Provenance

Retreat from the Thames

4. The Nonresistors and the Militia

These two beliefs [against killing and swearing] required special consideration in view of the provincial statutory requirement for universal manhood service in the militia and the need for oaths of office and sworn testimony in the courts—JOHN S. MOIR.[1]

UPPER CANADA had provided an abundance of good land for the new Mennonite and Tunker immigrants, but without an equal measure of legal latitude the wide horizons did not hold the promise of the coveted freedom. The bitter experience of their persecuted ancestors had taught the Anabaptists that restrictive laws could make a prison out of an otherwise liberal territory. In the great land of the loyalists the liberty-conscious settlers soon discovered that, in spite of all their acreage, they had no legal right thereon to build their churches or even to lay out cemeteries for their dead. They could not solemnize their own marriages, not to speak of immediately and fully enjoying those liberties which to them were most important of all: freedom from the oath (the swearing of ultimate loyalty to the Crown) and exemption from military service.

There was, therefore, pioneering to be done not only on the land but also with respect to the law of the land. It has been argued that economic factors, especially the availability of cheap arable land, accounted for the Mennonites' coming to Canada. The eco-

nomic interpretation of immigration movements is not without its valid application in Mennonite history, and it cannot be dismissed entirely here. But it would be incorrect to assume that land was all that these immigrants required for their fulfilment.

The evidence is strong that the thousands of Mennonites on the move around 1800 in both the eastern and western hemispheres were looking for a special kind of liberty as well as a special kind of land. The negotiated agreement for settlement in Russia, for instance, included not only generous parcels of land but also equally generous legal concessions. Among the settlement promises, patiently negotiated with several tsars, was the permanent exemption from military service.

A similar condition of settlement held true in Canada. A degree of military exemption was sought and achieved early in the immigration, even before the main movements got underway, before the land along the Grand River had been selected, before any ministers had been ordained, and before any churches had been built. It is true, of course, that Upper Canada was anxious for good settlers and ready to make certain allowances to minority groups who otherwise served the British. But considering the difficulty with which even the smallest concessions were made, it seems fair to conclude that the immigrant Quakers, Mennonites, and Tunkers were a fairly determined band.

As noted before, a clear-cut position on nonresistance, a term used by Mennonites more often than pacifism, was both fundamental and central to the Anabaptist faith.[2] The Schleitheim Confession of 1527 had identified weapons of force, "such as the sword, armour and the like," as un-Christian.[3] And Menno Simons, one of the foremost champions of nonresistance, had said without equivocation:

> The regenerated do not go to war, nor engage in strife. They are the children of peace who have beaten their swords into plowshares and their spears into pruning hooks, and know of no war.[4]

The nonresistant teaching and tradition had been adopted and strengthened in Pennsylvania. In William Penn's land of the holy experiment, pacifist sectarianism had flourished with the official encouragement of Quaker assemblymen and remained strong even after their fall from power in 1756. The *Ausbund* hymnal, the *Martyrs' Mirror*, and the Dordrecht Confession of Faith had been

the chief instruments of the perpetuation of the pacifist conscience and the doctrine of nonresistance.[5] That the Confession remained important to the Upper Canada immigrants is seen in the fact that it became the very first document printed by them. Printed at Niagara-on-the-Lake in 1811 and in English, it was undoubtedly a testimony to and a defence of their faith.[6]

At the heart of the problem in Canada was the fact that the new society had not yet adjusted to religious pluralism beyond the acceptance of the Roman Catholic Church as predominant in Lower Canada and the Church of England as normative for Upper Canada. The old idea of the Roman Empire, that an ordered society required one law and only one recognized church in a given state, had survived long after the Protestant Reformation. Indeed, as mentioned before, the principle that the religion of the ruler is the religion of the people had been reinforced by the Reformation and its sometimes exclusionistic Calvinist establishments, its comfortably allied Lutheran princes and priests, and its rebelling English monarchs who became the "popes" of a national church. And, paradoxically, the Mennonite commonwealth in Russia, later to be transplanted to Canada, also combined a single religion with a given territory.

Nevertheless, such notions of all the people belonging to the same territorial or national church were no longer absolute doctrine in England. And political allegiance was no longer necessarily equated with adherence to the official religion. But since the idea of a single state with a single official church was reborn in Upper Canada, the dissenters felt obliged to challenge it all over again.

