

Prologue

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Few occurrences in modern times have produced the social upheaval, fear, and hatred that were seen during the Red Scare of 1919. Few events have brought forth such a frenzy of mob action and intolerance, or can match the excitement and drama. One of life's coincidences led me to study one of the manifestations of the Red Scare: the trials that grew out of the Winnipeg General Strike of 1919. Their prominent place in Manitoba's legal history has made them deserving of the title "The Great Canadian Seditious Trials."

Sedition is a criminal charge that is difficult to define. Seditious acts have been described as those deeds or words that fall short of treason, the blackest of all crimes. Because sedition trials are so closely connected with the historical events of the time, they are often best seen as political trials and open to the abuse of human perspective. This unusual kind of trial is not unique to Canada, and they have been employed to protect states from insurrection, real or imagined, in many countries and at various times in the story of civilisation.

In 1959, I was a young law student with the firm of McMurray, Walsh, Micay & Company in Winnipeg. E.J. McMurray, then an octogenarian, was semi-retired and only came into the office a few hours each day. He delighted in talking to the younger members of his firm.

My work as a law student included arguing appeals for suspended drivers. I appeared frequently before the Licence Suspension Appeal Board in Winnipeg and developed a rapport with some of its members. One was R.B. Russell, a particularly quiet and receptive man, who occasionally acted as Chairman.

One day I returned to the office and discussed with Mr. McMurray the cases that had been argued that day before the Appeal Board. I commented on the patient, impartial way in which Russell had conducted the proceedings. McMurray was immediately interested and told me that he and Russell were good friends and had even gone south together one winter on a holiday. McMurray went on, "I helped defend him in 1919 when he was

Public Enemy Number One. Did you know that he served time in Stony Mountain for his crimes?"

I confessed my ignorance to McMurray and immediately resolved to learn more about the "crimes" committed by Mr. Russell. In that discussion, and those following, McMurray recalled the Red Scare of 1919, and the exciting sedition trials in which he participated.

I frequently appeared before the Appeal Board and, as a law student, it was ironic to be arguing cases before a man who, at one time, had been on the other side of the law. And yet there he sat, an appointee of the Manitoba government and respected citizen of the city.

When R.B. Russell died, I attended his funeral in the auditorium of the Winnipeg Labour Temple. It was one of the largest funerals ever held in the city, filling the Temple and the surrounding sidewalks. I wondered then about the nature of those past events that had touched so many people. The minister talked about Russell's trial and prison term. He said that few men had lived to see themselves so vindicated.

I encouraged Mr. McMurray to tell me more. He singled out another accused, F.J. (Fred) Dixon, as the hero. Dixon had asked McMurray to defend him, but McMurray convinced Dixon to defend himself.

McMurray told me how Dixon had received no concession from the judge nor from the Crown counsel, yet managed to conduct himself "with fine dignity and did not allow them to suppress him or to make him a small man before the jury. It was a remarkable performance."

In addition, McMurray proudly boasted that he had listened to Dixon practice his now famous address to the jury three times. Thumping his hands down on the desk, he gazed at me from across its weathered top, "Dixon was standing right where you now are." In the years that I remained at the firm, I often reflected on the history witnessed by that old desk.

Until then, my interest and curiosity had centred on R.B. Russell. Now, I wanted to know more about Dixon and the other defendants. Existing history books lumped the defendants together as "strike leaders." When I interviewed William Pritchard, another one of the defendants, he told me that although he spent only a few days in Winnipeg during the strike, he "could never live down the reputation of being a strike leader."

I decided the best way to start with my study was to read the records of the trials. I began by looking in the closed-out files of McMurray & Company, only to find that although there were a few documents from the trials, most of the records from that period had been destroyed.

The Court of Queen's Bench in Winnipeg, which had records of trials predating 1919, had nothing about the 1919-20 Sedition Trials.

As I continued my search around the offices, courts, and libraries, I soon discovered that the surviving material was widely scattered.

The families of the men involved in the events gave me copies of some court documents and many other papers. Harold Stubbs, then Secretary of the Law Society of Manitoba, provided me with many documents. Joseph Donovan found some of the original shorthand notes he had taken as a young court reporter at the trials. Lawyers in the office founded by A.J. Andrews, the leading Crown prosecutor at the trials, were able to locate some court exhibits and part of the preliminary hearing transcripts.

