

# Hugh Amos Robson: Lawyer, Judge, Founder of the Manitoba Law School, Politician, Popular Public Servant

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ROLAND PENNER



**Hugh Amos Robson: 1871-1945**

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## PREFACE AND ACKNOWLEDGEMENTS\*

In the spring of 2018, the Manitoba Law Journal (MLJ) hired me as a student editor to work on this special issue. The goal was to complete and publish one of the last projects of the late Roland Penner, C.M., O.M., Q.C. Prior to medical complications that led to his passing in May of 2018, Penner brought to the MLJ a draft manuscript of a biography detailing the life and career of Chief Justice Hugh Amos Robson, founder of the Manitoba Law School. Penner and the MLJ reached an agreement to develop the project further with the hope of publishing his work in time to commemorate the 50<sup>th</sup> anniversary of the founding of Robson Hall. Robson Hall houses the Faculty of Law at the University of Manitoba and was named in memory of the Honourable Hugh Amos Robson.

This project had its beginnings in the fall of 2014 when the Faculty of Law organized a number of events commemorating the Centennial Year of the founding of the Manitoba Law School. The School, now the Faculty of Law at the University of Manitoba, was founded on September 15, 1914 as the result of the efforts of Chief Justice Robson. Robson was asked by the Benchers of the Manitoba Law Society in 1913 to negotiate an agreement with the University of Manitoba making formal academic legal education a prerequisite to the right to practice law in Manitoba. The negotiations were a success. The resulting arrangement between the Law Society and the University was authorized by statute in an amendment to the *Law Society Act*.<sup>1</sup> The School formally opened at the Hargrave Street YMCA.

The Centennial Year commemoration began with symposiums, lectures and a “Centennial Gala” organized by then Dean Lorna Turnbull. As a participant in these events, and as a former Dean of the Faculty of Law, Penner’s interest in Robson was piqued and he soon set about researching more of the former Chief Justice. Like most of his colleagues, Penner had taken Robson for granted; having little or no knowledge of what he later came to know was an exceptional and multi-faceted career. Preliminary research revealed that aside from a well-documented but brief (fourteen page) note by Dale Brawn in his biographical history: *The Court of Queen’s Bench of Manitoba*

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\* This preface is based on Penner’s preface and the acknowledgments section in his contribution.

<sup>1</sup> An Act to amend “The Law Society Act” SM 1915, c 37, ss 7, 8.

#### 4 Preface and Acknowledgements

1870-1950,<sup>2</sup> and references in a few other legal histories,<sup>3</sup> there was no published biography about the life of H. A. Robson.

In early 2015 Penner suggested to his friend, colleague and co-author (*Tales from the Underworld*)<sup>4</sup> Norm Larsen that they should attempt to write a biography detailing Robson's life. With his agreement Penner called upon Dean Turnbull who was both interested and supportive, advancing from the Dean's Fund the money for a summer research student. They retained law student Sam Thomson, who was able to provide them with information about Robson's family and an analysis of some of Robson's political activities in the 1920's.<sup>5</sup> Unfortunately, and much to their surprise, they had difficulty finding any substantive public records relating to Robson's personal life in either the University of Manitoba Archives or the Provincial Archives of Manitoba. What they did come across were notes by Dale Gibson from the formal opening of Robson Hall in 1969. Gibson had attempted to provide some personal information on Robson based on interviews with his surviving family and others who knew Robson personally. He discovered, to his disappointment, that although Robson kept a daily diary throughout his life, its several volumes

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<sup>2</sup> Dale Brawn, *The Court of Queen's Bench of Manitoba 1870-1950: A Biographical History* (Toronto: University of Toronto Press, 2006).

<sup>3</sup> Dale Gibson & Lee Gibson, *Substantial Justice: Law and Lawyers in Manitoba 1670-1970* (Winnipeg: Peguis Publishers, 1972); Lee Gibson, *A Proud Heritage: The First Hundred Years of Aikins, Macaulay and Thorvaldson* (Winnipeg: A.L. Gibson, 1993); Cameron Harvey, ed, *The Law Society of Manitoba 1877-1977* (Winnipeg: Peguis Publishers, 1977); Gerald Jewers, *Manitoba Justice: A History of Manitoba Law and Lawyers* (Winnipeg: Gerald Jewers, 2013); Norm Larsen, ed, *Notable Trials From Manitoba's Legal History* (Manitoba: Friesens, 2015); W Wesley Pue, "Common Law Legal Education in Canada's Age of Soap, Light and Water" (1995) 23 Man LJ 654; Dale Brawn, *Paths to the Bench: The Judicial Appointment Process in Manitoba, 1870-1950* (Vancouver: UBC Press, 2014); E.K. Williams, "Legal Education in Manitoba: 1913-1950" (1950) 28:7 Can Bar Rev 759.

<sup>4</sup> Roland Penner & Norm Larsen, *Tales from the Underworld and Other Stories* (Winnipeg: Heartland Associates, 2009).

<sup>5</sup> This analysis was based on John Kendle's biography of premier John Bracken, as it related to Robson's political activities in the 1920's. *John Bracken: A Political Biography* (Toronto: University of Toronto Press, 1979).

had either been lost or destroyed.<sup>6</sup> Penner and Larsen had conducted some informal conversations with Robson's surviving family of their own, however, to ensure compliance with all academic policies on research involving human subjects, the editors of this journal have ensured that all information contained in this biography is based only on public sources. Though it seemed that any records of Robson's personal and family life would unfortunately be limited to a few second hand accounts, the MLJ, with the help of Archivist Tom Mitchell, discovered what may be one of the only sources detailing Robson's life before his legal career, written by Robson himself. The provincial archives contain a document that is somewhat misleadingly titled "H.A. Robson Autobiography." However, it is more of an attempt at writing a history of how Canada settled its Prairie Provinces, than an autobiography detailing Robson's life. Despite this, the opening chapter provides a brief autobiographical account of Robson's childhood and how he and his family immigrated to Canada when he was a boy.<sup>7</sup>

Not long after they began the actual writing of their monograph, Norm Larsen was diagnosed with a terminal illness. Before his passing in April 2017, he asked Penner to take over as the sole author. Penner acknowledged that to a very considerable extent he was only able to do so because of Larsen's willingness to still contribute as best he could. Using his talents as a lawyer, author and legislative drafts person to act as Penner's revising editor, he continued to help even during his final weeks at Riverview Hospice. Penner dedicated his contribution to Norm Larsen.

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<sup>6</sup> Hugh Amos Robson Lawyer member file, Legal Judicial History collection, Winnipeg, Archives of Manitoba (Location code: M-92-8-17 file 25). Robson's Law Society membership file at the Provincial Archives contains a series of notes typed and hand-written on cue cards, describing anecdotes and information about Robson's career and personal life. The notes were based on published sources as well as interviews with Robson's daughters and others who had known him personally. Dale Gibson has since confirmed that he had made these notes and conducted interviews with Robson's family during the time that Robson's name was being considered for the name of the new Faculty of Law building at the University of Manitoba back in 1969. The notes include an account of Gibson's efforts to recover the diary, only to learn that it had been lost.

<sup>7</sup> The archival record was purportedly written by Robson himself circa 1944, and was compiled and edited by one of Robson's nephews. It was submitted to the law school in 1989, however, it was a fairly incomplete, and poorly cited history that did not necessarily contribute anything new to history. In addition to providing a brief account of his childhood, it also provides a few more random personal accounts, but it is predominately a history based on secondary sources rather than his own personal reflections. H. A. Robson, *Autobiography - draft and correspondence* (ca. 1945, 1989, Legal Judicial Historical Collection), Winnipeg, Archives of Manitoba (Q 26462, file 40).

## 6 Preface and Acknowledgements

Penner also acknowledged the assistance of Trevor Anderson, his friend, colleague and former Dean of the Faculty. At Penner's request, he agreed to use his encyclopedic knowledge of Canadian history and law to examine the text and notes for any errors and omissions. It was upon Anderson's suggestion that Penner decided to add a further chapter on Robson's political activities.<sup>8</sup> Penner was also particularly grateful to Catherine Miazga who accepted with patience the onerous task of typing and organizing his work as it developed into the draft submitted to the MLJ.

Once in the hands of the MLJ editors, a great deal of work was still needed to be done and the scope of Penner's initial project was expanded in order to form a special issue on the Chief Justice. My time as a student editor was spent locating and tracking down the sources used by Penner and incorporating their citations into his work. It also involved a significant amount of time searching for additional primary materials that could expand the scope of the project. The success of this endeavor led the MLJ to decide to publish a number of primary materials written by Robson himself in order to make his own voice and writing available to readers. Additionally, the MLJ sought out the contributions of Robson Hall faculty and other academics to comment on some of these materials, and to reflect on Robson's work and point of view through a series of short essays. These essays are interspersed with primary materials written by Robson himself, and look to contextualize and comment on Robson's works.

Finally, my work involved editing, reorganizing, and expanding Penner's initial manuscript. Based on Penner's initial organization the biography provides a brief account of Robson's personal and family life. It is followed by chapters detailing his career and accomplishments as they relate to his work in Legal Education, the Legal Profession, his career as a Public Servant and finally as a political leader. This biography does its best to provide as complete of an account as possible based on the limited existing primary and secondary sources on Robson's life and career. It is the hopes of the MLJ that this special issue will serve as a steppingstone for further work into Manitoba's legal history and as a resource to commemorate and remember the life of a crucial figure in Manitoba's history.

- Erik Gusdal

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<sup>8</sup> Much of this information was derived from the Ralph Maybank archival fonds for the years 1926-29 located in the Provincial Archives of Manitoba Ralph Maybank fonds. Ralph Maybank correspondence and notes re: Seven Sisters Falls Royal Commission (1927-1929), Ralph Maybank Political Papers - correspondence, diary and memorandums (1926-1927), Winnipeg, Archives of Manitoba (Accession Number: PR1967-01, Location Codes: P7498/11, P7505/5).

## Chapter 1

# Ancestry, Family, and Personal Life<sup>1</sup>

**H**ugh Amos Robson was born in Barrow-in-Furness in the north of England. However, his parents, Robert and Jane Robson were both born in Scotland and entirely of Scottish descent.<sup>2</sup> They met and married there in 1868, moving shortly after to England where Robson, the first of their seven children, was born on September 9, 1871.<sup>3</sup> His Scottish ancestry was something Robson was very proud of throughout his life. As a boy he visited his grandparents in Dalbeattie Kirkcudbrightshire, and even returned there later in life in 1926.<sup>4</sup> As an adult he became a long-time member of The St. Andrew's Society of Winnipeg<sup>5</sup> and held offices within the society, including the presidency from 1935 to 1937.<sup>6</sup>

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<sup>1</sup> Because of the loss of nearly all of Robson's personal papers including the daily diaries he is said to have kept, this chapter has had to rely on secondary sources. Much of the anecdotal information in this chapter is based on the notes made by Dale Gibson based on interviews with the daughters of Robson and others who knew him personally, found in the provincial archives. However, Robson's brief autobiographical chapter discovered in the Manitoba archives does provide some first-hand accounts of his early childhood. See also Tom Mitchell, *infra* at 56 (for a closer look at this document and Robson's childhood).

<sup>2</sup> H A Robson, *Autobiography - draft and correspondence* (ca. 1945, 1989, Legal Judicial Historical Collection), Winnipeg, Archives of Manitoba (Q 26462, file 40) at 4 [Robson *Autobiography*].

<sup>3</sup> Dale Brawn, *The Court of Queen's Bench of Manitoba 1870-1950: A Biographical History* (Toronto: University of Toronto Press, 2006) at 232-33.

<sup>4</sup> Robson *Autobiography*, *supra* note 2 at 4.

<sup>5</sup> Saint Andrew is Scotland's patron saint. The St. Andrew's Society has several locations in Canada. A principal function of the Society in Winnipeg is to promote and preserve Scottish culture in Manitoba. See Tom Saunders, *A Proud Heritage: A History of the St. Andrew's Society of Winnipeg 1871-1982* (Winnipeg: Peguis Publishers, 1982) [*A Proud Heritage*]; see also The St. Andrew's Society of Winnipeg, online: <[standrewssocietywinnipeg.com](http://standrewssocietywinnipeg.com)> [perma.cc/EE3D-E8L9].

<sup>6</sup> *A Proud Heritage*, *ibid* at 63. See also St. Andrew's Society Fonds, Members Roll (1914-1920), Scrapbook (1921-1943), Winnipeg, Archives of Manitoba (Location Codes: P2652/2, P2658/1) [St. Andrew's Society Fonds]. The society's archival fonds shows that Robson was listed as a member at least as early as 1920 and contains several news clippings that show Robson had also served as its first vice-president for several years prior to being elected its president.