The Constitutional Act of 1791 granted to the Church of England certain statutory rights which made her the preeminent religious institution. Among the strongest and most problematic of her rights was the free possession of one-seventh of the land, the so-called clergy reserves, set aside for the support of the clergy and church institutions. Such patronage of religion and endowments for the church were, of course, not entirely a new policy. In New France the Catholic Church had been granted immense land holdings in return for certain social services, and even in America, where the separation of church and state was most championed, land was set aside for the purposes of religion, both before and after the revolution. In all cases the land grants were made on the assumption that religion had a useful, if not indispensable, service to perform in the social order. In the mind of one British colonial

secretary the support of religion was justified by its contribution to "the internal peace of society."[7] Upper Canada's first Lieutenant-Governor, John Graves Simcoe, put the argument thus:

> A regular Episcopal establishment, subordinate to the primacy of Great Britain, is absolutely necessary in any extensive colony which this country means to preserve . . . due support to that church establishment, which I consider as necessary to promote the national religion . . . and to maintain the true and venerable constitution of my country.[8]

In Upper Canada, however, official religious authority did not ensure internal peace. On the contrary, the non-Anglican loyalists, who turned out to be the majority of the population, were in no mood to accept, join or tolerate a privileged and powerful state-endowed church. The height of that intolerance was reached when that church allied itself with conservative ruling groups to become a "family compact," reluctant to share its power with the people.

All of the non-establishment religious groups had their reasons for seeking "relief" from discriminatory laws, but the followers of the Church of Scotland and the Methodists took up the struggle for religious equality with greatest vigour. The former wanted to share the land being granted to the Church of England. The latter insisted that clergy lands should benefit all the people and that clergy rights (i.e. marriage) should be enjoyed by all denominations. The Methodists introduced marriage bills no less than twelve times between 1802 and 1829 and, though all were lost in the legislature, the marriage cause triumphed in 1831 when royal assent was finally given to a law that had been passed two years before.[9] That law, providing for "the future solemnization of matrimony in this province," defined "clergyman or minister" rather narrowly but within that narrow context solemnization rights were granted to:

> . . . any Clergyman or Minister or any Church, Society, Congregation, or Religious Community of Persons professing to be Members of the Church of Scotland, Lutherans, Presbyterians, Congregationalists, Baptists, Independents, Methodists, Mennonists, Tunkers, or Moravians . . .[10]

There were other similar legal battles. The land question itself did not come near to resolution until the 1840s, after the fiery Methodist leader, Egerton Ryerson, had proved himself a political match for the Anglican bishop, John Strachan.[11]

The law on marriage indicated that the Mennonites and Tunkers were benefactors of the general religious rights struggle, but it must not be thought that they were only hangers-on. On the contrary, the Mennonites, along with the Tunkers and Quakers, achieved fundamental and particular religious recognition more than a generation before the Methodist triumph. Indeed, their exemption from military service preceded Methodist participation in marriage by 38 years. Perhaps the Mennonites could get favourable treatment sooner because their numerical minority did not suggest the threat to the establishment which was posed by the Methodists, who were soon the largest Protestant denomination in the province. Besides, the Mennonites established no indigenous organization, no provincially-oriented power group, as did the Methodists, whose break with the United States after 1812 extended into the sphere of religion. As congregationalists, the Mennonites were not interested in provincial organization and, as continentalists, they continued to look to Pennsylvania as much as to York (Toronto). Provincial political weight was not a matter to which they gave much attention. The immigrant Mennonites can, therefore, take some credit for the expansion of religious privileges in Upper Canada.

The Mennonites in turn were heavily indebted to the English Quakers, who advanced their own liberty with the help of the Dutch Doopsgezinde. In opposing the oath and warfare, the Quakers had opened the door to freedom not only in Pennsylvania; before that they had achieved in British imperial law the recognition of religious scruples and a nonconformist Christian conscience. In other words, the Militia Act of 1793, which exempted Quakers, Mennonites and Tunkers from personal militia duties, had the benefit of English legal precedents which recognized as non-criminal certain forms of religious dissent. Considering the importance of British law in the Canadian Mennonite experience, let us review those precedents and the evolution of the law which led to the full recognition of these conscientious objectors.

