Paths to the Bench

The Judicial Appointment Process in Manitoba, 1870-1950

DALE BRAWN

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Introduction

> Everyone of us has in truth an underlying philosophy of life ... All their lives, forces which [judges] do not recognize and cannot name, have been tugging at them – inherited instincts, traditional beliefs, acquired convictions; and the resultant is an outlook on life, a conception of social needs, a sense ... of "the total push and pressure of the cosmos," which, when reasons are nicely balanced, must determine where choice shall fall.
>
> – BENJAMIN CARDUZO, *THE NATURE OF THE JUDICIAL PROCESS*

In 1946, Liberal Member of Parliament Ralph Maybank and party insider Arnold Campbell were part of a group working to stop the appointment of a Conservative to Manitoba's superior court. The two lawyers shared a similar opinion of who was best qualified to go to the bench. Campbell felt that while "good men" must be appointed, "it is objectionable to appoint any Tory at any time."[1] Maybank agreed, and in a letter to the province's minister of labour he said he was determined to avoid the appointment of Tories: "In order to do that, we must settle on any Liberals at all. I repeat that: – any Liberals at all."[2]

This book is an internal examination of the political nature of the judicial appointment process. At its core, it is an attempt to break down

the conceptual wall that separates positive law from the personnel of the legal system. The judges it describes were practical men, and like most lawyers with judicial ambitions, they were more concerned with politics than with idealism. This book argues that while we may imagine that the substance of law exists independently of the actions, values, or thoughts of lawyers, those inside the legal profession know that this is not the case.

In describing how Manitoba lawyers became judges before 1950, I advance two arguments. The first is that no one went to the bench without the assistance of a mentor. Whether that person was socially, religiously, or politically significant, his influence was a principal reason some lawyers were elevated to the judiciary, while others were not. The second argument holds that at its core the practice of law is about socializing minds, a process abetted by a culture of fraternity evident in common memberships. While there is a considerable body of literature about the appointment of judges in Canada, to date little has been written about the process from this kind of internal perspective.

In *The Court of Queen's Bench of Manitoba 1870-1950,* I wrote a history of Manitoba's highest trial court using the biographies of the court's first thirty-three judges.[3] When researching that book, I noticed that apart from going to the bench, these men had much in common. This work is the result of a detailed analysis of those commonalities. While it does not use material from my earlier work, it does expand on some of the arguments previously identified. One such argument is that lawyers do not become judges unless they are in some way part of the political process. It is possible to get a sense of the extent to which that is the case by examining Table 1. Listed are the various governments of Canada, with the beginning and end dates of their terms in office. Below the names of prime ministers who sent someone to the bench of Manitoba are the names and party affiliation of those they appointed. A brief introduction to each judge can be found in the Appendix to this book.

Judicial Appointment Models

Throughout the nineteenth and twentieth centuries, common law countries around the world used an appointive process for selecting members of the judiciary. In most of these systems, a government official

TABLE 1 Canadian governments and Manitoba Court of Queen's Bench appointees, 1867-1950

Prime Minister	*Time in office*	*Party*
John Alexander Macdonald	1 July 1867-5 November 1873	C
Alexander Morris	21 July 1872	C
James McKeagney	7 October 1872	C
Louis Bétournay	31 October 1872	C
Alexander Mackenzie	7 November 1873-8 October 1878	L
Edmund Wood	11 March 1874	L
John Alexander Macdonald	17 October 1878-6 June 1891	C
Joseph Dubuc	13 November 1879	C
James Miller	20 October 1880	C
Lewis Wallbridge	12 December 1882	C
Thomas Taylor	5 January 1883	C
Robert Smith	27 June 1884	C
Albert Killam	3 February 1885	L
John Bain	15 November 1887	C
John Joseph Caldwell Abbott	16 June 1891-24 November 1892	C
John Sparrow David Thompson	5 December 1892-12 December 1894	C
Mackenzie Bowell	21 December 1894-27 April 1896	C
Charles Hibbert Tupper	1 May 1896-8 July 1896	C
Wilfrid Laurier	11 July 1896-6 October 1911	L
Albert Richards	1 May 1899	L
William Perdue	25 August 1903	L
Thomas Mathers	24 August 1905	L
Daniel Macdonald	23 July 1906	L
John Donald Cameron	21 January 1908	L
Thomas Metcalfe	22 May 1909	L
J.E.P. Prendergast	7 February 1910	L
Hugh Amos Robson	23 June 1910	L
Robert Laird Borden	12 October 1911-9 July 1920	C
Alexander Galt	24 October 1912	C
John Curran	24 October 1912	C
Arthur Meighen	10 July 1920-28 December 1921	C
Alexander Dysart	3 October 1921	C

