

“Not to be Bought, Sold or Bartered With:’ Religious Communalists in a Fee Simple World – The Canadian Doukhobors and the Land Question, 1899-1999”

presentation to the “Land and Freedom” Conference of the Australian and New Zealand Legal History Society, Friday, July 9th, 1999, University of Newcastle, New South Wales

by

John McLaren, Lansdowne Professor of Law, University of Victoria, British Columbia

A phenomenon of British colonial settler societies and their descendants is selective historical amnesia.¹ This affliction has been acute in relation to the Aboriginal history of colonized land prior to settlement. However, the amnesia also infected the settlers’ memory of their own history as they or their forebears had experienced it in Britain itself. It is understandable that British settlers would have no knowledge of the seemingly arcane features of medieval English law.² More puzzling is forgetfulness of customary rights in common to land which settlers or their recent ancestors had enjoyed under English or Scots law, but from which they had been dislodged by the enclosure movement, or as result of the suppression of tribal and clan systems of landholding.³ As Don Watson has shown in his book, *Caledonia Australis*, the prior victims of the crushing of communalism and rights held in common, in this instance Scottish highlanders, were typically ardent advocates of individualized property rights in their new homeland, ignoring totally rights of the indigenous communalists in that territory.⁴

It is not difficult to find the reasons for this change in attitudes towards land holding. For people denied customary rights and displaced from the enjoyment of rights in common, the prospect of securing the clearest and most durable rights over land in the colony, “their land”, must have proven seductive and seemed necessary to their survival and prosperity. Secondly, as David Malouf has evocatively noted in *Remembering*

Babylon, for settlers set down, as they saw it, in an alien wilderness, nostalgia for remembered landmarks and a desire to tame the land and leave their mark upon it were enormously strong.⁵

None of this is to suggest that colonial settlers or their descendants were inevitably inflexible when claiming rights to land. In Australia pastoralists had no interest in permanent ownership of defined plots of land. For them it was the hairy or woolly chattels running on land that represented wealth. Accordingly, they were willing to breach English law as squatters to force concessions from colonial governments to whom they were trespassers, in this case a congenial leasehold system.⁶ By the same token in Canada by agreement between the state and the all-important lumber industry which was primarily interested in the sylvan product of the land rather than the soil, forests remained Crown land. Culling by the industry was carried out under a beneficial licensing system that gave them the trees without the burden of land ownership.⁷ Generally speaking, however, the settler flag was tied to ownership of land in fee simple or freehold tenure, and to a denial of the cultural legitimacy and so the legality of traditional, communal forms of land holding.⁸ In this paper I look at this phenomenon of corporate loss of memory in terms of the tension between the individualized conceptions of land holding in English and colonial law and the customs and traditions of a European immigrant group to Canada. They are the Russian-speaking pacifist religious communalists known as *doukhobortsi*, or Doukhobors.⁹ In Russia this group had for most of its existence worked land in common, held, as they believed, as stewards for God its exclusive owner, and reposed responsibility for its spiritual, social and economic life in communal institutions.

The majority of Canadian Doukhobors were allowed into Canada in two large groups for a total of 7500 souls in 1899, after the intervention of Tolstoyans and Quakers with the Laurier government.¹⁰ These support groups were anxious to save the migrants from persecution in Tsarist Russia for their pacifism, Ottawa to fill up the Prairies with “robust agriculturalists.” In negotiations in 1898 between the Canadian government, Doukhobor representatives and their supporters it seems to have been agreed that they would be granted blocks of land in the Northwest Territories (now Saskatchewan) under the amended hamlet clause of the **Dominion Lands Act**, s. 37.¹¹ This provision said that a cooperative association could be granted homesteading rights and allowed to settle in villages, and to satisfy the conditions for working the land by communal agriculture, rather than in individual half-sections. The Dominion lands system based on American models of land settlement and a grid survey normally required a homesteader and his family to locate on and work his allocated block of land.¹²

After their arrival it soon became clear that the Doukhobors, still without their leader who was in exile in Siberia and under the spell of a Tolstoyan activist who was pressing communalism, were worried about the nature of their land tenure.¹³ Their foremost concern was that, if, as land officials suggested, they were required by law to register for land individually, this would offend their communalist beliefs and practices about land stewardship.¹⁴ It would also make them subject to state surveillance and control and their young men open to conscription in time of war. In August 1900 James Smart, Deputy Minister of the Interior, endeavoured to set their minds at rest. On the tenure issue he noted that if they registered their landholdings according to the legislation and its regulations and perfected homestead title, it was open to them to organize the use

and working of the land as they wished, including making it over to a trust. “They will,” he said, “thus be able to carry out their ideas with regard to community of property without requiring any alteration to our rules.”¹⁵ The issue of individual entry continued to worry the Doukhobors, however, despite land officials mildly threatening that unentered land would be opened up for general homesteading. To the officials’ dismay squatters were now appearing on unoccupied land reserved for the immigrants. To resolve the ongoing fears of the immigrants the Minister of Immigration, Clifford Sifton, issued a letter in February 1902 that confirmed in detail the accommodation seemingly reached in 1898 under the “hamlet clause.”¹⁶ Although the letter assumed that individual entries would be made for the land, the Doukhobors understood the letter to constitute acceptance by government of their vision of communal land holding. With the arrival in Canada of their leader, Peter Vasilevich Verigin, the Lordly, late in 1902 an accommodation on the entry issue was soon reached. Three representatives of the community, including Verigin, made the entries for the rest.¹⁷