Robson began school at the age of 4, and attended his town's public "Board School," rather than the private Parish controlled school. In his brief autobiography titled "Boyhood Memories" he recalls that he and the other boys had a cohesive antipathy towards what they referred to as the "Green School" and "its supposed class superiority."<sup>7</sup>

Robson's father left his family to travel to North America in 1880, where he would eventually end up "somewhere in Manitoba or beyond." It fell onto Robson's mother to move him and his 4 siblings to Canada in 1882. During the course of their journey they spent a few weeks in Winnipeg, before moving on to the North-West Territories<sup>8</sup> in August of that year to reunite with his father in the settlement that would eventually become Regina.<sup>9</sup> Robson recalls living in tents for a time, adding vinegar to their water supply and straining it for beetles to make it drinkable and fighting off a fire that threatened their tents. It was not until December when his family was able to move into a framed house and it appears that his father eventually established himself as a butcher.<sup>10</sup>

While living in Regina, at the age of 14, Robson was a spectator at the 1885 treason trial of Louis Riel. A detailed account of his first-hand experience of the trial was kept in his personal diary.<sup>11</sup> Robson often said that as a result of this experience he resolved to become a lawyer. His family members also recalled that his interest in the law began as a youth when Robson would sweep out the library of a practitioner in Regina to earn extra money. It was during these late-night cleaning shifts that Robson would read legal texts and "fell in love with the law." His love of reading law would continue throughout the rest of his life. His family claimed that when he was tired his wife would read Law to him. In addition to his love of legal texts he also kept three books under his

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<sup>7</sup> Robson Autobiography, *supra* note 2 at 2-3.

<sup>8</sup> The provinces of Saskatchewan and Alberta did not exist as such until 1905 and had been a part of the North-West Territories when Robson and his family moved to Canada. F. H. Schofield, *The Story of Manitoba* (Winnipeg: S. J. Clarke Publishing, 1913) vol 1 at 371-74.

<sup>9</sup> Regina was originally known as the "Pile O'Bones" or Wascana Creek and, at the time, was to be a C.P.R. townsite; see Robson Autobiography, *supra* note 2 at 6.

<sup>10</sup> Robson Autobiography, *ibid* at 6-7; see also the *Regina Directory for 1885* (Regina: Regina Leaders Steam print, 1885) online: <peel.library.ualberta.ca/bibliography/1530/11.html> [perma.cc/DZX3-4WXH].

<sup>11</sup> Brawn, *supra* note 3 at 246; "Chief Justice Robson Dies", *The Winnipeg Tribune* (9 July 1945).



Bed: The Psalms, Bleak House and Hamlet, which he would read over and over again, and when one was finished he would go to the next.<sup>12</sup>

Census records show that Robson's family at some point moved to British Columbia, while he would stay behind in Regina to pursue his legal career.<sup>13</sup> After 5 years of practicing law, Robson met Fannie Laidlaw while on business in Vancouver in 1897. She was 22 years old and they married that same year on June 30, 1897.<sup>14</sup> Dale Brawn points out that throughout their marriage, Fannie was nearly as active in public life as her husband.

"At the time of her death in 1950 she was the honorary president of the provincial missionary society of the Presbyterian church and of the Ladies Aid Society of the First Presbyterian Church. She was also an alumnus of the Canadian Club, the Women's Music Club, and the women's auxiliary of the Canadian National Institute for the Blind, and during the First World War was a volunteer visitor for the Manitoba Patriotic Fund and active supporter of the work of the Red Cross."<sup>15</sup>

In 1899, Jean, the first of Robson's six children, was born in Regina. Shortly after the young family moved to Winnipeg where the rest of Hugh and Fannie's six children were born. Robson's children, daughters Jean, Agnes and twins Kathleen and Gertrude, and two sons Hugh and Charles were all born between 1899 and 1912.

Robson was a devoted father, ensuring that all of his children, including the girls, had the best in schooling and in post-secondary education. All six attended private schools and each had at least one university degree. Two of them, Jean, and Hugh Laidlaw Robson, became prominent lawyers. Jean was the first to do so, and began her legal education in 1921, apparently at the urging of her father, and graduated in 1924. Robson's family later recounted to Gibson that one of the reasons he had asked his eldest daughter to enter the Law School was so that he could check on the notes she brought back to see if all the lecturers were doing a proper job.<sup>16</sup>

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<sup>12</sup> Hugh Amos Robson Lawyer member file, Legal Judicial History collection, interview notes of Dale Gibson, Winnipeg, Archives of Manitoba (Location code: M-92-8-17 file 25) [Robson member file].

<sup>13</sup> Census of Canada, 1891, online: <[http://central.baclac.gc.ca/.item/?app=Census1891&op=img&id=30953\\_148094-00479](http://central.baclac.gc.ca/.item/?app=Census1891&op=img&id=30953_148094-00479)> [perma.cc/6MD9-MKQA].

<sup>14</sup> Brawn, *supra* note 3 at 232-33.

<sup>15</sup> *Ibid* at 246, 404, n 126.

<sup>16</sup> Robson member file, *supra* note 12.

Life in the Robson home on Dromore Avenue,<sup>17</sup> with all six children still living at home, was described by his family as controlled chaos. While devoted to his children when it came to their education, at home Robson was an easy-going father who rarely emerged from behind the daily newspaper to utter more than polite admonitions. On one occasion when Robson's children were misbehaving at the breakfast table, his wife appealed to him to say something. His response was to emerge briefly from behind his newspaper and simply say: "Good morning children!" A similar story told by Robson's daughters can be found in the provincial archives, concerning another occasion when their children were misbehaving. When Robson came home one day, his wife had the children lined up on the back steps of their home and she said in a rather stern voice, "here are your children - will you talk to the children?" Robson simply replied with "Hello Children."<sup>18</sup> Another story involves Robson occasionally mixing his professional life and family life together. Because Robson did not drive a car, he would have his daughters drive him over the route of an accident which was before him on the Bench when he sat on the Court of Appeal.<sup>19</sup>

Outside of the family home, and despite Robson's prolific legal career and his dedication to law and justice, he was active in many non-legal organizations. Along with the St. Andrew's Society, Robson was heavily involved with the First Presbyterian Church, the Manitoba Club, and provincial politics in the 1920s.<sup>20</sup>

Reflecting on Robson's church activities in a speech given at the formal opening of Robson Hall in 1969, Rev. W.G.M. Maclean credited Robson with helping to resolve many legal problems that hindered the creation of the First Presbyterian Church following the founding of the United Church of Canada

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<sup>17</sup> Records show that Robson and his family had also lived at 82 Balmoral Place in Winnipeg, before moving to their house at 321 Dromore Avenue. C. W. Parker, ed, *Who's Who in Western Canada: A Biographical Dictionary of Notable Living Men and Women in Western Canada*, vol 2 (Winnipeg: Canadian Press Association, 1912) at 501, online: <<https://open.library.ubc.ca/collections/bcbooks/items/1.0355313#p3z-5r0f>> [perma.cc/RJ4W-5QEX]; St. Andrew's Society Fonds, *supra* note 6.

<sup>18</sup> Robson member file, *supra* note 12.

<sup>19</sup> *Ibid.*

<sup>20</sup> Robson Autobiography, *supra* note 2.

in 1925.<sup>21</sup> Three Protestant churches in Canada, the Methodist Church of Canada, the Presbyterian Church of Canada, and the Congregational Union of Ontario and Quebec, merged to form the United Church of Canada. An estimated 70 percent of Presbyterians in Winnipeg accepted the merger and became members of The United Church, but a strong and dedicated minority, led in Winnipeg by Robson, resolved to maintain an independent Presbyterian church. In 1923, Robson foresaw that those in favour of Union in Canada would first attempt to pass legislation in Manitoba and so he made efforts to prevent this. However, *The United Church of Canada Act* was eventually passed and the Presbyterian Church was broken up. Robson ended up sitting on the Board of Administration created by Presbyterians who opposed this Union and continued to call themselves the Presbyterian Church in Canada, despite it being illegal to do so. This board was made up of laymen whose duties were to oversee the business and financial affairs for the Presbyterian Church as it continued its conflict with the United Church of Canada. Many of the thorny legal issues that arose involving the ownership of church properties and the funding and building of a new church, were tackled by Robson, who secured the requisite mortgage financing.<sup>22</sup>

Another activity to which Robson was deeply committed was music, particularly choral music. This interest was, he often said, from his own participation as a choir boy in England. He regularly attended the Winnipeg Music Festival, particularly the school children's choral competition. On many occasions he opened the stately family home on Dromore Avenue for a reception for Competition adjudicators. In 1938 his daughter Isobel donated a trophy, named the Chief Justice Robson Trophy, to be awarded annually to the winner of the Grades One to Five school choir.<sup>23</sup> His daughter Kathleen became a popular piano teacher in the Dromore Avenue family home.

As Brawn notes, in addition to being an "avid music lover," Robson loved sports and was an enthusiastic baseball fan. Robson was known for standing outside of Winnipeg's historic Free Press Building to watch for updates

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<sup>21</sup> The Opening of the Law School Building on the Campus of the University of Manitoba, notes of W G M MacLean on occasion of the opening of Robson Hall, #29 Archive of Western Canadian Legal History (Acc No. 59) - Robson Hall Opening Research, Winnipeg, University of Manitoba Archives & Special Collections (UA 43, PC 139, TC 87, MC 18 (A13-104) Box 10 Folder 35).

<sup>22</sup> *Ibid*; N Keith Clifford, *The Resistance to Church Union in Canada 1904-1939* (Vancouver: University of British Columbia Press, 1985) at 149, 191-92.

<sup>23</sup> Robson member file, *supra* note 12.

displayed on a board during the World Series. He hated when court was sitting on a World Series day and would watch the board until the last possible moment before he would run back to the Law Courts building.<sup>24</sup> Brawn also notes that Robson was an amateur historian.<sup>25</sup> In addition to his personal account of the Louis Riel trial and a day-to-day record of events and experience kept in his diary, Robson wrote an undated type written manuscript of some sixty pages, a short story of a young man's friendly relationship with "Indians" somewhere on the western prairie. He also kept a note from a Scottish Journal, *The Countryman*, dated October 1930, on sheep-stealing in the sixteenth century, alleging that the "Robsons of North Tyne" (in the Scottish Highlands) were noted for their involvement in this illegal activity. The "autobiography" document found in the Manitoba Archives, seems to confirm Brawn's description of Robson as an amateur historian. The document opens with a brief 10 page account of his childhood, but is then followed by over 100 pages of Canadian history concerning the settling of the Saskatchewan and Alberta, and the Canadian government and mounted police's early interactions with the prairies Indigenous People.<sup>26</sup>

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<sup>24</sup> *Ibid.*

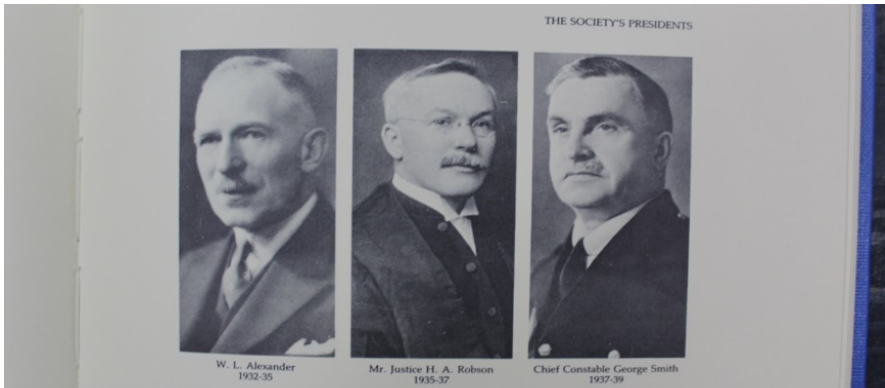
<sup>25</sup> Brawn, *supra* note 3 at 246.

<sup>26</sup> See generally Robson Autobiography, *supra* note 2.

## Chapter 2

# Robson: Legal Educator and Innovator<sup>1</sup>

On October 16, 2014, the Faculty of Law at the University of Manitoba celebrated the 100<sup>th</sup> Anniversary of the founding of the Manitoba Law School (MLS).<sup>2</sup> Its founder was Hugh Amos Robson, ably assisted by E.K. Williams, a brilliant young lawyer who had just moved to Winnipeg from Toronto where he had been called to the Bar after completing his legal education at Osgoode Hall.<sup>3</sup>



- <sup>1</sup> For a more detailed look into the history of Legal Education in Manitoba and Robson's role and the role of other important figures, see Matthew Renaud's "Robson Hall 100 Years" at page 311.
- <sup>2</sup> The Manitoba Law School (MLS) became the Faculty of Law in 1966; see e.g. Jack R London, "The Admissions and Education Committee: A Perspective on Legal Education and Admission to Practice in the Province of Manitoba, Past, Present and Future" in Cameron Harvey ed, *The Law Society of Manitoba 1877-1977* (Winnipeg: Peguis Publishers, 1977) 74 at 81.
- <sup>3</sup> Williams' experience at Osgoode Hall aided Robson in developing Manitoba's school. Williams' first-hand experience in how Osgoode operated helped create a model for Robson and Williams' student notes even helped form the basis for courses offered at the MLS. W Wesley Pue, "Common Law Legal Education in Canada's Age of Soap, Light and Water" (1995) 23 Man LJ 654 at 670-71; Dale Brawn, *The Court of Queen's Bench of Manitoba 1870-1950: A Biographical History* (Toronto: University of Toronto Press, 2006) at 321-24; Dale Gibson & Lee Gibson, *Substantial Justice: Law and Lawyers in Manitoba 1670-1970* (Winnipeg: Peguis Publishers, 1972) at 216.