The significant precedents were set only slowly and with great difficulty. When Henry VIII broke away from Rome and, as monarch, made himself the "pope" of England, it became a crime to have other allegiances. Identification with the Church of England was a test of loyalty to the Crown. At first the dissenters in England were all assumed to be papists, who constituted a real and continuing threat to the Crown, not least of all because the

papal doctrine sanctioned the murder of monarchs, like the Henrys, who opposed the popes. As dissenters born on English soil, the Quakers experienced the full brunt of persecution and restriction in the days when all dissenters were on a par with the papists. As Crown-blessed colonizers, i.e. William Penn, they also knew first hand the benefits of a liberalizing British law at a time when much of Europe was still restricting religious nonconformists.

The precedents of tolerance in British law of greatest importance to the Mennonites came under William and Mary in 1688, five years after the Germantown settlement got underway. Anxious to unite in peaceful co-existence all the "Protestant subjects who had scruples of conscience,"[12] the Church of England exempted certain dissenters from the penalties of certain crimes. Anabaptists, for instance, were no longer penalized for not baptizing infants,[13] and other dissenters who objected to taking an oath could satisfy the Crown by making a declaration of fidelity. Such a declaration required the denial of submission to any princes as well as refutation of the "damnable doctrine that princes excommunicated by the pope could be deposed or murdered by their subjects." Positively the declaration required that:

> I do sincerely promise and solemnly declare before God and the World that I will be true and faithful to King William and Queen Mary . . .[14]

These provisions of 1688 represented progress, but the Quakers could not be satisfied with a negative statute, chiefly because their imprisonment and the seizure of their properties continued. They therefore sought and obtained an act which stipulated "that the Solemn Affirmation and Declaration of the People called Quakers, shall be accepted instead of an Oath in the usual Forme."[15] Among the evidence supporting the petitioning of the Quakers were abstracts of the "placates" in favour of the Dutch Doopsgezinde. These indicated that royalty in the person of the Prince of Orange had already accepted a word of affirmation instead of the oath a hundred years before.[16]

However, the desired legislation thus obtained still specified certain limitations. The obligations of citizenship could not be lessened and the qualities of allegiance could not be modified, even if the milder "oath," which was a solemn declaration, might suggest such moderation. Church tithes had to be paid, and no

one making a solemn declaration only was considered qualified to give evidence in court or to serve on juries. The Act was also limited to a time period of seven years. But once the precedent had been set a law could with less difficulty be renewed and its liberal clauses expanded. After the English kings had discovered that not all dissenters were necessarily on the side of the pope, they even began to realize that the fair treatment of dissenters could be advantageous in strengthening the English Crown and in expanding the empire. Queen Anne was most explicit on the imperial value of treating dissent with tolerance. A bill to that effect began with the following preamble:

> . . . the increase of people is a means of advancing the wealth and strength of a nation and whereas many strangers of the Protestant or Reformed religion out of due consideration of the happy constitution of the government of this realm would be induced to transport themselves and their estates into this kingdom if they might be made partakers of the advantages and privileges which the natural born subjects thereof do enjoy . . .[17]

This tolerance of dissenters, otherwise useful to British purposes, permitted the Quaker state of Pennsylvania to build, without interference from the Crown, a rather tolerant legal base — a base which could not be erased even after the Quaker fall from power and the British loss of the thirteen colonies. In Britain itself exemption from militia service and the provision of a substitute was first provided for in 1761, the second year of George III's reign.[18]

The principles of religious dissension and military exemption as recognized in British law and applied on the American frontier now needed to be introduced into Upper Canada. Apparently there was some readiness for this and the authorities had their own reasons for acting, quite apart from any initiatives which Quakers, Mennonites or Tunkers may have taken. After the first wave of loyalist immigration had nearly come to an end, the most desirable immigrant prospects appeared to be those who, though they had not fought for the British, had at least not joined the American side. As Lieutenant-Governor Simcoe wrote to the British Secretary of State:

> There is every prospect of very great migrations taking place out of the United States into His Majesty's Dominions,

> and I have not hesitated to promise to the Quakers and the other sects the similar exemptions from militia duties which they have always met with under the British government.[19]

It was not that Simcoe was particularly enthusiastic about sectarians, especially if they were pacifists — he, above all, wanted a strong militia and an unchallenged regular religious establishment. But he also wanted to preserve British North America, a difficult task without more people in its domains. In any event, it could not be done with only an official religion and a loyal militia. His invitation to Quakers and other sects must, therefore, be seen as an imperial attempt not so much to benefit sectarians as it was to benefit the empire and, if need be, with their help.

