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union farmer newsletter

Seed Royalties are only part of the story

Why multinational seed companies want to put restrictions on farm saved seed

In February 2015 the *Plant Breeders Rights Act* was amended when Bill C-18 was passed, bringing Canada under the UPOV '91 system. At the time, the NFU warned that this new law put in place authority that could be used to endanger farmers' ability to save seed and thereby increase seed companies' control over seed, including the ability to charge higher prices.

The federal government is now taking steps towards using its regulatory power to restrict "farmers' privilege" which currently allows farmers to save and plant seeds on their own holdings when using new varieties that have UPOV '91 Plant Breeders Rights status. Agriculture and Agri-Food Canada (AAFC) is trying to get public acceptance for a system that would restrict farmers' privilege so that grain farmers would have to pay a royalty to the Plant Breeders Rights holder every year, in the form of an End Point Royalty or a Trailing Contract. The Plant Breeders Rights Office is also looking to eliminate farmers' privilege altogether for UPOV '91 varieties of horticultural crops (fruits, vegetables and ornamentals), which would make it illegal for farmers to save seed, cutting, tubers, or slips to grow a future crop.

An economic analysis done by JRG Consulting and SJT Solutions for the Seed Synergy group in 2018[i] clearly shows the corporate seed industry is not just looking for increased revenues from collecting royalties, but they also envision obtaining the degree of control that will allow them to raise seed prices too.

The JRG/SJT report highlights the money-making power that is available to companies when they control access to seed, as is already the case for much of corn, canola and soy due to widespread use of gene-patenting and hybridization in these crops. The report characterizes businesses in this supply chain as concentrated, private, vertically integrated (seed distributors are owned by seed developers), able to set prices well above costs, and with virtually no competition in the marketplace (see Table 7.17 *Summary Structure and Performance View of Two Major Seed Supply Chains* of the JRG/SJT report).

If it becomes possible to collect royalties on UPOV '91 varieties every year – whether farmers buy new certified seed or plant farm-saved seed – there will be a strong incentive for variety registrants who have varieties with UPOV '91 rights to de-register their public domain and UPOV '78 varieties which can still be freely saved and planted. The JRG/SJT report's 2017 data shows low rates of planting UPOV '91 varieties in western Canada – from just 1.5% for barley to a high of 19.2% of oat acreage. Their analysis includes projections for royalty revenues with future planting rates of 25%, 50%, 75% and 100% UPOV '91 varieties. This suggests full adoption of UPOV '91 varieties is the industry's goal in spite of assurances by AAFC that farmers who want to use farm-saved seed will continue to be able to choose older varieties.

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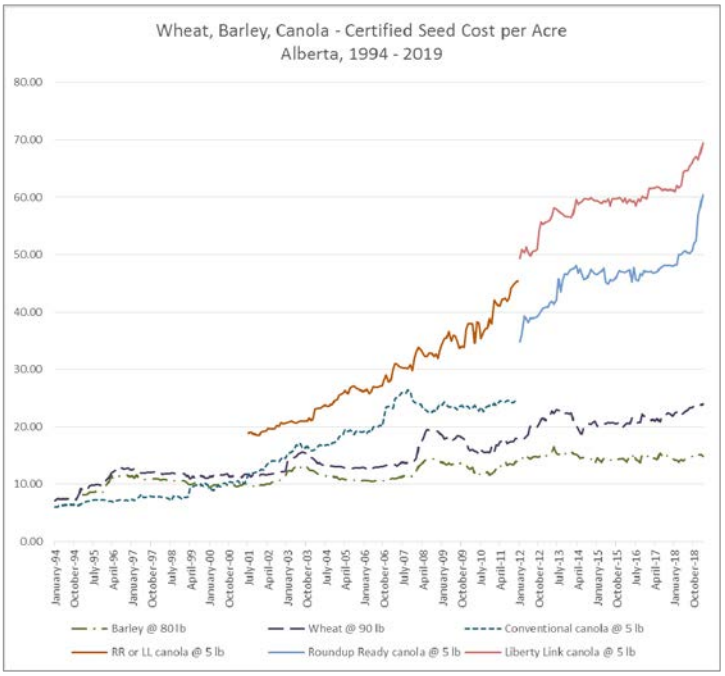


GRAPH 1 - Source: Alberta Agriculture and Rural Development, Economics and Competitiveness Division, Statistics and Data Development Branch January 2001 - February 2019.

