Interview with The Honourable Chief Judge Margaret Wiebe*

DARCY L. MACPHERSON, BRYAN P. SCHWARTZ

Darcy L. MacPherson (DLM): Where were you born?

The Honourable Judge Margaret Wiebe (THMW): I was actually born in the UK. I was born in a place called Merthyr Tydfil, Wales.[1] But I'm Irish. My entire family, my mother and family are both from Galway,[2] as are pretty much all of the relatives before them.

DLM: Okay, and when did you come here?

THMW: So, we moved from Wales to Canada when I was seven. I have six siblings, so we're seven kids in nine years. My father came ahead of us by about six months, leaving my mom to travel with seven young kids from the UK to Toronto.

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* Interview conducted by Darcy MacPherson and Bryan Schwartz in August, 2022.

The Honourable Margaret Wiebe was appointed to a seven-year term as Chief Judge of the Provincial Court of Manitoba in 2016, after being appointed as a Judge of the same court in 2012.

Prior to her appointment as Judge, Chief Judge Wiebe served as Senior Legal Counsel on with the Canadian Wheat Board, from 2002 to 2010, and Director of Strategic Planning & Corporate Policy from 2010 to 2012

Prior to her work on the Wheat Board, Chief Judge Wiebe practiced at Thompson Dorfman Sweatman LLP for ten years, and Burgess Law Firm in Brandon for two years.

Her term as Chief Judge ended July 10, 2023, after which she returned to her post as puisne judge of the Provincial Court of Manitoba.

1 Merthyr Tydfil is a town 37 km north of Cardiff, with a population of approximately 48,000 people.

2 Galway is a city on Ireland's west coast with a population of about 86,000 people.

DLM: Oh, boy!

THMW: We landed in Toronto and lived there until I was thirteen. Then we moved to Manitoba.

DLM: Okay. Wiebe is a common name in Manitoba, that's why I thought you might've been born here.

THMW: No, that was my married name.

DLM: Oh, I'm sorry.

THMW: That's okay!

DLM: But you did both your undergrad and your law degrees here at the University of Manitoba?

THMW: I did.

DLM: What drew you to the U of M, was it just proximity, or was it something else?

THMW: It was largely proximity. I did do one year at the University of Winnipeg when I was younger, before I sort of committed myself to university. Then, when I decided to go back, I decided to go to the U of M. That was my university of choice. I didn't really consider, to be honest with you, going out of province to go to university, and frankly wouldn't have had the means to do it in any event.

DLM: And by "means", you are referring to the financial means?

THMW: The financial means, yeah. When I started back to university at the U of M doing my BA, I think we started school on a Monday. I then got married the following Saturday when we were in school. So, we were pretty settled here in Manitoba. U of M was where I went and I was very happy at the University of Manitoba.

Bryan Schwartz (BPS): What was your undergrad in?

THMW: Sociology.

BPS: What drew you to that?

THMW: A keen interest in people. I think just how the human mind works and why people do things the way that they do. The influence of groups and culture, and it just seemed to fit what my interests were.

BPS: Is there something about coming from another country that stirs your interest in standing outside society and asking, "What's really going on here? What makes this work? What's the difference between the rituals and reality and so on?"

THMW: You know, I've never actually connected those two things, but maybe. I recall when we moved here from Wales, in particular, we spoke differently. We used different words for different things. I distinctly remember as a youngster, not really understanding what people were saying, or actually saying the same thing but using different words. A cooker was a stove. A truck was a lorry. An elevator was a lift. Just simple words like that. I didn't know what a sweater was, I only knew what a cardigan was. So, to your point—differences—I've recognized that I never actually connected the two, I think I'm just a creature of human habit.

BPS: It might not only be the individual, but the way people intersect…

THMW: Yes.

BPS: …Present themselves, interact with each other, establish hierarchies. Was there anybody in particular that you found particularly fun or interesting?

THMW: Not that I recall [Laughs]. Not that stuck with me.