At the time of the founding of the MLS, Robson was named Chair of its Board of Trustees, a position he held until his death in 1945 when he was succeeded by Williams.<sup>4</sup> On September 15, 1969 the Faculty of Law moved into a spacious new building on the University of Manitoba campus, which was ceremoniously named Robson Hall.<sup>5</sup>

Before the efforts of Robson there was little formality or organization to the training of Manitoba's lawyers. Jack London notes:

Prior to 1877 all lawyers practicing in Manitoba had been trained elsewhere and virtually all of them had qualified to be practitioners without any formal legal education requirements.<sup>6</sup>

In English Canada, the admission to practice law was almost exclusively an apprenticeship system called articling, pursuant to which a law student worked for a law firm or with a single practitioner for five years and then wrote a Bar Admission exam set by the governing Law Society.<sup>7</sup> Essentially, this practice-

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<sup>4</sup> E K Williams, "Legal Education in Manitoba: 1913-1950" (1950) 28:7 Can Bar Rev 759 at 759-60.

<sup>5</sup> Faculty of Law Fonds, Robson Hall - Opening Ceremonies (Part 1), 1968-1971 A2513, Robson Hall - Opening Ceremonies (Part 2), 1968-1971 A2513) Winnipeg, University of Manitoba Archives & Special Collections (UA 43, PC 139, TC 87, MC 18 (A.96-57, A.96-85, A.97-30); Box 16 Folders 10-11); Faculty of Law Fonds, Program for Special Convocation on Occasion of Opening of Robson Hall - 15 September 1969 A496, Dr. W Gordon Maclean's Invocation on Opening of Robson Hall, 1969 A2699; Handwritten Notes provided by Isabel Robson Winnipeg, University of Manitoba Archives & Special Collections (UA 43, PC 139, TC 87, MC 18 (A.96-57, A.96-85, A.97-30); Box 28 Folders 6-7). These records within the University of Manitoba archives contain numerous files concerning the opening of the Robson Hall and to the preparations made for the ceremony and naming of the building after Hugh Amos Robson.

<sup>6</sup> London, *supra* note 2 at 77.

<sup>7</sup> Each province has a statutorily created Law Society with the power to govern the practice of law and to decide who can become a practitioner. With some variations the requirement to practice consists of a university degree from a law faculty followed by a bar admission course governed and taught by the Law Society, which of course includes articling. This "dual system," as it came to be called, may be carried on concurrently or consecutively with the university-based law school; see *ibid* at 77-78.

based system remained in place in Manitoba until the founding of the Manitoba Law School in 1914.<sup>8</sup>

In 1885, the University of Manitoba established a three year reading course in law. As Wesley Pue notes, aspiring lawyers rarely took this reading course, with the five year articling and a Bar Admission exam remaining as the sole requirements for becoming a practicing lawyer. Those who did take the University of Manitoba reading course were required to article for only three years.<sup>9</sup>

By 1905, many leading members of the Bar, including Robson, were increasingly concerned with the weakness of the articling system. James Aikins and Isaac Pitblado, both leading Benchers of the Manitoba Law Society, revived a dormant Law Society lecture series.<sup>10</sup> In 1912 at the request of the Winnipeg Law Students' Society, the Law Society provided yet another short-term lecture series. This was the second such request by the law students, an earlier one having been made in 1906.<sup>11</sup>

In 1913, in a key step leading to the founding of an academic university-based law school, the Law Society Benchers asked Robson to enter into negotiations with the University of Manitoba. Their aim was to establish a full-fledged law school with a three year program leading to an LL.B degree. The degree would then become a required step towards being called to the Bar.<sup>12</sup> Within a year, Robson was able to obtain the agreement of both the Law Society and the University to establish the Manitoba Law School. The School was to be governed by a Board of Trustees with each body able to appoint two members. A fifth member would be agreed upon by the two organizations and serve as Chairman.<sup>13</sup>

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<sup>8</sup> Gibson & Gibson, *supra* note 3 at 128. The articling system required the law student to be articulated to a law practitioner and be assigned duties from which the student was expected to learn the basic elements of law practice. All too often a student would be assigned very minor, boring and repetitive duties such as title searches in the provincial Land Titles Office. A fortunate few were given more responsible tasks.

<sup>9</sup> Pue, *supra* note 3 at 666.

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid* at 666-68; Lee Gibson, "A Brief History of the Law Society of Manitoba" in Cameron Harvey ed, *The Law Society of Manitoba 1877-1977* (Winnipeg: Peguis Publishers, 1977) 28 at 33; Gibson & Gibson, *supra* note 3 at 216.

<sup>12</sup> Pue *supra* note 3 at 670-71; Williams, *supra* note 4 at 759.

<sup>13</sup> Williams, *supra* note 4 at 759; Gibson & Gibson, *supra* note 3 at 216.

In 1914, this agreement was formalized by legislated amendments to the *Law Society Act*.<sup>14</sup> Robson was then appointed as the Chair of the Board, a position which he held until his death in 1945. During this thirty year period, a sophisticated academic-based system of legal education was developed. However, as London notes, that development has not always been easy:

[...] the fundamental issue which persistently has led to divergent opinions, debate, acrimony and change has been whether the learning of law ought to be an academic exercise dedicated to concepts and principles, or a practical experience in technique and mechanics.<sup>15</sup>

Whatever may have been the case elsewhere (as, reputedly, it was in Ontario) in Manitoba, the profession and the academics were never at “daggers drawn.”<sup>16</sup> As E.K. Williams noted:

At no time has there been anything but utmost harmony on the Board [of Trustees]; and there has been the closest and most effective co-operation between the two corporations [the Law Society and the University] and the board. And between the corporations themselves. The decisions made by the Board have always been unanimous. Everything that has been done has been done by mutual agreement of all concerned after the fullest and most careful consideration and discussion<sup>17</sup>

There is no doubt that this harmonious state of affairs was substantially attributable to Robson who, as Williams noted, ensured that the project was a joint undertaking from the very beginning.<sup>18</sup> This harmony undoubtedly led to the school’s success and it quickly gained a strong reputation in Canada. Twelve years after its founding, despite considerable changes in its curriculum in its early years, the Manitoba Law School was named in the Carnegie Foundation’s annual reviews for 1926 and 1927 as the best law school in Canada.<sup>19</sup>

Beginning in 1915, the newly-formed Canadian Bar Association (CBA) established its Committee on Legal Education. The Committee was initially led by Robson, but work was delayed and the 1917 Annual Meeting of the CBA was interrupted by war time exigencies. However, Robson, as the committee’s first Convener, did lay the ground work for the report on their study of Legal

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<sup>14</sup> *An Act to amend The Law Society Act*, SM 1915, c 37, ss 7, 8.

<sup>15</sup> London, *supra* note 2 at 75.

<sup>16</sup> See C Ian Kyer & Jerome E Bickenbach, *The Fiercest Debate: Cecil A Wright, the Benchers, and Legal Education in Ontario 1923-1957* (Toronto: University of Toronto Press, 1987).

<sup>17</sup> Williams, *supra* note 4 at 760.

<sup>18</sup> *Ibid.*

<sup>19</sup> Pue, *supra* note 3 at 673; Gibson & Gibson, *supra* note 3 at 249.



Education in Canada that was eventually presented to the CBA in 1918.<sup>20</sup> The report focused on four areas: admission to study law, the period and course of study, the transfer of students, and admission into practice.<sup>21</sup> Further revisions to the reports were made and a final version was eventually approved by the CBA in 1921. This final report attempted to resolve the differences about the “dual system” (university courses and concurrent rather than consecutive articling) with a recommendation that a three year university course would be followed by a one or two year period of articling accompanied by Bar Admission lectures at the end of each week.<sup>22</sup> At Robson’s urging, the Board of the Manitoba Law School adopted the recommendation, selecting the option of just one year of articling.<sup>23</sup> In an address to the Manitoba Bar Association, Robson discussed the past approach to legal education which had given rise to the demands for the innovation discussed above. He then advocated for the new system that focused on University based legal education, and for Manitoba to follow other Universities in Canada that had already transitioned to a University focused legal education.<sup>24</sup>

However, this new approach did not last long and it was found to be unsatisfactory. While Robson was serving as acting Dean from 1926 to 1929, modifications were made, and in 1931 the Board abandoned the experimental system and returned to the old system that required articling to be concurrent with the university course.<sup>25</sup> This continued for many years, but eventually proved to be very unsatisfactory as well, and in 1964 at the urging of the Law School’s newly appointed Dean C.E. (Cliff) Edwards, the system was changed to a three year full time university course to be followed by a Law Society

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<sup>20</sup> Williams, *supra* note 4 at 761-63; Pue, *supra* note 3 at 674. By this time Dr. R W Lee was serving as the Convener of the Committee, while Robson still remained a part of the committee as one of Manitoba’s representatives.

<sup>21</sup> Report of the Committee on Legal Education and Ethics, *Proceedings of the Third Annual Meeting of the Canadian Bar Association*, held In Montreal, Quebec, 3-5 September 1918 (Toronto: Carswell, 1918) at 171-72.

<sup>22</sup> Williams, *supra* note 4 at 761-63; Pue, *supra* note 3 at 674.

<sup>23</sup> Williams, *supra* note 4 at 765; Gibson & Gibson, *supra* note 3 at 248. See also London, *supra* note 2 at 78.

<sup>24</sup> Hon. H A Robson, K.C., “Legal Education in Manitoba” (address given at Bar Association, Winnipeg, 19 January 1921) in Historical Scrapbook, 1908-1945, A188, Faculty of Law Fonds, Winnipeg, University of Manitoba Archives & Special Collections, UA 43, PC 139, TC 87, MC 18 (A.96-57, A.96-85, A.97-30, Box 1, Folder 2).

<sup>25</sup> Williams, *supra* note 4 at 765; London, *supra* note 2 at 79-80.

administered one year program of articling with practice oriented instruction at the end of each week.<sup>26</sup>

Robson's significant contribution to legal education in Manitoba also included the compiling, together with J.B. Hugg, of two sorely needed case and text books in company and corporate law.<sup>27</sup> His legal writing went beyond these academic works and included a massive work on municipal law which was national in scope and use.<sup>28</sup>

On January 2, 1957, at the unveiling of a commissioned portrait of Robson in the Law Courts Building, T.W. Laidlaw a former Dean of the Law School paid tribute to Robson's role as a legal educator, saying, in part:

[...] this Law School owes its existence to the genius and vision of one man, the late Chief Justice Robson. It was he who conceived the idea of establishing a school in Winnipeg and who persisted, in spite of discouragements and difficulties which might have daunted a less determined and unselfish soul in laying firm and sure the foundations of this great Law School.<sup>29</sup>

Finally, to honour Robson's leading role in legal education in Manitoba a special University Convocation was held on September 15<sup>th</sup>, 1969 to coincide with the opening of the Faculty of Law's new home. The Convocation Address was delivered by the Right Honorable Lord Gardiner, the Lord Chancellor of Great Britain. Also in attendance was Robson's eldest son and graduate of the Law School in 1929, Hugh Laidlaw Robson, who spoke and unveiled a plaque within the building honoring his father.<sup>30</sup>

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<sup>26</sup> London, *supra* note 2 at 81; Gibson & Gibson, *supra* note 3 at 302-03.

<sup>27</sup> Brawn, *supra* note 3 at 238; Williams, *supra* note 4 at 772; H A Robson & J B Hugg, *Cases on Company Law*, 1st ed (Toronto: Carswell, 1916); H A Robson & J B Hugg, *Leading Cases on Public Corporations*, 1st ed (Toronto: Carswell, 1916).

<sup>28</sup> H A Robson & J B Hugg, *Municipal Manual Being A Complete Annotation of the Ontario Municipal Act and Commentary on Certain Analogous Sections of the Municipal Acts of the Other Provinces* (Toronto: Carswell, 1920); Brawn, *supra* note 3 at 238.