I used my early research in a thesis for my Master of Laws degree at the University of Manitoba. Several of the professors were surprised by the revelations. A Court of Queen's Bench judge assigned to read the thesis encouraged me to continue to uncover more. With this encouragement, the task grew into a passionate hobby.

The records of most other famous North American trials are readily available. There is much documentation on such trials as Sacco and Vanzetti, the Scopes ("monkey") trial, the Leopold and Loeb case, the Rosenbergs, the Chicago Seven, and others. Yet, here was a trial dealing with the alleged overthrow of the Canadian government in an attempt to start a Soviet form of government, and I could find almost no public record of it. I expanded my search, and travelled in pursuit of material.

I visited the National Archives of Canada before the era of the *Freedom of Information Act*. Then, it was empowered to open for public inspection any records more than thirty years old. But on the desk of the responsible staff member sat instructions to "refer any request for seemingly sensitive material to the R.C.M.P. for approval, before making it available." These instructions applied to "several areas of political sensitivities," including "relations of the Force with Doukhobors, Communists, enemy aliens, labour disputes, and especially the Winnipeg General Strike of 1919." Despite the restrictions, I was able to conduct my research in a peripheral way. I spent a week sifting through the personal papers of men who held public office at the time.

In Birtle, Manitoba, I found John W. Pratt, who gave me copies of letters written by his uncle, Fred Dixon, during his trial. In Toronto, Dixon's daughter, Eleanor, and his sister-in-law provided many of the personal stories behind the public events. I was also fortunate to receive remarkable confidential reports of the Royal Northwest Mounted Police, which were uncovered by John Cherwinski during his research into labour history.

For ten years, the office of the Attorney-General of Manitoba could not locate any records relating to the trials. In 1973, however, that office turned over two large boxes containing court exhibits from the trials to the Manitoba Archives.

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There was no single body of documentation on the trials. The events would have to be painstakingly pieced together from a wide range of newspapers and from the remnants of court records. The events described in this book were largely reconstructed from the coverage given the trials over a six-month period by three daily and two weekly newspapers. Where the reports were conflicting, I chose the report that appeared more legally accurate and least biased.

For many days, I sat in a listening room at the Canadian Broadcasting Corporation in Winnipeg, viewing film and listening to recordings. I watched some of the protagonists describe their participation in the events.

Mrs. R.B. Russell gave me volumes of newspaper and portions of evidence. Mary Jorden, Russell's biographer, shared with me some of the transcript she had collected.

In Ottawa, Grace McInnis, J.S. Woodsworth's daughter, shared recollections of her family's reaction to the events. Gloria and Wilfred Queen-Hughes recalled many of the incidents related to them by their father, John Queen. Some of the humour in the story came from these interviews.

As I approached the people who had the information I wanted, I found they first sought information of their own. Many asked, "Whose side are you on?"

There were some real disappointments. While many informants were cooperative, some were reluctant and suspicious. The sons of three of the participants flatly refused to discuss the events with anyone. Previously unknown to me, Dick Johns, one of the defendants, lived a few blocks down our street. But when I became aware of this fact and expressed my wish to interview him, he was in the hospital, terminally ill. I found myself asking, how many witnesses to the drama are still alive? It became urgent to find and interview them quickly.

I planned a trip to London, England to interview the eminent jurist E. K. Williams, who had assisted the Crown in the preparation of its case. I was told he could shed much light on the trials. Unfortunately, he died several weeks before our planned meeting. I carried on with a search in the Downing Street offices of the Judicial Committee of the Privy Council, the highest Court of Appeal in the British Empire, but there were just the barest records of the disposition of Russell's case. The London law firm that had prepared the Application for Leave to Appeal had not preserved the old documents.

I met with Isaac Pitblado, one of the Crown attorneys involved in the trials. He was in his nineties, alert and still head of a large firm of lawyers in Winnipeg. Although nearly half a century had elapsed, he refused to talk about the trials:

“Nothing could be gained except to stir up old animosities.” I sat in his office and discussed his hobby, stamp collecting.

