

Interview with Brian Bowman*

B R Y A N P . S C H W A R T Z

I. INTRODUCTION

Bryan P. Schwartz (BPS): In law schools generally, I think that we are going through what I would call the second great transition. The first great transition was when law schools were practitioner oriented. They were taught physically downtown, and then in the 60's and 70's they moved to the campus.

Brian Bowman (BB): Like Osgoode Hall originally.

BPS: We used to be downtown and then we moved out to the south end campus, and it carried with it many changes that we have been exploring in many ways. What I wanted to do with volume one of this history project is speak to the people who were involved in the first great transition in the 60's from downtown Winnipeg to the university campus, from practical to academic. I've spoken to people, I don't know if you would have met all of them because you didn't go to University of Manitoba law school, but Gerry Nemiroff,¹ John Irvine,² Cam Harvey,³ the sort of the people who were there

* Interview conducted by Bryan P. Schwartz. Brian Bowman was elected as Mayor of the City of Winnipeg on October 22, 2014 and re-elected October 24, 2018. Mayor Bowman is Métis and is the nation's first Aboriginal mayor. Prior to becoming Mayor, he was a partner at one of Winnipeg's top law firms and a national leader in the emerging field of social media, access to information, and privacy law. He used his role as partner to protect victims of cyber-bullying and for the protection of individuals' personal rights. He has served and advocated for the community in his many leadership positions within a variety of organizations. Mayor Bowman holds a Bachelor of Arts (Adv) in history and political studies from the University of Manitoba, and a Juris Doctor degree from the University of Toronto.

¹ Gerald Nemiroff is a retired professor from the Faculty of Law, University of Manitoba.

² John Irvine is presently a professor at the University of Manitoba. He has been at the University of Manitoba since 1975.

³ Cameron Harvey is Professor Emeritus at the Faculty of Law, University of Manitoba.

when it all happened. I find that if you don't this history is lost forever. You can find documents, but it is never the same as hearing somebody's voice. You probably know because we are at the same law firm, but I have done a lot of Indigenous stuff over the years. I was quite conscious when I did volume one of this project that I had no Indigenous voices because there were no self-identified Indigenous students at the time, and we didn't have any Indigenous teachers. As I've been doing this people have told me that there might have been more Métis in academia than you think. Some people told me, for example, that Norquay⁴ who was premier of Manitoba was probably Métis but just didn't make a fuss about it, so who knows. We made the conscious effort to start introducing Indigenous students into the school and into the profession, so I am interviewing some graduates from that first wave to ask what their experience was like and what we can do differently or better in terms of making it a welcoming environment. One of the things that intrigued me about your situation is that you may be a harbinger of the future in a sense. Originally, with the arrival of European settlers you had quite clear divides between the settler population and Indigenous people, and then you had the mixing and the creation of a new ethnicity, the Métis. Now we are increasingly in a society where people who traditionally would have spent their whole lives on reserves are moving into the cities and the rate of intermarriage is rising very rapidly. From some angles, this is either problematic or an opportunity. From the point of view of status Indians there is the concern that with intermarriage fewer and fewer people will have enough of a quantum of status to keep their *Indian Act*⁵ status. On the other end more and more people, I think, will be like you. You go back enough generations, after a while in a society with mixing and intermarrying, almost everybody will be able to say that somewhere back there I have an Indigenous ancestor. You are kind of at the cusp there because you have some relatives who have signed up for their Métis card.

BB: Most of my family, immediate and cousins, they've all got their card.

⁴ John Norquay was the Premier in Manitoba from 1878 to 1887. His background was Anglo-Métis

⁵ The *Indian Act*, RSC 1985 c I-5, was passed in 1876. It served to define the term "Indians" and regulates band governance, Indigenous land-use, administrative structures relating to education and healthcare among many other things. It is a controversial piece of Canadian legislation whose provisions have been constitutionally challenged several times in the courts.

BPS: Were you thinking at some point of signing up yourself?

BB: It honestly hasn't been something that I really put a lot of thought into. Tracy⁶ is Ukrainian, she is proud of being Ukrainian; she knows that she is Ukrainian. I know who I am, I'm proud of who I am, of my family's heritage. It is not a priority for me, to get a card to be who I am.

BPS: First and foremost, you want to be the mayor of Winnipeg for all. For Winnipeggers, that is the view that you have taken. Growing up were you conscious of having some Métis ancestry, was that your mom's side, dad's side?

BB: Mom's. There have been discussions about possibly our dad's side, but I actually don't know.

BPS: Was that franco?

BB: My dad is francophone⁷ from the Pine Falls⁸ area. So Saint-Georges, Silver Falls,⁹ they moved and ultimately settled near Powerview.

BPS: French language wasn't any part of your growing up, was it?

BB: It was on my dad's side, but me personally no. My dad's side of the family speaks French, they still speak French. They speak English to humor us, like humor me, but they are francophone. Full on French.

BPS: There is some mention in the newspapers story about you having some other lines of Indigenous ancestry?

⁶ Tracey Bowman is the wife of Brian Bowman.

⁷ The term 'francophone' refers to a community of people, whose primary language is French.

⁸ Pine Falls is a small town in the province of Manitoba. It was a former paper mill community and was amalgamated with the town Powerview. It is referred to as Powerview-Pine Falls.

