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Canada: Hutterites Oppose Gay Marriage
Feb 21, 2005 **... Joseph** Wollman, who lives in **Hillcrest** Hutterite **Colony** near Saskatoon and was one of the authors of the letter, said the Bible forbids **...**
atheism.about.com/b/2005/02/.../canada-hutterites-oppose-gay-marriage.htm

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90, Clark School District 12-2, **Hillcrest Colony**, Gary Heineman, 605-532-3607 **.....** 406, St **Joseph** Indian School, All Schools, Cynthia Knippling, 605-234-3366 **....** 471, West Central School District 49-7, West Central Middle, Mark **Hofer ...**
doe.sd.gov/ofm/sims/docs/simscontact.xls

in Chesterfield, Missouri | BlockShopper St. Louis
189 Glen Cove Drive, **Joseph** D **Hofer** (Husband) & Laura F **Hofer** (Wife), North of 64, -, $238500. Jun. 25, 2002. Single Family **...**
stlouis.blockshopper.com/cities/chesterfield/streets/glen_cove.dr

HUTTERITE LITIGATION
This case involved the Elmspring **Colony** of South Dakota. **.....** Now John and **Joseph Hofer** began to read the magazine and although they had originally agreed **.....** Hutterian Brethren Church of **Hillcrest** v. Willms and Crossmount Farm Co. **...**
www.umanitoba.ca/Law/Courses/esau/litigation/huttlitigationweb.htm

Mennonitische Rundschau Obituaries: 1950-2001
Hofer, Jakob, 1919, 1994, **Hillcrest Colony**, SD, USA, 1994 May, 30 **... Hofer**, **Joseph** D, [1890], 1952, Newton Siding, MB, Can, 1953 Jan 14, 06 **...**
www.mhsbc.com/genealogy/mr/mrh.htm

[PDF] Kaiser Appliance Cente r
File Format: PDF/Adobe Acrobat - View as HTML
Yankton Community Forum, 9 a.m., **Hillcrest** Country Club, 2206. Mulberry. **....** Waldner, **Joseph** Waldner. MAXWELL **COLONY**. "A" Honor Roll: Denise **Hofer ...**
tearsheets.yankton.net/january09/011909/011908_pg5.pdf

Complete List of South Dakota Schools - Contact Information - SD **...**
Clark 12-2, **Hillcrest Colony** Elem- 05, Public, RR 1 Box 17 **.....** 21 St **Joseph** St Rapid City, SD 57701, Deb Steele, 6053944048, 6056056941, Todd Schmitt **.....** Hartford, SD 57033-0730, Mark **Hofer**, 6055286236, 6055286217, Mark **Hofer ...**
doe.sd.gov/ofm/edudir/schooldata/allschools.asp

[PDF] South Dakota Certified Water/Wastewater Operators-6/17/2009
File Format: PDF/Adobe Acrobat - Quick View
Hofer. Aaron. A. Tschetter **Colony**. I. S. 2007. 1403. **Hofer**. Tim. Lakeview **Colony .....** Newdale **Colony**. I. S. 2009. 1789. Waldner. **Joe**. Evergreen **Colony ... Hillcrest Colony**. I. W. 2009. 1791. Waldner. Ron. Grassland **Colony ...**
denr.sd.gov/des/dw/PDF/operator.pdf

HUTTERITE LITIGATION

- ALVIN J. ESAU Prof. of Law, University of Manitoba, 1997

I. INTRODUCTION

I am currently working on a book, *The Courts and the Colonies*, which will focus on the case of *Lakeside Colony v. Hofer* which went through two rounds of litigation, the first right up to the Supreme Court of Canada, and the second through a lengthy trial.[1] One of the themes of the book is that historically Anabaptist groups, including the Hutterites, would have a religious objection to bringing aggressive law suits to court. This would be a violation of both the norm of separation from the world and the norm of nonresistence central to the ideology of the group. For more background on this Anabaptist normative framework, you may wish to review the draft document, *Mennonites and Litigation* included on my web page. The *Lakeside* case is particularly interesting because it deals with a lawsuit launched by the church authorities in an attempt to evict a number of so called Aapostates@ who refused to leave the colony. Subsequent to the first round of the *Lakeside* case, the Schmeideleut branch of the Hutterite church suffered through a schism leading to a considerable amount of litigation in Manitoba as to conflicts at a variety of colonies over management and control of assets. The book will deal with these matters as well. It is my contention that the Hutterite leaders who launched the lawsuit in *Lakeside,* violated the historic religious norms of the group in doing so.

For now the purpose of this paper is to simply survey previous Hutterite litigation before the *Lakeside* case. Readers should note that this is a first draft and there may well be cases that I will find in subsequent research. The survey is divided into types of litigation which raise different levels of difficulties in terms of conformity with the Hutterite anti-litigation norms. Governmental litigation is the least problematic at one end, while taking internal disputes to court is the most problematic at the other end.

II. HUTTERITE LITIGATION INVOLVING EXTERNAL RELATIONS.

A. GOVERNMENTAL LITIGATION

We find that the Hutterites both in the United States and in Canada have either defended against or initiated lawsuits involving governmental organizations. These lawsuits often involved hostile governmental action against the Hutterian way of life. Indeed, it is interesting to note in this survey that despite the American entrenched Bill of Rights and the absence of such a doctrine in our Constitution till quite recently, the Hutterites got no better treatment from the American courts than they received from the Canadian courts. At least from the reported cases, one might even argue that the American Courts have given the Hutterites *less* in regard to claims of freedom of religion than have the Canadian courts.

1. Denial of Corporate Status in United States

Perhaps the most notorious of all of the cases involving Hutterites and the host society occurred while the Hutterites were moving to Canada in response to the hostility toward them in the wake of the First World War. The 1922 case of State ex rel. Chamberlain v. Hutterishe Bruder Gemeinde in the South Dakota Supreme Court[2] is referred to by Peters, as the attempt to exterminate the Hutterites from South Dakota through legal action.[3] While the case did begin in a sinister fashion and contributed to the vast exodus of the Hutterites to Canada, the final outcome on appeal was the denial of corporate status to the Hutterites, while accepting the freedom of religion for the Hutterites to carry on with business as usual, but in an unincorporated form. This begs the question of what was really lost in this litigation. It is important to note, however, that the trial level decision might be classified as horrific and before the appeal was heard most of the colonies had already left South

Dakota and moved to Canada in the face of this hostility.