The British establishment was not altogether sure of the benefits, and the Lieutenant-Governor's promises immediately ran into the kind of opposition which made him and his successors somewhat more cautious. No less an authority than the British colonial secretary, the Rt. Hon. Henry Dundas, discouraged the preferential exempting of any groups from the normal obligations of citizenship and in particular from taxation and submission to the oath.[20] This probably explains why the earliest provision of military exemption required substitute taxation and specified other limitations, and why the obligations of the oath were not removed until later.

One Simcoe promise, exemption from militia duties for Quakers, Mennonites and Tunkers under certain conditions, obtained the strength of a public statute at the second session of the first Upper Canada parliament held at Niagara. The conditions specified by the Militia Act of 1793 included the payment of special annual fines in time of war (5 pounds or 20 dollars) and a lesser amount (20 shillings or 4 dollars per annum) in time of peace by all male inhabitants from age 16 to 50. The provisions read in part:

> And it be further enacted, that the persons called Quakers, Mennonists, and Tunkers, who from certain scruples of conscience, decline bearing arms, shall not be compelled to serve in the said Militia, but every person professing that he is one of the people called Quakers, Mennonists, or Tunkers, and producing a certificate of his being a Quaker, Mennonist, or Tunker, signed by any three or more of the people (who are or shall be by them authorized to grant certificates for

> this or any other purpose of which a pastor, minister, or preacher shall be one) shall be excused and exempted from serving in the said Militia, and instead of such service, all and every such person and persons, that shall or may be of the people called Quakers, Mennonists, or Tunkers, shall pay to the lieutenant of the county or riding, or in his absence to the deputy lieutenant, the sum of 20 shillings per annum in time of peace, and five pounds per annum in time of actual invasion or insurrection.[21]

The Militia Act of a year later increased the exemption age to 60.[22] Non-payment of imposed fines could mean the "distress and sale of the offender's goods and chattels," sufficient to cover the fines and the expenses of collecting the same. Flour, wheat, hogs, watches, books, cheese, blankets and furniture all were items that qualified for collection as payment of the military exemption tax.

Most of the Quakers did not readily consent to the payment of the yearly fees since the proceeds went directly to the support of the militia. Quakers who paid the taxes or hired substitutes were disciplined by their brothers as severely as those who actually joined the militia. Non-compliance with the law, on the other hand, also had its consequences. The Yonge Street Monthly Meeting of the growing town of York, for instance, had over $1,000 worth of goods confiscated in 1810 and eight of their members hauled off to jail for one month.[23] While for Quakers it was an exception to the rule if they voluntarily paid the tax, the Mennonites tended to accept the payment of fines, objecting, if they did, for financial rather than moral reasons. For Mennonites not to pay the tax was the exception, according to precedents that had been set in Pennsylvania and Prussia, and in the Alsace where Napoleon did the collecting.

There were exceptions, however, and a reported court action of 1814 confirms their occurrence. The action led to a forced collection of "the exempt money" or its equivalent.[24] Another record a year later strongly suggests that Mennonites themselves went to court to plead their case,[25] a possibility allowed by the Militia Act in the event of treatment felt to be too harsh. The Mennonites, however, did not only object to a strict interpretation under the law, but they undertook to change the law in their favour. Indeed, one of the most active lobbies in the half-century of Upper Canada appears to have been that of the Quakers, Tunkers and Mennonites, acting individually or collectively.

The reference to lobby is not an exaggerated description of

how laws came to be changed. It was the necessary custom of those times for groups of all kinds to approach the Crown, governor, councils, and/or the assemblies for privileges, relief, indulgences, and rights, or however the requested concessions were described. British imperial law, American colonial law, and Upper Canada law arose largely from petitions directly presented by civic groups, business interests, and individuals, as well as religious groups and their leaders. This becomes clear from a reading of the *Journal of the Legislative Assembly*, and the petitions of the Methodists on the marriage problem alone have already been referred to.

For the Mennonites the separation of church and state did not mean that they had nothing to say to, or ask of, the state, but rather that the state could not ask everything of them. Their ancestors had learned to petition in Europe, continuing to petition in Pennsylvania, and the immigrants began their life in Canada with petitions.[26] To what extent their entry into Canada was directly related to or preceded by or followed by petitioning cannot be determined in any comprehensive way, but Quaker[27] and Tunker[28] history have their examples. Petitioning among the Mennonites, especially after 1800, is reported below.