Patenting the homesteads proved to be an insoluble problem. Turmoil within the community during the leader’s absence had led some, the Independents, to disavow his authority and register land in the normal way.¹⁸ Traditionalists had reacted by protesting against materialism and exploitation of livestock, by turning the latter loose, leaving their villages and inaugurating a short-lived pilgrimage to a new “promised land” late in 1902.¹⁹ In May, 1903 the first nude parade was launched by traditionalists, symbolizing a return to the blessed state of humankind before its Fall, and, as they observed its impact on police and local citizens, used by them to embarrass the representatives of the state.²⁰ Both these and other factors seem were persuading some in the dominion government

that the time for accommodation of Doukhobor communalism was fast running out. Land officials were heard to argue that the values of individualized property owning must be impressed upon the immigrants.²¹ They were also becoming frustrated at the practice of some community members leaving their villages and seeking to set up in other colonies at will.²² At the same time increasing pressure was being felt by the authorities from other settlers who were crowding into the area and eyeing avidly the uncultivated sections of the Doukhobor reserves.²³

The new sticking point proved to be whether the communal Doukhobors would seek naturalization and swear the oath of allegiance, which were conditions precedent to perfecting homestead rights. When it became clear that they rejected these steps on grounds of conscience, the government decided that the Doukhobors were after all subject to the normal requirements for homestead development. The bulk of land reserved to them was turned over to other settlers, leaving the migrants small reserves comprising each village and the cultivated land surrounding it, held in trust by the government.²⁴ This was done at the behest of the new Minister of the Interior, Frank Oliver, something of a Slavophobe and clearly antagonistic to communalism.²⁵ The new policy was rationalized in terms of a highly biased report by a former Methodist missionary, Rev. John MacDougall, that rejected the Doukhobors' "abject communism," as he labelled their communalism, and criticized their supposed lethargy and shiftlessness.²⁶ The reality was that the Christian Community of Universal Brotherhood (CCUB), the spiritual and economic embodiment of the community, had already proved both effective and profitable, and the Doukhobors excellent farmers.²⁷

Ottawa's action was considered by the communal Doukhobors the first great betrayal by government in Canada.²⁸ Divested of large tracts of land in Saskatchewan in which they had imagined they could engage in "Toil and Peaceful Life" without interference, it was time to look elsewhere. Verigin the Lordly provided a solution by buying up large tracts in the mountainous West Kootenay region of British Columbia.²⁹ Here there was no operative homestead legislation, and the land was purchased outright in fee simple in Verigin's name. While this action brought the community into the dominant land settlement regime, it allowed Verigin and the CCUB the room and freedom to develop the land communally, which is what they did. The lands near Castlegar and along the Slocan Valley were worked as communes by the Doukhobor villages.³⁰ Communal houses accommodated several families who shared the facilities and social and religious observances. The village meeting or *sobranaya* brought all the faithful together for communal business and worship. For over a decade this communal society whose lands were turned over by Verigin to the newly incorporated CCUB in 1917 proved to be a business success, developing its own mills, brick making plants, jam factory and communications infrastructure, along with its farms and orchards.³¹

The communal Doukhobors were not, however, free from criticism in the broader community in which there was strong racist sentiment. Seen as bizarre by local people who felt that these "rough" communalists did not match their vision of the ideal Anglo settler, they were particularly hated because they bought wholesale and were therefore seen as subversive of the local economy.³² The refusal of the communal Doukhobors to comply with vital statistics legislation and to send their children to public school on grounds of conscience were interpreted as lawlessness which had to be crushed.³³

Despite great local pressure to divest the Doukhobors of their land in B.C. after World War I and reallocate it to veterans on the grounds that the Russians had been wartime “shirkers” and “profiteers,” the CCUB remained active and in business until the late 1930s.³⁴ Starting in the 1920s, however, it was to go through leaner years as crops failed, and the general economic situation deteriorated.³⁵ Its performance was also marred by internal turmoil within the community in the years following the death of Peter Verigin the Lordly in an explosion in October 1924.³⁶ His son, Peter Petrovich Verigin, Chistiakov the Purger, proved to be a far more mercurial character and a less effective leader than his father. While seeking to bring the various factions of the Doukhobor population together, he alienated or inspired the traditionalists, now identifiable as the *svobodniki* or Sons of Freedom, producing in them a desire to protest accommodation with government, especially on public education.³⁷ When schools were burned and nude protests mounted Verigin the Younger ordered the Freedomites turned off communal land in 1929 and 1930.³⁸ As a result they became squatters wherever they could find vacant land and set up camp. Sympathy with the traditionalists among communal Doukhobors led to an increasing number of them identifying with the zealot cause, and refusing to pay their assessments to the community.³⁹ At the same time the CCUB was going further into debt to run its operations, and, faced with reduced income, was beginning to default on loans.⁴⁰ Although Chistiakov had proven effective as a business manager in his early days as leader, actually reducing the debt, imprisonment in 1932, two attempts to deport him in 1933 and overindulgence on his part had taken their toll and left him a broken man.⁴¹

