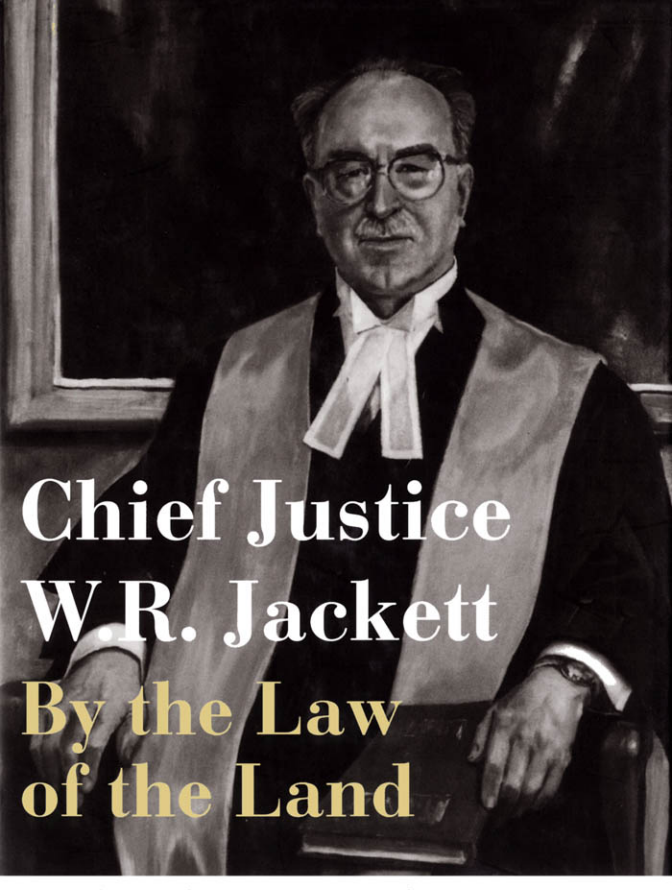


Chief Justice W.R. Jackett

By the Law of the Land

Richard W. Pound

CHIEF JUSTICE W.R. JACKETT
By the Law of the Land

Wilbur Roy Jackett, born in a small town in Saskatchewan in 1914, is inextricably connected to some of the most important developments in Canadian legal history. As scholar, public servant, and jurist, he was a leading figure in Canadian law, serving during the governments of Mackenzie King, St Laurent, Pearson, Diefenbaker, Trudeau, and Clark.

After graduating from the University of Saskatchewan's College of Law, Jackett was chosen as a Rhodes scholar. He returned to Canada from Oxford not long before the outbreak of the Second World War and joined the ten-man Department of Justice as a junior lawyer. Through extraordinary hard work, rigorous legal analysis, and a bent for organization, he eventually became Canada's eighth deputy minister of justice. He left this position after three years to become general counsel for the Canadian Pacific Railway and was later appointed president of the Exchequer Court of Canada.

He quickly revamped the level of service provided by the court to the legal profession and the public and was instrumental in both the creation of the Canadian Judicial Council and the design and creation of the Federal Court of Canada. As the first chief justice of the Federal Court, he led the new court by example, moulding it into the most efficient and effective court in the country, despite opposition from provincial superior courts and the Supreme Court of Canada.

After fifteen years on the bench he retired in 1979 at the height of his judicial career, believing that this would help the court develop. He continued to work in relative obscurity at what he loved best – solving legal problems – but never again appeared before the courts.

RICHARD W. POUND is a senior partner at Stikeman, Elliott, chancellor of McGill University, and a member of the International Olympic Committee.

This page intentionally left blank

Chief Justice W.R. Jackett

By the Law of the Land

RICHARD W. POUND

McGill-Queen's University Press
Montreal & Kingston · London · Ithaca

ISBN 0-7735-1898-3

Legal deposit fourth quarter 1999
Bibliothèque nationale du Québec

Printed in Canada on acid-free paper

McGill-Queen's University Press acknowledges the financial support of the Government of Canada through the Book Publishing Industry Development Program (BPIDP) for its activities. We also acknowledge the support of the Canada Council for the Arts for our publishing program.

Canada

Canadian Cataloguing in Publication Data

Pound, Richard W.
Chief Justice W.R. Jackett: by the law of the land
Co-published by the Osgoode Society for Canadian Legal History.
Includes bibliographical references and index.
ISBN 0-7735-1898-3
1. Jackett, W.R. 2. Canada. Federal Court – Biography. 3. Judges – Canada – Biography.
I. Osgoode Society for Canadian Legal History.
II. Title.
KE416.J33P68 1999 347.71'0434 C-99-900725-4

This book was typeset by Typo Litho Composition Inc. in 10/12 Palatino.

Contents

This page intentionally left blank

Foreword

The purpose of The Osgoode Society for Canadian Legal History is to encourage research and writing in the history of Canadian law. The Society, which was incorporated in 1979 and is registered as a charity, was founded at the initiative of the Honourable R. Roy McMurtry, a former attorney general for Ontario, now chief justice of Ontario, and officials of the Law Society of Upper Canada. Its efforts to stimulate the study of legal history in Canada include a research-support program, a graduate student research-assistance program, and work in the fields of oral history and legal archives. The Society publishes volumes of interest to the Society's members that contribute to legal-historical scholarship in Canada, including studies of the courts, the judiciary and the legal profession, biographies, collections of documents, studies in criminology and penology, accounts of significant trials, and work in the social and economic history of the law.

Current directors of The Osgoode Society for Canadian Legal History are Jane Banfield, Tom Bastedo, Brian Bucknall, Archie Campbell, J. Douglas Ewart, Martin Friedland, Charles Harnick, John Honsberger, Kenneth Jarvis, Allen Linden, Virginia MacLean, Wendy Matheson, Colin McKinnon, Roy McMurtry, Brendan O'Brien, Peter Oliver, Paul Reinhardt, Joel Richler, James Spence, Harvey Strosberg, and Richard Tinsley.

The annual report and information about membership may be obtained by writing The Osgoode Society for Canadian Legal History, Osgoode Hall, 130 Queen Street West, Toronto, Ontario, M5H 2N6.

