

# All Things in Common?: The Contingent Nature of Communalism Among the Hutterites

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## Introduction

The hog feeder controversy, set against all that Justice Patrick Ferg heard about Hutterite communitarianism, was the one fact that caused him to pause, and think about his final decision:

I would only question the propriety of one Hutterite Colony accepting money extracted from a brother colony on a patent infringement. Although perfectly legal, that would seem to me to be contrary to the spirit and tenets of the church.<sup>1</sup>

The plaintiffs and defense had subpoenaed church elders, merchants, a sociologist, patent attorneys, and Hutterites. The court transcripts read like a sociological study of marriage, politics, failed business deals, inter-colony social relations, and distribution of resources. The 1989 Hutterian trial in Manitoba, Canada, had revealed a weak link in their communalism: the capriciousness of *inter-colony* business. In this article, I will argue that a bank scandal and challenge to a patent right reveal the contingent nature of Hutterian communalism. I show that

Justice Ferg should not have been surprised to find a colony asserting its private rights to a patent. Indeed, property is owned and controlled by individual colonies, not by 'supra' colony economic entities. This structural feature of Hutterian communalism, in part, contributed to the conflict which resulted in a costly and embarrassing legal battle. I will also discuss the possibility that inter-colony conflicts of the sort addressed in the trial may be attributable to forces external to the Hutterian colonies: shrinking hog and poultry markets, and economic competition. I will review the testimony in order to examine the current understanding (both Hutterian and scholarly) of their economic and political structures. How are the colonies economically and legally organized? How are inter-colony transfers of resources normally regulated? What authority does the church and colony have regarding the exchange of technology? And how are these decisions made? I then examine the particulars: the New York bank swindle and the patent infringement.

Scholars have argued that a single Hutterian colony "... functions as a completely independent economic unit."<sup>2</sup> Yet these same scholars have underscored the necessity of inter-colony exchange (especially at the time of division and expansion) as much as they have accentuated the fact of colony independence.<sup>3</sup> Bennett, for example, has described how barn construction techniques and manufacturing knowledge have been shared, and Victor Peters writes that, "...the economic stability of the colonies is assured...by an informal intercolony aid organization."<sup>4</sup> In 1974, John Hostetler found that there was inter-colony sharing and that colonies did not privately appropriate profits from patent inventions:

The Rosedale capping knife for extracting honey from honey-combs was made by a colonist in the Rosedale colony; it was later patented and produced by an outside firm. Potential patents and royalties from such inventions have not been seriously pursued. Neither individuals nor colonies have accumulated wealth from royalties.<sup>5</sup>

Using the trial record, I will show that Hutterites corroborate this conceptualization of both autonomously and cooperatively functioning colonies. I will show that the findings of Bennett, Hostetler, Peters and others contrast sharply with events exposed in the trial.

## Trial Background

Two and a half years of turmoil among the Hutterian Brethren came to a head on a hot summer afternoon in 1989 before the Manitoban Court of Queen's Bench.<sup>6</sup> Each day, Hutterians stood in line; one journalist speculated that it was their intention to fill the courtroom to capacity, thereby keeping others from witnessing the proceedings. The senior elder and bishop, Jacob Kleinsasser, asked the court to protect the Hutterites from expelled members who had refused to leave Lakeside Colony: "Once this [protection] will not be given, we are finished."<sup>7</sup> Seven members of Lakeside Colony, the defendants, countersued.<sup>8</sup> The expulsion, they argued, had been in violation of traditional practice. In their defense, they submitted evidence of a conspiracy to suppress unscrupulous transactions: a soured business deal with New York bankers, and a conspiracy to steal a patent to

a hog feeder. The defendants argued that their attempt to expose the conspiracy led to their excommunication. The trial lasted three weeks, filled thousands of pages of transcripts, discovery, and exhibits, and led his Lordship Mr. Justice P. Ferg to conclude: "There is no evidence before me of any such conspiracy, for any reason, and I reject any such suggestions."<sup>9</sup> Nevertheless, though the judge was emphatic about the conspiracy, he remained pensive about the patent infringement.

### Hutterian Economics and Politics

Upon their arrival to North America in 1874, and drawing on nearly 250 years of communal experience in Moravia, Slovakia, and Russia, the Hutterites settled on Burlington Northern railway lands in South Dakota. Although their beginnings were modest, they prospered. Throughout the last quarter of the nineteenth century, they established three major settlements and numerous daughter colonies in the Dakota territories: the Schmiedeleut, the Dariusleut, and the Lehrerleut. A fourth group of non-colony Hutterite (the Prairieleut) settled to the west of the colonies and unlike their brethren, acquired private homestead land and were soon thereafter assimilated by adjoining Mennonite communities.<sup>10</sup> In all, there were more than one-hundred families and a population of around seven-hundred that was divided equally between colony and private homestead lands; by 1917, there were nineteen communal groups—seventeen in South Dakota and two in Montana.

Discrimination and harassment fueled by anti-German sentiment during World War I in the United States forced the majority into two provinces of Canada—Manitoba and Alberta. As nationalist sentiment subsided, colonies were reestablished in the United States. Today there are nearly 35,000 Hutterites living on 356 colonies in Canada and the United States: 14,500 Schmiedeleut,<sup>11</sup> 10,480 Dariusleut, 8,329 Lehrerleut, and 2,000 Arnoldleut.<sup>12</sup>

Communalism is the hallmark of Hutterian life. Elder Johann Christoph Arnold addressed these comments to the judge:

...the church is based actually on Acts 2, my lord, where it says that they were of one heart, of one mind, and of one soul. They had all things in common... no one of us, my lord, owns anything. We give it joyfully, free-willingly to the church for the rest of our life and that is based on Acts 4.<sup>13</sup>

The Hutterites, unlike other Anabaptist groups--the Amish and Mennonite--have pursued their communal ideology and practices regarding the use and distribution of property. Indeed, in the trial and throughout my fieldwork, Hutterites<sup>14</sup> often used disparaging language to compare communalism with the private property of their cousins, the Mennonites. In speaking about a defendant's personal bank account, Rev. Michael Wollman said "...he was living like a Mennonite on a Hutterite colony."<sup>15</sup> The idea of *Gütergemeinschaft* or 'community of goods' was in contradistinction to private property, which was "created by sin and greed." The material world is not "...the work of human beings"; therefore, it is not to be possessed by individuals, but shared for the greater good of the community.<sup>16</sup>

Individual self-interest is to be subordinated to the interests of the colony and

church.<sup>17</sup> And unlike the Mennonites, the control of individual self-interest was not to be left to chance, nor was charity to rule where individuals asserted their right to hold productive property.<sup>18</sup> The church stresses obedience and submission to God. Indeed, the plaintiffs were asking the court to use its authority to force members of Lakeside to obey orders, to leave the church and the colony. The Hutterites were asking the secular state to rule where their edicts had failed. Several witnesses were questioned at length about the role of obedience. The purpose was to demonstrate that "... obedience cannot be questioned. The individual has to submit to the will of the brotherhood."<sup>19</sup> Any type of prolonged disobedience means, then, that one jeopardizes membership in the church and colony, and access to productive resources.

