

Pete Kennedy: Welcome to the Solari Food Series podcast. This is your host, Pete Kennedy. A common theme on the podcast has been that a key to an optimum food system in society is to deregulate locally-produced food. The opinion here is that the less that locally produced food is regulated, the stronger the food safety, public health, local economy, small farm prosperity, and the sense of community there is.

In most states the path toward this end has been at the state level for the most part. There is a big exception, and that is the state of Maine. Thanks to the 2017 passage of the Maine Food Sovereignty Act by the legislature, over 80 towns in the state have passed a local food and community self-governance ordinance. It's a law that allows the unregulated sale of food direct between farmer and consumer, and if there is any conflict between the local law and the state law, the local law controls.

A leader in the Maine Food Sovereignty movement from its beginnings ten years ago – and more than anyone else is the face of that movement – is Heather Retberg, a farmer from Penobscot, Maine.

Heather and her husband, Phil, operate Quill's End Farm, producing raw milk, poultry, meat, and eggs for their grateful patrons. Two of the Retberg children, Ben and Caroline, farm as well with their parents. In addition, Heather is the lead organizer and advocate for a Local Food RULES, an entity whose mission it is to work to pass as many of these local food sovereignty ordinances as possible throughout the state of Maine.

Heather also works with her local Grange, the Halcyon Grange #345 in North Blue Hill, Maine, to rebuild food and farming infrastructure while maintaining legal space for traditional food exchanges.

Unassuming, respectful, but very persistent and not afraid to push the envelope, Heather and other food activists in her state have set the bar high for those looking to achieve similar successes elsewhere.

Without further ado, Heather, welcome to the Solari Food Series podcast.

Heather Retberg: Hi, Pete. Thank you very much. That was really a lovely introduction, and I'm glad to be here with you

Kennedy: Let's go back to when this all started. What often happens with farmers who turn into activists is that there is an event that triggers their activism. In your case, that happened in November 2009 when you were minding your own business one day on the farm. Could you explain to us what happened that day?

Retberg: That is just the set-up. It was actually not too different a season than we are in right now. It was right before Thanksgiving in 2009. It was just a day that was pouring rain, and an inspector from the state showed up at the farm. He is the local inspector for all of the farms, the gas stations, and anybody who serves, produces, and processes food around here.

We had been slaughtering and packaging our birds at a neighboring farm, a USDA regulated but state-inspected facility. The inspector had been down there when my husband and my older son were processing birds that day. He noticed us there, and so he came back to our farm to follow up. He wanted to know where we were processing our birds and how we were selling them.

Our understanding was that a poultry exemption had passed that allowed for the sharing of facilities and allowed for selling off the farm, so long as we were selling from the farm and not into stores or any kind of retail food chain.

He said, "Yes, an exemption had passed," but that it was going to require us to build a facility very similar to what our farming friend five miles down the road had, and that we weren't allowed to use his facility.

That posed a significant barrier. We had been working for about a dozen years at that point just to get to the state where we could farm full-time as a livelihood, and that was the first year where we had raised 1,000 birds. We shared labor with this other farm, helped them process their birds, and they helped us process ours. It all was working out pretty nicely. But then, like I said, the inspector came and said that they intended to require that we build a similar facility.

We know that our friend had spent about \$40,000 on that facility. That was not anything that we had the land to produce that many chickens in an ecologically healthy way, and we also didn't have a market. The number of birds that we could raise just wouldn't be for that kind of facility. So that is what got us involved. It was the 'political pollo'.

Kennedy: Like I mentioned earlier, one of the other foods that you were selling was raw milk. Wasn't there something that cropped up at the same time regarding that?

Retberg: Absolutely. Like I said, when he came to talk with us, it was raining outside so he stepped into our farm store. When he was in our farm store, he noticed that we had a refrigerator with fresh milk in it.

This was the first year that my husband was home farming full-time after working for a dozen years towards that direction. He was a carpenter contractor, and the two previous years he had been working on an island off the coast of Maine, so he was gone from the farm 70 hours a week while we were growing the farm to a level that he could make the transition.

In our mind, it was really bad timing. When he was still working on the island, we had been in touch with the Department to find out what we needed to do in order to be legal to sell fresh milk because we knew that we were letting go of that off-farm income and we wouldn't have finances to invest in infrastructure once we made the leap. So we had made the leap.

When we called the state originally about what we needed to do in order to legally sell raw milk from the farm, they said, "We basically don't need to know you as long as you don't advertise and you are only selling from the farm." That was how things had been operating up to that point all across Maine.

As long as you didn't put up a sign and you just sold directly to people from the farm, you were allowed to sell without licensing and inspection.

So when that inspector came about the chicken, he called back about two weeks later and said, "I noticed that you are selling fresh milk. I'm going to send you a letter from the Department, but we are reviewing that policy right now."

Essentially the conclusion of their review was that they were going to redefine us as milk distributors. Once we were redefined as ‘milk distributors’, we were put into a whole new classification or category that would require significant investment in facilities and infrastructure that, again, were far beyond the scale of what we were able to do. I think we were milking three cows at the time.

So it started off with the chicken as being about ‘scale appropriate regulation’, but then when this thing with the raw milk happened, and it was so close together with the chicken, it very quickly became much more about the democratic process. This simple change of definition had this very large price tag implication for our farm, and there wasn’t a way to engage with the process because it wasn’t going through any kind of legislative oversight. There was no public input period; it was just changing, and there wasn’t anything that we could do about it – or so we were told at the time. There was just no engagement, but it had a substantial impact on us.

At that moment, after talking to the inspector that day, I was really having the feeling that if this was happening to our farm, we have a lot of small, rural towns across Maine, and it occurred to me that this was how small farming would disappear. We all lived in these supporting communities that were seeking out our farms. I know that a lot of our patrons had the impression that small farms were strong and resilient and would just keep growing, and they wouldn’t understand why we would all just disappear. They would just think, “It’s a hard way to make a living, so I guess they didn’t last.”

At that point, it seemed really important to reach out – at least to our own customers around our farm – and just let them know what was happening. That’s when I really started looking into what the difference was between the law-making process and the rule-making process, and who was influencing the rule-making process and what was the interaction with the departmental agency and our legislative committee, and what was the interaction between the Governor and the legislative committee, and I was really starting to ask a lot of the questions that eventually led us to determine that our best course of action would be to write local ordinances for passage in our towns.

Kennedy: These things start small. I think your original kitchen cabinet was

farmer Bob St. Peter, farmer Deborah Evans, Larissa Reznek, and you and your husband. Could you talk to how that process developed to the point where you did come up with a draft on these ordinances?

Retberg: It was one of those things where looking back, it seems like it really was meant to be because each step led to another step, and that led to another step. The people and the resources that we needed just kept appearing, literally in our driveway.

About the time that I started asking these questions, I became aware of the work of a group called the Alliance for Democracy and their work to protect Maine's water against the intrusions by Nestlé. Nestlé was making some deals with towns without the people's involvement through town meeting to put test drills into those communities to see if those were places where they might eventually set up water bottling plants.

I went to a talk at our local library. It was actually about *the U.S. Supreme Court ruling in the Citizens United campaign finance case*, but the lawyer who gave the talk knew about rights-based ordinances, and I wanted to ask her about those. Of course, Citizens United had implications for us, too. What we were finding as we knocked on the doors and asked questions about how these rules got made, we were finding that the largest agri-seed/pharma companies in the world were working through agencies and had basically successfully captured our regulatory agencies and were the ones that were writing the rules.

Citizens United had a bearing on what we seemingly needed to do. I was aware of two ordinances in western Maine that declared that the people in the town had a right to their water, and they had a right to keep Nestlé out. That is a gross oversimplification, but that was my entry into this.

I talked to the lawyer who gave that talk at the library, and also that meeting was Bonnie Preston. I said, "I've just looked in our Bill of Rights in our Maine Constitution, and it says that all authority is vested in the people, and we have the authority to change the laws any time that our safety and our happiness require it." Those were the ingredients that I had.