Ownership of the communal land in fee simple was to prove as unreliable as the homestead system had been thirty years earlier and no more open to protection by the legal system. Several mortgage companies called in their loans, and when there was no response from the community, moved to foreclose.⁴² Farmers' exemption under federal debt relief legislation was denied by the Supreme Court of Canada without any serious consideration of Doukhobor culture and their beliefs about land holding. The jurists concluded that the CCUB was a limited company engaged in a variety of business ventures and not a group of farmers. The farming, they said, was done by individual Doukhobors who held the land as tenants.⁴³ The provincial government did nothing to prevent the foreclosures, although it could have loaned the community the money to pay off the creditors.⁴⁴ There was little sympathy for communalism in Victoria or among the non-Doukhobors of the Kootenay region. However, worried by local reports about hostile Doukhobor reaction to mass evictions of families from former CCUB land, the government paid off the outstanding debts, causing the land to revert to the Crown. Communal Doukhobor families were allowed to remain.⁴⁵ However, they were now reduced to a subservient role as tenants of the Land Settlement Board and subject to rent.⁴⁶

The provincial government's maneuvering, viewed by most Doukhobors as their second great betrayal in Canada, hastened the process of the breakdown of communal living and farming by the majority of the community.⁴⁷ Communal agriculture and facilities fell into decline, as members of the community without any firm rights in the land took on the role of tenant farmers and looked for and were absorbed into jobs in the non-Doukhobor economy.⁴⁸ The Sons of Freedom who emerged from these sobering

events more convinced than ever of their role as the conscience of Doukhorism, and ready to resist Mammon at every turn rejected status as tenants.⁴⁹ Whether residing in their own communities such as the mountain village of Krestova to which many had repaired in 1934-5, or among communal Doukhobors, they refused to pay rent or taxes.⁵⁰ Their argument was that the land was God's not the Crown's and was thus open to them to occupy and use without interference.

The period from 1945 to 1965 was perhaps the most tumultuous in the history of the Doukhobors of B.C. and their relations with the outside world.⁵¹ The majority were law abiding and went about their lives. However, the complex psychology of the Sons of Freedom, split on who should be their leader and hopeful that they might remigrate, if not by choice by state action, coupled with the insensitivity of the provincial government to Doukhor culture heightened tension.⁵² There was a spiral of protests, and depredations against property by zealots among the Freedomites and increased surveillance, prosecutions and harassment by the authorities. By the mid-1950s, however, Victoria was ready to bend on some issues of contention with the Doukhobors.⁵³ It made several gestures designed to recognize Doukhor culture and to resolve the land issue. Based on a lengthy inquiry by Judge Thomas Lord of Vancouver, the government began a process of surveying former community lands.⁵⁴ Following the judge's recommendations it proposed turning back the surveyed lands to community members at nominal prices.⁵⁵ For a while the government seemed inclined to hand over the land to the Union of the Spiritual Communities of Christ (the CCUB reincarnate) to be held in trust for the community, thus allowing for a return to communal working according to Doukhor beliefs about land tenure.⁵⁶ That idea was scotched, however, when several Doukhobors

objected, preferring, it seems, to take as freeholders. The final plan assisted by the work of Magistrate William Evans of Nelson provided for the land to be taken up in fee simple by individual families.⁵⁷ Despite threats, intimidation and depredations directed towards community members and emanating from the ranks of the Sons of Freedom for whom this amounted to yet another sell-out to the state, many communal Doukhobors acceded to the plan in the early 1960s.⁵⁸ Like it or not, they were now fully governed by the conventional system of land ownership in the province.