The most objectionable feature of the Militia Act for both Mennonites and Tunkers who obeyed it and for Quakers who did not obey it were the fines. The Mennonites felt that they were altogether too heavy for pioneering farm folk. The full burden of the special militia tax was felt after 1809, when the law provided for jail sentences lasting until the fines were paid.[29] Another objection related to the fact that the militia exempted only those Mennonites who possessed a certified membership. This meant that the young men of 16 were not likely to be covered, since baptism and church membership tended to coincide with the marrying age and consequently did not normally occur until about age 21.

To bring about the desired changes in the law, the Mennonites and Tunkers, as has already been indicated, followed the normal petitioning procedure of the time — they sent their delegates armed with signed petitions to make the desired requests. While it cannot be documented, it may be assumed that the favourable clauses in the 1793 Militia Act were inspired precisely by the kind of Mennonite petitioning frequently referred to in the first 50 years of the *Journal of the Legislative Assembly* of Upper Canada.

The first recorded petitioning, according to available records, appears to have been made in June of 1801 when a bill granting indulgences to Quakers, Mennonites and Tunkers was introduced and passed by the Legislative Assembly only to be stalled at other levels. Apparently the first successful petitioning occurred in 1809 when the Mennonites and Tunkers were granted the same right as the Quakers to make "affirmation or declaration" instead of taking an oath where such was required. The same Act that granted this privilege, however, also disqualified Mennonites and Tunkers from giving evidence in criminal cases, from serving on juries, or from holding any office or place in the government.[30]

In 1810 two petitions were delivered, signed in the first instance by "two preachers, two elders, and 35 members of the Society of Mennonists and Tunkers," and in the second instance by 34 members. The petitions were of similar tenor and began by expressing appreciation for "favourable law and liberty of conscience" and the "God and the Government under which we live." The petitions admitted that "Our sons now under age and incapable of judging in matters of conscience" were not considered church members and hence unable to produce the necessary certificates. Thus they asked for "the relief of minors" and also for the relief from money payments:

> . . . we therefore humbly pray the same indulgence may be extended to them that is granted to ourselves, their parents, that is that they may be exempted from serving in the Militia by paying the commutation money until they arrive at the age of twenty-one, or until they be admitted as Church Members.
> . . . And Your Petitioners further pray that your Honourable Body will take into consideration the many difficulties which poor people, with large families have to labour under in new settlements, and if you in your wisdom should deem meet to lessen the burden of our commutation money, Your Petitioners, as in duty bound, shall ever pray.[31]

The first petition was granted in "An Act for the Relief of Minors of the Society of Mennonists and Tunkers."[32] But the second petition remained unattended, and the matter was apparently laid to rest until 1827 and the years immediately following. In the meantime, the pacifists were confronted not only by the militia but by actual warfare. Perhaps it was the war experience itself that persuaded the Mennonites that the exemption of

their men, even in return for payment of fines, was a high enough privilege and in recognition of this they refrained for a time from seeking relief from fines.

The War of 1812–14 saw the United States allied with France against Great Britain. British interference with American shipping was the reason for the United States to invade Canada in hope of obtaining more of the coveted territory. While the attack from Detroit was repulsed and the city captured by the British in 1812, the Americans retook the city in October of 1813 and pursued the British up to the Thames River.

In that retreat or evacuation the Mennonites who were settled along the Grand River also became involved in the war. According to a statute of 1809, the King had the power to "impress such horses, carriages, and oxen" as might be required "in case of emergency, by actual invasion or otherwise."[33] A noted Waterloo County biographer summarized the meaning of the impressment in that area as follows:

> A number of the Waterloo people were up at the battle on the Thames. These Waterloo boys acting as teamsters, had taken shelter in a swamp nearby while the battle was being fought. An officer of the British army, seeing that all was lost, gave them warning, said, "Boys, all is lost, clear out and make the best you can," upon which some ran, while others unhitched their horses and rode off for their lives. Christian Schneider, Jr., who carried the money-safe on his wagon, cleared out on his horses, leaving the wagon with all its contents behind. In this defeat old Adam Shoupe was taken prisoner by the Americans. He was taken before General Harrison who, perceiving his innocent and harmless appearance, dismissed him and granted him permission to return to his Canadian home.[34]

Just how many Mennonites had their teams and equipment impressed is not known, but when it was all over at least 22 farmers lawfully claimed loss or damage for two horses, 14 wagons, 17 harnesses, one coat, five blankets, 54 bags, 13 chains, two yokes, and four singletrees. This particular claim amounted to about $5,000. The heaviest loss was encountered by Henry Wanner who claimed $500 for horses, wagon, harness, and bags.[35]