When Richard Pound told us he was working on a biography of Wilbur Jackett, former chief justice of the Federal Court of Canada, and asked us

to consider publication, we were pleased and somewhat sceptical. We had recently published Ian Bushnell's history of the Federal Court of Canada and Wilbur Jackett's attitude towards that enterprise seemed to us to have been a combination of scepticism and disapproval. Chief Justice Jackett, it appeared, was of the old school and believed the judiciary should be, rather like the British Navy in days of yore, 'the silent service.' In the circumstances we wondered whether it would be possible to produce a full and accurate biography.

The author has proved us wrong. In this study he paints a portrait of a lawyer who had enormous influence – much of it behind the scenes – on the administration of justice in Canada. Deputy minister of justice. General counsel for the CPR. President of the Exchequer Court of Canada. Scene-setter for the Canadian Judicial Council. Father of and midwife to the new Federal Court of Canada. Leader *extraordinaire* of that court during its formative years. Rigorous legal thinker and judge. Procedural innovator, yet largely unknown outside a small circle of friends and colleagues. This biography traces Jackett's path through a significant period in Canadian legal history and provides unique glimpses of the Department of Justice and the courts in action. We believe it will be read and appreciated by a wide audience and deserves to occupy an enduring place in Canadian judicial biography.

R. Roy McMurtry
President

Peter N. Oliver
Editor-in-Chief

Introduction

The idea for this book came to me in the course of preparation for an income-tax appeal, ultimately spectacularly unsuccessful, in which I had replaced previous counsel. It was possible that members of that firm might be called as witnesses to explain the background of the matters in issue and they could not, therefore, act in the matter before the courts. Wilbur Jackett was advisory counsel to the firm and it was agreed that he would be available to assist in the preparation of the case. I had not seen him since his retirement from the bench in 1979 but had vivid recollections of appearing before him in the Federal Court of Appeal, a daunting but stimulating experience on each occasion for he seemed to know at least as much about my cases as I did. As counsel, you might be able to run for a while, but you certainly could not hide.

As we worked on the appeal, I realized that I knew very little about him, so I undertook a quick review of what he had done before going on the bench and then engaged him in some discussion of work in the Department of Justice and on the bench, all of which was enormously interesting. I had just finished another book, which I had enjoyed writing, and was looking for another project, so, one day when I was visiting him at his Gatineau cottage to work on our appeal, I said that I had a proposition for him but that I wanted him to pretend he was still a judge. He asked what I meant. I said that I wanted him to listen to a proposition I was about to make and then to think about it before deciding. He was curious enough to agree. I said that I would like to write a biography of him. He retorted immediately that it was a 'damn fool idea and a waste of time.' I replied that I thought he had made a significant contribution to Canadian

legal history, much of which was extremely interesting but not generally known, and that it was, after all, my time. Anyway, he should think about it and I would call him in a couple of weeks, which he did and I did. Had he thought about it, I asked in the follow-up call? He had and still thought it was a damn fool idea, but said that he supposed he should be flattered that someone thought enough about him to undertake such a project. He did not, however, want to spend too much time on it, since he had a lot of work, which was important to him. I assured him that he would have to invest very little time and that all I wanted was to be able to come and chat with him occasionally. I brought him a copy of my other book, so he could decide whether I had any aptitude for writing. He took it, was uninterested in the subject matter (the 1988 Olympics), but apparently was otherwise satisfied. He returned the book.

Thus began a fascinating opportunity to discover the background to important portions of Canadian legal history and the workings of the Department of Justice and the courts. In the process, it became increasingly clear that Jackett had played a far greater role in the development of several Canadian institutions than I had suspected at the outset. It was difficult to get much personal information from Jackett himself, who was extremely protective of his privacy and not at all forthcoming on the subject. He was very suspicious of the whole idea of the book and, to be fair, had no idea of who I was and what I might do with the information. I spent as much time as I could to assure him that this was a biography concerned principally with his legal contributions but that it would not be complete without some personal background of where he grew up, where he studied, and what he thought about some of the events that affected him. So, bit by bit, we established some rapport and I agreed to let him see how I proposed to use the personal material. Apart from my prying into personal and family matters, he was clear that this was to be my book and that he had no desire to be involved in what I might conclude.

I was immensely fortunate to discover that his elder sister, Flossie, had kept his letters to the family written when he was at Oxford, and his nephew Jim Woolsey was kind enough to let me see them. Jackett was almost horrified that they still existed; he himself had not kept any such mementos and did not want all this 'personal stuff' to be in the book. He dashed off a frosty letter, warning me not to use any such material except for the purpose of determining his whereabouts during the relevant period. There were several occasions on which he reached the brink of 'calling the whole thing off' and he said that, if he had known from the outset that there would be so much interviewing of family, friends, and associates, he would never have agreed to it in the first place. The closest to complete disaster came when I prepared some questions for him to ask

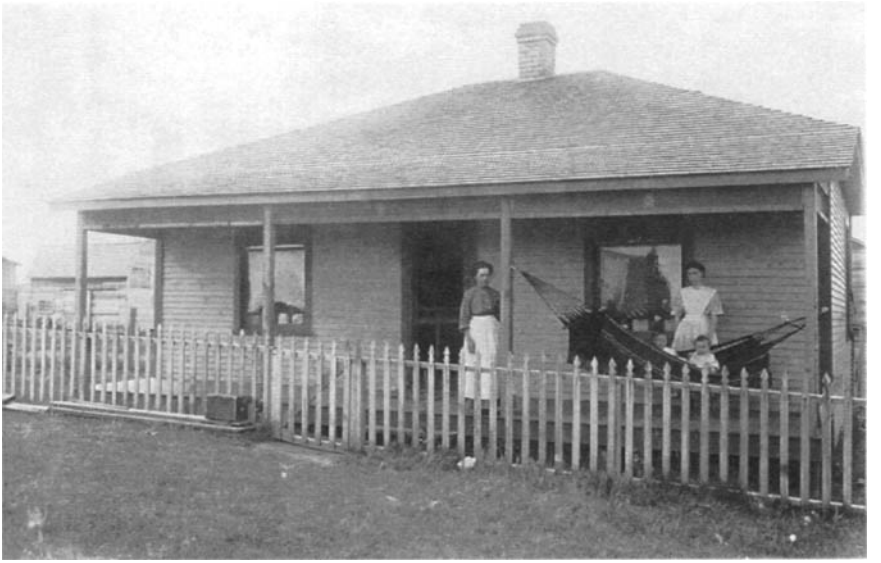
his wife, Kathleen, on my behalf. He was furious and it was only after some time that he consented to provide a written reply to the most innocuous questions, which I have included in the work to underline the protective nature of their relationship as well as the mutual enjoyment they have of each other.