[i] *Canada's Seed System: Economic Impact Assessment and Risk Analysis* prepared for Seed Synergy Collaboration Group by JRG Consulting Group (Guelph ON) and SJT Solutions (Southey, SK), March 2018

(*Seed Royalties are only part of the story, from page 1)*

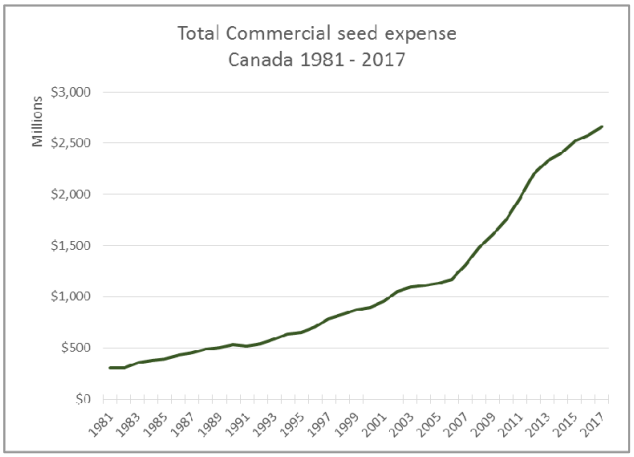
By looking at what has happened with canola seed prices after gene-patented varieties were introduced we can anticipate what would happen if cereal and pulse crops were similarly restricted as a result of Plant Breeders' Rights. In March 2013 the NFU published *The Price of Patented Seed — The Value of Farm-Saved Seed* was in the NFU Newsletter (available on the NFU website at https://www.nfu.ca/publications/union-farmer-newsletter-march-2013/). The following material updates information presented at that time.

Graph 1 shows Alberta seeding costs per acre using purchased certified seed for barley, wheat and canola at typical seeding rates from 1994 until 2019. Before patented genetically modified (GM) canola was introduced farmers could choose to use farm saved canola seed, and purchased seed cost less per acre than did wheat and barley. In 1996 when GM canola came in, it was priced just a bit higher than conventional seed and has gone up significantly since then. Because GM patent holders forbid seed-saving, new GMcanola seed must be purchased annually.

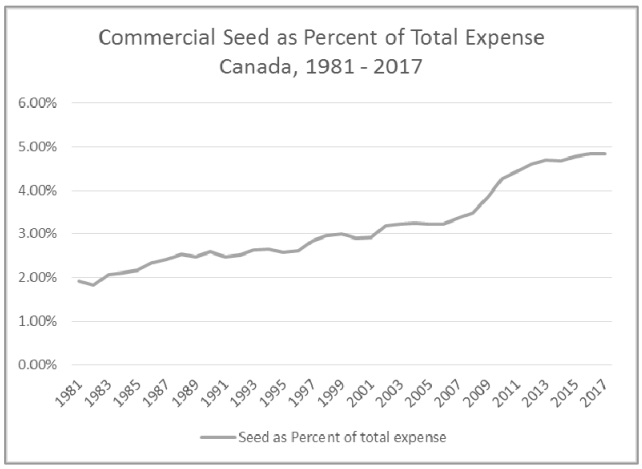
There is very little non-GM canola grown anymore, perhaps to avoid being sued in the event stray gene-patented plants were found in a conventional canola field. Because of low sales volume the Alberta government stopped tracking conventional canola prices in 2012. Both Roundup Ready and Liberty Link canola prices continued their relentless climb, and by 2018 the cost of seeding an acre had risen to $60 to $70 respectively. In contrast, the price a farmer gets when selling canola at the elevator is in the neighbourhood of $10/bushel, which would provide enough seed to plant 10 acres.

Meanwhile certified barley and wheat seed have maintained modest prices, increasing at close to the general rate of inflation as shown by the Consumer Price Index (Graph 4). Today, using commercial seed it costs about $15/acre to plant barley and $24/acre for wheat in Alberta. Gene patenting GM canola made it possible for Bayer and Monsanto to stop farmers from using farm saved seed, otherwise it is likely that the price of canola seed would have stayed closer to that of wheat and barley. If canola breeding had remained public, the full value of variety improvement would have been returned to farmers, the public and the Canadian economy as a whole.