<sup>29</sup> Excerpted from a two-page typed copy of Laidlaw's speaking notes provided by his grandson Paul Robson. Notes of Address delivered by T W Laidlaw on viewing of the portraits Chief Justices H.A. Robson and E.K. Williams in their new locations at the Manitoba Law School (2 January 1957), Winnipeg, University of Manitoba Archives & Special Collections Faculty of Law fonds (UA 43, PC 139, TC 87, MC 18, Box 27, Folder 20).

<sup>30</sup> Susan Foley, "Law's New Home on Campus" (1969) 30:1 Alumni Journal University of Manitoba (University of Manitoba Archives & Special Collections, University of Manitoba Faculty of Law), A13-104 UA 43 #30, Archive of Western Canadian Legal History, Acc No 189, Robson Hall Construction 1968-1969, Box 10, Folder 36; Gibson & Gibson, *supra* note 3 at 316.

# Chapter 3

## Lawyer, Judge, and Arbitrator: A Distinguished Legal Career

Robson's pursuit of a legal career began at the age of fourteen when, living with his family in Regina, he was a spectator at the 1885 treason trial of Louis Riel and, as he often said, was inspired by the drama of the proceedings to become a lawyer.<sup>1</sup>

In 1885, anyone aspiring to be a lawyer was required to serve a five-year apprenticeship, called articling, with a practising lawyer or law firm and then write a Bar Admission exam set by the governing Law Society.<sup>2</sup> Almost immediately after the Riel trial, Robson applied to and was accepted as an articling student by the law firm of D.L. Scott.<sup>3</sup> In due course he completed the five year articling term, wrote and passed the Bar Admission exam and upon turning twenty-one, the required age to practice law, was called to the Bar in 1892. As a student, Robson impressed Scott to such an extent that when called to the Bar he was admitted to the firm as a full partner. The firm then became styled "Scott, Hamilton & Robson."<sup>4</sup>

After two years as an active and successful litigator with the Scott firm, Robson left to join the firm of the North-West Territories' highly regarded politician Sir Fredrick W.G. Haultain, who at that time served as the Attorney General for the Territories.<sup>5</sup> In addition to continuing as a private practitioner,

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<sup>1</sup> "Chief Justice Robson Dies", *The Winnipeg Tribune* (9 July 1945) at 1-2.

<sup>2</sup> The practice of law including who is entitled to practice is regulated in each province by a statutorily created Law Society. Dale Gibson & Lee Gibson, *Substantial Justice: Law and Lawyers in Manitoba 1670-1970* (Winnipeg: Peguis Publishers, 1972) at 128.

<sup>3</sup> Dale Brawn, *The Court of Queen's Bench of Manitoba 1870-1950: A Biographical History* (Toronto: University of Toronto Press, 2006) at 232 [Brawn *Queen's Bench*].

<sup>4</sup> *Ibid* at 233; Lee Gibson, *A Proud Heritage: The First Hundred Years of Aikins, Macaulay and Thorvaldson* (Winnipeg: A. L. Gibson, 1993) at 53 [A *Proud Heritage*].

<sup>5</sup> Brawn *Queen's Bench*, *supra* note 3 at 233. The provinces of Saskatchewan and Alberta did not exist as such until 1905. Until that date they were part of the North-West Territories, which were fully governed by the Federal Government. F H Schofield, *The Story of Manitoba*, vol 1 (Winnipeg: S. J. Clarke Publishing, 1913) at 371-74.

Haultain appointed Robson as the North-West Territories' Associate Deputy Attorney General. Acting in this capacity Robson "was responsible for everything from drafting legislation to supervising prosecutions."<sup>6</sup> Both in his private practice and as Associate Deputy Attorney General, Robson would at times be the courtroom opponent of Winnipeg's leading lawyer, James Aikins, who represented the Canadian Pacific Railway in the Territories.<sup>7</sup>

Aikins was so impressed with Robson that in 1899 he asked Robson to move to Winnipeg and join his firm. Robson readily agreed. In 1899 he was called to the Bar in Manitoba and was admitted to the Aikins firm as a full partner. Over the next eleven years he became the senior litigator in what was then Winnipeg's largest and most prestigious law firm.<sup>8</sup> Over fifty of the cases in which he was lead counsel were significant enough to be reported in the law journals of the time. Two of his most important retainers were as solicitor to "The Commission to Investigate Taxation Conditions in the City of Winnipeg" and as counsel for the Alberta and Great Waterways Railway Company before a Royal Commission in Alberta.<sup>9</sup> By 1909, Robson had occupied prominent positions in most of the largest cases heard in Manitoba's local courts and had appeared before the Supreme Court of Canada. In recognition of these accomplishments he received the honour of being designated a King's Counsel.<sup>10</sup>

On June 22, 1910, at the age of 39 Robson was appointed by Prime Minister Sir Wilfred Laurier to be a judge of the Manitoba Court of King's Bench. (This was the first of his three judicial appointments, the last of which was in 1944 when he was appointed as Chief Justice of the Manitoba Court of King's Bench.)<sup>11</sup>

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<sup>6</sup> Brawn *Queen's Bench*, *supra* note 3 at 233.

<sup>7</sup> *Ibid*; *A Proud Heritage*, *supra* note 4 at 54.

<sup>8</sup> *A Proud Heritage*, *supra* note 4 at 53–54.

<sup>9</sup> Brawn *Queen's Bench*, *supra* note 3 at 233–34; J Castell Hopkins, ed, *The Canadian Annual Review of Public Affairs 1908*, vol 14 (Toronto: The Annual Review Publishing Company, 1909) at 457. As counsel for the Commission, Robson aided in investigating various manufacturers and businessmen in Winnipeg. He represented the Railway Company in an investigation into possible government corruption surrounding the forming of the company and the government contract that it was awarded.

<sup>10</sup> "Judgeship for H. A. Robson, K. C.," *Winnipeg Tribune* (23 June 1910) at 11.

<sup>11</sup> Brawn *Queen's Bench*, *supra* note 3 at 234, 245–24; "Hugh Robson Goes to King's Bench", *Manitoba Free Press* (23 June 1910) 1; Dale Brawn, *Paths to the Bench: The Judicial Appointment Process in Manitoba, 1870-1950* (Vancouver: UBC Press, 2014) at 60 [*Paths to the Bench*].

On the occasion of his first appointment the *Manitoba Free Press* editorialized:

Mr. Robson's appointment will be received with great gratification by the legal fraternity of Winnipeg [...] Mr. Robson speedily won his spurs in the Winnipeg legal field, and has been for some years regarded as one of the ablest and soundest lawyers in the province.<sup>12</sup>

Robson served only two years on the Bench at this time, resigning in June 1912 to accept the position as Manitoba's first Public Utilities Commissioner.<sup>13</sup> Given his brief tenure on the King's Bench, few of Robson's early judgments are reported in the contemporary law reports. However, one of them dealt with the extradition proceeding against a young socialist refugee from Russia and became internationally famous and is dealt with later in this chapter. Fortunately, an assessment of his brief time on the trial bench was made many years later in 1944, on the occasion of Robson being sworn in as Chief Justice of the Court of King's Bench. Mr. Justice Bergman of the Manitoba Court of Appeal stated that during many years of law practice he considered it a privilege to have argued cases before Robson who, he said, together with the late Chief Justice Mather, "was one of the two great trial judges."<sup>14</sup>

Dale Brawn also provides some insights into Robson's capabilities as a trial judge through his analysis of Manitoba's Appeal Process from 1906-1922. Brawn's data on the eight trial judges of the Manitoba Queen's Bench in this time period shows that 29 of Robson's decisions were taken to the Court of Appeal. Seventeen of these provide reliable data on the decision made by the Court of Appeal. seven of Robson's decisions were appealed while ten were dismissed. Based on his data Brawn ranks Robson as the second most competent judge in this time based on the ratio between appeals that were allowed and dismissed. Brawn also concludes that competence as a trial judge seemed to correlate with being considered a competent and above-average lawyer, prior to being appointed as a judge.<sup>15</sup>

In 1915, Robson resigned his position as Public Utilities Commissioner to accept an appointment as General Counsel for the Union Bank of Canada. He

<sup>12</sup> *A Proud Heritage*, *supra* note 4 at 70; see also *Manitoba Free Press* (23 June 1910).

<sup>13</sup> Brawn *Queen's Bench*, *supra* note 3 at 234, 235.

<sup>14</sup> "Congratulations Are Extended To Two New Chief Justices", *Winnipeg Free Press* (4 April 1944) at 3.

<sup>15</sup> Brawn's data does not provide a complete picture of Robson's decisions at this time, as his analysis excluded certain types of decisions. See *Paths to the Bench*, *supra* note 11 at 229-32 (for specifics on how Brawn collected this data).

also served the bank as its vice-president and as a member of the board.<sup>16</sup> After ten years in that position Robson returned to private practice as a partner in the law firm of Wilson, Robson, Hamilton and Campbell.<sup>17</sup> In addition to being one of Winnipeg's busiest corporate lawyers, Robson became a Law Society Bencher serving on that body from 1918 to 1925 when he retired as a Bencher because of the increasing demands of his political activities.<sup>18</sup>

In addition to his extra-judicial activities, active law practice, and many personal activities, Robson found time to write several biographical notes for the *Canadian Bar Review*; the most notable of which was an extensive tribute to Sir James Aikins at the time of his death in April 1929.<sup>19</sup>

Robson's most extensive, important, and often controversial judicial achievements occurred during his 14-year tenure as a judge of the Manitoba Court of Appeal (January 1930 to March 1944).<sup>20</sup> During that time Robson sat on the appeal bench in no fewer than 619 appeals, 218 of which were officially reported.<sup>21</sup> In six Manitoba Court of Appeal cases which were appealed to the Supreme Court of Canada in 1943 and 1944, the Supreme Court agreed with Robson four times and reversed him in whole or in part in only two cases.<sup>22</sup>

It was alleged that, at least towards the end of his tenure on the Court of Appeal, Robson was increasingly unhappy, largely because of his antipathy to fellow justice W.H. Trueman. According to Joseph Thorson, who "adored" Robson and had served as a lecturer and as a Dean at the law school, Robson, despite being a very fair judge in Thorson's opinion, had "one funny little

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<sup>16</sup> See *Paths to the Bench*, *supra* note 11 at 84.

<sup>17</sup> *Brawn Queen's Bench*, *supra* note 3 at 239.

<sup>18</sup> Cameron Harvey ed, *The Law Society of Manitoba 1877-1977* (Winnipeg: Peguis Publishers, 1977) at 273-77; *Brawn Queen's Bench*, *supra* note 3 at 243.

<sup>19</sup> H. A. Robson, "The Honourable Sir James Albert Manning Aikins, K. C." (1929) 7:4 *Can Bar Rev* 266; H. A. Robson, "Edward Ludlow Wetmore" (1944) 22:5 *Can Bar Rev* 442; H. A. Robson, "Sir Frederick Haultain" (1944) 22:8 *Can Bar Rev* 643; H. A. Robson, "Hon. Horace Thomas McGuire of Saskatchewan and the Yukon" (1945) 23:2 *Can Bar Rev* 139.

<sup>20</sup> *Brawn Queen's Bench*, *supra* note 3 at 245-46.

<sup>21</sup> Data provided and compiled by Matthew Renaud, Research Librarian: E.K. Williams Library, University of Manitoba, and Brendan Rozier, Student Editor: *Manitoba Law Journal*.

<sup>22</sup> *Re Morice*, [1943] SCR 94, 1 DLR 680; *R v Forsythe*, [1943] SCR 98, 2 DLR 737; *R v Gach*, [1943] SCR 250, 2 DLR 417; *Manitoba (Provincial Treasurer) v Minister of Finance*, [1943] SCR 370, 3 DLR 673; *Canadian Pacific Railway v Kizlyk*, [1944] SCR 98, 2 DLR 81; *McCleod v Sweezy* [1944] SCR 111, 2 DLR 145.

ailment.” This being the feud that existed between Robson and Trueman that was allegedly based solely on the fact that Robson “just couldn’t stand Tru[e]man.”<sup>23</sup> Robson’s negative feelings towards Trueman, which were likely exacerbated by Trueman’s increasing senility, apparently affected Robson so much that he would sometimes place himself “in an impossible position simply in order to be on the opposite side from the stand taken by Tru[e]man,” regardless of merit.<sup>24</sup> By 1944, change in the Court of Appeal was desperately needed thanks to Robson’s feud and Trueman’s senility, issues that were only made worse by the decline of Chief Justice Prendergast. These issues were affecting the functioning of the Court so much so that they caused many barristers to increasingly complain about the Court’s arbitrariness. Three leading members of the Law Society, E.K. Williams, Isaac Pitblado and R.D. Guy, finally approached Chief Justice Prendergast in January 1944, and asked him to retire and to try to persuade Trueman to retire as well. The Chief Justice was open to this solution; however, the Minister of Justice procrastinated and delayed accepting his resignation.<sup>25</sup> On February 15, 1944, the serious problem in the Court of Appeal led the *Winnipeg Free Press* to publish a lengthy, detailed and highly controversial lead editorial calling for a “rebuilding” of the Court by removing the two oldest judges.<sup>26</sup>

Finally, in March 1944, the Court of Appeal was effectively reconstituted after the resignation of Prendergast was accepted. Robson, much to his satisfaction, was transferred from the Court of Appeal to become Chief Justice of the Court of King’s Bench.<sup>27</sup> On the occasion of the swearing in of the newly appointed judges, Mr. Justice Dennistoun in a highly unusual move savagely criticized the *Free Press* for its controversial editorial stating, somewhat

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<sup>23</sup> Hugh Amos Robson, lawyer member file, Legal Judicial History collection, interview notes of Dale Gibson, interview of Thorson, Winnipeg, Archives of Manitoba (Location code: M-92-8-17 file 25) [Robson member file].