This rights-based ordinance work in western Maine was becoming aware of

efforts in both Wyoming and Florida's food freedom laws that would essentially say that any food that comes out of the soil in an exchange between two people should be free of state jurisdiction.

So those were the three ingredients that we had, and it started kicking around in my head. On the eve of the hearing of the poultry processing rules before we were going to go to the state capital the next day, we talked to Bob St. Peter. I said, "What do we do if this doesn't work?"

Bob St. Peter, who at the time was the president of Food for Maine's Future, said, "The town of Montville in neighboring Waldo County passed a local law to ban GMOs."

At the time I didn't really see the connection there. I thought, "For heaven's sakes, we don't want to get into writing our own laws. That sounds like a big job."

But all these seeds were getting planted simultaneously, and so when we subsequently did go to Augusta about the poultry rules, we were essentially told that the committee's hands were tied, the Department of Agriculture's hands were tied, and that they were required to pass rules equal to or more stringent than the USDA rules, and those would require facilities, and there was nothing that anybody could do about it.

So then I did come back to the municipal ordinance idea with those ingredients that I mentioned. Our children were quite young at the time, so I was beginning to take the last shift of the day from 9:00pm until past midnight to think about how we could draft some ordinance using the template from western Maine and also some of the substance from the Wyoming's food freedom laws and some of the language from Florida's talking points. About that time Larissa Reznick came down the driveway. She was a new customer. She had read a letter that I had circulated to our customers telling them about all of this, and she said, "I would really like to help."

At the time, she was a Master's student in environmental policy; so, she was in the stage of life where she was doing a lot of research and a lot of writing. I thought that was nice that she offered that. Thankfully, we crossed paths a few

more times, and each time she said to me, “You know, I would really like to help.”

It finally occurred to me that maybe she could draft the ordinance. As a mother and a farmer, and we were homeschooling as well, there were hard tradeoffs to be spending so many late nights on this.

Larissa was willing, and she took a template from Shapleigh and Newfield, Maine and the content from the Wyoming food freedom law, and then she and Deborah Evans and Bob St. Peter and I – with my husband as the peanut gallery – just worked on it and worked on it and worked on it through all of 2010. About that time, through our homeschooling connection, a theatre person who owned a building that we were having the homeschooling class in had also become aware of what we were doing, and she said, “You need a theatre voice.”

I thought that was a fanciful idea, but what she later told me was that she meant that we needed a voice. She worked with young people in our community to take on social issues through performance art. So later, once we really had the text for this ordinance down, I went back to her and said, “Amy, you are right. We do need a voice. We need a way to reach people. Would you be willing to do something?”

We just fed her a whole bunch of material, and she was so creative. She reached out to another local creative director. Over the course of a summer they did 15-minute skits at our local farmers market that really helped raise local awareness of the issues as we understood them.

Then, at the end of August, there was an hour-long play that essentially put our story out there in a way that people could understand and really attach to. We didn’t have the ordinance finished then, but what we did have was a petition that people could sign that we would take to their local Select Boards in our neighboring communities of Blue Hill, Brooksville, Penobscot, and Sedgwick – the first four towns where we would eventually introduce the ordinance simultaneously. The theatre piece was our first real reaching out to our communities, and then they could sign the petition that would let their Select Boards know that they would like to see this ordinance on the town meeting warrant the following spring.

I think that by November of 2010 we did have it finished, and then individually Bob St. Peter was from Sedgwick, so he worked with folks over there and took it to the Sedgwick Select Board. I did my town of Penobscot, and Deborah Evans did Brooksville. Then the folks in Blue Hill took it forward there just a month after we all did in the first town meetings in the spring.

Kennedy: So we are going to get into the ordinance in a second, but as you saw, one of the big problems was having the bureaucracy basically make law in Maine. Unfortunately, in your case, I think that their interpretation of the poultry regulations was incorrect. So not only did you have a body making law that shouldn't have been making law in this case, but they interpreted the Federal law that they were supposed to be implementing wrongly.

Let's get into the ordinance now. First of all, what is your definition of 'food sovereignty'? How do you define that term?

Retberg: We got into this because we thought it was a simple matter of engaging in a democratic process, sharing our needs, and then working together to find a common solution to grow food and provide access to farms in Maine. That is how that poultry exemption had been written as a law with good intent by the legislators, and that is what they called it. They called it a law to 'increase access to locally-raised poultry' or something along those lines.

So what began as trying to engage with a system to work towards better scale-appropriate regulation, like with the milk piece of it, became about understanding that by simply being redefined administratively, we could be written completely out of business.

Food sovereignty is really at its core about who has the right to define our food and our agricultural systems. What we were asserting is that people who are producing the food and the people who are eating the food should be at the heart of those decisions and those definitions and not the demands of markets and corporations through regulatory agencies. In the rest of the world what we call 'peasant agriculture' we can call 'family farmer agriculture' or 'farmer driven' or 'ecologically-based land/water stewardship' and also that farmers should have the ability to earn a livelihood from raising food. And the people who are eating the food should have a right to control their own food and nutrition.

So those were the pieces that became the founding principles of how we drafted that document.

Kennedy: The way the ordinance is titled, it's not just a local food sovereignty ordinance; it's a local food and community self-governance ordinance. So, it's more than just about direct unregulated transactions; it's about building community.

Could you talk about the vision that you and the other drafters of the ordinance had in that aspect?

Retberg: Absolutely. Once we had the theatre piece, it was a pretty powerful lesson to me that these theatre people had shared. When we could tell our story and also pull back the veil on what a lot of us couldn't see about what was driving decisions about how we feed ourselves, I think it helped us across the area.

We live on a peninsula, and there are six or seven towns here. We all live in pretty close proximity to each other. I think it really helped crystalize that we all know how to take care of each other and our community.

Let me back up: I think that one of the stories that is a great example of this is after I had been to Augusta to testify, my children had been at a friend's house. We had been pregnant at the same time, and we raised our children together. I had been to the capital and drove this two hours back along all of the winding roads to my friends in Brooksville. The crystalizing moment was realizing that this agency could come between my friend and me. She had been getting chickens from us forever. She could watch my children, but I wouldn't be able to feed her family anymore in exchange. Those were the kinds of very personal and intimate connections that were at risk.

In our farm store on a regular basis people who haven't seen each other in a while reconnect and end up figuring out all sorts of things over local food like childcare and where the best place is to seek care for your body and where to get music lessons and all sorts of these things that are being cultivated through our food and all of these relationships being cultivated. I think that being able to experience this together was what was on the line – our community

relationships, our stewardship of the land, and our ability to be good stewards of the land. That was speaking to about 200 families, and that could all be so quickly dismantled by losing the ability to define who we were, what we did, and how we interacted with each other, and that was something that we could reclaim for our community based on 'home rule' in Maine's Constitution.

We could come together as communities and determine together how our food needs were met and write local ordinances to protect a legal space around a traditional food way that was, if not taken for granted, just as normal as rain.

Kennedy: Right. Just the language in the ordinance itself, instead of 'sales' in some cases you used the word 'exchanges'. You were saying 'trading services' as trading someone's skill for another skill. Instead of using the word 'consumer', which can have an ugly, mechanistic connotation, you used the word 'patron'.

That body of work is a lot more than just about unregulated direct food from farmer to the consumer; *it's about community as well*. But you mentioned the 'home rule' powers that the localities are given in Maine, and that was really what you were relying on in passing this ordinance.

Could you describe what Maine's statute and Constitution says about that?

Retberg: That was something really exciting. We actually found the statute first, but the statute was just an acting mechanism of the clause in Maine's Constitution. It still isn't terribly old. Maine adopted 'home rule' in 1969, and it was a proposal on the ballot in Maine *that we were* going to amend our Constitution. First the legislature has to approve the measure by a 2/3 super majority, and then it goes out to the people to vote on by a referendum. Then it can pass by a simple majority.

It passed by 57 or 60%, which was a landslide; so, then it became an Article in our Constitution. What it says is really very beautiful, and it helped us – as you said – ground our rights-based language that you talked about with all of those definitions as we define ourselves and our interactions and our relationships. It really grounded that in the statute.