That the motivation for the litigation involved hostility to the Hutterites seems clear. A. A. Chamberlain, State's Attorney General for Beadle County on the request of the State Council of Defense brought action in the circuit court to annul the corporate charter of the passivist Hutterishe Bruder Gemeinde in the Bon Homme district. The corporation had been set up in 1904. The complaint alleged that the corporation was falsely and fraudulently set up as a religious corporation according to its own articles of association when in fact it was primarily engaged in secular business and therefore violating its own charter. Furthermore, Chamberlain claimed that the Hutterites were generally a menace to society. The complaint alleged:

> ..that said corporation and its officers exercise a baneful influence over the members thereof, and, under the guise of religion, maintain and enforce rules and regulations in violation of the laws of South Dakota, and require its members to obey rules and regulations of said corporation, even though the same violate and contravene the laws of the state and the United States, and enforce such rules and regulations to the extent of punishing and expelling members of said corporation for obeying the law of the land, where the law contravenes the rules and regulations aforesaid; ...that the defendant corporation wilfully refuses to contribute in any way toward the defense of the United States...that the existence of such corporation is a menace to society...[4]

The plaintiff, acting for the State, not only called for the dissolution of the corporation but also that a receiver be appointed to liquidate all the property and that after payment of debts, "that such further or other judgment be rendered as may be just and equitable."[5]

The trial court concluded that the Hutterite corporation had exceeded its charter of incorporation and was engaged in secular pursuits and amassed real estate and assets far in excess of that necessary for the religious purposes of the organization. The trial court also displayed extreme hostility to the Hutterite way of life:

> ..that the members of the corporation ..have refused to take any part in the defense of the United States in its war...that their religious books are printed in the German language; ...that the children are restrained within the colonies and prevented from mingling with the outside world; have not been permitted to attend the State Fair, and have been deprived of such enlightenment as may be acquired by mingling with the outside world and attending institutions maintained by the state; that parents are deprived of the exclusive custody, discipline, and control of their children; that the defendants in living a communistic life.... no stock is provided for in the corporate charter, and no profits, dividends or property of any kind have ever been distributed to the members..[6]

The trial judge ordered the corporation which had assets of over a million dollars at the time to dispose of all of its real estate over the amount of $50,000, amend its by-laws to exclude all secular pursuits, and failing compliance, appointed a receiver to take over and liquidate the property.[7] So much for freedom of religion in 1922 in South Dakota.

As noted, the case was appealed to the South Dakota Supreme Court. The decision of the court may well be read as a blow to the concept of holistic religious freedom in the sense that it did take away corporate status. But on the other hand what is important is that the court overruled all the negative assertions that the Hutterites were "a menace to society." First the court stated that the Hutterites did not violate the law of the state or the United States in anyway:

> So far as the record discloses, the actual or purported refusal of members of the corporation and church to obey law, either state or national, consists solely in a refusal to aid physically or financially in the carrying on of war. They are not shown to have engaged in any unlawful or immoral pursuits or occupations. It is not shown that they have harmed the state, society, or any human being, unless we assume that they harm themselves, their children, and the state by following the mode of living adopted by them, and

which they believe to be in accordance with the teachings of the New Testament.[8]

Quoting both the State Constitution and the First Amendment, the court asserted that religious freedom was at stake and the Hutterites had the right of exemption from combative military service. However, the court then turned to the issue of incorporation. The court held that religious freedom did not include the right to incorporate as a religious organization.

The legal ground for debate over the corporate status of the Hutterites related to Section 7, Art. 17 of the State Constitution which stated:

> No corporation shall engage in any business other than that expressly authorized in its charter, nor shall it take or hold any real estate except such as may be necessary and proper for its legitimate business.

The majority judgment then took the classic narrow approach to religion and asserted that the corporation was violating its charter:

> ..the principal business of the corporation is secular, viz. the engaging in farming and other industrial pursuits for the purpose of the sustenance of its colonies; that next in order the business of the corporation is political, viz. the government of its members; and that lastly and secondarily the objects of the corporation are religious, and, to a very limited degree, educational..[9]

The court found further support for this conclusion in the argument that if the corporation was indeed a religious corporation, as its charter claimed, than it would not be subject to taxation. It was admitted that the corporation had paid its fair share of local, state, and federal taxation.

The effect of the decision on appeal was that the Corporation had to be dissolved. But the point is that while corporate status was denied to the Hutterites of South Dakota, they could continue to hold all their real and personal property communally as before, using trustees for an unincorporated organization. There are advantages to incorporation, particularly in that having property held by individual trustees raises legal difficulties when they die and need to be replaced and the like. The more important point is that the court dealt with the same problem of the scope of religion and the nature of a colony that Canadian courts would later deal with. The majority took a narrow approach while in a dissenting judgment, Smith J. took a holistic approach to religious freedom citing State v. Amana Society[10] from Iowa to the effect that you should not separate the colony activities into secular and religious spheres.

2. Income Tax in the United States

The legal effect of the Bon Homme Hutterite corporation became the subject of litigation again. Even though the corporation was dissolved in 1923 as a result of the Chamberlain case, the federal tax returns for the corporation for the 1919 year were reviewed and a deficiency of $1,884.37 was demanded of the colony in 1925. The case came before the United States Board of Tax Appeals in Hutterishe Bruder Gemeinde[11] where the Hutterites claimed tax exemption as a religious organization. The Board, however, noted that the corporation operated nearly 10,000 acres of farm lands and produced a volume of agricultural products far in excess of the needs of its members. Indeed in 1919 it sold products on the market for about $100,000 and after proper deductions showed a net taxable income of about $21,000.

In competing against other producers, why should not the colonies pay federal income tax? The panel concluded:

> The members of the taxpayer have elected, as is their right under the laws of the Republic, to lead a communistic life. They constitute in effect a single family with two principle purposes--the one to lead the sort of religious life that is pleasing and acceptable to them; the other to conduct business operations for the twofold purpose of supplying their own simple physical needs and enlarging their communal

> possessions. Like every other family living within the law, this taxpayer has the protection and security that is its right under the Constitution and statutes of the United States. Public policy requires that it shall contribute its share of the revenues necessary to sustain the Government which protects it in its rights and privileges.[12]

Another tax appeal followed on the heals of this case in Hutterishe Church v. The United States in the United States Court of Claims.[13] This case involved the Elmspring Colony of South Dakota. In 1917, the corporation sold products to the tune of about $230,000 and had a net income of about $146,000. The corporation paid about $14,500 in federal tax and sought a refund on the basis of exemption as a religious organization. After the Chamberlain litigation this corporation also was dissolved in 1923 and the property of the former corporation was now held by trustees for the now voluntary unincorporated association.