<sup>24</sup> *Ibid*; Brawn *Queen’s Bench*, *supra* note 3 at 246.

<sup>25</sup> Gibson & Gibson, *supra* note 2 at 281–82.

<sup>26</sup> “Rebuild the Appeal Court”, *Winnipeg Free Press* (15 February 1944), 11.

<sup>27</sup> On March 28, 1944, Bergman wrote to Ralph Maybank, Liberal Member of Parliament for Winnipeg South Centre: “Robson is very happy over his transfer. The Court of Appeal atmosphere and his feud with Trueman was beginning to get him down. The general opinion seems to be that he will be a better trial judge than he did in the Court of Appeal and that he will add strength to the Court of King’s Bench which will soon be felt.” Letter from H. A. Bergman to Ralph Maybank, (28 March 1944), Winnipeg, Archives of Manitoba (Accession Number: PR1967-01). Brawn *Queen’s Bench*, *supra* note 3 at 246, 404, n 123.

awkwardly, that it was “as sudden and unexpected as the attack made by the Japanese on Pearl Harbour.”<sup>28</sup>

### THE FEDORENKO CASE<sup>29</sup>

The *Fedorenko* case was an international cause-celebre involving both political and legal issues. Savaa Fedorenko became a political refugee that had fled Czarist Russia in 1908, after shooting a village constable while resisting arrest for his connection to a political group that opposed the Czarist regime.<sup>30</sup> He was eventually found and arrested in Winnipeg and was held for extradition to Russia pursuant to the provisions of both an extradition treaty between Britain and Russia and a Canadian enabling statute.<sup>31</sup> According to international law any conflict between a treaty and a domestic enabling statute must be resolved in favour of the treaty, but in this case there was no relevant difference so both were applicable.<sup>32</sup>

As a result of these proceedings there was an immediate and international movement to free Fedorenko, a movement fueled by widespread opposition to Russia’s record of brutal repression of political dissent. The extent of that movement is perhaps best expressed in the words of a *Manitoba Free Press* editorial following the ordering of Fedorenko’s release by Robson:

There is deep-felt public satisfaction that Savaa Fedorenko is a free man. The feelings of the Canadian people throughout the whole Dominion in regard to the case of this political refugee from Russia has made itself manifest in unmistakable manner.<sup>33</sup>

It goes on to state:

The demonstrations of public sympathy with Fedorenko and of the strong public feeling against the giving up of this man to the tender mercies of Russian methods of dealing with political offenders have all been with a view to the ultimate exercise, if

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<sup>28</sup> “Two Chief Justices Officially Sworn In”, *Winnipeg Free Press* (3 April 1944) at 1, 8.

<sup>29</sup> Some of the primary material accessed for the following was obtained in 1970 and 1989 from the National Archives of Canada by Alvin Esau, Director of the Legal Research Institute of the Manitoba Faculty of Law.

<sup>30</sup> Gibson & Gibson, *supra* note 2 at 207; Norm Larsen, ed, *Notable Trials From Manitoba’s Legal History* (Manitoba: Friesens, 2015) at 167.

<sup>31</sup> *An Act Respecting the Extradition of Fugitive Criminals*, RSC 1906, c 155 [Extradition Act]; Gibson & Gibson, *supra* note 2 at 207–08.

<sup>32</sup> *Re Fedorenko* (No. 2) (1910), 20 Man R 224 at 230–31, 17 CCC (MBKB) 271 [*Fedorenko* No. 2].

<sup>33</sup> “Fedorenko A Free Man”, *Manitoba Free Press* (20 December 1910), 4.



necessary, by the Minister of justice of his plenary power over such cases.<sup>34</sup>

However, as the editorial noted, Fedorenko's eventual release was on purely legal grounds, not political ones. Both judges who over saw Fedorenko's legal proceedings in Manitoba, specifically held that the crime as alleged was not a political crime.<sup>35</sup> Despite this finding, Chief Justice Mathers, who first presided over the proceedings, still ordered Fedorenko to be extradited.<sup>36</sup> However, in accordance with a specific provision in the *Extradition Act* based on the doctrine of *habeus corpus* Fedorenko appealed.<sup>37</sup> It was then Judge Robson who ordered him to be released on December 17, 1910. The principal legal issue advanced by Fedorenko's lawyers before Robson, was based on a provision in Article VIII of the *Extradition Treaty* which required the applicant country to commence proceedings for the extradition of a refugee by filing a "requisition" with the country where the refugee has been found. Robson held that no such requisition appeared in evidence.<sup>38</sup> He rejected the argument advanced by the lawyers for Russia that a requisition was not required. He concluded: "...owing to the want of the requisition I hold that the return to the present writ of *habeas corpus* discloses no cause for the detention of Savaa Fedorenko and he must be discharged."<sup>39</sup>

However, Robson's decision was, by special leave, appealed directly to the Privy Council in England. On July 13, 1911, after hearing argument on behalf of the Russian Government and, in Fedorenko's absence with no lawyer arguing on his behalf, the Privy Council granted the appeal and reversed Robson's decision.<sup>40</sup> Given the undisputed evidence that the required requisition was never produced by the Russian Government's lawyers, the Privy Council decision which made no reference to this issue may perhaps be construed as political.<sup>41</sup>

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<sup>34</sup> *Ibid.*

<sup>35</sup> *Re Fedorenko (No. 1)* (1910), 20 Man R 221 at 223, 17 CCC (MBKB) 268 [*Fedorenko No. 1*]; *Fedorenko No. 2*, *supra* note 32 at 231.

<sup>36</sup> *Fedorenko No. 1*, *ibid* at 224.

<sup>37</sup> "If the judge commits a fugitive to prison, he shall on such committal, - (a) inform him that he will not be surrendered until after the expiration of fifteen days, and that he has a right to apply for a writ of *habeas corpus*." *Extradition Act*, *supra* note 31, s 19.

<sup>38</sup> *Fedorenko No. 2*, *supra* note 32 at 226-27.

<sup>39</sup> *Ibid* at 231-232.

<sup>40</sup> *Re Fedorenko (No. 3)* (1911), [1911] AC 735 at 735, 737-38, 18 CCC 256.

<sup>41</sup> *Ibid.*

Fortunately for Fedorenko, the Privy Council's reversal of Robson's order had no practical effect. By that time Fedorenko had disappeared and was never found. It is believed that he had died a few years later at the age of 29 from tuberculosis.<sup>42</sup>

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<sup>42</sup> Both the massive political movement to support Fedorenko, and the mystery surrounding his disappearance following his release, are dealt with in a number of places: Roland Penner, *A Glowing Dream: A Memoir* (Winnipeg, J. Gordon Shillingford Publishing, 2007) at 22-25; Gibson & Gibson, *supra* note 2 at 207-08; Larsen, *supra* note 30 at 167-70; Henry Trachtenberg, "The Old Clo Move": Anti-Semitism, Politics, & the Jews of Winnipeg, 1882-1921 PhD Thesis, York University Graduate Program in History, 1984 [unpublished] at 391-99; Roseline Usiskin, *Toward a Theoretical Reformulation of the Relationship Between Political Ideology, Social Class, & Ethnicity: A Case Study of the Winnipeg Jewish Radical Community, 1905-20* (MA Thesis, University of Manitoba Department of Sociology, 1978) at 160-62. (According to the transcript of a 1977 interview with Feivel Simkin, on the day after Robson's decision freeing Fedorenko, Judge Myers of the County Court of Winnipeg ordered Fedorenko's immediate release. He was quickly taken to a safe house in northeast Winnipeg and within a day, Simkin who was a prominent socialist at the time and acting on the request of the Fedorenko Defense Committee, booked tickets on the CPR. Simkin said he booked first class to cloak the escape and accompanied Fedorenko to Halifax where Fedorenko boarded a ship bound for England. Ironically, some months later, lawyers for the Russian Government applied to the Privy Council for leave to appeal and for an order of substitute service.)

# Chapter 4

## A Devoted Public Servant

In his work on judges of the Manitoba Queen's Bench, Dale Brawn writes:

There is little doubt that the judge with the largest legacy on and off the Manitoba bench was Hugh Amos Robson. Twice appointed a justice of the King's Bench, the province's first Public Utilities Commissioner, leader of the provincial Liberal party, chairman of the federal Board of Commerce, member of three royal commissions, bencher [of the Law Society of Manitoba], founder of the Manitoba Law School, and an author, he was considered by some the most popular civil servant of his day.<sup>1</sup>

Included in the record of his activities as a public servant are such diverse subjects as enquiring into allegations of police corruption in the control of prostitution; establishing a much needed regulation of public utilities; enquiring into the causes of the Winnipeg General Strike of 1919; heading a Federal Board designed to control monopolies and roll back inflated commodity prices; and negotiating an effective balancing of private and public interests in the development of the province's massive hydro-electric potential. Although always a Liberal in provincial politics, he only became politically active and highly influential in the late 1920's.<sup>2</sup>

### THE PROSTITUTION REFERENCE

On November 22, 1910 Robson, then serving as a judge on the King's Bench, was appointed by the provincial government to enquire into allegations of rampant prostitution in Winnipeg and its corrupt protection by the City of Winnipeg Police.<sup>3</sup> These allegations originated in charges made in 1910 by the Reverend J.G. Shearer, national secretary of the Temperance and Moral Reform Council of Canada who, in interviews with three prominent newspapers in Toronto, accused the City of Winnipeg Council and its Board of Police Commissioners not only of permitting

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<sup>1</sup> Dale Brawn, *The Court of Queen's Bench of Manitoba 1870-1950: A Biographical History* (Toronto: University of Toronto Press, 2006) at 232.

<sup>2</sup> See Chapter Five for Robson's political career.

<sup>3</sup> H A Robson, "Report of Royal Commission on Charges Re Vice and of Graft Against the Police" (11 January 1911) in Alan F J Artibise, ed, *Gateway City: Documents on the City of Winnipeg 1873-1913* (Winnipeg: Manitoba Record Society, 1979) at 207-23.

widespread prostitution but also turning a blind eye to bribed police protection of the brothels.<sup>4</sup> The Winnipeg City Council immediately asked the Provincial Government to appoint a Royal Commission to enquire into and report on these allegations. The Government appointed Robson as the sole Commissioner.<sup>5</sup> After hearing from a large number of witnesses including several brothel keepers, Robson issued a 15-page report on January 11<sup>th</sup>, 1911. In essence Robson held that while there was no bribery, there was unacceptable toleration of prostitution and the operation of brothels by the police. His main findings (quoted from the record in the Manitoba Provincial Library) were:

That the charges as to vice in Winnipeg appearing as headlines to the newspaper reports in question are not true.

As to the charge made by Dr. Shearer, so far as it condemns things in Winnipeg in regard to the question of social vice, I have to report that a policy of toleration of the offence in question in a limited area, with regulation as to conduct was adopted by the Police Commissioners; that such an area was accordingly established by immoral women; that since October 1909 there was no attempt to restrict the increase of houses of vice in the area, and the number of houses grew from 29 to 50. [The area referred to was Thomas Street, now Minto Street in Winnipeg's west end].

That illicit liquor dealing has been general and continuous...

That the result of the above state of affairs has been the disturbance of peace and good order in the locality, a menace to morals and great depreciation in value of property of the neighbouring residents. That the above conditions were not brought about by corruption of any police authority, and the occupants of the houses do not pay for police protection.<sup>6</sup>

According to James H. Gray's popular urban history on prostitution in Western Canada, *Red Lights on the Prairies*, Robson's report was distributed widely by the Presbyterian Church (of which Robson was a prominent member). However, this did nothing more to regulate prostitution than to lead to the concentration of a reduced number of brothels in Point Douglas, an impoverished section of Winnipeg's North End (and hence, it was hoped, away from the more respectable middle class residential sections of the City).<sup>7</sup>

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<sup>4</sup> *Ibid* at 207–08; Brawn, *supra* note 1 at 234–35.