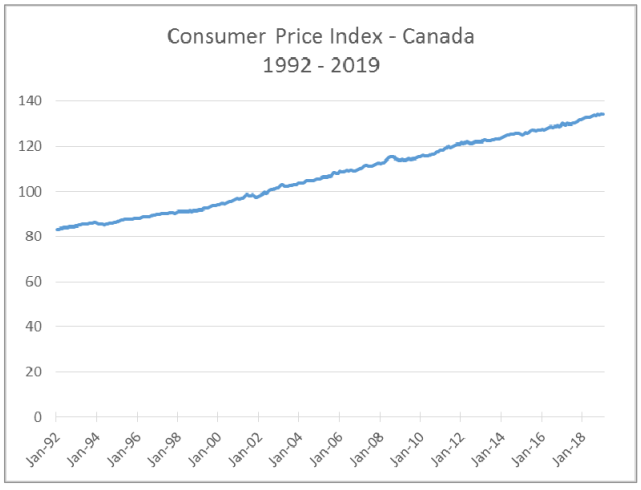
Looking at farmers' seed costs in general across the whole country, we see that seed expense has not only been rising much faster than the inflation rate (Graph 2), but it also makes up an increasing proportion of farm expenses (Graph 3). If the Seed Synergy group is successful in getting the government to bring in a regulation to make farmers pay royalties when using farm saved seed, seed will become an even more significant outlay for farmers and a greater source of revenue for the very few large companies that control the majority of the world's seed business.



GRAPH 2 - Source: Statistics Canada



GRAPH 3 - Source: Statistics Canada



GRAPH 4 - Source: Statistics Canada

Without control of our seed, we really do not have control of our farms. Standing up for the right to farm saved seed is not just in our economic interest, it is essential for food sovereignty. ▪

For more information or to get involved with the NFU's Save Our Seed campaign, visit:

https://www.nfu.ca/campaigns/save-our-seed/

Seed Synergy and Value Creation — A Solution in Search of a Problem

—by Cam Goff, NFU 1st Vice President (Policy)

A few months have gone by since the first round of "consultation" meetings on "value creation" and the folks at Agriculture and Agri-Food Canada (AAFC) are in damage-control mode, trying to re-spin their message to farmers after its disastrous reception before Christmas.

In their November and December meetings, AAFC and its partner, the Seed Synergy group, were telling farmers that Canada's public plant breeding system was broken and that the federal government was not willing to increase its funding. Farmers were told that unless we help private plant breeders to step in and rescue us, Canada would become an agricultural backwater and suffer economic devastation.

In order to entice these private saviours, all farmers need to do is encourage our government to pass regulations allowed under the Plant Breeders Rights Act that would hand them a suite of control mechanisms for new plant varieties registered after February 2015.

Private breeders want the authority to impose additional royalties on farmers who use new varieties — either on the entire crop (Option 1 – End Point Royalty) or on the portion of the crop saved for seed to grow a future crop (Option 2 – Trailing Contract Royalty). Royalty rates would be decided solely by the variety's owner, along with any other conditions they might attach to the use of the variety. The Seed Synergy group expects a new royalty regime would bring private seed companies over $100 million per year.

The Seed Synergy group's mantra "Industry led, Government enabled" can be understood as "we'll tell you what we want, you make it legal." So, AAFC is attempting to get farmers to accept one of these two options, at the behest of the Seed Synergy group.

AAFC's "consultation" is based in large part on the false claim that Canada's public breeding system does not perform as well as the private sector.

Canada's public plant breeding system has operated for over a century. It started with farmer-scientists like Seager Wheeler and evolved into government infrastructure and programs that put the needs of Canada's farmers and citizens in first place. Its history right up to today is studded with world-class plant breeders consistently developing field crop varieties that are arguably the highest quality in the world, as well as fruit and vegetable varieties uniquely adapted to our northern climate. A peer-reviewed study showed that publicly bred wheat had 35% greater rate of yield increase compared with privately bred canola between 1981 and 2000, and 13% greater rate between 2000 and 2011.

Farmers have willingly contributed hundreds of millions of dollars to the public system by way of per-bushel crop check-offs and levies. Independent studies show returns from plant breeding range from $7 to $20 per dollar invested, with AAFC itself claiming an 11:1 return rate. Our public plant breeding system retains the revenue generated by its services, returns real value to our public system, our farmers and the Canadian economy.

In response to farmers' concerns that the government is trying to exit plant breeding, AAFC says the federal government is not going to get out completely, but will continue doing "discovery science" – the long, hard background work of developing new lines – before handing promising germplasm to private industry to finish and register, which would allow the seed companies to control access to the varieties and reap the royalties from farmers.