◄ **TABLE 1**

Prime Minister	*Time in office*	*Party*
William Lyon Mackenzie King	29 December 1921-28 June 1926	L
John Evans Adamson	1 May 1922	L
Arthur Meighen	29 June 1926-24 September 1926	C
William Lyon Mackenzie King	25 September 1926-6 August 1930	L
James Kilgour	8 September 1927	L
William Donovan	30 March 1928	L
Richard Bedford Bennett	7 August 1930-22 October 1935	C
Percival Montague	11 March 1932	C
Fawcett Taylor	28 March 1933	C
William Lyon Mackenzie King	23 October 1935-14 November 1948	L
Ewen McPherson	23 November 1937	L
William Major	14 March 1941	L
Hugh Amos Robson	18 March 1944	L
Esten Kenneth Williams	10 December 1946	C
Arnold Campbell	11 September 1947	L
Joseph Beaubien	30 January 1948	C
Louis Stephen St-Laurent	15 November 1948-20 June 1957	L
John Kelly	10 August 1949	L

C = Conservative Party; L = Liberal Party

or a legislature had a free hand to pick whomever it wanted to fill judicial vacancies. That meant patronage was invariably an important criterion for judicial preferment. While patronage is not totally absent from judicial appointment systems in civil law jurisdictions, it is far less apparent than it is in Canada and the United States. In Europe, for instance, countries such as France and Germany use variations of a civil service model. Napoleon introduced it in 1808 in an attempt to draw a clear line between law and politics. In his own country, his creation has morphed into a national school for magistrates, to which judicial candidates, referred to as *auditeurs,* gain entrance by way of a competitive examination or by virtue of their work experience or professional

credentials. Those taking the examination route need not be practising lawyers, while those seeking admission by way of the second method must be law school graduates with at least three years in practice or legal scholars who have taught not less than the same number of years.

A vast majority of judicial candidates enter magistrate's school via the examination route. The cut-off date in terms of age is twenty-seven, although top-ranked civil servants may write a separate exam, and for them the maximum entry age is thirty-five. The first part of judicial training includes course work and a number of internships, and at the end of the year *auditeurs* take a judicial oath, when for all intents and purposes they become judges. Before they are finished with their training, however, these freshly minted members of the judiciary participate in several more internships, which require them to take part in virtually all of the activities of the court to which they have been assigned. When their training is complete, *auditeurs* choose their first full-time posting from a published list of openings, with candidates making their choices in the order of their final standings.[4]

The appointment system in Germany requires judicial candidates to attend law school for three-and-a-half years, pass written and oral exams, and then serve a two-year internship in various government offices. At the end of their on-the-job training, students take another set of oral and written examinations. About 50 percent of candidates pass and are eligible to become judges. Those selected immediately begin hearing cases, but for the next three years they are on probation. Subsequent promotions are based on merit, as determined by senior judges.[5] The method of selecting judges in countries such as France and Germany – indeed, in most civil jurisdictions – is often referred to as a professional model since judges follow a career path quite different than that of lawyers, and the judiciary is a distinct profession, rather than a subdivision of the bar.

The judicial appointment system in common law countries such as England, the United States, and Canada is radically different from that used in civil law jurisdictions, in that lawyers go directly from the bar to the bench, without any formal judicial training. In England, the lord chancellor has historically been responsible for making most judicial appointments. Members of his office prepare lists of barristers practising

in the country's various regions who are qualified to go to the bench. When a seat becomes available, an agent of the lord chancellor visits candidates to assess their suitability. These agents, known as recorders, consult with a dozen or more members of the bars in which the candidates have practised, to learn more about the women and men being considered for appointment. When this assessment process is complete, the results are pooled by the various recorders, and a list of vetted judicial candidates is passed on to the lord chancellor. This process has meant that when someone is being considered for the bench, the appointing authority is familiar with his or her background and thus able to make an informed assessment of his or her ability.