Resolving the land issue with the Sons of Freedom was to prove more intractable. Most rejected the Lord/Evans plan in the early 60s. In 1971 many of the men folk convicted of arson and bombing were released from Agassiz Mountain Prison. An agreement was negotiated for their resettlement on land in exchange for undertakings to keep the peace.⁵⁹ Land in the New Settlement below Krestova was set aside by the Crown and conveyed to four “representatives” of the community for habitation and use by the released prisoners and their families. In 1984 the land reverted to the Crown for non-payment of taxes after a period of disagreement and tension among its residents.⁶⁰ Thereafter, the provincial government sought to pressure families in New Settlement to purchase plots of land in fee simple. While some proved willing, this move caused reaction among the traditionalists in the group. They resisted attempts to survey and replot the land in 1995, leading to arrest and prosecution of the protesters and, at the suggestion of the presiding judge, negotiations to secure a peaceful and lasting resolution of the problems.⁶¹

Difficult tripartite negotiations between the Sons of Freedom Communal Doukhobors (SFCD), the traditionalist rump of the movement, the government and third

party intermediaries have produced an agreement in principle which contemplates the land being held in an intermediate trust for the Freedomite families.⁶² Final resolution is being hampered by disagreement within the community itself as to the preferable system of landholding, and ongoing taxation and services issues between the SFCD and Victoria.

What is one to make of this gloomy story of the overall demise of communalism in the face of a dominant system of individual land tenure? Underlying the specific events and personalities involved there is a clash of belief systems about the relationship between land and those working it.⁶³ In the Canadian mind for much of this period land has been viewed as a commodity designed for the succour of and exploitation by individuals or corporations exercising *dominium* over it. Ranged against this individualistic, market-oriented view of land use has been the Doukhobor article of faith that land belongs to God. Humankind might use and share land in an economic and spiritual community, but it has not been for individuals and groups to own or to claim as an exclusive possession. Land in use is, moreover, subject to an obligation of responsible stewardship and environmental respect. Both philosophies have recognized land's agricultural potential. However, the former largely ignored its value as a common resource in the interests of individualism and competition. Meanwhile the latter related its cultivation to a lifestyle and theology that made no distinction between the economic or social and the religious being, favoured sharing the land and its resources and saw land as having spiritual significance.

Could the cultural divide have been bridged and Doukhobor communal beliefs and practices accommodated within the Canadian state and thus survived? This is a difficult question to answer, although an instinctive response would be "Yes."

Interestingly, two other groups of religious communalists who came to Canada, the Anabaptist, German-speaking Hutterites and Strict Mennonites, have survived and prospered in this country, despite choosing to live and farm communally and to isolate themselves culturally from the dominant community. Their story too has involved persecution for their faith, and discrimination in matters of schooling, taxation and land tenure.⁶⁴ However, they held firm in their beliefs and practices and were not forced to forfeit their communalism. Despite the similarities in philosophy to the Doukhobors, their communities were not wracked by the same inner tensions as the Russian group, nor were they aggressive when faced with pressure to conform from outside. This may be explained in part by differences in notions of authority between the two traditions.⁶⁵ Most Canadian Doukhobors, while anarchic in their attitudes to the world outside, subscribed to a system of semi-divine leadership within the group. To succeed this form of leadership has to be both inspired and charismatic. If it is not, then there is a real danger that authority will break down as it is challenged from within, and subject to pressure from unsympathetic external forces.⁶⁶ In the Canadian Doukhobor experience the ability of the leadership to work the magic could not be sustained and ultimately broke down. This helps to explain the community's fragmentation.⁶⁷ By contrast, the Hutterites have reposed authority in local colonies that are governed by elected preachers and councils of elders acting according to Biblical precept and custom.⁶⁸ This traditional form of leadership and direction has normally proven eminently stable and life in most colonies lacking in fractiousness.⁶⁹

What is clear is that for most of this period both federal and provincial Canadian governments and even courts proved singularly unsympathetic to according Doukhobor

communal beliefs and practices consideration or respect.⁷⁰ Occasionally, as we have seen, there was some recognition that the dominant legal system might have concepts that could meet Doukhobor sensibilities over land tenure and allow them to work communally, for example the trust. Generally, however, the imperative was to favour policies of assimilation and compliance by this group of communalists, and to forget or overlook constructive ways of accommodating their culture and religio-political system.⁷¹ It is true that the Doukhobors could be and were prickly, and that their system of leadership for all its ostensible power depended for its efficacy on a fine balance between the leader's inspirations and the community's wishes. This sometimes produced haziness or inconsistencies in statements of policy that were frustrating in the extreme to politicians and bureaucrats. Misunderstanding, however, might have been less of a problem had a spirit of accommodation and greater cultural sensitivity been demonstrated by government at various points in this saga.⁷²

It is ironic in the extreme that when finally non-Doukhobor society in Canada wakes up to the importance of communalism in land tenure in the Doukhobor heritage, the solution negotiated is one known to both medieaval Canon and Common Law. The religious trust was developed in both systems to satisfy the consciences of those in Christendom, most particularly the Franciscans, who needed land as a base for their work, but who rejected ownership of land and the payment of taxes to earthly authority.⁷³ This belated insight may prove that the condition of selective amnesia mentioned at the start of this paper is a curable rather than a chronic condition. In an environment in which cultural pluralism is a growing reality and placing increasing demands on the constitutional and legal system, one may hope so.