⁹ Saint Georges and Silver Falls are both small communities north-east of Winnipeg.

BB: That is my mom's side. That is where the Métis began. It was Cree. The Thomas side of the family, which is my mom's side, is Métis, but it is funny because EJ Fontaine from AMIK.ca,¹⁰ he has been arguing with me for years that we are actually status. I've never explored that, for me I don't know if I agree, but that is what he does. He does that sort of work.

BPS: All those identities are in flux now in many ways because the Supreme Court of Canada is saying that there is federal authority over the Métis. Non-status folk, Bill C-31,¹¹ and a lot of people have gotten reinstated. There are concerns in both directions, some First Nations in Canada want to maintain some limits because if everybody belongs then how do you maintain your identity. Others are concerned about their dwindling demography.

BB: When I was a kid, under 10, it wasn't something that we talked about. I wasn't consciously aware of it. In hindsight, looking back at the practices of our family, everything from diet to music... when I would go to grandma and grandpa Thomas's out at Victoria Beach¹² it was Red River Jig,¹³ it was the violins out, it was bannock,¹⁴ it was a lot of things that I look back at now, and I'm like, "Hmm, that was influenced probably by that part of the family." It was when I was a teenager when we started being more conscious of it. It wasn't until I went to the University of Manitoba, I took some courses with Fred Shore¹⁵ and Kathi Avery Kinew¹⁶, and for me it was kind

¹⁰ EJ Fontaine is the President and CEO of AMIK.ca. He currently sits on the Indigenous Advisory Council. The Council was created by Mayor Brian Bowman with the purpose to bridge Aboriginal and non-Aboriginal communities in Winnipeg.

¹¹ Bill C-31 was passed in 1985. It modified the *Indian Act* in Canada by addressing three major points: gender equality, restoring status of the disenfranchised and addressed self-governance by allowing bands to allocate memberships.

¹² Victoria Beach is located on the south east shore of Lake Winnipeg, in Manitoba.

¹³ Red River Jig is the most popular Métis dance. It is a fusion of European and Aboriginal traditions.

¹⁴ Bannock is a flat bread. It is part of the Native American and Métis cuisine.

¹⁵ Dr. Fred Shore is a professor at the University of Manitoba. He teaches in the department of Native Studies.

¹⁶ Dr. Kathi Avery Kinew is the Manager of Research and Social Development at the Assembly of Manitoba Chiefs. She has taught Native Studies at the University of Manitoba.

of like the light switch came on. I was like, “Okay, I can kind of understand my own family background.” I continue to learn as I learn more about Manitoba and as I learn more about the history out in the Interlake and Victoria beach it is fascinating; all the dialects and influences. For me it has been a journey of self-awareness. For our broader family as well it wasn’t something that people were openly proud of. Twenty to thirty years ago the reaction that you would get for being Métis from the broader public was not always positive.

BPS: You mentioned that there were a couple incidents in school when you were hassled for eating bannock?

BB: Yeah. When I was growing up, that was at Royal School.¹⁷ We would pick wild blueberries, we would make bannock, which was bread at home. They were typical school yard bullies, where kids were teasing me because my bread was flat. I went off and got into a bit of a fight. This may shock you, but I was not the biggest guy, so I got really whopped. It was more just about defending my identity.

BPS: My guess is that you didn’t fight dirty, which was probably a competitive disadvantage.

BB: I have to learn how to do that.

BPS: Just exploring a bit the roots that in retrospect you might not have thought of at the time. You got very involved with a private law firm, you became very involved with the Chamber of Commerce. Certainly, historically, the Métis were a highly entrepreneurial people, and *raison d’être* was to be involved in a commercial enterprise. Do you have any sense that your family, your sense of interest in entrepreneurship had something to do with those origins?

BB: I mean it may have, I don’t know. I know my grandpa, Thomas, was an entrepreneur in every sense of the word. Both grandparents were, but my grandpa in particular. My grandma was a school teacher, and worked hard, had a big family, six kids, on my mom’s side. My grandpa harvested ice in

¹⁷ Royal School is an elementary school in Winnipeg, Manitoba.

the winter and he operated the ice house out of Victoria Beach. He had a crew for cutting firewood or lumber in the autumn, was a commercial fisherman, owned the Moonlight Inn¹⁸ at one point, and operated the parking lot at Victoria Beach. Basically, he would just do anything to make a buck. In his words the rich doctors and lawyers would come out from Winnipeg and he was there to provide them with services to make money. I remember hearing stories about the rabbit snares; if they didn't catch a rabbit they weren't eating meat, other than pickerel. They would have a lot of pickerel from summer. The entrepreneurialism, I think that is more of a Manitoba quality than necessarily Métis. Maybe the Métis influenced the Manitoban culture of entrepreneurialism.

BPS: When you grew up in Charleswood,¹⁹ kind of rural Charleswood at the time, something we wouldn't recognize now, you had a very high-performance career in swimming and stuff. Do you think that any of those interests, outdoor activities, life of the body as well as the mind, had anything to do with your background? Not necessarily, just curious how ancient roots sometimes have modern manifestations.

BB: I've honestly never given that any thought. I don't think so, I think it was more growing up in Charleswood and being outside a lot. I don't know if I would go so far as to attribute that to being Métis.

