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Geno-Types – 2 April 2001

Monsanto vs. Percy Schmeiser

No Corporate Liability for Unsafe Sex and Bioserfdom

On 29 March 2001 a Canadian judge dealt a crushing blow to Farmers' Rights by ruling that Percy Schmeiser, a third generation Saskatchewan farmer, must pay Monsanto thousands of dollars for violating the Gene Giant's monopoly patent on genetically modified canola seed.

Under Canadian patent law, as in the US and many other industrialized countries, it is illegal for farmers to re-use patented seed, or to grow Monsanto's GM seed without signing a licensing agreement. If the Gene Giants and US Trade Reps get their way, every nation in the world will be forced to adopt patent laws that make seed saving illegal. The ruling against Schmeiser establishes an even more dangerous precedent because it means that farmers can be forced to pay royalties on GM seeds found on their land, even if they didn't buy the seeds, or benefit from them.

Percy Schmeiser did not buy Monsanto's patented seed, nor did he obtain the seed illegally. Pollen from genetically engineered canola seeds blew onto his land from neighboring farms. (Percy Schmeiser's neighbors and an estimated 40% of farmers in Western Canada grow GM canola). Monsanto's GM canola genes invaded Schmeiser's farm without his consent. Shortly thereafter, Monsanto's "gene police" invaded his farm and took seed samples without his permission. Percy Schmeiser was a victim of genetic pollution from GM crops – but the court says he must now pay Monsanto around \$10,000 for licensing fees and up to \$75,000 in profits from his 1998 crop.

It's like saying that Monsanto's technology is spreading a sexually transmitted disease but everyone else has to wear a condom.

The GM canola that drifted onto Schmeiser's farm was engineered to withstand spraying of Monsanto's proprietary weedkiller, Roundup. But Schmeiser did not use Roundup on his canola crop. After all, if Schmeiser had sprayed his crop, the chemical would have killed the majority of his canola plants that were not genetically modified to tolerate the weedkiller! Schmeiser didn't take advantage of Monsanto's GM technology, but the court ruling says he's guilty of using the seed without a licensing agreement.

Monsanto (acquired by Pharmacia last year) is the world's premiere Biotech Behemoth. Last week's court ruling has far-reaching implications for farming communities around

the world. Last year, Monsanto's GM seed technology was planted on 41.6 million hectares (103 million acres) worldwide. That means Monsanto accounted for 94% of the global area sown to genetically modified seeds in 2000. (Total worldwide area = 44.2 million hectares or 109.2 million acres.)

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Thanks in large part to Terminator technology, the Monsanto moniker has become synonymous with GM seeds and corporate greed. Although Monsanto disavowed "suicide seeds" in the wake of international public protest, the company has routinely employed Draconian measures to prevent farmers from re-using patented seed, including the use of private police to root out seed-saving farmers, and toll-free hotlines to encourage rural residents to snitch on their farm neighbors. Monsanto has threatened to "vigorously prosecute" hundreds of cases against seed saving farmers, but Schmeiser's was the first major case to reach the courts. Schmeiser courageously decided to fight back and speak out against bioseerfdom.

Last week's anti-farmer verdict is being hailed as a landmark victory for Monsanto, but it's too soon for the Gene Giants to celebrate. Will the ruling against Schmeiser unleash a new biotech backlash in the heartland?

North American farmers grew three-quarters of the world's commercial GM crops last year, and now they're showing signs of biotech battle fatigue. Illegal traces of Aventis' StarLink maize (unapproved for human consumption) have disrupted grain markets and jeopardized exports. Unsold stockpiles of US maize are at their highest level since GM crops were commercialized. The US government announced last month that it would spend \$20 million in taxpayer money to bail out the biotech industry, by purchasing maize seed that was contaminated with Aventis' StarLink genes. (StarLink maize was planted on less than 0.02 percent of all US maize cropland in 2000, but cross-pollination with other maize varieties resulted in seed contaminated with StarLink genes.) To add insult to injury, the federal bailout is using money that would normally go to disaster relief for farmers.

With the advent of genetic engineering and exclusive monopoly patents, the Gene Giants have abolished the farmers' fundamental rights to save and exchange seed. Now farmers are being forced to accept liability for genetically modified crops. How many bullets will they take for biotech? In North America, where many farmers have embraced GM technology, there are signs of resistance worth noting:

- The National Farmers Union of Canada has called for a national moratorium on producing, importing and distributing GM food.
- A bill introduced in North Dakota (US), backed by the state's wheat farmers, would impose a moratorium on growing genetically modified wheat – a crop that Monsanto hopes to commercialize by 2003.
- In March 2001 the National Farmers Union (US) adopted a policy supporting a moratorium on the introduction, certification and commercialization of genetically engineered wheat until issues of cross-pollination, liability,

commodity and seed stock segregation, and market acceptance are adequately addressed.

- The Indiana (USA) House of Representatives passed a bill last month defending the farmers' right to save seed.
- Oklahoma's Secretary of Agriculture, Dennis Howard, recently commented: "After reviewing Monsanto's 2001 Technology Agreement, I would discourage any farmer from signing this document. Not only does this contract severely limit the options of the producer, it also limits Monsanto's liability...The protection of the Monsanto contract is strictly one-sided and I would encourage producers to carefully consider this before entering into this agreement."
- A North Dakota State University economist warns that growers of GM crops are exposing themselves to potentially huge financial risks by signing gene technology agreements. Dwight Aakre warns that "responsibility for providing assurance of non-contamination with GMO materials is being pushed back to the individual producer."

Support Percy Schmeiser

Percy Schmeiser has filed a counter-suit against Monsanto, but his family faces enormous legal costs that cannot be sustained without outside assistance. Contributions to Schmeiser's legal defense may be sent to:

Schmeiser Defense Fund
Canadian Imperial Bank of Commerce
Humboldt, Saskatchewan
Canada SOK 2A0

For more information about Percy Schmeiser's case, go to:
www.percyschmeiser.com

To see the 62-page decision by Canada's federal court judge Andrew MacKay go to:
<http://www.fct-cf.gc.ca>

RAFI (the Rural Advancement Foundation International) is an international civil society organization based in Canada. RAFI is dedicated to the conservation and sustainable use of biodiversity, and to the socially responsible development of technologies useful to rural societies. RAFI is concerned about the loss of agricultural biodiversity, and the impact of intellectual property on farmers and food security.