The Court of Claims denied the request for a refund on the same basis as the previous case- that the corporation in question was not operating exclusively for religious, charitable, scientific or educational purposes but was in fact operating for the benefit of its members, even within the scheme of communal property where no individual got a share of the property.

In the same year as the Elmspring case another Hutterite case dealing with federal taxation was heard by the United States Board of Tax Appeals in Hutterishe Bruder Gemeinde.[14] Unlike the other cases, however, this case dealt with a valuation issue involving invested capital rather than a claim for exemption. The Hutterite Church in question was successful in the matter.

3. Debtor's Rights in Canada

The first reported case in Canada in the category of host society litigation arose about twenty years after the Hutterites arrived in Canada. While the self-sufficient Hutterite colonies fared much better during the depression than most farmers, some colonies evidently did have trouble. The Barickman Hutterite Colony in Manitoba, consisting of 24 families, filed a debt relief application in 1937 under The Farmers' Creditors Arrangement Act[15]. Some creditors of the colony objected that the colony, being incorporated as a "religious community", was not really a "farmer" as that term was used in the statute. The official receiver under the Act made application to the court for direction on this point. Roy, C.C.J. found in favour of giving the colony the protection of the Act, but this decision was reversed, without any written reasons being given, by the Manitoba Court of Appeal.[16]

On appeal to the Supreme Court of Canada, the Colony was successful.[17] Chief Justice Duff, while asserting that the colony was indeed a religious community, stated:

> The corporation (which takes the place of the former trustees) is simply the legal instrumentality by which this autonomous community of farmers manages under the law its affairs and those of its members (according to the plan of community of property); and I can see no impropriety in designating it as a "farmer", as a "person" whose principle occupation is farming.[18]

Kerwin J. asserted that while the colony was a religious community it also had a temporal object which was farming. Cannon J. in dissent asserted that given the religious object of the colony, the principal occupation of the colony could not be farming.

This issue of how to characterize a Hutterite colony is an important one in terms of the topic of freedom of religion. In many of the cases to follow in both categories of litigation the decisions of the courts go one way or the other as to whether the colonies should be viewed primarily as secular commercial enterprises with a view toward the maximization of profits, albeit in communal property form, with the religious motivations for that form being viewed as secondary; or whether, on the other hand, the colonies are primarily religious organizations in

which the commercial aspects are secondary and subsumed under the religious umbrella.

On one hand, the Hutterites might be viewed as an example of holistic religion. By this I mean that religious faith shines a light on all of life and the believer is called upon to align all aspects of life into conformity with the exposing truth of that light. There is no fundamental divide of life into a religious sphere and a secular sphere. Of course if freedom of religion in a legal sense is drawn with this holistic scope in mind it will be immediately apparent that the demands of religion could have the potential to conflict with any part of the so called secular legal corpus thereby raising the issue of whether or not the religious claim should be accommodated.

On the other hand, it is not so obvious that the Hutterites currently do embody this holistic approach to religion. Indeed Karl Peter notes that the mindset of Hutterites has changed from the original tradition and that today Hutterites themselves are internally dualistic.[19] For example, Peter claims that Hutterites operate efficient capitalist enterprises utilizing the most advanced technologies and treat these matters as indifferent as regards to spiritual matters.

The majority of the Supreme Court in Barickman wanted to give the Hutterites the benefits that other farmers got in the aftermath of the depression, and to do so they adopted the view that the colony had both a spiritual and a temporal dimension. In this case the spiritual dimension did not thereby detract from receiving the temporal benefit of the law, but obviously in a different case the same argument might be used against Hutterite colonies when the temporal burden of laws, rather than benefits, was at stake. This is precisely what did happen when restrictions against Hutterite land acquisition arose in all three prairie provinces in Canada and also when the courts had to sort out claims for exemptions from income tax. The courts essentially characterized the colonies not as holistic religious orders or charities, but rather as commercial enterprises in communal property form.

The other point to note in Barickman was that the litigation was not initiated by the Hutterite colony but rather by the official receiver under the statute in question.

4. Communal Property in Canada

During the Second World War the passivist and German speaking Hutterites encountered considerable hostility from the host society. The hostility turned into direct discrimination by the passing of laws to prevent the expansion and proliferation of Hutterite colonies.[20] For example, the Alberta Land Sales Prohibition Act of 1942 prohibited any sale of land to Hutterites.[21] This Act was replaced after the War by The Communal Property Act of Alberta in 1947 which, while not abolishing all sales, severely restricted the ability of Hutterites to buy land.[22] For example, no colony could purchase land within 40 miles of an existing colony or increase its holdings beyond a certain number of acres. In 1960 the Act was further amended to create a Communal Property Control Board and requiring any colony to get approval of the Board to increase colony holdings or purchase land for a new colony. Eventually it became the cabinet itself that had the power to give permission or not for Hutterite land purchases. The Act was finally abolished in 1973.

The discrimination against Hutterites in the form of land purchase restrictions was not confined to Alberta. In both Saskatchewan and Manitoba the restrictions took the form of unlegislated restrictive agreements that the provincial governments formulated with the colonies. The Hutterites were forced to accept these restrictions under threat that legislation would be passed if they did not.[23]

The reasons for hostility against the Hutterites within the host society were numerous, and to a degree continue to this day.[24] Hutterite colonies, once they are established, almost never collapse. The land never goes back on the market. Once established, the colony will amass assets so as to produce a daughter colony. Once a daughter colony is established, the original colony will start the process all over again to amass assets to produce a second daughter colony in due course. Thus the rural host society claims that more and more land is taken over

by Hutterites and not available for ordinary farmers.

Another point that fuelled the discrimination related to the perceived negative impact of Hutterite colonies on the overall social health of rural communities. Hutterite colonies were by definition an isolated separate world within the wider world. Hutterites could not be expected to be actively involved in supporting the community clubs or schools or civic organizations that formed the backbone of the rural town or municipality. Furthermore, the largely self sufficient Hutterites were not big consumers of local commercial enterprises, but rather bought machinery and other goods in bulk from city wholesalers.

The discriminatory feelings against Hutterian expansion continued long after the legal restrictions and informal agreements were lifted. As late as 1982 there was a resolution before the Union of Manitoba Municipalities calling for restriction on Hutterian land purchases.[25] This resolution was hotly debated and overwhelmingly rejected as being discriminatory and contrary to the Charter of Rights.