It can be concluded that the Mennonites served with great reluctance, though their opposition to participation was not as intense as that of the Quakers (the latter accepted fines and jail

TABLE 1

STATEMENT OF MILITIA TAXES PAID
BY MENNONITES, QUAKERS AND TUNKERS (1813–1826)

DISTRICT	PERIOD	AMOUNT PAID*
Home (including York and Waterloo)	1813–26	$20,100
Niagara	1815–26	4,684
Midlands	1813–16	1,288
London	1813–18, 1822–26	1,356
Newcastle	1813–19	676
Johnstown	1813–20	1,128
Western	1813–19	76
Eastern	1813–19	92
Bathurst	—	—
Ottawa	—	—
Gore	1827	40

* Collected in pounds, shillings, and pence, and here converted into approximate dollar equivalents.

terms rather than involvement in military affairs). For the Mennonites this type of passive war service was not an isolated example. In Russia, where Napoleon marched on Moscow the same year that America tried to seize Canada, the Mennonites of Molotschna assisted the tsar in similar ways.[36] And when the Crimean War came a half-century later the Mennonites in that country likewise would provide horses, transport carriages and drivers.[37]

For most of the loyalists, the War of 1812 confirmed the wisdom of their exodus from the States and many cut all their remaining ties. To give one example, the Methodists soon thereafter saw no alternative to the organizing of their own Canadian conference. For the Mennonites, however, the blood and faith ties south of the border remained strong. After the peace treaty was ratified in 1815, the visiting to and fro and the international marriages, as well as the migration itself, were resumed. Allegiance to the British Crown did not require of them, as it did of the other true loyalists, enmity with the United States and its people. Indeed, this continuous fraternity with the Americans

helped to shape the Canadian Mennonite destiny for decades to come.

For one and a half decades after the war, apparently very little effort was made to reduce or eliminate the militia fines. This may have been partly due to easier collection, indicating gratitude that the war was over, and partly to what appears to have been an inconsistency in the collection of the militia taxes in the various districts. In 1829 the Lieutenant-Governor was curious about amounts received "from Mennonists, Quakers and Tunkers from military service, during the last 16 years" but none of the district reports, with one exception, covered the full 16 years. The absence of given years, as seen in Table 1, suggests neglect in collection or in reporting, or both.[38]

At the end of the 1820s the effort to eliminate the militia tax altogether was taken up again. In 1829 notice to amend the militia laws was given but, according to the *Journal* record, no bill was presented.[39] However, the matter was brought up frequently until the efforts were crowned with success 20 years later. The chronology of that sustained lobby was as follows:[40]

1829 January 14 — Notice was given but no bill was introduced.[41]

1830 February 10 — Isaac Robb and 18 other Mennonites from Niagara district asked for relief from military fines.[42]

1830 February 17 — Jacob Erb from Gore and 70 other Mennonites and Tunkers asked that fines be reduced and paid in form of work on the roads.[43]

1830 March 1 — A bill disposing of fines in peacetime was passed by the Assembly but stalled in the Council.[44]

1832 December 31 — S. Bowman from Waterloo County and 240 others, Mennonites and Tunkers, asked reduction of fines in time of peace and their collection as part of regular taxes.[45]

1833 November 30 — Jacob Fry, again supported by others, made a request for removal of all militia fines.[46]

1834 January 4 — A petition against severity of fines was presented by James Johnson, Esq., and 110 others from the Niagara district.[47]

1834 February 18 — A bill calling for removal except in time of actual invasion, failed to pass.[48]

1835 April 14 — Another Assembly bill, designed to eliminate militia exemption fees in time of peace, was

lost in Council and repeated efforts to gain acceptance failed.[49]

1836 January 30 — Yet another bill to cancel fines in time of peace was passed by Assembly and lost in Council.[50]

1837 January 18 — Repetition of the above; Militia Act of that year reduced yearly fines in time of peace to ten shillings.[51]

1841 June 15 — Mennonite ministers Jacob Gross and Jacob High asked for reconsideration of militia fines, but without result.[52]

1846 April 3 — A petition similar to the above was submitted.[53]

1847 July 1 — Petitions on behalf of Mennonites and Tunkers by Municipal Council of Niagara. The Assembly passed a favourable bill which again fell through in Council.[54]

1849 May 30 — Royal assent was given to a bill which rejected the principle of fines as a substitute for militia service.[55]