The process underwent a significant transformation in 2005, when an independent Judicial Appointments Commission assumed responsibility for selecting members of tribunals in England and Wales. The commission has fifteen members: six laypersons, a barrister, a solicitor, and seven sitting judges or magistrates. Now, when a judicial vacancy occurs, the commission submits to the secretary of state for constitutional affairs the name of a single individual. While the secretary can ask the commission to reconsider its decision, in the end the person nominated must fill the vacancy. This change was in large measure an attempt to remove political patronage from the selection process, and an elaborate set of procedures isolates the commission from possible interference from members of both government and the bar.[6] In theory, if not in practice, the new system ensures that judges can deliver decisions without regard to any debt owed the party or person by whom they were appointed.

In the United States, most federal judges are nominated by the president and confirmed by the Senate, and the men and women appointed almost always have served in political positions, possess close ties to the president or his party, or share the ideological position of their appointer. Individual senators play a key role in the nomination and confirmation of federal judges, particularly those going to a district court. Custom dictates that the president consult with senators from the state with the vacancy, provided they are from his or her party. Nominations made against the wishes of a consulted senator are often

blocked at the confirmation stage. About one half of state judges, however, are appointed by virtue of what is commonly referred to as a "merit plan." Although these vary from state to state, all consist of a non-partisan judicial selection commission made up of political appointees, judges, and lawyers.

In some cases, a state governor must select judges from a list prepared by the commission, while in others the selection is made by the commission itself. Almost without exception those selected must have their appointment affirmed in a retention election held after their elevation to the bench. Notwithstanding the procedure adopted, in practice, many judges are appointed by governors to replace members of the bench who have resigned, retired, died, or been promoted. In these cases, a judgeship is often a reward for party service, the reason some American academics suggest most judges are "hacks." Even merit recruitment plans have been criticized, however, on the basis that commissions are unrepresentative of the public, since most comprise an appointed, homogeneous group of high-status people. In terms of judicial appointments, there is some truth in the comment of Philadelphia judge Curtis Bok, who suggested that "a judge is a member of the Bar who once knew a Governor."[7]

The Canadian Experience

In Canada, section 96 of the *Constitution Act, 1867* gives the federal government sole authority to appoint superior court judges, regardless of the bench to which they are sent.[8] Originally, superior court judges could only be removed from the bench if they conducted themselves in a manner inconsistent with "good behavior," which the statute does not define. In 1961, however, the *British North America Act* (now the *Constitution Act, 1867*) was amended to provide a second reason for removing justices of superior courts: a mandatory retirement age of seventy-five.[9]

Until late in the twentieth century, federal ministers of justice were responsible for making all superior court appointments, with the exception of provincial chief justices and judges going to the Supreme Court of Canada, who were appointed by the prime minister. By tradition,

before justice ministers made a judicial appointment they consulted with members of the federal Cabinet from the candidate's province. In addition, they also sought the advice of political insiders. Every province had one or two such individuals, and each possessed considerable influence. In British Columbia, this person was once former Liberal attorney general John Wallace de Beque Farris. In the 1940s and 1950s, his recommendations were not always followed, but he was invariably consulted. Farris was so closely associated with patronage appointments that he is said to have posted a sign on his office door that read: "This is a law office. I do not have any jobs. I do not know how you get into the Post Office. I do not know how you get into the Liquor Store. If you have law business, you're welcome, otherwise keep out."[10] In Manitoba, Member of Parliament Ralph Maybank exercised a similar influence. In the mid-1940s, he complained to Prime Minister William Lyon Mackenzie King that a group of unelected Winnipeg Liberals were being consulted about patronage appointments, while he was ignored. King got the message. Thereafter, Maybank, a former Winnipeg alderman and former member of the provincial legislature, was consulted about all judicial appointments made in Manitoba, until he went to the bench in 1951.[11]

A New Way of Doing Things

In 1989, Canadian Prime Minister Brian Mulroney sought to depoliticize the process by which superior court judges were appointed by establishing Judicial Appointment Committees, which were mandated to screen individuals being considered for a seat on the bench. Each province was given at least one such panel, while Ontario got three and Quebec two. The committees as originally constituted comprised five appointees: one member was chosen by the federal government, one by the provincial government, one by the provincial chief justice, one by the provincial law society, and another by the provincial branch of the Canadian Bar Association. The Liberal government of Jean Chrétien increased the number of people appointed to each committee from five to seven, and in 2006 the government of Stephen Harper made two further changes. It added an eighth member, to be selected by the law enforcement community, and removed the right to vote from the duties of the judge chairing each committee. The effect of these amendments

was to ensure that members appointed by the federal government constituted a majority of every selection committee.