What it says is that any municipality has the ability for the welfare of their town

or their town's people to draft ordinances, and those ordinances should be 'liberally construed to affect their purposes'. So that was the first thing that we read that helped us see that what we were writing was something that would require a liberal construction. That is how the statute was written, so that was great.

The second piece of it was the presumption of authority, and the language there was also very encouraging. There was a rebuttable presumption that any ordinance passed by a town under this statute was a valid exercise of the town's 'home rule' authority. So that was the presumption. It could be argued, but that was the presumption, that the town did have the authority to pass the ordinance as written.

Then there was the standard of preemption, which was the sticky wicket. Did the state have the authority to preempt? That part of 'home rule' said that as long as a legislator didn't implicitly deny a power that had been granted to the municipality, and as long as the ordinance wasn't frustrating the purpose of state law, then the ordinance should be considered valid.

So those three pieces together – the liberal construction, the presumption of authority, and the standard of preemption – to us said, "Go for it."

Kennedy: The last one I could say there is a pretty good counter argument there. You basically have this gray area. As you know, many of the state laws regulating food are pervasive, and they give the Department of Agriculture broad powers.

This looked like a pretty heavy lift to me and a big sell job on those initial four towns. I'm sure that the officials from the towns brought this up to you at some point, "These laws say this, this, and this. They require a license. They require inspection. Isn't unregulated producer to consumer transactions contradicting these laws?"

What was your response? How were you able to sell this?

Given the whole history of Maine food sovereignty, this is one of the key moments right here – how you were able to get off the ground when you really

had no specific law backing you up; it was just the general ‘home rule’ powers provision.

Retberg: As usual, Pete, you are exactly right. That part of the preemption and the essential argument of the Department at the time once our ordinances became visible was that we were ‘frustrating the purpose of state law’.

In my mind, it wasn’t gray; it was clear as day that we were absolutely not frustrating the purpose of state law, but that the rules that they were passing were actually what was frustrating the purposes of state law. We had talked to the legislators about the poultry exemption, and they said, “This is what always happens if we try to write all of this into the law. We can’t get it to pass committee because people think it’s too weighted down. But then if we give it to the Department to write, they write these rules that totally undo what our intent was.”

So that was another real experience. It went into the hopper that the legislators had intended to increase access to food raised on farms in Maine and that the Department had frustrated that. So that language is there.

Also, you asked how we were able to sell it. In Maine – unlike a lot of other states – we are only a generation or maybe two from food production. People here still know how to grow food. If they aren’t doing it themselves, they grew up on a farm or have it in their very recent experience; so, I feel like people here are not as susceptible to the fear around food that may exist in more urban places. So that was a big piece that we had in our favor.

In my town, the chair of our Select Board had been the last dairy farmer to sell milk to a local creamery; so, he knew from firsthand experience what happened as the food system became more centralized. When the local creamery shut down, the next one was about 45 miles away. He had to pay the trucking to get his milk from Penobscot to Brewer, Maine. When that happened, putting that extra cost on the farmer no longer made financial sense, and he sold his cows. He told us that that was one of the saddest days in his life - which I can fully understand quite personally now.

That was in our local experience, but also in Maine’s collective experience. Still,

we had to show the Select Boards in our law why our ordinance wasn't actually frustrating the purpose. Part of that was defining the urgency and the threat.

As you know, at the time the FDA was actively and aggressively shutting down farms all across the country from Pennsylvania to California. This felt like the beginning of that in Maine. So we had to define the urgency, and we also searched statute to find what was the intent of the law. When we first introduced our ordinances to these first four towns, we brought with us laws that outlined the legislative intent that said that the whole Department of Agriculture had been founded in order to strengthen rural life and values, and that the survival of the family farm was a special concern.

We found another statute that was called the 'preservation of rural life and values', saying that it was a joint responsibility of all these different agencies of government from the Department of Education to the Department of Health and Human Services, Labor, Agriculture, Conservation, and Forestry – that they all found that providing Maine people with employment opportunity, rural skills, food supply, health and nutrition were of public interest and would improve the quality of our life.

The argument that we made was that our ordinance was absolutely supportive of the intent of law and was in no way frustrating the purpose, but the purpose was actually being frustrated by the regulatory agencies which were being influenced by the corporations. Those were all pictures that we had to unpack over time and carefully at town meetings.

Kennedy: This was just a big strike against commodity agriculture in the global system because with the revolving door of the corporations and bureaucracy, that is the kind of agriculture you are going to get. There is just no place in that kind of system for the small farmer. It has been described as the colonization of the countryside.

Retberg: Absolutely. Again, where Maine had this experience – and still does with the water and this colonization of our water by Nestlé – we could see this way of life and these traditional food ways all being eroded.

As you recall, at the time, the prime example of this revolving door was Michael

Taylor, who had been at Monsanto. He was given the authority to be in charge of the team that would write the Food Safety and Modernization Act. So at the time that we were writing this ordinance, that was still just considered S.510 and was moving through the Congress. Again, we were able to point to these efforts of centralization of our food supply, so very clearly how this was a federal pattern all across the country because of the FDA's aggressive actions. We showed how that was beginning to creep into Maine.

We have it in our collective experience of either having lost farms that were disappeared because of these very explicit food policies that disappeared our farms from the landscape, and changed the way we eat food, changed our access to local food supply. People looked at this as a way to create a legal bubble that wasn't gone quite yet, and, "Let's see if we can't preserve this one exchange," this straight-up farm to the customer. Let's see if we can preserve that because we all knew how many relationships and ripple effects in the local economy could grow and would continue to survive if successful.

Kennedy: These four initial towns showed a lot of guts passing these ordinances, but then you had to deal with the Department of Agriculture, who was not happy about this. I believe they investigated your farm at one time after the ordinance passed. Is that right?

Retberg: Yes, I almost forget about that because, again, it was a thing of the moment, but it was also a good example of that continued persistent engagement that isn't only reactionary.

What happened was there was a 'mole' in our community. A creative college student had started an online farmers market – the first our community had seen of an online platform – to help the very small farmers sell in their community. There was a farmer in a neighboring town who didn't like this, and unbeknownst to us (we found this out later through a Freedom of Access Request) there was a farmer who called the Department and told them that we were selling raw milk without a license, which they knew already, but unless somebody calls they weren't required to act on that information.

So we got a letter or a phone call.

Kennedy: Didn't you actually have a visit?

Retberg: Yes, then we had a visit. An inspector came because a woman was in the hospital with a particular parasite (not food poisoning). It's a water-borne parasite, so it isn't in milk at all. In retrospect, it was bizarre. At the time, I didn't really see it as us being targeted. Now I wonder.

At any rate, she had been swimming in a local body of water, which was most likely the infector. She had had milk from our farm, and she had eaten vegetables that hadn't been washed. So those were the things that this inspector told us, and he wanted to get a sample of the milk at that point. As tense as everything was, this was the weekend after that play that I was telling you about had just been presented. So the timing all seemed a little hot.

Kennedy: That is suspicious.

Retberg: Yes, so at that time he gave us a cease and desist order. When we refused, that put a series of things into action. Thankfully at that time Bob St. Peter knew a couple of legislators – the same ones who had sat on the committee and procured the law for the poultry exemption.

He reached out to them to say, "What can you do to help?"

By Monday morning the director of the Quality Assurance and Regulations division had letters from two legislators on his desk that were just inquiring about process. So that had happened.

The director backed off and said, "Oh, no. Of course, there is not a cease and desist," when we told him what our *own investigation found*. We invited the state vet to come to the farm. And, of course, they never found anything in the milk because it doesn't exist in the milk.

But there was another incident where that fellow called the state on us, and at that point they referred us to the Attorney General's office because they were saying that we couldn't sell under the ordinance.

Kennedy: So if they were *initially* looking for you to be the test case, they

eventually found someone else, a farmer named Dan Brown from Blue Hill who had one cow. I guess his wife also canned some vegetables that they sold.