By 1849, it must be remembered, the administration of the provinces had undergone change with the effect that Upper and Lower Canada were united on July 1, 1841, into the Province of Canada.[56] But the new Militia Law of that year left the exemption with the traditional limitations unaltered. With the removal of the fines in 1849 the legal status of pacifists in respect to military service at the century's halfway mark stood as follows: no compulsion for militia service or payment of fines for Quakers, Mennonists and Tunkers aged 16 to 60, provided they produce certificates of belonging, signed by the meeting or society, and presented to the assessors of the locality every year before the first of February.[57]

The unusual privileges achieved by the pacifist groups in over 50 years of effort were reaffirmed by subsequent Acts, before and after Confederation.[58] But opposition to the privileges remained sufficiently strong to keep Mennonites constantly alert. When civil war broke out in America, Mennonite leaders in Canada once again made sure that their rights were properly secured.[59] To what extent the Canadian people as a whole really approved of the special privileges could only be tested in wartime, for which the twentieth century was to provide ample opportunity.

The Mennonite preoccupation with exemption from the militia, as reported above, should not be allowed to imply that the non-

resistors took their civic responsibilities lightly. On the contrary, in the building of roads, in the founding of schools, and in the maintenance of community life they became exemplary. And here and there, lay Mennonite leaders also entered the political arena. Among the families establishing a most remarkable record were the Reesors of Markham, who held seats on the Council of the County of York during 37 of the first 50 years. Sometimes more than one of the Reesor family connections were involved so that 53 years of service were recorded in that half-century.

This service began with David Reesor (1823–1903), third son of Abraham Reesor, an immigrant settler from Pennsylvania. At the age of 27 David was elected to the first Council in 1850 when the Municipal Act came into force, and was re-elected five times thereafter. During the course of his civic career he held positions as Reeve of Markham, Warden of York County, Member of Provincial Legislative Council (Senate) for Kings Division.

Among his projects were the establishment of a grammar school, a newspaper, the *Markham Economist*, a cheese factory, a bank, an agricultural society, and a telegraph company of which he became president. Apparently, all of these involvements were not possible without total respectability in the community, and so David Reesor also became a colonel in the Sedentary Militia.[60]

Ironically, at that very time in the middle of the eighteenth century when the Mennonites were achieving respectability and legality within Canadian society, they were beginning to lose their internal serenity, their congregations being shaken by various dissensions and strife. That story, however, should not be told before the life of those congregations and the role of their leaders is more fully described, as it is in the next chapter. After all, the petitioning pertaining to the law represented only a small fraction of the total Mennonite effort in developing the congregations and in advancing the cause of God's greater kingdom, as they perceived it.

FOOTNOTES

1. John S. Moir, ed., *Church and State in Canada 1627–1867: Basic Documents* (Toronto: McClelland & Stewart, 1967), p. 153.
2. H. S. Bender, "The Pacifism of the Sixteenth Century Anabaptists," *Mennonite Quarterly Review*, XXX (January 1956), pp. 5–18.

3. John Horsch, "A Historical Survey of the Position of the Mennonite Church on Nonresistance," *Mennonite Quarterly Review*, I (July 1927), p. 10.
4. *Ibid.*
5. J. Wilbur Bender, "Pacifism Among the Mennonites of Pennsylvania," *Mennonite Quarterly Review*, I (July 1927), pp. 23–40.
6. At Niagara-on-the-Lake in 1811. Copy of original printing available in Niagara Historical Society Library.
7. Alan Wilson, *The Clergy Reserves of Upper Canada*, Booklet No. 23 (Ottawa: Canadian Historical Association, 1969), p. 5.
8. *Ibid.*, p. 6.
9. Ramsay Cook, *Canada: A Modern Study* (Toronto: Clarke, Irwin & Company, Ltd., 1963), pp. 43–5.
10. 1 William IV, c. 1 (1829).
11. Cook, *op. cit.*, pp. 43–5.
12. 1 William and Mary, c. 18 (1688).
13. *Ibid.*, Sec. 7.
14. *Ibid.*, Sec. 10.
15. 7 and 8 William III, c. 34 (1695–6).
16. William C. Braithwaite, *The Second Period of Quakerism* (Cambridge: Cambridge University Press, 1961), p. 183.
17. 7 Anne, c. 5 (1708).
18. 2 George III, c. 20, s. 42 (1761).
19. W. A. Cruikshank, *The Simcoe Papers* (Toronto: Ontario Historical Society, 1923).
20. Arthur Dorland, *The Quakers in Canada* (Toronto: Ryerson Press, 1968), pp. 53–5.
21. 33 George III, c. 1 (1793).
22. 33 George III, c. 7 (1794).
23. Arthur Dorland, *A History of the Society of Friends (Quakers) in Canada* (Toronto: Macmillan, 1927), pp. 311–13. See also: "Quakers Opposed War Preparation in Upper Canada" (Extracts from the *Minute Book of Yonge Street Preparative and Monthly Meeting*, 1804–1818), *The Canadian Friend*, LXIX (February–March 1973), pp. 10–11.
24. Alexander Fraser, *Twenty-Second Report of the Department of Public Records and Archives of Ontario* (Toronto: Herbert H. Ball, 1934), p. 133. See also: A. B. Sherk, "Early Militia Matters in Upper Canada, 1808–1842," *Ontario Historical Society Papers and Records*, XIII, pp. 67–73.
25. Fraser, *ibid.*, p. 144.
26. C. Henry Smith, *The Mennonite Migration to Pennsylvania in the Eighteenth Century* (Norristown, Pa.: Norristown Press, 1929), pp. 278–302.
27. Arthur Dorland, *op. cit.*, pp. 53–5. See also: "The Petition of