Witnesses were asked to describe how their baptismal and marriage vows ritualized and legitimized their submission to the highest authority, God. In marriage this order is further reproduced when the couple promises to place the interests of the community above the family.<sup>20</sup> When a husband or wife, for instance, violate church law and are asked to leave, their marriage vows stipulate that the spouse and offspring are to remain with the community. Baptismal vows deemphasize the importance of the individual, who is located at the bottom of the social hierarchy.

This stratified ontology has corresponding institutions (equally hierarchical) which regularize and routinize their social relations: the church, the leut, and colony. These are the primary units of production and reproduction. The defense and the plaintiffs referred to the formal rules governing these institutions in developing their cases.

What are the regulations regarding inter-colony transfers of wealth and property? What authority does the church and the leut have over colony affairs? Answering these questions required that the lawyers for both sides examine the intricacies of the social relations between colony, leut, and church.

The Hutterian Brethren Church of Canada (hereafter, H.B. Church Inc.) is a political entity incorporated under a 1951 Canadian federal statute. As a corporation, H.B. Church Inc. has a constitution which spells out in detail the political and economic relations between the Canadian leuts and colonies.<sup>21</sup> The constitution, read into the court record, was used by the defense to show that Bishop Kleinsasser had exceeded his authority. With expert testimony from historian Victor Peters and Hutterite ministers, the plaintiffs sought to downplay the corporate authority of H. B. Church Inc. Dr. Peters, in referring to the typical Hutterite, did not think that "...any of these people are even familiar with the constitution. It plays no role in the internal relationship among the Hutterites."<sup>22</sup> Elder Kleinsasser, in response to a question about the strength of H. B. Church Inc.'s authority, said that it was "not very much because...their powers in that line are watered down or weakened."<sup>23</sup> And, indeed, Daniel Hofer Sr., the primary defendant who had once been a colony German teacher and secretary, testified that he had never seen a copy of the constitution (nor did he know much about it) prior to 1987 when his lawyer showed it to him.<sup>24</sup>

Why had H. B. Church Inc. been organized? What are its powers? Dr. Peters

and several Hutterian leaders explained that the federal statute was a response to external political pressure:

It was to have something on hand when the colonies met a national problem (for example, military exemption, alternative service, and legislation restricting land purchases) or I think another one was income tax, for instance, how will a colony pay income tax since the individual does not get income.<sup>25</sup>

And Elder Kleinsasser added, "... for a unification purpose."<sup>26</sup> Also prior to 1951 provincial legislation had to be passed each time they sought to establish a new colony. The constitution of H.B. Church Inc., therefore, became the legal mechanism used by the Canadian government and the Hutterites to differentiate and legitimate the lines drawn between the church, the three Canadian leuts, and individual colonies.<sup>27</sup>

The constitution delimits H.B. Church Inc. to that of an umbrella organization covering three conferences or leuts: Dariusleut, Lehrerleut, and Schmiedeleut. The Articles of Association designate a board of nine managers (three from each leut) who administer and manage all matters affecting church dogma, discipline, and affairs; it makes no provision for the church to involve itself in financial or business deals.<sup>28</sup> These managers elect a president (senior elder—bishop Jacob Kleinsasser), a vice-president, and a secretary-treasurer.

Lower in the hierarchy the leut's responsibility and structure is specified. Two delegates from each colony constitute the leut's board; it governs the conduct, transactions and affairs of each leut as a separate entity. The three leuts elect a chairman, a vice-chairman, and a secretary.

The last feature of social organization described in the constitution is the colony, which is the only one assigned comprehensive powers to purchase, mortgage, possess, and exchange real property.<sup>29</sup> On numerous occasions, witnesses testified that colonies performed their economic functions "autonomous" from others.<sup>30</sup> In fact, Kleinsasser testified, "No colony shall be liable for the debts, liabilities, or any financial obligation whatsoever of any other colony."<sup>31</sup>

Though mutual aid and inter-colony exchanges have been common, it is according to *convention*, not constitution, that colonies share knowledge and economic resources. Lakeside, for instance, in 1979 was rescued from financial ruin with massive infusions of labor, cash, and equipment donated by several colonies.<sup>32</sup> In a surprising and poignant illustration, a series of exchanges between Bishop Kleinsasser and the defendant's lawyer revealed the emphasis placed upon colony ownership of property:

*Lawyer:* Would it be expected that the community would share that [he was referring to a hypothetical case of a colony inventing a new piece of technology] information with the other communities so that they too might then acquire seeders of a similar nature and have the benefit of the advanced technology, or would it generally be expected that they would keep that to themselves?

*Kleinsasser:* I've got no answer for that, what is generally expected.

*Lawyer:* Well, sir, the Hutterian community is engaged in farming. If the communities

make developments or improvements in the technology of farming, do they not typically share that information with each other to the mutual benefit of the whole?

*Kleinsasser*: No.<sup>33</sup>

Questioning about the rules governing exchange stopped when Kleinsasser proclaimed, "No, that is individualized for each congregation [colony]."<sup>34</sup>

After the implementation of the 1951 federal statute, every colony was organized as an independent corporation with separate Articles of Association spelling out member rights and obligations.<sup>35</sup> An important section of the Articles, "Holding of Property," unequivocally stipulates that:

All property, real and personal, of a congregation or community, from whomsoever, whensoever, and howsoever it may have been obtained, shall forever be owned, used, occupied, controlled and possessed by the congregation or community for the common use, interests, and benefit of each and all members...<sup>36</sup>

The constitution provides for the election of a senior elder or bishop of H. B. Church Inc. In 1989 this person was Jacob Kleinsasser of Crystal Spring Colony, Manitoba. Next, each leut elects an elder; again, Jacob Kleinsasser held this position within the Schmiedeleut. At the colony level, the highest political figure is the first preacher who is also the president of the colony corporation: in Crystal Spring's case, Kleinsasser was both first preacher and president. Every colony also elects a second preacher (who is often its secretary) and a farm manager or boss. These officials, together with two other elected at-large members, form the Witness Brothers (sometimes called directors), or the Executive Council. The next step down in the colony hierarchy is the Brotherhood (all baptized males). The Brotherhood elects colony officials and is the formal conduit of economic information to the Witness Brothers. It also makes colony decisions according to majority rule; and in general is consulted by the Witness Brothers concerning internal disputes and changes in the norms and rules governing their lives. Before any member can be expelled from a colony, the Brotherhood must consent.