However while the restrictions against Hutterian land purchases are now unacceptable, they lasted for many decades and they were upheld by the courts. The first reported decision dealing with a challenge to the legislation in Alberta was In Re Hatch and East Cardston Hutterian Colony in 1949.[26] In this case both the attempted vendor of the land and the colony as potential purchaser appealed the decision of the Director under the Act. The Director had refused to allow the sale of the land. The appeal was made to the Alberta District Court according to the statutory appeal provisions in the Communal Property Act[27] itself. However the appeal was not based on an alleged error by the Director under the Act, but rather based on the argument that the statute as a whole was ultra vires. Feir D.C.J. asserted that he did not have jurisdiction to decide this issue by way of proceedings taken under the statutory appeal provisions and thus the decision of the Director refusing the sale was upheld.

However, a proper appeal was eventually brought to the courts by way of a test case after various persons were charged with violating the Act. The Walter case wound its way right up to the Supreme Court of Canada.[28] Not having an entrenched Bill of Rights, the case was litigated on the jurisdictional issue of whether the province of Alberta had the power to pass the Act. The Communal Property Act was upheld at every level as being an Act which in pith and substance was about land tenure and therefore within the legislative authority of the province, and not about religion which would have arguably made the Act ultra vires of the province on the theory that regulation of religion falls within the Federal power.

Even though the Act was passed with only one object in mind, namely to control Hutterite expansion, it was drafted to appear as if it had more general applicability. In the definition section "colony": [s. 2 (a)]

> (i) means a number of persons who hold land or any interest therein as communal property, whether as owners, lessees or otherwise, and whether in the name of trustees or as a corporation or otherwise,
>
> (ii) includes a number of persons who propose to acquire land to be held in such manner, and
>
> (iii) includes Hutterites or Hutterian Brethren and Doukhobors.

Even though there was no evidence of any Doukhobor colony in Alberta, nor any evidence that any persons other than Hutterites had any desire to hold land as communal property, the courts still held that, as stated by McDermid J.A.:

> The true nature of the legislation, in my opinion, is not to suppress the Hutterites' religion, but is to prevent any group from acquiring land as communal property, and as the Hutterites are such a group it so prevents them.[29]

Martland J. who delivered the judgement of the Supreme Court in 1969 said:

> The purpose of the legislation in question here is to control the use of Alberta lands as communal property. While it is apparent that the legislation was prompted by the fact that Hutterites had acquired and were acquiring large areas of land in Alberta, held as communal property, it does not forbid the existence of Hutterite colonies. What it does is limit the territorial area of communal land to be held by existing colonies and to control the acquisition of land to be acquired by new colonies which would be held as communal property. The Act is not directed at Hutterite religious belief or worship, or at the profession of such belief. It is directed at the practice of holding large areas of Alberta land as communal property, whether such practice stems from religious belief or not.[30]

Perhaps the most damaging statement in terms of preventing accommodation for holistic religion in Canada was made by Martland J.A. as follows:

> Religion as the subject-matter of legislation, wherever the jurisdiction may lie, must mean religion in the sense that it is generally understood in Canada. It involves matters of faith and worship, and freedom of religion involves freedom in connection with the profession and dissemination of religious faith and the exercise of religious worship. But it does not mean freedom from compliance with provincial laws relative to the matter of property holding.[31]

This case, of course, was decided before the Canadian Charter of Rights and Freedoms came into effect in 1982. We would assume that for purposes of Charter interpretation, Martland's anaemic understanding of the scope of religion would no longer prevail. Living by the tenets of community property is very centrally a religious matter for the Hutterites, and to suggest that laws prohibiting or regulating that form of property holding have nothing to do with religion must be viewed as simply wrong. The Supreme Court in Walter confined "religion", as it were, to the narrow activity of what Hutterites did when they gathered in the schoolhouse for church services and to the freedom of Hutterites to intellectually assent to some beliefs. But religion is a matter of practice and not just belief, and the practice of religion is not something confined to what we do in church but extends to what we do in our house, what we do in our work, what we do in the world generally. To prohibit the expansion of communal property was a direct discriminatory act against the freedom of Hutterites to practice their religion in Canada.

However, even if we assume the courts today would give a much broader scope to the content of religious freedom under the Charter, the courts would still engage in section one balancing where various governmental interests, particularly if they were neutral on their face, might well outweigh the religious freedom right.[32] While I am a largely a sceptic as to the overall reformist value of the Charter of Rights and the judicialization of politics resulting from the Charter, I must conclude against my own Charter scepticism, that the Walter case would likely have been decided differently if Canada would have had an entrenched bill of rights at that time.

While the anaemic understanding of religion prevailed, it must be noted that the courts were not entirely unhelpful to the Hutterites during this shameful period of legislated discrimination against them. For example, In Re Communal Property Act[33] the Castor Colony in Alberta appealed the decision of the Communal Property Control Board which had denied the request of the Colony to expand its arable land holdings by buying a farm that was not immediately adjacent to the colony but was rather a few miles away. The farmer who wanted to sell to the Hutterites also appealed the decision of the Board which had held that the purchase was not "in the public interest". Chief Justice Decore of the Alberta District Court noted that the Board made the decision after receiving three letters from parties opposed to the sale. These letters were not disclosed to the Hutterites or their lawyers and thus in violation of fundamental due process the Hutterites were unable to properly respond to the negative comments. Decore C.J. held that this was a denial of natural justice and he approved of the sale of the land to the Hutterites.

5. Incorporation in the United States Revisited

That a new round of discrimination against Hutterites resurfaced in South Dakota is evident from the 1958 case of State of South Dakota ex. rel. W. G. Dunker, State's Attorney of Spink County v. Spink Hutterian Brethren.[34] In 1935 South Dakota passed Communal Corporation Laws which accommodated Hutterite colonies. The effect of these provisions was to return to the Hutterites the benefit of incorporation that had been denied in the Chamberlain case of 1922. Then in 1953 some portions of the Communal Corporation Laws were repealed and in 1955, in a new wave of discriminatory feeling, South Dakota repealed the Communal Corporation Laws as to the incorporation of any new colonies, but it left in place the legal rights of those colonies already incorporated, "except that it shall be a bar to the expansion of any activity or power of such society, association, or company..."

