Assistant Attorney General  
Maine Bar No. 5736  
6 State House Station  
Augusta, Maine 04333-0006  
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paul.switter@maine.gov

STATE OF MAINE  
KENNEBEC, ss.

SUPERIOR COURT  
CIVIL ACTION  
Docket No. CV-2022-87

VIRGINIA PARKER and JOEL PARKER, )  
 )  
 ) Plaintiffs )  
 )  
 ) v. )  
 )  
 ) JUDITH A. CAMUSO,<sup>1</sup> in her official )  
 ) capacity as Commissioner of the Maine )  
 ) Department of Inland Fisheries and Wildlife, )  
 )  
 ) Defendant. )

**DEFENDANT’S MOTION TO  
DISMISS FOR FAILURE TO  
STATE A CLAIM UPON WHICH  
RELIEF CAN BE GRANTED,  
WITH INCORPORATED  
MEMORANDUM OF LAW**

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<sup>1</sup> The Defendant’s name in the caption of the Complaint appears as “Judy A. Camuso, in her official capacity as Commissioner of the Maine Department of Inland Fisheries and Wildlife.” While the Commissioner’s name appears on some State webpages and materials as “Judy,” her formal name as it appears on legal documents is “Judith A. Camuso.” The Commissioner will proceed in this matter captioning her name as “Judith A. Camuso, in her official capacity as Commissioner of the Maine Department of Inland Fisheries and Wildlife,” unless instructed to do otherwise by the Court.

Hunting on Sunday has been prohibited in the State of Maine for well over a century. In 2021, both houses of the Legislature approved by the requisite two-thirds vote a constitutional Right to Food, which was adopted by the people of Maine by a referendum vote in the fall of 2021.

Plaintiffs argue that Maine’s new Right to Food Amendment preempts or otherwise nullifies 12 M.R.S. § 11205 (2021), Maine’s ban on hunting “wild animals or wild birds on Sunday.” However, the Amendment’s text, alongside its legislative history and legislative intent, make clear that the Amendment does not apply to 12 M.R.S. § 11205. Moreover, even if the initial part of the Amendment could be read to implicate 12 M.R.S. § 11205, that statute would be excluded from the Amendment’s reach because the Amendment does not protect activities that constitute “poaching” and/or “other abuses” of Maine’s “natural resources.”

The Complaint should thus be dismissed for failure to state a claim upon which relief may be granted. In support, Commissioner Camuso relies on the following Memorandum of Law:

#### **LEGAL STANDARDS**

Commissioner Camuso moves to dismiss pursuant to M.R. Civ. P. 12(b)(6). A complaint should be dismissed pursuant to Rule 12(b)(6) when it fails to state a claim upon which relief can be granted. *Bean v. Cummings*, 2008 ME 18, ¶ 7, 939 A.2d 676. A motion filed pursuant to Rule 12(b)(6) tests the legal sufficiency of a complaint. *Thompson v. Dep’t of Inland Fisheries & Wildlife*, 2002 ME 78, ¶ 4, 796 A.2d 674. In reviewing such a motion, the Court ordinarily accepts as true the factual allegations in the complaint and decides whether, as a matter of law, the plaintiff can prove any set of facts that would entitle him or her to judicial relief. *Moody v. State Liquor & Lottery Comm’n*, 2004 ME 20, ¶ 7, 843 A.2d 43. Dismissal is appropriate if “it appears beyond doubt that a plaintiff is entitled to no relief under any set of facts that he might prove in support of his claim.” *Thompson*, 2002 ME 78, ¶ 4, 796 A.2d 674.

Under Maine law, constitutional provisions are interpreted according to their plain meaning if the language is unambiguous. *Jones v. Sec’y of State*, 2020 ME 113, ¶ 11, 238 A.3d 982. But if a constitutional provision is ambiguous, courts must “determine the meaning by examining the purpose and history surrounding the provision.” *Id.* ¶ 12 (quoting *Avangrid Networks, Inc. v. Sec’y of State*, 2020 ME 109, ¶ 14, 237 A.3d 882). When a person challenges the constitutionality of a legislative enactment, she “bears a heavy burden of proving unconstitutionality, since all acts of the Legislature are presumed constitutional.” *Id.* ¶ 18 (quoting *Goggin v. State Tax Assessor*, 2018 ME 111, ¶ 20, 191 A.3d 341). “To overcome the presumption of constitutionality, the party challenging a law must ‘demonstrate convincingly’ that the law and the Constitution conflict,” and “‘all reasonable doubts must be resolved in favor of the constitutionality’ of the enactment.” *Id.* (quoting *Goggin*, 2018 ME 111, ¶ 20, 191 A.3d 341); *see also Somerset Tel. Co. v. State Tax Assessor*, 2021 ME 26, ¶ 30, 259 A.3d 97 (same).

## LEGAL BACKGROUND

### A. Maine Has A Longstanding, Uninterrupted Ban On Sunday Hunting

Hunting on Sunday has been prohibited by law in Maine for well over a century. Despite numerous proposals throughout the twentieth century to repeal Maine’s ban on Sunday hunting, the Legislature chose never to do so. The Sunday hunting ban was reaffirmed in 2003 when the 121st Maine Legislature enacted LD 1600, “An Act to Recodify the Laws Governing Inland Fisheries and Wildlife,” which recodified and harmonized within the modern Maine Revised Statutes the entirety of Maine’s hunting and fishing laws.<sup>2</sup>

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<sup>2</sup> Because “the legislative intent of any statutory enactment is determined wholly as a matter of law, not fact,” the Court is free to consider legislative history in determining the meaning of statutory and constitutional provisions on a motion to dismiss. *Wawenock, LLC v. Dep’t of Trans.*, 2018 ME 83, ¶ 13, 187 A.3d 609; *see also, id.*, ¶ 13 n.7. (“[L]egislative facts ‘are those a court takes into account in determining the constitutionality or interpretation of a statute.’” (quoting M.R. Evid. 201)).

Legislative proposals to repeal the Sunday hunting ban did not cease after the 2003 recodification. In the most recent 130th Maine Legislature, there were at least four different proposals to permit some form of Sunday hunting throughout parts or all of Maine. *See* Ex. A at 63, 74, 83, 94.<sup>3</sup> Three of the bills received majority “Ought Not To Pass” (“ONTP”) reports from the Joint Standing Committee on Inland Fisheries and Wildlife (“IFW Committee”) and were voted down by both chambers of the Legislature. *Id.* at 78, 91, 96.

As proposed, the fourth bill (LD 1033) would have permitted Sunday hunting on an individual’s private property or on the private property of others from whom the hunter obtained written permission. *Id.* at 64. However, the IFW Committee amended the bill by striking its contents entirely and replacing it with a directive to the Department of Inland Fisheries and Wildlife (“Department of IFW”) to undertake a number of actions, including: 1) establishing a stakeholder group of interested parties on all sides of the debate to examine issues related to allowing Sunday hunting; 2) developing a survey related to Sunday hunting; and 3) reporting the findings and recommendations of the stakeholder group to the IFW Committee by early 2022. *Id.* at 65-66. By a 10-1 vote, the IFW Committee sent the amended LD 1033 to the Legislature with an “Ought to Pass as Amended” (“OTPAM”) committee report. *Id.* at 71.

The amended bill was passed unanimously by the House of Representatives (“House”) on June 3, 2021 and by the Senate on July 2, 2021. It was signed by Governor Mills on July 9, 2021. The Department of IFW delivered its final report—which detailed a series of consequences for

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<sup>3</sup> The 96 pages of legislative history cited in this motion—including bills, amendments, relevant testimony, and corresponding committee votes—has been compiled, Bates-stamped with the designation “LEGISLATIVE HISTORY,” and attached to the filing for the Court’s convenience as “Exhibit A.” The full legislative history for the bills discussed in this motion—over 1,100 pages—is available to the public free-of-cost from the Law and Legislative Reference Library of the Maine State Legislature.

keeping, altering, or repealing the ban—on February 28, 2022.<sup>4</sup>

## B. Maine Adopts A Constitutional Right To Food

The Maine Constitution’s “Right to Food” provision (also “the Amendment”) dates back to 2015, when Representative Hickman introduced LD 783 to the Legislature. *Id.* at 3. At that time, the proposed constitutional amendment explicitly referenced “hunting”:

**Section 25. Right to food.** Every individual has a natural and unalienable right to food and to acquire food for that individual’s own nourishment and sustenance by hunting, gathering, foraging, farming, fishing or gardening or by barter, trade or purchase from sources of that individual’s own choosing, and every individual is fully responsible for the exercise of this right, which may not be infringed.

*Id.* (emphasis added). The proposed amendment received significant public testimony—both in favor and in opposition—before the Legislature’s Joint Committee on Agriculture, Conservation, and Forestry (“Agriculture Committee”). The Agriculture Committee amended the proposal to detail the contours of the proposed constitutional right and to provide for exceptions for where it would not apply, including in the context of “trespassing, theft, poaching or other abuses of private property rights, public lands or natural resources in the acquisition of food.”<sup>5</sup> *Id.* at 13.

Eight members of the Agriculture Committee supported an “OTPAM” majority report, while five members supported an “Ought Not to Pass” (“ONTTP”) minority report. *Id.* at 22. The

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<sup>4</sup> Maine Residents’, Hunters’, and Landowners’ Attitudes Toward Sunday Hunting, Available at: [https://www.maine.gov/ifw/docs/ME%20Sunday%20Hunting%20Survey%20Rep%202022\\_Resp%20Mgt.pdf](https://www.maine.gov/ifw/docs/ME%20Sunday%20Hunting%20Survey%20Rep%202022_Resp%20Mgt.pdf). (Last visited June 9, 2022).

<sup>5</sup> The amended proposal read, in full:

**Section 25. Right to food freedom and food self-sufficiency.** All individuals have a natural, inherent and unalienable right to acquire, produce, process, prepare, preserve and consume the food of their own choosing, for their own nourishment and sustenance, by hunting, gathering, foraging, farming, fishing, gardening and saving and exchanging seeds, as long as no individual commits trespassing, theft, poaching or other abuses of private property rights, public lands or natural resources in the acquisition of food. Furthermore, all individuals have a right to barter, trade and purchase food from the sources of their own choosing for their own bodily health and well-being. Every individual is fully responsible for the exercise of these rights, which may not be infringed.

House voted in favor of sending the proposed amendment to Maine voters with the requisite two-thirds supermajority (97-45) on March 22, 2016, but a majority of the Senate rejected the proposed constitutional amendment (18-13) on the following day, and it died.

Representative Hickman introduced a second proposal for a constitutional Right to Food in the 129th Maine Legislature, again expressly referencing hunting.<sup>6</sup> *Id.* at 26. Testifying before the Agriculture Committee, he stated that the new proposal was “much the same as the language” he proposed in the 127th Legislature. *Id.* at 29. However, he had “considered all concerns” about the language of the proposal and “sought input from Republicans and Democrats, Independents and Libertarians, conservatives and progressives, allies and foes, farmers and fishermen, chefs, cottage food producers, homesteaders and lawyers until the language was right.” *Id.*

Importantly, Representative Hickman testified that if the resolution were to be ratified, it would “not invalidate state food laws or regulations currently on the books, will not invalidate any hunting or fishing laws or regulations currently on the books, and will not keep the requisite departments from enforcing those same regulations.” *Id.* (emphasis added). To underscore the point, he repeated it, cautioning critics again that “no matter what else you have heard or will hear,” the proposal would not “invalidate any hunting or fishing laws or regulations currently on the books” and would not “interfere with the government’s ability to enforce such regulations.”

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<sup>6</sup> The initial proposal in the 129th Legislature read:

**Section 25. Rights to food and food sovereignty and freedom from hunger.** All individuals have a natural, inherent and unalienable right to food, including the right to acquire, produce, process, prepare, preserve and consume the food of their own choosing by hunting, gathering, foraging, farming, fishing, gardening and saving and exchanging seeds or by barter, trade or purchase from sources of their own choosing, for their 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 acquisition of food; furthermore, all individuals have a fundamental right to be free from hunger, malnutrition, starvation and the endangerment of life from the scarcity of or lack of access to nourishing food.



*Id.* at 29-30. And lest there were any ambiguity behind the drafter’s intent for the proposed amendment, he concluded his testimony by reiterating for the third time that “it must be made clear once more that [the proposed amendment] will not change, repeal, preempt or nullify any laws or regulations—local, state or federal—currently on the books.” *Id.* at 33.

Additionally, Representative Hickman challenged criticism that the proposal might convey some sort of governmental obligation to provide food to Mainers. *Id.* at 29. Instead, he stated that the proposal’s intent was to secure an individual’s right to produce one’s own food and not a right to obtain food from the government—analagizing to the federal Constitution’s Second Amendment guarantee to an individual’s right to keep and bear arms, which does not require the government to provide such arms to individuals. *Id.*

During the same Committee hearing, the Director of Policy and Community Engagement for the Maine Department of Agriculture, Conservation, and Forestry (“Department of ACF”) offered testimony on behalf of the Department of ACF, neither for nor against the bill. *Id.* at 34. Principally, she encouraged the Agriculture Committee to draft the proposed amendment in a way that would “not impede the Department’s ability to effectively license and regulate Maine food products” under then-existing standards, specifically expressing concerns regarding the proposed amendment’s language regarding “purchas[ing] from sources of their own choosing.” *Id.* But she also noted that she had consulted with the Department of IFW, which offered its own concerns:

In Maine, we all owe a unique debt of gratitude and appreciation to generous landowners who afford us the privilege of public access to private property. Without them it would be far more challenging to manage Maine’s fish and wildlife resources in a manner that maintains sustainability and ensures the support of all users. Creating a new constitutional right could lead to many different outcomes, some intended and some that could never be anticipated. The exact contours of constitutional rights are often not completely known until these rights are tested in court and the Maine Law Court interprets these rights. How would these bills, and their resulting constitutional rights affect existing hunting laws or landowner’s rights? The precise answer to these and many more unanticipated questions likely will not be supplied until these issues are tested in court. There is a distinct difference between a privilege and a right, particularly when it comes to fishing and hunting.

*Id.* at 35. After attaching a fiscal note, nine members of the Committee issued a majority OTPAM report, while four members issued an ONTP minority report. *Id.* at 39.

The House again voted in favor of sending the proposed amendment to Maine voters with the requisite two-thirds supermajority (93-47) on June 4, 2019. The following day, a majority of the Senate also supported sending the proposal to voters, but it fell short of the required two-thirds supermajority (21-14).

After the Senate failed to send the proposal to the voters, on June 10, 2019, Representative Hickman introduced a floor amendment that addressed some of the language that posed concerns for the executive branch agencies. *Id.* at 42. Specifically, he stripped the verb “acquire,” and removed language regarding a right to be free from hunger. *Id.* Importantly, the amendment also removed the term “hunting” as one of the elements of the proposed constitutional right.<sup>7</sup> *Id.* The House adopted the amendment two days after it was introduced and voted to move the proposal forward. The Senate did not act on the new language, and it was carried over to the following session of the 129th Legislature.

On February 11, 2020, Representative Hickman introduced an additional floor amendment to the proposal. *Id.* at 43. This amendment removed language that concerned the Department of ACF regarding an individual’s right to “barter, trade or purchase food from the sources of their

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<sup>7</sup> The proposal, as amended by Representative Hickman’s floor amendment, read:

**Section 25. Right to food.** All individuals have a natural, inherent and unalienable right to food, including the right to grow, raise, harvest, produce, process, prepare, preserve and consume the food of their own choosing, to save and exchange seeds and to barter, trade or purchase food from the sources 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 of food.

own choosing.”<sup>8</sup> *Id.* On March 10, 2020, the House approved the new language. However, the bill was eventually tabled and died at the conclusion of the 129th Legislature.

Due to term limits, Representative Hickman was not eligible to be a member of the Maine House for the 130th Legislature. Nevertheless, a proposed constitutional Right to Food was introduced by Representative Faulkingham. *Id.* at 46. As Representative Faulkingham testified to the Agriculture Committee: “I was proud to spend a lot of time working on this bill in the 129th Legislature with the original sponsor, Representative Craig Hickman of Winthrop.” *Id.* at 47. This third proposal was nearly identical to the version of the proposal offered by Representative Hickman in his second floor amendment before the 129th Legislature.<sup>9</sup> Notably, the proposal did not contain some of the language in earlier iterations that had concerned the Department of ACF (“purchase from sources of their own choosing”) or any of the language that concerned the Department of IFW (“hunting”).

Like Representative Hickman, Representative Faulkingham testified that the proposed amendment was not seeking to preempt or change existing laws, but was instead intended to protect individuals from unforeseen future encroachment by the government. *Id.* at 48 (“[I]f we needed this Amendment now, then it would already be too late.”). And like Representative Hickman, Representative Faulkingham stressed that its purpose was to secure individual rights: “The

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<sup>8</sup> The proposal, as amended by Representative Hickman’s second floor amendment, read:

**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.

<sup>9</sup> The only difference between Representative Faulkingham’s initial proposal and the final amended proposal considered by the 129th Legislature above at note 8 is that the words “right to food, including” did not appear after the word “unalienable” in Representative Faulkingham’s initial bill.

amendment would protect the right of the people to grow and raise food for their own use, but have no obligation to provide it to them.” *Id.* at 50; *see also id.* (“This amendment strengthens the people’s inalienable right to produce food for their own consumption—not to steal, not to trespass, not to poach . . . but to produce food for their own consumption.”).

Again, the same representative from the Department of ACF testified neither for nor against the proposal. *Id.* at 51. She noted that the Department consulted extensively with Representative Hickman about its concerns in the previous Legislature and that he “was amenable to adjusting the language to remove references to food processing and preparation.” *Id.* Significantly, with this version of the proposal that omitted references to “hunting,” the Department of IFW did not offer any testimonial concerns to the Agriculture Committee. During its work session, the Committee amended the proposal by adding the words, “right to food, including,” after the word “unalienable.” *Id.* at 52. Thus, this version of the proposal was identical to the final proposal put forth by Representative Hickman at the end of the 129th Legislature.

Ten members of the Agriculture Committee issued a majority OTPAM report, while three members issued an ONTP minority report. *Id.* at 60. The House again voted in favor of sending the proposed amendment to Maine voters with the requisite two-thirds supermajority (106-31) on June 10, 2021. Unlike in past years, on July 2, 2021 the Senate approved sending the measure to the voters with no opposition. On November 2, 2021, the people of Maine approved the constitutional amendment with nearly 61% of voters approving, and the provision now constitutes Section 25 of the Maine Constitution’s Declaration of Rights. It reads:

**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.

## ALLEGATIONS AND PROCEDURAL HISTORY

The following allegations are taken from Plaintiffs' Complaint and are assumed to be true only for purposes of this Motion to Dismiss.

The Plaintiffs are Virginia and Joel Parker. Compl. ¶ 1. They are married, have five children, and reside in Readfield. *Id.* ¶¶ 1, 16. They rely on hunting game, especially deer, to supplement their family's nutritional needs. *Id.* ¶¶ 2, 17. Joel Parker works all five weekdays, including during the fall, and because of his work schedule cannot take time off during hunting season. *Id.* ¶ 18. Since Maine prohibits hunting wildlife on Sundays, Joel Parker is mostly limited to hunting on Saturdays. *Id.* Because of their family's respective work and school schedules, the Parkers enjoy only one day per week—Saturdays—when they can hunt together as a family. *Id.* ¶ 19. If Maine did not prohibit it, the Parkers would hunt on Sundays. *Id.* ¶¶ 19-21, 33.

On April 27, 2022, the Parkers filed this suit alleging that Maine's prohibition on Sunday hunting, as codified at 12 M.R.S. § 11205, alongside any associated implementing regulations, violates Article I, Section 25 of the Maine Constitution and is therefore invalid. *Id.* ¶ 39. The Parkers seek a declaratory judgment stating as such, as well as an order enjoining Commissioner Camuso from enforcing the statute. *Id.*

## ARGUMENT

### **A. Maine's Prohibition on Sunday Hunting Does Not Conflict with Article I, Section 25 of the Maine Constitution.**

Simply put, Maine's new constitutional Right to Food does not encompass a right to hunt wildlife in Maine. As detailed below, the Legislature knows very well how to draft legislation that applies to hunting. But the text of the Amendment does not mention an individual's right to "hunt"—on Sunday or any other day. Nor does the legislative history of the Amendment or the intent of the drafter at the time of its enactment imply that hunting was intended to be encapsulated

within the Right to Food. Instead, the evidence points in the opposite direction. When interpreted properly, the Amendment does not protect the activity in which the Parkers seek to engage.

1. The Right to Food Amendment Does Not Mention “Hunting,” and Its Reference to “Harvest[ing]” Cannot Unambiguously Be Read To Be Synonymous With “Hunting.”

When examining a right under the Maine Constitution, the Law Court “interprets the constitutional . . . provision according to its plain meaning if the language is unambiguous.” *Jones*, 2020 ME 113, ¶ 11, 238 A.3d 982; *see also Voorhees v. Sagadahoc Cty.* 2006 ME 79, ¶ 6, 900 A.2d 733 (“Because the same principles employed in the construction of statutory language hold true in the construction of a constitutional provision, we apply the plain language of the constitutional provision if the language is unambiguous.”). But if the constitutional “provision is ambiguous, [courts] [will] determine the meaning by examining the purpose and history surrounding the provision.” *Jones*, 2020 ME 113, ¶ 12, 238 A.3d 982 (quoting *Avangrid*, 2020 ME 109, ¶ 14, 237 A.3d 882) (second alteration in *Jones*).

As noted above, the Amendment says nothing about “hunting.” And the Parkers’ preference to hunt wildlife on Sundays cannot be characterized as a wish to “save and exchange seeds.” Nor do they allege that it is a desire to “grow,” “raise,” or “consume” the “food of their own choosing.” Instead, they allege that 12 M.R.S. § 11205 inhibits their ability to “harvest food for their own consumption through hunting.” Compl. ¶ 32.

Nowhere in the Maine Revised Statutes are the isolated terms “harvest” or “harvesting” defined, though they are used on numerous occasions as part of the definition of other statutory terms. For example, under Title 29-A, regarding Maine’s motor vehicle laws, “Farming” is defined to include “dairying; raising livestock, freshwater fish, fur-bearing animals or poultry; producing, cultivating, growing and harvesting fruit, produce or floricultural or horticultural

commodities.” 29-A M.R.S. § 101(23) (2021).<sup>10</sup> Here, animals are “raised,” while plants are “harvested.” The same Title defines “Fish truck,” in part, as a “motor truck used primarily to harvest and transport fish or marine animals.” *Id.* § 101 (24). In this circumstance, animals are capable of being “harvested,” though the activity is done by a “motor truck” and not an individual.

Perhaps the most relevant part of the Maine Revised Statutes as it relates to this suit is Title 12, involving “Conservation.” There, Part 13’s (IFW) definitional section provides a definition for “hunt,” which includes “harvesting”: “To ‘hunt’ means to pursue, catch, take, kill or harvest wild animals or wild birds or to attempt to catch, take, kill or harvest wild animals or wild birds.” 12 M.R.S. §10001(31) (2021). Title 12’s definition of “hunt” indicates “harvesting” is a subset of activities that may constitute hunting—not the other way around. Thus, under this definition, the Parkers’ desire to “harvest food . . . through hunting” is not be possible. Instead, under 12 M.R.S. §10001(31), an individual may be able to “hunt food through harvesting,” but not the reverse.

Moreover, under Title 12, to “harvest” an animal must mean something different than to “pursue,” “catch,” “take,” or “kill” the animal. If “harvest” were read to mean the same thing as any of those other verbs, the term would be rendered “mere surplusage, and ‘because no language is to be treated as surplusage if it can be reasonably construed, [courts] must give meaning to this language.’” *State v. Brown*, 2019 ME 41, ¶ 18, 205 A.3d 1 (quoting *State v. McLaughlin*, 2018 ME 97, ¶ 16, 189 A.3d 262). Hence, under the Maine Revised Statutes, the term “harvest” cannot be read to unambiguously cover the activity in which the Parkers seek to engage.

Webster’s online dictionary<sup>11</sup> provides five entries for the transitive verb “harvest”:

1) To gather in (a crop): reap. 2) To gather, catch, hunt, or kill (salmon, oysters, deer, etc.) for

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<sup>10</sup> The same verbiage is used in Title 7’s (Agriculture and Animals) subchapter on “Agritourism Activities.”

<sup>11</sup> *Harvest*, Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/> (entry for “Harvest”) (last visited June 9, 2022).

human use, sport, or population control. 3) To remove or extract (something, such as living cells, tissues, or organs) from culture or from a living or recently deceased body especially for transplanting. 4) To accumulate a store of. 5) To win by achievement.