-
- ¹ . I am indebted for this insight to Lynn Riddett, formerly on faculty in Northern Territories University, Darwin Australia, and a specialist in colonial settler history.
- ² . They would be ignorant, for instance, of the religious trust that allowed land to be worked in common by religious communities, locating the ownership of land with trustees to satisfy the scruples of communities for whom it was sinful to own land. See John Baker, *An Introduction to English Legal History*, 3rd ed. (London: Butterworths, 1990), p. 284.
- ³ . For detail on the enclosure movement in England, see Janice Neeson, *Commoners, Common Rights, Enclosure and Social Change in England 1700-1820* (Cambridge: University Press, 1992); and on the suppression of Scottish High clans in the wake of the 1745 Rebellion and agricultural improvement, see Don Watson, *Caledonia Australis: Scottish Highlanders on the Frontier of Australia* (Sydney: Vintage Books, 1997).
- ⁴ Watson, *Caledonia Australis*.
- ⁵ . David Malouf, *Remembering Babylon* (New York: Pantheon Books, 1993), pp. 9-10.
- ⁶ . Bruce Kercher, *An Unruly Child: A History of Law in Australia* (Sydney: Allen & Unwin, 1995), pp. 118-23.
- ⁷ . See H.V. Nelles, *The Politics of Development: Forests, Mines & Hydro-Electric Power in Ontario, 1849-1941* (Toronto: MacMillan of Canada, 1974), 1-47.
- ⁸ . An interesting example of colonial suppression of rights in common in a mixed cultural context is the fate of the common hay lands enjoyed by *metis*, mixed blood inhabitants of the Red River colony (now Winnipeg), backing on to their riverain strips of land – see D.N. Sprague, *Canada and the Metis, 1869-1885* (Waterloo, ONT: Wilfred Laurier Press, 1988), pp. 120-1.
- ⁹ . On the history of the Doukhobors in both Russia and Canada, see Koozma Tarasoff, *Plakun Trava: The Doukhobors* (Grand Forks: Mir Press, 1982); George Woodcock and Ivan Avakumovic, *The Doukhobors* (Toronto: McClelland & Stewart, 1977).
- ¹⁰ . On the background story and records see the excellent account and collection by Steve Lapshinoff, *Documentary Report on Doukhobor Lands in Saskatchewan* (Krestova, BC: self-published, 1989), pp. 3-50, 185-98.
- ¹¹ . Dominion Lands Act, (1886), 49 Vic., c. 54, s. 37 (as amended, 61 Vic., c. 31, s. 3). The amendment to the Act in 1898 does not seem to have been made at the time with the Doukhobors specifically in mind. Indeed, the Minister of the Interior, Clifford Sifton indicated that it was inspired by a request from “Canadian farmers” in Manitoba who wanted to move to the Northwest Territories and “work upon the cooperative plan.” – House of Commons Debates, 1898, Vol. 2, 5937-8, in Committee. However, he had already indicated that he saw this change as an extension of the “hamlet clause” exception – H.C. Debates, 1898, Vol. 2, 4679, First Reading. Also in Committee he suggested that while the new clause was designed to benefit existing “Canadian farmers,”

it might also be extended to new settlers – H.C. Debates, 1898, Vol. 2, 5938. That he may well have had communalists in the abstract in mind is indicated by his letter in February 15, 1902 agreeing that this provision applied to the Doukhobors – see *infra*, note 16.

¹² . Kirk Lambrecht, *The Administration of Dominion Lands, 1870-1930* (Regina: Canadian Plains Research Centre, 1991), p.22.

¹³ . Lapshinoff, *Saskatchewan*, 54-9, in particular Petition to Dominion Government by Trustees of Doukhobor Villages, May 12, 1900 – National Archives of Canada (NAC), RG 76, Immigration Branch, [C-7375], Vol. 226, File 119106.

¹⁴ . *Ibid.*, 56, where the Doukhobor petitioners reject a system of individual registration on the ground that it is offensive to God, and seek the system of “one round section . . . without dividing to whom personally which belongs,” that had been granted to the “Indian race.”

¹⁵ . *Ibid.*, 59, quoting from letters from Smart to Aylmer Maude and Prince Tchertkoff, NAC, RG 76 [C-7375], vol. 226, File 119106.

¹⁶ . *Ibid.*, p. 214, Appendix B 3, letter from Clifford Sifton to the Doukhobors, February 15, 1902, NAC, MG 26(E), Laurier Papers, Vol 223, pp. 62749-62755.

¹⁷ . *Ibid.*, pp. 77-8, quoting from letter from John Obed Smith, Commissioner of Immigration to Minister Sifton, February 26, 1903, NAC, RG 76, Immigration Branch, [C7339], Vol. 184, file 65101, Part 7.

¹⁸ . See Woodcock and Avakumovic, *The Doukhobors*, pp. 159-60; James Wright, *Slava Bohu: The Story of the Doukhobors*, (New York: Farrar & Rinehart, 1940), pp. 142-4).