II. UNIVERSITY

BPS: So you attended university and you took courses in Indigenous matters, was that just out of general interest or did you take it because of your ancestry?

BB: General interest, but part of it was also to get a better understanding of the Métis. Louis Riel²⁰ was the lens by which many Winnipeggers, Métis and otherwise, saw the identity of the Métis, still do in many parts. I've always been fascinated because the Métis are more than Louis Riel and the Métis

¹⁸ The Moonlight Inn is a diner at Victoria Beach, Manitoba.

¹⁹ Charleswood is an area in Winnipeg, Manitoba.

²⁰ Louis Riel was the founder of Manitoba. He was a political leader for the Métis people and advocated for their rights and culture. He lived from 1844 till 1885.

Nation. The language, the culture, the dialect, the economy, everything that revolved around the Métis Nation at the time, certainly late 1800's, was a lot broader than just one person. He personified it and was the visible face of Métis. What I didn't understand and was fascinated by in taking these courses was just having a better appreciation for, and I guess indirectly just learning a little bit more about, my own family and other families.

BPS: When you were taking these courses it told you a lot more about your background and gave you a lot of insight and understanding. Does it change the way in which you find yourself – are you still Brian who has his ancestry, does it make you think “Maybe I am a Métis?”

BB: Not at all, it just helped me better understand it. Certainly my entire adult life my family and I always identified as Métis. It's something I've always been proud of. But what that means is something that is quite often defined by others' views of being Métis. It was interesting – Fred Shore was, as you know, very animated in his lecture style. It was fascinating. What he did was actually initiate a lot of discussion around the kitchen table at home, because I was still living at home. Quite often I would take his courses and I would go home, and we would chat about stuff.

BPS: My understanding of Fred Shore's class, and of the academic environment then, is that you could in the academic environment have a free-wheeling discussion about these issues and you weren't too worried about saying something politically incorrect.

BB: He took care of that for you.

BPS: You ended up going to the University of Toronto?

BB: Yeah.

BPS: What year would that be?

BB: 1996-99.

BPS: By then I am guessing that the University of Toronto was just starting to have a course or two in Aboriginal issues, but it would not have been a major focus.

BB: When I entered the University of Toronto there was already an Aboriginal Law Students Association. There were Aboriginal law classes, but one of the things I actually benefited from was a law preparatory program that was offered through the University of Saskatchewan law school.²¹ For, I believe it was one month, maybe two, in the summer of '96 before I entered law school, incoming Indigenous law students from across Canada had the opportunity to attend the University of Saskatchewan law program. I went out there and it was fascinating. My aunt and uncle lived out there so I stayed with them, and I met Indigenous students from all across Canada, who ultimately went to just about every law school in Canada. There were Inuit, there were Métis, and there were First Nation; a lot of Métis. I just remember visually, contrary to the stereotype that some people have of what an Aboriginal person looks like, people there had blonde hair, blue eyes; it was fascinating. We took property law, so it was real. There were three property law courses, so we learnt about *Delgamuukw*,²² and some of the leading Indigenous property law cases, in particular those stuck with me. Justice Murray Sinclair²³ came and spoke. I'd never heard of him. I just remember this aura when he walked in the room. He spoke very eloquently. It was great.

BPS: When you were at law school; there would have been some Indigenous students there. We obviously have way more Indigenous students going to Canadian law schools now. I would ask a very general question. What should we be doing to teach both Indigenous and non-Indigenous students with respect to Indigenous law that we are not currently doing?

²¹ The Program of Legal Studies for Native People (PLSNP) is often a condition for acceptance to law school, and counts as a property law credit for first year law. It is an eight-week course offered in the summer prior to beginning law school.

²² *Delgamuukw v. British Columbia*, 104 DLR (4th) 470, 5 WWR 97. See *Delgamuukw v. British Columbia*, [1997] SCR 1010, 153 CLR (4th) 193.

²³ Murray Sinclair, a member of the Ojibway First Nation community, graduated from the Faculty of Law at the University of Manitoba in 1979. He was the first Indigenous judge to be appointed to the bench, in 1988. He was appointed to the Senate of Canada in 2016.

BB: I think reconciliation. The low hanging fruit is that all Canadians need to be better educated about the legacy of residential schools. I've learnt a lot even in this role as mayor about the true cost to all Canadians for residential schools, to date. We have an intergenerational legacy of residential schools that affects all Canadians, so I think that teaching the history of Canada, not just through the lens of our Indigenous community, but through a very broad lens is really important, because lawyers do have a unique role in drafting and in enforcing laws as we reconcile for the future with all Canadians. For me, history is really big.

BPS: It is a recommendation by the TRC²⁴ that all law schools do that. My own view is certainly that you have a lot of trouble understanding your own society here in Manitoba if you don't have an appreciation of the history here. Like you said, I think that very few of us outside First Nations communities had any idea up until the last 10 to 20 years of just how widespread and serious the problem is, and how enduring it is. For example, the intergenerational aspect of taking people away from their families is that they don't have role models, affecting the next generation of parents. It's subtle, but it is really significant in many ways. Certainly on the other side are people feeling that they are compelled to study something, or thinking that they are being compelled to believe a particular truth and not having an open conversation. As mayor you're very strong on fostering conversations. Any thoughts on what we should be doing in the university environment in terms of making sure that the conversations are open? Is that something that you are concerned about?