Of these five entries, the second and third definitions could arguably cover the activity banned under 12 M.R.S. § 11205, but the other three do not. Similarly, dictionary.com<sup>12</sup> provides three potential definitions for the transitive verb “harvest”—

1) To gather (a crop or the like); reap. 2) To gather the crop from: *to harvest the fields*. 3) To gain, win, or use (a prize, product, or result of any past act, process, etc.): *She has finally harvested the rewards of her dedication*.

None cover the type of hunting activity sought by the Parkers on Sundays. As with the Maine Revised Statutes, contemporaneous dictionaries do not unambiguously indicate that Maine’s Right to Food encapsulates the hunting of wildlife.

On rare occasions, the Law Court has wrestled with the term “harvesting” under Maine law. In *Ross v. Acadian Seaplants, Ltd.*, 2019 ME 45, ¶ 24, 206 A.3d 283, it held that the “harvesting” of rockweed from the intertidal zone could not reasonably be considered “fishing” because rockweed is a plant. In *Wuori v. Otis*, 2020 ME 27, ¶ 4 n.2, 226 A.3d 771, the Court noted that “harvest” did not appear in the statute at issue but is subject to several potential meanings:

[Harvest] is defined as “to gather in (a crop, etc.)” or “to catch, shoot, trap, etc. (fish or game), usually in an intensive, systemic way, as for commercial purposes,” Harvest, Webster’s New World College Dictionary (5th ed. 2016), and as “[to] catch or kill (animals) for human consumption or use,” Harvest, New Oxford American Dictionary (3d ed. 2010).

Here, too, some definitions of “harvest” recognized by the Law Court would cover the Sunday hunting activity the Parkers wish to pursue, while others do not.

Because “harvest” as used in the Amendment does not unambiguously protect hunting activity, the Court must “determine the meaning by examining the purpose and history surrounding the provision.” *Avangrid*, 2020 ME 109, ¶ 14, 237 A.3d 882.

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<sup>12</sup> *Harvest*, Dictionary.com, <https://www.dictionary.com/> (entry for “Harvest”) (last visited June 9, 2022).



2. Legislative History and Purpose Clearly Indicate that Maine’s Constitutional Right to Food Was Not Intended to Invalidate the Legislature’s Sunday Hunting Ban.

Taking account of the legislative history, purpose, and intent of the Amendment’s drafters, it is clear that Maine’s Right to Food does not implicate hunting. As noted above, an explicit reference to a right to obtain food by “hunting” was included in the first two proposals for the Amendment, but it was removed from the second proposal in the 129th Legislature—by the Amendment’s drafter—after the Department of IFW expressed reservations about the proposed language. Ex. A at 35, 42. References to “hunting” were kept out of the third proposal that passed the 130th Legislature, and therefore the Department of IFW did not express any reservations about the language to the Agriculture Committee as it had with previous proposals.

Nor is there any question that the Legislature knows how to use specific language to address “hunting” generally or “Sunday hunting” specifically, when it desires to do so. *Cf. DaimlerChrysler Corp. v. Exec. Dir., Me. Rev. Servs.*, 2007 ME 62, ¶ 17, 922 A.2d 465 (“Clearly, had the Legislature wanted [a specific provision], it could have easily done so, as evidenced by the explicit mechanism the Legislature provided” in a different provision of the Maine Revised Statutes); *Arsenault v. Sec’y of State*, 2006 ME 111, ¶ 17, 905 A.2d 285 (following the same method of statutory interpretation); *see also* 12 M.R.S. §10001(31) (definition of “hunt”); Ex. A at 65 (requiring Department of IFW to study expansion of hunting to Sundays); Ex. A at 75, 84, 95 (proposals to permit certain forms of Sunday hunting). Likewise, it would make no logical sense for the 130th Legislature to require the Department of IFW to create a working group and draft a comprehensive report regarding the benefits and drawbacks of expanding hunting to Sunday if the Legislature was already enshrining such a right in the Maine Constitution.

Finally, “pronouncements of the legislators during their initial consideration of the [proposal]” are an important indicator of legislative intent. *See Me. Ass’n of Health Plans v.*

*Superintendent of Ins.*, 2007 ME 69, ¶ 47, 923 A.2d 918. And statements of the Amendment’s drafter and sponsor could not be any clearer that the Amendment was not intended to alter Maine’s ban on Sunday hunting (or for that matter any other hunting and fishing laws or regulations). As the drafter of the Amendment, Representative Hickman emphatically stressed—on multiple occasions—it would “not invalidate any hunting or fishing laws or regulations currently on the books” and would “not keep the requisite departments from enforcing those same regulations.” Ex. A at 29 (emphasis added); *see also id.* at 29-30 (same); *id.* at 33 (“[I]t must be made clear once more that [the proposed Amendment] will not change, repeal, preempt or nullify any laws or regulations—local, state or federal—currently on the books.”) (emphasis added). Likewise, in his testimony before the 130th Legislature, the Amendment’s sponsor, Representative Faulkingham, made clear that he was not sponsoring the Amendment in order to alter existing laws, but merely to protect “future generations” from government incursion. *Id.* at 48 (“Rarely are amendments adopted when they are needed. They are adopted many years before, by legislators who had the foresight to pass them for the benefit of future generations.”).

As with the United States Congress, the Maine Legislature should not be presumed to “hide elephants in mouseholes.” *Whitman v. Am. Trucking Ass’ns*, 531 U.S. 457, 468 (2001); *see also Conservation Law Found., Inc. v. Pruitt*, 881 F.3d 24, 32 (1st Cir. 2018). And taken as a whole—the Amendment’s text, legislative history, and legislative intent dictate that the Legislature did no such thing here: Maine’s Right to Food does not implicate, preempt, or invalidate 12 M.R.S. § 11205, the Legislature’s decision to prohibit hunting on Sundays. Against the backstop of the Legislature’s entitlement to a “presumption of constitutionality” and the Law Court’s command that “‘all reasonable doubts must be resolved in favor of the constitutionality’ of the enactment,” the Parkers’ Complaint fails as a matter of law. *Jones*, 2020 ME 113, ¶ 18, 238 A.3d 982 (quoting

*Goggin*, 2018 ME 111, ¶ 20, 191 A.3d 341). Thus, they fall well short of meeting their “heavy burden” of “demonstrating convincingly” that the ban conflicts with the Maine Constitution. *Id.*

**B. Even If the First Half of the Amendment’s Text Could Be Construed to Encompass Hunting, 12 M.R.S. § 11205 Would Be Excluded From the Amendment’s Reach Because the Amendment Does Not Protect Activities That Constitute “Poaching” and/or “Other Abuses” of “Natural Resources.”**

Because Maine’s Constitutional Right to Food does not implicate hunting—as laid out above in Part A—the Court need not consider the exceptions built into the Amendment. Nevertheless, even if the first portion of the Amendment’s text *could* be construed in isolation to encompass hunting, 12 M.R.S. § 11205 would be excluded from the Amendment’s reach because it does not protect activities that constitute “poaching” and/or “abuses of . . . natural resources.” This is so, because 1) the Amendment protects individuals’ right to produce food for themselves but does not institute a government obligation to provide food to individuals; 2) the wildlife of Maine is owned collectively by the people of Maine, as sovereign, who retain the authority through their representative Legislature to regulate the taking of said wildlife as they wish; and 3) taking wildlife in violation of statutory law enacted by the Legislature on behalf of the people constitutes “poaching” and/or an “abuse of natural resources.”

1. The Constitutional Right to Food Prohibits Intrusions on Individuals’ Rights; It Does Not Affirmatively Obligate Governmental Duties or Action.

The text and legislative intent behind the Amendment make clear that Maine’s Right to Food protects an individual’s right to produce their own food, but it does not require the government or anyone else to provide food to others. The text of the Amendment provides that all “individuals” enjoy a right to engage in certain activities—though as noted above “hunting” is not among them—in order to “consume the food of their own choosing for their own nourishment, sustenance, bodily health and well-being.” Me. Const. art. I, § 25. It does not provide that the

government or anyone else is obligated to supply food—much less food of an individual’s choosing—to those who are in need or desire it. This corresponds with other rights enjoyed by Mainers under our State Constitution. *See, e.g., Mabel Wadsworth Women’s Health Ctr. v. Hamilton*, No. PORSC-CV-15-527, slip op. at 28-29 (Me. Super. Ct., Cumb. Cty. Oct. 24, 2017) (“[W]hat the constitution . . . guarantee[s] is that the government will not restrict, infringe on, limit, or otherwise interfere with, a person’s exercise of their constitutional rights. . . . The key distinction is between respecting a right and funding the exercise of the right.”).

Likewise, both Representative Hickman as the drafter of the Amendment and Representative Faulkingham as its final sponsor confirmed this reading was their intent. In explaining changes that he made to the proposal between the 127th and 129th Legislatures, Representative Hickman stated that he had heeded the concerns of “some legislators and citizens” alike, who feared that:

[T]he amendment could somehow be misconstrued to grant greater governmental authority over providing food to people, rather than securing and protecting individual rights (it does not); or that it would promote trespassing and theft (it does not). Even though no one interprets the right to keep and bear arms to mean the state must provide all people with firearms or that people have a right to steal them.

Ex. A at 29. Similarly, when introducing the final version passed by the 130th Legislature, Representative Faulkingham declared:

Keep in mind Constitutional amendments are there to *protect* our rights, not provide them. Some have said that if an amendment called Right to Food is passed, that the government must provide food to people. That is not the case, and the language in this amendment is clear. Just as the right to bear arms is protected by the constitution, the constitution doesn’t provide arms to the people. The right to free speech is protected, but we don’t provide everyone with a microphone or a printing press to exercise it. The same would be true of the Right to Food. The amendment would protect the right of the people to grow and raise food for their own use, but have no obligation to provide it to them.

*Id.* at 49-50 (emphasis in original). There can be no mistake that neither the people of Maine nor their government has any obligation to provide food to individuals under the Amendment’s terms, and no one can use its adoption to justify the taking of food that does not belong to them.

2. The Wildlife of Maine Is Owned Collectively by The People of Maine As Sovereign.

Throughout history, the Law Court has consistently reaffirmed the principle that the wildlife of Maine is not owned by any individual, but instead collectively by the people of Maine, as sovereign. *See, e.g., State v. McKinnon*, 153 Me. 15, 18, 133 A.2d 885, 887 (1957) (“The fish in the waters of the state, and the game in its forests, belong to the people of the state, in their sovereign capacity, who, through their representatives, the legislature, have sole control thereof, and may permit or prohibit their taking.”) (quoting *State v. Snowman*, 46 A. 815, 818 (Me. 1900)). In other words, “[t]he animals which are objects of the hunt are naturally wild. There is no right of individual ownership as they are property of the sovereignty.” *Id.*

Because Maine’s wildlife is owned collectively by the people, as sovereign, “[t]he state of Maine has the unquestioned authority to ‘conserve, protect and regulate its wildlife.’” *Animal Welfare Inst. v. Martin*, 588 F. Supp. 2d 70, 99 (D. Me. 2008) (quoting *McKinnon*, 153 Me. at 18, 133 A.2d at 887); *see also Holbrook Island Sanctuary v. Inhabitants of Town of Brooksville*, 161 Me. 476, 486, 214 A.2d 660, 666 (1965) (“The control of wildlife rests with the State.”). That authority extends to the regulation of when, where, and by what means individuals may take the sovereign people’s wildlife in the form of hunting. *See Holbrook*, 161 Me. at 488, 214 A.2d at 666 (“The State may where it will and when it will prohibit hunting on any land within the State. . . . [I]t is the policy of the State and not the wish of the individual which controls the protection and preservation of the wildlife of our State.”).

3. Regulations of Maine’s Wildlife Fall Under the Amendment’s Exception for “Poaching” and/or “Other Abuses Of Natural Resources.”

Because the people of Maine as sovereign collectively own Maine’s wildlife and enjoy the authority to regulate their collective property through their representative Legislature, combined with the reality that the Amendment does not obligate the People of Maine to provide their

collective property to any individual, a question that remains is whether taking Maine’s wildlife against the legislated wishes of the people constitutes “poaching” or an “abuse[] of” “natural resources” under the Right to Food. The answer is “yes.”

The terms “poaching” and “poach” are not defined by the Maine Revised Statutes. Nor is either term used in Maine Revised Statutes at all. Black’s Law Dictionary likewise provides no relevant guidance in interpreting the terms “poach” or “poaching” as used in Maine’s Right to Food. The Law Court, itself, appears to have only used either term twice in its two centuries of precedent, and neither decision provides any guidance on what the term could mean as written in the Amendment. *See State v. Lipham*, 2006 ME 137, ¶ 2, 910 A.2d 388; *Barrows v. McDermott*, 73 Me. 441, 450 (1831).

Merriam-Webster’s Online Dictionary provides seven definitions for the word “poach,” five of which could potentially relate to the text of the Amendment<sup>13</sup>:

- 1) To encroach upon especially for the purpose of taking something.
- 2) To trespass for the purpose of stealing game. Also: to take game or fish illegally.
- 3) To trespass on. // A field poached too frequently by the amateur.
- 4) To take (game or fish) by illegal methods.
- 5) To appropriate (something) as one’s own.

Similarly, Dictionary.com provides two definitions of the term “poaching” that could plausibly relate to this suit, as well as five plausible definitions of “poach”<sup>14</sup>:

- 1) The illegal practice of trespassing on another's property to hunt or steal game without the landowner's permission.
- 2) Any encroachment on another's property, rights, ideas, or the like.
- 3) To trespass, especially on another’s game preserve, in order to steal animals or to hunt.
- 4) To take game or fish illegally.
- 5) To trespass on (private property), especially in order to hunt or fish.
- 6) To steal (game or fish) from another’s property.
- 7) To take without permission and use as one’s own: to poach ideas; a staff poached from other companies.

Some of these definitions involve trespassing on another’s property. Others involve only the

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<sup>13</sup> *Poach*, Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/> (entry for “Poach”) (last visited June 9, 2022).

<sup>14</sup> *Poaching*, Dictionary.com, <https://www.dictionary.com/> (entry for “Poaching”) (last visited June 9, 2022); *Poach*, Dictionary.com, <https://www.dictionary.com/> (entry for “Poach”) (last visited June 9, 2022).

taking of property—including fish and game—illegally or without permission. And some definitions incorporate both elements.

Because “poaching” can be defined simply as taking fish or game illegally—regardless of whether one trespasses on someone else’s property—an individual hunting the sovereign people’s wildlife outside the permissible regulations enacted by the people through their Legislature could certainly be considered to be engaging in “poaching” for purposes of the Amendment. Hence, Maine’s statutory ban on Sunday hunting in 12 M.R.S. § 11205 can be read in harmony with the Constitution’s Right to Food. And under the presumption of constitutionality that the Law Court applies to duly enacted statutes, courts are obligated to construe the two provisions of law in such a way. *Somerset Tel.*, 2021 ME 26, ¶ 30, 259 A.3d 97; *Jones*, 2020 ME 113, ¶ 18, 238 A.3d 982.

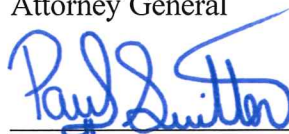
The same is true for the Amendment’s exception for “abuse of natural resources,” as the wildlife of Maine is unquestionably one of the State’s greatest “natural resources.” *Cf. State v. McKeen*, 2009 ME 87, ¶¶ 14-16, 997 A.2d 382 (describing the role of game wardens, in part, as enforcing hunting and fishing laws and regulations in order to protect natural resources). Hunting Maine’s wildlife—collectively owned by the people—in violation of a statute duly enacted by the people’s Legislature can certainly be considered an “abuse” of such “natural resources,” especially in light of the presumption of constitutionality that must be afforded to 12 M.R.S. § 11205. *Id.*

## CONCLUSION

Maine’s ban on Sunday hunting has existed for well over a century. It also complies with the Constitution. The Legislature and the people of Maine are actively engaged in a dialogue about what changes—if any—should be made to it. The Court should not permit this suit to be used as a vehicle to circumvent that democratic process. For these and all the reasons set forth above, the Commissioner respectfully asks that the Complaint be dismissed.

DATED: June 10, 2022

Respectfully submitted,  
AARON M. FREY  
Attorney General



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CAMUSO, in her official capacity as  
Commissioner of the Maine Department of  
Inland Fisheries and Wildlife.

NOTICE PURSUANT TO RULE 7

IF YOU WISH TO OPPOSE THIS MOTION, YOU MUST FILE A MEMORANDUM IN OPPOSITION WITH THE CLERK'S OFFICE. UNLESS ANOTHER TIME IS SET BY THE COURT OR PROVIDED BY THE MAINE RULES OF CIVIL PROCEDURE, A MEMORANDUM IN OPPOSITION MUST BE FILED WITHIN 21 DAYS OF THE DATE OF THE FILING OF THIS MOTION. IF YOU FAIL TO FILE A MEMORANDUM IN OPPOSITION WITHIN 21 DAYS, IT WILL BE ASSUMED THAT YOU DO NOT OBJECT TO THE MOTION. IF YOU FAIL TO FILE A MEMORANDUM IN OPPOSITION WITHIN 21 DAYS, THE MOTION MAY BE GRANTED BY THE COURT WITHOUT FURTHER NOTICE OR HEARING.





# EXHIBIT A

**127th Maine State Legislature  
Committee Activity**

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Committee: Agriculture, Conservation and Forestry

LD: 783

Title: RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food

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Public Hearing(s): 04/30/15 1:00 PM

Work Session(s): 05/07/15 2:30 PM  
05/14/15 1:00 PM  
02/04/16 2:00 PM

Reported Out: 02/24/2016

Committee Report(s): OTP-  
AM/ONTP

Committee History: 5/7/2015 10:13:07 AM Work Session Held  
5/14/2015 8:01:16 AM Work Session Held  
5/18/2015 1:44:13 PM Carry Over Approved  
2/4/2016 10:11:31 AM Work Session Held  
2/4/2016 10:11:42 AM Voted  
2/4/2016 3:39:02 PM Voted



# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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Legislative Document

No. 783

H.P. 532

House of Representatives, March 10, 2015

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### RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food

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Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative HICKMAN of Winthrop.  
Cosponsored by Senator LANGLEY of Hancock and  
Representatives: BLACK of Wilton, BUCKLAND of Farmington, CHIPMAN of Portland,  
DUNPHY of Old Town, PETERSON of Rumford, WARD of Dedham, WARREN of  
Hallowell, Senator: BRAKEY of Androscoggin.





# HOUSE OF REPRESENTATIVES

2 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0002

(207) 287-1400

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## **Craig V. Hickman**

192 Annabessacook Road  
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Residence: (207) 377-3276

Fax: (207) 377-3226

Craig.Hickman@legislature.maine.gov

### **Testimony of Representative Craig V. Hickman of Winthrop**

### **LD 783, RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Right to Food before the Joint Standing Committee on Agriculture, Conservation and Forestry - April 30, 2015**

Senator Edgecomb and distinguished members of the Joint Standing Committee on Agriculture, Conservation and Forestry, my name is Craig Hickman and I represent District 81, Winthrop, Readfield and a part of North Monmouth at the foot of Mt. Pisgah. I stand before you today to present LD 783, Resolution, Proposing and Amendment to the Constitution of Maine to Establish a Right to Food.

A wise man once said, "There's a hunger beyond food that's expressed in food, and that's why feeding is always a kind of miracle."

There's a hunger *beyond* food that's expressed *in* food, and that's why feeding is *always* a kind of miracle.

Back when I was a kid in Milwaukee, Wisconsin, our family struggled to make ends meet. My father worked the first shift at Pabst Blue Ribbon Company in the mail room. A World War II veteran with little education, he was basically the company mailman. My mother held a string of part-time jobs to help put food on the table for their two children. As hard as they both worked, and they worked *hard*, we needed food stamps in order to survive. Still, my parents made clear in both word and deed that no matter how little we had, someone else had less and we needed to help them however we could.

I'll never forget the day. I was about three or four years old when a young girl who smelled of dried urine knocked on our door. My father was at work, my sister at school. My mother let the girl in and escorted her to the bathroom where she drew a bath for the girl, who couldn't have been more than 12 years old. After bathing her, my mother gave her a blouse and a pair of pants and sat her down at the kitchen table for a steaming bowl of Cream of Wheat, bacon and toast. I couldn't believe how fast the girl devoured it all. It was an image that stuck with me, like good

preaching. She ate another bowl of cereal and then my mother let her take a nap on the couch. Later, when it was time for her to leave, my mother handed the girl a brown paper bag with a change of clothes and a peanut butter and jelly sandwich inside.

I couldn't count how many girls came knocking on our door over the next months, but they came nonetheless. My mother cared for each of them in almost the exact same way, like ritual. Our home was a stop on an underground railroad for throwaway girls.

It was then that I first understood the importance of food, the miracle of feeding people. Thank you, Mama.

For all of my childhood, my father grew a small garden in our back yard that yielded incredible produce. It was he who taught me how to grow food. Thank you, Daddy.

Today, I own a diversified organic farm and I am addicted to growing things. I've never been more committed to anything in my life. Never been happier. There's simply nothing like living off the land and nothing simpler. Knowing exactly where your food comes from because you produce it yourself.

Since 2009, my customers have appreciated every leaf of spinach, jar of granola, crown of broccoli they get from here. And I appreciate them. Their concerns and requests, their own gardening triumphs and failures. Our exchange of ideas and recipes and tricks. I never would have imagined I would become such an integral part of a local food chain. Never would have imagined I could sell dollars and dollars of organic produce and prepared foods in a single season without vending at a farmer's market or supplying a restaurant. Never would have imagined folks would stop by simply to thank me for doing what I do even though they buy their food at another local farm. I think now of Michael Pollan's words from his must-read book *In Defense of Food*, "In a short food chain... [f]ood reclaims its story, and some of its nobility, when the person who grew it hands it to you."

Since 2009, certain regulations have made it very difficult for me to continue offering the food to my customers that they wish to purchase from my farm and so here I stand today.

::

Food is life. I believe that access to wholesome food is a right for every individual. When one in four children among us goes to bed hungry every night, we must do better. We cannot allow a single one of us to go hungry for a single day. Maine has all the natural resources and the hard-working, independent-spirited people to grow, catch, forage, process, prepare and distribute enough food to feed ourselves, feed our families, and strengthen our local economies.

Today, I have put a version of this credo, this moral principle into a proposal to amend Article I. Declaration of Rights of the Maine Constitution as follows:

Section 25. Right to food. Every individual has a natural and unalienable right to food and to acquire food for that individual's own nourishment and sustenance by hunting, gathering, foraging, farming, fishing or gardening or by barter, trade or purchase from sources of that individual's own choosing, and every individual is fully responsible for the exercise of this right, which may not be infringed.

Now, why should we put this in writing? Why is the right to food and the food of our own choosing an important right to declare? What good will it do anyway? Isn't it just a statement?

To understand the answer to these questions we must first look at what other rights the people of the state of Maine have declared and protected constitutionally. There are 24 sections in our current bill of rights. Let's look at the first two:

Section 1. Natural rights. All people are born equally free and independent, and have certain natural, inherent and unalienable rights, among which are those of enjoying and defending life and liberty, acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness.

Section 2. Power inherent in people. All power is inherent in the people; all free governments are founded in their authority and instituted for their benefit; they have therefore an unalienable and indefeasible right to institute government, and to alter, reform, or totally change the same, when their safety and happiness require it.

Are these mere declarations? Just statements? Or do they mean something?

What does it mean to you in your daily life that you are born equally free and independent, that among your natural and inherent and unalienable rights you can enjoy and defend your life and liberty? How about that you have the right to acquire and possess and protect property, that you can pursue and obtain safety and happiness?

It means that the State of Maine recognizes that these are rights that no person or entity, no government or corporation can strip away. If a person, a government agency, or a corporation attempts to do so, you have standing in court, under the highest order of the law, to defend yourself.

How about power inherent in people?

What does it mean to you that all free governments are founded in *your* authority and instituted for your benefit? What does it mean that you have a right to alter, reform or totally change the government for your safety and happiness?



Did you know that you possess such a powerful right? You do. Thirteen Maine towns have asserted this right, and stand under its authority in local laws protecting their exchange of food.

Other rights in Article I include: religious freedom, freedom of speech, the right to be secure in your person and possessions, the right to a speedy and fair trial, discrimination is prohibited, the right to a jury, no double jeopardy, no cruel and unusual punishment, *habeus corpus*. These are only the first ten.

One could argue, I suppose, that these are all simply declarations or statements of how we wish things would be. But constitutionally declared and protected rights are not merely aspirational. They are the moral underpinnings of the society within which we live.

Most importantly, they give you legal ground to stand on.

So why do we need Section 25 added to Maine's Declaration of Rights. What will it accomplish?

In 2010, the Food and Drug Administration (FDA) stated that:

There is no absolute right to consume or feed children any particular food.