There are different views of what an historian should do when writing history or biography. Should the characters speak as much as possible through their own voices? Or is the historian's role to interpret the characters in his or her own words, thereby producing an inevitable overlay of perceptions about events, people, and 'proper' results that may or may not be shared by the characters themselves? I have tried to balance the two views but must confess to a preference for the former, on the basis of my belief that a reader – in order to form a personal view as to any interpretation given by an author – is entitled to know what the character actually said or wrote. I hope that I have been generally successful, especially with Jackett himself, so that some flavour of the man comes alive in his own language. The economics of publishing, alas, require that reams of interesting material must be cut – a painful process for any author. One can be quite sanguine about cutting others' prose, but decidedly less so with one's own. The inevitable result of having to choose is a series of 'snapshots' of the main character, strung together in a manner that creates (one hopes) an overall impression similar to an early motion picture, flickering, but nevertheless containing a sense of continuity moderately satisfying to an audience.

I have identified the people who have helped me with the material for this work in appendix 4 and reiterate my profound gratitude for their willingness to be involved. In particular, however, I want to thank The Osgoode Society for Canadian Legal History, not only for its willingness to take on this work as part of its publishing program, but also for its ongoing efforts to encourage writing in this field. Peter Oliver has been indefatigable in providing guidance and counsel as I have tried to bring the work together, and his advice, gently proffered, that a literary tree that falls in the forest may, indeed, make no sound if there is no one to read it, has helped to shape the final product. The assessors engaged to review the manuscript have made many valuable suggestions for improvement. They should share any credit for what may be perceived as useful in the final product; the shortcomings are mine alone. Marilyn MacFarlane has been a great help throughout and a source of much good material which I have incorporated in the work. Finally, I appreciate the understanding that, with my long-time attachment to McGill University, it was my strong preference that the publisher be McGill-Queen's University Press. It was generous of the Society to accommodate that sentiment.

It comes as a continual shock to me that, despite the evidence of any calendar, there just do not seem to be fifty-two weekends in every year that are available to work on projects of this nature. My family has been most accommodating and has always welcomed the emergence of the basement mole as he makes his way, eyes blinking, towards the sunlight, sometimes voluntarily and sometimes under orders to do so. I thank them for their patience and understanding.

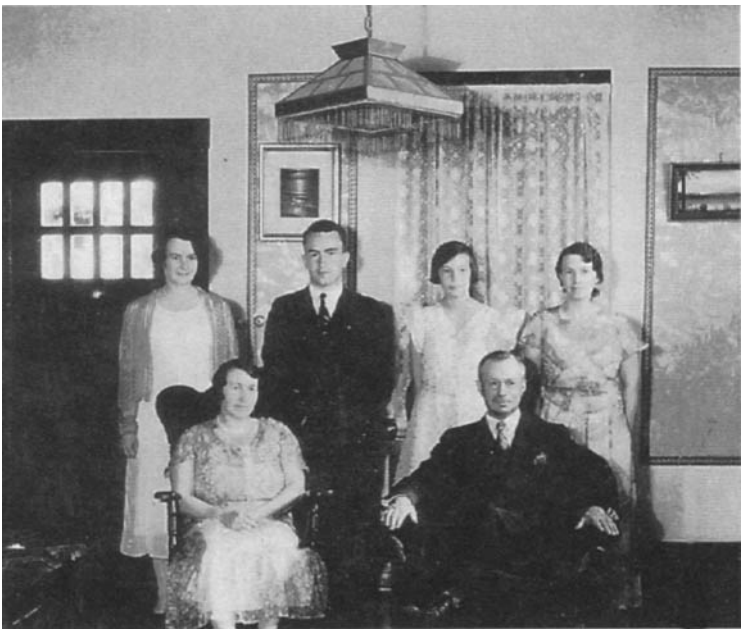
Montreal, May 1999.



Jackett home in Tompkins, Alberta. From left, Grandmother Elizabeth Sweet, Wilbur Jackett, Fanny Jackett, Flossie Jackett.

William Henry (Harry) Jackett, *c.* 1908.

Tompkins, Alberta, 1912. From left, Flossie, Fanny, Wilbur.



Jackett family, Kamsack, 1934. Back row, from left, Marguerite, Wilbur, Audrey, Flossie.

Jackett in his first office in the Justice Building, Ottawa, *c.* 1939.

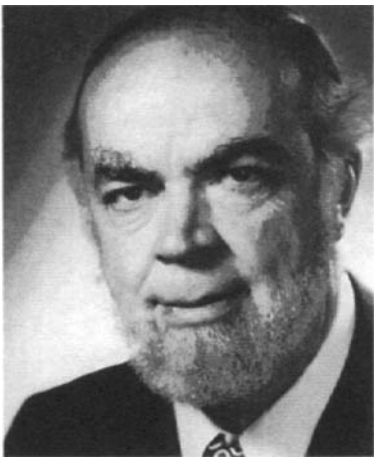
Saskatchewan Rhodes scholars in Jackett's rooms at Queen's College, Oxford, 1936. From left, Fred McLean, Francis Leddy, Jackett, J.D. Weir.

Oxford University lacrosse team (1937). Jackett is standing second from left, back row.

Frederick Percy Varcoe, deputy minister of justice, 1941–57.

Elmer A. Driedger, deputy minister of justice, 1960–67.

Donald Spencer Maxwell, deputy minister of justice, 1967–73.



Donald Scarth Thorson, deputy minister of justice, 1973–77.

Kathleen and Wilbur at the unveiling of his portrait at the Federal Court of Canada, 1981.

Investiture as officer of the Order of Canada by Governor General Ed Schreyer, April 1982.

The chief justices of the Federal Court of Canada with senior court officials. From left, Frank Iacobucci, Julius Isaac, Huguette Narum (appeals coordinator), Arthur Thurlow, Jackett, Robert Biljan (administrator), 1988.

Jackett, 1960. General counsel, Canadian Pacific Railway.