The colony in question in the Spink case had been reincorporated properly in 1945. After the 1955 repeal, however, the colony purchased an additional 80 acres of land and the State's Attorney General for Spink County brought action to have the colony's charter of incorporation annulled. The colony argued that the repeal legislation was unconstitutional as a violation of freedom of religion, but the trial court declared it unconstitutional on the ground that it was too vague in terms of what it did or did not save in regard to the powers of existing Hutterite corporations.

On appeal by the State, the Supreme Court upheld the statute. In terms of dealing with the law of corporations and the power of the state to create, regulate, and annul corporations, the court set aside the religious freedom issues. The court stated:

> This chapter provides for communal, not religious, corporations and is equally applicable to atheistic communistic corporations and to Christian communals. Corporations chartered under this chapter, regardless of the purposes and powers stated in their articles of incorporation, and regardless of the beliefs of its members, as stated therein, are secular corporations.[35]

Having thus disposed of religion, the court was of the view that the legislature might have good reasons for denying corporate status, which after all, is a creation of law, to Hutterite groups. For example, said the court:

> Under the purported powers as set forth in the articles of incorporation, any member may be expelled by a majority vote without being permitted to take with him so much as a small coin bearing the motto of this country, "In God We Trust."
>
> Any member bringing suit to secure a right or redress a wrong or to secure a declaratory judgment as to the validity and effect of the articles of incorporation, or his right to receive a legacy, would do so at the risk of such expulsion.[36]

The court upheld the decision of the state to stop creating any new communal corporations. It also did not find the so called saving provisions that froze the powers of existing communal corporations too vague. However, as applied to the facts in this case, the court found that the colony in question did not expand its activity by buying the 80 acres. It was shown that the colony had leased the land before 1953, and thus the purchase of the land after not being able to lease it from the owner, did not constitute an unlawful expansion of the activities of the corporation.

6. Canadian Income Tax

In terms of litigation involving the Hutterites and the host society the next series of reported cases involved Income Tax matters. While the Hutterites did pay property and other taxes on their community holdings, the issue arose as to whether Hutterites, who received no wages for the work they did and who did not have any entitlement to a personal share of any colony assets, could claim exemption from paying income tax. If the colony as a corporation or as a trust paid income tax on the profits of the colony, the rate would be very high

since the colony paid no wages to the workers, which expense would ordinarily be deducted. The alternative was to have income tax paid on a deemed individual basis where the overall profit of the corporation was proportionally assigned to the adults of the colony. This approach would more fairly accommodate the communal property regime into the income tax law. On the other hand, some Hutterites claimed that no income tax was payable at all, either as a corporation or on a deemed individual basis, because the colonies were religious organizations or charities, not unlike various tax exempt Roman Catholic religious orders.

The Schmeid-Leut and Lehrer-Leut branches of the Church, recognized the need to contribute to the overall development of the host society in which they lived, despite the fact that Hutterites did not utilize many of the welfare programs of the government, and they negotiated an agreement with the Federal Government to pay income tax on a deemed individual basis. It was more advantageous to the Hutterites to pay a deemed individual proportional share of the colony profit, than to pay the corporate rate, because the corporation could not deduct expenses by way of wages, since no Hutterites received wages. But the Darius-Leut branch challenged the payment of any income tax. Thus the issue first came up for determination when various Darius-Leut Hutterites in Alberta appealed their assessments to the Tax Review Board. The Board released a decision in 1972.[37]

The argument on behalf of the Hutterites that they were not subject to income taxation, was summarized as follows:

> (a) They are an accepted Religious Order.
> (b) They are no burden on any level of Government.
> (c) They pledge to live in perpetual poverty.
> (d) No individual has any personal gain, and derives no monetary benefit or any benefit whatsoever.
> (e) All the capital surplus of the Church is donated to the congregation for the support of widows, orphans, sick, weak, poor, aged and preparation for accommodation for the younger generation.
> (f) They also come under [Canadian Human Rights Act].[38]

The attempt to characterize the Hutterite colony as similar to various Roman Catholic religious orders was rejected by the Tax Review Board. Again the issue of the legal character of the colony arose. The Board asserted that the Hutterite colony was not exclusively a church or charity, but was also a secular commercial enterprise and members of the colony personally benefited from the enterprise, even if the profits were held communally. Thus the members of the colony were liable to pay income tax in proportion to the collective income of their respective colony.

This decision was appealed unsuccessfully to the Federal Trial Court.[39] Mr. Justice Urie pointed out that the Hutterian Constitutions and Articles of Association frequently declared that all property was held for the common use, interest and benefit of each and all members.[40] On his reading of the situation, each member of the colony in effect was "benefited" by an equal share of the profits of the colony, but these shares were assigned, by contractual agreement and religious conviction, back to the common pot. Thus, even if each individual did not personally receive any wage nor could claim any personal ownership share, the person could still be taxed as if they had a personal share on deposit as it were in the common pot. Further, following the Barickman[41] reasoning, where the Supreme Court of Canada had characterized the colony as engaged in farming, rather than as being a religious organization, so as to grant the benefit of the law to it, so the burden of the law should also logically now flow from that reasoning. The colony was not exclusively a religious order or charity but was viewed in the eyes of the law as being also a secular commercial enterprise subject to income tax.

Finally, in regard to the arguments involving religious freedom, Urie J. stated:

> The application of the Income Tax Act in no way imposes any obligation on the Hutterites to accept income. All that has been done is to enact legislation within the powers of the Parliament of Canada requiring the taxing authorities to tax the income earned by all Canadians including Hutterites. This does not mean that there has been any deprivation of his freedom to practice the religion of his choice in the

manner required by his Church nor that he is thereby forced to infringe any of the tenets of his faith and it does not in any way constitute an infringement of the basic rights given all Canadians in the Bill of Rights. [42]

The Darius-Leut Hutterites appealed further to the Federal Court of Appeal.[43] The Hutterites were successful at this level of appeal, as the Court held that under the present wording of the Income Tax Act, they only needed to pay income tax on the subsistence benefits given to them by the colony, as opposed to paying on the basis of a deemed personal share in the profits of the colony as incorporated or sometimes as held in trust by trustees.