Major economic decisions (such as starting a new daughter colony) require not only the vote of the colony Brotherhood, but also the majority support of all Schmiedeleut colonies.<sup>37</sup> Inter-colony affairs are dealt with at Schmiedeleut annual meetings or whenever the senior elder convenes one. These meetings deal with church discipline and norms; on occasion they are asked to settle disputes between colonies. Elder Johann Arnold testified that the leut annual meeting would be the likely place to solve, for instance, a disagreement over the sharing of technology.<sup>38</sup> But, as I will demonstrate below, no such meeting was ever arranged to deal with the inter-colony conflict generated by the hog feeder.

With the social structure and normative rules in mind, I now turn to two components of the trial that raised critical questions about the ways in which colony and church politics and economics intermingle. The first is a story about how two New York bankers arranged risky business deals which cost several colonies millions of dollars. With the bank swindle, I will show how Kleinsasser obscured church, leut, and colony boundaries to obtain a loan for his colony, and when the

deal went sour, he shared the financial losses. The second episode concerns Crystal Spring's ownership rights to the patent of a hog feeder. In this instance Kleinsasser drew strict boundaries between colonies and decided not to share technology. These events suggest that inter-colony exchange and the rules that govern property relations are sometimes non-communal and in the case of the hog feeder potentially conflictual.

### New York Bank Scandal

In September of 1982, as the prime interest rate climbed to eighteen percent in both Canada and the United States, Bishop Kleinsasser was meeting with two unlikely characters, bankers Al Deleo and Howard Cornell. The purpose was to "borrow money, which they said they could bring to us for six and half to seven percent interest."<sup>39</sup> It appeared an innocuous and smart business maneuver. Kleinsasser was hesitant. He knew that Deleo and Cornell were less than genuine in courting the Hutterites: they grew beards, wore Hutterian-like hats and dressed in plain clothes. Kleinsasser didn't trust them and at first turned them away. Persistent they found their way to Rosedale and Milltown colonies in South Dakota.<sup>40</sup> There, Rev. Mike Waldner was convinced. In the meantime, thinking it wouldn't hurt to try, Bishop Kleinsasser recalled, "if it's possible to get six and half to seven percent money, it seems to be quite tempting."<sup>41</sup>

Two and one-half million dollars later the scam was apparent. Deleo and Cornell had taken the money, bought properties (oil wells and rigs) in the United States and then defaulted on loans. They had purchased these properties by utilizing a power of attorney that had been granted to them by Kleinsasser and his brother. Repentant, Kleinsasser explained:

I will not deny that this [power of attorney] had not been given... it still hinges on that same offer of going and getting a loan for six to seven percent interest... it was very shortly after we recognized the error of giving an irrevocable non-circumvention agreement and we were calling it back as fast as we could.<sup>42</sup>

Crystal Spring had granted the bankers the power to conduct business in the name of H.B. Church Inc. and Crystal Spring. Before they could be stopped, Deleo and Cornell had squandered the money on speculative business deals. In turn, the United States' companies that Deleo and Cornell had purchased defaulted on loans. Holding bad loans, the bank filed suits against the colonies that had granted Deleo and Cornell the power of attorney. Kleinsasser's lawyers had tried to absolve Crystal Spring of any financial responsibility.<sup>43</sup> After several months, though, Crystal Spring capitulated and eventually contributed \$1,250,000.00 (Canadian) to thwart pending lawsuits.<sup>44</sup> Rosedale and Milltown colonies paid the balance but not without help from Crystal Spring. In testimony, Kleinsasser explained why he had paid, in addition to the amount Crystal Spring was responsible for, a percentage of the debts incurred by the other two colonies:

...it's nothing unusual as far as that goes to help one another... True enough it was their (Rosedale and Milltown) deal. It was, unfortunately, a bad deal.<sup>45</sup>

Kleinsasser's testimony was revealing in the emphasis he was giving to helping another colony. Recall, in contrast, that he had previously told the court that it was not "generally expected" for one colony to exchange technology with another, but in this instance "it's nothing unusual" for Crystal Spring to give money to Rosedale and Milltown. Kleinsasser had given conflicting views on the matter of inter-colony exchange and assistance. Crystal Spring had not turned its back and acted autonomously from related colonies. Even though each colony acted independently in their deals with the bankers, and even though each was a separate corporation, Crystal Spring acted otherwise. Kleinsasser's testimony, then, is not as much an indication of his contradictory views about colony assistance as it is a manifestation of the extent to which inter-colony economic exchange is remarkably variable and contingent.

The structure of Hutterian communalism is such that as separate corporations colonies are not liable for the debts of one another. But if one colony was not legally responsible for the economic decisions of another, the defendant's lawyers wanted Kleinsasser to explain why he had jeopardized all the colonies when he as the representative of H.B. Church Inc., signed the power of attorney as *Bishop* Kleinsasser. The defense pointed out to the court that Kleinsasser had represented himself as bishop of the H.B. Church Inc., elder of the Schmiedeleut, and president of Crystal Spring colony, when granting Deleo and Cornell a power of attorney to negotiate a business transaction. Kleinsasser was asked:

...did you attend that meeting (with Cornell and Deleo) in your capacity as president of Crystal Spring Colony and therefore looking to the interests of the colony or as Senior Elder of Schmiedeleut Conference and looking to the interests of the colonies generally?<sup>46</sup>

He replied, "No... I don't go in leaps and bounds and now say I'm gonna seek an opening for all the colonies."<sup>47</sup> Later, though, the defense pointed to the evidence: Exhibit 140, *The Church of the Hutterian Brethren and Crystal Spring colony Certificate of Authority by Corporate Resolution*:

... Further Resolved...Jacob Kleinsasser, Bishop of the Hutterian Brethren Church and President of Crystal Spring Holding Company... with the Church Board, and with the Board of Directors of Crystal Spring Holding... hereby grant full and complete authority and a Power-of-Attorney to Alfred Deleo...Harold Cornell,... be attorney-in-fact on behalf of the said Church and/ or Crystal Spring Holding Company, Ltd. to act as representatives of the Church and/or said holding company in the negotiations...<sup>48</sup>

In his defense, Kleinsasser pointed out that another related document (exhibit 139) clarified that, "no colony shall be liable for debts, liabilities, or any financial obligation whatsoever of any other colony."<sup>49</sup> Kleinsasser did not deny, however, that the bankers had been granted the power to act in behalf of H.B. Church Inc.:

... maybe they had been talking of approaching other colonies that this [H.B. Church Inc.] got in. I have always been careful that there is no cross guarantee from colony to colony, which is actually required every time a banking institution or borrowing institution wants to loan money to a colony... And it could possibly be that this is why



it is in here. I don't want anybody that comes to me to be on the understanding that if he talks with me, then, that makes other colonies liable to any of the loans of another colony... Sorry if it's Hutterian Brethren Church here, I can only make clarifications, that's all I can tell you.<sup>50</sup>