Objections to the Harper amendments were soon voiced. In February 2007, the Toronto *Globe and Mail* complained that the committees were being filled with "former politicians, aides to ministers, riding association officials and defeated candidates."[12] Prime Minister Harper was unapologetic: "We want to make sure we're bringing forward the laws to make sure we crack down on crime, that we make our streets and communities safer ... We want to make sure our selection of judges is in correspondence with those objectives."[13] Although these committees did not interview judicial candidates, they ranked them in terms of their perceived suitability for the bench. At one time, the list the committee sent to the federal minister of justice categorized the people screened as highly recommended, recommended, or unable to recommend. When the Harper government took power in 2006, the system of categorization was amended so that committees ranked candidates as either qualified or not qualified, thereby substantially increasing the size of the pool from which judicial nominees were selected.

Canadian lawyers wanting to go to a superior court bench are now required to apply for the job. Applications that go to a Judicial Advisory Committee consist of three forms. Probably the most important of the three is the personal history form. It sets out the background of the applicant and provides the details that will eventually be examined by the committee. The other two forms authorize the Office of the Commissioner for Federal Judicial Affairs to obtain a copy of the candidate's practising record from her or his particular provincial law society as well as a consent form, which permits the commissioner to delve further into the backgrounds of those whose appointment may be recommended to the federal minister of justice. When an advisory committee concludes its screening of judicial candidates, it submits to the justice ministry a list in which candidates are categorized as either "recommended" or "unable to recommend." From this list, the minister will select the name of the person he will recommend that the Cabinet appoint.

Judges of Canadian inferior courts are appointed by the provinces according to their own particular appointment system, although the model used in Ontario is considered the least partisan. Judges in that

province are selected from a list of candidates provided to the provincial attorney general by a thirteen-member Judicial Appointments Advisory Committee. Although the attorney general may reject all of the names contained on a particular list of candidates, and request a new list, the person finally appointed must have been on one such list. Members of the Ontario advisory committee include seven non-lawyers, two provincial judges, three members of the bar, and someone appointed by the Ontario Judicial Council. Members serve a renewable three-year term. Provincial legislation requires that the background of those on the committee reflect the make-up of Ontario's population, having particular regard to gender, geography, and racial minorities.

Superior Courts

All of the lawyers whose lives I examine went to Manitoba's highest trial court, the Court of Queen's Bench. Superior courts, such as the Court of Queen's Bench, are the country's oldest courts and have always been its key judicial institution. Although Parliament is responsible for organizing and setting the jurisdictional limits of Canadian superior courts, it is the nature of their inherent jurisdiction that sets superior courts apart from all other courts, which are statutorily defined creatures of legislatures. Manitoba's first superior court was established in 1872, two years after the province entered Confederation. Arguably because of the province's modest size, small population, and lack of established legal institutions, its court system was quite different from those of the rest of the country. In 1849, the superior court structure of Ontario, for instance, was changed to mirror the court system of Britain. Three courts were established: the Court of Chancery, as a court of equity, and the Court of Queen's Bench and Court of Common Pleas, as courts of co-equal and concurrent jurisdiction. Manitoba's Court of Queen's Bench remained the province's single superior court until the creation of a Court of Appeal in 1906.

Every province in Canada has two levels of superior courts – a trial and an appellate division. From 1872 to 1983, Manitoba also had county courts. Although formally established as local intermediate trial courts, they were uniquely Canadian and, unlike their British counterparts, heard both criminal and civil trials. Since their authority was established

and limited by statute, county courts lacked the inherent jurisdiction that distinguished superior courts. In 1983, Manitoba merged its county and superior trial courts to form the Court of Queen's Bench, as it is presently constituted. The province's only Court of Appeal remains atop the judicial hierarchy, and limited jurisdiction provincial courts continue to occupy the lowest rungs. The federal government's involvement in the country's judicial system is limited to responsibility for the appointment and remuneration of superior court judges, leaving the provinces responsible for the operational management of all of the courts in their respective jurisdictions.

The Judiciary of Manitoba

A study of the judiciary of Manitoba is attractive, from an academic point of view, for a number of reasons. First, the subjects of this study are comparatively few. In a period of eighty years, only thirty-three individuals have gone to the Court of Queen's Bench, making a close examination of their backgrounds possible. The available biographical information is sufficient in size and scope to determine how practitioners were socialized prior to their appointments and allows for the determination of whether the judicial appointment process was the same for both prominent and largely unknown members of the bar. A second reason for studying the Manitoba judiciary is the availability of a huge amount of primary and secondary data. The provincial archives of Manitoba are a treasure trove of judicial papers, and many offer an incredibly personal and insightful assessment of the legal culture of the province as it existed between 1870 and 1950.