There is no 'deeply rooted' historical tradition of unfettered access to foods of all kinds.

Plaintiffs' assertion of a 'fundamental right to their own bodily and physical health, which includes what foods they do and do not choose to consume for themselves and their families' is similarly unavailing because plaintiffs do not have a fundamental right to obtain any food they wish.

When our own bodily and physical health is not our own, when the government agency that is increasingly controlling more and more of our food supply states that our right to our own health, our right to feed ourselves and our families the food we want to eat is not a fundamental right of liberty, and when that agency prevails in court because, for the time being, the rule of law backs them up, well, then, the People are simply not well served.

Did you know that you didn't have the right to the food of your own choosing? And, if you thought you did, did you know that this phantom right is being stripped away from you little by little, and in some cases, by leaps and bounds? On what legal ground will you stand when you cannot obtain the food you wish to eat? When you can't get food from your favorite farm anymore because it has gone out of business or disappeared from the rural landscape?

In the last ten years, we have seen dozens of farm raids around the country, we have seen states suing farmers, farm customers suing states to establish their right to acquire the food they wish,

we have seen multinational bio-technology corporations suing farmers for patent theft, we have seen seeds become the legal property of those same corporations.

The People are losing access to the food we desire, to the integrity of our food, and to our own bodily and physical health.

Unless we choose to do otherwise.

Establishing a right to food and a right to acquire the food of our choosing gives us, the People, legal ground to protect our own health, our property, our food and our lives.

Just like the other rights declared in Article I of our Constitution, the right to food is a fundamental liberty right. It is a right increasingly infringed. If we protect it in our constitution, the strength of the law shifts, away from corporatist and government control of our food and our lives and toward the People.

To close, there is nothing more intimate than eating. Who, other than you, should decide what you are allowed to eat for your own nourishment and sustenance?

Let us articulate our Right to Food now. Let us put Section 25 in Maine's Declaration of Rights. Let us stand on solid ground and establish legal protection for our health, for our happiness, for our liberty.

Food is Life.

The time is *now*.

And I believe that the good people of Maine, if given a chance at the ballot box, will resoundingly agree.

So, please, let us vote unanimously ought to pass on LD 783.

Thank you.

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L.D. 783

Date: (Filing No. H- )

**AGRICULTURE, CONSERVATION AND FORESTRY**

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
127TH LEGISLATURE  
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT “ ” to H.P. 532, L.D. 783, “RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food”

Amend the resolution by striking out all of section 25 (page 1, lines 5 to 9 in L.D.) and inserting the following:

'Section 25. Right to food freedom and food self-sufficiency. All individuals have a natural, inherent and unalienable right to acquire, produce, process, prepare, preserve and consume the food of their own choosing, for their own nourishment and sustenance, by hunting, gathering, foraging, farming, fishing, gardening and saving and exchanging seeds, as long as no individual commits trespassing, theft, poaching or other abuses of private property rights, public lands or natural resources in the acquisition of food. Furthermore, all individuals have a right to barter, trade and purchase food from the sources of their own choosing for their own bodily health and well-being. Every individual is fully responsible for the exercise of these rights, which may not be infringed.'

Amend the resolution by striking out all of the question (page 1, lines 17 and 18 in L.D.) and inserting the following:

' "Do you favor amending the Constitution of Maine to declare that all individuals have a natural, inherent and unalienable right to acquire, produce, process, prepare, preserve and consume the food of their own choosing for their own nourishment and sustenance and to barter, trade and purchase food from the sources of their own choosing for their own bodily health and well-being?" '

**SUMMARY**

This amendment, which is the majority report of the committee, strikes and replaces the language in the constitutional resolution to declare that all individuals have a natural, inherent and unalienable right to acquire, produce, process, prepare, preserve and consume food of their own choosing for their own nourishment and sustenance and to

**COMMITTEE AMENDMENT**

ROFS

COMMITTEE AMENDMENT “ ” to H.P. 532, L.D. 783

1 barter, trade and purchase food for their own bodily health and well-being. This  
2 amendment also strikes and replaces the question that will be presented to the voters.

3 **FISCAL NOTE REQUIRED**

4 **(See attached)**

## **COMMITTEE AMENDMENT**



# 127th MAINE LEGISLATURE

LD 783

LR 1765(02)

**RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food**

**Fiscal Note for Bill as Amended by Committee Amendment " "**

**Committee: Agriculture, Conservation and Forestry**

**Fiscal Note Required: Yes**

## Fiscal Note

Current biennium cost increase - General Fund

**Referendum Costs**

Month/Year	Election Type	Question	Length
Nov-16	General	Referendum	Standard

The Secretary of State's budget includes sufficient funds to accommodate one ballot of average length for the general election in November. If the number or size of the referendum questions requires production and delivery of a second ballot, an additional appropriation of \$107,250 may be required.

ROFS  
COPY

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L.D. 783

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Date:

(Filing No. H- )

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### AGRICULTURE, CONSERVATION AND FORESTRY

4

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#### STATE OF MAINE

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#### HOUSE OF REPRESENTATIVES

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#### 127TH LEGISLATURE

8

#### SECOND REGULAR SESSION

9

COMMITTEE AMENDMENT " " to H.P. 532, L.D. 783, "RESOLUTION,  
10 Proposing an Amendment to the Constitution of Maine To Establish a Right to Food"

11

Amend the resolution by striking out all of section 25 (page 1, lines 5 to 9 in L.D.)  
12 and inserting the following:

13

**Section 25. Right to food freedom and food self-sufficiency.** All individuals  
14 have a natural, inherent and unalienable right to acquire, produce, process, prepare,  
15 preserve and consume the food of their own choosing, for their own nourishment and  
16 sustenance, by hunting, gathering, foraging, farming, fishing, gardening and saving and  
17 exchanging seeds, as long as no individual commits trespassing, theft, poaching or other  
18 abuses of private property rights, public lands or natural resources in the acquisition of  
19 food. Furthermore, all individuals have a right to barter, trade and purchase food from  
20 the sources of their own choosing for their own bodily health and well-being. Every  
21 individual is fully responsible for the exercise of these rights, which may not be  
22 infringed.'

23

Amend the resolution by striking out all of the question (page 1, lines 17 and 18 in  
24 L.D.) and inserting the following:

25

' "Do you favor amending the Constitution of Maine to declare that all  
26 individuals have a natural, inherent and unalienable right to acquire,  
27 produce, process, prepare, preserve and consume the food of their own  
28 choosing for their own nourishment and sustenance and to barter, trade  
29 and purchase food from the sources of their own choosing for their own  
30 bodily health and well-being?" '

31

#### SUMMARY

32

This amendment, which is the majority report of the committee, strikes and replaces  
33 the language in the constitutional resolution to declare that all individuals have a natural,  
34 inherent and unalienable right to acquire, produce, process, prepare, preserve and  
35 consume food of their own choosing for their own nourishment and sustenance and to

ROFS

COMMITTEE AMENDMENT " " to H.P. 532, L.D. 783

1 barter, trade and purchase food for their own bodily health and well-being. This  
2 amendment also strikes and replaces the question that will be presented to the voters.

3

**FISCAL NOTE REQUIRED**

4

**(See attached)**



# 127th MAINE LEGISLATURE

LD 783

LR 1765(01)

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food

Preliminary Fiscal Impact Statement for Original Bill

Sponsor: Rep. Hickman of Winthrop

Committee: Agriculture, Conservation and Forestry

Fiscal Note Required: Yes

## Preliminary Fiscal Impact Statement

Current biennium cost increase - General Fund

Referendum Costs	Month/Year	Election Type	Question	Length
	Nov-15	General	Referendum	Standard

The Secretary of State's budget includes sufficient funds to accommodate one ballot of average length for the general election in November. If the number or size of the referendum questions requires production and delivery of a second ballot, an additional appropriation of \$107,250 may be required.





# 127th MAINE LEGISLATURE

LD 783

LR 1765(01)

**RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food**

**Preliminary Fiscal Impact Statement for Original Bill**

**Sponsor: Rep. Hickman of Winthrop**

**Committee: Agriculture, Conservation and Forestry**

**Fiscal Note Required: Yes**

## Preliminary Fiscal Impact Statement

Current biennium cost increase - General Fund

**Referendum Costs**

Month/Year	Election Type	Question	Length
Nov-15	General	Referendum	Standard

The Secretary of State's budget includes sufficient funds to accommodate one ballot of average length for the general election in November. If the number or size of the referendum questions requires production and delivery of a second ballot, an additional appropriation of \$107,250 may be required.



# 127th MAINE LEGISLATURE

LD 783

LR 1765(02)

**RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food**

**Fiscal Note for Bill as Amended by Committee Amendment " "**

**Committee: Agriculture, Conservation and Forestry**

**Fiscal Note Required: Yes**

## Fiscal Note

Current biennium cost increase - General Fund

### Referendum Costs

Month/Year	Election Type	Question	Length
Nov-16	General	Referendum	Standard

The Secretary of State's budget includes sufficient funds to accommodate one ballot of average length for the general election in November. If the number or size of the referendum questions requires production and delivery of a second ballot, an additional appropriation of \$107,250 may be required.

## COMMITTEE VOTING TALLY SHEET

LD #: 783  
 Committee: AGRICULTURE, CONSERVATION, & FORESTRY  
 Date: 5-7-15  
 Motion: Table  
 Motion by: Rep. Hickman  
 Seconded by: Rep. Dunphy

Those Voting in Favor of the Motion	Minority Report(s)					Absent	Abstain
	ONTP	OTP	OTP-AM	New Draft	Re-Refer		

Rep. Saucier	✓						
Rep. Kinney	✓						
Rep. Noon	✓						
Rep. Marean	✓						
Rep. Dunphy	✓						
Rep. Black	✓						
Rep. Hickman	✓						
Sen. Edgecomb	✓						
Sen. Dill	✓						
Sen. Saviello						✓	
Rep. Edgecomb	✓						
Rep. Chapman	✓						
Rep. McElwee	✓						

## COMMITTEE VOTING TALLY SHEET

LD #: 783

Committee: AGRICULTURE, CONSERVATION, & FORESTRY

Date: 5-14-15

Motion: Take off Table

Motion by: Rep. Dunphy

Seconded by: No second - went straight to vote

Those Voting in Favor of the Motion	Minority Report(s)					Absent	Abstain
	ONTP	OTP	OTP-AM	New Draft	Re-Refer		

Rep. Saucier	✓						
Rep. Kinney	✓						
Rep. Noon	✓						
Rep. Marean	✓						
Rep. Dunphy	✓						
Rep. Black	✓						
Rep. Hickman	✓						
Sen. Edgecomb	✓						
Sen. Dill	<del>✓</del>					✓	
Sen. Saviello						✓	
Rep. Edgecomb	✓						
Rep. Chapman	✓						
Rep. McElwee	✓						

## COMMITTEE VOTING TALLY SHEET

LD #: 783 (Establish Right To Food)  
 Committee: AGRICULTURE, CONSERVATION, & FORESTRY  
 Date: 5-14-15  
 Motion: Carry Over  
 Motion by: Rep. Hickman  
 Seconded by: Rep. Dunphy

Those Voting in Favor of the Motion	Minority Report(s)					Absent	Abstain
	ONTP	OTP	OTP-AM	New Draft	Re-Refer		

Rep. Saucier	✓						
Rep. Kinney	✓						
Rep. Noon	✓						
Rep. Marean	✓						
Rep. Dunphy	✓						
Rep. Black	✓						
Rep. Hickman	✓						
Sen. Edgecomb	✓						
Sen. Dill						✓	
Sen. Saviello						✓	
Rep. Edgecomb	✓						
Rep. Chapman	✓						
Rep. McElwee	✓						

## COMMITTEE VOTING TALLY SHEET (ROLL CALL)

LD #: 783

Committee: AGRICULTURE, CONSERVATION, & FORESTRY

Date: 2/4/16

Motion: OTP-AM (Rep. Hickman's Language)

Motion by: Rep. Chapman

Seconded by: Rep. Saucier

Those Voting in Favor of the Motion	Minority Report(s)					Absent	Abstain
	ONTP	OTP	OTP-AM	New Draft	Re-Refer		

Name	Favor of Motion	ONTP	OTP	OTP-AM	New Draft	Re-Refer	Absent	Abstain
Sen. Edgecomb		✓						
Sen. Saviello	✓							
Sen. Dill	✓							
Rep. Hickman	✓							
Rep. Black		✓						
Rep. Dunphy	✓							
Rep. Marean	✓							
Rep. McCabe	✓							
Rep. Kinney		✓						
Rep. Saucier	✓							
Rep. Edgecomb		✓						
Rep. Chapman	✓							
Rep. McElwee		✓						
	8	5						

## COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: LD 783

Committee: Agriculture, Conservation and Forestry

Date: 02/04/2016

Motion: Ought To Pass As Amended

Motion by: Rep. Chapman

Seconded by: Rep. Saucier

Those Voting in Favor of the Motion	Recommendation of those opposed to the Motion					Absent	Abstain
	ONTP						

### Senators

Sen. P. Edgecomb		X					
Sen. Dill	X						
Sen. Saviello	X						

### Representatives

Rep. Hickman		X					
Rep. Black		X					
Rep. Chapman	X						
Rep. M. Dunphy	X						
Rep. A. Edgecomb		X					
Rep. M. Kinney		X					
Rep. Marean	X						
Rep. McCabe	X						
Rep. McElwee		X					
Rep. Saucier	X						

MAJORITY

# HOUSE REPORT

## THE COMMITTEE ON Agriculture, Conservation and Forestry

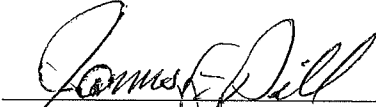
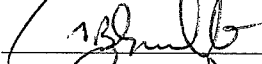




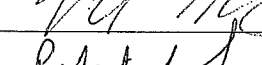
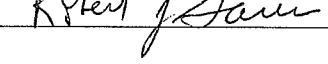
to which was referred the following:

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food

H.P. 532

L.D. 783

has had the same under consideration, and asks leave to report that the same  
OUGHT TO PASS AS AMENDED BY COMMITTEE AMENDMENT " "

(Signature)	of For the Committee
SEN. DILL of Penobscot	
SEN. SAVIELLO of Franklin	
REP. HICKMAN of Winthrop	
REP. CHAPMAN of Brooksville	
REP. M. DUNPHY of Old Town	
REP. MAREAN of Hollis	
REP. MCCABE of Skowhegan	
REP. SAUCIER of Presque Isle	
(Type) Rep. of (Town) and/or Sen. of (County)	(Signatures)



MINORITY

# HOUSE REPORT

## THE COMMITTEE ON Agriculture, Conservation and Forestry


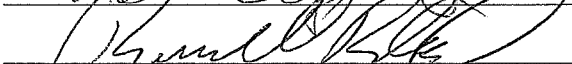
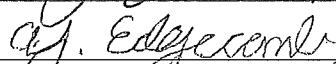
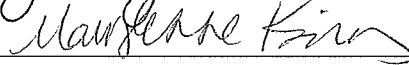
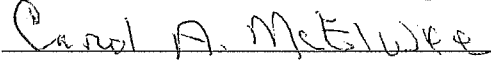
to which was referred the following:

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food

H.P. 532

L.D. 783

has had the same under consideration, and asks leave to report that the same  
OUGHT NOT TO PASS

(Signature)	of For the Committee
SEN. P. EDGECOMB of Aroostook	
REP. BLACK of Wilton	
REP. A. EDGECOMB of Fort Fairfield	
REP. M. KINNEY of Knox	
REP. MCELWEE of Caribou	
(Type) Rep. of (Town) and/or Sen. of (County)	(Signatures)



# 129th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2019

Legislative Document

No. 795

H.P. 583

House of Representatives, February 12, 2019

### RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

ROBERT B. HUNT  
Clerk

Presented by Representative HICKMAN of Winthrop.  
Cosponsored by President JACKSON of Aroostook and  
Representatives: ACKLEY of Monmouth, ALLEY of Beals, AUSTIN of Skowhegan, BABBIDGE of Kennebunk, BABINE of Scarborough, BAILEY of Saco, BEEBE-CENTER of Rockland, BERRY of Bowdoinham, BROOKS of Lewiston, BRYANT of Windham, CARDONE of Bangor, CEBRA of Naples, COLLINGS of Portland, COOPER of Yarmouth, CRAVEN of Lewiston, CROCKETT of Portland, DAUGHTRY of Brunswick, DENK of Kennebunk, DODGE of Belfast, DOUDERA of Camden, DUNPHY of Old Town, EVANGELOS of Friendship, FARNSWORTH of Portland, FAULKINGHAM of Winter Harbor, FAY of Raymond, FECTEAU of Augusta, FECTEAU of Biddeford, FOLEY of Biddeford, GATTINE of Westbrook, GRAMLICH of Old Orchard Beach, HANDY of Lewiston, HARNETT of Gardiner, HEPLER of Woolwich, HOBBS of Wells, HUBBELL of Bar Harbor, INGWERSEN of Arundel, JORGENSEN of Portland, KESSLER of South Portland, LANDRY of Farmington, MADIGAN of Waterville, MAREAN of Hollis, MARTIN of Eagle Lake, MARTIN of Sinclair, MATLACK of St. George, McCREA of Fort Fairfield, McCREIGHT of Harpswell, McDONALD of Stonington, MEYER of Eliot, MOONEN of Portland, MORALES of South Portland, NADEAU of Winslow, O'CONNOR of Berwick, O'NEIL of Saco, ORDWAY of Standish, PEBWORTH of Blue Hill, PERRY of Calais, PIERCE of Falmouth, PLUECKER of Warren, RISEMAN of Harrison, SHARPE of Durham, SKOLFIELD of Weld, STANLEY of Medway, SYLVESTER of Portland, TALBOT ROSS of Portland, TEPLER of Topsham, TERRY of Gorham, TIPPING of Orono, WADSWORTH of Hiram, WARREN of Hallowell, ZEIGLER of Montville, Senators: BELLOWS of Kennebec, BLACK of Franklin, BREEN of Cumberland, CARPENTER of Aroostook, CARSON of Cumberland, CHENETTE of York, CHIPMAN of Cumberland, CLAXTON of Androscoggin, GRATWICK of Penobscot, HERBIG of Waldo, LIBBY of Androscoggin, MIRAMANT of Knox, SANBORN, H. of Cumberland, VITELLI of Sagadahoc.



1 barter, trade and purchase the food of their own choosing for their own nourishment,  
2 sustenance, bodily health and well-being.



# HOUSE OF REPRESENTATIVES

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## Craig V. Hickman

192 Annabessacook Road

Winthrop, ME 04364

Residence: (207) 377-3276

Craig.Hickman@legislature.maine.gov

Testimony of Representative Craig V. Hickman presenting  
**LD 795, RESOLUTION, Proposing an Amendment to the  
Constitution of Maine To Establish a Right to Food**  
Before the Joint Standing Committee on Agriculture, Conservation and Forestry

Senator Dill, Representative Kinney and distinguished members of the Joint Standing Committee on Agriculture, Conservation and Forestry. My name is Craig Hickman and I represent District 81, Winthrop, Readfield and a part of North Monmouth at the foot of Mt. Pisgah. I stand before you today to present, enthusiastically, LD 795, RESOLUTION, Proposing an Amendment to the Constitution of Maine to Establish a Right to Food.

When I first became a member of the Legislature, I never thought I would present a resolution to amend the Constitution. I see the document as sacred, one which declares the moral underpinnings of our society and outlines the bylaws that undergird the foundation of our democratic republic. It must be amended but rarely.

History, however, tells another story. Maine's Constitution is sacred precisely because it is a living and breathing document that has been amended 173 times since 1820, the last time in 2017 when the People overwhelmingly ratified a constitutional amendment regarding public pension unfunded liabilities by a landslide margin, 63%- 37%. Raise your hand if you remember voting on it. That amendment affected all of us as taxpayers. This amendment affects all of us as *human beings*.

And so I stand before you today asking that we send a resolution to the People to make our sacred document an even stronger protector of individual rights regarding the most vital of concerns.

As food lawyer Peter Hutt states, "The constitutional authority of the government to determine the food that can lawfully be marketed, and the constitutional right of the individual to personal freedom and control of his own destiny, will at some juncture inevitably conflict."

That day of conflict has arrived and we have an opportunity to make this moment of conflict transformational. So today, I present a resolution that pays the ultimate tribute to eaters, a set of rights that explicitly articulates an expression of our right to enjoy and defend life and liberty and pursue and obtain our safety and happiness, as set forth in Article 1, Section 1 of the Declaration of Rights in the Constitution of Maine. The resolution reads as follows:

Section 25. Rights to Food and Food Sovereignty and Freedom from Hunger. All individuals have a natural, inherent and unalienable right to food, including the right to acquire, produce, process, prepare, preserve and consume the food of their own choosing by hunting, gathering, foraging, farming, fishing, gardening and saving and exchanging seeds or by barter, trade or purchase from sources of their own choosing, for their 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 acquisition of food; furthermore, all individuals have a fundamental right to be free from hunger, malnutrition, starvation or endangerment of life from the scarcity of or lack of access to nourishing food.

Now this isn't my first up-to-bat and so this language is much the same as the language that received two thirds of a vote in the House Representatives in the 127th Legislature. That measure had been carried over to the Second Regular Session to address concerns raised by some legislators and citizens that this amendment could somehow be misconstrued to grant greater governmental authority over providing food to people, rather than securing and protecting individual rights (it does not); or that it would promote trespassing and theft (it does not). Even though no one interprets the right to keep and bear arms to mean the state must provide all people with firearms or that people have a right to steal them, I considered seriously all concerns. I sought input from Republicans and Democrats, Independents and Libertarians, conservatives and progressives, allies and foes, farmers and fishermen, chefs, cottage food producers, homesteaders and lawyers until the language was right. Like a big community pig roast barbecue, then, as now, the amended version before us reflects the collaborative effort of many, and I thank them all. We won the support of the Maine State Grange, while the Maine Farm Bureau changed its position from opposition to monitor—neither for nor against, if you will.

In a moment, I will tell you why I believe we need to put this in writing, why it rises to the level of a constitutional amendment, but first I want to say that this resolution, if ratified, will not invalidate state food laws or regulations currently on the books, will not invalidate any hunting or fishing laws or regulations currently on the books, and will not keep the requisite departments from enforcing those same regulations. If this resolution requires more—or less—language to make that clearer, then let it be so. For example, we could end up with simply this:

Section 25. Right to Food. All individuals have a natural, inherent and unalienable right to food, including the right to acquire, produce, process, prepare, preserve and consume and to barter, trade or purchase the food of their own choosing from the sources of their own choosing, for their own nourishment, sustenance, bodily health and well-being.

Period. Wherever the language ends up, LD 795 is, ultimately, about freedom of choice, access to nourishing food, food self-sufficiency, food security, freedom from hunger and malnutrition. LD 795 is about food sovereignty, individual responsibility and our basic fundamental right to work out our own nutrition regimen free from unnecessary interference.

So, no matter what else you have heard or will hear, this resolution, if adopted, will not invalidate state food laws or regulations currently on the books, will not invalidate any hunting or fishing

laws or regulations currently on the books, and will not keep the requisite departments from enforcing those same regulations.

This is true, Senator Dill, Representative Kinney, because this resolution, if adopted, does not change one single word of statute. To the contrary, it adds a set of rights to the Constitution, a firm foundation upon which sound public policy can be built.

But, first, we must send it to the ballot box.

Federal policy largely determines what we have available to eat, even here in Maine; or especially here in Maine. We currently import 90% of the food we consume. Hence, the food produced in the industrial food system is ours for the taking, and it is taking us to epidemic addictions to salt, sugar, and fat, taking us to chronic diseases and slow death. Malnutrition, diabetes, obesity, Alzheimer's, endocrine disorders, hypertension, heart disease, and cancer are all linked to the so-called Western Diet. The federal farm bill has contributed directly to these public health disasters. As Marion Nestle, a world-renowned nutritionist, speaking exclaims:

The farm bill matters. It is crucial to practically everything about our food system: what crops get subsidized, how much foods cost, how land is used and whether low-income Americans have enough to eat. Whether you are rich or poor, much about your food choices is shaped by what's in this bill's 357 printed pages.

If you examine how its incentives line up, you quickly see that it strongly favors the industrial agriculture of the Midwest and South over that of the Northeast and West; methods requiring chemical fertilizers, pesticides and herbicides over those that are organic and sustainable; and commodity crops for animal feed and ethanol rather than "specialty" crops (translation: fruits and vegetables) for human consumption. Because its benefits are proportionate to production levels, it promotes crop overproduction. This makes food hugely competitive and forces the manufacturers of processed foods and drinks to do everything possible to encourage sales of their products. The result is a food environment that encourages overeating of highly caloric, highly processed foods, but discourages consumption of healthier, relatively unprocessed foods.