So this very small farm was going to be their target. You can describe how that played out.

Retberg: So the first ordinances passed in March, and by June a few more had passed. Later that summer we were hearing from some of our customers who had relationships and networks in Augusta channels in the capital that the Commissioner was saying, “We are going to get these food sovereignty farms. This has to stop.”

So we were hearing that through the channels. By October or November of that year, the state had decided to sue Dan Brown for selling at a farmers market without a license. As you said, he had one cow.

People really rallied around Dan. I think it was because he only had one cow. Ironically, he had bought the cow from the Commissioner of Agriculture before he was a Commissioner. I mean, Maine is a small state and everything is connected.

Kennedy: So maybe you could have charged the Commissioner as an accessory!

Retberg: It was definitely an inconvenient truth.

He was sued under three counts. The case eventually went to the Supreme Court. Through the process Dan Brown’s lawyer did this Freedom of Information Act request, and we got these documents that showed us that the local inspector had said, “It looks like we found our first test case for the ordinance,” when they found Dan Brown. So their intent all along was to find a farmer to be able to dismantle the local food ordinances by taking it through the court system.

The Hancock County Superior Court that first heard Dan Brown’s case did a really interesting thing and said that she didn’t think that milk was covered under our local ordinance because it wasn’t clear that milk was a local food. So

that was interesting.

Then Dan appealed and it went to Maine's Supreme Court. The Supreme Court basically struck down Dan's defense on all three counts and said that he did have to stop selling milk, but they were very careful to sidestep the constitutional questions raised by the ordinance by saying that they were going to narrowly construe the ordinance to only exempt the direct exchange of food from municipal food regulations. Therefore, they didn't actually have to speak to the constitutionality of the ordinance, but they basically kicked the ball back to the legislature to say, "You can fix this." [*Dan was charged with four violations of the state food laws.*]

So that gave us hope that there was a way forward. It really galvanized more towns to assert the rights to that self-determination and self-definition to pass this ordinance in their towns and keep spreading it horizontally and pushing it vertically to the state level at the same time.

Kennedy: To be successful, I think you have to work in all forums – the legislature, the bureaucracy when it comes to rule-making or enforcement policy, the courts, and then the fourth form is the court of public opinion. I thought that what you did was very effective there, and it had an impact on the judge's decision. They like to say that they are impartial, but I think that judges are swayed by publicity.

You or someone else just came up with this slogan, "We are all farmer Brown." Maybe you could talk about that now.

Retberg: Again, it was one of those things that probably did come up. I couldn't say who thought of it. It probably was Bob St. Peter.

When we were talking about the significance and what felt like the weight and the heaviness of this lawsuit and recognizing that it wasn't, of course, just Dan Brown's farm that hung in the balance, but it was any farm that was going to ever do what Dan Brown was doing, it was indeed all of us. It was a Spartacus moment. If everybody stood up and said, "I am Spartacus," then Dan would be protected and it would have a ripple effect and protect these direct exchanges of all kinds.

The Department was determined to make this about raw milk. It was about democracy and engagement and self-determination. It was about who determines how our food needs are met and who determines our health.

Dan was also, as you said, selling processed foods at a farm stand on his farm. That is where the ordinance actually got brought into the lawsuit.

It was just clear that we needed to circle the wagons and make it clear that we were all farmer Brown. All small farms were on the line, and we needed to stand behind him and stand up for the ordinance and assert that we did have the right to govern our own food supply.

Kennedy: There are several developments that eventually led to that 2017 law. The first part was the Supreme Court not overturning the local food sovereignty ordinances. While the Brown case was winding its way up to the Supreme Court, in the legislature there was a statement of policy passed which was more favorable towards the localities being able to determine law and food transactions.

I think eventually it was codified in the 2017 law. They moved it over *to that law*. Could you talk about that?

Retberg: That was really the glimmer of hope that we had. When Dan lost at the Supreme Court, of course that was a crushing blow. We didn't know how things would go forward. We had been so heavily invested in it for what felt then like a very long time.

Meanwhile, while that was happening in the court while we were organizing the court of public opinion and we were still working with the folks in western Maine to help them understand that they could pass this ordinance so that we could get it out of just our little pocket of Maine and get it all the way across the state, those things were all simultaneous with this state level interaction as well.

We have now and had then a champion in the legislator named Craig Hickman, himself an organic farmer. He had run for office to become a representative in our state legislature at the same time that we were working on the local ordinances, and he lost. Then he ran again, and he got elected. He and I started

working very closely together. He was unaware of the ordinance effort when he was elected. We met in the Governor's office, and he later told me that he put in a bill called the Maine Food Sovereignty Act. It was a concept bill, and there was no text. He didn't have much idea of what it should say, so I sent him our ordinance. That was the beginning of a beautiful relationship.

Fast forward a few years, and he is on the committee. The poultry exemption is going full force. The Supreme Court case is going full force. The Governor of the state wanted to merge the Department of Agriculture with the Department of Conservation and Forestry. We put forward the Maine Food Sovereignty Act for the first time. We packed the committee room with testimony for five hours. The bill eventually failed to pass, and so Representative Hickman took some of the language from the ordinance that talked about local control, that talked about small-scale farming, improved health and well-being, self-reliance, personal responsibility, and also rural economic development.

It was a time when the local ordinance spoke to state law. He took the language from that and said that he was absolutely opposed to the Departments merging. It was clear that they were going to merge anyways. If they were going to get his vote, the language of food sovereignty was going to be included in the foundational document of this new Department. That is what got added in 2013, which we were then able to take from state law and put back into the ordinance to further bulk up the argument that it clearly did not frustrate the purpose of state law, but that these documents were speaking directly to each other.

That was a beautiful feedback loop that was a result of that whole vertical communication.

Kennedy: After the passage of that law and the Brown Supreme Court ruling, you basically worked on two tracts for the next few years. You worked on the first track, which was lobbying more towns to pass local ordinances. Then at the same time, there were several different bills that you had some very close calls on that nearly passed in the state legislature.

First talk about the work you did lobbying the towns and talk about some of the boots on the ground people you were able to find who were successful in *various*

counties. You still have the same *issue*. You still have to talk to these people about how the preemption doesn't apply, even though there is nothing in state statute that says that the towns can do this.

The unusual thing is that usually in these 'home rule' statutes the emphasis is on, "Oh, yes, the town has the power to pass something stricter than the state law," but Maine is the only state I've seen where the town has the power to pass something more lenient.

So maybe you could talk about the lobbying effort in the towns.

Retberg: It was intense, Pete. I have to say that the nice thing about this as it developed was that in retrospect at just the right moments in time the people came to us. So we never actively went into a town or tried to convince people to take this up; people were becoming aware of it through the Dan Brown case. Also, as you said, every time a town passed the ordinance – and even before that – there were a growing number of sympathetic legislators and towns all across the state who were putting forward bills, some of which we had nothing to do with but were supportive, and some of which we were intensely involved in.

They were coming from an increasing number of districts, so that was helpful. It was one of those things where what was happening at the state level started fueling what was happening at the local level. We would meet people offering testimony on bills surrounding poultry, raw milk, and a couple of different attempts at a broader scope food freedom bill.

Each time we would share what our experiences were with those folks, with the people who were coming to testify in favor, and each time they would see what happened in the process at the state level, which is what had spurred us to action in the first place. That would so frustrate them because they would have the same experience that we did.

We would offer our experiences, we would offer what wasn't working about the regulatory system to the committee, it would seem that the legislators were so receptive, and then the work session would happen, and the committee would invite the department and they would invite the lobbyists to be the experts, and they would work out something that was the opposite of what everybody

needed. So more and more people saw that process and were so frustrated with the lack of democratic participation that we actually had, and we had this local ordinance *to offer them*. So they would become very galvanized to go home and work on this in their own communities.