Manitoba researchers also benefit from a number of oral histories. An example is the large collection dealing with the 1919 Winnipeg Strike. The accounts of those who participated in the strike trials are revealing for what they say of the events surrounding the labour dispute and of the judiciary's role in it. Apart from an abundance of biographical material, researchers also benefit from the accessibility of a manageable amount of data of significant statistical importance. Considerably more than 50 percent of all Queen's Bench lawsuits filed in Manitoba started in Winnipeg, but, even in an unusually litigious year, this number rarely rose above one thousand. This means that it is possible to study the file

pockets and decisions rendered in every trial in which future judges participated, whether as counsel or a member of the bench. In other jurisdictions this kind of material is unavailable, incomplete, or too unwieldy to work with conveniently.

The Manitoba judiciary played a key role in bringing the prairies into Confederation. They sat on the region's highest courts during a time when the nation was undergoing a period of rapid social, economic, and legal transformation. Judges in the late nineteenth century were responsible for laying down a legal foundation on which frontier societies were built, and their judgments gave shape and form to the institutions of the day by legitimating the social order, thereby determining the course of what was to come. Most of those who arrived in Manitoba in the province's early years sought not to reproduce the society from which they came but, rather, to build new and greater communities. Lawyers and businessmen alike were culture bearers, determined to pave the way for those who were to follow. The federal government's considerable investment in the West meant that it was unwilling to appoint to the bench men who might, on a question of law, ideology, or social consciousness, slow the engine of growth. The judiciary was an important component of the national policy of Canada's first prime minister, if for no other reason than the obvious: there was little likelihood of sustained growth occurring in a society lacking peace, order, and good government. To ensure that law was the engine of future growth, the federal government sent to the bench a group of hard-headed, practical men who were prepared to overlook legal niceties in favour of practical realities.

An example of this sentiment occurred in the 1880s, when judges of Manitoba's Court of Queen's Bench played a prominent part in opening the prairies for settlement by allowing the province's Métis to divest themselves, or, more accurately, to be divested of, a million-and-a-half acres of land. In the case of allotments held by children of "half-breeds," the courts were required to scrutinize applications before land could be transferred. It routinely approved such transactions, despite evidence that little of the money involved made its way to the families of the affected children. In their efforts to facilitate settlement, courts bent the law to the breaking point. In a case heard in 1891, the court sitting en banc held that unallotted land to which Métis children became entitled

prior to 1883, but for which a patent was not issued until 1886, could be sold for taxes unpaid in the years before the children had title, possession, or even knowledge of the grant.

Structure

The period of this study (1872–1950) brackets a time during which the Canadian West emerged and grew to maturity, a time when law was uniquely capable of combating the potentially destructive forces of religion, class, ethnicity, and locality. The men appointed to Manitoba's first superior bench were in their own way no less nation builders than Louis Riel and John A. Macdonald and were seen by those to whom they owed their appointment as such. The stakes were large, but life tenure and traditions of an independent judiciary meant that those responsible for appointing the nation's judges had no guarantee that judicial decisions would be made in a way consistent with their expectations. For this reason, the path to the bench involved a long apprenticeship spent under the watchful eyes of politicians whose vision of Canada's manifest destiny every candidate was expected to share.

In this study, I have grouped my data into three chronological periods by year of appointment. Although this categorization is somewhat arbitrary, my intention was to include in each category eleven judges. Occasionally, this objective was not possible because the dates of appointment were either too closely or too widely separated to justify a judge or judges being assigned to the same group.[14] The first period (1872–84) represents a time in Manitoba's history when the province's legal profession was controlled by an eastern born and trained elite. During this time, only one of the nine judges who went to the bench actually practised in the province prior to his appointment.[15] The second period (1885-1922) witnessed the founding of the Manitoba Law School and was a time of transition during which control of the profession shifted from an eastern to an indigenous elite. Fourteen lawyers were appointed during this period, and all but one spent the majority of their careers practising in the province.[16] By 1923, the start of the final period (1923-50), the bar of Manitoba was firmly under the control of lawyers who, despite their eastern birth, were educated in the region in which they practised, and all possessed a clear vision of the values and beliefs

they thought those going to the bench should hold. During this last period, the Manitoba legal profession and the political influence of its leaders reached a stage of full maturity. None of the ten men who became judges owed their appointment to an eastern mentor.[17]