According to Michael Moss, Pulitzer Prize-winning investigative journalist and author of the top New York Times bestseller "Salt Sugar Fat: How the Food Giants Hooked Us," this harmful food system is promoted by the biggest food manufacturers in the world and defended by the very agencies that are supposed to protect the public.

In 2010, the Food and Drug Administration (FDA), which regulates 80% of the country's food, declared in U.S. District Court that people have "no fundamental right to obtain the food they wish" and therefore have "no fundamental right to their own bodily and physical health."

I strongly disagree. I believe a majority of Maine people also disagree. LD 795 is before us precisely so that we may find out. As Maine goes, so goes the nation.

In that same 2010 case, the FDA also claimed that “there is no deeply rooted historical tradition of unfettered access to foods of all kinds.”

Now I would say that’s in insult to all our ancestors, Senator Dill, Representative Kinney. Our ancestors ate wild turtle soup, steamed snails, fried grasshoppers, fire-roasted grubs, and raw fish eggs, and lived to tell about it. Our ancestors figured out how to make hog intestines, pig feet, beef tongue and brains, chicken hearts, thymus glands and pork belly taste good.

And lived to tell about it.

Fast forward several centuries, and the government agencies that are supposed to ensure food safety didn’t seem to care much about the quality of the meats available in the neighborhood grocery stores during my childhood in Milwaukee. For the exchange of our food stamps our hard-earned money, the only chicken available would be so yellow with age and degradation, my mother would soak it overnight in vinegar and lemon water to kill whatever might live on it, then stew it for hours in a pressure cooker to kill anything else. In the last 20 minutes or so, she would drop dumplings in the savory pot liquor and build a part of heaven smack dab in the middle of our kitchen.

We lived to tell about it.

The only beef steaks and pork chops available were so gray we felt safe to eat them only after they were charred past well-done in the oven’s bottom broiler and then smothered in homemade gravy and sautéed wild mushrooms our neighbors foraged on weekend camping trips.

We lived to tell about it.

When yellow chicken and gray beef steaks were among the only animal protein choices available to us at the store, it was no surprise, then, that my father would go hunting with the other fathers in our neighborhood to score opossum, raccoon, squirrel and rabbit, all of which went into the pressure cooker with his garden-grown carrots, potatoes, celery and onions to create a wild game stew so good I could never eat enough. Or, he would fish for perch or trout in Wisconsin’s pristine lakes and slow cure the fish, sometimes whole, sometimes fileted, in his hand-built smoker for longer keeping.

We lived to tell about it.

No deeply rooted historical tradition of unfettered access to foods of all kinds? That’s revisionist history, at best; a misleading fantasy, at worst. If we the People can’t find what we want at the supermarket, corner store or farmers market, or if we can’t produce it ourselves, then we will find it elsewhere.

Food is life.

When one in four children among us goes to bed hungry every night, we must do better. We cannot allow a single one of us to go hungry for a single day. Maine has all the natural resources and the hard-working, independent-spirited, and resourceful people who will make a way out of



no way. We will find and feed ourselves the food we want to eat. This is our right, Senator Dill, Representative Kinney, and I am here to tell about it.

As more people become informed about industrial agriculture through documentaries like “Food, Inc.” and the writings of Wendell Berry, we seek nutrient-dense food from our neighbors and friends, small food producers and homesteaders who produce wholesome food free from chemical preservatives, soy fillers, antibiotics, artificial flavors and colors, clever rearrangements of corn, and who knows what else. Just ask the folks in the 54 towns and cities in every county that have adopted Food Sovereignty Ordinances to date, including right here in Augusta, our state capitol.

The substantive due process clauses of the Fifth and Fourteenth Amendments to the United States Constitution provide that no person shall “be deprived of life, liberty, or property, without due process of law.” Obtaining the food we wish to eat is so basic to our lives, our liberty and our property that it is inconceivable that a right to food choice would not be protected under the Constitution of the United States.

But, the FDA says NO.

Well, in our Constitution, let the People of Maine say YES.

More than three decades ago, the People of this great State, through their representatives, declared that it is policy of the State to be food self-sufficient. And yet we import 90% of the food we consume. Something is wrong with this picture, and we can take a bold step today to paint a better one.

As Virginia farmer Joel Salatin asserts, “More food choice, more food producers, and more community-embedded food options increase food production, food availability, food price competition, and ultimately benefits everyone, including the hungry.

“I can’t imagine a more basic human right, a more bipartisan issue, than protecting my right to choose my body’s food. Who could possibly think that such freedom of choice should be denied? We allow people to smoke, shoot, preach, home educate, spray their yards with chemicals, buy lottery tickets, and read about the Kardashians: wouldn’t you think we could let people choose their food?”

Let the People of Maine say YES.

“It is time to give us back the food freedom our ancestors enjoyed,” Salatin continues. “Freedom is not a focus group exercise. If we can’t taste freedom, we can only talk about it, and that leaves liberty hollow. It’s time for us to embrace the innovation and food security solutions that granting a fundamental right to food engenders.”

Let the People of Maine say YES.

Senator Dill, Representative Kinney, distinguished members of the Joint Standing Committee on Agriculture, Conservation and Forestry, our courts have yet to recognize the right to food choice

as a fundamental liberty right. But way back in 1888, in the case of *Powell vs. Pennsylvania*, Supreme Court Justice Stephen Field argued as follows:

I have always supposed that the gift of life was accompanied with the right to seek and produce food, by which life can be preserved and enjoyed, in all ways not encroaching upon the equal rights of others... [The] right to procure healthy and nutritious food and to manufacture it, is among those inalienable rights, which, in my judgment, no state can give, and no state can take away.... It is involved in the right to pursue one's happiness.

Sometimes, we have to go back in order to move forward.

Finally, it must be made clear once more that LD 795 will not change, repeal, preempt or nullify any laws or regulations—local, state or federal—currently on the books. If someone decides to challenge any of those laws or regulations, only a court of competent jurisdiction can determine if any current or future food laws or regulations or hunting, fishing or foraging laws and regulations enforced in the State of Maine infringe on the fundamental rights set forth in LD 795.

Food is life. Let us, distinguished committee, let us *all* vote with a clear conscience for this resolution so that the people we represent have an opportunity to vote for it at the ballot box, and decide, once and for all, if we want to agree with a Supreme Court justice and declare and articulate the right to food explicitly in the Constitution of the State of Maine.

Food is life. There is nothing more intimate than eating. Do we have a right to obtain the food we wish, or don't we? It's really that simple. Let's put it in black and white. Let's put it in writing.

Food is life. Let us vote unanimously to support this resolution and let the People of Maine say YES.



**STATE OF MAINE**  
**DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY**  
**OFFICE OF THE COMMISSIONER**  
**22 STATE HOUSE STATION**  
**AUGUSTA, MAINE 04333**

**JANET T. MILLS**  
GOVERNOR

**AMANDA E. BEAL**  
COMMISSIONER

**TESTIMONY BEFORE THE JOINT COMMITTEE ON**  
**AGRICULTURE, CONSERVATION, AND FORESTRY**  
**Neither for Nor Against**

**LD 795 RESOLUTION**, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food

Senator Dill, Representative Hickman and members of the committee, my name is Emily Horton, and I am the Director of Policy and Community Engagement, for the Department of Agriculture, Conservation and Forestry.

At DACF, we recognize that hunger is a real issue for a significant percentage of Maine’s people; our state currently ranks 9<sup>th</sup> in the nation for food insecurity, where 14.4% of Maine households are considered to be food insecure. Within those statistics, seniors and children bear an even higher percentage of risk of being food insecure.

The concept of the “right to food” is one that has been promoted and supported by the United Nations and others in recognition that worldwide, hunger is an important and pervasive issue that we must actively address. As stated by the United Nations, at the core of this concept of the “right to food” is, “...the realization of the right of everyone to adequate food and the fundamental right of everyone to be free from hunger.” What this essentially means is that we acknowledge that access to food is essential to life, and that we are committed to ensuring that we address hunger and food insecurity in our society.

Should this constitutional amendment be adopted, we encourage that it be done in a way that does not impede the Department’s ability to effectively license and regulate Maine food products as we do now. To that end, we would like more clarity around the intent of the language, “purchase from sources of their own choosing.” Furthermore, as we work to balance our responsibilities to oversee use and management of various land-based, natural-resources through regulation, rules and statute for the people of Maine, while also supporting the development of a robust local food system and maintaining food safety, we would want to ensure this resolve language would reflect and not conflict with compliance with applicable state and federal laws, rules and regulations.

In closing, we support the “right to food” in concept, and whether this Resolution is adopted, we will continue our work to increase food security in Maine through hunger relief programs we administer, such as The Emergency Food Assistance Program (TEFAP), Commodity Supplemental Food Program (CSFP), Senior Farm Share, and other related programs and partnerships administered through the Bureau of Agriculture, Food

HARLOW BUILDING  
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AUGUSTA, MAINE



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 WEB: [WWW.MAINE.GOV/DACF](http://WWW.MAINE.GOV/DACF)

and Rural Resources, and by supporting the ability to forage for wild edible plants on public lands and promoting opportunities for individuals to grow food for themselves and others in their communities.

After speaking with Inland Fisheries and Wildlife they have the following thoughts and concerns in relation to this Resolution:

It is Inland Fisheries and Wildlife's responsibility to preserve, protect and enhance the inland fisheries & wildlife resources of the State and to encourage their wise use through coordinated planning and effective management.

Inland Fisheries and Wildlife works in conjunction with our agency on the Hunters for the Hungry Program which distributes thousands of pounds of wild game annually to food pantries, shelters and families in need. DIFW provides education and advertising to the outdoor recreationalists the department licenses as well as to their own staff, encouraging them to give back to the community through this program when possible. In Maine, we all owe a unique debt of gratitude and appreciation to generous landowners who afford us the privilege of public access to private property. Without them it would be far more challenging to manage Maine's fish and wildlife resources in a manner that maintains sustainability and ensures the support of all users.

Creating a new constitutional right could lead to many different outcomes, some intended and some that could never be anticipated. The exact contours of constitutional rights are often not completely known until these rights are tested in court and the Maine Law Court interprets these rights. How would these bills, and their resulting constitutional rights affect existing hunting laws or landowner's rights? The precise answer to these and many more unanticipated questions likely will not be supplied until these issues are tested in court. There is a distinct difference between a privilege and a right, particularly when it comes to fishing and hunting.

Both Departments will be available during the work session to answer any questions you may have.

R. 6. 8.

COPY

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Date:

L.D. 795

(Filing No. H- )

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**AGRICULTURE, CONSERVATION AND FORESTRY**

Reproduced and distributed under the direction of the Clerk of the House.

**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
129TH LEGISLATURE  
FIRST REGULAR SESSION**

9  
10

COMMITTEE AMENDMENT “ ” to H.P. 583, L.D. 795, “RESOLUTION,  
Proposing an Amendment to the Constitution of Maine To Establish a Right to Food”

11

Amend the resolution by incorporating the attached fiscal note.

12

**SUMMARY**

13

This amendment, which is the majority report, incorporates a fiscal note.

**COMMITTEE AMENDMENT**



# 129th MAINE LEGISLATURE

LD 795

LR 2014(02)

**RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food**

**Fiscal Note for Bill as Amended by Committee Amendment " "**

**Committee: Agriculture, Conservation and Forestry**

**Fiscal Note Required: Yes**

## Fiscal Note

Current biennium cost increase - General Fund

### Referendum Costs

Month/Year	Election Type	Question	Length
Nov-19	General	Referendum	Standard

The Secretary of State's budget includes sufficient funds to accommodate one ballot of average length for the general election in November. If the number or size of the referendum questions requires production and delivery of a second ballot, an additional appropriation of \$172,000 may be required.

## COMMITTEE VOTING TALLY SHEET

LD #: 795

Committee: AGRICULTURE, CONSERVATION, & FORESTRY

Date: April 11, 2019

Motion: OTP-Am

Motion by: Pluecker

Seconded by: Skolfield

Those Voting in Favor of the Motion	Minority Report(s)					Absent	Abstain
	ONTP	OTP	OTP-AM	New Draft	Re-Refer		

Rep. McCrea	✓						
Rep. Roberts-Lovell	X						
Rep. Skolfield	X						
Rep. O'Neil	X						
Sen. Diamond	K/D						
Sen. Black		X					
Sen. Dill (Chair)	X						
Rep. Hickman (Chair)	X						
Rep. Kinney		X					
Rep. Maxmin	X						
Rep. Pluecker	X						
Rep. Hall		X					
Rep. Kryzak		X					

## COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: LD 795

Committee: Agriculture, Conservation and Forestry

Date: 04/11/2019

Motion: Ought To Pass As Amended

Motion by: Rep. Pluecker

Seconded by: Rep. Skolfield

Those Voting in Favor of the Motion	Recommendation of those opposed to the Motion					Absent	Abstain
	ONTP						

### Senators

Sen. Dill	X						
Sen. Black		X					
Sen. Diamond	X						

### Representatives

Rep. Hickman	X						
Rep. Hall		X					
Rep. Kinney		X					
Rep. Kryzak		X					
Rep. Maxmin	X						
Rep. McCrea	X						
Rep. O'Neil	X						
Rep. Pluecker	X						
Rep. Roberts-Lovell	X						
Rep. Skolfield	X						







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L.D. 795

Date: 6-10-19

(Filing No. H-541)

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**STATE OF MAINE**  
**HOUSE OF REPRESENTATIVES**  
**129TH LEGISLATURE**  
**FIRST REGULAR SESSION**

HOUSE AMENDMENT "A" to H.P. 583, L.D. 795, "RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food"

Amend the resolution in that part designated "Constitution, Art. I, §25" by striking out all of Section 25 and inserting the following:

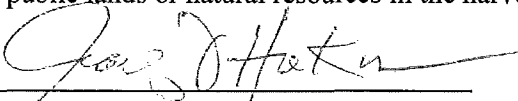
'Section 25. Right to food. All individuals have a natural, inherent and unalienable right to food, including the right to grow, raise, harvest, produce, process, prepare, preserve and consume the food of their own choosing, to save and exchange seeds and to barter, trade or purchase food from the sources 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 of food.'

Amend the resolution in the question in the 2nd line (page 1, line 22 in L.D.) by striking out the following: "acquire,"

**SUMMARY**

This amendment amends the bill by:

1. Removing the word "acquire" from the enumeration of the elements of an individual's right to food and removing the language limiting the exercise of acquisition;
2. Removing language establishing a fundamental right to be free from hunger, starvation and the endangerment of life due to scarcity of or lack of access to food; and
3. Specifying that the right to food does not allow an individual to abuse private property rights or abuse public lands or natural resources in the harvesting of food.

SPONSORED BY: 

(Representative HICKMAN)

TOWN: Winthrop

DMG  
ROFF

L.D. 795

Date: 2-11-2020

(Filing No. H-675)

Reproduced and distributed under the direction of the Clerk of the House.

STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
129TH LEGISLATURE  
SECOND REGULAR SESSION

HOUSE AMENDMENT "B" to H.P. 583, L.D. 795, "RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food"

Amend the resolution in that part designated "Constitution, Art. I, §25" by striking out all of Section 25 and inserting the following:

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.

Amend the resolution by striking out the question (page 1, lines 21 to 25 in L.D.) and inserting the following:

"Do you favor amending the Constitution of Maine to declare that all individuals have a natural, inherent and unalienable right to grow, raise, harvest, produce and consume the food of their own choosing for their own nourishment, sustenance, bodily health and well-being?"

SUMMARY

This amendment amends the bill by:

1. Removing the words "acquire," "process," "prepare" and "preserve" from the enumeration of the elements of an individual's right to food;
2. Removing language limiting the methods of acquisition of food to hunting, gathering, foraging, farming, fishing and gardening and obtaining seeds by barter, trade or purchase;
3. Removing language establishing a fundamental right to be free from hunger, malnutrition, starvation and the endangerment of life due to scarcity of or lack of access to food; and

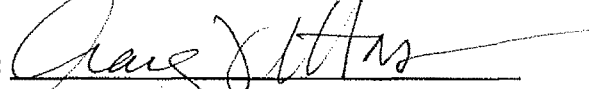
ROFS

HOUSE AMENDMENT "B" to H.P. 583, L.D. 795

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4. Specifying that the right to food does not allow an individual to commit trespassing, theft, poaching or other abuses of private property rights, public lands or natural resources in the harvesting, production or acquisition of food; and

5. Changing the question to reflect the changes made by this amendment.

SPONSORED BY: 

(Representative HICKMAN)

TOWN: Winthrop



# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 95

H.P. 61

House of Representatives, January 13, 2021

### **RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food**

---

Received by the Clerk of the House on January 11, 2021. Referred to the Committee on Agriculture, Conservation and Forestry pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT  
Clerk

Presented by Representative FAULKINGHAM of Winter Harbor.  
Cosponsored by Senator MIRAMANT of Knox and  
Representatives: CONNOR of Lewiston, DUNPHY of Old Town, FECTION of Augusta,  
LANDRY of Farmington, LIBBY of Auburn, PLUECKER of Warren, POIRIER of  
Skowhegan, SAMPSON of Alfred.





## HOUSE OF REPRESENTATIVES

2 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0002

(207) 287-1440  
TTY: (207) 287-4469

### **Billy Bob Faulkingham**

P.O. Box 121  
Winter Harbor, ME 04693  
Cell Phone: (207) 460-6967  
William.Faulkingham@legislature.maine.gov

Rep. Billy Bob Faulkingham

Testimony In Support of

### **LD 95 RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food.**

Agriculture, Conservation and Forestry Committee

February 23, 2021

Good morning Senator Dill, Representative O'Neil and members of the Agriculture, Conservation and Forestry Committee:

I am Representative Billy Bob Faulkingham and I am here to present **LD 95 RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food.**

I am not the first representative to bring this Amendment to the legislature. I was proud to spend a lot of time working on this bill in the 129th Legislature with the original sponsor, Representative Craig Hickman of Winthrop. Representative Hickman introduced the first version of Right to Food in the 127th Legislature where it did receive a 2/3 vote in the House of Representatives.

Then Representative Hickman used a quote that I believe strikes to the very heart of this issue: *"I can't imagine a more basic human right, a more bipartisan issue, than protecting my right to choose my body's food. Who could possibly think that such freedom of choice should be denied? We allow people to smoke, shoot, preach, educate at home, spray their yards with chemicals, buy lottery tickets, and read about the Kardashians; wouldn't you think we could let people choose their food?"*-Joel Salatin(American farmer)

Food lawyer, Peter Hutt states, *"The constitutional authority of the government to determine the food that can lawfully be marketed, and the constitutional right of the individual to personal freedom and control of his own destiny, will at some juncture inevitably conflict."*

*"That day of conflict has arrived and we have an opportunity to make this moment of conflict transformational."* Said Hon. Craig Hickman.



He went on to say that this resolution, *"pays the ultimate tribute to eaters, a set of rights that explicitly articulates an expression of our right to enjoy and defend life and liberty and pursue and obtain our safety and happiness..."*

I see a lot of reasons for this amendment. When I try to understand what it is that opponents object to, it seems that the big thing I hear is, "why is it needed"?

One would have to look to the origins of the food sovereignty movement for that answer. "Maine's food sovereignty movement secured its first major policy win in 2011, when, in response to grassroots pressure for the state to protect its small-scale farmers, the Maine Legislature passed a joint resolution "to oppose any federal statute, law or regulation that attempts to threaten our basic human right to save seed and grow, process, consume and exchange food and farm products" within the state."\*

"At the same time, municipalities began passing local food sovereignty ordinances. Four months later, Maine sued Farmer Brown, a small dairy farmer for selling raw milk without a license, testing the FSO's legality. Maine's Supreme Court avoided determining whether state law preempted the FSO and ruled against the farmer on other grounds."\*

In 2017, grassroots support swelled, and with a Democrat controlled House, and a Republican controlled Senate, Governor LePage signed into law the Maine Food Sovereignty Act.

Well, I'm happy to say that currently other than some of the outlying incidents with inspectors stepping in to seize mislabeled products or destroy food, we are in a fairly good position with our food sovereignty laws. But there is still work to do, to protect our food rights for future generations. I'm thankful of that, because if we needed this Amendment now, then it would already be too late. Rarely are amendments adopted when they are needed. They are adopted many years before, by legislators who had the foresight to pass them for the benefit of future generations.

If you look back at the bill of rights, almost none of it was needed when it was written.

As a matter of fact, there was an argument whether it needed to be written at all. Some argued that "natural rights" were sufficient, and that individual rights didn't need to be enumerated at all.

I however am eternally grateful that, those arguments did not win, and that the Bill of Rights was written.

Our Founders had the foresight to specifically enumerate certain rights, among them; speech, the right to bear arms, and the right to be protected from unlawful search and seizures were included.

At the time of the writing, none of these rights were probably "needed". We had recently defeated the British, and it was a given that these rights were not in question.

However, the genius and foresight was in enumerating them for future generations.

Presently, do we need a right to grow a garden, or raise livestock?

No. I think today in most instances, that is a given.

Jumping ahead 25 or 50 years into the future, could we see our government creating roadblocks and restrictions to the people's right to food?

Will the government be telling people what they are allowed to eat and where they can grow it?

Will Monsanto own all the seeds, and will we have gotten so far from our roots that we won't even have natural seeds anymore?

Will people even be allowed to grow gardens?

Or will gardening become a luxury reserved for the rich?

Will Monsanto's big pockets buy the government officials?

Will only those corporate or government run farms be producing the food?

Will hunting and fishing be outlawed?

Will organic farms be a thing of the past, a fad of times gone by, wiped out by high seed costs, and canopy restrictions imposed by an overbearing government?

Will totalitarian code enforcement officers be pulling up people's carrots and onions, because of town or state ordinances that forbid them?

What if I told you 34 years passes in the blink of an eye?

Consider if you will, 1987 was 34 years ago. Maine added a constitutional amendment that said the right to bear arms shall never be questioned.

Was it necessary in 1987?

I'm sure gun restrictions were the farthest thing from any Mainers imagination.

It is amazing what foresight they had.

Aren't we glad now, that that amendment is there to strengthen that right?

Keep in mind Constitutional amendments, are there to *protect* our rights, not provide them.

Some have said that if an amendment called *Right to Food* is passed, that the government must provide food to people. That is not the case, and the language in this amendment is clear. Just as

the right to bear arms is protected by the constitution, the constitution doesn't provide arms to the people.

The right to free speech is protected, but we don't provide everyone with a microphone or a printing press to exercise it.

The same would be true of the *Right to Food*.

The amendment would protect the right of the people to grow and raise food for their own use, but have no obligation to provide it to them.

I came here to Augusta to make the State of Maine a better place for my children. We need to have the courage now, to do this for our kids and grandchildren and the future generations of Mainers.

This amendment strengthens the people's inalienable right to produce food for their own consumption-not to steal, not to trespass, not to poach....but to produce food for their own consumption.

Do we need it right now?

Will we need it, 25, 33, or 50 years from now?

If we wait until then to find out, it will be too late.

Please give this bill the unanimous committee report it deserves.

God Bless, and thank you for your time.

I will answer any questions you may have.



JANET T. MILLS  
GOVERNOR

STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
OFFICE OF THE COMMISSIONER  
22 STATE HOUSE STATION  
AUGUSTA, MAINE 04333

AMANDA E. BEAL  
COMMISSIONER

TESTIMONY BEFORE THE JOINT COMMITTEE ON AGRICULTURE,  
CONSERVATION AND FORESTRY

NEITHER FOR NOR AGAINST LD 95

*RESOLUTION, Proposing an Amendment to the Constitution of  
Maine To Establish a Right to Food*

February 23, 2021

Senator Dill, Representative O'Neil, and honorable members of the Joint Standing Committee on Agriculture, Conservation and Forestry, my name is Emily Horton, Director of Policy and Community Engagement, speaking on behalf of the Department neither for nor against LD 95, a "*RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food.*"

As we understand it, LD 95's proposed amendment to the Maine constitution is rooted in the tenets of food self-sufficiency and self-provisioning. Last session, the Department spoke at length with the amendment's prior sponsor, Representative Hickman, to understand his motivations for the bill. In our dialogue, he was receptive to our concerns about conflicts that could arise related to the department's statutorily mandated role to uphold food safety standards related to food in commerce, and was amenable to adjusting the language to remove references to food processing and preparation, which, as previously written, we believed would conflict with current state and federal law regarding food establishment licensing and inspection programs. The language in LD 95 continues to reflect those changes, which we appreciate.

With that said, the department does acknowledge that constitutional amendments will preempt state law and may be subject to legal interpretation going forward. We also recognize that if this bill is successful and signed into law, it will go to the people of Maine for a vote on whether it is ultimately accepted, or not, as a constitutional amendment. We respect the public process and are confident that the committee will weigh all technical and legal aspects of this proposed legislation thoughtfully and thoroughly.