They would then invite us to come and share our experience. As you said, the needle that we had to thread was a pretty thin one because people's general understanding without getting down into the nitty-gritty of this was that Federal trumps state and trumps local. We heard that a hundred million times. The argument that we were making was that it isn't about trumping. It isn't about us saying that local ordinances trump state law. We weren't saying that at all. What we are saying is that there is a legal playing field, and on that field is space for these local ordinances. And in this very teeny corner there absolutely is the intent of state law that we should be able to exchange food amongst each other, and that should be something that can exist outside of state jurisdiction licensing and inspection.

We were also careful to say that this doesn't in any way prevent food regulation. Again, in Maine *with eggs* we have an example of food regulation without licensing and inspection. So in other words, the jurisdiction remains in the hands of the people, but it is about eggs. People in Maine up until a certain amount – in the tens of thousands of eggs that you can sell – *only have* under state regulation a one-page document about it: “Use this detergent, packaging, clean cartons,” and how you should do it, but there is no state inspector and there is no license that you apply for. That was the example.

In our ordinance we were careful to not exempt from regulation; we are exempting from jurisdiction. So that was the argument that we were making. There is space in the legal field, that it is supported by state law, and that at that point the agency was being unduly influenced by corporate pressure and federal dollars. As you know, the cooperative agreements came into this, too. The state was being required to pass rules a certain way in order to continue to receive federal dollars. At one point in that first poultry exemption our state representative told us that it came down to two departmental positions, and that is what was at stake for them.

Things have changed a lot, but at that time it was about us or them; either the

state inspectors have jobs because of the federal dollars, or farms are going to survive. And people were willing to go with the farms.

Kennedy: I don't know if it was you or someone else who told me this, but here you have Maine which has somewhere between a million and a million and a half people, and FDA apparently was worried enough about the progress of these local food sovereignty ordinances that they established three offices in the state around the time of the passage of the Food Safety Modernization Act. Did you ever get any feedback on that?

Retberg: Only that it was happening simultaneously. Again, I was really wary of saying that the state was targeting us, even though we had had these two experiences – and there was a third one, too, where the Department of Environmental Protection came and asked us to move a compost pile. There were definitely things happening, but I was wary to jump to a conclusion.

Yes, when the Food Safety Modernization Act was being written, a third field office for our small population was added in the state of Maine, and we were certainly wondering what that was all about.

I can only think that over time there was great protective power in the increasing support in communities all across Maine. I can't ever know exactly how those internal conversations happened at the Department. We have some internal emails, so I know that they were quite concerned about public opinion and that sort of thing, but there are just so many of us.

A farmer in Madison, Maine – out in Somerset County, in the Western part of Maine – said that this ordinance that we have in our town is poor farmers selling food to poor people. If we have to bump it up to this other level of infrastructure, the price of our food is going to go up so that the people in our own town can't afford it. Now the farmers are going to have to drive an hour or two hours to the city to sell their food to people who can afford it, and that upends the whole apple cart.

There is just a very visceral level in which we all understand here. We live close enough to the bone and we are hungry enough.

Kennedy: You mentioned earlier these cooperative agreements. I think that the worst ‘cooperative agreement’ I ever saw was between the FDA and the Maine Department of Health on inspecting food establishments in Maine – restaurants and things like that.

These states that enter into these one-sided *cooperative* agreements, *where they agree to enforce* this FDA Food Code, which is a model bill. It is exactly what the food sovereignty ordinance is trying to get away from because the Food Code is regulation-heavy and it is not something that is going to help small farmers at all. You have this Federal giant watching over you when all of this is going on.

I want to get back to the towns because a lot of it has to do with the town having the right people in the right place. There are so many organizers who you worked with. I remember Susie Miller from Somerset County who was successful at getting several towns there to pass ordinances.

Retberg: She was phenomenal.

Kennedy: There was Richard King in Liberty and later Jesse Watson in Rockland. Maybe you could talk about the local help you had.

Retberg: Those three people are just great examples of this feedback that I was talking about between the state and local levels where absolutely in a heart-centered way they were focusing our attention on supporting people trying to do this in towns.

We met Susie Miller because of one of the bills that was being put forward on raw milk, and that was the same with Richard and Maria King in Liberty. These were in two different counties in Maine.

The Kings especially in Liberty went through testifying before the committee, seeing the whole process, going to the work session, and hearing how that went.

One of the legislators, Brian Jones, served on the Ag Committee at the same time as the Supreme Court case against Farmer Brown and Susie Miller out in western Maine was working on ordinances. Susie Miller is related to a lot of the people in the towns out in her county. She would go to a family reunion, and

three more towns would be interested. So she was agitating out there and pushing good things forward.

Richard King lives in a neighboring town to this former representative who had been on the Ag Committee – ironically in Freedom, Maine. (Freedom and Liberty are right close to each other.) So Brian Jones decided to go forward in Freedom with the ordinance, and Richard and Maria King had been through this state level raw milk process. They were so disillusioned and so disenchanted that they started coming to the hearings that were happening in Freedom on our local food ordinance, so they started learning about that and hearing what the objections were and hearing the questions.

Richard was one of the few people who was willing to get into the nuts and bolts and rewrite it so that it would work well for their town.

Then I think it was a full year later – maybe even a year and a half later – that the Kings moved it forward in Liberty. Then when Liberty did it, the neighboring towns of Unity and others were watching. So it really spread very much like that. It was the proverbial pebble in the pond where it kept rippling outward because people just kept coming into connection with each other, or it would pass in one town and the neighboring town would pay attention to the process and realize that that was doable.

“If people who live just like me can do this over there, maybe I can do it here by talking to my Select Board and working with them.”

Kennedy: Moving over to the state legislature at that time, I think there were three main bills. Like you said, you didn’t work on all of these, but there were three main bills that had close calls. One was to deregulate the on-farm sale of raw milk, which was the way that the policy had been back before you started working on the ordinances. Then I think there was another one on a constitutional right to food. Then there was a third bill on the statewide adoption of the food sovereignty ordinances.

You had a Governor at that time, Paul LePage, and I remember when he took office or shortly after he said that if the FDA came up into Maine, he was going to boot them right back down to Washington. It didn’t exactly work out that

way once some of these bills made their way to his desk – because there was at least one major bill that he vetoed before 2017. There might have been more.

Tell us about the legislative efforts during that time.

Retberg: In 2015, that was the first time that we worked on deepening the protection around what we were talking about along the lines of: Do people have the right to food and the right to foods of our choosing? If we don't, then how do we go forward? If we do, it seemed time to protect it in law.

A big motivating factor for us were those statements that the FDA made in response to the Farm-to-Consumer Legal Defense Fund suit in 2010. The FDA had been explicit about that people do not have a right to foods of our choosing and we do not have a historical tradition of a right to access foods of all kinds. We don't have a right to choose what foods we eat and feed our children.

That seemed pretty clear about where the Federal level agencies stood on this. Again, knowing that structure of the cooperative agreements and how funding could come through our state agencies, it seemed to us that the best next step would be to protect this right to food and the right to defend ourselves constitutionally.

The first effort we went all in on it. It passed out of the house with a two-thirds super majority that it needed to come to the people to vote on, and then some very quick political maneuvering happened, and it was defeated on the Senate floor before most Senators even knew that it had come up for a vote. So we were really heartbroken after that effort.

As you said, the Governor was a mixed bag. In principle, from the time that he was elected – as you said – he wanted to show the federal agencies to the door. In principle he supported what we were talking about. He understood the scale issues. He understood the small business regulation issues. He came to understand the impracticality of a small farm with 50 chickens, driving two hours in a hot July summer to a butcher and waiting in line for another two hours, watching their birds die before they could be processed to take them to a license and inspected facility that couldn't do a sanitary job. He knew of a licensed slaughterhouse in the state of Maine that he said he had been working

on the commissioner to shut down because they were not doing a good job, and the commissioner would not do it because of public opinion.

So he understood some of those things. He also, at a very late stage in the game when the Maine Food Sovereignty Act passed and the USDA said that they were going to take over our meat inspection program if we did not amend it, we met with the Governor at that juncture when everything was very intense. His first statement as he sat down was, “The corporations and the lobbies run this place.”