I saw John Allan, another Crown attorney involved in the prosecutions, during his regular visits to the Great Law Library in Winnipeg. I asked him if he would discuss the trials with me, but he declined. I was later told that it was he who had removed the records of the trials from the Court of Queen’s Bench and the Court of Appeal on the instructions of the Manitoba Department of the Attorney-General.

Andrew Scoble, in his nineties when we met, had an excellent memory of the events leading to the trials and kindly provided much of the detail for numerous incidents. Fred Tipping knew the men intimately and was always available to answer questions.

I spent four days in Vancouver with William (Bill) Pritchard. We discussed many of the documents I had uncovered, as well as the problems related to the reconstruction of events. Our conversations are preserved on audiotape.

Mr. Justice Joseph T. Thorson, then the President of the Exchequer Court of Canada, met with me in his hotel room on one of his visits to Winnipeg. He had assisted in the prosecution of Fred Dixon. He was the only one of the Crown counsel willing to speak. I had heard of his forthright nature but was still surprised at his candour and revelations. He told me that the trials of the strike leaders left him with “an abiding sense of shock” that it was possible to pack a jury in such a way that there was no possibility of acquittal.

A generation has argued the questions raised by these events. Was the Winnipeg General Strike a criminal conspiracy? Was it a criminal conspiracy to institute a Soviet form of government in Canada? Were the strikers endeavouring to bring about conditions such as were reported to exist in Russia? Were they trying to establish Bolshevism?

Generally, those that have argued the affirmative of these questions point to the arrest of the men at the height of the strike, and rely on the fact that two juries found it to be a seditious conspiracy. Those who take the negative side argue that the juries were in error, the public was bedevilled. But could two juries have been so perverted? Did two juries make the same big mistake?

Those questions have divided scholarly and public opinion into those who characterise the Winnipeg General Strike as simply a strike, and those who say it was an attempt at revolution. But this is a false dichotomy based on a faulty premise. The question before the juries was never “strike or revolution,” but whether or not the accused were parties to a nation-wide seditious conspiracy over a period of years. This book has a different perspective. Not only will facts be revealed that seriously challenge the fairness

of the trials, but the more important question of whether, in the light of the conditions of the time, the men were guilty of a larger seditious conspiracy? The jury verdicts say they were guilty. It is time to reopen the debate.

On the fiftieth Anniversary of the strike, I accepted an invitation from the Manitoba Historical Society to give a public address at the Centennial Concert Hall on the subject of the trials. At the conclusion of the speech, Rita Kurtz, an agent for the Publishing House of McClelland and Stewart approached me and said that the material should be turned into a book. For years her employer, Jack McClelland, enquired and stood ready to publish the book as soon as a manuscript was completed. He did as much as he could to encourage the project, but I was too busy with my legal practice.

One day in December 1990 when I was home ill, recovering from two major surgeries, I reluctantly took the telephone and spoke to Professor Alvin Esau. As Director of the Legal Research Institute at the University of Manitoba's Faculty of Law, he told me how much he had enjoyed reading the manuscript he had received from Jack McClelland.

I arranged to meet at my home with Alvin Esau and Ken Kehler, a law graduate with a major in history, who was cataloguing available information on famous Manitoba trials for the Legal Research Institute. They provided me with a wealth of new information, uncovered as a result of their application under the *Freedom of Information Act*. I was impressed with their work and the amount of material they had gathered. I appreciated the critical reading they had each given the manuscript. I welcomed their offer to have Ken Kehler prepare the source notes for the book.

Along the road of putting this book together the interest and advice of Mr. Justice Joseph F. O'Sullivan, whose friendship goes back to those days of meeting with E.J. McMurray, often assisted me. I owe a debt to Gordon Richards for bringing me into the world of computers and helping to ease the burden of handling such a large project. There have been too many helpful people to list here. I have thanked them already. I owe a debt to my wife, Evelyn, who thought the book was worth doing, and who held the fort and kept our five young sons occupied as I purloined precious time to complete most of this work.

I have tried to tell this full story as truthfully and accurately as possible. –
J.S. Walker, Q.C., June 1991