<sup>5</sup> Robson, *supra* note 3 at 207; James H Gray, *Red Lights on the Prairies* (Toronto: New American Library of Canada Ltd, 1973) at 72.

<sup>6</sup> Robson, *supra* note 3 at 222–23.

<sup>7</sup> Gray, *supra* note 5 at 73–5.

## ROBSON AND THE REGULATION OF UTILITIES

In 1911, the Roblin government was facing significant controversy due to its mismanagement of the Manitoba Telephone System. Its interference with the setting of rates, and the costly extension of service to rural areas, which was mainly motivated by politics, had all become a matter of acute political embarrassment. Faced with increasing public demand for an enquiry, the government appointed a Royal Commission to investigate these matters in January of 1912.<sup>8</sup>

The Commission heard considerable evidence of administrative inexperience, improper supervision of employees, patronage appointments, political interference with purchasing and construction contracts and accounting irregularities.<sup>9</sup> Roblin felt he had no alternative but to enact legislation to establish a Public Utilities Commission to regulate all utilities.<sup>10</sup> To avoid charges of political influence, Roblin, a Conservative, appointed Robson, described as a “fiercely independent Liberal”, as the province’s first Public Utilities Commissioner.<sup>11</sup> Robson accepted and resigned from his position on the King’s Bench, and his appointment and was well received by the public, the *Manitoba Free Press* stating:

In ability, in integrity, in every qualification requisite to the right discharge of those responsibilities and duties in the best interest of the public welfare and progress, Judge Robson is so eminently qualified that Manitoba can justly esteem itself specially fortunate among the provinces of this Dominion in having such a man in such a position.<sup>12</sup>

Speaking to the Winnipeg Real Estate Exchange shortly after his appointment, Robson made it clear what his approach would be. He defined his duties as “not only to protect the public from corporations but to protect corporations

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<sup>8</sup> Christopher Armstrong & H V Nelles, *Monopoly’s Moment: The Organization and Regulation of Canadian Utilities, 1830-1930* (Philadelphia: Temple University Press, 1986) at 193 [*Monopoly’s Moment*]; W L Morton, *Manitoba: A History* (University of Toronto Press, 1967) at 289, 313.

<sup>9</sup> *Monopoly’s Moment*, *ibid* at 193-94.

<sup>10</sup> *Ibid* at 194-95; *The Public Utilities Act*, SM 1912, c 66, s 4.

<sup>11</sup> *Monopoly’s Moment*, *supra* note 8 at 195.

<sup>12</sup> “The Public Utilities Commissionership”, *Manitoba Free Press* (24 May 1912), 4.

from themselves by preventing them from adopting a rapacious policy and compelling them to make reasonable charges for public services.”<sup>13</sup>

During his tenure as Commissioner, Robson justified the confidence placed in him. As Brawn describes it:

During his three years as commissioner he cured the ills of the telephone company, shaped the legislation that created the Greater Winnipeg Water District, investigated the publicly owned hydro-electric system, settled a dispute between the City of Winnipeg and the Winnipeg Electric Railway to allow for the joint use of poles, issued an order allowing the Midland Railway to expropriate property to expand its line, and forbade the sale of electric power in St. Boniface without the permission of that city’s municipal officials. Under Robson’s management the provincial telephone system not only accumulated nearly a quarter of a million dollars in its reserve fund, but revenues of the City of Winnipeg’s hydro-electric system exceeded expenses by a million dollars a year.<sup>14</sup>

In their book on the organization and regulation of Canadian utilities Christopher Armstrong and H.V. Nelles credit Robson with seeking to preserve the status quo based on rational fiscal principles that balanced public and private interests.<sup>15</sup> In doing so, Robson thoroughly researched in both Canada and the United States, the complex issue of rate setting and the different approaches to be taken in that matter as between publically and privately owned utilities. In a speech given in September 1913 to the Annual Meeting of the Dominion Association of Chartered Accountants he undertook a review of approaches to rate setting in different jurisdictions, including the United States, stressing the importance of public accounting to a regulatory commission by both publicly and privately owned utilities. As he stated in his address:

I bring this paper to a conclusion believing that you will agree with me that the case is made for accounting to public authority in respect of both private and public utility concerns.<sup>16</sup>

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<sup>13</sup> J Castell Hopkins, ed, *The Canadian Annual Review of Public Affairs 1914*, v 14 (Toronto: The annual Review Publishing Company, 1915) at 578.

<sup>14</sup> Brawn, *supra* note 1 at 236.

<sup>15</sup> *Monopoly’s Moment*, *supra* note 8 at 196.

<sup>16</sup> H A Robson, “The Accounting of Public Utilities” (Speech delivered at the Eleventh Annual Meeting of the Dominion Association of Chartered Accountants, September 1913), [unpublished] in Legal Judicial History Collection, A30, Robson, H. A. clippings re: public utilities, Winnipeg, Archives of Manitoba (Q 26402, file 8).

Clearly Robson played an important role in promoting the just regulation and control of public utilities in Manitoba, and in ensuring that important services remained accountable and served the public interest. It will be seen later in this chapter that Robson would play another significant role in the development of Manitoba's public utilities through his influence over the construction of a significant Hydro dam and in dealing with the province's natural resources.

## ROBSON AND THE ROBLIN PARLIAMENT BUILDING SCANDAL

Robson's next participation in a Royal Commission of inquiry came in 1915 when he was appointed a member of the second of two commissions looking into politically damaging allegations of widespread corruption related to the building of the new provincial legislature building. The allegations that Robson helped to investigate were based on the outcome and evidence adduced by the first of the two commissions. While the initial investigation led to the resignation of the Roblin government,<sup>17</sup> It also led to Roblin being charged with theft and fraud, although a divided jury held that these charges should be dropped. Thomas Kelly, the architect, who designed the building, who was also the general contractor for the work, was charged with and convicted of these offences. He was sentenced to a term of two and a half years in prison, serving less than the minimum and mostly in the comfort of the warden's house. He was ordered to repay \$1,207,000 to the province but in the end only \$30,000 was recovered.<sup>18</sup>

The second set of charges that arose concerned the attempted bargain between Liberal and Conservative leaders that would have had Roblin signing his resignation as well as a complete admission to the initial charges. It was alleged by C. P. Fullerton that this agreement was part of a corrupt bargain to procure the withdrawal of election protests involving Liberal and Conservative members and to allow for the Liberal party to ascend to office. These allegations were investigated by Robson and two other commissioners. However, their report completely exonerated Liberal leaders of any attempts to reach a corrupt bargain to gain office.<sup>19</sup>

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<sup>17</sup> Morton, *supra* note 8 at 341-43.

<sup>18</sup> *Ibid* at 344-46.

<sup>19</sup> *Ibid* at 343-44.

## THE WINNIPEG GENERAL STRIKE, 1919

The inquiry commission for which Robson is best known, and the findings of which may be said to have had the greatest and longest lasting impact, was that relating to the Winnipeg General Strike of 1919. The strike saw some 30,000 or more workers in the City of Winnipeg go on strike from May 15, 1919 to June 25, 1919 in support of the right to collective bargaining.<sup>20</sup>

So badly split were the citizens of Winnipeg on the fundamental reasons for the strike and the conduct of those involved that on July 4, 1919, the Provincial Government appointed Robson as a one-person Royal Commission to enquire into the causes and effects of the strike. This decision was made just two weeks after the strike's ending, and while the trials of the leaders of the strike charged with sedition were still pending. Robson's Commission sat for ten days between July 16 to September 10 and his report was issued on November 6, 1919.<sup>21</sup>

Confronting Robson as he considered the causes of the strike were on the one hand, claims by trade union leaders that the strike was in support of collective bargaining and, on the other hand, allegations by the self-styled "Committee of 1000" (the principal organized opponent of the strike)<sup>22</sup> that

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<sup>20</sup> See generally Norman Penner, ed, *Winnipeg 1919: The Striker's Own History of the Winnipeg General Strike*, 2nd ed (Toronto: James Lorimer & Co, 1975).

<sup>21</sup> H A Robson, *Royal Commission to Enquire into and Report Upon the Causes and Effects of the General Strike Which Recently Existed in the City of Winnipeg for a Period of Six Weeks, Including the Methods of Calling and Carrying on Such Strike*, 6 November 1919 (Winnipeg: The Commission, 1919, Manitoba Legislative Library).

<sup>22</sup> The self-styled Committee of 1000 was actually composed of no more than about 60 prominent businessmen, but effectively, the battle against the strike and the strike leaders was led on a day-to-day basis by six persons: Isaac Pitblado; A J Andrews; James Coyne; Travers Sweatman; E K Williams, and; A L Crossin, none of whom, following the end of the strike, wrote anything about their role in the committee, or of the crushing of the strike. D C Masters, *The Winnipeg General Strike* (University of Toronto Press, 1950) at 64; Norm Larsen, ed, *Notable Trials From Manitoba's Legal History* (Manitoba: Friesens, 2015) at 19-21, 31-32.



the strike was not about collective bargaining but was an attempt by “enemy aliens” and “Bolshevists” to take over the city.<sup>23</sup>

In his Report, Robson cited at length the testimony of James Winning, President of the Trades and Labour Council, who, in emphasizing the importance of collective bargaining in securing decent wages, dealt with the closely related issues of the high cost of living, mass unemployment, economic inequalities, and monopoly practices.<sup>24</sup>

In a key passage leading to his conclusions, which were mainly favourable to the strikers, Robson commented on the pending sedition trials of the strike leaders which dealt with the issues of Bolshevism and revolution raised by the Committee of 1000. Robson stated:

The undersigned [Robson] is aware that there are now pending certain prosecutions in which facts connected with the general Strike will be involved. It was at one time thought that the question of the cause of the Strike and the prosecutions were the same and, therefore, that the Commission could not report until the prosecutions had terminated and the facts there elicited could be made the basis, in part at least, of this report. Whether or not, the facts in question will be elements in the prosecution seems to the undersigned not to affect or necessitate any further delay in this report, as the undersigned finds that the general widespread Strike was the result of the determination to support by mass action the demand for the type of collective bargaining in question. The condition described by Winning and the general unrest above set forth were contributory...it is too much for me to say that the vast number of intelligent residents who went on Strike were seditious or that they were either dull enough or weak enough to allow themselves to be led by seditious. The men referred to [those charged with sedition] may have dangerously inflamed certain minds, but the cause of the Strike...was the specific grievance above referred to and the dissatisfied and unsettled condition of Labour at and long before the beginning of the Strike.

Robson followed these findings with an important but often overlooked passage headed “Economic Inequality” in which, while emphasizing his belief in the virtues of the capitalist system, adopted much of Winning’s evidence

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<sup>23</sup> “Make Canada Safe for Canadians”, *Manitoba Free Press* (7 June 1919), 3; “An Address on the Subject of The Winnipeg Strike May-June 1919: (Delivered by a Member of the Citizen’s Committee of One Thousand to a Deputation Citizens from Moose Jaw, Sask, 31 May 1919) [unpublished, archived at University of Manitoba Elizabeth Dafoe Library] at 7-8; The Citizens’ Committee of One Thousand, *The Activities and Organization of The Citizen’s Committee of One Thousand: In Connection with The Winnipeg Strike May-June, 1919* (Winnipeg: The Citizens’ Committee of One Thousand, 1919) at 19; Joseph Harry Sutcliffe, *The Economic Background of the Winnipeg General Strike: Wages and Working Conditions* (MA Thesis, University of Manitoba, 1972) [unpublished] at 145.

<sup>24</sup> Robson, *supra* note 21 at 6-8; Masters, *supra* note 22 at 128.

about the adverse effect on workers of artificially inflated high prices. He then wrote:

If Capital does not provide enough to assure Labour a contented existence with full enjoyment of the opportunities of the times for human improvement, then the Government might find it necessary to step in and let the state do these things at the expense of Capital.<sup>25</sup>

Towards the conclusion of his report, Robson, well ahead of the times, advocated the provision of medical services to “the communities referred to,” and to provide the means for government to step in:

[...] there should be a scheme of taxation of those who can afford it and application of wealth to the reasonable needs of the others in the community whose lot in life has not been favored.<sup>26</sup>

Robson concluded his Report by calling for the immediate implementation of the province’s existing *Industrial Conditions Act*<sup>27</sup> which, he thought, provided a suitable mechanism for resolving disputes consensually, thus avoiding resort to strike action.<sup>28</sup>

Robson submitted his report to the Manitoba Government on November 6, 1919, but it was not released until March 29, 1920, two days after the conviction of the strike leaders. This significant delay lends credence to the suggestion that the appointment of Robson was, basically, an attempt by the Norris Government to appear neutral while at the same time hoping for a report by Robson which would be critical of the strike. A historian, Daniel Francis, put it this way:

[...] Premier Norris kept the findings of the Robson report Secret. He did not release it to the public until the following March, after the trials were at an end. Once again the premier made himself an instrument of the anti-strike forces while appearing to

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<sup>25</sup> Robson, *supra* note 21 at 27.