Thank you for your time, and I am available to answer questions now as well as at the work session.

HARLOW BUILDING  
18 ELKINS LANE  
AUGUSTA, MAINE



PHONE: (207) 287-3200  
FAX: (207) 287-2400  
WEB: WWW.MAINE.GOV/DACF

A-90 LEGISLATIVE HISTORY 0051

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L.D. 95

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Date:

(Filing No. H- )

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**AGRICULTURE, CONSERVATION AND FORESTRY**

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**STATE OF MAINE**

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**HOUSE OF REPRESENTATIVES**

7

**130TH LEGISLATURE**

8

**FIRST SPECIAL SESSION**

9

COMMITTEE AMENDMENT “ ” to H.P. 61, L.D. 95, “RESOLUTION,  
10 Proposing an Amendment to the Constitution of Maine To Establish a Right to Food”

11

Amend the resolution in section 25 in the 2nd line (page 1, line 6 in L.D.) by striking  
12 out the following: "right to save" and inserting the following: 'right to food, including the  
13 right to save'

14

Amend the resolution by relettering or renumbering any nonconsecutive Part letter or  
15 section number to read consecutively.

16

**SUMMARY**

17

This amendment, which is the majority report, amends the constitutional resolution to  
18 clarify that all individuals have a natural, inherent and unalienable right to food.

19

**FISCAL NOTE REQUIRED**

20

(See attached)

**COMMITTEE AMENDMENT**



# 130th MAINE LEGISLATURE

LD 95

LR 217(02)

**RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food**

**Fiscal Note for Bill as Amended by Committee Amendment " "**  
**Committee: Agriculture, Conservation and Forestry**  
**Fiscal Note Required: Yes**

## Fiscal Note

Current biennium cost increase - General Fund

### Referendum Costs

Month/Year	Election Type	Question	Length
Nov-21	General	Referendum	Standard

The Secretary of State's budget includes sufficient funds to accommodate one ballot of average length for the general election in November. If the number or size of the referendum questions requires production and delivery of a second ballot, an additional appropriation of \$172,000 may be required.

## COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: 95 RESOLUTION, Proposing an Amendment to the Constitution of  
Maine To Establish a Right to Food

Committee: Agriculture Conservation & Forestry

Date: 3-23-21

Motion: OTPA Tabled (unanimous)

Motion by: O'Neil Underwood

Seconded by: Skolfield Gifford

Those Voting in Favor of the Motion	Recommendation of those opposed to the Motion					Absent	Abstain

Rep. Laurie Osher								
Rep. Thomas Skolfield								
Rep. Joseph Underwood								
Rep. Scott Landry								
Rep. Randall Hall								
Rep. Margaret O'Neil								
Sen. James Dill								
Sen. Russell Black								
Sen. Chloe Maxmin								
Rep. William Pluecker								
Rep. Jeffrey Gifford								
Rep. David McCrea								
Rep. Susan Bernard								

## COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: 95 RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food

Committee: Agriculture, Conservation and Forestry

Date: 4-15-21

Motion: OTPA

Motion by: O'Neil

Seconded by: Maxmin

Those Voting in Favor of the Motion
--

Recommendation of those opposed to the Motion				

Absent	Abstain

11

2

Rep. Laurie Osher	✓
Rep. Thomas Skolfield	<i>See attached</i>
Rep. Joseph Underwood	✓
Rep. Scott Landry	✓
Rep. Randall Hall	✓
Rep. Margaret O'Neil	✓
Sen. James Dill	✓
Sen. Russell Black	✓
Sen. Chloe Maxmin	✓
Rep. William Pluecker	✓
Rep. Jeffrey Gifford	✓
Rep. David McCrea	✓
Rep. Susan Bernard	<i>See attached</i>


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## COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: 95

Committee: ACF

Date: 4/20/21

Motion: Reconsidered

Motion by: \_\_\_\_\_

Seconded by: \_\_\_\_\_

Those Voting in Favor of the Motion	Recommendation of those opposed to the Motion					Absent	Abstain

Rep. Laurie Osher							
Rep. Thomas Skolfield							
Rep. Joseph Underwood							
Rep. Scott Landry							
Rep. Randall Hall							
Rep. Margaret O'Neil							
Sen. James Dill							
Sen. Russell Black							
Sen. Chloe Maxmin							
Rep. William Pluecker							
Rep. Jeffrey Gifford							
Rep. David McCrea							
Rep. Susan Bernard							

## COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: 95

Committee: ACF

Date: 4/20/21

Motion: Tabled (4-27-21)

Motion by: O'Neil

Seconded by: Osher

Those Voting in Favor of the Motion	Recommendation of those opposed to the Motion					Absent	Abstain

Rep. Laurie Osher						
Rep. Thomas Skolfield						
Rep. Joseph Underwood						
Rep. Scott Landry						
Rep. Randall Hall						
Rep. Margaret O'Neil						
Sen. James Dill						
Sen. Russell Black						
Sen. Chloe Maxmin						
Rep. William Pluecker						
Rep. Jeffrey Gifford						
Rep. David McCrea						
Rep. Susan Bernard						

## COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: (L.D. 95)Bill "RESOLUTION, Proposing an Amendment to the Constitution of  
Maine To Establish a Right to Food"

Committee: Agriculture, Conservation and Forestry

Date: 4-27-21

Motion: Re Considered

Motion by: Hall

Seconded by: Black

Those Voting in Favor of the Motion	Recommendation of those opposed to the Motion					Absent	Abstain

Sen. James Dill	✓						
Sen. Russell Black	✓						
Sen. Chloe Maxmin	✓						
Rep. Margaret O'Neil	✓						
Rep. Randall Hall	✓						
Rep. Thomas Skolfield	✓						
Rep. Laurie Osher	✓						
Rep. Joseph Underwood	✓						
Rep. Scott Landry	✓						
Rep. William Pluecker	✓						
Rep. Jeffrey Gifford	✓						
Rep. David McCrea	✓						
Rep. Susan Bernard	✓						

## COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: LD 95

Committee: ACF

Date: 4-27-21

Motion: OTPA

Motion by: Pluecker

Seconded by: O'Neil

Those Voting in Favor of the Motion	Recommendation of those opposed to the Motion				Absent	Abstain
	ONTA					

10

3

Rep. Laurie Osher	✓					
Rep. Thomas Skolfield	✓					
Rep. Joseph Underwood		✓				
Rep. Scott Landry	✓					
Rep. Randall Hall		✓				
Rep. Margaret O'Neil	✓					
Sen. James Dill	✓					
Sen. Russell Black		✓				
Sen. Chloe Maxmin	✓					
Rep. William Pluecker	✓					
Rep. Jeffrey Gifford	✓					
Rep. David McCrea	✓					
Rep. Susan Bernard	✓					

## COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: LD 95

Committee: Agriculture, Conservation and Forestry

Date: 04/27/2021

Motion: Ought To Pass As Amended

Motion by: Rep. Pluecker

Seconded by: Rep. O'Neil

Those Voting in Favor of the Motion	Recommendation of those opposed to the Motion					Absent	Abstain
	ONTP						

### Senators

Sen. Dill	X						
Sen. Black		X					
Sen. Maxmin	X						

### Representatives

Rep. O'Neil	X						
Rep. Bernard	X						
Rep. Gifford	X						
Rep. Hall		X					
Rep. Landry	X						
Rep. McCrea	X						
Rep. Osher	X						
Rep. Pluecker	X						
Rep. Skolfield	X						
Rep. Underwood		X					

MAJORITY

---

# HOUSE REPORT

**THE COMMITTEE ON Agriculture, Conservation and Forestry**

to which was referred the following:

RESOLUTION, Proposing an Amendment to the Constitution of Maine To Establish a Right to Food

H.P. 61

L.D. 95

has had the same under consideration, and asks leave to report that the same  
ought to pass as amended by committee amendment " "

(Signature)	of For the Committee
SEN. DILL of Penobscot	_____
SEN. MAXMIN of Lincoln	_____
REP. O'NEIL of Saco	_____
REP. BERNARD of Caribou	_____
REP. GIFFORD of Lincoln	_____
REP. LANDRY of Farmington	_____
REP. MCCREA of Fort Fairfield	_____
REP. OSHER of Orono	_____
REP. PLUECKER of Warren	_____
REP. SKOLFIELD of Weld	_____
_____	_____
_____	_____
(Type)	(Signatures)
Rep. of (Town) and/or Sen. of (County)	





# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 1033

S.P. 325

In Senate, March 10, 2021

### **An Act To Allow Sunday Hunting on Private Property with the Written Permission of the Landowner**

---

Reference to the Committee on Inland Fisheries and Wildlife suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator TIMBERLAKE of Androscoggin.  
Cosponsored by Representative STETKIS of Canaan and  
Senators: BLACK of Franklin, President JACKSON of Aroostook, POULIOT of Kennebec,  
Representatives: MARTIN of Eagle Lake, McCREA of Fort Fairfield, THERIAULT of China,  
WARREN of Scarborough.



1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 12 MRSA §10501, sub-§9, ¶B**, as enacted by PL 2003, c. 414, Pt. A, §2  
3 and affected by c. 614, §9, is amended to read:

4 B. The hunting equipment is fastened in a case; or

5 **Sec. 2. 12 MRSA §10501, sub-§9, ¶C**, as enacted by PL 2003, c. 414, Pt. A, §2  
6 and affected by c. 614, §9, is amended to read:

7 C. The hunting equipment is carried in at least 2 separate pieces in such a manner that  
8 it can not be fired, unless the separate pieces are joined together. For the purpose of  
9 this subsection, a clip, magazine or cylinder of a firearm may not be considered a piece  
10 of the hunting equipment. Bows and arrows must be kept in a case or cover if  
11 broadheads or field points are kept attached to the arrows; or

12 **Sec. 3. 12 MRSA §10501, sub-§9, ¶D** is enacted to read:

13 D. The person is hunting on the person's own land or has the written consent of the  
14 landowner to hunt on Sunday on that landowner's property, as provided in section  
15 11205, subsection 1-A.

16 **Sec. 4. 12 MRSA §11205**, as amended by PL 2003, c. 655, Pt. B, §137 and affected  
17 by §422, is further amended to read:

18 **§11205. Hunting on Sunday**

19 **1. Prohibition.** A person may not:

20 A. Hunt wild animals or wild birds on Sunday, except as provided in subsection 1-A;  
21 or

22 B. Possess any wild animal or wild bird taken in violation of paragraph A except as  
23 otherwise provided in this Part.

24 **1-A. Hunting allowed on Sunday.** A landowner or a person with written consent of  
25 that landowner may hunt wild animals or wild birds on that landowner's land on Sunday  
26 subject to all other requirements, laws and rules governing that hunting. The department  
27 shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection  
28 are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

29 **2. Penalties.** A person who violates subsection 1 commits a Class E crime.

30 **SUMMARY**

31 This bill allows landowners to hunt wild animals and wild birds on their private  
32 property on Sundays. Landowners can also give written permission to other individuals to  
33 hunt on the landowners' private property on Sundays. The Department of Inland Fisheries  
34 and Wildlife is directed to establish rules to implement these provisions.

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ROFS  
Date:

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**INLAND FISHERIES AND WILDLIFE**

Reproduced and distributed under the direction of the Secretary of the Senate.

**STATE OF MAINE**

**SENATE**

**130TH LEGISLATURE**

**FIRST SPECIAL SESSION**

COMMITTEE AMENDMENT “ ” to S.P. 325, L.D. 1033, “An Act To Allow Sunday Hunting on Private Property with the Written Permission of the Landowner”

Amend the bill by striking out the title and substituting the following:

**'Resolve, To Direct the Department of Inland Fisheries and Wildlife To Examine Sunday Hunting'**

Amend the bill by striking out everything after the title and inserting the following:

**'Sec. 1. Review. Resolved:** That the Department of Inland Fisheries and Wildlife, referred to in this resolve as "the department," shall establish a stakeholder group to examine issues related to allowing Sunday hunting.

**Sec. 2. Stakeholder group. Resolved:** That the department shall ensure that the stakeholder group established under section 1 is as broadly representative of interested parties and groups as possible and shall invite participation from at least the following: representatives of farmers, small landowners and large landowners; supporters and opponents of Sunday hunting opportunities; hunters and nonhunters; guides; persons or entities from diverse geographic regions of the State; and others with interest or expertise in the subject matter of the examination. The department shall hire a facilitator to assist the stakeholder group in its work under this resolve.

**Sec. 3. Survey. Resolved:** That, to the extent the department receives adequate funding under section 4, the department, in consultation with the stakeholder group established under section 1, shall develop and complete an appropriate public opinion survey relating to the subject matter of the examination under section 1.

**Sec. 4. Outside funding. Resolved:** That the department may seek and accept outside funding to fund the survey under section 3.

**Sec. 5. Report. Resolved:** That the department shall report the findings and recommendations of the stakeholder group established under section 1 together with the results of any survey completed under section 3 to the Joint Standing Committee on Inland

**COMMITTEE AMENDMENT**





# 130th MAINE LEGISLATURE

LD 1033

LR 973(02)

An Act To Allow Sunday Hunting on Private Property with the Written Permission of the Landowner

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Inland Fisheries and Wildlife

Fiscal Note Required: Yes

## Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
<b>Net Cost (Savings)</b>				
General Fund	\$15,000	\$0	\$0	\$0
<b>Appropriations/Allocations</b>				
General Fund	\$15,000	\$0	\$0	\$0

### Fiscal Detail and Notes

This resolve requires the Department of Inland Fisheries and Wildlife (IFW) to establish a stakeholder group to examine issues related to Sunday hunting, develop and complete a survey of landowners regarding Sunday hunting and report back on its findings by January 3, 2022. The bill includes a one-time General Fund appropriation of \$15,000 in fiscal year 2021-22 for IFW to hire an outside facilitator to assist the stakeholder group. The resolve allows IFW to seek outside sources of funding to support the survey work. Whether enough outside funding can be raised to complete the work required is not known at this time.

# COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: 1033

Committee: Inland Fisheries and Wildlife

Date: 5/3/21

Motion: OTP-AM / ONTP

Motion by: Rep. Theriault

Seconded by: Rep. J. Martin

*OTP-AM*  
Those  
Voting in  
Favor of the  
Motion

Recommendation of those opposed to the  
Motion

<i>ONTP</i>					
-------------	--	--	--	--	--

Absent	Abstain
--------	---------

Rep. Peter Lyford	✓
Rep. Richard Mason	✓
Rep. Allison Hepler	✓
Sen. Chip Curry	✓
Sen. Russell Black	✓
Sen. James Dill - Chair	✓
Rep. Scott Landry - Chair	✓
Rep. Tim Theriault	✓
Rep. Danny Martin	✓
Rep. Lester Ordway	✓
Rep. Robert Alley	<i>see attached</i>
Rep. Cathy Nadeau	✓
Rep. John Martin	✓

✓					

✓	

## COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: 1033

Committee: Inland Fisheries and Wildlife

Date: 5/17/21

Motion: Reconsider

Motion by: Rep. Landry

Seconded by: Sen. Black

Those Voting in Favor of the Motion	Recommendation of those opposed to the Motion					Absent	Abstain

Rep. Peter Lyford								
Rep. Richard Mason								
Rep. Allison Hepler								
Sen. Chip Curry								
Sen. Russell Black								
Sen. James Dill - Chair								
Rep. Scott Landry - Chair								
Rep. Tim Theriault								
Rep. Danny Martin								
Rep. Lester Ordway								
Rep. Robert Alley								
Rep. Cathy Nadeau								
Rep. John Martin								

## COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: 1033

Committee: Inland Fisheries and Wildlife

Date: 5/17/21

Motion: OTP-AM

Motion by: Rep. Landry

Seconded by: Rep. Hepler

9

*OTP-15*  
Those  
Voting in  
Favor of the  
Motion

Recommendation of those opposed to the Motion				
<i>ONTP</i>				

Absent	Abstain

Name	Favor	Opposition					Absent	Abstain
Rep. Peter Lyford	✓	✓						
Rep. Richard Mason	✓							
Rep. Allison Hepler	✓							
Sen. Chip Curry	<i>See Attached</i>					✓		
Sen. Russell Black	✓							
Sen. James Dill - Chair	✓							
Rep. Scott Landry - Chair	✓							
Rep. Tim Theriault						✓		
Rep. Danny Martin						✓		
Rep. Lester Ordway	✓							
Rep. Robert Alley	✓							
Rep. Cathy Nadeau	✓							
Rep. John Martin	✓							

## COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: LD 1033

Committee: Inland Fisheries and Wildlife

Date: 05/17/2021

Motion: Ought To Pass As Amended

Motion by: Rep. Landry

Seconded by: Rep. Hepler

Those Voting in Favor of the Motion	Recommendation of those opposed to the Motion					Absent	Abstain
	ONTP						

### Senators

Sen. Dill	X						
Sen. Black	X						
Sen. Curry	X						

### Representatives

Rep. Landry	X						
Rep. Alley	X						
Rep. Hepler	X						
Rep. Lyford		X					
Rep. J. Martin	X						
Rep. D. Martin						X	
Rep. Mason	X						
Rep. Nadeau	X						
Rep. Ordway	X						
Rep. Theriault						X	



MAJORITY

---

# SENATE REPORT

**THE COMMITTEE ON Inland Fisheries and Wildlife**

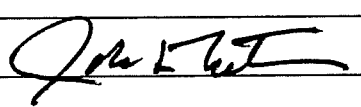
to which was referred the following:

An Act To Allow Sunday Hunting on Private Property with the Written Permission of the Landowner

S.P. 325

L.D. 1033

has had the same under consideration, and asks leave to report that the same  
ought to pass as amended by committee amendment " "

(Signature)	of For the Committee
SEN. DILL of Penobscot	
SEN. BLACK of Franklin	
SEN. CURRY of Waldo	
REP. LANDRY of Farmington	
REP. ALLEY of Beals	
REP. HEPLER of Woolwich	
REP. J. MARTIN of Eagle Lake	
REP. MASON of Lisbon	
REP. NADEAU of Winslow	
REP. ORDWAY of Standish	
(Type)	(Signatures)
Rep. of (Town) and/or Sen. of (County)	





# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

---

Legislative Document

No. 1212

H.P. 887

House of Representatives, March 24, 2021

**An Act To Allow Sunday Hunting North of U.S. Route 2 from the New Hampshire Border to Bangor, North of Route 9 from Bangor to the Canadian Border and within That Portion of the White Mountain National Forest inside the State**

---

Received by the Clerk of the House on March 22, 2021. Referred to the Committee on Inland Fisheries and Wildlife pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT  
Clerk

Presented by Representative ORDWAY of Standish.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 12 MRSA §10501, sub-§9, ¶B**, as enacted by PL 2003, c. 414, Pt. A, §2  
3 and affected by c. 614, §9, is amended to read:

4 B. The hunting equipment is fastened in a case; ~~or~~

5 **Sec. 2. 12 MRSA §10501, sub-§9, ¶C**, as enacted by PL 2003, c. 414, Pt. A, §2  
6 and affected by c. 614, §9, is amended to read:

7 C. The hunting equipment is carried in at least 2 separate pieces in such a manner that  
8 it can not be fired, unless the separate pieces are joined together. For the purpose of  
9 this subsection, a clip, magazine or cylinder of a firearm may not be considered a piece  
10 of the hunting equipment. Bows and arrows must be kept in a case or cover if  
11 broadheads or field points are kept attached to the arrows; or

12 **Sec. 3. 12 MRSA §10501, sub-§9, ¶D** is enacted to read:

13 D. The person is hunting on Sunday pursuant to section 11205, subsection 1-A.

14 **Sec. 4. 12 MRSA §11205**, as amended by PL 2003, c. 655, Pt. B, §137 and affected  
15 by §422, is further amended to read:

16 **§11205. Hunting on Sunday**

17 **1. Prohibition.** A person may not:

18 A. Hunt wild animals or wild birds on Sunday, except as provided in subsection 1-A;  
19 or

20 B. Possess any wild animal or wild bird taken in violation of paragraph A except as  
21 otherwise provided in this Part.

22 **1-A. Hunting allowed on Sunday.** A person may hunt wild animals or wild birds on  
23 Sunday north of U.S. Route 2 from the New Hampshire border to Bangor, north of Route  
24 9 from Bangor to the Canadian border and within any portion of the White Mountain  
25 National Forest in the State, subject to all other requirements, laws and rules governing that  
26 hunting. The department shall adopt rules to implement this subsection. Rules adopted  
27 pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375,  
28 subchapter 2-A.

29 **2. Penalties.** A person who violates subsection 1 commits a Class E crime.

30 **SUMMARY**

31 This bill allows persons to hunt wild animals and wild birds on Sunday north of U.S.  
32 Route 2 from the New Hampshire border to Bangor, north of Route 9 from Bangor to the  
33 Canadian border and within any portion of the White Mountain National Forest in the State.  
34 The Department of Inland Fisheries and Wildlife is directed to adopt rules to implement  
35 this provision.

COPY

L.D. 1212

1  
2 Date:

(Filing No. H- )

3 **INLAND FISHERIES AND WILDLIFE**

4 Reproduced and distributed under the direction of the Clerk of the House.

5 **STATE OF MAINE**

6 **HOUSE OF REPRESENTATIVES**

7 **130TH LEGISLATURE**

8 **FIRST SPECIAL SESSION**

9 COMMITTEE AMENDMENT “ ” to H.P. 887, L.D. 1212, “An Act To Allow  
10 Sunday Hunting North of U.S. Route 2 from the New Hampshire Border to Bangor, North  
11 of Route 9 from Bangor to the Canadian Border and within That Portion of the White  
12 Mountain National Forest inside the State”

13 Amend the bill by striking out the title and substituting the following:

14 **'An Act To Allow Sunday Hunting of Deer and Moose in the Unorganized Territories**  
15 **and the White Mountain National Forest in this State'**

16 Amend the bill in section 4 in §11205 by striking out all of subsection 1-A (page 1,  
17 lines 22 to 28 in L.D.) and inserting the following:

18 **'1-A. Hunting allowed on Sunday. A person may hunt moose or deer on Sunday in**  
19 **the unorganized territories and within any portion of the White Mountain National Forest**  
20 **in the State, subject to all other requirements, laws and rules governing that hunting. The**  
21 **department shall adopt rules to implement this subsection. Rules adopted pursuant to this**  
22 **subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.'**

23 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section  
24 number to read consecutively.

25 **SUMMARY**

26 This amendment amends the bill by changing the area in which Sunday hunting is  
27 allowed and limiting Sunday hunting to deer and moose hunting. Under the amendment, a  
28 person may hunt moose or deer on Sunday in the unorganized territories and within any  
29 portion of the White Mountain National Forest in the State, subject to all other  
30 requirements, laws and rules governing that hunting.

**FISCAL NOTE REQUIRED**  
**(See attached)**

Page 1 - 130LR0694(02)

**COMMITTEE AMENDMENT**

**A. 115 LEGISLATIVE HISTORY 0076**



# 130th MAINE LEGISLATURE

LD 1212

LR 694(02)

An Act To Allow Sunday Hunting North of U.S. Route 2 from the New Hampshire Border to Bangor,  
North of Route 9 from Bangor to the Canadian Border and within That Portion of the White  
Mountain National Forest inside the State

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Inland Fisheries and Wildlife

Fiscal Note Required: Yes

---

## Fiscal Note

Minor savings - General Fund  
Minor revenue decrease - General Fund  
Minor revenue decrease - Other Special Revenue Funds

### Correctional and Judicial Impact Statements

Minor reduction of workload associated with the minimal number of cases that will no longer be filed in the court system.  
Reductions in the collection of fine and/or fee revenue may decrease General Fund and other dedicated revenue by minor amounts.

### Fiscal Detail and Notes

This bill would allow a person to hunt moose or deer on Sunday in the unorganized territories and within any portion of the White Mountain National Forest in the State. The department anticipates the additional day will increase expenditures related to mileage. This cost is anticipated to be minor and can be absorbed within existing budgeted resources.