Chief Justice W.R. Jackett

No free man shall be taken or imprisoned or dispossessed, or outlawed or exiled, or in any way destroyed, nor will we go upon him, nor will we send against him except by the lawful judgement of his peers or by the law of the land.

Magna Carta, clause 39

This page intentionally left blank

1

Beginnings

Early in the second half of the nineteenth century, four brothers, some accompanied by the beginnings of the next generations of their families, set out from Devonshire, England, to make their lives in Canada. They settled in the general vicinity of Peterborough and of Lindsay, Ontario, and took up farming or the different trades that supported the largely agricultural economy of the area. Many of the brothers' descendants remain in the region and some still farm. Others branched out into different activities as the families expanded and the farms eventually were no longer sufficient to support all the progeny. The women married within the community, many to farmers as well. The Peterborough region is a picturesque part of rural Ontario, featuring rich soil and an abundance of water in its many rivers and connecting lakes. In time, it would become one of the province's more popular 'cottage' areas, providing a haven for residents of Ottawa, Toronto, and even Montreal eager for relief from summers in the city. When the Jackett brothers first arrived, however, there was still much work to be done to clear the land and develop the farms that would make the region's rolling hills a prosperous and reliable agricultural location.

One of the brothers, Thomas Jackett, was Wilbur Jackett's great-grandfather. He was born in 1834 in Devonshire, where he married Kaziah (Cassea) Wickett, three years his junior. Although the family records are somewhat spotty, it appears that they had eleven children, five sons and six daughters.[1] Their second son, William Henry Jackett, Wilbur Jackett's grandfather, was born in England in 1858, shortly before the family set out for Canada.

Thomas Jackett's original trade was that of carriage-maker and, upon arrival in his new country, he first settled in Glendine. His brother Henry farmed in Oakwood, while Albert and Richard settled in Fenelon Falls, where they acquired an interest in the power station established there. In his later years, Thomas became something of a recluse. Although these matters were not much discussed, the family lore has it that either he left Kaziah or she put him out of the house, perhaps as a result of the 'Demon drink.' He took up living on Muskrat Island, a small tract of land in the Upper Scugog River, where he did some hunting and trapping. He would visit the community on occasion for supplies, making the trip by boat in the summer and by walking across the ice of the frozen river in the winter. Since Thomas was well into his seventies at this time, those on shore kept a loose watch over him. In spite of this, Thomas's eventual demise proved as unusual as the latter part of his life had been.

In late February 1914 Thomas's on-shore neighbours became concerned when they saw no sign of him for a couple of days. He had come to the mainland for bread, crossing the ice, on a Saturday and returned the same way. A search party, which included two of his sons and two of his sons-in-law, found a bag of bread on the ice and shortly thereafter came upon the grisly sight of Thomas, frozen upright in the ice and water where he had fallen through. The recovery of the body was dangerous because of the current in the river, but the feat was accomplished and Thomas was buried in Lindsay's Riverside Cemetery. His widow lived another five years, dying on 13 June 1919, and is also buried in Riverside Cemetery.

Thomas Jackett's second son, William Henry Jackett, married Margaret V. Shouldice, whose family had come to Canada from Ireland in the early part of the century. Their eldest son, named after his father but called 'Harry,' was born in Bobcaygeon, Verulan Township, Victoria County, on 10 November 1882. Bobcaygeon was, at the time, a delightful settlement on the Grand Trunk Railway, twenty miles northeast of Lindsay and eleven miles east of Fenelon Falls, that was laid out in 1834 by its founder, Thomas Need, who had bought the land a year earlier from the first patentee. Need built a mill which was bought out in 1839 by Mossom Boyd, who built the first locks in 1839. By the time Harry Jackett was born in 1882, the population had grown to almost 1,000. The family moved in 1887 to Manvers Township in the same county and later, in 1896, to Janetville, a hamlet in Manvers Township, located on McDermid's Creek, twelve miles south of Lindsay and forty-four miles northwest of Coburg. The population of Janetville was less than a hundred.

Margaret Shouldice died in, or shortly after, childbirth at the age of twenty-eight on 22 December 1891. There were six other children of the marriage besides Harry: John James (Jack), born in 1886, Annie, born in

1887, Amelia, born in 1888, Henrietta, born in 1889, and Edward and Walter.[2] On 26 February 1894, shortly over two years following the death of Margaret, William Henry Jackett married Rebecca Shouldice, his widow's younger sister. Rebecca, born in 1872, was nine years younger than her sister Margaret and fourteen years younger than her husband. She and William farmed for many years in South Ops,[3] and they remained married until William's death on 10 December 1937 in Bobcaygeon.

His father's second marriage did not sit at all well with twelve-year-old Harry, who refused to remain in their home and left to live in Lindsay, where he learned carpentry for a time before he, together with his younger brother, Jack, left and headed west shortly after the turn of the century. They worked their way as carpenters in the railway towns that were springing up as the conglomeration of railway lines that would, in time, become part of the Canadian National Railways pushed west. With the complications of the many half-relationships and the residual hard feelings that Harry, and possibly Jack, harboured with respect to the second marriage, the Jackett family as a whole is not close and little effort has been made to draw it together. As is the case in most families, such relationships and family history as exist tend to have been nurtured by the women.[4]

Harry's and Jack's westward movement coincided with a similar, but unconnected, move that would eventually lead to the marriage of Harry and Fanny Sweet. William Gee and Anne Markham were married in 1840 in Cambridgeshire, England, and eight years later emigrated to Upper Canada, settling in Dorchester, near London. Elizabeth Gee was born on 20 January 1856 in Mossley, the seventh of their thirteen children, and would become the family 'character,' living well into her ninety-ninth year until she died in North Battleford, Saskatchewan, on 29 July 1954. In 1880 she married Sheldon Sweet, a slate roofer born in Dorchester in 1852, and they became pioneer homesteaders at Imperial, in the future province of Saskatchewan. Fanny Sweet, their fourth child, was born in Dorchester on 1 November 1889 and travelled west with her parents. Little remains in the family records of Sheldon Sweet other than a few photographs of an elderly man with a huge moustache. He died on 11 September 1943, in Imperial.