So he understood that. He got it. He was fairly resigned to it at that point, and at that point he didn't really care. He wasn't going to fight for it. But in the end, he did sign the Maine Food Sovereignty Act, and then he signed the amended version. So he did sign it twice, and he did really respect who we were and what we were trying to do – both representative Hickman and myself and, of course, the others.

Kennedy: Your point that, “The corporations run this place,” one observer made the comment that these corporations recruit farmers – whether it's the pesticide companies, the bioengineering firms, or the big one [*the Grocery Manufacturers Association*]. This seemed to be your biggest opposition for a lot of these bills because of the Grocery Manufacturers Association. They just had these legislators like Jeff Timberlake who were just there in the key committees and key positions to be able to kill these bills where there was substantial support for them.

Retberg: I think you are right on. We never really found that this came down to a Republican or a Democrat issue. Representative Hickman, as I said, was a real champion, and he is a Democrat. We had bipartisan support. We also had some ardent opposition. You mentioned Representative Jeff Timberlake.

I was wary to see it, even though it was right in front of my eyes, and now it is very clear that it was absolutely the case over the course of these bills that the Department would activate certain farmers to marginalize us, to make us look like we were either ignorant or just dirty, or well-meaning but not competent. It's interesting.

Looking back, whether it was raw milk or poultry, later I heard the exact same arguments about honey – that a licensed producer would be called by the Department and they would essentially offer the same testimony. “It’s not hard to get a license, it only costs a small amount of money, and it’s wonderful to work with the Department, and the inspection system is always a help to us.”

So the testimonies were so similar. Over time some of the very vitriolic opposition that we had over time disappeared later on, which always struck me as odd until in retrospect you can kind-of see the pattern that those were people who were only involved because they felt a special feeling of importance because the Department had called them. When the Department didn’t call them, they didn’t show up. They didn’t last that long; they were very vitriolic. It was really hard to deal with, but when they didn’t persist it was clear that it wasn’t really from a place of conviction; it was from a place of feeling threatened.

Some of the people who are involved in other food and farming organizations through the state have let us know over time what the commissioner said to them to get them to come. Usually they were misrepresenting us and making us sound like we were somehow going to threaten the viability of their farms and their organizations.

The Governor was right: The corporations and the lobbyists ran the place, and we knew that until we could leverage enough people power we wouldn’t be able to outmaneuver the lobbyists because they were there every day and they were getting paid to be there.

Kennedy: There were several events, like I mentioned earlier, that eventually improved your chances to the point where you could pass the 2017 Food Sovereignty Act. What always looked like a watershed event to me was the testimony by Joel Salatin before the main legislature in 2015. He was someone who believed in you enough that he paid out of his own pocket to fly up to Maine. He is someone who has been the face of the local food movement for a long time. So that was a galvanizing event, too, where if someone of that stature was willing to fly up, then *your movement* must be on to something. Did you have that kind of realization?

Retberg: It certainly felt that way at the time. Absolutely. He came to testify on that first effort towards establishing a right to food in Maine's Constitution. We had a rally at the state capital when he came. It was simultaneous with a 'Right to Know' GMO labeling, which wasn't actually something that he supported, but a 'Right to Know' and a 'Right to Food' was a joint effort. He did offer testimony in favor, and we are pressing that issue again. This last legislative session adjourned because of the pandemic with the Right to Food on the floor of the House, ready to be voted on again.

We are still working to secure a solid foundation to have a more resilient food supply in Maine and more access to food grown in Maine.

Kennedy: I think another development that helped, too, was that as time went on you started getting more and more support from national groups as well. I think that you had some of that initially, but it increased as the years went on. Maybe you could talk about how that benefitted the cause, too. It seemed like you had the whole waterfront covered between the boots on the ground down at the town level, the activism in the state level, and then the national support or interest from outside of Maine.

Retberg: It's true. Over time different organizations made up of hardscrabble people of conviction, we found each other.

Earlier on the Farm-to-Consumer Legal Defense Fund helped. The National Family Farm Coalition helped then and still does help. A group called WhyHunger in New York City has been paying very close attention right now to the right to food, and in 2015 as well. They are just doing an amazing thing. They are working together with legal scholars and human rights activists who are examining the Constitution for what is missing and looking to Maine and seeing how they can support our efforts through the legal scholar and the advocacy institutions, and how they can shore up the effort in Maine.

I think that we are the only state so far that has worked on a Right to Food effort. I think Utah may have taken it up in 2014 and 2015 as well.

It does seem like at just the right moment things happen. Bonnie Preston, one of the other organizers in Blue Hill, would always say, "The net rises to meet

you.”

There are times, as you said earlier, where we have definitely been out on the limb, and we could feel the weight of the edge of the branch, but also times when there is organizational support looking for how to help secure what we are doing and help it spread.

Kennedy: Let’s now go to 2017, the landmark legislation--the Maine Food Sovereignty Act. If you could talk about what the difference was this time, what got you over the goal line, and talk about the initial bill that passed first, that would be great. What did the initial 2017 Act say?

Retberg: Essentially what the Maine Food Sovereignty Act says, and what the first one said, is that the state is required to recognize municipal ordinances that govern the direct exchange of food between producers and consumers.

It started off as an act to recognize local control regarding food and water systems. The water was taken out so quickly in the committee, but at the beginning that was what it said. It said that the state had to recognize the local ordinances. They didn’t like the word ‘regulating’. I think we had to change that word. But it basically said that the state had to recognize the local ordinances that were regarding the exchange of food directly between producers and consumers. That would essentially mean that it would deal effectively with that bone of contention about state preemption and would say that the state is not going to preempt these local food ordinances, and that they recognize them.

Kennedy: The original act included meat and poultry, which I totally agree with. I wish that was still in there, but some problems at the Federal level cropped up. Maybe you could talk about those and what happened after the initial signing into law of the Food Sovereignty Act.

Retberg: After so long, I will tell you that I was in disbelief when Representative Hickman called me at home to tell me that the Governor had signed the law. I really didn’t believe him because at that point everybody was saying, “He is not going to sign it. He is going to veto it.”

We went into it expecting that to happen, but it didn’t. Instead he signed it. So

we were elated. It had been a slog – as we have been talking about – since 2009 of just pressing, pressing, pressing. We had finally gotten over this finish line that would open up the way for any community in Maine that wanted to safeguard these traditional food ways. They could do it, and they didn't have this threat hanging over their head that the rest of us had had up until that point.

At that point there were only 20 towns in Maine that had gone out on that limb with us. June is when the Governor signed the bill. In Maine laws go into effect 90 days after the legislature adjourns. The law was scheduled to go into effect November 1st.

Sometime in August we heard from the USDA that if the Maine Food Sovereignty Act was allowed to go into effect, they would come in and take over Maine's meat inspection program. That would have put our very precarious slaughterhouses in danger of being disappeared. So we went to work to amend the law to take out meat and poultry at that point.

Later on, we found out that that had come from the commissioner to the USDA. While certainly the USDA had been paying attention to what we had been doing for a number of years, it wasn't until there was this nudge from the commissioner at the time to undo the Maine Food Sovereignty Act.

As soon as we got word from the USDA, the dairy association in Maine started lobbying to gut the whole thing that essentially would say, "The Maine Food Sovereignty Act recognizes municipalities' authority regarding the direct exchange of food so long as it does not include any food." That is how it read to us. So they were really trying to gut it. It was another big effort to keep it intact and only take out meat and poultry.

Eventually we did prevail. There was another meeting in the Governor's office working with the department and working with the Dairy Association and the Grocery Manufacturer's Association. In the end, the Governor signed on the line twice after the USDA agreed that our amendment would satisfy Federal law and they would not tamper with Maine's meat inspection given the amendment that we had made.

Kennedy: Looking back, what do you think the difference was in being able to

pass that as opposed to the other bills that came so close to becoming law?

Retberg: Honestly, it's so many things with farming. It's multi-factorial. Persistence over time certainly garnered us respect, including Jesse Watson from Rockland and Richard King and Susie Miller from western Maine and Bonnie from Blue Hill. The legislators really grew to respect what we were trying to do.