# COMMITTEE VOTING TALLY SHEET

①

LD # or Confirmation: 1212

Committee: Inland Fisheries and Wildlife

Date: 5/3/21

Motion: OTP - 104

Motion by: Rep. Ordway

Seconded by: Rep. D. Martin

*OTP-AM*

Those  
Voting in  
Favor of the  
Motion

Recommendation of those opposed to the  
Motion

<i>ONTP</i>					
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Absent	Abstain
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Rep. Peter Lyford		✓		
Rep. Richard Mason	✓			
Rep. Allison Hepler		✓		
Sen. Chip Curry		✓		
Sen. Russell Black		✓		
Sen. James Dill - Chair		✓		
Rep. Scott Landry - Chair		✓		
Rep. Tim Theriault	✓			
Rep. Danny Martin		✓		
Rep. Lester Ordway	✓			
Rep. Robert Alley				<i>A</i>
Rep. Cathy Nadeau	✓			
Rep. John Martin	✓			

# COMMITTEE VOTING TALLY SHEET

②

LD # or Confirmation: to 1212

Committee: Inland Fisheries and Wildlife

Date: 5/3/21

Motion: ONTTP

Motion by: Sen. Curry

Seconded by: Rep. Hepler

<p><i>ONTTP</i></p> <p>Those Voting in Favor of the Motion</p>	<p>Recommendation of those opposed to the Motion</p>	Absent	Abstain
<p><i>ONTTP</i> <i>-10M</i></p>			

Rep. Peter Lyford	✓					
Rep. Richard Mason	✓					
Rep. Allison Hepler	✓					
Sen. Chip Curry	✓					
Sen. Russell Black	/					
Sen. James Dill - Chair	/					
Rep. Scott Landry - Chair	/					
Rep. Tim Theriault	/					
Rep. Danny Martin	/					
Rep. Lester Ordway	/					
Rep. Robert Alley	<i>See Attached</i>					<i>B</i>
Rep. Cathy Nadeau	/					
Rep. John Martin	/					



## COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: LD 1212

Committee: Inland Fisheries and Wildlife

Date: 05/03/2021

Motion: Ought Not To Pass

Motion by: Sen. Curry

Seconded by: Rep. Hepler

Those Voting in Favor of the Motion	Recommendation of those opposed to the Motion					Absent	Abstain
	OTP-AM						

### Senators

Sen. Dill	X						
Sen. Black	X						
Sen. Curry	X						

### Representatives

Rep. Landry	X						
Rep. Alley	X						
Rep. Hepler	X						
Rep. Lyford	X						
Rep. J. Martin		X					
Rep. D. Martin	X						
Rep. Mason	X						
Rep. Nadeau	X						
Rep. Ordway		X					
Rep. Theriault	X						

MAJORITY

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# HOUSE REPORT

**THE COMMITTEE ON Inland Fisheries and Wildlife**

to which was referred the following:

An Act To Allow Sunday Hunting North of U.S. Route 2 from the New Hampshire Border to Bangor, North of Route 9 from Bangor to the Canadian Border and within That Portion of the White Mountain National Forest inside the State

H.P. 887

L.D. 1212

has had the same under consideration, and asks leave to report that the same  
**OUGHT NOT TO PASS**

---

(Signature)	of For the Committee
SEN. DILL of Penobscot	_____
SEN. BLACK of Franklin	_____
SEN. CURRY of Waldo	_____
REP. LANDRY of Farmington	_____
REP. ALLEY of Beals	_____
REP. HEPLER of Woolwich	_____
REP. LYFORD of Eddington	_____
REP. D. MARTIN of Sinclair	_____
REP. MASON of Lisbon	_____
REP. NADEAU of Winslow	_____
REP. THERLAULT of China	_____
_____	_____
(Type) Rep. of (Town) and/or Sen. of (County)	(Signatures)

S-20





# 130th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2022

---

Legislative Document

No. 2014

---

S.P. 730

In Senate, March 9, 2022

### An Act Related to Sunday Hunting

---

Reported by Senator DILL of Penobscot for the Joint Standing Committee on Inland Fisheries and Wildlife pursuant to Resolve 2021, chapter 107, section 5.

Reference to the Committee on Inland Fisheries and Wildlife suggested and ordered printed pursuant to Joint Rule 218.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 12 MRSA §10501, sub-§9, ¶B**, as enacted by PL 2003, c. 414, Pt. A, §2  
3 and affected by c. 614, §9, is amended to read:

4 B. The hunting equipment is fastened in a case; or

5 **Sec. 2. 12 MRSA §10501, sub-§9, ¶C**, as enacted by PL 2003, c. 414, Pt. A, §2  
6 and affected by c. 614, §9, is amended to read:

7 C. The hunting equipment is carried in at least 2 separate pieces in such a manner that  
8 it can not be fired, unless the separate pieces are joined together. For the purpose of  
9 this subsection, a clip, magazine or cylinder of a firearm may not be considered a piece  
10 of the hunting equipment. Bows and arrows must be kept in a case or cover if  
11 broadheads or field points are kept attached to the arrows; or

12 **Sec. 3. 12 MRSA §10501, sub-§9, ¶D** is enacted to read:

13 D. The person possessing the hunting equipment is hunting on Sunday pursuant to  
14 section 11205, subsection 1-A.

15 **Sec. 4. 12 MRSA §11205**, as affected by PL 2003, c. 614, §9 and amended by c.  
16 655, Pt. B, §137 and affected by §422, is further amended to read:

17 **§11205. Hunting on Sunday**

18 **1. Prohibition.** A person may not:

19 A. Hunt wild animals or wild birds on Sunday, except as provided in subsection 1-A;  
20 or

21 B. Possess any wild animal or wild bird taken in violation of paragraph A except as  
22 otherwise provided in this Part.

23 **1-A. Hunting allowed on Sunday in certain areas of the State; hunting allowed on**  
24 **Sunday with written permission.** A person may hunt wild animals or wild birds on  
25 Sunday north of U.S. Route 2 from the New Hampshire border to Bangor, north of Route  
26 9 from Bangor to the Canadian border and within any portion of the White Mountain  
27 National Forest in the State, subject to all other requirements, laws and rules governing that  
28 hunting. In all other areas of the State, a landowner or a person with written consent of that  
29 landowner may hunt wild animals or wild birds on that landowner's land on Sunday, subject  
30 to all other requirements, laws and rules governing that hunting. The department shall adopt  
31 rules to implement this subsection. Rules adopted pursuant to this subsection are routine  
32 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

33 **2. Penalties.** A person who violates subsection 1 commits a Class E crime.

34 **SUMMARY**

35 This bill allows persons to hunt wild animals and wild birds on Sunday north of U.S.  
36 Route 2 from the New Hampshire border to Bangor, north of Route 9 from Bangor to the  
37 Canadian border and within any portion of the White Mountain National Forest in the State.  
38 The bill also allows landowners in all other areas in the State to hunt wild animals and wild  
39 birds on their private property on Sunday. It also authorizes a person with written  
40 permission from the landowner to hunt wild animals and wild birds on the landowner's

1 private property on Sunday. The Department of Inland Fisheries and Wildlife is directed to  
2 adopt rules to implement these provisions.

COPY

1

2

Date:

(Filing No. S- )

3

**INLAND FISHERIES AND WILDLIFE**

4

Reproduced and distributed under the direction of the Secretary of the Senate.

5

**STATE OF MAINE**

6

**SENATE**

7

**130TH LEGISLATURE**

8

**SECOND REGULAR SESSION**

9  
10

COMMITTEE AMENDMENT “ ” to S.P. 730, L.D. 2014, “An Act Related to Sunday Hunting”

11  
12

Amend the bill in section 4 in §11205 by striking out all of subsection 1-A (page 1, lines 23 to 32 in L.D.) and inserting the following:

13  
14  
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'1-A. Hunting allowed on Sunday with landowner written permission. A landowner or a person with written consent of that landowner may hunt wild animals or wild birds on that landowner's land on Sunday, subject to all other requirements, laws and rules governing that hunting. The department shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.'

19

Amend the bill by inserting after section 4 the following:

20  
21

**'Sec. 5. Appropriations and allocations.** The following appropriations and allocations are made.

22

**INLAND FISHERIES AND WILDLIFE, DEPARTMENT OF**

23

**Enforcement Operations - Inland Fisheries and Wildlife 0537**

24  
25

Initiative: Provides funding for the cost of anticipated overtime and additional travel costs related to enforcement of requirements, laws and rules regarding Sunday hunting.

26  
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<b>GENERAL FUND</b>	<b>2021-22</b>	<b>2022-23</b>
Personal Services	\$0	\$125,000
All Other	\$0	\$11,500
<b>GENERAL FUND TOTAL</b>	<b>\$0</b>	<b>\$136,500</b>

31

32  
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Amend the bill by relettering or renumbering any nonconsecutive Part letter or section number to read consecutively.

**COMMITTEE AMENDMENT**

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**SUMMARY**

This amendment removes the provision of the bill allowing persons to hunt wild animals and wild birds on Sunday north of U.S. Route 2 from the New Hampshire border to Bangor, north of Route 9 from Bangor to the Canadian border and within any portion of the White Mountain National Forest in the State. It retains the provision of the bill allowing landowners in the State to hunt wild animals and wild birds on their private property on Sunday and allowing a person with written permission from the landowner to hunt wild animals and wild birds on the landowner's private property on Sunday.

The amendment also adds an appropriations and allocations section.

**FISCAL NOTE REQUIRED**

(See attached)





# 130th MAINE LEGISLATURE

LD 2014

LR 2655(02)

## An Act Related to Sunday Hunting

Fiscal Note for Bill as Amended by Committee Amendment " "

Committee: Inland Fisheries and Wildlife

Fiscal Note Required: Yes

### Fiscal Note

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
<b>Net Cost (Savings)</b>				
General Fund	\$0	\$136,500	\$136,500	\$136,500
<b>Appropriations/Allocations</b>				
General Fund	\$0	\$136,500	\$136,500	\$136,500

#### Fiscal Detail and Notes

This bill allows landowners in the State to hunt wild animals and wild birds on their private property on Sunday. It also authorizes a person with written permission from the landowner to hunt wild animals and wild birds on the landowner's property on Sunday. The Department of Inland Fisheries and Wildlife has indicated that these provisions would increase overtime and travel costs for existing Game Warden positions. The bill includes ongoing appropriations of \$125,000 for overtime costs and \$11,500 for travel expenses beginning in fiscal year 2022-23.

## COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: Resolve PL 2021 Ch. 107 - Sunday Hunting

Committee: Inland Fisheries and Wildlife

Date: 2/28/22

Motion: To Report out - Paul Rejoice back as LD

Motion by: Rep. Ordway

Seconded by: Rep. D. Martin

Those Voting in Favor of the Motion	Recommendation of those opposed to the Motion					Absent	Abstain

Rep. Peter Lyford	✓						
Rep. Richard Mason	✓						
Rep. Allison Hepler	✓						
Sen. Chip Curry	✓						
Sen. Russell Black	✓						
Sen. James Dill - Chair	✓						
Rep. Scott Landry - Chair	✓						
Rep. Tim Theriault	✓						
Rep. Danny Martin	✓						
Rep. Lester Ordway	✓						
Rep. Robert Alley	✓						
Rep. Cathy Nadeau	✓						
Rep. John Martin						✓	

## COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: LD 2014

Committee: Inland Fisheries and Wildlife

Date: 3/14/22

Motion: OTP-11M / ONTP

Motion by: Rep. Ordway

Seconded by: Sen. Black

<p><b>OTP-11M</b></p> <p>Those Voting in Favor of the Motion</p>	<p>Recommendation of those opposed to the Motion</p>					
	<p>ONTP</p>				<p>Absent</p>	<p>Abstain</p>

Rep. Peter Lyford		✓			
Rep. Richard Mason	✓				
Rep. Allison Hepler		✓			
Sen. Chip Curry		✓			
Sen. Russell Black	✓				
Sen. James Dill - Chair		✓			
Rep. Scott Landry - Chair		✓			
Rep. Tim Theriault		✓	(See Attached)		A
Rep. Danny Martin		✓			
Rep. Lester Ordway	✓				
Rep. Robert Alley		✓			
Rep. Cathy Nadeau		✓			
Rep. John Martin	✓		(See Attached)		A

## COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: LD 2014

Committee: Inland Fisheries and Wildlife

Date: 03/14/2022

Motion: Ought To Pass As Amended

Motion by: Rep. Ordway

Seconded by: Sen. Black

Those Voting in Favor of the Motion	Recommendation of those opposed to the Motion					Absent	Abstain
	ONTP						

### Senators

Sen. Dill		X						
Sen. Black	X							
Sen. Curry		X						

### Representatives

Rep. Landry		X						
Rep. Alley		X						
Rep. Hepler		X						
Rep. Lyford		X						
Rep. J. Martin	X							
Rep. D. Martin		X						
Rep. Mason	X							
Rep. Nadeau		X						
Rep. Ordway	X							
Rep. Theriault		X						

MAJORITY  
**SENATE REPORT**

**THE COMMITTEE ON Inland Fisheries and Wildlife**

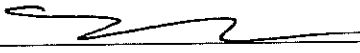
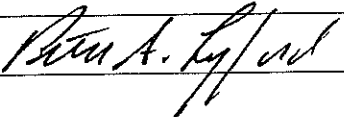

to which was referred the following:

An Act Related to Sunday Hunting

S.P. 730

L.D. 2014

has had the same under consideration, and asks leave to report that the same  
**OUGHT NOT TO PASS**

<hr/> <p>(Signature)</p>	<hr/> <p>of For the Committee</p>
<hr/> <p>SEN. DILL of Penobscot</p>	<hr/>
<hr/> <p>SEN. CURRY of Waldo</p>	<hr/>
<hr/> <p>REP. LANDRY of Farmington</p>	<hr/> 
<hr/> <p>REP. ALLEY of Beals</p>	<hr/>
<hr/> <p>REP. HEPLER of Woolwich</p>	<hr/>
<hr/> <p>REP. LYFORD of Eddington</p>	<hr/> 
<hr/> <p>REP. D. MARTIN of Sinclair</p>	<hr/>
<hr/> <p>REP. NADEAU of Winslow</p>	<hr/>
<hr/> <p>REP. THERIAULT of China</p>	<hr/> 
<hr/>	<hr/>
<hr/>	<hr/>
<hr/>	<hr/>
<p>(Type) Rep. of (Town) and/or Sen. of (County)</p>	<p>(Signatures)</p>





# 130th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2021

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Legislative Document

No. 1054

H.P. 783

House of Representatives, March 11, 2021

### **An Act To Allow Hunting on Sundays with Written Consent on Private Property**

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Reference to the Committee on Inland Fisheries and Wildlife suggested and ordered printed.

*Robert B. Hunt*  
ROBERT B. HUNT  
Clerk

Presented by Representative HANLEY of Pittston.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 12 MRSA §10501, sub-§9, ¶B**, as enacted by PL 2003, c. 414, Pt. A, §2  
3 and affected by c. 614, §9, is amended to read:

4 B. The hunting equipment is fastened in a case; ~~or~~

5 **Sec. 2. 12 MRSA §10501, sub-§9, ¶C**, as enacted by PL 2003, c. 414, Pt. A, §2  
6 and affected by c. 614, §9, is amended to read:

7 C. The hunting equipment is carried in at least 2 separate pieces in such a manner that  
8 it can not be fired, unless the separate pieces are joined together. For the purpose of  
9 this subsection, a clip, magazine or cylinder of a firearm may not be considered a piece  
10 of the hunting equipment. Bows and arrows must be kept in a case or cover if  
11 broadheads or field points are kept attached to the arrows; or

12 **Sec. 3. 12 MRSA §10501, sub-§9, ¶D** is enacted to read:

13 D. The person is hunting on the person's own land or has the written consent of the  
14 landowner to hunt on Sunday on that landowner's property, as provided in section  
15 11205, subsection 1-A.

16 **Sec. 4. 12 MRSA §11205**, as amended by PL 2003, c. 655, Pt. B, §137 and affected  
17 by §422, is further amended to read:

18 **§11205. Hunting on Sunday**

19 **1. Prohibition.** A person may not:

20 A. Hunt wild animals or wild birds on Sunday, except as provided in subsection 1-A;  
21 or

22 B. Possess any wild animal or wild bird taken in violation of paragraph A except as  
23 otherwise provided in this Part.

24 **1-A. Hunting allowed on Sunday.** A landowner or a person with written consent of  
25 that landowner may hunt wild animals or wild birds on that landowner's land on Sunday  
26 subject to all other requirements, laws and rules governing that hunting. The department  
27 shall adopt rules to implement this subsection. Rules adopted pursuant to this subsection  
28 are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

29 **2. Penalties.** A person who violates subsection 1 commits a Class E crime.

30 **SUMMARY**

31 This bill allows landowners to hunt wild animals and wild birds on their private  
32 property on Sundays. Landowners can also give written permission to other individuals to  
33 hunt on the landowners' private property on Sundays. The Department of Inland Fisheries  
34 and Wildlife is directed to establish rules to implement these provisions.



## COMMITTEE VOTING TALLY SHEET

LD # or Confirmation: LD 1054

Committee: Inland Fisheries and Wildlife

Date: 05/03/2021

Motion: Ought Not To Pass

Motion by: Rep. Landry

Seconded by: Rep. Theriault

Those Voting in Favor of the Motion	Recommendation of those opposed to the Motion					Absent	Abstain

### Senators

Sen. Dill	X						
Sen. Black	X						
Sen. Curry	X						

### Representatives

Rep. Landry	X						
Rep. Alley	X						
Rep. Hepler	X						
Rep. Lyford	X						
Rep. J. Martin	X						
Rep. D. Martin	X						
Rep. Mason	X						
Rep. Nadeau	X						
Rep. Ordway	X						
Rep. Theriault	X						

STATE OF MAINE  
KENNEBEC, ss

SUPERIOR COURT  
CIVIL ACTION  
DOCKET No. CV-2022-87

VIRGINIA PARKER and JOEL PARKER,

Plaintiffs,

v.

JUDITH A. CAMUSO, COMMISSIONER OF THE  
MAINE DEPARTMENT OF  
INLAND FISHERIES AND WILDLIFE,

Defendant.

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**RESPONSE IN OPPOSITION TO  
DEFENDANT’S MOTION TO DISMISS**

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Maine voters enacted the 25th Amendment to the Maine Constitution in November 2021 to guarantee the people of Maine the right to secure for themselves the food of their own choosing. Me. Const. art. I, § 25 (hereinafter the “Right to Food Amendment,” or the “Amendment”). In so doing, the people of Maine secured for themselves certain rights, including one of the most traditional forms of food harvest, the right to hunt wild game for food. Now, in seeking to dismiss this action, Judith A. Camuso (“Commissioner Camuso” or “Defendant”) contends that the Amendment either (1) does not encompass the right to hunting, despite the fact that hunting is relied on by many Mainers as a source of food; or, even if it does, (2) that the Amendment does not in any way change or limit the powers of the state to regulate and restrict hunting. Neither is true.

Conflicts in Anglo-American legal tradition concerning the right to hunt, and the respective rights of individuals and the sovereign to certain natural resources, extend at least back to the

Norman Conquest. The Anglo-Saxon Chronicle highlighted what the scribe viewed as depredations by William the Conqueror in the entry for 1086 A.D.:

He made large forests for the deer, and enacted laws therewith, so that whoever killed a hart or a hind should be blinded. As he forbade killing the deer, so also the boars . . . The rich complained and the poor murmured, but he was so sturdy that he recked nought of them.<sup>1</sup>

This oppression of the poor gave rise to legends of outlaws like Robin Hood.<sup>2</sup> But it also set the stage for the first glimmerings of constitutional rights in the Carta de Foresta that accompanied the Magna Carta as enacted in 1217.<sup>3</sup> For the first time, the ability of the monarch to control commoners' use of the forests was circumscribed, as were the punishments for poaching deer.<sup>4</sup>

Just as then, the people of Maine enacted an Amendment reframing the balance of rights and powers between them and their government. The Amendment, by its plain language, encompasses the right of Maine people to obtain food through hunting because that is how the people of Maine understand the term "harvest." The Amendment is not a meaningless restatement of the existing powers of the State, but rather by its plain language limits the restrictions that the State can impose on hunting for food. Defendant's motion should be denied.

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<sup>1</sup> Frederic Austin Ogg, Editor, A Source Book of Medieval History: Documents Illustrative of European Life and Institutions from the German Invasion to the Renaissance, at 244 (1907), [https://www.google.com/books/edition/A\\_Source\\_Book\\_of\\_Medi%C3%A6val\\_History/V9AMAAAAYAAJ?hl=en&gbpv=1](https://www.google.com/books/edition/A_Source_Book_of_Medi%C3%A6val_History/V9AMAAAAYAAJ?hl=en&gbpv=1). The book notes: "Most of William's harsh measures can be justified on the ground that they were designed to promote the ultimate welfare of his people. This is not true, however, of his elaborate forest laws, which undertook to deprive Englishmen of their accustomed freedom of hunting when and where they pleased." *Id.* at 244, n.2. As monarch, William also "set apart a great stretch of additional country, the so-called New Forest, as his own exclusive hunting grounds." *Id.*

<sup>2</sup> Kathryn Funderburg, *Barons and Yeomen, Venison and Vert: A Comparative Analysis of Magna Carta and A Gest of Robyn Hood in the Context of Forest Law*. 13 THE EXPOSITOR: A JOURNAL OF UNDERGRADUATE RESEARCH IN THE HUMANITIES 7, at 8-9 (2017).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* See also Paul Babie, *Magna Carta and the Forest Charter: Two Stories of Property*, 94 N.C. L. Rev. 1431, 1452-54 (2016).

## STANDARD OF REVIEW

To interpret the Maine Constitution, Maine courts “look primarily to the language used.” *Avangrid Networks, Inc. v. Sec’y of State*, 2020 ME 109, ¶ 14, 237 A.3d 882, 888 (internal citations omitted). Courts “construe constitutional provisions by using the same principles of construction that we apply in cases of statutory interpretation. Thus, we will apply the plain language of the constitutional provision if the language is unambiguous.” *Id.* (internal citations omitted). Courts “assume that the voters intended to adopt the constitutional amendment on the terms in which it was presented to them[.]” *State v. Brown*, 571 A.2d 816, 818 (Me. 1990). And unless the provision discloses a contrary intent, the words “must be given their plain, common and ordinary meaning, such as [people] of common intelligence would usually ascribe to them.” *State v. Vainio*, 466 A.2d 471, 474 (Me. 1983); *see also Portland Regional Chamber v. Portland*, 2021 ME 34, ¶ 28, 253 A.3d 586 (noting that, in interpreting a citizen-enacted ballot initiative, “we do not examine any extrinsic evidence in the absence of textual ambiguity”).

The ordinary presumption of constitutionality that applies when a statute post-dates a constitutional restraint is based on the logic that “the Legislature acted with full knowledge of all constitutional restrictions and intelligently, honestly and discriminatingly decided that they were acting within their constitutional limits and powers.” *Laughlin v. City of Portland*, 111 Me. 486, 489 (1914). But here, where the constitutional amendment post-dates the statute, courts are duty bound to protect the will of the people even if it supersedes prior statutes and regulations. *See State ex rel. City of Princeton v. Buckner*, 180 W. Va. 457, 377 S.E.2d 139 (W. Va. 1988) (internal citation and quotations omitted) (“A constitutional amendment will supersede any inconsistent portions of antecedent constitutional or statutory provisions, as the latest expression of the will of the people.”).

“Constitutional provisions are accorded a liberal interpretation in order to carry out their broad purpose, because they are expected to last over time and are cumbersome to amend.” *Allen v. Quinn*, 459 A.2d 1098, 1102 (Me. 1983). Ultimately, “[w]hen a statute—including one enacted by citizen initiative—conflicts with a constitutional provision, the Constitution prevails.” *Opinion of the Justices of the Supreme Judicial Court Given Under the Provisions of Article VI, Section 3*, 2017 ME 100, ¶ 8, 162 A.3d 188 (citing *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177-80, 2 L.Ed. 60 (1803)). “It is ‘supposed to be essential to all written constitutions, that a law repugnant to the constitution is void.’” *Id.* (quoting *Marbury* at 180; citing *League of Women Voters v. Sec’y of State*, 683 A.2d 769, 771-72 (Me. 1996); *Allen v. Inhabitants of Jay*, 60 Me. 124, 138 (1872)). The Right to Food Amendment voids the ban on hunting on Sundays, provided that hunting is for the purpose of securing food.

## ARGUMENT

The plain language of the Right to Food Amendment—both the term “harvest” as well as the text taken as a whole— includes hunting as a means of obtaining food. Defendant’s attempt to argue otherwise ignores the commonly understood meaning of the word “harvest,” which is frequently used to refer to hunting, ignores the surrounding text of the Amendment, and cherry-picks the legislative history to manufacture ambiguity where there is none. But even if there were ambiguity, and even if it were proper to look to the legislative history on a voter approved constitutional amendment, the legislature’s own summary says they removed the list of food acquisition methods in order to not limit the right to just those enumerated methods.

Defendant’s attempt to argue in the alternative that the Sunday hunting ban is automatically protected by the Amendment’s allowable exceptions also fails, as a reading of those exceptions to encompass all previously existing statutes would render the Amendment meaningless. The people

of Maine enshrined in their constitution an inalienable right to hunt for food and have therefore voided existing laws that contravene that right that are not within the Amendment's exceptions. The Defendant's assertion that the right is entirely swallowed by the poaching exception, or that it falls within the exception for abuses of natural resources, must be disregarded. Plaintiffs have advanced a valid claim, asking this Court to consider and define how the Right to Food Amendment has altered the powers of the state to limit hunting. The Parkers desire to hunt for food on Sunday. The Sabbath ban, existing since Puritan times, is not rooted in the Amendment's limitations, and therefore is superseded by the Constitution.