The lawyer for the defense retorted:

That's fine. That's your interpretation of the meaning of the paragraph. My interpretation of it, sir, is that it simply points that you knew full well, when signing the resolution, that the previous references to Church Board and Church as opposed to Crystal Spring Colony were in fact references to the entirety of the Church.<sup>51</sup>

Had Kleinsasser received approval from the Crystal Spring Witness Brothers, the Schmiedeleut conference, and the board of directors of H.B. Church Inc. to assign the bankers a power of attorney? Apparently not. "I think I signed it then I told them [Witness Brothers] what it was," said Elder Kleinsasser.<sup>52</sup> The defense asked:

Well, have you explained to your brethren in the Schmiedeleut Conference the circumstances surrounding the payment of two and a half million dollars between Crystal, Rosedale and Millbrook, have you explained those circumstances to a meeting of the Schmiedeleut Conference?<sup>53</sup>

Kleinsasser replied, "Not the Schmiedeleut Conference. That does not come into there."<sup>54</sup> The lawyer for the defense pushed on:

Have you explained those transactions before a general meeting of the Hutterian Brethren Church made up of representatives of the Schmiedeleut, Dariusleut and Lehrerleut Conferences?<sup>55</sup>

"No," acknowledged Kleinsasser.<sup>56</sup>

Kleinsasser's unilateral decision in the bank scandal instance made him vulnerable to some of the defendant's claims. An exchange between the plaintiff's lawyer and Daniel Hofer Sr., a defendant, demonstrates this:

*Lawyer:* Well, simply stated, Crystal fell prey to some con artists and lost some money, was that not just basically what happened?

*Hofer:* Well it just depends what you mean when you say Crystal. When you say Crystal, it involves the whole Church.

*Lawyer:* Why when I say Crystal would that involve the whole Church, Crystal is a distinct colony?

*Hofer:* Because before Crystal even existed, a letter was written at the Church service at Lakeside Colony, which noted that all the Lakeside members voted for or against if Crystal is allowed to buy land.<sup>57</sup>

Daniel Hofer Sr. went on to argue that Lakeside had contributed to the creation of Crystal Spring; therefore, Lakeside should have been consulted about Kleinsasser's decision to sign a power of attorney, which had threatened the colony's economic solvency. The New York bank swindle had revealed that the economic and political boundaries between the colonies and H.B. Church Inc. are sometimes indistinct.

Kleinsasser acted alone (as head of H.B. Church Inc.) in negotiating a business deal for his colony. Later, when two colonies faced financial ruin because of a similar transaction, he gave them large sums of money: even though “no colony shall be liable for debts, liabilities, or any financial obligation whatsoever of any other colony.”<sup>58</sup> The church constitution, moreover, states clearly that each colony is its own corporation: it delegates to the colonies the power to purchase, sell, and mortgage property. The constitution does not authorize the bishop of H.B. Church Inc. to engage in business transactions for one or more colonies. Yet in 1987 Kleinsasser’s official positions gave him overlapping church, leut, and colony authority: he had been the president (or director) of Crystal Spring Holding Company (or colony); Spring Hill Farms Ltd.; H.B. Mutual Insurance Inc.; H.B. Credit; H.B. Enterprises Ltd.; and senior elder in charge of H.B. Mutual Church Fund.<sup>59</sup> Kleinsasser had acted in a manner which could be justified by the broad powers embodied in his numerous elected positions. The swindle, however, showed that he had been willing to obscure the political and economic boundaries between the leut, colony, and the church.

Kleinsasser had shared the costs of financial failure but, as I will demonstrate below, he was not to share in the lucrative feeder manufacturing business. The defense juxtaposed the events of the bank swindle to the patent infringement to demonstrate that Kleinsasser was not consistent in the way he managed church, colony, and leut affairs.

### The Wet-Dry Hog feeder and The Patent Infringement

Pork production has been a mainstay of the Hutterian economy since 1968.<sup>60</sup> In Manitoba, Hutterites generated approximately thirty-five percent of all pork production.<sup>61</sup> This dependence on hogs was encouraged by the absence of production limits set by the Manitoba Marketing Board: “...dairy, we can’t afford anymore...And so is the boiler industry. What’s left to us. Only the hogs are open [no quotas].”<sup>62</sup> Hogs have been so important to their livelihood that in 1985, pending the shutdown of Canada Packers and the loss of a local outlet for their production, Springhill colony shouldered the controversial task of building their own killing plant with government monies.<sup>63</sup>

This plant was designed for our future existence in Manitoba...What is to stop us, to protect us, from being driven out of the agricultural industry?...only the hogs are open, Rev. Michael Wollman testified.<sup>64</sup>

Crystal Spring, for instance, in 1985 earned \$1,400,000.00 from the sale of hogs: thirty percent of their total colony earnings.<sup>65</sup> The profits generated from pork production are perceived to be critical to their economic survival. Colonies are, therefore, constantly innovating to increase productivity. One successful improvement occurred in the manufacture of a wet-dry hog feeder, which “reduced the number of days to produce a hog” and shortened the turnover of their capital.<sup>66</sup> The patent to this feeder was a central concern in the trial. Although Daniel Hofer Sr.

had claimed he invented the feeder at Lakeside, Crystal Spring held the legal patent to it. The trial records indicate that there were two feeders at issue, one produced at Lakeside and another at Crystal Spring. The latter was at issue in the trial. Crystal Spring, in turn, had transferred the patent to a Winnipeg company, C & J Jones Ltd., for one dollar.<sup>67</sup> C & J had been granted exclusive distribution rights and Crystal Spring the exclusive manufacturing rights. C & J, moreover, was obligated to guard against the illegal manufacture of the feeder and pay the cost of any such litigation. Any monies from patent infringement settlements were to be shared by C & J and Crystal Spring.

Judge Ferg was not being asked to determine who actually owned the patent.<sup>68</sup> The defense attorney questioned witnesses about the feeder in order to provide evidence for his client's claim that Kleinsasser had acted conspiratorially. This testimony further exposed the capricious nature of inter-colony economics and politics. The line of questioning about the feeder took several turns: one was toward the actual mechanics of the feeder; another described the events surrounding Lakeside's production of it; a third recalled the feeder's contribution to the excommunication of several Lakeside members; a fourth examined the general practice of technology transfers between colonies; and the final direction was toward the feeder's distribution among the colonies. I will explore the Hutterian view of technology transfers.