BPS: Okay. I was just asking because, for some reason, I've read a lot of sociology. A few of them have been left intact on my way of thinking. Like Erving Goffman,[3] who wrote lots of books about the sociology of everyday

[3] Erving Goffman (1922-1982) was an American-Canadian sociologist known for his

life and sort of alerts you to how ritualized and sometimes how weird we act in our day-to-day. Were you thinking that you would do some sort of career in sociology, or did you always have in mind that was a first degree on the way to something else?

THMW: Yes, it was a first degree on the way to something else for me. I had hoped by that point that I could go to law school, but I didn't know that that was going to be a reality for me. So, I thought it would be just a good undergrad degree. I took political science and psychology courses and I'm trying to think what the name of it was, something like, "The Meaning of Logic," or something strange, to help with your thinking patterns. I tried to position myself to have some good solid courses under me.

BPS: Around that time you would've done your degree, semiotics[4] was a big thing. I don't know if that's what you're referring to. Anyways, so you're already thinking that you're on the way to law school, hopefully. Why was that? What was it that drew your interest in a legal career?

THMW: I think I just always thought it was an interesting career to follow. I didn't really know any lawyers. I didn't have any lawyers that were influential in my life or very prominent in my life. But I always enjoyed a good debate with people [Laughs]. So, the suggestion was made, "You'd make a good lawyer if you like to" – I'll use the word "debate," but the word "argue" might've come up a time or two.

BPS: I'm sure it helps to come from a large family, where having a whole bunch of siblings would nurture interest in advocacy, argument, so on and so forth.

THMW: It was a survival need, Bryan [Laughs]. In a large family, you had to learn how to advocate for yourself pretty quickly.

DLM: My mother comes from a family of seven, my father comes from a family of twelve. They always said that birth order and how much you had

studies on the rituals of social interactions and face-to-face communication.

4 Semiotics is a field of study related to the interpretation and use of signs and symbols.

to argue or do stuff depended on where you were in the order of things. Where were you in the order of things?

THMW: I was, every way you slice it, the troubled middle child, as they say.

DLM: [Laughs] You were fourth of seven?

THMW: I was fourth of seven, I have two older brothers and two younger brothers, one older sister, and a younger sister. So, I was right smack in the middle. And I believe that birth order does have an influence on not only how much you advocate, but other areas of your life, for sure.

DLM: Okay. We all tend, in these professional circles, once we identify ourselves as this professional, many of the things we talk about tend to be related to that, right? Once we hit law school, "I'm going to be a lawyer," or "I am a lawyer," when people ask us about ourselves, we tend to talk about those things because they're pretty big milestones. But I also like to ask this question: tell me an interesting story about yourself from prior to law school.

THMW: I had a hard time coming up with a story that I could or would share [Laughs].

DLM: We can skip it [Laughs].

THMW: I actually have a great story pre-law school, but it still is somewhat related to law, I suppose, and I'll tell it to you, and you can decide what you want to do with it. I was doing my B.A. – I mentioned that I was taking some courses that I thought would help me in law school – I took a course called, "Criminal Careers." What they did was they placed everybody in the class somewhere in the criminal-justice system. My placement was at Rockwood Prison.[5] Having never been to a prison before, I wasn't quite sure what to expect. The idea was that I would go, and I would spend time at the prison and meet some of the inmates and people who worked there and get some idea about that aspect of the criminal-justice system. I show up for my

[5] Rockwood Institution is a federal minimum-security prison located 24 kilometers north of Winnipeg built in 1962, adjacent to Stony Mountain Institution.

first day and I get shuffled into the warden's office, who sits me down and explains to me the three things to remember: dress appropriately, which includes appropriate undergarments; do not wear a skirt; and always stick with the guard who's going to be with you. I'm thinking, "Okay, I can do all those things." I then go with the guard, who's to stay with me the whole time, and he takes me over to one of the outbuildings, which is where a group of inmates are going to do a life-skills course. The rule at Rockwood for the inmates, was you ha to show up for your courses or your classes or whatever your assignment was, and if you didn't then there were some disciplinary things that could risk sending you back to Stony Mountain.[6]