BB: I think that academic freedom has really helped protect an honest conversation about difficult issues. I mean, certainly my experience at the University of Manitoba was that it was a very safe environment for those awkward conversations that you can't have in other environments as easily. Some may feel that those conversations related particularly to Indigenous matters are solely for the benefit of the Indigenous community. Well, it's for all of us. That is why I think that studying the history from a really broad

²⁴ The Truth and Reconciliation Commission's (TRC) mandate is to educate and inform Canadians on Indian Residential Schools, and to help promote reconciliation. The TRC's final report consisted of 94 "calls to action" regarding the legacy of the Indian Residential Schools and the process of reconciliation.

lens is really important. Going forward, it's how do you reconcile and move forward, respecting our different heritages. At the same time, we are all Winnipeggers, we are all Canadians, how do we build a society and a community that builds bridges? You can't do that unless you understand where you are coming from. Residential schools, you're right, 15-20 years ago I didn't have a full appreciation of the fact that children were forcibly removed from their parent's arms. Especially now that I am a parent, I have real trouble getting my head around how society could think that that was a good thing, and it did. The government and broader population felt that was a good thing. I don't get that.

BPS: I guess one thing that has changed is not only the appreciation of history, it's also visibility. Long ago perhaps you could be a Winnipegger and spend most of your life not without meeting frequently or extensively with First Nations people. Now that there is such a migration of First Nations people from the reserves to the cities, there are many reserves in Manitoba that think that we are approaching 25-50% of the population in urban centers now. This is just part of routine life everywhere you go. If we are trying to educate people I agree with you that you don't want to make the teaching of Indigenous law for Indigenous students because understanding this stuff is part of understanding the law of the entire community.

BB: Japanese internship, this affects all Canadians. This isn't just for Japanese Canadians. You have to double check this, but I think that there are more members of Peguis in Winnipeg than there are in Peguis First Nation.²⁵ The Conference Board of Canada²⁶ says that as we move to a million people that the population of our Indigenous community will grow from around 11% right now to 25%, so the face of Winnipeg, the demographic makeup of Winnipeg is changing.

BPS: Right. That will not be age homogenous. The younger population will have a relatively higher percentage of Indigenous people than the older population. We will be looking at situations where, for example, in the

²⁵ Peguis First Nation is the largest First Nations Community in Manitoba.

²⁶ The Conference Board of Canada is a non-profit research organization.

Winnipeg public schools the percentage of Indigenous kids will likely be higher than the 25% figure you gave.

BB: It's going to keep growing.

BPS: It will be more at the younger end of the population. Let me ask you a couple of questions, they are complicated, there aren't short answers to any one of them. We have these many emerging and overlapping identities of people of Indigenous origins in this country and you said that you are, I think, a representative of what a whole lot of people will be in the future – people with some Indigenous ancestry, but not necessarily identifying as capital 'M' Métis, or having a status card. We've got certain programs at the University of Manitoba where a certain percentage of spots are set aside for Indigenous people. When you are creating these programs for Indigenous people there are some really hard questions. Is self-identification enough, or what about somebody whose ancestry goes way back, but is not really currently actively involved? Do you distinguish among some Indigenous people versus other Indigenous people, such as First Nations on reserve versus Métis? I don't think that anybody has a short answer to these questions, but do you have any general thoughts on how we deal with these identity boundaries? When you are in the government you actually have to make choices.

BB: It is definitely a question that is kind of in that affirmative action debate from the 80's and early 90's, when that seemed to be a very live debate. That is in part why, whether somebody is homeless or unemployed or has other challenges, for me they are a Winnipegger. Whether somebody is Indigenous or non-Indigenous, or how they identify, at the end of the day these are people, these are Winnipeggers; it really doesn't matter to me. It doesn't matter if somebody has lived in Winnipeg for 100 years or 100 days, they are a Winnipegger. In some ways it is probably becoming moot because we are hopefully as a society looking at all of our citizens with equality. On the other hand, for specific programs that are dedicated, I suppose it depends on what the program is, and then based on that you would have to come up with your criteria. On the question of Indigenous identity, my big thing is it doesn't matter if somebody is Indigenous or not. Regardless of one's background, I think as Canadians we should all want people to be proud of who they are and where they come from. The extent that someone

self-identifies, the extent that someone really wraps themselves around a certain identity, regardless of what that is, is something that does make us all stronger. Those differences do make us stronger, but at the same time we have to keep in mind that we are all Canadians, we are all deserving of the same respect and equality. A big part of what I am trying to do is just build bridges between various communities within Winnipeg. I think that the more we do that, it's not to water down or not respect those differences, it is to build understanding because I think there are some beautiful cultures, and a lot of things that we can learn from the Indigenous community. That is really what the year of reconciliation is all about – it's exposing people to things, dealing with painful truths, and also how do we move forward as a community. It's been a really good experience so far. I think to generalize, the non-Indigenous community wants to see our Indigenous community succeed. Just from a human rights perspective we want to make sure that everybody has the same opportunities without glossing over or sugar coating some of the stark challenges as a demographic that our Indigenous community faces. I certainly am not an inter-generational survivor of residential schools. I don't know what it's like to grow up with a parent who went to residential school. You talk to Wab Kinew,²⁷ you talk to Derek Nepinak,²⁸ they'll tell you they are both intergenerational survivors and very different. Not only are they First Nation, but also have a very different life experience than I have.