'Lizzy,' on the other hand, became larger than life and clearly dominated the relationship. During the last ten years or so of her life, all ninety-eight years, seven months, and nine days of it, she travelled extensively to visit her grandchildren. She was a remarkable enough character that there was a photograph and article in the Winnipeg Free Press of 17 March 1949 on the occasion of her visit to Winnipeg on a Trans-Canada Airlines flight at the age of ninety-four. At the time of the interview, she was on her way

to visit with one of her granddaughters, Amy Seabrook, in North Battleford. It was her first airplane flight and she announced, during her interview, that she was never too old to try something new. She could remember Jesse James and had seen the Countess of Dufferin, wife of the Earl of Dufferin, who had come west, probably on that occasion to inaugurate a railway line and to ride on the train named for her.[5]

The Sweets were running a boarding house in Southey, one of Saskatchewan's small railway towns, when the Jackett brothers came through in their search for work. By then Harry had been earning his keep as a carpenter at Balgonie, Saskatchewan, for five years. It took almost no time for true love to blossom. Audrey Jackett, the youngest of their children, reports that her father was absolutely smitten when he first saw young Fanny Sweet and thought she was 'the only girl in the world.' Harry and Fanny were married in Southey on 18 November 1908, less than three weeks after her nineteenth birthday; he was twenty-six. He continued his trade and homesteaded, in Southey until 1911, when he was hired by the Beaver Lumber Company, a Winnipeg-based firm that owned and operated a chain of small-town lumber yards in Manitoba and Saskatchewan, to establish a lumber yard in the village of Tompkins, Saskatchewan, on the main Canadian Pacific Railway line, not far from the Alberta border. Although Tompkins was not one of the divisional points on the railway, the railway was nevertheless the most important enterprise in the town, without which Tompkins would likely not have existed. Harry built the family house for the company and then rented it for twenty dollars a month.

There would be six children born to Harry and Fanny, two of whom died at birth. Flossie May was born, while the family was still in Southey, on 11 September 1909. The first male child was stillborn. Wilbur Roy was born at home in Tompkins a year and a half later, on 27 June 1912. Marguerite Fern was born two years later, on 9 June 1914, at the small hospital in Maple Creek, Saskatchewan. Audrey was born in Kamsack, Saskatchewan, on 4 April 1920, and the final Jackett child, another boy, was stillborn in 1921.

When they were young, Harry Jackett's children often used to go to visit their grandparents in Imperial. Grandma Lizzie Sweet thoroughly disapproved of her husband's smoking, but, following his death, after carefully washing them out with soap and water, she sent all his pipes to her grandson, Wilbur. She was a strong-willed, religious woman with a prodigious memory and a sharp tongue. Sunday, she told one of her grandchildren, was for praying, not curling. She also thoroughly disapproved of cards, viewing them as the work of the devil. This conviction did not, however, prevent her from having her own deck of cards, but that was different, because, she said, there was no gambling with her deck.

Flossie became a teacher, in accordance with her father's wishes and despite her own aspirations to become a nurse. After a year at teachers' college to obtain the required authorization, she began teaching at Kamsack's Doyle School in 1928. She was later to teach grade five at Victoria School for many years. Wilbur remembers that, at one stage, she became involved in a disagreement with the local school trustees because she gave lessons on Darwinism. Her teaching provided her with a modest income and she was able to help with the financing of her brother's university education, all of which and more was repaid when Wilbur eventually finished his studies and began to work full time.

It would not be until Audrey, her youngest sister, left to study nursing at Yorkton that Flossie would be able to make a career change from teaching to nursing. She and Audrey went through the program together and qualified as registered nurses. Although Flossie was the eldest of the Jackett chidren, she was the last of the four to wed, marrying Reginald Woolsey, a first cousin of the family and considerably older than herself, on 18 November 1942. Reginald was a prospector in Albert Canyon, British Columbia, before he and Flossie moved to Victoria. There, the complement of children born to Flossie and Reginald grew to four.[6] Flossie seemed destined to provide much of the caring for both her parents' family and her own. Because of her mother's illnesses, Flossie had played a large part in the raising of her siblings. Probably as a result of this experience, she would never, subsequently, allow anyone else to look after her own children, despite circumstances that might have called for assistance. In an unexpected turn of fortune, she also had to care for Reginald, who was debilitated, relatively early in life, with Alzheimer's disease. As for Flossie's relationship with Wilbur, her help over the years of his youth and studies built up a moral debt that Wilbur never regarded as extinguished, and he regularly helped her make ends meet throughout the rest of her life. Flossie died in Victoria on 4 September 1986.

Marguerite, who was to find in Wilbur an idealized older brother, became a registered nurse and married a doctor, Charles Scribner.[7] Her career in nursing was more or less in defiance of Harry's wishes. Daughters, particularly younger daughters, appear to be able to 'manage' their fathers, and Marguerite, no exception to the pattern, got a job in the Kamsack hospital to show him that she could do the work that Harry insisted would be too hard for her. When Harry found out, he decided to let her try to become a registered nurse, just so she would prove to herself that she could not do it. She went to train at the City Hospital in Saskatoon, where she did qualify, and then relocated to Winnipeg to work as a nurse. This paved the way for the entry into the same field by Flossie and Audrey a few years later.[8]

It was a feature of the Canadian west that what you did was more important than who you were or where you had come from. Ancestors were ancestors, but what counted in opening up a new territory were your personal accomplishments. Although Harry Jackett had not had the benefit of much formal education, he more than made up for that through unrelenting hard work. He combined his expertise in carpentry with a natural head for business and fully managed a small enterprise for a large company. His advice and good judgment were sought out by many small businesses in the community; indeed he won the confidence of his fellow citizens wherever he settled. In Tompkins, he was on the school board for eight years and was overseer, the equivalent of mayor, of the village for the same period.

One of the few pieces of memorabilia kept by Harry was a CPR telegram which he received, as mayor of Tompkins, from Admiral Halsey, chief of staff to the Prince of Wales, later to become King Edward VIII. The Prince of Wales was, at the time, in Victoria, British Columbia, on a royal tour of Canada, one of several such tours within the Empire that he undertook following the First World War on behalf of his father, King George V. The Canadian tour, which had started in Newfoundland on 12 August, moved on to Quebec City by 21 August and to Toronto by 25 August. In Ottawa on 1 September, Edward laid the cornerstone of the Peace Tower on Parliament Hill, and he then continued through western Canada. The telegram received by Harry Jackett on 29 September 1919 stated:

W.H. Jackett
Mayor, Tompkins, Sask.