A defense attorney inquired:

... if two colonies claim to have invented a particular device that is of value, but only one colony can get the benefit of that device, of the value of that device, how would you foresee an issue of that nature being resolved?<sup>69</sup>

Elder Johann C. Arnold answered:

It would be very simple. It doesn't really matter if only one colony has the benefit because in the Hutterian communities, like when we [the Arnolds] are in need, we come to Canada and ask for help and they have helped us financially... So eventually, even if it's only one colony, my honour, it should be to the benefit of the whole church.<sup>70</sup>

Furthermore, but less hypothetical, Rev. Michael Wollman was specifically asked if colony hog bosses exchanged breeding information among themselves. Wollman believed they had always shared "amongst each other what we do."<sup>71</sup> Wollman described how this actually worked on his colony:

Our hog man just heard about it [Lakeside's hog feeder] and said, Yeah, bring one home. If you come home, we need some. That's general across the whole Hutterianism, if one has something they all want to try it.<sup>72</sup>

The patented wet-dry feeder (as opposed to Hofer's unpatented dry feeder) had followed the typical route to other colonies:

*Justice Ferg:* Now tell me how come all of these Hutterite colonies throughout Manitoba and Alberta could make this particular feeder. Did they all come upon the discovery of this kind of feeder at the same time or were they buying them and copying them and manufacturing them on their own, asked the Court?

*Brian Miller:* Well, we're fairly confident that most of it was buy one and build the rest," replied Brian Miller, President and owner of C & J Jones Ltd.<sup>73</sup>

Several witnesses told the court that it was a general practice among the Hutterites to transfer knowledge and technology among colonies, and in the case of the feeder, it seemed customary to "buy one" and "build the rest." Since Crystal Spring, however, had not shared its technology, the events that unfolded made Kleinsasser vulnerable to Hofer's assertion that they had engaged in a conspiracy to steal his feeder, a claim that Judge Ferg found "... no evidence for... and I reject any such suggestions." Yet Judge Ferg did question "the propriety of one Hutterite Colony [Crystal Spring] accepting money extracted from a brother colony on a patent infringement."<sup>74</sup>

Testimony suggested that inter-colony exchange of knowledge and technology is often conducted with a competitive spirit. A farm boss might tell another boss, for instance, that his productivity is higher due to a technique which increased the number of "piglets per sow to market."<sup>75</sup> Daniel Hofer Sr. testified that all colonies should be able to manufacture the wet-dry feeder but, "if I can make it cheaper than the next guy, that's the other guy's tough luck."<sup>76</sup> It was Kleinsasser's opinion that competition between colonies goes "on pretty strong at times" but it's done within the context of "sharing or visiting"; therefore, it should be perceived as a "friendly discussion."<sup>77</sup> But in the case of the production and distribution of the wet-dry hog feeder, there was more at work than just friendly competition.

It was not the case that Crystal Spring had been legally prevented from sharing its technology according to the conventional spirit of competition and mutual aid. The contract with C & J had provided Crystal Spring an option to permit others to manufacture the feeder.<sup>78</sup> Crystal Spring had not only not shared the manufacturing rights, but also, they never informed the other colonies that they held a patent and that they were receiving monies from infringement settlements.<sup>79</sup> Indeed, under cross examination, the defense attorney asked Rev. Michael Wollman how and when he heard about Crystal Spring's patent: "Just hearsay... I didn't even do anything about it. I heard it...what Crystal did is not my business."<sup>80</sup>

The patent did become inter-colony business due to the many infringement settlements and the dispute over who actually owned the patent. Though it had been perceived by some church elders as inter-colony business, it had not been presented as such to the Schmiedeleut conference:

*Lawyer:* You had in the Church a dispute between Kleinsasser of Crystal Spring on one hand, "I invented the feeder", and Hofer of Lakeside on the other, "I invented the feeder," I submit to you that it would on the basis of all that I've heard about the Hutterian Church, that dispute would be resolved internally in the Church through an investigation, wouldn't it?

*Rev. Jacob Hofer:* If it would have been brought to our attention, but it never was.... It was kept a secret. We were kept in the blind.<sup>81</sup>

Crystal Spring had given a non-Hutterian corporation the sole distribution rights to the feeder, and had blocked its production by other colonies through maintaining

exclusive manufacturing rights. Kleinsasser's colony, then, had acted as a separate and autonomous corporation in spite of the fact that many witnesses testified that technology and knowledge are generally shared among colonies.

### Conclusion

Why had Crystal Spring acted in the interests of all the colonies and the church in the bank swindle but not in the distribution of the wet-dry hog feeder? The trial revealed a problem in the current structure of Hutterian communalism: on the one hand, colony property is communally distributed between members; on the other hand, between colonies, property is neither communally owned nor allocated. I don't believe that Judge Ferg recognized this--Hutterian communal ideology tends to obscure it. The court heard about Hutterian Brethren (H.B.) Credit Inc. providing loans to rescue Springhill colony's killing plant.<sup>82</sup> In other testimony, the Judge learned about loans made by H.B. Credit to Crystal Spring, which were requested after New York bankers swindled millions of dollars.<sup>83</sup> These loans were in fact a form of communal distribution at the inter-colony level. Thus, Judge Ferg could not understand why Crystal Spring had kept the ownership rights to a hog feeder patent. I argue that the 'impropriety' that Judge Ferg believed to have occurred was not contrary to their customary economic practices. This you can understand only if you recognize that colonies are, first and foremost, separate units of production. Crystal Spring was only claiming rights to what was legally theirs. The evidence presented in the trial demonstrates that inter-colony exchange may lead to conflict and is not, as suggested by John Hostetler and others, functionally integrative.<sup>84</sup>

It was the inconsistent manner of inter-colony exchange of resources which opened the door for the defendant's claim that the plaintiffs had acted in a conspiratorial manner. Daniel Hofer Sr. had convinced himself that he invented the wet-dry hog feeder; consequently, he rightfully claimed it as Lakeside property. The trial left little doubt that Daniel Hofer Sr. had not patented the feeder, had acted disobediently, and had been properly excommunicated. When he learned that Crystal Spring had claimed ownership of the invention and at the same time, he heard the killing plant had been saved by an inter-colony effort organized by Bishop Kleinsasser, and that other colonies had been paying a Winnipeg company cash settlements which were being shared by Crystal Spring, Daniel Hofer Sr. acted, perhaps unwittingly, on these contradictory actions to leverage his private concerns into the ambiguity: colonies had shared the cost of the failed abattoir but not the patent to the hog feeder.<sup>85</sup> The conjunction of these events convinced Hofer that his expulsion was to be explained by conspiracy, a conclusion also reached by his lawyer. Daniel Hofer Sr. (defendant) could have argued that the patent was not shared according to Hutterite convention. Kleinsasser, furthermore, could have argued that since everything is communally shared, how could the patent have been stolen? Both sides were unable to defend these claims. Kleinsasser couldn't because his colony had not shared the hog feeder. The defense couldn't because they made claims that Crystal Spring had stolen the patent. Had the Hutterites

routinely shared their technology, then the defendants would have been hard pressed to make the accusation that Crystal Spring had stolen the patent. The defense framed it as 'stealing'. The Plaintiff's made no attempt to undermine the accusation by demonstrating that, as a matter of policy, technology is shared equally throughout the colonies. This was the underlying tension in the trial: between the reality of economically independent colonies and the ideology of communitarianism.

