

Legislative Irrationality

By Ralph Chapman

As a research scientist, I am comfortable with data analysis, logical processes, and reasoned conclusions. As a state legislator, I have had to learn the nature of human decision making and of irrationality in public policy making. Contrary to my prior belief that decisions are made intellectually, I now understand that most decisions are made emotionally and then rationalized. Further, citizen involvement may encourage more rational behavior amongst policy makers.

My good fortune is that the district I represent is home to many independent-minded, thoughtful, capable activists, several of whom brought the Local Food and Community Self-Governance Ordinance (LFCSGO, see pages 18-19) to the Selectmen in my town for inclusion on the ballot at town meeting. The ordinance they brought forth is now local law in about a dozen Maine towns.

A concern about the ordinance, expressed often at discussions and public hearings, is the relationship of this local law to state or federal law, and whether it is better to have state or federal legislation rather than local legislation create the intended outcome of supporting local food producers' and food consumers' ability to interact directly without cumbersome regulation.

Prior to becoming a legislator, I spoke to this issue at a public hearing by pointing out that it is appropriate to work towards improvements in our communities at all levels, that the matter would be introduced at the state level in the coming term, and that a leading show of support at the local level would make it more likely to achieve support at the state level.

What I did not sense at the time was the empowering importance of citizens exercising control of their own lives by exercising the mechanisms of policy making through local government. Nor had I any experience with the clash of the state constitutional right of home rule with the often assumed hierarchical legal structure giving supremacy to federal and state laws over local laws.



During the last term, more than a half dozen state-level legislative initiatives to help mirror the intent of the LFCSGO, failed. Despite overwhelming majority support in towns across Maine, and hours-long testimony with great public turnout in favor of protecting the direct exchange of food, progress at the state level was thwarted. Interference came from all angles: departmental bureaucrats, committee chairs, the Governor, party leaders, and some licensed food producers.

Although others' intent can never be known, it seems implausible that the stated reasons for opposition to the proposed legislation tells the whole story. Food safety was often cited but no risk information was ever discussed. Fears of federal retribution due to the terms of cooperative agreements between the state and federal agencies are hard to reconcile since those terms were not produced through a public process and are largely unknown. In the case of one of the Governor-vetoed bills, the Governor stated his support a few hours prior to his veto.

Curiously, many policy makers talk of their interest in stimulating the state's economy, attracting young people to the state, and reducing bureaucratic barriers to businesses. Allowing local communities to assert their right to allow food producers to sell directly to the end consumer advances all of the above goals. Overcoming the disconnect between goals and actual policy-making behavior will require further communication and education. Perhaps the strength of locally-led initiatives is that small groups of people are able to monitor and maintain the rationality of their processes.

Two separate, but parallel strategies are suggested by my observations: first we need an infusion of citizen involvement in the policy making processes at the state level. Secondly, we need a continuation and expansion of legislative initiatives at the local level. Both types of activity can be empowering for those who engage, and both may be able to facilitate positive change.

Representative Ralph Chapman, Maine House District 133, represents Blue Hill, Brooklin, Brooksville, Castine, Sedgwick, and Surry.

Political Intrigue

In the 2013-14 Maine Legislative session, pressures from the food industry and campaign politics overshadowed good law-making. Both chambers easily passed a bill to allow direct sales of fresh milk with no licensing or inspection requirements. Governor LePage, after calling farmer Heather Retberg to voice his support for the bill, vetoed the bill causing a row in the Republican party and several key members publicly left. But — in his veto letter, the governor said he would introduce his own "raw milk bill" in the next session, one that would leave farmers' markets out of the direct sales provision.

Fast forward to election year 2014 — Governor LePage never introduced such a bill, but Representative Noon did. Everyone was on board this time and testified in favor: The Maine Farm Bureau, members of the Maine Cheese Guild, the Maine Organic Farmers and Gardeners' Association, and the Department of Agriculture, Conservation and Forestry. The Committee worked hard and late until they could recommend its passage. This bill was not, however, to see the governor's desk. Would he anger the dairy industry if he did sign it? And, if he didn't, would his lack of support for small farms and his failure to keep his word become visible to all? The dairy industry went to the state house and threatened to "score" the bill, black marking all who voted in favor. The Farm Bureau changed its tune and lobbied against it. The fix was in. Once the public went home, this bill never stood a chance.