You could make the argument that if you look at sexual orientation, sexual identity has drastically changed from when I was a kid; you were heterosexual, or people were identified as homosexual. Now, there is transgender, two spirit, queer, bi-sexual, and there are more ways in which people identify. It really comes down to we just want people to be treated with equality, and it's almost as we build a more progressive society those labels become less important. There may be some analogies with being Indigenous, non-Indigenous. That may be a sign of progress.

BPS: Yes. It's going to be a debate we're going to have to wrestle with over a very long time. For example, we are talking about many forms of sexual

²⁷ Wabanakwut (Wab) Kinew is the leader of the New Democratic Party in Manitoba, and the Leader of the Opposition in the Legislative Assembly of Manitoba. He was raised in Winnipeg Manitoba, but is from Onigaming First Nation, located in Northwestern Ontario.

²⁸ Derek Nepinak is the former Grand Chief at the Assembly of Manitoba Chiefs.

orientation and identity, and you can see, certainly, I would think, a new generation. I have a close friend whose son is gay, and asked his son “Is that a big deal?” and he said “Come on dad, maybe for your generation it was a big deal, but I am simply whoever I am as an individual.” On the other hand, for various reasons, some people believe that diversity, in the sense of representation from various groups, is a worthy objective in itself. No easy answers, but it seems to me that there are legitimate competing views here that should be openly discussed. Just one other policy area which engages the straddle between whether we want to identify people by particular affiliation versus having a more ecumenical way of looking at folk. Urban reserves are no doubt going to be part of Winnipeg’s future.

BB: They are part of our present right now.

BPS: I should have phrased that better – much more a part, because in Saskatoon you would have way more than we have in Winnipeg. Now, there are arguments in favour of bringing federal and trust fund money to Aboriginal people in the city, which creates spill off effects in terms of the surrounding business benefits of doing business with them. There has been some criticism on the other hand, a lot of which has to do with the preferential tax status. Some people say, “Wait a minute, people that don’t have to pay the same taxes as us are competing with us,” or “I make minimum wage at 7-11. I have to pay income tax, but somebody working on an urban reserve is making 10 times as much is not paying income tax.” Any thoughts on those real issues, what sort of conversations, or what sort of adaptations do we do to try to address those concerns?

BB: I look at it through the lens of an urban Aboriginal economic development zone, and the reason I prefer describing it that way is because when you say urban reserve the visualization that comes to mind is not always positive, for everybody’s benefit. We have different economic zones, we have the Downtown Biz, and we have other Biz zones in the community which we do tax more. They focus their energies on collective economic benefit for all of us. I see an Aboriginal economic zone the same way. They are a means to attract greater investment in the community and create jobs. But, I think that it is up to leaders, elected and business and Indigenous leaders, to communicate what those economic development zones are and what they are not. I don’t think that we’ve done enough collectively to have

that discussion with the broader public. I think in Winnipeg that we will be doing more of that in the coming years.

BPS: I couldn't not ask this, just because of the climate that we are in right now. You look at the Republican Convention, police shootings in the United States, the situation in Baltimore²⁹ and so on and so forth; very conflicting views among many people on policing minorities. In the city of Winnipeg, we could have a lot of similar perspectives emerging. We certainly have had a problem at times with police discrimination or police insensitivity, sometimes police brutality, of course we had the whole inquiry in the JJ Harper affair,³⁰ and the Aboriginal Justice Inquiry.³¹ Other people point out that if you start stereotyping the police, or if you start assuming that just because you are the police you are somehow discriminatory without actually having any evidence you create anti-police attitudes, you reduce cooperation with the police, and in fact the paradox is that less active policing can have the worst effect on minorities, because they are the population that proportionately suffer most from criminal activity. Any views that law students should think about, that lawyers should be thinking about, in terms of how we should approach this problem of minority police relations in an urban centre like ours?

BB: That is a good question. I mean, there is systemic racism in all facets of society, and so what we look to is institutions and organizations like the Winnipeg Police Service to do what they are doing, which is to proactively create Indigenous councils, as they've done. Of course, they work under the authority of the Winnipeg Police Board. The whole strategic plan right now for the Winnipeg Police Service, championed by Chief Devon Clunis,³² is all through the lens of crime prevention through social development. A big part of that is very direct contact with the community, Indigenous and non-Indigenous. I think that it has proven to be a very successful model. Does that mean that issues will come up from time to time as they would in any

²⁹ Tensions between the Baltimore Police and the African American community in Baltimore have risen due to police brutality and shootings.

³⁰ John Joseph Harper was a Canadian Aboriginal man who was shot and killed by police. His death was one of many that sparked the Aboriginal Justice Inquiry.

³¹ The Aboriginal Justice Inquiry aimed at examining the relationship between the social justice system and Aboriginal people.

³² Chief Devon Clunes was the Winnipeg Police Chief, who retired in 2016.

organization? Of course. It is a question of how your organization is dealing with it. I think that they have done a very good job of that. I thought that you were going to ask me about Donald Trump³³ with that preamble.