Your wire of September 25th. Royal train will stop for few minutes at Tompkins about 3:25 pm October 3rd. No speech must be expected from His Royal Highness.

Admiral Halsey,
Chief of Staff.

The town turned out, the train stopped to take on fuel and water, no speech was given by His Royal Highness, the train continued east, and Harry saved the telegram.

The Jackett family was never wealthy, but, at the same time, was not short of necessities. The lumber business in small western towns, although important to the inhabitants and complicated to run, was, in economic terms, fairly marginal. Both in Tompkins and, later, in Kamsack, Harry took on all sorts of extra jobs to help make ends meet. He was an

auctioneer. He had a bachelor partner in a pool hall in Tompkins, who actually lived in the Jackett home for a time and shared a room with Wilbur. The boarder took care to remain on Wilbur's good side and stayed out of a turf war over the bedroom by bringing a regular supply of chocolate to the younger roommate. Harry Jackett ran two or three of the rural telephone companies, which were the full extent of such services in the early days on the prairies, and acted as secretary-treasurer for the farmers involved. He sold coal. His lack of formal schooling may have accounted for his interest in the school boards and the eventual sacrifices the family made to get Wilbur to university. On the other hand, Harry always had a car, first a Model-T Ford and later a Chevrolet Cabriolet. He made a point of never walking to work. He would go to the town barber three times a week for a straight-razor shave.

In 1920, shortly before Audrey was born, the Beaver Lumber Company transferred Harry Jackett to Kamsack, Saskatchewan, to open a lumber yard at the divisional point on the railway. Wilbur can remember driving from Tompkins to Kamsack in the family's old Model-T. His father was one of the first in the area to have acquired a 'horseless carriage.' Given the primitive state of the roads in the west at this time, the three- or four-day trip, while exciting to an eight-year-old boy, would have been anything but smooth.

KAMSACK, SASKATCHEWAN

The name 'Kamsack' appears to have been derived from the nickname of a well-known local Indian and is believed to be based on the Saulteaux word meaning 'large.'[9] It is located in an area that is a legacy of the most recent Ice Age, emerging as the glaciers retreated in stages to the north. A remnant of one of the last stages of withdrawal is a moraine now known as the Duck Mountains, the droppings of part of the accumulated glacial debris. The soil resulting from the decay of the long grass which grew in the area was quite fertile. Trees did not gain much of an early foothold owing to frequent prairie fires. The drainage is into the Assiniboine valley and the tributaries of the Assiniboine River, on which the town is located. The Assiniboine itself drains into the Red River near Winnipeg and the Red drains into Lake Winnipeg. In 1882 there was but a handful of settlers, the number of whom grew to approximately 200 in the next couple of years and that increase, in turn, led to a petition for a post office. The name 'Kamsack' first appeared as the name of the post office located on the farm of one John Moriarty and the post office was moved into the village effective 1 January 1905. By 1911, the village had been incorporated and declared to have the status of a town.

The emergence of Kamsack as a thriving town was, however, a near thing. But for a change in the planned route of the Canadian Northern Railway, Kamsack might never have become at all important. For anyone to prosper in the west in the early days, he had to have food and shelter; for a town to flourish or even exist, it had to be near the railroad. The farther one was from the railway, the more marginal the existence. After all, what was the point of producing crops if you could not bring them to market for sale? Until 1901, a mere eleven years before Wilbur Jackett was born, the survey plan for the Canadian Northern was to take it through Fort Livingstone, some twenty-five miles to the north of Kamsack. This reflected federal government policy of trying not to build railway lines within three miles of Indian reserves, which was part of the agreements reached with the Indians in setting the boundaries of their reserves. But, as in many dealings with native peoples, the original policy became secondary, this time in the face of Ottawa's desire to accelerate the westward development of the country. The particular pressure was a response to the then very aggressive settlement of the American west that was then under way. The American settlers had already reached the west coast and were beginning to cast interested glances at the vast unsettled tracts of land to the north. The line drawn across forty-nine degrees north latitude was not as apparent to people looking for land as it was to the cartographers. It became politically imperative for the Canadian government to be sure that its people were visibly present. If the earlier promises to the Indians became hostage to this new policy, well, so be it.[10]

Kamsack had another lucky break. The basic plan for the railway, as it opened up the west, was for there to be a station approximately every ten miles along the line. The idea was to make it possible for farmers to be able to reach a railway station by wagon and to return to their farms in the course of a single day. This system allowed many villages to develop in the Kamsack area. These included Togo (originally Pelly Siding, but renamed after Japanese Admiral Togo, who achieved a major victory at the Battle of Tshushima in the Russian-Japanese War that had ended shortly before), Runnymeade (the native home of one of the English construction workers on the railroad), Cote (named after the Saulteaux Indian Chief), Veregin (named after the Doukhobor leader who joined his followers in the area in 1902), and, of course, Kamsack itself. The bonus for Kamsack was that it was selected as a divisional point, one of the stations at which the locomotives would stop, usually every 150 miles or so, to take on water and fuel. This led to much more rapid and extensive development than would otherwise have occurred. Infrastructure such as roundhouses to turn the locomotives around, accommodation for the trainmen, repair shops, railway sidings for up to 800 railway cars, and an express office

sprang up in the town. Stock from Alberta, on its way east to slaughter, had to be fed. Ice houses to hold the ice needed to line the refrigerated railway cars were built and filled with two-foot-by-four-foot, 600-pound blocks of ice carved from the Assiniboine River or McEachern's Lake, packed in sawdust. The perishables were kept in the ice house to keep them from spoiling while the refrigerated cars were relined.

The railway was the defining industry of the town. It was also its lifeline, since it was virtually impossible to consider any form of travel in the west except by rail until well into the 1930s. In the Kamsack area, the roads were nothing more than cart tracks until 1928, when the road from Kamsack to Canora was transformed into an 'earth highway.' The Canadian Northern Railway became part of the Canadian National Railways following creation of the CNR, as a government-owned railway by a federal order-in-council dated 20 December 1919. The purpose was to unite several financially troubled railroads, including the Intercolonial, the Canadian Northern, the Grand Trunk, and the Grand Trunk Pacific. Although the basic structure was established at this time, it would take almost three years, until October 1922, before the separate lines that were to become the CNR would be consolidated into a single system under the control of a corporation with its own board of directors. In 1926 the last of the early grain elevators in Kamsack was built.