¹⁹ . Woodcock and Avakumovic, *The Doukhobors*, 177-81; Lapshinoff, *Saskatchewan*, pp. 73-5, see letters from C.H. Speers, General Colonization Officer, Winnipeg to Frank Pedley, Superintendent of Immigration, Ottawa, July 10 and 11, 1902, NAC RG 76, [C-7339], Vol. 184, File 651101, Part 6, and RG 15, Department of the Interior, Vol. 745, File 494483, Part 2.

²⁰ . See J. Colin Yerbury, “The ‘Sons of Freedom’ Doukhobors and the Canadian State,” *Canadian Ethnic Studies* 16 (1984): 45, p. 53.

²¹ . Lapshinoff, *Saskatchewan*, pp. 97-8, see letter from Speers to Mr. Greenway, Commissioner, Dominion Lands, January 26, 1906, NAC, RG 15, Department of the Interior, Vol. 755, File 494483, Part 4.

²² . This was creating uncertainty within the land bureaucracy about the status of the entries already made, see Lapshinoff, *Saskatchewan*, pp. 95-102

²³ . Indeed some were occupying reserve land as squatters who were being evicted by the RNWMP, see Lapshinoff, *Saskatchewan*, p. 110

²⁴ . This process of resistance by the communal Doukhobors, and the *volte-face* by the land authorities is traced in Lapshinoff, *Saskatchewan*, pp. 101-16.

²⁵ . *Ibid.*, p. 111-6 for an account of an interview between Hon. Frank Oliver, Minister of the Interior and Doukhobor leader, Peter Verigin, October 16, 1906, NAC, RG 15, Department of the Interior, File 1529086, and pp. 128-37 for the memorandum from Oliver, reinterpreting Sifton’s letter of 1902, NAC, RG 15, Department of the Interior, Vol. 755, File 494483, Part 6 and pp. 240-8 for the later interview between the two men, February 25, 1907, NAC, RG 15, Department of the Interior.

²⁶ . *Ibid.*, pp. 117-28 for MacDougall’s initial report, NAC, RG 15, Department of the Interior, Vol. 755, File 494483, Part 6. For the Order-in-Council validating the new

system for patenting homesteads on Doukhobor land, see *ibid.*, pp. 150-52, P.C. 2624/1907, NAC, RG 15, Department of the Interior, Vol. 756, File 494483, Part 10.

²⁷ . On the agricultural and commercial achievements of the Doukhobors in Saskatchewan during this period, see, Carl J. Tracie, “*Toil and Peaceful Life:*” *Doukhobor Village Settlement in Saskatchewan, 1899-1918* (Regina: Canadian Plains Research Centre, 1996), pp. 1-151.

²⁸ . They were not entirely alone in this, see Lapshinoff, *Saskatchewan*, pp. 248-51, letter from Professor James Mavor, University of Toronto to Rt. Hon. Sir Wilfred Laurier, April 13, 1907, NAC, MG 26E, Laurier Papers, Volume 460, pp. 123814-123820.

²⁹ . See Steve Lapshinoff, *Documentary Report on Doukhobor Lands in British Columbia* (Krestova: Self-published, 1990), pp. 3-9; Woodcock and Avakumovic, *The Doukhobors*, pp. 225-8.

³⁰ . See Donald Gale and Paul Koriscil, “Doukhobor Settlements: Experiments in Idealism,” *Canadian Ethnic Studies* 9 (1977): 53, at pp. 64-8. For photographs of the pattern of land settlement, see Tarasoff, *Plakun Trava*, pp. 20-7.

³¹ . Woodcock and Avakumovic, *The Doukhobors*, pp. 229-32. For documents relating to the incorporation of the CCUB and the transfer of the B.C. land to it, see Lapshinoff, *British Columbia*, pp. 35-41, Dominion Charter, April 25, 1917.

³² . See William Blakemore, *Report of Royal Commission on Matters Relating to the Doukhobor Sect in the Province of British Columbia*. British Columbia, *Sessional Papers*, 1913, T64-5 for a critique of these attitudes.

³³ . See John McLaren, “Creating ‘Slaves of Satan’ or ‘New Canadians’? The Law, Education and the Socialization of Doukhobor Children, 191-1935,” in Hamar Foster and John McLaren eds., *Essays in the History of Canadian Law, Vol. 6, British Columbia and the Yukon* (Toronto: Osgoode Society for Canadian Legal History, 1995), 352, at pp. 354-7.

³⁴ . On the proposal to expropriate Doukhobor land and redistribute it amongst veterans which was scotched by the then Minister of the Interior, Arthur Meighan, see Woodcock and Avakumovic, *The Doukhobors*, pp. 253-4.

³⁵ . Lapshinoff, *British Columbia*, pp. 43-68. During the period from 1919 to late 1924 Verigin and the CCUB sought to improve the financial position of the corporation by persuading the provincial government to pay to them the value of improvements made by the Doukhobors to the infrastructure in the Kootenays, especially their construction of highways, ferries and bridges. The government refused. See memo from Premier John Oliver to his Minister of Public Works, October 6, 1922 in response to *Report of the Doukhobors Living in British Columbia* in British Columbia Archives and Records Service (BCARS), GR 441, Oliver Papers, 1922, Box 223, File 13.