### **I. The Plain Language of the Right to Food Amendment Includes Hunting**

The Right to Food Amendment is not ambiguous: the term "harvest" is commonly understood by the people of Maine to include hunting, fishing, and other methods of obtaining animals and animal products. Defendant's argument that the Right to Food Amendment does not encompass a right to hunt wildlife in Maine disregards the Amendment's plain language on which the people voted. When used as a transitive verb Merriam-Webster's Dictionary defines to harvest as:

- 1 a: to gather in (a crop): REAP // harvesting corn
- b: to gather, catch, hunt, or kill (salmon, oysters, deer, etc.) for human use, sport, or population control.<sup>5</sup>

The word "harvest" includes hunting, so the Amendment is not ambiguous. This ends the analysis. The People of Maine have a right to harvest food through hunting because the term harvest is understood by Mainers of common intelligence to include hunting, clamming, fishing, and foraging along with gardening and farming.<sup>6</sup>

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<sup>5</sup> Merriam-Webster Dictionary (Online), <https://www.merriam-webster.com/dictionary/harvest> (last visited June 30, 2022).

<sup>6</sup> When determining the plain language of a text for statutory interpretation purposes, Maine courts look to the ordinary meaning of a word as people of common intelligence would understand it. *See Dickau v. Vermont Mut. Ins.*

### A. The Term “Harvest” Is Commonly Used and Understood to Reference Hunting

The term “harvest” or “harvesting” is used throughout Maine statutes, regulations, agency documents, reporting, and even in common speech, such as in public statements and publicly available documents, to specifically reference hunting. Defendant’s attempt to construe this term as either ambiguous or having a narrower meaning than that which is commonly and ordinarily accepted, belies the myriad examples of the word harvest being used as a term for hunting. Each of these examples, as well as the sum of the examples together, makes this ordinary meaning clear.

Maine statutes use the term “harvest” in both their titles and text to specifically refer to hunting, including hunting of rabbits, deer, moose, wild turkeys, and other animals.<sup>7</sup> For example, the title of 12 M.R.S. § 11952 is “Unlawful harvest of wild rabbits or hares,” and provides that “[a] person may not . . . hunt wild hares or rabbits in any manner except by the ordinary method of shooting with guns or shooting with a low bow and arrow or by falconry.” 12 M.R.S. § 11952(1). In establishing and regulating special season deer hunting permits, 12 M.R.S. § 11152 states that “[t]he [IFW] commissioner may implement a permit system to regulate hunter participation . . . and the number, sex, and age of deer *harvested*.” 12 M.R.S. § 11152 (emphasis added). This use also appears in 12 M.R.S. § 11404, which states that “[t]he commissioner’s authority to regulate the *harvest* of antlerless deer under section 11152 is applicable during the muzzle-loading hunting season.” 12 M.R.S. § 11404(2)(A) (emphasis added). Similarly, 12 M.R.S. § 11154, which establishes permitting requirements for moose hunting, allows for the transfer of a moose hunting

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*Co.*, 2014 ME 158, ¶ 22, 107 A.3d 621 (“In the absence of legislative definitions, we afford terms their plain, common, and ordinary meaning, such as people of common intelligence would usually ascribe to them[.]” (internal punctuation and citations omitted)).

<sup>7</sup> While not specifically relevant to the activities Plaintiffs seek to engage in, the term “harvest” is also used in at least one Maine statute to refer to the gathering of nonmarine invertebrates, such as freshwater mussels. *See* 12 M.R.S. § 12161(2). A separate Maine statute also refers to the harvesting of amphibian life for commercial purposes. 12 M.R.S. § 12159. This example cuts against Defendant’s assertion that “harvesting is a subset of activities that may constitute hunting—not the other way around,” Def. Mot. to Dismiss at 12, because it shows that harvesting is used to refer to numerous methods of gathering animal life, including hunting.

permit belonging to a deceased permit holder “if a moose has not yet been *harvested* under that permit.” 12 M.R.S. § 11154(15) (emphasis added). And, regarding wild turkey hunting, Maine statute authorizes the IFW commissioner to “establish open seasons for hunting wild turkeys, designate areas that are open to the taking of wild turkeys in any part of the State, prescribe the form and regulate the number of permits to be issued, [and] determine the number and sex of the birds to be *harvested*[.]” 12 M.R.S. § 11701 (emphasis added).

The use of “harvest” to reference hunting is not limited to those statutes dealing with specific animals. The Maine statute regulating the disposal of wild animal carcasses and remains contains a specific exception for the “waste parts or remains resulting from the normal field dressing of lawfully *harvested* wild game,” 12 M.R.S. § 11221(1); that term is again understood to refer to hunting. And 12 M.R.S. § 12303-A makes two references to “harvested” animals in setting the time limits for when hunters must register their kill with the state. *See* 12 M.R.S. §§ 12303-A(1); 12303-A(1-A).

More broadly, in the Maine Revised Statutes as formally codified, Title 12, Part 13, Chapter 919, which contains all regulations pertaining to the registration of wild game “for the collection of biological and hunting data” is titled “Registration and Transportation of Harvested Animals.” *See* 12 M.R.S. § 12301-A.<sup>8</sup> And 12 M.R.S. § 11304 is titled “Permission to harvest another person’s bear” while the text of that statute states that “[a] person may not, without the permission of the person conducting the hunt, kill, or wound a bear that is treed or held at bay by another person’s dog or dogs.” The text of this provision makes clear that the term “harvest,” as found in the title, refers to hunting. 12 M.R.S. § 11304.

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<sup>8</sup> The language of this provision also uses the term “harvested” to refer to animals killed via hunting, stating that: “The commissioner shall adopt rules governing the establishment and closure of bear, deer, moose and wild turkey registration stations for the purpose of registering harvested bear, deer, moose and wild turkey and to allow for the collection of biological and hunting data.” 12 M.R.S. § 12301-A(1).



Nor is the use of “harvest” to reference hunting confined to official legislative texts. Rather, “harvest” is commonly understood and used colloquially to refer to both hunting and fishing. Public officials use “harvest” as a term that encompasses hunting and fishing in both official documents and statements regularly, and this term is well-understood by the sporting community and the general public. The Maine Department of Inland Fisheries and Wildlife’s (“IFW”)’s own website publishes data on annual animal kills via hunting; the website itself as well as the reports contained therein are titled “Harvest Information” and “Harvest Report,” respectively.<sup>9</sup> An IFW website with information on fishing regulations is also titled, “Regulating Harvest,” refers to “fish harvest statutes,” and uses the term repeatedly to refer to fishing activities.<sup>10</sup> And testimony from Commissioner Camuso, then in her capacity as Wildlife Division Director at IFW, given to the legislature in 2017 in regards to a proposal limiting the hunting of antlered deer, repeatedly uses the term “harvest” to refer to hunting.<sup>11</sup>

Finally, the use of harvest to refer to hunting is not a term of art known only to avid hunters or IFW officials. In 2014, Commissioner Camuso published an entreaty to voters in the Portland Press Herald urging a vote against the ban on Bear Baiting referendum, where she used the term “harvest,” “harvested,” or “harvesting” five times to refer to the successful hunting of bears.<sup>12</sup>

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<sup>9</sup> Maine Department of Inland Fisheries and Wildlife Harvest Information: Big Game Harvest Data Dashboard, at <https://www.maine.gov/ifw/hunting-trapping/hunting/harvest-information.html> (last visited June 30, 2022). This website has annual reports for bear and deer, one of which is the species that Plaintiffs seek to harvest as food.

<sup>10</sup> Maine Department of Inland Fisheries and Wildlife, Fishing: Regulating Harvest, at <https://www.maine.gov/ifw/fishing-boating/fishing/laws-rules/regulating-harvest.html> (last visited June 30, 2022).

<sup>11</sup> *An Act to Promote Deer Hunting: Hearing On L.D. 341 Before the J. Standing Comm. On Inland Fisheries and Wildlife*, 128<sup>th</sup> Legis. (2017) (testimony of Judith A. Camuso on behalf of the Department of Inland Fisheries and Wildlife). Available at <https://legislature.maine.gov/bills/getTestimonyDoc.asp?id=41852> (last visited June 30, 2022). The term “harvest,” or grammatical derivations thereof, is used 15 times throughout the testimony in reference to hunting, specifically deer hunting. For example, Ms. Camuso, on behalf of IFW, stated that the bill in question, if passed, “would significantly decrease the opportunity for hunters to successfully harvest deer. In fact, we estimate that the annual buck harvest would decline by about 50% if this bill is passed.”

<sup>12</sup> Judy Camuso, *Maine Voices: Bear baiting makes the woods safer for all*. PORTLAND PRESS HERALD, July 6, 2014. Available at <https://www.pressherald.com/2014/07/06/maine-voices-one-web-hedy-2/> (last visited June 30, 2022). In the article, Ms. Camuso writes, for example: “On average, 80 percent of Maine’s bear harvest is taken by hunters using bait. However, even with bait, only one out of every four hunters is successful in harvesting a bear. Baiting

Maine’s tourism website, VisitMaine.org, also uses the term “harvest” to refer to a successful hunt.<sup>13</sup> And a November 24, 2020 post by Commissioner Camuso on the IFW blog, titled “Join Judy Outside: Opening Day,” provides a first-person account of the Commissioner’s experience hunting for deer on opening day, stating: “Every ounce of me was excited. I could not believe I was going to harvest a deer on opening day.”<sup>14</sup> Maine newspapers frequently used the verb to harvest to refer to fall hunting—even contemporaneously to the vote on this very Amendment.<sup>15</sup> Courts also use the term harvest to refer to gathering wild animals.<sup>16</sup> All of these examples, taken together, demonstrate that the way “harvest” is widely used and understood—in official documents, in legislative texts, among the sporting community, and by other ordinary people in Maine—encompasses hunting.

Defendant argues that because the definition of “hunt” found in Title 12 “indicates ‘harvesting’ is a subset of activities that may constitute hunting, and not the other way around,” that it is therefore not “possible” to harvest food through hunting. *See* Def. MTD at 12. The definition that appears in Title 12 reads: “Hunt. To “hunt” means to pursue, catch, take, kill, or harvest wild animals or wild birds or to attempt to catch, take, kill, or harvest wild animals or wild birds.” 12 M.R.S. § 10001(31). Definitions often use synonyms as explanatory terms.

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allows hunters to be more selective in choosing a bear to harvest and to make an ethical shot, which is otherwise difficult in our dense forests.” She also writes, in regard to Maine’s bear population, that “Maine’s population is increasing because of several years of low hunter harvest . . . [.]”

<sup>13</sup> Visit Maine Things to Do: Hunting in Maine. 2022 Maine Office of Tourism, <https://visitmaine.com/things-to-do/hunting> (last visited June 17, 2022).

<sup>14</sup> Maine Department of Inland Fisheries and Wildlife Blog, Join Judy Outside: Opening Day. Nov. 24, 2020. Available at <https://www.maine.gov/ifw/blogs/mdifw-blog/join-judy-outside-opening-day> (last visited June 17, 2022).

<sup>15</sup> Bob Humphrey, *Hunting: Make a plan for just what you hope to harvest this fall*. PORTLAND PRESS HERALD, September 19, 2021. Available at <https://www.pressherald.com/2021/09/19/hunting-make-a-plan-for-just-what-you-hope-to-harvest-this-fall/> (last visited June 30, 2022).

<sup>16</sup> *State v. Norton*, 335 A. 2d 607, 610 (Me. 1975) (“Our first Legislature placed the regulation of local clam harvesting”); *Medeiros v. Vincent*, 431 F. 3d 25, 28 (1st Cir. 2005) (noting the locations where “Atlantic lobsters are harvested . . . .”); *Japan Whaling Assn. v. American Cetacean Soc.*, 478 U.S. 221, 224 (1986) (using both the terms hunt and harvest in reference to whales).

Defendant concedes that “some definitions of ‘harvest’ recognized by the Law Court cover the Sunday hunting activities the Parkers wish to pursue,” but nonetheless insists that “others do not.” Def. Mot. To Dismiss. at 13. But they do not provide any compelling arguments as to why this Court should simply ignore the commonly used and understood definition of the word “harvest” and adopt a different meaning. This Court should apply the generally accepted definition of the term “harvest,” which includes hunting, fishing, and other methods of acquiring animals for food.<sup>17</sup>

**B. The Text of the Right to Food Amendment, Taken as a Whole, Includes Hunting**

Not only does “harvest” include hunting, fishing, and other methods of obtaining animal products for food, but the surrounding language of the Amendment, including: (1) the broad reference to people’s right to “food of their own choosing;” (2) the specific use of the term “poaching,” in addition to “theft” and “trespassing;” and, (3) the closing phrase “in the harvesting, production, or acquisition of food” all indicate that the Amendment was understood to include hunting. Thus, even if “harvest” were ambiguous in isolation, a plain language reading guides that the word should be read in context of the whole Amendment’s text before looking to any outside sources, such as legislative history. Maine courts “remain mindful of the whole statutory scheme, of which the section at issue forms a part, so that a harmonious result may be achieved.” *Daniels v. Tew Mac Aero Servs., Inc.*, 675 A.2d 984, 987 (Me. 1996); *See State v. Seamen’s Club*, 691 A.2d 1248, 1997 M.E. 70 (Me. 1997) (“Although 12 M.R.S.A. § 6431(1) appears to support the defendant’s contention when viewed in isolation, when read in light of other parts of section 6431,

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<sup>17</sup> Assuming the broadest definition of the term “harvest” would not mean that this includes activities such as the harvesting of timber, or the killing of pest animals that are not meant for human consumption, as including those uses would be just as nonsensical as Defendant’s artificial narrowing of the term. But the ordinary meaning of the term harvest, as used in this context, would include harvesting deer for food.

it is evident the statute is meant to apply only to those who *harvest* lobsters from the ocean and those who deal in the wholesale or retail trade of lobsters.”) (emphasis added).

Here, the Amendment’s text guarantees all Maine people a right to “food of their own choosing, for their own nourishment, sustenance, bodily health, and well-being.” There is no limiting language indicating that this was meant to encompass only plants, or only certain categories of food. Instead, the broad wording supports the conclusion that the Amendment encompasses all types of foods, and all usual methods of obtaining food, including activities such as gardening, farming, hunting, raising livestock, fishing, and foraging, and others.

Second, the specific exclusion of poaching shows that the Amendment must encompass activities like fishing and hunting. As the Defendant acknowledges, the plain meaning of “to commit poaching” in this Amendment is to illegally take fish and game. Def. Mot. to Dismiss at 20. The definition of “poach” from Merriam-Webster’s Dictionary is:

- 1: To encroach upon especially for the purpose of taking something
- 2: to trespass for the purpose of stealing game
- also*: to take game or fish illegally.<sup>18</sup>

Thus, not only does the definition of harvest include hunting and fishing, but the definition of poaching also specifically references fish and game. This means that the specific exclusion of “poaching” would be incomprehensible surplusage in the Defendant’s strained interpretation of the Amendment. *See Dickau v. Vermont Mut. Ins. Co.*, 2014 ME 158, ¶ 22, 107 A.3d 621, 628 (“We reject interpretations that render some language mere surplusage.”) If the Amendment was limited to agriculture, or to foods that are grown as crops, then “theft” and “trespass” would be sufficient to cover the illegal taking of someone else’s crops or property. Moreover, the Amendment’s text states that these limitations specifically apply to offenses committed “in the

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<sup>18</sup> Merriam-Webster Dictionary (Online), <https://www.merriam-webster.com/dictionary/poach> (last visited June 30, 2022).

harvesting, production, or acquisition of food.” This broad language, and the lack of any modifiers, again indicates that the Amendment was understood to extend to all types of food.

In sum, Defendant’s insistence that there is ambiguity in the text of the Right to Food Amendment is unfounded. A plain reading of the Amendment’s text includes hunting. The term “harvest” is used throughout Maine statutes, official documents, and even colloquially to specifically refer to hunting. The Amendment guarantees a broad “right to food”—without any limiting or modifying language suggesting only certain types of food. And the use of the term “poaching,” which specifically refers to the illegal taking of wild fish and game, as one of the exclusions, further shows that such activities were intended to be protected.

## **II. The History and Process Leading to the Enactment of the Right to Food Amendment Supports an Interpretation that Includes Hunting**

The Defendant unnecessarily wades into legislative history in an attempt to confuse the Amendment’s plain meaning. Focusing in particular on the testimony of the original sponsor, the Defendant creates an inaccurate historical narrative that the Amendment at one point protected hunting, and then later did not because of revisions. All versions of the Amendment have protected hunting. The original version laid out a list of specific methods of obtaining food, stating that:

All individuals have a natural, inherent and unalienable right to food, including the right to acquire, produce, process, prepare, preserve and consume the food of their own choosing by hunting, gathering, foraging, farming, fishing, gardening and saving and exchanging seeds or by barter, trade or purchase from sources of their own choosing . . . .<sup>19</sup>

But these references to specific methods were *all* removed, and the enumerated list was replaced with broad and more general language:

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<sup>19</sup> L.D. 795 (129th Legis. 2019). Available at <http://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP0583&item=1&snm=129> (last visited June 30, 2022).

All individuals have a natural, inherent and unalienable right to save and exchange seeds and the right to grow, raise, harvest, produce and consume the food of their own choosing . . . .<sup>20</sup>

This wording change not only removed the specific term “hunting,” but also the other specific examples: gathering, foraging, gardening, farming, and fishing. By Defendant’s logic, the right to food by gathering, foraging, gardening, fishing, and farming are not protected by the Amendment either.<sup>21</sup> This cannot be the case, and this Court should reject such a tortured interpretation. See *Dickau*, 2014 Me. 158, ¶ 22 (“In determining a statute’s practical operation and potential consequences, we may reject any construction that is inimical to the public interest or creates absurd, illogical, unreasonable, inconsistent, or anomalous results if an alternative interpretation avoids such results.” (internal quotation marks and citations omitted)).

The legislative summary of this change, House Amendment to H.P. 583, L.D. 795 specifically states that the change was to “[r]emove language *limiting* the methods of acquisition of food[.]”<sup>22</sup> This demonstrates that the drafters of the Amendment did not intend to specifically exclude hunting—or gathering, foraging, farming, fishing, or gardening—from the meaning of the Amendment. Instead, the switch was one in which drafters opted to use more general language that encompassed a range of activities rather than listing out all included activities by name.

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<sup>20</sup> House Amend. to L.D. 795, H.P. 583 (129th Leg. 2020). Available at <https://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP0583&item=9&snum=129> (last visited June 30, 2022).

<sup>21</sup> Indeed, by Defendant’s logic, gardening could be considered a subset of growing such that one may be able to farm through growing, but they cannot grow through farming. It is ironic that the government uses the drafters’ attempt to broaden the protections enshrined in the Amendment to attempt to limit its final meaning.

<sup>22</sup> House Amend. to L.D. 795, H.P. 583 (129th Leg. 2020). Available at <https://www.mainelegislature.org/legis/bills/getPDF.asp?paper=HP0583&item=9&snum=129> (last visited June 30, 2022). Although this wording change occurred during the 129th Legislature and did not result in the Amendment’s passage during that session, the updated, and thus more general language was reintroduced in the 130th Legislature, where the legislature ultimately voted to send the proposal to Maine voters, who passed it. See L.D. 95, H.P. 61 (130<sup>th</sup> Leg. 2021).

### **III. The Amendment’s Limitations and Exceptions Do Not Save Sunday Hunting Ban from Unconstitutionality**

Defendant’s alternate argument—that, should the Amendment extend to include hunting, the Sunday hunting ban is saved by the Amendment’s exclusion of “poaching” and “abuse of natural resources,” Def. Mot. to Dismiss at 16, 20—also fails. In so arguing, Defendant swings from one extreme to another, ultimately advancing a position where the exceptions swallow any rights protected therein. Defendant opens by stating that the right to food is not an unlimited right, but then jumps from this starting point to the opposite position, arguing in essence that because the right to food is not a guarantee, the exceptions laid out in the Amendment therefore must be interpreted to mean that the State retains its full, unchanged power to regulate hunting. Neither position is correct. The Right to Food Amendment, like any constitutional amendment that functions as a specific declaration of rights, is an expression of certain general principles that the people of Maine sought to protect against undue encroachment by the government. Accordingly, the power of the legislature to impede those rights must be in some way limited by the Amendment. The straightforward, logical, and correct interpretation of the Amendment is the one that balances the broad rights it enshrines with the reasonable limitations it lays out. That balance is for this Court to decide, and the Parkers are entitled to their day in court.

#### **A. Defendant’s Interpretation of the Exceptions Found in the Amendment Are Circular, And Would Render Much of the Amendment Meaningless**

Defendants contend that the Sunday hunting ban does not violate the Amendment because: (1) the government has no obligation to provide food to any individual; (2) the people of Maine own the state’s game and the only way to access it is through permission from the legislature, and (3) therefore, “taking wildlife in violation of statutory law enacted by the Legislature on behalf of the people constitutes ‘poaching’ and/or an ‘abuse of natural resources.’” Def. Mot. to Dismiss at

16. This theory not only presents an artificial choice between two extremes, but also circularly renders much of the Amendment meaningless.

The fact that the government has no obligation to provide food is undisputed but is nothing more than a strawman. Plaintiffs do not contend that the Amendment's grant of a right to individuals to access food obligates the government to provide that food because that would be absurd. However, it is equally absurd for Defendant to argue that access to hunting is functionally equivalent to the government giving the people of Maine wild game. Moreover, the fact that the Amendment does not guarantee every individual access to food, or food through hunting, does not lead to the conclusion that the state's power to regulate hunting is unchanged by the Amendment.

Defendant points to the fact that the wild game of the state is owned by the people of Maine, and that the people, through their representative Legislature, regulate access to that game. This is true, but it is again of no import. In enacting a constitutional amendment, the people—acting, once again, as sovereign—chose to elevate certain individual rights, and thus, necessarily, to *forfeit* at least some of their ability to limit those rights through their representative Legislature. *See Allen v. Quinn*, 459 A.2d 1098, 1102-03 (Me. 1983) (stating that by enacting a constitutional amendment allowing for direct initiative and referendum provisions “the people, as sovereign, have retaken unto themselves legislative power” (internal quotation marks and citation omitted)). While it is true that Maine's people are collectively beneficial “owners” of the game and the legislature normally manages those resources on behalf of the public, in this case the people of Maine have circumscribed that power through a direct constitutional amendment.

Here, the Amendment specifically enshrines a right for all persons in Maine to “harvest . . . food of their own choosing,” and subjects that right to the limitations found in the Amendment's text. Whether the legislature had “unquestioned authority” to regulate wildlife, Def. Mot. to



Dismiss at 18 (citing *Animal Welfare Inst. v. Martin*, 588 F. Supp. 2d 70, 99 (D. Me. 2008)), prior to the Amendment’s passage, is irrelevant. By electing to elevate the right to food to a Constitutional Amendment, the people of Maine circumscribed the powers of the Legislature.

Defendant is thus incorrect to contend that *all* hunting laws and regulations fit within the Amendment’s allowable exceptions. By including exceptions, the Amendment attempts to define the limits and contours of the right to food, as well as the types of restrictions by the Legislature that remain permissible. Defendant’s reading completely overlooks this, and would mean that there is a natural, inherent, and inalienable right to hunt and fish—except as the government decides, even arbitrarily, or for any reason at all. This is nonsensical. The plain meaning is that this Amendment is no defense for hunting in violation of a *valid* hunting restriction—*i.e.*, one that fits within the balance of rights defined in the Amendment itself. It does not mean that all hunting restrictions are automatically valid.

Defendant also argues that “[h]unting Maine’s wildlife . . . in violation of a statute duly enacted by the people’s Legislature can be considered an ‘abuse’ of such ‘natural resources’ . . .” Def. Mot. to Dismiss at 16. But this statement has the same circular flaw as above: if any conceivable statute that is “duly enacted” falls within the exceptions found in the text of the Amendment, then the Amendment is rendered meaningless.

In short, the exceptions cannot define the rule: the Right to Food Amendment grants the people of Maine certain protections and constrains the ability of the government to limit the Right to Food, not the other way around.