It can be argued that much of Anabaptist history can be written as a tension between the individual and the community; between the household and the community; between the outside world and the 'closed' order; between the forces of individualism and *gelaissenheit*.<sup>86</sup> Hutterians, as well as Hutterian scholars, often give the impression that Hutterites are 'structurally' immune<sup>87</sup> from this tension; they, after all, believed in a total surrender to the 'community of goods'. This study suggests that, when investigating the presence or absence of this tension among the Hutterites, one should not only examine the relationship between the individual and the colony, but one should also examine whether or not colonies, as distinct entities, are surrendering themselves economically to the whole of the Hutterian Brethren Church. I posit that colony incorporation (as separate economic entities) may constitute a socially constructed, structural barrier to their communitarian social formation.

One is left with a lingering question. What were the sources of the tension between the independent colony and the need for inter-colony cooperation? First, as suggested by Victor Peters, colony incorporation was in large part an outcome of municipal, provincial, and nation-state political pressure to identify a unit other than the household which could be subject to taxation; it was a way to negotiate military exemption, and to confront discriminatory land legislation policies. But the colony corporate boundaries could have easily been penetrated by structured mutual aid practices which would have guaranteed an equal distribution of wealth and knowledge. Inter-colony redistributive mechanisms, however, have not been routinized or regularized; instead, these are "individualized for each congregation [colony]."<sup>88</sup>

Second, increasing agricultural competition and shrinking markets have forced the Hutterites into specialized production: thirty percent of Crystal Spring's earnings in 1985 came from hogs.<sup>89</sup> The manufacture of a wet-dry hog feeder is a good example of their specialization, and of the trend toward pursuits outside of agricultural production. Crystal Spring had incurred thousands of dollars of expense in setting up the feeder production; they expected to receive all generated revenue.

With agricultural markets—due to marketing board restriction—shrinking, Hutterians have been seeking new outlets: "What is to stop us, to protect us, from being driven out of the agricultural industry?" testified Rev. Michael Wollman.<sup>90</sup> This external economic pressure had also led to the disastrous building and operation of the Springhill Farm's killing plant. The troubled abattoir demonstrated just how far Hutterites were willing to adjust their social practices in order to

accommodate. For the first time in their history they merely provided the capital to finance an enterprise crucial to their own economies. Non-Hutterian labor was hired to operate all phases of production and marketing; traditionally, Hutterites use their own labor force.<sup>91</sup> When queried about the appropriateness of the abattoir investment, Rev. Michael Wollman revealed the extent of their willingness to accommodate to external economic conditions: "We, in the colonies, can integrate without a sin. If we see we can make our living, we'll do it."<sup>92</sup> The price, however, that Hutterians may have to pay for integrating (negotiating New York bank loans, hog-feeder factories, and non-Hutterian enterprises) with an ever-penetrating and dominating (international and national), capitalist agrarian economy may be inter-colony conflict. These economic ventures were all initially the private economic concerns of single colonies; inevitably, they involved the entire Hutterian Brethren Church.

Third, the economic pressure generated by competition in the 1980s led to the formation of new 'supra' colony corporations: for example, Hutterian Brethren (H. B.) Credit, H. B. Mutual Insurance, H. B. Enterprises Ltd, H. B. Church of Manitoba Fund, and H. B. Church Trust.<sup>93</sup> These corporations are doing business and using the proceeds to benefit all the colonies. The insurance corporation is a good example. The Hutterites calculated that they could receive enormous savings by insuring themselves in lieu of each colony paying premiums to outside insurance companies. They also started a corporation to buy fuel at substantial discounts. The savings from the volume purchase of fuel, then, accrued to a common bank account, which was later used as a colony-wide loan fund.<sup>94</sup> These 'supra' colony corporations point to new trends among the Manitoban Hutterites, and furthermore, they seem to suggest that Hutterians are aware of the need to formally cooperate at the inter-colony level.

How, though, will they reconcile the differences and potential conflicts between the privately organized colony and the increasing need to have 'supra' colony corporations?<sup>95</sup> The need to assure the economic solvency of a colony will have to be weighed against the reproduction requirements of the Hutterian Brethren Church. These are new questions for the Hutterites to grapple with.

And finally the courts, as Jacob Kleinsasser had implored, decided in favor of the plaintiffs and ordered the defendants to vacate Lakeside. The courts, however, can't protect the Hutterites from circumstances that left room for the controversies to emerge in the first place. These emerged out of the structural inconsistency of rule-governed communal distribution at the colony, but not inter-colony level and is, therefore, likely to reemerge (if not structurally addressed) and manifest itself in ways similar to the bank swindle and patent infringement.<sup>96</sup>

## Notes

<sup>1</sup>Judgement of Suit No. 87-01-17996 in the Court of Queen's Bench of Manitoba, Winnipeg, Canada, (1989), p. 19.

<sup>2</sup>John Ryan, *The Agricultural Economy of Manitoba Hutterite Colonies* (Toronto: McClelland and Stewart Limited, 1977), p. 29.

<sup>3</sup>For a discussion of inter-colony exchange see, Ryan, *The Agricultural Economy of Manitoba Hutterite Colonies*, pp. 30-31, John W. Bennett, *Hutterian Brethren: The Agricultural Economy and Social Organization of a Communal People* (Stanford: Stanford University Press, 1967), pp. 73-77, 125, 183, and 224, and Peter H. Stephenson, *The Hutterian People: Ritual And Rebirth In The Evolution of Communal Life* (New York: University Press of America, 1991), pp. 97-135, and John Hostetler, *Hutterite Society* (Baltimore: The Johns Hopkins University Press, 1974), p. 186.

<sup>4</sup>Victor Peters, *All Things Common: The Hutterian Way of Life* (Minneapolis: The University of Minnesota Press, 1965)p. 167.