Not surprisingly, farmers' response to AAFC's options for "value creation" by compelling farmers to fund private sector breeding with royalty payments was overwhelmingly negative.

As a result, AAFC has changed their approach. Now they proclaim they are open to other ideas – without a formal process for any input on alternatives. Their new pitch is a soft-sell, but they're still selling the same unwanted options.

The critical question is why does AAFC believe Canadian farmers and citizens will be better off if the returns from public and farmer money invested into plant breeding is diverted to private companies where it can flow offshore to fatten shareholder dividends?

There is no doubt that the changes AAFC is proposing will create untold wealth and power for private plant breeders at the cost of Canada's farmers and citizens, and ultimately give them control over the very basis of our food system: seed.

Given the health and vigor of Canada's public plant breeding system, and farmers' willingness to step up and help to enhance and improve it, it appears that Agriculture and Agri-Food Canada's "Value Creation" initiative is an unwanted solution to a manufactured problem. ▪

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The Canadian Grain Commission and Canada Grain Act are under Attack—Again

—by Cam Goff, NFU 1st Vice President (Policy)

For the last fifteen years, the grain companies and federal government have been looking at both the Canadian Grain Commission (CGC) and the *Canada Grain Act* (CGA) with an eye to making company-favourable changes. Always under the guise of "modernization" (after all, who wants to be old-fashioned?), the changes they seek will inevitably lead to greater power, money, and control for the companies at the expense of farmers.

The latest assault was quietly initiated (without a public announcement) by Agriculture and Agri Food Canada (AAFC) on March 8 at a Grains Roundtable (GRT) meeting in Montreal. It was left to reporter Allan Dawson of the Manitoba Cooperator to bring it to the public's attention. This continues a worrying trend where AAFC is using an industry-dominated organization (GRT) as the arbiter for their decision making process.

In general, the attempt is being made to remove the regulations that give the CGC its statutory power to act as final authority in such decisions as grade, weight, dockage, etc. Industry wishes to hand all such authorities over to private companies and their subcontractors.

While the details are still uncertain, industry is looking to eliminate Outward Inspection from the CGC's authority. Export shipments would instead be inspected by contractors hired by the grain companies. This could remove the independent nature of the quality assurance of our exports, as well as the source of over 90% of the CGC's funding.

Another major change being considered is to alter the CGC's governance structure from using a system of Commissioners to one with a CEO and Board of Directors. With our current system, Commissioners are understood to be independent, while the proposed CEO/Board system would give our customers the impression that CGC leaders' involvement includes financial self-interest.

The Canadian Grain Commission and the *Canada Grain Act* were established to give farmers agency and influence in a field that was heavily weighted toward large grain companies that were practicing disreputable and unaccountable practices. Far from having outlived their usefulness to farmers, both the CGC and the CGA remain essential to ensure that producers have the benefit of organizations that can impartially uphold our rights and equitably manage relations with our customers. ▪

Origins of the Canadian Grain Commission

The mood amongst the grain farmers of the west during 1897, 1898 and 1899 was one of outrage, indignation and frustration. There was no doubt in their minds that the CPR, the grain dealers and the milling companies were formed into a monopoly designed to cheat them. …

There can be no doubt that there were abuses in western Canada – this was inevitable in a situation where the railroad and grain trade held all the cards and the farmer held none. The result was a state of undeclared war between the two factions involved in the grain industry. As MP P. J. G Rutherford said in 1899:

> *Anyone who has had the opportunity to observe the condition under which the grain trade of the country is carried on, must be aware of the constant friction, the never ending irritation, which characterizes the transactions between the farmers and the grain dealers. (H. of C. Debates, April 20, 1899).*

In this overheated atmosphere, in 1898, western farmers and the politicians who represented them, began to forge an act of Parliament that would regulate the totally unregulated grain trade and offer the farmer some measure of protection. Over the next 90 years the Manitoba Grain Act and its successor the Canada Grain Act would undergo numerous changes, reflecting the changes that were taking place in the Canadian grain industry. None of these revisions were made without considerable conflict and jockeying for position amongst the various stake holders in the industry.

—excerpt from *A History of the Canadian Grain Commission – 1912 – 1987* by J. Blanchard.
Published by the Canadian Grain Commission on its 75th anniversary.