BPS: I decided I am not going to ask you about Donald Trump. I could ask, but you've been there done that already. Besides this whole project is law school oriented. Did you take a course in municipal law at law school?

BB: Administrative law was probably the closest.

BPS: It's just my sense that in law school we tend to deal with the more glamorous high-end things, Supreme Court of Canada stuff, federal and provincial governments. For a lot of folks their major point of contact, or a frequent point of contact, is actually the municipal government. Most people have no idea how it works. If you are a practicing lawyer, you usually come out of law school without a whole lot of training as to how it is different from how federal and provincial governments work. Do you think that every law student should be coming out with at least some knowledge of municipal law?

BB: Yes, and furthermore, if you look at administrative, judicial, and elected, I'm not wording it properly, but how laws are created, I think that there is definitely a slant towards common law and case law. That is only one branch of how laws are made. So really what your question is illustrating is the fact that municipal law and administrative law, even through politics, is how laws are created, I don't think that there is a full appreciation for that. Certainly not when I left law school.

BPS: It hasn't changed much. I created a Legislative Process course at my school. I don't know if you've ever seen *Underneath the Golden Boy*.³⁴ At the beginning of my class I always ask my students why legislative process is just a little perspective course and not a substantial part of the mainstream curriculum. It's not something you have to take; I get 20 students per year. I think that the reason why is largely historical. Most law now is statutory,

³³ At the time of the interview, Donald Trump was the Republican Candidate in the 2016 Presidential election in the United States of America.

³⁴ *Underneath the Golden Boy* is a Manitoba Law Journal publication focusing on legislation.

it's not common law. Most of the stuff that lawyers deal with when they deal with legal materials is actually statutory and yet we are still teaching predominantly a case law model, I think for historical reasons.

BB: *PIPEDA*,³⁵ anti-spam law, there isn't much case law, there might be some judicial consideration.

BPS: What is case law, case law is really interpreting statutes. Most of what we do most of the time as lawyers involves statutes. One more question about legal education. A lot of the Indigenous law that we teach right now is collective rights law, about Aboriginal and treaty rights. In practice though, a lot of the law that a lawyer for an Indigenous organization deals with is similar to municipal law. You are advising an Indigenous government on hiring people, terminating people, they have to supervise building and construction, they do a lot of less high profile "Supreme Court of Canada" issues. Do you think that mainstream municipal administrators have something useful to exchange with their counterparts in Indigenous governments and vice versa? Are there those forums for back and forth between Indigenous band administration and municipal administration? Should we be doing more of that? I know the question is very general, I'm just thinking in terms of law school; we don't really teach much about band administration, we probably should teach a lot more as well with teaching more municipal law. Is that all done together, what sort of synergies are there between those two things?

BB: I know in our case right now we are increasing dialogue with First Nations, and it is primarily driven at the political level and then administered through the administration. Increased dialogue on how we can better support each other. In terms of law school, I'm always a big fan of practice on every level at law school and I found that the theory is important, it's a good foundation for when you come out in practice, but at the same time, how you actually practice law is not something that you learn until your 'trial by fire' articling, and then you get that rude awakening of "Whoa I can't just talk about the abstract case law."

³⁵ *Personal Information Protection and Electronic Documents Act*, SC 2000, c 5.

BPS: I agree with you. For example, we should have a course in practice management. We should, but we don't. We have a course in LPPR³⁶ but it's mostly the code of ethics.

BB: Seems to be where lawyers traditionally, not this Brian Bowman, but others, have gotten in trouble in terms of practice management, just the administration.

BPS: Often we see ethical problems, but it's also when you go out you have so many choices to make, "Do I want to practice in a firm?" In a big corporate firm, you might make a lot of money, but the lifestyle would be stressful and demanding, but you'd do a lot of interesting work and have a lot of independence and responsibility. Working in government, you'd probably be more 9-5ish and be more controlled, and become an expert in something as opposed to being dragged all over the place. So what kind of practice do you want to do? What are the advantages or disadvantages of various career choices? How do you reconcile your own idealism while playing different roles as a lawyer? I think that we should be giving people some practical tips and a critical framework to think about that through their entire life. I am not sure we do that sufficiently yet in our law school program.

BB: The mentorship programs, where they exist, I think can play a huge role. The University of Manitoba seems to have done a really good job in building bridges with the legal community, certainly the big firms. It's fun for students to get exposure to people who are practising.

III. LEGAL CAREER

BPS: When you went to law school, Brian, did you already know that you were going to be a star privacy lawyer?

BB: I just wanted to get an articling job. (laughs)

BPS: I think that is the way it is for most people in most careers.

³⁶ Legal Profession and Professional Responsibility (LPPR) is a third-year, mandatory course at the Faculty of Law, University of Manitoba.

BB: Yeah, I just wanted to get a job. I first started doing securities law where I was articling, then I got into e-commerce law. I think somebody asked me to do a privacy policy for a website and I did it. I said, “Who is the expert, who do I show?” and they said “You’re it,” so I went oh my gosh, I better review it again. And it just kind of evolved from there, I loved it. But no, I did not know. I certainly had no preconceived notions of grandeur by any means, I just wanted a job, fear was a motivator.