## **B. The Sunday Hunting Ban is Not Rooted in Protecting Natural Resources**

The Sunday hunting ban is based solely on religious, social, and cultural norms that are now hundreds of years old. Just last year, in testimony before the legislature, an official from IFW

testified that the Sunday hunting ban was “truly a social issue.”<sup>23</sup> While such a justification may have been sufficient prior to the passage of the Right to Food Amendment, it can no longer stand. The text of the Right to Food Amendment, taken in full, reflects the limitations that the Amendment places on the State’s power: an individual’s right to food is secured “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 of food.” Defendant argues that the Sunday hunting ban fits within these exceptions because it is an “abuse of natural resources,” but it has no such basis.

The origins of the Sunday hunting ban are Biblical. Stemming from the Bible’s admonition that the Sabbath was for rest, in 1610, the British government enacted the first law requiring observance of the Sabbath on Sunday in the then-colony of Virginia.<sup>24</sup> Later iterations of these laws, known sometimes as “Sunday Laws” or “Blue Laws,” did not necessarily require attendance at religious services, but instead shifted to forbidding certain economic, commercial, and recreational activities on Sundays.<sup>25</sup> Many of these laws banned Sunday hunting.<sup>26</sup> While many of these have been repealed over time, Maine has one of the only Sunday hunting laws left, and “perhaps the most stringent,” completely banning hunting on Sundays with no exceptions.<sup>27</sup>

Over the years that Maine’s law has remained on the books, neither IFW nor the legislature has identified any natural resource management purpose for the Sunday hunting ban. To the

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<sup>23</sup> *An Act to Allow Sunday Hunting on Private Property with the Written Permission of the Landowner: Hearing on L.D. 1033 Before the J. Standing Comm. On Inland Fisheries and Wildlife*, 130<sup>th</sup> Legis. (2021) (testimony of Jim Connolly, Resource Management Director, Department of Inland Fisheries and Wildlife). Available at <https://mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=154372> (last visited June 30, 2022).

<sup>24</sup> Mike Belestra, *Thou Shall Not Hunt: A Historical Introduction to and Discussion of the Modern Debate Over Sunday Hunting Laws*, 96 KY. LAW J. 447, 449-450 (2008).

<sup>25</sup> Elina Tetelbaum, *A Sobering Look at Why Sunday Liquor Laws Violate the Sherman Act*. 2011 UT. L. REV. 625, 628-29 (2011).

<sup>26</sup> Belestra at 451-52.

<sup>27</sup> Belestra at 452.

contrary, IFW has publicly stated that there is no need to ban Sunday hunting for the biological needs of any animal population or for wildlife management purposes,<sup>28</sup> instead concluding that the Sunday hunting ban is “a social issue [and] not a biological decision.”<sup>29</sup> And, according to testimony from a representative for IFW, states that have repealed their Sunday hunting bans “have not documented an increase in harvest as a result of Sunday hunting. Neither have any states documented an overall increase in participation due to Sunday hunting.”<sup>30</sup> Nothing in the long history of the Sunday hunting ban indicates that it is necessary to protect natural resources.

Plaintiff does not contest that the Defendant has a duty in statute and even under this Amendment to protect the natural resources of the state so that all Maine people that choose to will have a chance to partake in the harvest. That is a longstanding role of the state, which holds wild game “as a trust for the benefit of the people, and not as a prerogative for the advantage of the government, as distinct from the people, or for the benefit of private individuals as distinguished from the public good.” *Geer v. Connecticut*, 161 U.S. 519, 529 (1896). Indeed, most hunting laws and regulations will fall within the Amendment’s allowable limitations. For example, while outside the scope of this matter, hunting regulations rooted in natural resources management fall within the restrictions the Amendment contemplates. *See, e.g.*, 12 M.R.S. § 11152(2) (empowering commissioner to regulate the taking of antlerless deer “as necessary to maintain deer

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<sup>28</sup> Plaintiffs concede that the sole exception to this are migratory bird species, for which the Department of Inland Fisheries and Wildlife must coordinate with the U.S. Fish and Wildlife Service (“USFWS”) on any restrictions, and for which a change to the number of hunting days in a season might impact season length and geographic scope. Accordingly, the Department has a rational basis for maintaining any existing restrictions or regulations concerning migratory birds that were developed in coordination with USFWS.

<sup>29</sup> *An Act to Allow Sunday Hunting on Private Property with the Written Permission of the Landowner: Hearing on L.D. 1033 Before the J. Standing Comm. On Inland Fisheries and Wildlife*, 130<sup>th</sup> Legis. (2021) (testimony of Jim Connolly, Resource Management Director, Department of Inland Fisheries and Wildlife). Available at <https://mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=154372> (last visited June 30, 2022).

<sup>30</sup> *An Act to Allow Sunday Hunting on Private Property with the Written Permission of the Landowner: Hearing on L.D. 1033 Before the J. Standing Comm. On Inland Fisheries and Wildlife*, 130<sup>th</sup> Legis. (2021) (testimony of Jim Connolly, Resource Management Director, Department of Inland Fisheries and Wildlife). Available at <https://mainelegislature.org/legis/bills/getTestimonyDoc.asp?id=154372> (last visited June 30, 2022).

populations in balance with available habitat”). But those restrictions are not at issue here. What is at issue is an anachronistic ban rooted in religious and social traditions, not any protection necessary for management of natural resources.

In sum, the Right to Food Amendment elevates the rights of Maine citizens to obtain and enjoy food of their own choosing and limits the ability of the state to constrain that right. This Amendment necessarily shifts the balance between the rights of the people and the power of the state: despite Defendant’s contention to the contrary, the ability of the state to place restrictions on hunting, fishing, and other means of obtaining food has been altered by this Amendment. Defendant’s contentions that the powers of the state remain unchanged must fail.

### CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests this court deny Defendant’s Motion to Dismiss.

Dated: July 1, 2022

Respectfully Submitted,



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STATE OF MAINE  
KENNEBEC, ss.

SUPERIOR COURT  
CIVIL ACTION  
Docket No. CV-2022-87

VIRGINIA PARKER and JOEL PARKER, )  
)  
Plaintiffs )

v. )

JUDITH A. CAMUSO, in her official )  
capacity as Commissioner of the Maine )  
Department of Inland Fisheries and Wildlife, )  
)  
Defendant. )

**DEFENDANT’S REPLY IN  
SUPPORT OF HER MOTION TO  
DISMISS FOR FAILURE TO  
STATE A CLAIM UPON WHICH  
RELIEF CAN BE GRANTED**

**I. This Court Is Bound by the Presumption of Constitutionality**

Plaintiffs’ Opposition cites to a West Virginia case to imply that the presumption of constitutionality that Maine courts apply to statutes enacted by the Legislature should be ignored. *See* Resp. in Opp. to Def.’s Mot. to Dismiss (“Opp.”) at 3. But that decision merely stands for the truism that constitutional provisions supersede conflicting statutory provisions. *See City of Princeton v. Buckner*, 377 S.E.2d 139, 144 (W. Va. 1988). In any event, this Court is bound by case law of the Maine Supreme Judicial Court, not the Supreme Court of Appeals of West Virginia.

And the Law Court has been clear and consistent on this matter. As recently as last month, it reiterated that “‘all acts of the Legislature are presumed constitutional” and that “[t]o prevail against the presumption of constitutionality, ‘the party challenging the statute must demonstrate convincingly that the statute and the Constitution conflict.’” *In re Weapons Restrictions of J.*, 2022 ME 34, ¶ 12 (emphasis added) (quoting *Bouchard v. Dep’t of Pub. Safety*, 2015 ME 50, ¶ 8, 115 A.3d 92).<sup>1</sup> Because “[a]ll reasonable doubts must be resolved in favor of the constitutionality of the statute,” this Court is obligated to harmonize 12 M.R.S. § 11205 with Maine’s Right to Food

<sup>1</sup> The Law Court has cited this principle again and again. *See, e.g., City of Lewiston v. Verrinder*, 2022 ME 29, ¶ 15, 275 A.3d 327; *Somerset Tel. Co. v. State Tax Assessor*, 2021 ME 26, ¶ 30, 259 A.3d 97; *Alliance for Retired Americans v. Sec’y of State*, 2020 ME 123, ¶ 9, 240 A.3d 45; *Jones v. Sec’y of State*, 2020 ME 113, ¶ 18, 238 A.3d 982.

if any such reading is plausible. *Somerset Telephone Co. v. State Tax Assessor*, 2021 ME 26, ¶ 30, 259 A.3d 97.

## II. The Term “Harvest” Is Susceptible to Multiple Meanings

“Harvest” is defined nowhere in Maine’s Right to Food Amendment—nor anywhere in the Maine Revised Statutes. Therefore, the Court must determine whether it has a “plain meaning” based only on the words of the Amendment, itself. *Cf. Opinion of the Justices*, 2015 ME 107, ¶ 35, 123 A.3d 494 (“We look primarily to the language used in [the provision] in interpreting the Maine Constitution.”) (cleaned up) (quoting *Allen v. Quinn*, 459 A.2d 1098, 1100 (Me. 1983)).

Plaintiffs dedicate a great deal of their Opposition explaining how the term “harvest” can be used synonymously with the concept of hunting. *See* Opp. at 5-10. The Commissioner does not deny that “harvest” can indeed at times be used to refer to hunting activity.<sup>2</sup> But Plaintiffs conflate the idea that “harvest” can refer to hunting activity with the notion that it must be read to do so. The very first dictionary entry cited by Plaintiffs provides a definition of “harvest” that does not describe hunting activity: “To gather in (a crop): REAP // harvesting corn.” *See* Opp. at 5. And another common dictionary—one Plaintiffs omitted from their brief—does not provide a definition for “harvest” that would encapsulate hunting activity at all. *See* Mot. to Dismiss at 13.

When interpreting statutes and other legal language, the Law Court has frequently applied the canon of construction known as *ejusdem generis*, which stands for the proposition that words

<sup>2</sup> Though as the Commissioner pointed out in her Motion to Dismiss, the formal definition of “hunt” under Title 12 includes a list of verbs including “pursue, catch, take, kill or harvest wild animals or wild birds,” such that under Title 12’s formal definition of “hunt” it would not be possible for Plaintiffs to “harvest food through hunting” as alleged in the Complaint. *See* Mot. to Dismiss at 12. Plaintiffs argue that the canon against surplusage should not apply in this context because “Definitions often use synonyms as explanatory terms.” *See* Opp. at 9. Yet Plaintiffs argue that the same canon does apply to the Amendment’s term “poaching.” Opp. at 11. Plaintiffs’ inconsistent application of the canon against surplusage aside, this merely highlights the ambiguity of the term “harvest” and why the Court needs to examine the provision’s legislative history to determine the true intent of the Amendment’s drafters.

used in a series should be interpreted in light of the words that surround them. *See, e.g., Badler v. Univ. of Me. System*, 2022 ME 40, ¶ 7; *Snow v. Bernstein, Shur, Sawyer & Nelson, P.A.*, 2017 ME 239, ¶ 22, 176 A.3d 729; *New Orleans Tanker Corp. v. Dep’t of Transp.*, 1999 ME 67, ¶ 7, 728 A.2d 673; *Penobscot Nation v. Stilphen*, 461 A.2d 478, 489-90 (Me. 1983) (invoking *ejusdem generis* construction when it is supported by legislative history). Here, the word “harvest” appears in the Amendment surrounded by methods of food generation that all constitute food production: “. . . 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 . . .” Me. Const. art. I, § 25. Thus, it is entirely plausible that “harvest” could (and as the legislative history demonstrates, in fact should)—be read to include only the harvesting of crops or animals grown, raised, and belonging to an individual, not the broader wildlife of Maine.<sup>3</sup> At the very least, the term is ambiguous.

Because “harvest” cannot be unambiguously construed to include hunting activity, the Court is obliged to look to legislative history to determine whether the Amendment was intended to extinguish the ban on Sunday hunting set forth in 12 M.R.S. § 11205.

### **III. The Legislative History of the Amendment Demonstrates That It Is Not Meant to Overturn Maine’s Ban on Sunday Hunting**

Legislative intent “is determined wholly as a matter of law, not fact.” *Wawenock, LLC v. Dep’t of Trans.*, 2018 ME 83, 187 A.3d 609. The Commissioner previously detailed how in no uncertain terms the drafter and sponsor of the Amendment did not intend for it to nullify any preexisting Maine hunting or fishing laws. *See* Mot. to Dismiss at 4-9, 14-16. Plaintiffs accuse the Commissioner of “cherry-pick[ing]” the legislative history, Opp. at 4, but in fact the Commissioner set forth the drafter’s and sponsor’s consistent statements regarding the

<sup>3</sup> The Amendment’s reference to “poaching” as an exception to the Right to Food does not negate such an interpretation, as argued by Plaintiffs. Opp. at 11-12. For example, a beef farmer could easily engage in the “poaching” of another’s domesticated cattle without implicating Maine’s wildlife.

Amendment's qualified reach at each and every stage throughout the legislative process. *See* Mot. to Dismiss at 5-9. Conversely, Plaintiffs have offered no legislative statements from the Amendment's sponsor or anyone else that supports their overbroad reading.

The only legislative history offered by Plaintiffs is the change from the Amendment's originally proposed wording in the 129th Legislature to the wording adopted in House Amendment A. Opp. at 12-13 (citing Ex. A at 42). Plaintiffs state that "hunting" was merely removed alongside "the other specific examples" of "obtaining food." Opp. at 12-13. But as the Commissioner explained in her Motion to Dismiss, House Amendment A was adopted to address a number of concerns expressed to the Legislature by the Department of Agriculture and the Department of Inland Fisheries and Wildlife. *See* Mot. to Dismiss at 6-7.

Moreover, House Amendment A did not eliminate all methods of food production. It maintained that individuals have a right to "grow, raise, harvest, produce, process, prepare, preserve and consume the food of their own choosing, to save and exchange seeds and to barter, trade or purchase food from the sources of their own choosing." *See* Ex. A at 42. It did, however, remove the right to "acquire" food "by hunting." Compare Ex. A at 26 with Ex. A at 42.

Nor is Plaintiffs' citation to the legislative summary of House Amendment A persuasive. *See* Opp. at 13 (citing Ex. A at 42). Summaries of floor amendments are authored by unelected staff members of the Office of the Revisor of Statutes. The better place to look for legislative intent are statements by the duly elected drafters and sponsors of the Amendment, who consistently stated they were not seeking to upset any Maine hunting laws. *See, e.g.*, Mot. to Dismiss at 5-6.

Moreover, summaries of floor amendments are not infallible. The very legislative summary that Plaintiffs cite contains an error: It states that one purpose of House Amendment A was "Specifying that the right to food does not allow an individual to abuse private property rights or abuse public lands or natural resources in the harvesting of food." *See* Ex. A at 42. But that



language had already been included in the proposal as introduced by Representative Hickman in the 129th Legislature. *Compare* Ex. A at 26 with Ex. A at 42.

Plaintiffs insist that the Court not consider legislative history in interpreting the scope of the Amendment. *Opp.* at 12. But it is a necessary step, considering the inherent ambiguity and lack of a definition for the term “harvest.” The reason for Plaintiffs’ position is obvious: once the Court examines the proposal’s legislative history, their suit fails. The Amendment was explicitly not intended to overturn any existent hunting or fishing statutes and regulations.

**IV. Even If Maine’s Right to Food Conveys Certain Hunting Rights to Individuals, the People of Maine Still Enjoy the Authority to Determine When and How the State’s Wildlife May Be Taken**

As the Commissioner has laid out above and in her Motion to Dismiss at 10-16, Maine’s constitutional Right to Food does not guarantee to the right to engage in hunting activity on Sunday, and thus 12 M.R.S. § 11205 can be upheld on that principle alone. Nevertheless, even if the Right to Food did enshrine some individual right to engage in hunting activity, the Maine Legislature is permitted to ban hunting on Sunday, as it has done in 12 M.R.S. § 11205, because the Amendment does not protect activities that constitute “poaching” and/or “other abuses” of “natural resources,” *See* Mot. to Dismiss at 16-20.

In their Opposition, Plaintiffs acknowledge as “true” that “the wild game of the state is owned by the people of Maine, and that the people, through their representative Legislature, regulate access to that game.” *Opp.* at 15.<sup>4</sup> But puzzlingly, they assert that fact is “of no import,” because in enacting Maine’s constitutional Right to Food, the people “chose to elevate certain individual rights, and thus, necessarily, to *forfeit* at least some of their ability to limit those rights

<sup>4</sup> They also concede, as case law requires, that “Maine’s people are collectively beneficial ‘owners’ of [Maine’s] game and the legislature normally manages those resources on behalf of the public.” *Opp.* at 15.

through their representative Legislature.” *Id.* (emphasis in original). Such a crabbed interpretation of the Amendment raises far more questions than it answers: If the Amendment transformed the ownership rights regarding Maine’s wild game, where in the plain language of the provision—or for that matter any of its legislative history—can such evidence of a revolutionary overhaul be found? Plaintiffs provide no answer to that question, because no such answer exists.

Instead, Plaintiffs circle back to the phrase “harvest . . . food of their own choosing” to do this work. But such a broad interpretation of the Amendment—with no grounding in the provision’s text or legislative history—would not merely constitute hiding a single “elephant in a mousehole,” but an entire herd of elephants. *See Whitman v. Am. Trucking Ass’ns*, 531 U.S. 457, 468 (2001); *see also Conservation Law Found., Inc. v. Pruitt*, 881 F.3d 24, 32 (1st Cir. 2018).

In any event, Plaintiffs focus on the wrong term in determining whether 12 M.R.S. § 11205 can plausibly be upheld under the Amendment’s “poaching” exception. The correct term to focus on is not “harvest,” but “poaching.” And in an earlier part of their Opposition, Plaintiffs acknowledge that a valid definition for the term “poaching” is “To take game or fish illegally.” *Opp.* at 11. *See also Opp.* at 12 (“use of the term ‘poaching’ . . . specifically refers to the illegal taking of wild fish and game.”) Under the presumption of constitutionality, that is enough to uphold 12 M.R.S. § 11205.<sup>5</sup> But even if “poaching” is deemed ambiguous—as it is not defined anywhere in the Amendment or Maine statute—the legislative history as outlined above demonstrates that the Amendment’s drafter and sponsor absolutely did not intend for it to be used as a tool to strike down contemporaneous hunting or fishing statutes and regulations.

<sup>5</sup> Even if “poaching” were more narrowly defined to require someone to (1) illegally take wild game or fish that (2) belongs to another, Maine’s ban on Sunday hunting should be upheld because Maine’s wild game is not owned by any individual. Just as it would be illegal for a sibling to tear down a lakeside camp of which he or she enjoys only partial ownership, so too is it illegal for an individual to take wild game—collectively owned by all of the people of Maine—in a manner not authorized.

**V. The Sunday Hunting Ban’s Origins Are Irrelevant to the Question at Hand**

In their Opposition, Plaintiffs focus on the purportedly Biblical origins of 12 M.R.S. § 11205. Opp. at 16-17. This reads more like an Establishment Clause or Equal Protection Clause challenge—which Plaintiffs have not brought—than a challenge pursuant to Maine’s constitutional Right to Food.<sup>6</sup> At any rate, the motivations for passing the original ban in the nineteenth century are a red herring. The relevant questions here are whether the ban on Sunday hunting was intended to be eradicated by the Right to Food Amendment (no); and whether the people of Maine maintain the right to regulate their shared interest in the State’s wildlife (yes).

Just last month, the Law Court reasserted that Maine’s constitutional Right to Bear Arms—which includes a provision stating that the “right shall never be questioned”—is not absolute, but instead is subject to regulations by the Maine Legislature. *See In re Weapons Restrictions of J.*, 2022 ME 34, ¶ 14. Maine’s constitutional Right to Food should be held to the same standard. Considering the ambiguity of the word “harvest,” the clear legislative intent of the drafter and sponsor, and the poaching exceptions written into the Amendment that can reasonably be construed to allow the people of Maine to regulate their collectively owned wildlife, as a matter of law Plaintiffs cannot meet their “heavy burden of proving unconstitutionality” by “demonstrat[ing] convincingly that the statute and the Constitution conflict.” *Id.* ¶ 12.

**VI. Conclusion**

For the foregoing reasons and those set forth in her Motion to Dismiss, the Commissioner respectfully requests the Court dismiss the Complaint.

<sup>6</sup> Any such challenge—if properly brought—would fail. *See McGowan v. State of Md.*, 366 U.S. 420, 445 (1961) (upholding Sunday closing in the face of an Establishment Clause challenge); *Kittery Motorcycle, Inc. v. Rowe*, 320 F.3d 42, 50 (1st Cir. 2003) (holding that Sunday closing laws are not a violation of the Equal Protection Clause under rational basis review).

DATED: July 15, 2022

Respectfully submitted,

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STATE OF MAINE  
KENNEBEC, ss

SUPERIOR COURT  
CIVIL ACTION  
DOCKET No. CV-2022-87

VIRGINIA PARKER and JOEL PARKER,

Plaintiffs,

v.

JUDITH A. CAMUSO, COMMISSIONER OF THE  
MAINE DEPARTMENT OF  
INLAND FISHERIES AND WILDLIFE,

Defendant.

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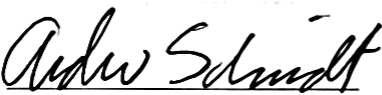
**PLAINTIFFS' NOTICE OF APPEAL TO THE LAW COURT**

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Pursuant to Me. R. App. P. 2A(a) and 2A(b)(1), Plaintiffs Virginia Parker and Joel Parker hereby appeal to the Law Court from Order Dismissing Plaintiff's Complaint from the Kennebec County Superior Court, entered in this action on November 30, 2022.

All other parties are hereby notified of the need to file an appearance to be heard on the appeal.

Dated: December 15, 2022

  
Andrew Schmidt, Esq.  
Bar No. 005498  
Borealis Law PLLC  
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Andy@maineworkerjustice.com

MAINE JUDICIAL BRANCH

VIRGINIA PARKER AND JOEL PARKER

"X" the court for filing:

Superior Court  District Court

Unified Criminal Docket

County: KENNEBEC

Location (Town): Augusta

Docket No.: CV-2022-87

v.

JUDITH A. CAMUSO

NOTICE OF APPEAL

CIVIL  CRIMINAL

I, (name of party appealing), Virginia Parker & Joel Parker (plaintiffs) appeal from the judgment, order or ruling entered in this proceeding on (date of order appealed from - mm/dd/yyyy) 11/30/2022. Any party who wishes to be heard on this appeal must file an appearance.

This is a civil appeal.

This case arises from the Maine Tort Claims Act requiring the clerk to send a copy of this Notice of Appeal to the Office of the Attorney General.

If this is a criminal appeal, check one of the following:

The defendant is presently confined at \_\_\_\_\_

The defendant is not in custody. The defendant's address is: \_\_\_\_\_

"X" THE APPLICABLE BOX:

The Transcript Order form is attached.

No transcript will be ordered.

No electronic or other recording of the proceedings can be prepared for this civil case. Therefore, a statement in lieu of transcript will be prepared pursuant to M.R. App. P. 5(d).

Date (mm/dd/yyyy): 12/14/2022

▶ Andrew Schmidt

Signature of Appellant or Appellant's Attorney

Address of Appellant or Attorney:

Andrew Schmidt

Borealis Law PLLC

97 India Street, Portland, ME 04101

Andrew Schmidt

Printed name of Appellant or Appellant's Attorney

If attorney, bar number: 005498

**PLEASE NOTE:** This Notice of Appeal must be filed in the court that issued the order appealed from. It will not be accepted or docketed unless (1) in a Civil case, it is accompanied by the required filing fee or a motion to waive the filing fee, and (2) if the appellant is represented, it contains the bar number of Appellant's attorney.

If this is an appeal from a civil case or a criminal case involving an adult defendant, this notice must be filed within 21 days of the entry of the judgment in the docket. If this is an appeal from a case involving the extradition of a fugitive to another state, this notice must be filed within 7 days of the entry of the judgment in the docket.

WARNING: Small Claims, Forcible Entry & Detainer and Juvenile matters have differing time limits for filing a Notice of Appeal. If this is an appeal from a Small Claims, Forcible Entry and Detainer or Juvenile matter, another form must be used which is available from the clerk.

**ADA Notice:** The Maine Judicial Branch complies with the Americans with Disabilities Act (ADA). If you need a reasonable accommodation contact the Court Access Coordinator, [accessibility@courts.maine.gov](mailto:accessibility@courts.maine.gov), or a court clerk.

**Language Services:** For language assistance and interpreters, contact a court clerk or [interpreters@courts.maine.gov](mailto:interpreters@courts.maine.gov).

## CERTIFICATE OF SERVICE

I hereby certify that, on March 16, 2023, copies of this Appendix were served upon counsel at the address set forth below via email and via first class mail, postage-prepaid:

Paul A. Switter, Esq.  
Office of the Attorney General  
Six State House Station  
Augusta, ME 04333  
paul.switter@maine.gov

Dated: March 16, 2023

/s/ Andrew Schmidt

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*Attorneys for Plaintiffs-Appellants*