

A Brief History of Conscientious Objection in Canada

by Don Woodside

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Canada has respected conscientious objection (CO) for more than two centuries. In 1793 in Upper Canada, Governor Lord Simcoe offered Mennonites, Quakers and Brethren in Christ an exemption from militia duty, to encourage their immigration to Canada. They were however expected to pay a fee so that others could serve in their place. During the war of 1812, some Quakers were jailed for refusing to pay this tax. In 1841, after years of lobbying, the government agreed to use this tax for public works. In 1849, the tax was eliminated. Between 1873 and 1899 exemptions from military service were granted to Mennonites, Doukhobors and Hutterites to encourage them to immigrate to Canada. During WWI some members of these 'historic peace churches' had an automatic exemption, while others did not. Some were required to do non-combatant duty in the military, and some refused and were imprisoned. Conscientious objectors (COs) were disenfranchised. Mennonites objected to buying war bonds and lobbied successfully to have special non-interest bearing bonds made available to pay for relief work only. During WWII the grounds for CO status were initially restricted to religious groups which prohibited participation in war, but as a result of considerable pressure was gradually broadened, until by 1942 any conscientious objection, religious or secular, was acceptable. Alternative service was offered, and it was important to COs that it was under civilian not military control. Again special bonds were offered which would be used for civilian relief only. By 1945 there were about 10,000 COs.

Since 1978, the focus has shifted to war tax resistance, as we are in an era in which citizens' taxes, rather than their bodies, are conscripted. In 1981, a letter from constitutional expert Senator Eugene Forsey, MP Stanley Knowles, and 5 other MPs was widely published. The letter said, in part: "In times of military conscription, exemption from service in the military can be claimed on grounds of conscience, and alternate service is approved. It should be equally possible to claim exemption from paying for war preparation, and an alternative provided." The Quebec Charter of Rights in 1975 and the Canadian Constitution in 1982 enshrined freedom of conscience based on secular morality as well as religion. Conscience Canada was incorporated in 1983 as a secular organization, and supported a legal test case against the compulsory payment of taxes for military purposes. The case was rejected, the rationale being that under the Income Tax Act there was no nexus between a taxpayer and the use of taxes; in 1990 the Supreme Court refused to hear an appeal. Former Justice Thomas Berger, lawyer for the war tax refuser, held that the *Income Tax Act* was in violation of the constitution, and to this date this issue has been avoided.

In 1983 the first Private Member's Motion calling for a National Peace Tax Fund was introduced into the House of Commons. Other Motions and Bills followed in 1984, '86, '88, '92, '97, '99, and 2001. Great efforts have been made to make the bill compatible with parliamentary principles. Many fiscal COs currently deposit the military part of their federal taxes in the Peace Tax Trust Fund operated by Conscience Canada, and usually are subject to collection from their accounts or garnishment of income.

There is currently no legal recognition of CO status in Canada. Military personnel who become COs have no legal means to obtain discharge or non-combatant status.