It is likely that Kamsack was spared from some of the worst ravages of the Depression that was to follow because so many of its citizens were employed by the railroad. As early as 1931, unemployment was severe enough that a cost-sharing program had to be worked out to gravel the streets. Although there was never an outright crop failure in the Kamsack area, the yields dropped to well under one-half of those in the 1920s. Kamsack ended up as one of the few towns in all of Saskatchewan that was not forced to ask for federal or provincial assistance to meet its welfare costs. An interesting local vignette has it that the hardship might well have been much greater had it not been for the fact that the supervisor of the Duck Mountain Forest Reserve allowed the poor to cut some trees for firewood. Nor was he especially rigorous in stopping the poaching that occurred. Although the supervisor was, of course, duty bound to patrol the reserve, he made an ostentatious practice of conducting his patrols regularly on Saturdays, when everyone was in town, so that he would not stumble by mistake on poachers.

In 1905 Dr J. Ira Wallace, the first doctor in Kamsack, came from Nova Scotia. By 1916, Kamsack had become part of the rudimentary telephone system of the day. The toll office opened earlier in the year and by November there was a telephone exchange in place with seventy-five lines and twenty-eight connected telephones. The first lawyer, Stephen Windsor,

arrived in 1912 and another, who would play a part in Jackett's life, Harold McIntosh Stewart, came following the First World War, in 1919. The year 1921 was an interesting one for Kamsack. Its population broke through the 2,000 barrier. The same year, Sarah Ramsland became the first woman member of the provincial legislature and one of the first women elected to public office in Canada when she was returned for Kamsack.[11] When her victory was announced, testosterone levels flared, a riot ensued, and a car was destroyed. In 1924 the town participated in the referendum to repeal prohibition. There was not much support for a law that was so consistently ignored and there was the continually embarrassing spectacle of a parade of upstanding citizens being arrested. Unexpected support for the repeal came from the Roman Catholic community, which seemed to adopt, in its voting patterns, the attitude that one's enemy's enemy was a friend. Many of the most virulent anti-Catholics were the most vociferous teetotallers.

In 1925 the United Church of Canada was formed from the Methodist, Presbyterian, and Congregational churches, and the local Presbyterian church in Kamsack, on joining the new body, was renamed Westminster Memorial. The Jacketts had been Methodists in Tompkins and Presbyterians in Kamsack, since there was generally only one Protestant church in each of the small towns. Wilbur remembers the vote which was taken on the church amalgamation in Kamsack.[12]

Radio reached Kamsack for the first time in 1927 when CJGX from Yorkton began to broadcast local programming. Harry Jackett and two of his friends had anticipated the arrival of local radio before this and they brought the first three radios to Kamsack, spending many evenings trying to see from how far afield, mainly in the United States to the south, they could receive signals. 'Talkies' arrived in early 1930. The Federal Building was built in 1931 to house the RCMP detachment and the post office. And, in 1932, the first grain was shipped from Kamsack by rail from the CNR elevators to the northern port of Churchill.

In Kamsack, Harry continued his active interest in municipal affairs. Within three years of arriving in Kamsack, he had become well enough respected to be elected a member of the town council, on which he served from 1923 to 1926. He was elected mayor from 1927 to 1930, was a member of the town council again in 1932 and 1933, and mayor from 1935 to 1938 and in 1941. In 1927 he was president of the Kamsack Volunteer Fire Brigade. He was a Conservative in a province where there were practically no Conservatives, but this did not affect his being elected mayor, because party politics did not matter at the local level.[13] In a quiet and non-aggressive fashion, Harry Jackett became an integral part of the communities in which he lived and dealt on a fully equal basis with their

formally educated doctors, lawyers, and ministers. There was no doubt, however, that he recognized the importance of higher education and he made sure that everyone in the family finished high school and went beyond that to further training.

There was little money available to the family and Harry Jackett saw his own salary reduced from some two thousand dollars to only six hundred dollars per year during the Great Depression of the 1930s. Despite these hardships, with Harry's energy and a variety of side jobs that brought in a bit of extra money, the family managed in a difficult context when all around them people were on relief. This never happened to the Jacketts and, although, when he died, Harry had only a very modest estate, he had made sure that he had no debts. Even during the depths of the Depression, in addition to all his various jobs, Harry was still active in community affairs. It is a mark of his industry and confidence that he was able to buy a new car in late 1936.

Fanny lived the life of an important lady in the small town of Kamsack, which was commensurate with the position of the family in the community, and was a moving force with the Ladies Aid of the United Church. The society ladies of the town made calls upon each other with calling cards of the Victorian style. She was, according to Wilbur, an excellent executive in the only occupations that were available to her as a married woman of the time, organizing bazaars and teas. By nature, she was most hospitable and firmly believed that a good deed done today would be returned to someone somewhere. Hampered for many years by ill health, she was forced to spend a great deal of time in bed. Flossie did most of the caring for Audrey as a baby.

GROWING UP IN KAMSACK

Throughout the period of many of these changes, Wilbur Jackett was growing up in Kamsack or linked to it. He had arrived in Kamsack at the age of eight years, leaving behind in Tompkins his tonsils and bringing with him only a few childhood memories, one of which was the walk with his father to the doctor's office to be separated from those tonsils. He came in time to enter grade four in the local school at the end of Main Street. It was the Central School and was sometimes called the White School, to distinguish it from the Victoria School, referred to as the Red School. Grades three and four were in two cottages and grades five to eight were in another school. High school was at Kamsack High School, later renamed Kamsack Collegiate Institute, which was three more cottages and you had to go outside to change classes. There were between one hundred and one hundred fifty students in high school. One of the

friends Wilbur made when he arrived at school in Kamsack was Isabel McWhinney, who was in the same grade, although a year older. They were to be students together throughout their whole school lives and have remained friends well into their eighties. Her father was a missionary minister who taught at and was principal of the Indian reserve school and lived on the reserve itself from 1903 to 1915, when the family moved into Kamsack. He had fought against the government's efforts to pressure the Indians into selling their land, despite the famous pledge of Queen Victoria to protect their rights 'as long as the water runs and the grass grows,' but to little avail.