To understand the decision requires a brief note on a leading case that I will deal with in the second category of litigation involving disputes within the Hutterite community. In 1970 the Supreme Court of Canada in Hofer v. Hofer[44] dealt with a situation in which some members of a Hutterite colony joined a different church and after being expelled from membership in the Hutterite colony they sued the colony for a share of the assets. The Court held that they were not entitled to any of the colony property. The view of Urie J. at the Federal Trial court level that the members of the colony were in a sense entitled to a share of the common pot even if they agreed never to take it personally, was held by the Federal Court of Appeal to be inconsistent with the reasoning of the Supreme Court in Hofer. Thus the Federal Court of Appeal stated that Hutterites through their articles of association or trust deeds essentially renounced any claim for shares in the corporation or trust community, other than the right to be sustained on the colony.

This decision was upheld by the Supreme Court of Canada on appeal by the Crown in a one line judgment adopting the Federal Court of Appeal's reasoning.[45] However, the victory by the Darius-Leut was actually more of a defeat. The case just declared that under the current provisions of the Income Tax Act and the legal nature of the communal property regime, the deemed individual approach to income tax of colony profits was not at present legal. That did not, however, stop the government from imposing income tax on a corporate basis. As noted by Dr. Janzen, the government amended the Income Tax Act to allow for the deemed individual approach which was applied to the Schmeid-Leut and the Lehrer-Leut colonies and then the government proceeded to tax the Darius-Leut on a corporate basis, which meant that the Darius-Leut would be paying much higher rates than under the scheme they had successfully challenged in court.[46]

A new round of litigation was started by the Darius-Leut in an attempt to challenge the corporate income tax that threatened to bankrupt their colonies. They could not deduct the market value of the labour of their members as an expense, but rather only the actual expenses such as housing, food, clothing, etc. Since the Hutterites are notorious for living very simply and self-sufficiently in terms of "personal" consumption, the profits to be taxed at the corporate rate were huge. Thus, the litigation now raised both the issue of having to pay any tax at all by claiming that the colony as a whole was a church or charity, and secondly, in the alternative, if a tax was to be paid, the colonies should be allowed to deduct the actual market value of the labour of the members even if they never were paid wages.

These issues first came before Mr. Justice Mahoney of the Federal trial court in 1978.[47] Mahoney J. noted that the amount of tax in dispute from the Darius-Leut colonies from 1968 to 1975 allegedly amounted to 37 million dollars.[48] He ruled against the colonies and they appealed to the Federal Court of Appeal in 1979 which also ruled against them.[49] The Court of Appeal again characterized the colonies as not exclusively religious or charitable and thus not exempt from paying income tax. Even if the members of the colonies were motivated by religion to be farmers and even if the Hutterian religion viewed all of life as forming part of religion, in the eyes of the law the farming enterprise was not a religious or charitable activity. Furthermore, according to the provisions of the Income Tax Act only the actual costs of providing food and shelter and so forth could be deducted and not some deemed market value of labour.

Rather than appealing to the Supreme Court of Canada, the Darius-Leut finally came to an agreement in

1981 to be taxed on a deemed individual basis just as the other two Hutterite conferences had done.[50]

Finally in terms of tax litigation, in Hutterian Brethren Church of Morinville v. Royal Bank[51] the Alta. C.A. held that it did not violate due process for the bank to comply with a demand from the Tax Department to remit the alleged amount of money due for tax from the colony account while the colony was appealing the assessment. In Alberta v. MNR and Hutterian Brethren Church of Smoky Lake[52] on the other hand, the court held that the Federal Tax Department could not garnishee various term deposit certificates of Hutterian colonies held in Provincial Government Treasury Branches. The result hinged on various technical interpretations of the obligations of the bank under the terms of the certificate.

The Income Tax cases illustrate again the two related issues of the legal characterization of the colony on one hand, and the scope of religious freedom on the other. In terms of the character of the colony, why the unwillingness to accept the colony as exclusively a religious organization that would be tax exempt? Perhaps the key to this relates to the fact that the Hutterite colony is very different in terms of economic dynamics as compared to the religious orders and organizations which people join as adults and usually as celibate adults at that. The Hutterite colony is composed of families. Also the courts look at a colony and see a very successful commercial enterprise with profits that seem to be far in excess of that which is necessary for the bare sustenance needs of the members. Yet the courts seem to ignore the fact that the profits are aimed at the establishment of a new colony so that the growing population will have meaningful work to do and so that the colony will not get so large as to raise a host of problems in terms of sustaining interpersonal relationships. One could argue that the personal, religiously motivated claim to live in perpetual poverty is actually no different than that of other religious orders, but for the addition that the colonies are intergenerational.

Another more logical explanation is that religious orders and organizations usually are perceived as gaining tax exemption on the bases that these organizations charitably benefit the society beyond the walls of the organization itself. While Hutterites are good neighbours and are quick to aid others in an emergency situation, and do not look to the state for welfare benefits and so forth, the income made by the colonies is overwhelmingly used internally to support the internal growth of the sect rather than used for any substantial charitable or religious purpose aimed at the wider community.

Furthermore, if exempt from income tax as religious organizations, the colonies would receive an unfair advantage over other agriculture producers who compete in the same markets. The Hutterite colony is not sustained by donations given to it, but rather by selling products to the host society. Furthermore, there is something very artificial about personal vows of poverty in terms of property ownership, in the context of having life long personal usufructuary rights to communal property. Suppose that I am a member of some religious organization which has considerable community assets. I own nothing personally nor am I given a wage, but I am provided with a comfortable apartment by the organization. Suppose that I am provided with a vehicle to use. Suppose that I am provided with expenses by the organization to fly to various locations and while there stay in nice hotels. Suppose that the organization has a good library which I can use at any time. My food and clothing and medical and other needs are provided by the organization. It seems plain that my personal pledge of poverty in no way translates into actual personal poverty. Indeed, the argument could be made that I am very rich. Legal ownership of property is far less important to wealth questions than the right to use property. While my hypothetical conforms to my own desires for travel and reading and such, the point could still be applied to a degree to Hutterite colonies for purposes of how we view taxes on wealth.

While the courts approach to the issue of the character of the colony for income tax purposes does not seem surprising, it should be noted that the issue of religious freedom in terms of income taxation was not really an issue in these cases. While some arguments were made as to conscientious objection to taxation directly related to support for war by the government, it was established in the litigation that Hutterites did not claim that paying tax to the government as such violated their religious belief or practices.

7. Education in the United States

Arguably the most important case involving Hutterites and freedom of religion in the United States is the litigation over education. Located east of Ipswich, South Dakota, the Deerfield Colony was established in 1971 as a split from the Plainview Colony. For the first year, the school children at Deerfield Colony were bussed to Plainview Colony to attend the public school there. Then the Deerfield Colony was told by the Ipswich Board of Education that the children could no longer go to Plainview for school, but would be bussed into the town of Ipswich.