So, we go in. It was actually quite a nice building with a big boardroom. I went in and I somehow ended up sitting against the window at the very, very far end of the room, the furthest away from the door. Eleven of the twelve sit down, who are supposed to be there, and inmate number twelve is missing. So, the guard goes to find inmate number twelve, and when the guard left to find inmate number twelve, one of the inmates got up and he locked the door. So, I was sitting at this boardroom table with eleven inmates, on my own, and nobody said a word. Nobody said a single word, for, I'm telling you, two minutes, three minutes. I was just sitting there contemplating, "What could possibly go wrong?" Anyway, I didn't say anything, I just looked at them, and they all just looked at me, and finally the fellow who had locked the door – and you're going to excuse my language – said, "So, how do you feel?" I just looked him straight in the eye and said, "I am scared shitless." He just looked at me, didn't say a word, got up, unlocked the door, came back and sat down, and he said, "Good. Because that is how we feel in here all the time, and it's good that you have an appreciation for that." So, that was my introduction to the criminal justice system. It was fantastic. Part of me wanted to just bolt and run, but I stayed, and it was probably one of the most profound courses I have ever taken. I worked with this group of inmates and they had some interesting stories, some tragic stories, but it was a fantastic experience.

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6 Stony Mountain Institution is a federal prison comprised of Minimum, Medium, and Maximum-security facilities. It is located 24 kilometers north of Winnipeg.

DLM: Great. Now, can I just go back for one second? So, you did one year at the U of W, and then took what some kids refer to today as a "gap year," essentially?

THMW: A few gap years, yeah.

DLM: And then you went back to school?

THMW: I did, yeah.

DLM: We move onto law school then. You decide to remain at the U of M for law school. Do you think the transition was easier for you because you'd been at U of M for a number of years as an undergrad, or was it just, "This is a whole new frickin' world?"

THMW: I think a little bit of both. I was familiar with U of M, obviously, so that was great. I had snuck over to the law school during undergrad just to look at the people who were there [Laughs]. But once you get into law school, it's completely different from being part of the rest of U of M, because it's its own world unto itself. I think the beauty of it, particularly with the class sizes, is it's just such a fantastic community of similarly-thinking people with similar interests. It became its own world, where there's not a lot of reason to go outside of Robson Hall except for the carrot muffins that you could get next door.

DLM: At University College,[7] right?

THMW: Yeah.

BPS: In those days, I think we divided first-year classes into three or five groups. People for the rest of the law school experience would very strongly identify with, not only the first-year class, but a core group of people they were very familiar with from the first-year experience.

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7 University College is an interdisciplinary building adjacent to Robson Hall on the Fort Garry campus of the University of Manitoba.

THMW: Yes. You divided us by alphabet. I think you only divided us into two, and then for some of the other classes it may have been smaller. But, yeah, we were divided by alphabet, and I still have great friends from that group. You're right, that core group that you started with played a very prominent role in your law school experience, all the way through.

BPS: When you started law school, did you have some idea of which particular branch of law you wanted to practice? Frequently people come in, "Oh, I want to do commercial law, I want to do criminal law." And, frequently, whether it's serendipity or whether it's actually studying a subject, they often end up in a very different place they thought they'd already resolved upon. Did you come in more like, "Let's sample everything and see what works"? How did that work for you?

THMW: I think I felt like criminal law was an area that I was interested in. To be fair, I think it was what I was most familiar with. And when I say familiar, it's TV, it's what you hear in the news, more often than you hear of litigation or corporate/commercial. You're absolutely right, as I went through law school, criminal became much less of a focus for me than some of the other topics, and when I articled, I articled at a firm that didn't even have criminal law as a component of your articles. It did absolutely change what I thought I was doing, although I would say I wasn't firmly embedded in, "I'm going to be a criminal lawyer."