³⁶ . On Verigin’s death and that of seven others, both Doukhobor and non-Doukhobor, which have remained a mystery to this day, see Woodcock and Avakumovic, *The Doukhobors*, 257-8.

³⁷ . On the chequered life and times of the Younger Verigin, see John McLaren, “Wrestling Spirits: the Strange Case of Peter Verigin II” *Canadian Ethnic Studies*, 27 (1999), 95.

³⁸ . Lapshinoff, *British Columbia*, pp. 107, 113-4. See also Steve Lapshinoff, *Report on Krestova Lands* (Krestova: Self-published, 1987), p. 3

-
- ³⁹ . Woodcock and Avakumovic, *The Doukhobors*, p. 301. Between 1928 and 1936 the number of community Doukhobors in British Columbia shrank from 4326 to 3083.
- ⁴⁰ . Lapshinoff, *British Columbia*, pp. 148-50, letter from Directors of CCUB Ltd. to all members re dues, February 19, 1937, CCRBD Files.
- ⁴¹ . See McLaren, "Wrestling Spirits," 102-14.
- ⁴² . Lapshinoff, *British Columbia*, pp. 150-60.
- ⁴³ . *Christian Community of Universal Brotherhood v. National Trust Ltd.* [1941] S.C.R. 601. The legislation appealed to by the community was the Farmers' Creditors Arrangement Act 1934 S.C., c. 53. According to s. 2(f) "farmer" meant a person whose principal occupation consisted in farming or the tillage of the soil. The court specifically distinguished the case of Hutterite corporations by suggesting that the latter were primarily engaged in farming and that individual Hutterites had no rights to land. They were in the position of employees of the corporation, See Rinfret J., pp 620-1. A Hutterite colony had already been classified as a "farmer" for debt relief purposes in *Barickman Hutterian Brethren v. Nault* [1939] S.C.R. 223.
- ⁴⁴ . This expedient was suggested to the provincial government by C.F.R. Pincott, a lawyer retained by the community Doukhobors, see Lapshinoff, *British Columbia*, pp. 187-191, letter from Pincott to Attorney General Gordon Wismer, August 28, 1939, BCARS, GR 1725, *Attorney General's Correspondence*, 1939 [B-7623], File # P291-17.
- ⁴⁵ . Lapshinoff, *Krestova Lands*, pp. 16-9.
- ⁴⁶ . This was achieved under the terms of the Doukhobor Lands Acquisition Act, SBC 1939 S.B.C., c. 12, by which the Crown secured title to the land, and Order-in-Council, No. 1439, November 1940 transferring title to the Lands Settlement Board. See Lapshinoff, *British Columbia*, pp. 21-3. There is evidence that what the government anticipated was the re-survey of the land and the offer of individual plots to Doukhobor families for purchase of the freehold. This idea was soundly rejected by the members of the community, see Lapshinoff, *Krestova Lands*, pp. 24-5, letter from Executive Committee of the Union of Spiritual Communités of Christ (USCC) to the Land Settlement Board, April 11, 1943, CCBRD Records.
- ⁴⁷ . On the feeling of betrayal, see Tarasoff, *Plakun Trava*, pp. 152-3.
- ⁴⁸ . On the deterioration of the land and improvements, see *ibid.*, p. 166.
- ⁴⁹ . See Yerbury, pp. 58-8 on the Sons of Freedom state of mind during this period.
- ⁵⁰ . Lapshinoff, *Krestova Lands*, pp. 13, 24.
- ⁵¹ . Woodcock and Avakumovic, *The Doukhobors*, pp. 319-56.
- ⁵² . The one significant attempt to bring calm reason to bear on the relations of Doukhobors and non-Doukhobors was the research project at the University of British Columbia sponsored by the Liberal-Conservative Coalition government in Victoria in the early 1950s. This study was carried out by a group of able scholars and consultants led by the eminent anthropologist, Dr. Harry Hawthorne. See Harry Hawthorne ed., *The Doukhobors of British Columbia* (Vancouver: J.M. Dent, 1955).
- ⁵³ . By the end of 1952 the government of British Columbia had changed, the Coalition replaced by the right wing Social Credit regime of W.A.C. Bennett. On the one hand, this government which was propelled by law and order concerns was ready to get tough with the Sons of Freedom. On the other hand it could not deny the wisdom of some of the recommendations of the Hawthorne Committee which argued for recognition of some

elements of Doukhobor culture, including their marriage practices, and a solution to the land tenure problem. See Woodcock and Avakumovic, *The Doukhobors*, pp. 335-45

⁵⁴ . Lapshinoff, *British Columbia*, pp. 204, for the terms of reference of Judge Lord's inquiry.