BPS: Fear and need to eat. It’s a thing that has come up when I have been interviewing practitioners and students and so on. I think that your experience is just a terrific illustration of it. Were you ever at one of those roundtables the big firms do to try to talk to Indigenous students and talk to them about potentially practising in big firms? It’s something that has started in the last few years.

BB: No, but that is great.

BPS: They want more Indigenous students to think of big firm, commercial practice, at least as one option, not that they necessarily want to do it or have to do it, but they should know that this is another way. One of the messages we all independently came to when talking to students was that you might come to law school thinking you want to be a criminal lawyer or do family law, but you don’t know where life is going to take you. You might decide you want to be a family lawyer and then realize that this is all stress and a festival of bad emotions, and you want to do something else. Or, criminal law is fun, but try making a living at it, it is not always easy to do.

BB: I was going to be an international lawyer in law school... I don’t even know what that means.

BPS: It’s funny because I once got a letter from a student of mine and it said “I was once sitting in your international trade class thinking ‘this is great, I am really going to use this in practice’ and now I am on a trade counsel in Japan and I am actually using this stuff.”

BB: That is awesome!

BPS: It actually happened! The larger lesson to me though is that lives tend to be one thing leads to another, you may think that you have a master plan, but often its “I needed a job, and I got my first job here, and met this person who is interested in this, and that sounds like a fun thing to do,” and so on.

BB: I didn’t think that I would end up in this office necessarily. You never know where it leads.

BPS: As legal educators we should try to encourage students and provide a very broad education. You may think that you are never going to care about municipal law, you may end up being there and have a client who has to deal with a by-law variance. It is a big and varied world, you don’t know where your client representation or your own interests are going to take you. So, the more that we can give a broad background of knowledge and critical perspectives the more service we will have going for you.

BB: It reminded me of art. I took arts, political studies and history, and what I liked about an arts degree is that it was broad application and you learn how to learn, you learn how to apply yourself, it is general. Although, that is one of the criticisms of the arts degree; that it is not a professional degree. But, law I found, we don’t have any lawyers in our family, I didn’t have a clue what it would be like to be a lawyer. In law school I thought that law school was fascinating. I was hopeful that practice would be fun, but what I liked about law was really just that broader education that you get on how things work and how you might influence the world around you.

BPS: With the market changing more and more, some of our graduates are going to be law school graduates who don’t actually practice law. Taught well, though, law school education will still be a useful exposure to the way that the world works and on how to reflect critically and decide wisely in light of competing considerations. This is a little off point, but I keep doing new projects with the law journal and my legislative process course. I want more municipal law in my legislative law course; I am not quite sure operationally how to do that. For Legislative Process we have mock *Robert’s Rule’s of Order*³⁷ meetings, we go to the legislative assembly and talk to the

³⁷ A book written by Henry Martyn Robert. The subject matter discusses how to conduct meetings and how to make group decisions.

clerks there. If we wanted more of our students to be aware of what municipal law is, and how it works, and more coverage of it as scholars, any thoughts on what we could do in that regard?

BB: One would be to have dialogue with our clerk, Richard Kachur. Students at any time can come down here, and also we live stream our city's meetings as well as the EPC.³⁸ It's very different from the other two levels of government. You'll know I don't refer to them as senior levels of government, other levels of government. They have very different rules, it's an adversarial system; there are two sword lengths across the aisle, and there is a formal opposition. There is no ability for citizens, well I shouldn't say no, but I am unaware of any situation where a citizen can speak to a matter being debated by the House of Commons on the floor. Here you can register as a delegate and come down and have ten minutes in front of the council to weigh in - the rules are very different from the other levels of government.

BPS: If I wanted to take a class down here, would the point of contact be your office or the clerk's office?

BB: The clerk's office would be the best. I would love to know because I would love to welcome them. They start at 9:30, usually the last Wednesday of every month other than August. If you are going to arrange something like that just let our office know when you're coming. You just show up.

BPS: With everything I teach, I find it's always one thing to read about something in a book, and a whole other dimension to actually see the people, see the situations.

BB: I would be delighted if students were coming down, I would be delighted.

BPS: I have a huge pile of things I've always wanted to do, and this was on it.

BB: Yeah, let me know, that is great though.

³⁸ Executive Policy Committee.

BPS: That is one thing that we have already lived doing this project so far. You can read the report of the Truth and Reconciliation Commission, but we have interviewed some of the first Indigenous lawyers and people involved in the process in more recent years. Just having a human being tell you more directly and personally “This is what happened and this is how it affected my family, and this is how it is still affecting me,” no amount of reading books is quite a substitute for the direct human contact. One of the things with doing these kinds of oral research projects has taught me is that in law school if you really want to teach some of these subjects it isn’t enough to read a paper, you need to find a way to have actual people telling these stories, as well. One is not a substitute for the other, you have to do rigorous intellectual analysis, but it’s also not as meaningful, you don’t understand as well intellectually unless you actually experience it with people and appreciate the emotional and personal connections.