<sup>5</sup>John Hostetler, *Hutterite Society*, p. 196

<sup>6</sup>"Ousted Hutterite Called Arrogant, Divisive Force," *Winnipeg Free Press*, 21 June 1989; "Hutterite Colony Lost Millions on Sour U.S. Oil Deal, Court Told," *Winnipeg Free Press*, 22 June 1989; "Hutterite Justice Swift, Court Told," *Winnipeg Free Press*, 23 June 1989; "Court Hears of Personal Accounts," *Winnipeg Free Press*, 27 June 1989; "Hutterite Cleric Admits Changing Testimony," *Winnipeg Free Press*, 28 June 1989; "Abattoir Called Sect's Last Chance to Keep Position," 30 June 1989; "Hutterite Denies Rebelliousness," *Winnipeg Free Press*, 12 July 1989; "Patent Called Root of All Evil," 13 July 1989; "Judge Reserves Expulsion Ruling," *Winnipeg Free Press*, 14 July 1989.

<sup>7</sup>For the trial transcripts see Suit No. CI 87-01-17966, filed at the Court of Appeal, Queen's Bench of Manitoba, Winnipeg, Canada, and heard before his lordship Mr. Justice Patrick Ferg, (1989), Volumes I-VIII. This particular quotation was taken from Vol. I, p. 316. For future reference notes, I will identify the trial source by identifying the transcripts as "Queen's Bench", followed by the volume number and page.

<sup>8</sup>The plaintiffs: Michael Wollmann, Jacob Hofer and Joshua Hofer, in their representative capacity for and on behalf of Lakeside Colony of Hutterian Brethren, Lakeside Holding Co. LTD. and Lakeside Colony LTD. The defendants: Daniel Hofer Sr., Daniel Hofer Jr., Larry Hofer, David Hofer, Paul Hofer Jr., Leonard Hofer, and John Gerald Hofer. The plaintiffs by counterclaim: Daniel Hofer Sr., Daniel Hofer Jr., Larry Hofer, David Hofer, Paul Hofer Jr., Leonard Hofer, and John Gerald Hofer. The defendants by counterclaim: Jacob Kleinsasser, Michael Wollman, Daniel Kleinsasser, Jonathan Kleinsasser, The Hutterian Brethren Church Inc., C & J Jones (1985) Limited.

<sup>9</sup>Judgement of Suit No. 87-01-17996 in the Court of Queen's Bench of Manitoba, Winnipeg, Canada, (1989), p. 19.

<sup>10</sup>For a discussion of Hutterian history see, John Hostetler, *Hutterite Society*, pp. 5-136; Peter H. Stephenson, *The Hutterian People*, pp. 13-95; On their establishment in the United States, see the trial transcripts, Queen's Bench, Vol. I, pp. 43-45, 70. Throughout the discussion of the trial, I am relying heavily on the transcripts as a source of information on Hutterian history and contemporary social organization: the testimony was rich in this respect. This does not mean, however, that I am unaware of secondary works on Hutterian history and social organization (for example, John Hostetler, John Ryan, Peter H. Stephenson, John W. Bennett, Karl Peter, Leonard Gross, and Victor Peters).

<sup>11</sup>This essay is concerned primarily with the Schmiedeleut colonies of Manitoba.

<sup>12</sup>Queen's Bench, Vol. I, p. 132 and see, Lawrence Anderson, "Hutterite Colonies and Memberships," paper presented at the seventeenth annual meetings of the National Historic Communal Societies Association, Oct. 5-7, Yankton, South Dakota (1989), for a recent demography see, Carolyn L. Olsen, "The Demography of Colony Fission from 1878-1970 Among the Hutterites of North America," *American Anthropologist*, Vol. 89, No. 4, (1987), pp. 823-837.



<sup>13</sup>Queen's Bench, Vol. I, p. 135 and 143.

<sup>14</sup>During recent fieldwork, Elder Jacob Kleinsasser told me that the Mennonites had "left a crack in the door" and allowed private property (Kleinsasser 1989).

<sup>15</sup>Queen's Bench, Vol. V, pp. 1188-1189.

<sup>16</sup>Queen's Bench, Vol. I, p. 160.

<sup>17</sup>Ibid., p. 40.

<sup>18</sup>Roy Vogt, "Mennonite Attitudes to Property," *Journal of Mennonite Studies*, Vol. 10, 1992, pp. 9-21.

<sup>19</sup>Ibid., p. 53.

<sup>20</sup>Ibid., p. 155.

<sup>21</sup>This statute does not apply to colonies in the United States, nor do similar statutes even exist there.

<sup>22</sup>Queen's Bench, Vol. I, p. 62.

<sup>23</sup>Queen's Bench, Vol. II, p. 323.

<sup>24</sup>Queen's Bench, Vol. VII, p. 256.

<sup>25</sup>Queen's Bench, Vol. I, p. 108.

<sup>26</sup>Queen's Bench, Vol. II, p. 323.

<sup>27</sup>See Victor Peter's *All Things Common* for a reprint of the 1950 constitution.

<sup>28</sup>Queen's Bench, Vol. I, p. 81.

<sup>29</sup>Ibid., p. 95 and Victor Peters, *All Things Common*, for a reprint of the 1950 constitution.

<sup>30</sup>Queen's Bench Vol. I, pp. 65, 182, and Vol. II, p. 325.

<sup>31</sup>Queen's Bench, Vol. II, p. 399.

<sup>32</sup>Queen's Bench, Vol. IV, pp. 832-837.

<sup>33</sup>Queen's Bench, Vol. III, pp. 697-698.

<sup>34</sup>Queen's Bench, Vol. VIII, p. 699.

<sup>35</sup>Queen's Bench, Vol. I, p. 225.

<sup>36</sup>Victor Peters, *All Things Common*, p. 198.

<sup>37</sup>Queen's Bench, Vol. VIII, p. 2267.

<sup>38</sup>Queen's Bench, Vol. I, p. 172.

<sup>39</sup>Queen's Bench, Vol. II, p. 344.

<sup>40</sup>Queen's Bench, Vol. II, pp. 350-352.

<sup>41</sup>Ibid., p. 353.

<sup>42</sup>Ibid., p. 373.

<sup>43</sup>In fact, at the time of the trial, Crystal Spring was involved in other litigation concerning their financial responsibility. These legal matters remained peripheral to this trial and were not discussed because of the fear of jeopardizing their lawsuit (Queen's Bench Vol II: 358-363).

<sup>44</sup>Ibid., p. 411.

<sup>45</sup>Ibid., pp. 406-407.

<sup>46</sup>Queen's Bench, Vol. II, p. 344.

<sup>47</sup>Ibid., p. 345.

<sup>48</sup>Queens Bench, Vol. II, pp. 375-376.

<sup>49</sup>Ibid., p. 400.

<sup>50</sup>Ibid., p. 395.

<sup>51</sup>Ibid., p. 396.

<sup>52</sup>Ibid., p. 432.

<sup>53</sup>Ibid., p. 435.

<sup>54</sup>Ibid.

<sup>55</sup>Ibid., p. 436.

<sup>56</sup>Ibid.

<sup>57</sup>Queen's Bench, Vol. VII, pp.: 89-90.