In the first chapter of this book, "Why Study Judges?," I examine the extent to which judges have the ability to rise above politics and partisanship to render decisions free of the biases and ideologies that informed their years at the bar. I also suggest that one of the reasons trial judges are particularly important focuses of study is because of the key role they play as political catalysts, facilitating change on the one hand while constraining it on the other. As lawmakers, these women and men wield an enormous amount of influence, and their decisions can force governments to substantially change their political agenda. I also describe the functional differences between trial and appellate courts and suggest that through their use of discretion and their ability to fact find, trial judges can have a huge impact on the policy-making ability of courts of appeal. The chapter concludes with an exploration of how background studies help explain why judges act as they do, and it suggests that the time is ripe to move beyond existing arguments about judiciaries to examine trial benches from a number of new perspectives.

Chapter 2, "Social Origins of the Bar," examines the social origins of Manitoba's first thirty-three judges. Although this study adopts the topical divisions of earlier judicial studies, including geography, social status, religion, education, and chronology, its focus is on two subjects previously underemphasized. The first is membership in social organizations. I categorize data relating to participation in non-professional activities according to the focus of the activity, which includes cultural, civic, and educational organizations, recreational activities, and clubs and fraternities. The argument around which the data is woven is that the values acquired by judges are not those of society generally but, rather, the particular groups in which they shared fellowship. This fellowship sharing, together with interaction with family and friends, is the primary non-legal political form of the socialization they experienced. In Chapter 2, I also examine the influence that mentors exercised in the lives of those with judicial aspirations, and I conclude that ability

alone was insufficient as a criterion for judicial appointment. Those going to the bench had to be connected on at least one, and usually several, levels.

In Chapter 3, "At the Bar," the legal careers of Manitoba's earliest judges are examined. Focuses of study include the ways individuals spent their first years at the bar, their mobility (both legal and geographic), experience practising, and the use of court success as indicia of their ability. My main areas of investigation, however, are the socialization effect of practising law and the differences in appointment criteria for practising and non-practising lawyers. Although some of the chapter is descriptive, in that it illustrates in considerable detail the kinds of lawyers that judges were at the time of their appointment, the data offer support for two arguments advanced in Chapter 2: ability is not a determinative criterion for appointment and lawyers rarely reach the bench if they lack a mentor-client relationship with someone influential. It should be stressed, however, that except for the assessment of judicial ability in Chapter 8, which is based solely on the outcomes of appeals, my discussion of competence in other chapters refers to the perceptions held by contemporaries. For example, Esten Kenneth Williams was widely perceived by his contemporaries to be an extraordinarily able lawyer, while the opposite was the case for Jacques Emile Pierre Prendergast. I do not, however, suggest one was in fact competent and the other less so.

While the discussion in Chapter 4, "Politics," acknowledges the importance of personal involvement in the electoral process, its principal focus is the role of political mentors. I argue that, like ability, personal political involvement is not sufficient to guarantee judicial preferment and that existing studies overemphasize the part electoral politics play in judicial appointments. Just as important is the political influence of mentors not directly tied to politics, such as that of the church and business leaders.

Chapter 5, "Becoming Prominent," explores the argument that the path to the bench for lawyers who are professionally prominent is different from that of those lacking a substantial reputation. The subjects of this study were grouped according to the source of their prominence. Those well known within the profession at the time of their appointment

were categorized according to the appointments they received and their involvement in bar associations, law societies, and commissions. The less professionally prominent were grouped according to their involvement in civic organizations, literary activities, and church groups. The chapter concludes with a discussion of the difference between professional and non-professional prominence as a criterion for judicial appointment and offers a profile of Manitoba's most and least well-known judges and chief justices.

In Chapter 6, "The Appointment Process," I continue my examination of the critical role played by mentors in the appointment of judges by looking at factors such as age, war experience, and ethnicity. I found that influences such as party and political considerations played a much more significant role in appointments than did merit. The notes of strategy discussions penned by elected politicians and leaders of Manitoba's bar reveal the highly personal nature of negotiations associated with judicial appointments.

In Chapter 7, "Why Lawyers Do Not Go to the Bench," I examine the careers of lawyers who were offered a seat on the Manitoba bench and refused it, who wanted to go to the bench but were denied the chance, and who could have gone to the bench but had no interest in doing so.[18] Finally, Chapter 8, "On the Bench," looks at the degree to which the quality of the Manitoba trial bench can be assessed on the basis of cases affirmed or overruled on appeal and examines evidence of judicial partisanship and bias.