On a different bill, at one point, Bonnie and I went up to thank one of the legislators on the Ag Committee who had voted against us in the past and had voted with us on that particular bill. We asked him that question that you just asked me, "Why did you vote with us now?"

He said, "Well, I've been listening to what you are saying, and in my town of Hollis we used to have a lot more small farms. Now we are down to a very small amount. What you are saying makes sense." Then he kind of laughed, and he said, "Besides, you just kept coming back."

That was a lesson: Persistence over time.

I think that there is also divine intervention. I mean, I wouldn't call them 'accidents of timing', but one of our primary opponents in the legislature was in the hospital when the bill was being voted for on the floor of the house. The most effective and strong opposition from the Grocery Manufacturer's Association, that lobbyist was absent when the Maine Food Sovereignty Act was voted on on the floor of the senate, and she was no longer part of the process when it went to work session in the amendment process. So she was out of the picture.

There were just a whole lot more people from more communities around the state who were getting in touch – from southern Maine to Aroostook County in the north – with their senators and with their representatives.

So there was that, and then there were also other elements as well – not all of which I would even talk about now. But one really healthy thing that we did early on in 2017 was the bill had always originated in the house. With the 'Right to Food' defeat both Representative Hickman and myself were very disheartened and frankly just exhausted from the effort, and we didn't know

that we could try to do this Maine Food Sovereignty Act one more time, and he wasn't sure that he should sponsor it. He thought that it might go better if somebody else did.

I reached out to a senator. In the senate the composition of Democrat to Republican was very even – 17 to 18. The Democrats were in the minority. So Senator Jackson, who sponsored the Maine Food Sovereignty Act, was the minority leader. If a bill starts in the senate, if it could pass in the senate it would already have momentum by the time that it got to the house. With 17 and 18 we had a pretty good chance of the minority leader in the senate being able to bring along his caucus, and there were a number of Republican senators who we knew were supportive. We felt that if we could keep it from becoming partisan, we would garner their votes as well.

That did happen. They were very effective in the Republican caucus despite the strong presence of the Department in their caucus urging them not to.

Then, like I said, there were all of these people reaching out to their senators from across the state and really making very compelling, humane arguments. So it did gain a lot of momentum by the time it got to the house. In the end, it passed unanimously under the gavel in amendment. So 'your work is never done' all culminated over time.

In all it was strategy, more people, persistence, and then just some providential changes that were timing-related.

Kennedy: As you know, your work is never done, although it has been a tremendous success. I think that you have gone from 20 towns to over 80 towns in about three years.

Retberg: That's right.

Kennedy: At one time there was just the local food sovereignty ordinance that you and the others drafted. Now you have a competing ordinance that is put out by the Maine Municipal Authority. So maybe you could talk about the differences between those two and how that other ordinance does not give the freedom that your ordinance does.

Retberg: Our ordinance has a purpose, a preamble section, and an authority section. Throughout the whole document, the Maine Municipal Association has tried to restrict the practical application of the ordinance and limit those food exchanges just to the farm. So when people reach out to us, we encourage them to use our ordinance template and change it as it makes sense for their town, but to be confident that food sovereignty will be able to define yourself and your terms, and that the definition section is up to them to draft. *We are trying to expand the protection for traditional food exchange.*

When we are talking about, “What is local food? What is a food producer? What is a customer or an end consumer?” those terms are up to the municipality to define, and that is protected under the Maine Food Sovereignty Act. The Maine Municipal Association’s template was drafted by one attorney from Portland, our biggest city in Maine. They want to just narrow the field that was more broadly protected, so we just work with people to be confident that they can pass the ordinance that makes sense for their community and move forward in that way.

Kennedy: Now moving up to 2020 and this past legislative session, you had another constitutional Right to Food amendment before the legislature. What does this do that the ordinance does not? I think that you changed it a little from the prior version. Prior versions included the right to acquire food from the producer, and this one is still a great piece of legislation, but not the same scope. Maybe you could talk about that.

Retberg: You have such a good memory, Pete. Yes. What the Right to Food does that the ordinance doesn’t do is the Maine Food Sovereignty Act recognizes those local ordinances, but part of the local ordinance that isn’t recognized in the Maine Food Sovereignty Act – which is huge – is the actual Right to Food and the right to save and exchange seed.

Also, in Maine we have a number of what are called ‘unorganized territories’ that don’t have a municipal government. So if there is a small farm in one of those unorganized territories, they can’t adopt our local food ordinance and they can’t operate under the Maine Food Sovereignty Act.

The Right to Food would more broadly cover everybody in Maine. I can just read it for you here:

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.

That has also been significantly amended now that I am reading it back, but that is the piece in its original form going into last session. The thing that it does that the ordinance doesn't do is give anybody standing in court that they wouldn't otherwise have.

A couple of examples that we talked about were in the state of Florida there was a couple that was growing a vegetable garden in their front yard, and they had a local ordinance in place that said that you could only grow vegetables in your backyard, but that is not how the sun fell. So they were told that they couldn't grow food.

A Right to Food in the constitution in Florida would mean that they had legal standing in court. They lost in court originally because they didn't have a law to protect them. A Right to Food would protect somebody in that situation who is growing food, and it would mean that they couldn't lose in court.

Then in New Mexico there was a case where their Department of Agriculture was going to write into their budget a line item that said that they had the 'sole authority to regulate seed'. Thankfully the indigenous people there saw that happening and brought it to the Governor's attention, and she line-item vetoed that. Again, if there was a Right to Save and Exchange Food in their constitution, it would be really clear that they had the standing to protect that.

Those are some of the reasons for this.

Kennedy: It sounds like this would be especially effective against any conflicting zoning ordinance. It sounds like this would really help out in that kind of case.

Retberg: Again, it arose from those earlier statements of the FDA, that you have ‘no absolute right’ to any particular food, that you don’t have a right to your bodily and physical health. So knowing that that is how the highest Federal agency views our relationship to food, securing it in the constitution changes that scenario and changes our position in the power dynamic, if you will, so that we do have a right to our own bodily health and well-being and a right to food.

Kennedy: There has been a tremendous upheaval with the food system since the onset of the COVID crisis. In a way, one of the few good things to come out of it is the increased business for small farms selling direct-to-consumer throughout the country.

I think that one of your goals has been that Maine, like most other states, has just a small percentage of food consumed by Maine residents which is actually produced in Maine. This just seems like an opportunity to increase that and to build the local food infrastructure. Our imports of food aren’t as steady and reliable in this country as they were in one time. There have been these rolling shortages in conventional supermarkets of various food items. So it just seems like this is an opportunity to really expand local food markets and increase its grip on and expand the food system in Maine.

Could you speak to some of the things that you’ve worked on as a result of the COVID crisis, or maybe things that you were working on earlier but now there is more urgency to them with the opportunity everyone has now?

Retberg: I think that the uncertainty of the pandemic has definitely caused and grounded feelings of vulnerability that a lot of people are feeling right now. Certainly, in the spring and the early summer there were definitely disruptions in the food supply chain. I think that they did lead, as you said, to more people seeking out food from farms.

I don’t think that people felt that comfortable being in crowded grocery stores. Maybe the grocery store didn’t have meats.

So many of our customers looked up and around and realized that these supply chains are long. The longer they are, the more vulnerable we are at the end of the food supply chain all the way in Maine. They started asking, “How can we shore up our local food and our regional food infrastructure so that instead of being vulnerable we have a greater level of resilience?”

The big thing in order to be resilient that we need, whether it’s a storm due to climate change or it’s a pandemic or whatever it is that may disrupt a food supply chain, we import 90% of our food in the state of Maine. That leaves us quite vulnerable to any disruption. So the biggest thing that we need is flexibility instead of rigidity.

In Maine we are sadly lacking in food processing infrastructure, food distribution, and food storage. So I have been working with a group of other farmers, some community economic developers, and some people in the financing sectors to come up with what we landed on calling a ‘pitchfork of resilience’. We got dealt this load of pandemic poop, and that means all sorts of things like hunger (with the flip side of that being obesity and diabetes), food shortages, joblessness, and this pile of what has become ‘pandemic poop’.