As anyone who understands Hutterite ideology would know, the Deerfield folks refused to put their children on the bus to town when the buses arrived. At this point in time, most Hutterite colonies in South Dakota, as is the case in Canada, had a public school established on the colony itself. The statutory authority for this was found in S.D.C.L. 13-23-9 (1975):

> If a petition, signed by the persons charged with the support and having the care and custody of fifteen or more students who are eligible to attend an elementary school, all of whom reside not less than four miles from the nearest school but all of whom reside within one mile of each other, is presented to any school board asking for the organization of an elementary school for such children, the board may organize such school and employ a teacher therefor provided a suitable room or building is made available by such petitioners at a proper location...

The Deerfield Colony applied to the Board under this provision but was denied. The Colony brought a class action against the Board in Federal Court seeking a declaration that the Board's action was discriminatory and an injunction to force the Board to establish the school on the colony.

In Deerfield Hutterian Association v. Ipswich Board of Education[53] it was established in 1978 on a motion by defendants to dismiss the case that the Federal Court did have jurisdiction. The strongest ground for this jurisdiction was the Federal Equal Educational Opportunity Act of 1974, 20 U.S.C. section 1703(f) which stated:

> No state shall deny equal educational opportunity to an individual on account of his or her race, colour, sex or national origin by,...
> (f) The failure by an educational agency to take appropriate action to overcome language barriers that impede equal participation by its students in its instructional programs.

The case therefore went to trial in 1979 with the decision reported as Deerfield Hutterian Association v. Ipswich Board of Education.[54]

Chief Justice Nichol of the U.S. District Court accepted the evidence that the Hutterites are the only people in the world who speak Tyrolean German as their primary language and that children are not exposed to English until they enter school in Grade One. Furthermore, Tyrolean German is an oral language which does not exist in written form. The books and sermons are written in High German. When the children enter school the teacher is unable to communicate with them. In most cases the teacher will utilize the older children in grade seven or eight to translate communications to the little ones.

Furthermore, Nichol C.J. accepted the importance to the Hutterites of limiting exposure to the town where, "they are constantly exposed to worldly goods and temptations."[55] He also noted their distinctive culture of wearing modest clothing and their theological beliefs that only in living communally would a person inherit eternal life.

Despite this, however, the Court found that the School Board had not violated any legal rights of the Hutterites by insisting that their children be taken to town for public education purposes.
Nichol C.J. asserted:

> The evidence shows that a successful bilingual-bicultural program could be established in Ipswich which would be to the benefit of the Hutterite children. Furthermore, education of the children at the Colony is

> not in the children's best interest. ..The needs of the children could be completely serviced in town. Classroom space could be made available, personnel would find it easier to service the needs of the children, a hot lunch program is available in town. Most importantly, the Hutterite children would not find it any more difficult to adapt to the experience of being educated in town than they would in a colony school.[56]

After examining the famous Yoder case from the United States Supreme Court[57] and the issue of the religious freedom of the Hutterites, Nicol concluded that providing education for Hutterites in town rather than at the colony did not violate freedom of religion. He stated:

> The Court agrees with the plaintiffs that the Hutterites' education should not be and cannot be conditioned upon the abandonment of their religion, the abandonment of their language, the abandonment of their dress, or the abandonment of their fear of worldly values. But the Board has not demanded that the plaintiffs abandon their beliefs. It has simply offered to educate them in Ipswich and it has refused to support their education at the Deerfield Colony.[58]

Another point made by Nichol C.J. was that because of the establishment clause, many parents have to pay for private education so as to preserve their religious practices. Why should the state have to pay for what is essentially a separate school because of the religious beliefs of the parents? However, he did not rule on this counter-argument that to establish public schools on Hutterite colonies would violate the establishment clause. Rather he dealt with the free exercise prong. He stated:

> The Yoder case does not stand for the proposition that if a religious group feels strongly about its religious tenets and wishes its children segregated from the world, it can force the state to set up and pay for a separate school for the children....
>
> The essence of Yoder is the Wisconsin compulsory education law which forced the Amish to violate their religious beliefs. There is no comparable law in the present case. The Hutterites are not being forced to violate their religious beliefs. They can, if they wish, educate their children at the colony at their own expense.[59]

Because the Court asserted that there was nothing in this case which triggered the strict scrutiny required under the First Amendment, it turned to the equal protection arguments that the Hutterites were being discriminated against in terms of educational opportunity because of their religion or national origin. In regard to this the court held that education is not such a fundamental right to trigger strict scrutiny. Rather all the state has to show is that the statute has a rational relation to a legitimate state interest and the statute is neutral on its face and has not been applied with an intention to discriminate. The Court stated:

> Plaintiffs could have attempted to show that other non-Hutterite groups had applied to the Ipswich Board of Education and had been granted a school. They did not. Plaintiffs could have attempted to show that individuals who make up the Ipswich Board of Education are hostile to the Hutterites and have acted with prejudice. The plaintiffs failed to do so.[60]

It is probably only a matter of time before this issue of Hutterite education is also litigated in Canada. Is the establishment of publicly funded schools on Hutterite colonies in Canada just a matter of current discretionary practice or is it a right? On the other hand, rather than being a right, perhaps the opposite will be argued. The establishment of public schools on Hutterite colonies should not be permitted because this violates equality provisions in that accommodation for religion is being made by the public school system for the Hutterites but is not being made for other religious groups that have to fund their own private schools to meet their religious needs. The key finding in Ipswich that a town education could accommodate Hutterite needs without violating their freedom of religion seems very dubious to me. The key focus should not be on accommodating language concerns, although that is important, but rather on the religious ideology of the Hutterites in terms of their

interpretation of what "separation from the world" means. The Hutterites should be accommodated in the provision of public education as a matter of freedom of religion and since Canada does not have an establishment clause, indeed public funding for some religious schools is mandated by our Constitution[61], the argument that government is somehow entangled in the support of religion by making this accommodation should be dismissed. However, the equality provisions of the Charter might serve to complicate the matter as indicated in the large amount of litigation that has already taken place over governmental funding or lack thereof for "private" schooling, religious or otherwise, and the thorny issue of the teaching of religion or the holding of religious exercises in public schools.[62]

8. Municipal Zoning in Canada

While payment of income tax to the host society on the profits of large scale farming operations only seems fair, rather than discriminatory, in terms of disallowing what otherwise would be a significant market advantage of the colonies over against other farmers, the next series of more recent cases raise the issue of direct discrimination against Hutterites, this time played out by way of municipal zoning provisions.