John Troyer," *Ontario Historical Society Papers and Records*, XXIV, pp. 142–43.

28. E. Morris Sider, "History of the Brethren in Christ (Tunker) Church in Canada," M.A. thesis, University of Western Ontario, 1955.
29. 48 George III, c. 1, s. 27 (1808).
30. 49 George III, c. 6 (1809).
31. Alexander Fraser, *Eighth Report of the Bureau of Archives* (Toronto: King's Printer, 1911), dealing with Legislative Assembly of February 10, 1810.
32. 50 George III, c. 11 (1810).
33. 49 George III, c. 2 (1809).
34. Ezra Eby, *op. cit.*, p. 43.
35. H. S. Bender, "New Data for Ontario Mennonite History," *Mennonite Quarterly Review*, III (January 29), pp. 42–6.
36. Henry J. Gerbrandt, *Adventure in Faith* (Altona, Man.: D. W. Friesen & Sons, 1970), p. 19.
37. Frank H. Epp, *Mennonite Exodus: The Rescue and Resettlement of the Russian Mennonites Since the Communist Revolution* (Altona, Man.: D. W. Friesen & Sons, 1962), p. 26.
38. See *Journal of Legislative Assembly*, January 8 to March 20, 1829, and "Statement of Amount of Money Received from Mennonists, Quakers, and Tunkers for Exemption from Militia Service for Last 16 Years," March 19, 1829, PAC, *Upper Canada Sundries*, Record Group 5, A1, Vol. 93, p. 51604.
39. Province of Upper Canada, *Journal of Legislative Assembly*.
40. E. Morris Sider, "Nonresistance in the Early Mennonite Brethren in Christ Church in Ontario," *Mennonite Quarterly Review*, XXXI (October 1957), pp. 282–86.
41. *Journal of Legislative Assembly*, January 14, 1829.
42. *Ibid.*, February 10, 1830.
43. *Ibid.*, February 17, 1830.
44. *Ibid.*, March 1, 1830.
45. *Ibid.*, December 31, 1832.
46. *Ibid.*, November 30, 1833.
47. *Ibid.*, January 4, 1834.
48. *Ibid.*, February 18, 1834.
49. *Ibid.*, April 14, 1835.
50. *Ibid.*, January 30, 1836.
51. *Ibid.*, February 14, 1837. See also 1 Victoria, c. 8, s. 50.
52. *Ibid.*, June 15, 1841.
53. *Ibid.*, April 3, 1846.
54. *Ibid.*, July 1, 1847.
55. *Ibid.*, May 25, 1849.
56. 4 Victoria, c. 1 (1841); 4 Victoria, c. 2 (1841).
57. An Act to Amend the Militia Law, August 17, 1841.

58. See, for example, 8 Victoria, c. 77, s. 71; 31 Victoria, c. 4, s. 17; *Revised Statutes of Canada*, c. 1, s. 26 (1886).
59. Orland Gingerich, *Amish*, pp. 230–47.
60. See L. J. Burkholder, "The Reesors in Canada," an address given at Reesor Reunion, Locust Hill, June 30, 1928 (CGC); also, *The Markham Economist*, August 8, 1901.