<sup>26</sup> *Ibid* at 29.

<sup>27</sup> *The Industrial Conditions Act*, SM 1919, c 43.

<sup>28</sup> Robson, *supra* note 21 at 30–31.

maintain a public stance of impartiality.<sup>29</sup>

Robson's view of the justifiable causes of the strike is now widely held. In 1994 the Progressive Conservative Government in Manitoba, headed by Premier Gary Filmon, after consulting with the NDP opposition and the Winnipeg Labour Council, commissioned and unveiled a plaque in the Legislative Building.<sup>30</sup> The plaque states, in part, what Robson had found, namely, that the workers had walked out on strike "[...] seeking union recognition, collective bargaining, higher wages and a shorter work week", and concluded by stating that the strike was "[...] a landmark in Canadian history."<sup>31</sup>

### ROBSON AND THE FEDERAL BOARD OF COMMERCE (1919-1920)

Faced nationally with the same problems that Robson had found to be collateral causes of the Winnipeg General Strike, the Federal Government passed two acts: The *Board of Commerce Act* and the *Combines and Fair Prices Act*.<sup>32</sup> Under the provisions of the first of these statutes a three person Board was appointed and in July 1919 Robson was named Chair of the Board of Commerce.<sup>33</sup> This was around the same time that Robson was appointed by the Government of Manitoba to enquire into the causes of the Winnipeg strike.

The Board started holding hearings in August 1919, and immediately began taking action to deal with such issues as the sugar monopoly and

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<sup>29</sup> Daniel Francis, *Seeing Reds: The Red Scare of 1918-1919, Canada's First War on Terror* (Vancouver: Arsenal Pulp Press, 2010) at 223. Norris' excuse for the late release of the report was that it may have prejudiced the outcome of the trials. However, this is something that Robson fundamentally disagreed with, as he stated that whether the facts of his report would affect the trials or not should have no bearing on whether the report is delayed any further. See also Tom Mitchell, "Legal Gentlemen Appointed by the Federal Government': The Canadian State, the Citizen's Committee of 1000, and Winnipeg's Seditious Conspiracy Trials of 1919-1920" (Spring 2004) 53 *Labour/Le Travail* 9 at 13, 30-31.

<sup>30</sup> Larsen, *supra* note 22 at 16-17.

<sup>31</sup> *Ibid.*

<sup>32</sup> *The Board of Commerce Act*, SC 1919, c 37; *The Commerce and Fair Prices Act*, SC 1919, c 45.

<sup>33</sup> *The Board of Commerce Act*, s 3; *The Commerce and Fair Prices Act*, s 3; Brawn, *supra* note 1 at 241-42.

resulting high prices, and the inflated retail price for clothing in the Ottawa area.<sup>34</sup>

However, even before the Board of Commerce had begun its hearings and ordered roll backs of inflated pricing, it came under heated attack from both the private sector and the Canadian Bar.<sup>35</sup> Animosity towards the Board of Commerce was part of a larger backlash towards the increase in legislated commissions taking the place of traditional courts and procedure.<sup>36</sup> Writing in the *1919 Canadian Law Journal*, H.P. Blackwood stated:

As rights of decisions are conferred upon Commissioners in a large number of matters now, it is quite impossible to say where it will end. The people seem to be running mad on it. We may get so far soon that the country will be governed by commission and the people will find themselves divested of political power.<sup>37</sup>

Notwithstanding such concerns the Board continued its activities, despite also being faced with some internal dissension about the nature of its mandate.<sup>38</sup> Trouble also arose from the Board's jurisdiction to rule on such issues, which was almost immediately questioned on constitutional grounds. It was argued by opponents of the Board that, under the division of legislative powers set out in the *British North America Act 1867* (now the *Constitution Act 1867*), such market place matters came within provincial jurisdiction (Property and Civil Rights) and not federal jurisdiction (The Regulation of Trade and Commerce).<sup>39</sup>

In order to resolve the issue, the Board referred the matter to the Supreme Court of Canada on January 9, 1920.<sup>40</sup> The Court's decision, released in June 1920, was a 3-3 split which, although failing to decide the issue, had the effect of rendering further work by the Board problematic at best.<sup>41</sup> As Blackwood's

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<sup>34</sup> Tom Traves, *The State and Enterprise: Canadian Manufacturers and the Federal Government, 1917-1931* (University of Toronto Press, 1979) at 56-57; Bernard J Hibbits, "A Bridle for Leviathan: The Supreme Court and the Board of Commerce" (1989) 21:1 *Ottawa L Rev* 65 at 74-75.

<sup>35</sup> Traves, *ibid* 10-11.

<sup>36</sup> H P Blackwood, "Constitutional Safeguards - How Far Can Delegates Delegate" (1919) 55:12 *Can LJ* 366 at 366-68; "The Board of Commerce" (1919) 55:12 *Can LJ* 285.

<sup>37</sup> Blackwood, *ibid* at 370.

<sup>38</sup> Hibbits, *supra* note 34 at 111-12; Robert James McFall, "Regulation of Business in Canada" (1922) 37:2 *Political Science Quarterly* 177 at 207; Traves, *supra* note 34 at 80.

<sup>39</sup> Hibbits, *supra* note 34 at 80.

<sup>40</sup> *Ibid* at 76.

<sup>41</sup> *Ibid* at 88, 96.

criticism makes clear, there was a strong ideological component to the attack on the legislation. For example, in the Supreme Court's decision Mr. Justice Idington stated, in part:

Is there any sumptuary or socialistic conception of organized society which could not be made to fall within the power of Parliament, by the same process of reasoning as must be resorted to, in order to maintain the right of the Board to make the proposed order?<sup>42</sup>

As expected, an appeal to the Privy Council resulted, in an opinion on November 1920 that held the challenged legislation invalid.<sup>43</sup>

However, on February 23, 1920, prior to the Supreme Court's and the Privy Council's rulings, Robson unexpectedly resigned from the Board. His decision was made less than six months after his appointment and was widely criticized at the time. His letter of resignation stated that in addition to being needed in Winnipeg and being unable to move his home to Ottawa, he was "absolutely out of sympathy with the Act."<sup>44</sup> Based on his letter it appears that Robson felt that a federal body acting in an advisory capacity to provincial boards of Commerce would be more useful than the board as it was then constituted.<sup>45</sup> Certainly, as clearly reflected in his earlier Report on the Winnipeg General Strike, Robson was concerned with the excessive increases in the cost of staple items such as food and clothing due to monopolistic practices. However, he viewed the Board's focus on the necessities of life as a further problem, as it allowed profiteers in other commodities to do as they pleased and discouraged businessmen from dealing with important commodities.<sup>46</sup> All of these problems that Robson found with the legislation that governed the Board of Commerce added up and made it impossible for him to hold a position on the board.<sup>47</sup>

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<sup>42</sup> *In re Board of Commerce Act (1919)*, [1920] 60 SCR 456 at 489, 54 DLR 354.

<sup>43</sup> *Re Board of Commerce Act 1919 and the Combines and Fair Prices Act 1919*, [1921] UKPC 107, [1922] 1 AC 191 at 199-200.

<sup>44</sup> See generally "Judge Robson Gives Reasons for Resigning" and "The Board of Commerce", *Manitoba Free Press* (3 March 1920) at 1, 13.

<sup>45</sup> *Ibid* at 1.

<sup>46</sup> *Ibid*.

<sup>47</sup> *Ibid* (for the remaining reasons given by Robson).

## ROBSON AND THE SEVEN SISTERS HYDRO-ELECTRIC DEVELOPMENT

Robson's pragmatic approach to the balancing of public and private interests, as earlier demonstrated in his role as Manitoba's first Public Utilities Commissioner, was strongly evident in his active role in resolving a dispute concerning the proposed development of a massive hydro-electric dam and generator at the Seven Sisters site on the Winnipeg River.

By 1925, it had become abundantly clear that the rapidly growing demand in Manitoba for electric power for both home and industrial consumption would require the immediate development of several sites on the Winnipeg River of which the Seven Sisters site was the most important.<sup>48</sup> Since, at that time, the control of natural resources in Manitoba was a Federal power, a Federal lease would be required.<sup>49</sup> Contending for this valuable lease was the powerful Winnipeg Electric Company (WEC), a private sector monopoly, and the public sector Manitoba Power Commission, the precursor of Manitoba Hydro.<sup>50</sup> Robson became a leading figure in the difficult efforts to resolve the natural resources issue because, as head of the Provincial Liberals from 1927, he had undoubted influence with the Federal Liberal Government. Furthermore, he had gained significant experience with Hydro issues from his earlier role as Manitoba's first Public Utilities Commissioner.<sup>51</sup> Both Provincial Premier John Bracken and Mackenzie King, the Federal Prime Minister, sought his advice and assistance in resolving the matter. Robson aided in negotiating a clever, though controversial, deal that balanced both private and public interests. The deal involved the WEC agreeing that if it obtained the Seven Sister's lease it would sign a contract to supply Manitoba Power with up to 30,000 horsepower each year for 30 years at a fixed and very low price and, at

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<sup>48</sup> Morton, *supra* note 8 at 71.

<sup>49</sup> Under *Constitution Act, 1867*, ownership and control of natural resources is a provincial right. However, the Federal Government failed to transfer resources to Manitoba when it became a province in 1870. The required transfer and payment of the money owing Manitoba to compensate for the fifty years of wrongful Federal control was under active negotiation during the time Robson became leader of the Manitoba Liberal Party. John Kendle, *John Bracken: A Political Biography* (Toronto: University of Toronto Press, 1979) at 53; Morton, *supra* note 8 at 396; F H Schofield, *The Story of Manitoba*, vol 1 (Winnipeg: S. J. Clarke Publishing, 1913) at 334.

<sup>50</sup> Kendle, *supra* note 49 at 70-79; Morton, *supra* note 8 at 402-05.

<sup>51</sup> Kendle, *supra* note 49 at 65, 80-83; Robert A Wardhaugh, *Mackenzie King and the Prairie West* (Toronto: University of Toronto Press, 2000) at 144.

the end of the 30 years, it would allow the Province to take over the site.<sup>52</sup> Both the WEC and the Federal government viewed the agreement “as ‘exceptionally favorable’ to the province.”<sup>53</sup>

Robson’s most important contribution to reaching such a favorable deal for the province, was convincing the Prime Minister to accept the agreement and return control of water to the province. Robson persuaded him that the natural resource question was a way to revitalize liberalism and stop the conservatives from gaining momentum at the Federal level.<sup>54</sup> His memo to Mackenzie King recommending the lease be granted to the WEC confirms his basic private sector allegiance and his efforts to convince King that the agreement would support the Liberals at the Federal level:

There is growing demand that public ownership cranks and opposing schemes be ignored and the lease be granted [to the WEC] and the work go ahead immediately... If the Provincial request is not heeded there will be a stormy time. The settlement has taken well and you are occupying a fine position and these good impressions should not be jeopardised...<sup>55</sup>

Opponents of the decision to grant the lease to the WEC included both supporters of public ownership of utilities and some who, wrongly it seems, alleged a conflict of interest by those who bought WEC shares just prior to the public announcement of the decision. In fact, WEC shares lost value once the details of the deal became known.<sup>56</sup>

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<sup>52</sup> Kendle, *supra* note 49 at 76–78.; “Robson States Views on Power Development at Seven sisters Falls”, *Manitoba Free Press* (18 May 1928) at 6.

<sup>53</sup> Kendle, *supra* note 49 at 78.

<sup>54</sup> *Ibid* at 80–81, 83.

<sup>55</sup> “Robson to King” (17 July 1928), 133164-5, box 156, series J1, King Papers, cited in Kendle, *supra* note 49 at 83.

<sup>56</sup> Kendle *supra* note 49 at 85–86, 93–94.

## Chapter 5

### Robson in Provincial Politics<sup>1</sup>

Although Robson's political affiliations appear to have always been Liberal,<sup>2</sup> he only became active in electoral politics in 1927, eventually retiring from political activity when appointed to the Manitoba Court of Appeal in January 1930. Prior to politics Robson was a "much respected lawyer and educator," and considered by some to be the "most popular public servant of his day."<sup>3</sup> However, it seems clear from a number of sources, especially material cited in Kendle's biography of John Bracken that by the end of nearly four years of intensive and, often controversial political activity, in the opinion of many, Robson was not always a "respected" or popular politician.