In 1979 in Saskatchewan v. Vanguard Hutterian Brethren[63], the court determined some points of evidence which arose at a trial. The Colony had been charged with violating some interim development controls imposed by the Rural Municipality of Whiska Creek. When the Rural Municipality learned that the Hutterites were buying land in the area, the Municipality proposed passing a zoning by-law which would restrict building to a single-family dwelling per quarter-section and passed an interim resolution banning all developments that would be affected by the proposed bylaw. The colony was charged with violating the resolution. The defence of the colony to this charge was that the orders were ultra vires because they were passed in bad faith solely to discriminate against the colony. The points of evidence related to the colony's attempt to subpoena various government officials and the officials resistance to give such evidence on the basis that to do so would violate crown privilege.

The Saskatchewan Court of Appeal held that various officials of the government could be called upon to give evidence in the case. When the case came back to trial, the charge against the colony was dismissed on the ground, among others, that the by-law was a nullity as it was passed in bad faith for the sole purpose of discriminating against Hutterites. The Crown appealed and in R v. Vanguard Hutterian Brethren, Moore D.C.J. upheld the decision of the trial judge.[64] Moore pointed out that the resolution was passed in bad faith:

> In my opinion the council of the rural municipality ..was simply using the Planning and Development Act as a disguise to keep the Hutterian Brethren out of the municipality....
>
> I have no hesitation in holding that the beliefs of the Hutterian Brethren are a religion and their communal style of living is a religious association, and, further, the totality of their religion is their belief and their communal style of living...There is no evidence that the establishment of a colony in the municipality would in any way affect the health, safety or general welfare of the residents. In fact the contrary may well be the situation. The brethren are good farmers, utilizing the land to its full potential, and there is no suggestion they are other than law abiding citizens.[65]

Another case related to municipal matters in Saskatchewan is Re Gallagher[66], where after a very close election for reeve in a rural municipality, the losing candidate applied to have the election voided because members of the Tompkins Hutterian Brethren Corporation were allegedly not qualified to vote. His argument was that the Hutterites and their spouses were not entitled to vote because the colony was not a farming corporation but a religious organization, and further that the individual Hutterites were not "shareholders" as required in the legislation. Moore D.C.J. was not about to disenfranchise the Hutterites however. He said:

I am satisfied that the relevant sections of the Rural Municipality Act granting the right of franchise must

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Hutterites allege labor law infringes on religious rights

HELENA — Religious colonies of Hutterites in rural Montana are fighting the state's attempts to impose a labor law backed by businesses that complain they can't outbid the low cost of the communal workers.

Hutterites are Protestants similar to the Amish and Mennonites who live a life centered on their religion, but unlike the o thers, Hutterites live in German-speaking communes scattered across northern U.S. states and Canada.

They don't pay wages, don't vote and don't enlist in the military. They make their own clothes, produce their own food and construct their own buildings.

"Their core belief is that they have no property. All the property and labor they have, they contribute to the colony," Ron Nelson, an attorney for the Big Sky Colony, told the Montana Supreme Court.

The state's high court on Wednesday heard arguments by the colony and the state on whether Montana's requirement that employers carry workers' compensation insurance can be expanded to religious organizations. A state judge already has ruled the 2009 law expanding the workers' compensation law to force the Hutterites to pay for the insurance violated their right to freely exercise their religion.

The state is asking the high court to reverse that decision, arguing the new law deals only with commercial activities and stays out of the Hutterites religious affairs.

The Hutterites' argument that everything they do is tied to their religion cannot exempt them from regulation when they voluntarily enter into an outside commercial activity, assistant Attorney General Stuart Segrest said.

"They're not allowed to become a law unto themselves," Segrest said.

The state Supreme Court did not make an immediate ruling.

Hutterites are primarily agricultural producers, and the men in their black jackets and the women in their colorful dresses are a common sight at farmers' markets across Montana. But in recent years they have expanded into construction with success because they can offer lower

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job bids than many private businesses.

Those businesses backed the 2009 expansion of Montana's workers' compensation law. The bill's sponsor, state Rep. Chuck Hunter, acknowledged then that the change targeted the Hutterites in particular and the need to create "a fair playing field" for other businesses that must pay for insurance.

"It's just frustrating for a private business that has to pay various taxes and workers' comp insurance to find themselves undercut competitively by an entity that is not subject to those same requirements," said Cary Hegreberg, executive director of the Montana Contractors' Association.

Big Sky Colony, a commune near Cut Bank, filed a lawsuit, saying the insurance requirement infringes on their religious freedom and that the colonies already provide comprehensive coverage for its members through the Hutterite Medical Trust.

The real competitive edge is that the colonies don't pay wages to their workers, not the lack of workers' compensation insurance premiums, the colony argued.

Nelson called the law "window dressing" to ease political pressure placed on lawmakers by construction lobbyists. The law puts a bulls-eye on Hutterite colonies and tries to drive a wedge between them and their members.

Hutterites don't need protection against lost wages because they don't get wages, the colony argues. Colonies don't need liability protection because they don't make claims — there has never been a workers' compensation claim asserted by a Hutterite.

But the Hutterites are an easy target for discrimination because they look, dress, talk and live differently than anyone else in Montana, the colony's attorneys argued.

"The colonies have suffered persecution and migrated and immigrated and moved for the past 500 years. They're very protective of their religious beliefs, and they just can't let that go. They have to assert their religious rights," Nelson said.

Hutterites have had a long history of discrimination. They moved to the Montana and Dakota territories in the 1870s after being forced to move from previous homes in Germany, eastern Europe and Russia due to persecution. They then moved into Canada after World War I when members were arrested for not enlisting in the

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military, returning to the U.S. after laws were passed to protect conscientious objectors.

The biggest concentration of Hutterites is in Canada, where hundreds of colonies are scattered from Manitoba to British Columbia. In the U.S., there are colonies in Montana, South Dakota, North Dakota, Minnesota, Washington and Oregon. There are about 50 colonies in Montana, with an average of about 100 people on each colony, according to a state report from 2010.

Like the Amish and Mennonites, they are Anabaptists who believe a person should be baptized only as an adult, when that person can make the decision independently. But unlike the Amish and Mennonites, they live in communes and have no personal property based in part on a Bible passage that reads, "All the believers were together and had everything in common."