<sup>58</sup>Ibid., p. 400.

<sup>59</sup>Queen's Bench, Vol. II, pp. 445-448.

<sup>60</sup>John Ryan, *The Agricultural Economy of Manitoba Hutterite Colonies*, p. 166.

<sup>61</sup>Queen's Bench, Vol. II, p. 289.

<sup>62</sup>Queen's Bench, Vol. VI, p. 1589.

<sup>63</sup>Queen's Bench, Vol. II, p. 289. The killing plant also constituted a significant part of the trial's testimony. It was built by one colony (Springhill), but it was financially saved from bankruptcy by all colonies sharing its expenses and ownership. The decision to build the plant and the way in which all the colonies shared its failure raised questions about inter-colony affairs: even though some colonies initially refused to contribute to the failed plant, they were later forced to do so, see Queen's Bench, Vol. III, p. 723.

<sup>64</sup>Queen's Bench, Vol. VI, p. 1588.

<sup>65</sup>Queen's Bench, Vol. III, p. 580.

<sup>66</sup>Ibid., p. 770.

<sup>67</sup>Ibid., pp. 768-772.

<sup>68</sup>It had been negotiated beforehand that this court did not have jurisdiction over patent law and therefore, could not determine the rightful owner (Queen's Bench Vol I: 12). The defense attorney conceded that his clients did not have a legal claim to the patent. His inquiry was intended to unpack the events surrounding the disputed patent.

<sup>69</sup>Queen's Bench, Vol. I, pp. 171-172.

<sup>70</sup>Ibid.

<sup>71</sup>Queen's Bench, Vol. VI, p. 1623.

<sup>72</sup>Queen's Bench, Vol. V, pp. 1380-1381.

<sup>73</sup>Queen's Bench, Vol. III, p. 824.

<sup>74</sup>Judgement of Suit No. 87-01-17996 in the Court of Queen's Bench of Manitoba, Winnipeg, Canada, (1989), p. 19.

<sup>75</sup>Queen's Bench, Vol. III, p. 763.

<sup>76</sup>Queen's Bench, Vol. VII, p. 157.

<sup>77</sup>Queen's Bench, Vol. III, p. 763.

<sup>78</sup>Ibid., p. 624.

<sup>79</sup>Queen's Bench, Vol. IV, p. 941.

<sup>80</sup>Queen's Bench, Vol. VI, p. 1606.

<sup>81</sup>Queen's Bench, Vol. IV, p. 943.

<sup>82</sup>Queen's Bench, Vol. VIII, p. 2240.

<sup>83</sup>Queen's Bench, Vol. III, pp. 736-744.

<sup>84</sup> John Hostetler, *Hutterite Society*, p.300; Victor Peters, *All Things Common*, pp. 165-167; John W. Bennet, *Hutterian Brethren*, pp. 73-77.

<sup>85</sup> It should be noted here that Dan Hofer and Kleinsasser had apparently had a longstanding battle over the management of the Lakeside colony and related personal matters.

<sup>86</sup> Some have pointed out that Hutterites have a tension between familism and communism. Pierre L. van den Berghe and Karl Peter have discussed the problem of nepotism in "Hutterites and Kibbutzniks: A Tale of Nepotistic Communism," *Man*, Vol. 23, No. 3, (1988), pp.522-539. See also Peter's interesting discussion of *gelassenheit* in "The Certainty of Salvation: Ritualization of Religion and Economic Rationality among Hutterites," *Comparative Study of Society and History*, Vol. 25, No. 3, (1983), pp. 222-240.

<sup>87</sup> I say structurally because both would argue that no one is immune to the innate forces of selfishness and greed.

<sup>88</sup> Queen's Bench, Vol. VIII, p. 699.

<sup>89</sup> In 1977, John Ryan didn't even calculate the proportion of revenue generated from manufacturing relative to agricultural production when he assessed the order of importance of Hutterian enterprises: see John Ryan, *The Agricultural Economy of Manitoba Hutterite Colonies*, pp. 224-225. For a good discussion on the effects of specialization on the Hutterian economy see, Karl Peter and Ian Whitaker, "The Hutterite Economy: Recent Changes and Their Social Correlates," *Anthropos*, Vol. 78, No. 3, (1983), pp. 535-546, and Karl Peter and Ian Whitaker, "The Acquisition of Personal Property Among Hutterites and Its Social Dimensions," *Anthropologica*, Vol. 23, No. 2, (1981), pp. 145-155.

<sup>90</sup> Queen's Bench, Vol. VI, p. 1588.

<sup>91</sup> The emphasis upon the use of Hutterian labor is significant. Most Hutterian scholars have noted the problem of underemployment among young aspiring Hutterites. Karl Peter and Ian Whitaker have linked the problem of underemployment to increased colony mechanization and economic specialization: see Karl Peter and Ian Whitaker, "The Hutterite Economy: Recent Changes and Their Social Correlates". For discussions of the link between colony fission and the problem of underemployment see, Robert Stephenson, *The Hutterian People*, pp.97-135, and John W. Bennett, *Hutterian Brethren*, pp.182-183. In the trial testimony and in response to a question about why Rev. Wollman removed an excommunicant from a colony position, Rev. Wollman explained that a Hutterite can't separate the church from daily colony work; therefore, only church members can be intricately familiar and involved with daily work, Queen's Bench, Vol. VI, p. 1570. Obviously, the use of outside laborers at the killing plant significantly departed from customary use of Hutterian labor.

<sup>92</sup> Queen's Bench, Vol. VI, p. 1588.

<sup>93</sup> The establishment of these corporations were discussed throughout the trial. See, for example, Queen's Bench, Vol. II, pp. 281-290 and 445-448, and Vol. III, p. 631, 733-738, and 740-743.

<sup>94</sup> A discussion of the emergent need to loan money to poorer colonies who had been denied bank loans takes place in the testimony, see Queen's Bench, Vol. II, p. 294.

<sup>95</sup> With regard to the killing plant, even though it became an inter-colony business because of economic necessity, the colonies did not vote unanimously for the killing plant, nor did the majority approve of funneling monies into H. B. Credit to finance its bailout. For a discussion of these issues see, Queen's Bench, Vol. III, pp, 723-738.

<sup>96</sup> I would like to acknowledge the University of Missouri-Kansas City's support of this work through a Research Incentive grant (K-2-10714). Without the diligent support from Jerry Floersch, this research would not have been accomplished.

#### Note:

Since this article was written, additional information has come to my attention. In a recent decision

(October 1992) the Supreme court of Canada ruled that the Hutterites had violated due process by failing to provide proper notification of the expulsion proceedings. This new decision, however, has not affected the substance of Judge Ferg's ruling. Indeed it is expected that the Hutterites will follow a new round of legal proceedings.