On March 30, 1927, at the Liberal Party Leadership Convention, Robson was, unexpectedly, elected as a last minute nominee for the leadership of the Liberal Party of Manitoba.<sup>4</sup> At that time, it was assumed that, in common with Ralph Maybank and the Manitoba Association of Young Liberals, Robson supported a controversial movement to fuse the Liberal Party electorally with John Bracken's Progressive Party. The Progressive party had formed the

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<sup>1</sup> Much of the background to provincial politics in Manitoba and Robson's involvement for the years 1920-1930 was thanks to several sources: Dale Brawn, *The Court of Queen's Bench of Manitoba 1870-1950: A Biographical History* (Toronto: University of Toronto Press, 2006) [Brawn]; John Kendle, *John Bracken: A Political Biography* (Toronto: University of Toronto Press, 1979); Robert A Wardhaugh, *Mackenzie King and the Prairie West* (Toronto: University of Toronto Press, 2000); Ralph Maybank fonds, Winnipeg, Archives of Manitoba, (Accession No. PR1967-01, Location Codes P7498/11, P7505/5, P7508/2).

<sup>2</sup> See H A Robson's speech, *infra* at 279 ("The Revival of Liberalism").

<sup>3</sup> Brawn, *supra* note 1 at 232, 237.

<sup>4</sup> Ralph Maybank Political Papers 1926-27 - correspondence, diary and memorandums (11 April 1927), Winnipeg, Archives of Manitoba (Ascension No PR1967-01, Location code: P7505/5) [Maybank Political Papers].



government of Manitoba since 1922.<sup>5</sup> However, a coalition never occurred while Robson was the leader of the Liberal Party.

The fusion movement had sharply divided the province's Liberals throughout the 1920s. There were three powerful factions. Strongly opposed to fusion were the so-called Diehards, led by E.J. McMurray, an influential Winnipeg lawyer who, had served for several years as Solicitor-General in the newly-elected Federal Liberal Government headed by Mackenzie King.<sup>6</sup> A second faction, the Free Press group, headed by its influential editor J.W. Dafoe, supported an electoral coalition but only if favourable to the Liberals.<sup>7</sup> A third faction, the Manitoba Association of Young Liberals headed by Maybank, strongly supported fusion.<sup>8</sup>

Mackenzie King was a strong supporter of the fusion attempt. Though not himself a westerner, he romanticized the "Prairie West" as Wardhaugh describes it.<sup>9</sup> But, more relevantly, he was convinced that in the light of the increasing strength of the Conservative Party federally, the survival of the Liberal government depended on strong support in the three Prairie Provinces.<sup>10</sup> By the 1921 Federal election, it had been made abundantly clear to the newly elected Prime Minister that the ability of the Liberals to form and retain the national government required the parliamentary support of the Progressives. 1921 had been dismal for the Liberals in the Prairie Provinces with only two Liberal representatives being elected, whereas the progressives had essentially swept the prairies.<sup>11</sup> The election saw, to the surprise of many, an astonishing fifty-eight Progressive members of Parliament elected, making

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<sup>5</sup> *Ibid*; Kendle, *supra* note 1 at 64–65; Wardhaugh, *supra* note 1 at 132. In the provincial general election of 1922, a majority of those elected were members of the United Farmers of Manitoba (UFM) which party was then entitled to form the government. John Bracken (1883-1965) was asked to become its leader and, as such, he became the Premier of the Province, a position he held until January 1943. Shortly after forming government the UFM became known as the Progressives. Kendle, *supra* note 1 at 30, 63–66; Robert Wardhaugh & Jason Thistlewaite "John Bracken" in Barry Ferguson & Robert Wardhaugh, eds, *Manitoba Premieres of the 19<sup>th</sup> and 20<sup>th</sup> Centuries* (Regina: Canadian Plains Research Center Press, 2010) 165 at 169, 186.

<sup>6</sup> Wardhaugh, *supra* note 1 at 89, 102, 106; J M Bumstead, *Dictionary of Manitoba Biography* (Winnipeg: University of Manitoba Press, 1999) at 166.

<sup>7</sup> Wardhaugh, *supra* note 1 at 26, 101, 122; Kendle, *supra* note 1 at 95–96.

<sup>8</sup> Kendle, *supra* note 1 at 63–64, 100.

<sup>9</sup> Wardhaugh, *supra* note 1 at 4, 11–12.

<sup>10</sup> *Ibid* at 31–35.

<sup>11</sup> *Ibid* at 53–61.

their support essential to the governing Liberals.<sup>12</sup> In the 1926 Federal election, the Liberals won again and the Progressives were in disarray with only eleven seats.<sup>13</sup> However, Mackenzie was still wary of the Progressives, and deemed that fusion was still necessary at the provincial level, especially in Manitoba.<sup>14</sup> As Wardhaugh describes it:

Increasingly, King's western gaze focused on Manitoba. Prairie support in Ottawa, as the election of 1926 demonstrated, necessitated the union of Liberals and Progressives... Now firmly in power, the prime minister promoted fusion at the provincial level [...]

However, "[a]ny chance of a provincial coalition was unlikely as long as the Diehard and Free Press factions of the Liberal party remained at each other's throats."<sup>15</sup>

For months prior to the Liberal Leadership Convention, there was intense often bitter lobbying and debating among many contenders for that position. Included in the list of persons being considered were Liberal activists such as E. A. McPherson, Frank Fowler, Fredrick Hamilton, A.W. Myles, Paul Duval and J.T. Thorson. Though not himself a contender, the principal and most influential strategist was Ralph Maybank.<sup>16</sup>

Initially, Robson was not one of those being considered by the Liberal Party hierarchy for the position of leader. However, on the morning of the convention, just hours before nominations were made, Maybank and the influential Manitoba Association of Young Liberals began to lobby for Robson. It appears that they initially approached him with the hopes that he would use his influence to nominate another candidate. However, this led to Robson being asked to run hours before the Convention began. According to Maybank, Robson did not agree to allow his name to go forward until just 15 minutes before nominations were made.<sup>17</sup> After agreeing to let his name stand and to contend with Hamilton and Myles, the only two other nominees still standing by April 11, Maybank and his followers then quickly began to spread word of this new turn of events around the Convention. When Robson's nomination

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<sup>12</sup> *Ibid* at 124-25.

<sup>13</sup> Library of Parliament, "General Elections: 16<sup>th</sup> Parliament", *History of Federal Ridings Since 1867*, online: Library of Parliament <loppar.ca/About/Parliament/FederalRidingsHistory/hfer.asp?Language=E&Search=Gres&genElection=16&ridProvince=0&submit1=Search> [perma.cc/XT22-38SY].

<sup>14</sup> Wardhaugh, *supra* note 1 at 128-29.

<sup>15</sup> *Ibid* at 131-32.

<sup>16</sup> See generally Maybank Political Papers, *supra* note 4; Kendle, *supra* note 1 at 63-64.

<sup>17</sup> See Maybank Political Papers, *supra* note 4.

was announced it was met with “roars of applause.”<sup>18</sup> Maybank’s note of the speeches given by the candidates that followed Robson’s unexpected nomination is dramatic. He states:

Every loose vote in the Convention went to the Judge [Robson] as soon as he had spoken a sentence. He did not make any mistakes in respect to the manner in which he came in [to the Convention Room]. He stayed outside until his time for speaking came and then he walked slowly through the room letting the applause grow and grow as he moved towards the platform.<sup>19</sup>

The vote that followed was a landslide. Robson received 152 votes, while Hamilton and Myles only received 34 and 31 respectively. This dramatic result appears to have been owed to the support of younger anti-establishment Liberals, led by Maybank, who considered Robson to be progressive and assumed that, as they did, he favoured fusion.<sup>20</sup>

However, it was not long after his becoming leader of the Liberals that it became clear that Robson actually opposed fusion. Robson instead favoured a concerted effort to have the Liberals alone campaign to form government at the next provincial general election. Maybank reveals that even on the day Robson was elected it was apparent that his views were not in line with those who supported fusion.<sup>21</sup> Soon after the Convention, Robson issued a press release stating that the Liberals were “...entirely free from alliances” and that both class and group government were unacceptable in Manitoba.<sup>22</sup> In a private letter Robson advised King that “We have to open and continue the fight in an effort to place the Liberal Party in power. Understandings or entanglements will do infinite harm and we will not be led into them.”<sup>23</sup> Kendle suggests that Robson had actually planned to hold off from entering into the leadership nominations until the last possible moment, in order to avoid revealing his desire to maintain an independent Liberal party too soon.<sup>24</sup>

Robson stuck to his plan on running a “spirited campaign” against both the Conservatives and Progressives going into the provincial election held on June 28, 1927. While Robson himself won a seat in the provincial legislative

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<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.* See also Kendle, *supra* note 1 at 64.

<sup>21</sup> See Maybank Political Papers, *supra* note 4.

<sup>22</sup> “Liberal Leader Issues Statement”, *Manitoba Free Press* (18 April 1927) 4-5; Kendle, *supra* note 1 at 65.

<sup>23</sup> Kendle, *supra* note 1 at 65; Wardhaugh, *supra* note 1 at 133.

<sup>24</sup> Kendle, *supra* note 1 at 65.

assembly, the Liberal party did not manage to gain any new seats, and the Conservatives gained six.<sup>25</sup> Robson himself attributed the Conservatives ability to make a resurgence to the Liberal division on the issue of fusion and the failure of prominent members in the Federal party to abandon efforts to work towards cooperation.<sup>26</sup> He justified this sacrifice by claiming that the Diehard Liberals had “successfully weeded out disguised Conservatives from Bracken’s party and thereby deprived the government of ‘too much Tory influence.’”<sup>27</sup> Robson informed King that losing seats to a few conservatives was not as important as curbing the undercurrent of progressivism and that progressivism was the real threat to both Provincial and Federal Liberalism.

Despite Robson’s warnings, the Prime Minister continued to strongly favour fusion. He deemed it necessary to success in the West due to the growing strength of the Conservatives, so much so that in March 1929, he sent Thomas Taylor as his personal representative to Manitoba.<sup>28</sup> Taylor delivered a letter to Robson urging him to meet with Bracken on the issue stating that the progressives needed Robson’s help in order keep the Conservative party out of control in Manitoba.<sup>29</sup>

At the same time Premier Bracken decided to open up the possibility of cooperation between the Progressives and Liberals and sent Robson a letter as well. It stated (in part) “I am very definitely of the opinion that the public interest can best be served in this way, and I would respectfully solicit your sympathetic consideration of the proposal.”<sup>30</sup>

Robson, ever the shrewd negotiator, played along for a short time in the hope that by his cooperation with King he could speed up the long delayed transfer of jurisdiction over natural resources from the Federal to the Provincial Government. Although, constitutionally, each individual province was to own and control its natural resources, the Federal Government had delayed transferring such control to Manitoba following its entry into Confederation in 1870. As Wardhaugh notes “The coalition [fusion] issue in Manitoba by 1929 had become inextricably intertwined with the resource transfer.”<sup>31</sup> These negotiations between Manitoba and the Federal Government involved several

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<sup>25</sup> *Ibid* at 66.

<sup>26</sup> Wardhaugh, *supra* note 1 at 133.

<sup>27</sup> *Ibid*.

<sup>28</sup> Kendle, *supra* note 1 at 95–96.

<sup>29</sup> *Ibid* at 95.

<sup>30</sup> Kendle, *supra* note 1 at 95–96.

<sup>31</sup> Wardhaugh, *supra* note 1 at 143.

issues including the amount of compensation to be paid to Manitoba by the Federal Government for its constitutionally wrongful use of the resources for over fifty years. Hoping to obtain a favourable conclusion to the proposed fusion, Mackenzie King finally agreed to the transfer of resources in December, 1929. The transfer was to be effective in 1930.<sup>32</sup>

Though Manitoba went on to successfully obtain its resources in December, by November 1929, much to the dismay of Bracken, King, and leading Liberals in Manitoba, Robson broke off fusion negotiations with Bracken. They had finally realized that Robson's selection as leader had been a mistake by the Liberal party and that Robson would never be convinced to join with the Progressives in Manitoba.<sup>33</sup> Shortly thereafter, Bracken met with King in Ottawa and suggested that Robson should once again be appointed as a judge, effectively removing him from the scene.<sup>34</sup> Despite these efforts and the removal of Robson, in the Federal Election of 1930 the Conservatives led by R.R. Bennet defeated the Liberals and Mackenzie King's strategy for winning the West had failed. Thus it was that on January 3, 1930, Robson was appointed by King to the Manitoba Court of Appeal, ending his short but dramatic entry into Manitoba politics.<sup>35</sup>

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<sup>32</sup> *Ibid* at 152-53, 159-60. See also Kendle, *supra* note 1 at 101.

<sup>33</sup> Kendle, *supra* note 1 at 104-05; Wardhaugh, *supra* note 1 at 133.

<sup>34</sup> Wardhaugh, *supra* note 1 at 145, 153.

<sup>35</sup> Kendle, *supra* note 1 at 106.