While Wilbur was intelligent and was regarded by the teachers as a serious student, hard-working and a good learner, Isabel and her second cousin, Charlotte Kinnear, regularly finished ahead of him. It was Charlotte Kinnear who ended grade twelve with a scholarship for university. Wilbur was not, says Isabel, one who could have been spotted as destined for a spectacular future. He was not outstandingly brilliant in high school. Their high school class in general was quite smart. She, Charlotte, and Wilbur were the only ones who went from Kamsack to the University of Saskatchewan. Others, including most of the Jewish students, went to Winnipeg, partly because Kamsack was close to the Manitoba border.

The family was industrious and Wilbur Jackett was no exception, especially watched over as he was by his father. Harry made him come down to the lumber yard every day while he was in public school and high school, before he started his many odd jobs; Wilbur himself suspects that his father's motivation was to keep him out of trouble. Whatever the reason, it gave Wilbur a chance to see how a small business operated and how dependent employment could be on economic conditions. If business was good, his father might employ someone else in the yard and, occasionally, two. At one stage, there were two other carpenters living in the upper part of the lumber-yard shop, who did much of the local carpentry and building work. One was Harry Oliver and the other was Frank Tellam, who later became the town undertaker, with a resulting narrower specialty in carpentry. There were no power tools in those days and Wilbur learned, first hand, how hard carpenters had to work for their living.

He started earning extra money in high school by mowing lawns. He delivered groceries for Harvey's, probably the closest establishment in Kamsack to a department store. The store was open until ten o'clock on Saturday evenings and Wilbur did not finish his rounds until after his baby sister Audrey went to bed, but he always left her some candy all wrapped up for her when she woke up Sunday morning. There is a family photograph of him with his delivery bag on his shoulder. During the Depression, Harold Harvey was unable to keep the business solvent and

it 'went under' while the former delivery boy was at Oxford. Another of the young Wilbur's odd jobs was babysitting.

Sports never held any particular interest for Wilbur. He skated during the winters, but was not particularly good by Canadian standards. He played a bit of tennis during the summers, with limited success. He may have curled occasionally, but this was a sport that interested his parents and sisters more than him. He has worn glasses as long as he can remember and has had operations for cataracts. He was reasonably active in the Young Peoples Society at the church. He participated in the Wolf Cubs Organization, becoming a 'Sixer,' and later helped the cubmaster; there is a picture of him with a group at a Jamboree at Qu'Appelle on 25 June 1922. He also joined the Boy Scouts, but he did not have a great deal of interest in the organization and did not proceed far in it.

It was hardly surprising that the railroad would have its effect on Wilbur as well, so central was it to the town. A substantial portion of the wage earners in the town worked for the railroad, which, by the standards of the day, paid well. The train to Winnipeg came through about ten o'clock at night and many of the townspeople would regularly come out to witness the event. The eastbound train came at eight o'clock in the morning. Wilbur had a job filling the small ice containers on the passenger trains. Although he never 'rode the rails,' the boy next door, who was about his age, did. Even if he had been inclined to ride the rails, which Wilbur maintains he would never have wasted his time in doing, Harry would certainly never have permitted such a reckless and unproductive activity. One of the foremen on the railway, who lived up the street from the Jacketts, offered Wilbur a job as a fireman on the trains. But Wilbur declined the offer, saying he had decided to go to university. This was not as easy a decision to make as it might have seemed. The salary would have been $150 to $200 per month, which was not at all insignificant at the time. It would be fifteen years or more before he would earn such a salary, even after a university education, a Rhodes Scholarship, and a call to the bar. Today, Jackett smiles as he considers what might have happened had he taken the job; he would long since have been out of work, since the fireman position has been phased out of the modern railway. Ironically, the final steps in this direction would occur while he was employed by the CPR.

Jackett was never very tall, at his zenith reaching only five foot four and (possibly) a half inches. This did not seem to bother him and no one ever heard him complain about not being tall. Audrey Jackett says that it was not too surprising that he was not tall, since no one else in the family was. The shortness was all in his legs, he once reminded Audrey, who was contemplating the knitting of a sweater for him while he was at

Oxford, his point being that she should knit it long enough for his upper body. Isabel McWhinney was even smaller, so he has always referred to her as 'Shorty.' He was called 'fatso' in school because he appeared a bit plump, more like baby fat, as Isabel recalls, not because he was actually fat as such. Jackett remembers not liking the nickname and undertaking to wash with snow the face of anyone who called him that, but he eventually gave up the task as a 'bad lot' after five or six times. Most of the baby fat was lost, Isabel reports, when he went to university, where, she says, he burned up a lot of energy.

Jackett decided that he wanted to be a lawyer when he was writing his grade twelve examinations. Before that he had wanted to be a carpenter, no doubt from the regular exposure to it at the Beaver Lumber Company, or a doctor. He decided against the latter because he could not stand the sight of blood. He remembers a time, later at Oxford, when he passed out while reading a particularly gruesome passage in a law report. Earlier, in Tompkins, the same thing had happened when he saw one of the girls in his class with a crochet hook stuck in her hand. He ran out of the room and promptly fainted. The medical positions in the family were filled by his sisters. Harry Jackett had wanted him to go into law because he had always wanted to be a lawyer himself but never had the opportunity. His quiet words of encouragement to Wilbur, 'If you want to go in for law, I'll try to see you through,' may well have been the determining point. The significance of that undertaking, as a matter of family and financial commitment, could not have been lost on Jackett.

The importance of family in the life of Wilbur Jackett cannot be overemphasized. In the times and in the place in which he grew up, families stuck together in order to survive. Harry Jackett was a stern father, very much the *pater familias*, whose word on any subject was final. The house was his and this gave him the right to make decisions affecting it and the family. Meals were ready to be served the moment he arrived home from work. The children recall that he had apple pie for dessert virtually every day of his married life. He did not often go to church himself, but the children remember him doling out the money for the Sunday collection when they went. About the only time Harry himself went to church was when the Masons were marching. He did, however, actively support Fanny in her church work and her other social activities.

Jackett acknowledges that he was not particularly close to his father, which, given the latter's position as authoritarian head of a patriarchal household, is not too surprising. On the other hand, he is of the firm view that the same social problems we have today would not exist if paternal relationships were all like the one he had with his father. As long as he was in his father's house, Jackett says, he would never have thought of challenging