BB: And everybody has a role to play whether they are Indigenous or not. You don’t have to be Indigenous to make a difference for Indigenous people and you don’t have to be non-Indigenous to make a difference for the non-Indigenous. Everybody can play a positive role. We’re now doing the acknowledgement that we are on Treaty 1 land, the traditional land of the Métis nation, before every council meeting, before every PC³⁹ meeting, before every formal remark, its being embraced by administrators and elected officials of all backgrounds. We do that to acknowledge that we are all treaty people. You look at people like Jamie Wilson⁴⁰ and others who have done great work at building bridges and better understanding, I don’t want someone to feel that just because they are non-Indigenous that somehow they are not valued and they can’t play a role as well. We are all Winnipeggers.

BPS: It’s funny, I think “Poor Brian, he is such a nice guy, and he has to go through all this stuff as a practising politician.” I am sure you get 5 or 10 hate mails a day and so on.

³⁹ Public Committee meeting

⁴⁰ Jamie Wilson is the former Commissioner of the Treaty Relations Commission of Manitoba.

BB: Never, everybody is happy. (laughs) It's by choice.

BPS: I'm thinking to myself, "Brian has lived through law firm politics, and then there is real politics. But at least you've never had to live through academic politics." Then I start feeling sorry for myself.

BB: I knew what I was signing up for; we have a great team here. Most days are fun. It's just like any other job. Practice really did help prepare me though, in terms of the compartmentalization skills to go from one file to another and not implode in the process. To be able to manage stress, to be able to work with others but still be accountable for your own work. One of my first political studies experiences was over in the Drake Centre,⁴¹ you were on a panel. It wasn't a legal panel, it was a political panel of some sort, I think it was like free trade or something like that, I remember going "Well, he's smart, this is interesting." That was one of the exposures that I had to lawyers over the years that made me think that maybe through osmosis I can get smarter, if I get closer to some of these people. It was interesting because seeing you as a professor I was always thinking, "He's the professor," and then seeing you in practice, that was really cool, to actually see you apply things in a very practical way; not many people can transcend those two worlds, I haven't seen anybody do it as well as you.

BPS: Thanks for saying that Brian. I think that real world experience has helped my teaching a lot. It helps me to think about very practical stuff like "Somebody breached my privacy, so I want them to further breach my privacy by suing them."

BB: Take it to a public court.

BPS: As a means to deal with a privacy breach. The dialectic between the two, theory and practice, is very useful to keep in mind as a teacher, and something I try to bring to the classroom.

BB: Do you do the Socratic Method in class?

⁴¹ Drake Centre is the building where the Asper School of Business is located at the University of Manitoba.

BPS: Not as much as I used to.

BB: I always thought that as a professor that would be fun, just the sheer terror in the eyes when you say “What do you think?”

BPS: The problem is that when you go into a classroom and start teaching, people often have little or no background in a topic. So often when you ask “So what do you think the answer is,” the response is something like “That’s my uncertain, or no doubt simplistic, answer, what do you want me to say? I just started taking the course in internet and e-commerce law this morning, what do you want me to think at this point?” I often do lectures and class discussion, and after, student presentations on their own research papers. So I try to get the students very actively involved in those ways, rather than the purely Socratic method. Just asking Socratically in areas where people don’t have much background “What do you think,” you sometimes get “I’m not thinking anything, dude.”

Going back to academic theory versus real world practice, John Eaton⁴² was telling me about a very prominent contracts professor who got hired by a private firm after he retired, I won’t name him, but apparently the practising lawyers used to call him Skippy. Didn’t work out at all because he could never apply all of this stuff to an actual file. You can write the best textbooks in the world, but not everybody can always figure out how to apply them. “Bernie here has a problem, and how do we solve Bernie’s problem using this.”

BB: I know at Pitblado,⁴³ people like Candace Grammond,⁴⁴ and others who are friends, come from very different background. You look at the practice style of Tracy Epp versus Bill Gardner,⁴⁵ very different backgrounds, very different family histories of involvement with the law. What makes them both good is that practical common sense “Yeah okay we can charge you 10, or 20 thousand dollars to litigate, but you’re not getting anything.”

⁴² John Eaton was the former law librarian at E.K. Williams Law Library and former associate professor of Law at the University of Manitoba.

⁴³ Pitblado Law is a law firm in Winnipeg Manitoba.

⁴⁴ Candace Grammond works at Pitblado Law.

⁴⁵ Tracy Epp and William Gardner are both partners at Pitblado Law.

BPS: You can go through more stress being obsessive, pay me a lot of money, and end up more miserable, or we can find something else. That is something that we should be talking about in law school.

BB: The art of settling?

BPS: Basically, my attitude is that you are there as a lawyer to help a person solve a problem, not to win a case, because you can win a case and still lose on the problem. Maybe you get a judgment and you can't enforce it, or you get a judgment and your family hates you, or you get a judgment and now you're bankrupt. We are trying to deal with the fact that you are trying to accomplish some goal or remedy some problem, and what is the most efficient way that we can get you to solve your problem?

BB: That is very similar in politics, "Okay, what are we trying to accomplish here, are we trying to make a statement, are we trying to solve a problem, are we trying to fix a process?" That is the approach we certainly have in this office all the time - practically what is the best way?

BPS: I always thought the best lawyers are not the best-known lawyers, because they solve their problems so well that you haven't heard of them. If you are in court all the time that raises the question, "Why are you in court all the time?"

BB: Yet, you're very well-known... I'm just saying. (laughs)

BPS: Thank you so much Brian, you have been more than generous with your time.

BB: Thank you, Bryan.