⁵⁵ . The most important recommendations were made in Judge Arthur Lord, *Doukhobor Lands Allotment Inquiry, Fifth Interim Report*, November 16, 1959. See also Tarasoff, *Plakun Trava*, 167.

⁵⁶ . See Tarasoff, *Plakun Trava*, p. 168. Confirmed by an interview with Eli Popoff of the USSC, conducted by Kevin Wishlow, August, 1998 in Grand Forks.

⁵⁷ . Ibid., p. 167. Judge Evans was called in when it became clear that USCC members were having difficulties responding positively to the government offer to sell the land back to them. The magistrate had developed a reputation for fair dealing with both the Doukhobor community and the government in coming up with a workable plan for the recognition of Doukhobor marriages.

⁵⁸ . Ibid., p. 168.

⁵⁹ . For the events leading to and the negotiation of this agreement that was facilitated by both Judge Evans and Stephan Sorokin, the spiritual leader of the Sons of Freedom, see Lapshinoff, *Krestova Lands*, pp. 37-48.

⁶⁰ . On the troubled state of relations in New Settlement, in particular the difficulties of the Fraternal Council of the Sons of Freedom Doukhobors (known as the Christian Community and Brotherhood of Reformed Doukhobors – CCBRD) in dealing with so-called “trespassers” and those who would not contribute to the tax burden, see *ibid.*, pp. 48-66.

⁶¹ . See *Castlegar Sun*, August 24, 1994 for details of the dispute. I was able to view personally New Settlement and talk to the protest group at length in November, 1995.

⁶² . The SFCD were not willing to negotiate with the government directly, because of their profound distrust of the state and its representatives. So it was that sympathetic third party non-Doukhobors were brought into the process. I am obliged to Charles Ball, one of these individuals, for shedding light on this process.

⁶³ . See John McLaren, “The Doukhobor Belief in Individual Faith and Conscience and the Demands of the Secular State” in John McLaren and Harold Coward, *Religious Conscience, the State and the Law: Historical Contexts and Contemporary Significance* (Albany, NY: SUNY Press, 1998), 117, at p. 122.

⁶⁴ . Comparisons and contrast between the three groups of religious communal pacifists are explored in the very helpful study by William Janzen, *The Limits on Liberty: The Experience of Mennonite, Hutterite and Doukhobor Communities in Canada* (Toronto: Toronto University Press, 1990).

⁶⁵ . See McLaren, “Wrestling Spirits,” 110-11, drawing upon the typology of authority and leadership developed by Max Weber, *Economy and Society: An Outline of Interpretative Sociology, Vol 1*, (New York: Bedminster Press, 1968), pp. 215-6, 244.

⁶⁶ . Weber, *Economy and Society, Vol. 3*, pp. 1114-5.

⁶⁷ . See, K. Bradbury, *Factionalism in the Doukhobor Movement*, MA Thesis, Anthropology, University of Calgary, 1976.

⁶⁸ . See John A. Hostetler and Gertrude Enders Huntington, *The Hutterites in North America* (Fort Worth: Holt, Rinehart & Winston, 1980), pp. 27-30; Alvin Esau, “Communal Property and Freedom of Religion: *Lakeside Colony of Hutterian Brethren v.*

Hofer” in John McLaren and Harold Coward eds., *Religious Conscience, the State and the Law*, 97, at pp. 98-102. He also notes that that the Hutterites are not opposed to land ownership, as long as it is collective in nature.

⁶⁹ . As Esau points out, there have been disputes surrounding the claims to communal property of those choosing to leave colonies to go to the world outside, and those stemming from what he describes as communal capitalism, especially in relation to contestation over invention of farm machinery, e.g. pig feeders, McLaren and Coward, *Religious Conscience, the State and the Law*, pp. 101-2.

⁷⁰ . McLaren, “The Doukhobor Belief in Individual Faith,” in McLaren and Coward eds., *Religious Conscience, the State and the Law*, pp. 128-9. That the judges were largely incapable of mustering respect and sympathy for the Doukhobors and their desire to farm the lands and live communally is evident in *CCUB v. National Trust*, supra note 43. For a more openly hostile reaction to claims made under communalist doctrine by Sons of Freedom members, see *Perepolkin v. Superintendent of Child Welfare* (1957), 23 W.W.R. 592 (BCCA), per Sidney Smith J.A., pp. 599-600.

⁷¹ . There sees little doubt that the actions of the federal government during Frank Oliver’s incumbency as Minister of the Interior, 1905 and 1907, and of Victoria in the wake of foreclosure of CCUB land in the late 1930s were designed to cure the Doukhobors of communalism.

⁷² . See McLaren, “Creating Slaves of Satan,” pp. 353-4.

⁷³ . See Stephen W. Devine, “The Franciscan Friars, Feoffment to Uses and Canonical Theories of Property Enjoyment before 1535, *Journal of Legal History* 10 (1989), p. 1 *et seq.*