Well, farmers know at that point that you can roll up your sleeves, grab the pitchfork, and if you can layer that with some ‘hot green’ matter and give it some oxygen, some hard work, and some imagination, you can turn that into compost. Compost can grow food, and food can grow resilience. So that is the general idea.

The Pitchfork of Resilience is five-tined. It is about promotion (having a World War II era style campaign to get more people growing food and understanding that that is for our collective resilience), to get more people finding farms so that we can preserve the infrastructure that we do have and not let any farms go out of business, and people realize that they can feed themselves in Maine year-round from our farms.

So the first time was about a push towards a more resilient food future. The second time is a pull to offer a tax rebate incentive to both food producers and food processors and also to consumers or ‘farm patrons’, as I prefer to call us.

That is the second time.

The last three tines of that resilience pitchfork have to do with infrastructure in Maine around small grain production (both for livestock and for humans), meat, and dairy. These have to do with helping our commodity dairy farmers diversify their market so that they will become more resilient and create more of a community food supply, and also farms like ours to help us scale out and do what we are doing in a more efficient way that could reach more people.

The idea is that if we can get some resources and put them in the right direction, then we would be in a whole lot better of a position to feed ourselves as a state. We have Food Sovereignty as a foundation, self-determination, and from that foundation I think we can build the house of resilience upward and outward.

Kennedy: This has been great. This last part of the interview goes back to the local ordinances. You've had a number of people from different states contact you over the years – probably going eight to ten years back. You just haven't seen the same level of success in the other states.

Have you been able to get an idea of why that didn't happen? Was it just that the law wasn't as favorable? What other factors do you think were at work in those cases?

Retberg: That is a tough question. The easiest answer is capacity. We really are a small group of people doing this work in the margins of our bread and butter work and raising our families.

What worked for Maine was when people needed connection, help, experience, and resources, you can jump in a car and drive three hours and go and talk to people at a potluck and help things spread. That isn't something that we can do nationally, but as you have said, there have been seeds over time that have been planted.

In Maine, as we have been talking about, it is a strong 'Home Rule' state. So is California, so is Washington, and so is Oregon. Those are states where we have made some inroads talking to people who are interested in doing what we have done here out there. Their Home Rule is at the county level out there.

The seeds are there, and I would love to see a Heather Retberg and a Bonnie Preston and a Jesse Watson in California and Washington.

The other thing that may have changed since this began, which is a positive, is at the beginning a big part of what we were doing was defining the threat and the urgency of the threat. The FDA was aggressively shutting down farmers. There has been such a pushback, not only in Maine, but also *elsewhere* in Maine, and the FDA isn't doing that anymore. So the threat has been addressed for now, and it's not as visible to people how those authorities and how the structure can be mobilized to dismantle a small farm in a local and regional food infrastructure system.

I think that those are the barriers. Hopefully we can keep having conversations like this one and keep talking to people in different states who have strong Home Rule and could certainly take our template and adapt it to their state statutes and what their communities need and do it on that scale out there, too.

Kennedy: That is obviously a big purpose of this podcast – to hopefully get some people interested and to see if they can duplicate your success.

Retberg: Thank you.

Kennedy: I think that another factor that you have in Maine and that I haven't really seen elsewhere is the Grange. In most states the Grange is almost like a museum. It just doesn't seem active. California is an exception, but I think that they got in trouble with the national Grange. You have avoided any trouble, and you have been very effective and active in improving the infrastructure of local food, working in support of the food sovereignty ordinances.

I think that it would help the listeners if you could talk about how the Grange is operated in Maine and how it hasn't been like many of these other states where it almost seems like it is just part of the past and not active presently.

Retberg: That is true. I just love our Grange. It's a great organization of people – hardscrabble. There are just a few people who do a lot of good work and keep doing it over time.

The Grange nationally is the oldest farming organization in the country. It started in 1867. In Maine I think it came along around 1874. It was a way not just to connect farmers socially, which is how I think they tend to primarily exist in most other places in the country, and still in Maine, too. We have public suppers and dances, and we do all those things to keep people in rural places connected and to also strengthen that fabric of resilience through those cultural ties.

But what a lot of people don't know about the Grange is that it was also a movement to band farmers together against corporate monopolies. Those were the original monopolies – the big ones like steel, railroads – and the farmers' livelihoods were being eradicated by the railroads. They held the power and they couldn't get food from Point A to Point B without the railroads, and so they were also relocalizing. They were cooperatively buying grain to lower input costs. They were improving farming methods so they wouldn't be as vulnerable to the corporate exploitation.

If you understand, as we do, that we are living through a very parallel time in history to those early 1900's, the Grange is absolutely a political and a social institutional organizational way forward.

At our Grange we are doing a lot of those same things that the original Grangers did. How can we pool our resources to benefit more of us and not be subject to the external forces beyond our control?

A lot of us raising livestock locally want to feed organic grain, so we have a grain collaborative. Every week we dispense grain from our Grange parking lot. We had to rebuild a kitchen at our Grange, so we rebuilt it so that it could be licensed by the state.

Again, having heard this whole food sovereignty story, one of the big triggering factors was a lack of infrastructure. So what can a local food organization – a Grange – do on a small scale that might ripple outward in a bigger way? That was infrastructure. So we have the grain bins, we have a commercially-licensed kitchen that food producers and processors can use to add value to what they are doing and start small businesses or grow ones that exist already without the

heavy cash outlay of their own individualized infrastructure. We have added a CoolBot, so there is some food storage.

We are trying to get these bigger issues – food processing, food storage, diversified markets, shared input costs that lower costs for everybody – and the legislative advocacy, which was a big part of the Grange originally. We are helping and hoping and working towards revitalizing that in Maine.

The Maine State Grange supported the Maine Food Sovereignty Act, and I think it was the first time that the legislature had heard from the Grange in a while on farming issues. The State Farm Bureau took note of that, and so did the legislators.

The Maine State Grange has an annual legislative lunch, and the legislators love pie just as much as anybody. So they were very receptive to hearing from this old and venerable organization that food sovereignty was a relevant way forward for agriculture in our times.

All of those things are married together in a pretty tight weave, and hopefully that will grow a stronger fabric for our communities and food and farming.

Kennedy: Last question: For those who are inspired to try to duplicate what Maine has accomplished, what is the basic advice that you would give them on how to go forward and get after it?

Retberg: Good question! Number one, have a potluck with friends in your community (once you can gather again). I say that not altogether lightly because when people break bread together, you are already receptive to what each other have to say. Sharing food and establishing connections that don't yet exist is really a vital first step.

Looking back and having this conversation with you, I realize how much we had to learn when we started. I think that is really key to people. Don't be afraid to learn. Look at your state constitution and know what rights you have. Are you a Home Rule state? Are you a Dillon's Rule state?

Finally, organize. Find other people in your community who care about not just

surviving, but really growing and thriving local food systems and all of the positive benefits of that. Get a sample ordinance and take it forward. It's a great way to grow democratic muscles. You don't get there until you participate and until you engage and until you hit the wall several times and figure out ways to climb over it.

We have an organizing informational packet on our website, which is www.LocalFoodRules.org. It has some great tips on organizing 101. It has our template ordinance. It has Frequently Asked Questions and things like that that can really help.

Food for Maine's Future has been our backup organization since the beginning. They have a Facebook page that keeps people up to date when we are working at the state level. If you want to follow the Right to Food, there will be notifications on the Food for Maine's Future Facebook page. Then there is also a Facebook Group called Food Sovereignty and other Grassroots Movements. Once we start engaging in processes again, that is where a lot of the conversation and organizing momentum happens.

Kennedy: In addition to the podcast, we will post the web address of both Food for Maine's Future and Local Food Rules as well as a copy of the local food and community self-governance ordinance be along with the other materials.

Heather, it has been great. I wish you continued success and the best of everything.

Retberg: Thank you so much, Pete. It is always a delight to talk to you.

Kennedy: Take care.