

ATTENTION CANADIANS

It's not too late to save

Canadian Democracy and the Canadian Wheat Board

What Can You Do?

IF YOU ARE A FARMER: Please make a donation to the Friends of the Canadian Wheat Board (FCWB). We think that 25 cents per acre is a reasonable starting point. Some farmers will contribute more, and some will contribute less, but please invest now. A net present value of the CWB easily works out to more than \$15 billion. *(See below for details on how and where to donate.)*

IF YOU ARE NOT A FARMER: Please make a donation to the Friends of the Canadian Wheat Board (FCWB). All donations are important and welcome. *(See below for details on how and where to donate.)*

What Will Your Donation be Used For?

The FCWB have to date successfully launched three court challenges to stop the Harper Government's illegal actions to disenfranchise farmers and dismantle the CWB. The FCWB will shortly be filing additional court challenges to protect farmers' democratic rights and their financial interests.

Democracy is for all Canadians, including Farmers.

But protecting democracy through the courts can be very costly. Your donations will support these court challenges, and the Friends are looking seriously at launching a class action compensation suit in the future. Working together as farmers and urbanites we can preserve the democratic rights of all Canadians.

Where and How Can You Donate?

You can make your cheque payable to the Friends of the CWB or donate at www.friendsofcwb.ca. Be sure to provide your contact information with your payment so that we can send you regular updates. An online form will be available at www.friendsofcwb.ca. **The Friend's address is Box 41, Brookdale, MB, R0K 0G0. All donations will be confidential.**

Farmers Please Note :

* If you donate \$250 or more to support these legal challenges you will be automatically invited to sign on to a Class Action Suit for compensation should one be launched by the Friends of the CWB.

*“Canadians should understand that at stake here is not just a technical point of law,
but the integrity of parliamentary government.”*

Peter Russell—Professor emeritus of political science, University of Toronto.

Does it matter if our laws are passed illegally?

Peter H. Russell

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On Dec. 15, the Governor-General gave royal assent to Bill C-18. This means that the Marketing Freedom for Grain Farmers Act, the legislation that ends the Wheat Board's monopoly of wheat and barley sales, is now the law of Canada – or is it?

The question arises because on Dec. 7, Federal Court judge Douglas Campbell ruled that the way Bill C-18 was introduced into Parliament violated the Canadian Wheat Board Act. Section 47 of the act requires that the Minister of Agriculture not introduce in Parliament a bill that would end the Wheat Board's control of all wheat or barley sales without first consulting the board and holding a vote to determine whether farmers favour such a change.

In the May election, the Conservatives ran on a platform that promised to end the Wheat Board's monopoly. When polls indicated that a majority of both wheat and barley farmers favoured retaining the Wheat Board's "single desk," the government realized it might fail to honour its election commitment if it followed the procedure laid down in the act.

The government could have avoided this issue by asking Parliament to repeal the entire Wheat Board Act, or at least Section 47. Instead, it took the position that it did not have to comply with the act's requirements because one Parliament cannot bind another. So, in its view, it could simply ignore legislation passed by a previous Parliament.

The government has defended its action constitutionally under the banner of parliamentary sovereignty. But against this position is the view that Parliament can bind itself as to the "manner and form" of future legislation, a view supported by many constitutional scholars in Canada and other Westminster parliamentary democracies. Taking this view does not mean that Parliament can never change its mind and rescind legislation passed by previous Parliaments. But if it is going to depart from a process of law-making that an earlier Parliament committed to, it must do so explicitly and repeal the legislation.

Canadians should understand that at stake here is not just a technical point of law, but the integrity of parliamentary government. In placing Section 47 in the Wheat Board Act, Canada's 36th Parliament made a commitment to grain growers that it would not consider changing the rules for marketing their crops without their consent. To hold that such a promise means nothing once another party has a majority in the House of Commons is to deny Parliament the capacity to make such commitments to citizens whose interests are so directly affected by legislation.

A full debate in Parliament on the merit of that promise may well result in its repeal. But those of us who believe in parliamentary democracy would think that a better way to honour the institution of Parliament and avoid its becoming simply a ratifying agency for the majority party.

Legal challenges are reportedly under way – which isn't surprising when you consider we have an act that has been judicially found to have been illegally introduced in Parliament. We should watch the outcome of this litigation with interest and concern.

Peter H. Russell is professor emeritus of political science at the University of Toronto.

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