BPS: If you were talking to somebody who's starting law school now – I don't know how to answer this question – but if you could tell them something that we don't really talk about in law school, but that everybody should know … the difference between reality and law school, or something you find out about the experience of being a lawyer, is there anything or any particular things you would advise somebody to talk to law students nowadays? In our express curriculum we teach doctrine, but is there something…

THMW: I think I would say to people to not be married to some preconceived idea of what you think it is you're going to do, and to allow yourself to have the broadest experience and the broadest exposure that you can, because you honestly don't know where you're going to end up. I'm completely reflective of that, in that I made many different changes during

my career, mostly because I was open to opportunity and open to trying new things. I think that is something that if people remain open, that they provide more opportunities to themselves down the road.

DLM: I'm almost tempted to jump straight to your legal career, because you've led me nicely to it with that segue, but there are a couple of other questions that I wanted to ask about. What was your favourite law school class, and why?

THMW: That one's easy for me. It was Property and it was because of John Irvine,[8] not because it was property [Laughs]. I just, like everybody else, found him to be fantastic. A fantastic teacher. Every day when he walked into class — just wearing the clothes that he wore, just right off his farm, carrying such a passion for that part of his life as well, and teaching the way that he did —I just loved listening to him, and I found him very easy to learn from. So, Property definitely would be one of my [favourites].

DLM: What's the most important lesson you learned in law school, whether inside the class or out of it?

THMW: I would say the most important lesson for me was to use your time wisely. To give that some context, when I started law school, my oldest daughter was eighteen months old. Three weeks before I started third year, I had my second daughter, and I did discuss with the university whether I should take a year off and decided not to. When I went to the law school to study or when I had time at school, I had to use the time that I had–that my husband and I had assigned, sort of, to that time to study and work for that purpose. So, where my classmates could be hanging out and they'd be there studying, but then they decide, "Okay, let's just go to a movie, or let's go out and do this," that was one thing I couldn't do, because I couldn't get the time back, because very happily, I had these other commitments. So, using your time wisely is something that has always stayed with me. And that's not to say I don't procrastinate every once in a while, because I do. But I know that if you set aside the time, you try to use it properly.

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[8] John Irvine is a professor at University of Manitoba. He has been a professor at University of Manitoba since 1975.

DLM: Right. So, we're going to move onto your legal career. Am I right that you started your legal career at TDS?[9] Because, you spent some time in Brandon,[10] right?

THMW: Yes.

DLM: But I wasn't clear on the order. Was TDS first, or later?

THMW: TDS first. I articled at TDS and I actually had two corporate-commercial principals and two litigation principals, and I ended up doing the litigation. I worked with some amazing people. Al MacInnes[11] was my primary principal at TDS. I worked with him, I worked with Gord McKinnon,[12] Bill Gange,[13] later on, Bill Olson,[14] so I was very fortunate. I was there about eight years, I would say. Then, my then-husband, had an opportunity to accept a job in Brandon. We thought about it for a long time, because we had a pretty good thing going in Winnipeg, but we did also have a nanny who was coming in at seven o'clock in the morning and leaving at six or seven o'clock at night. Our kids were young and we just thought, "Maybe a move to Brandon would help us on the family side a bit more."

DLM: On what we now call work-life balance.

THMW: Yes, what we now call work-life balance. So, we moved to Brandon. That was when I went from a big firm, at TDS, to working at a three-lawyer

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9 Thompson Dorfman Sweatman LLP is a law firm in Winnipeg, Manitoba.

10 Brandon is located 214 kilometers west of Winnipeg, with a population of about 50,000 people. It is the second-largest city in Manitoba.

11 Alan MacInnes currently provides mentorship and guidance to lawyers at Thompson Dorfman Sweatman LLP. He was appointed a part-time judge of the Provincial Court of Manitoba in 1978, to the Court of Queen's Bench as a Justice in 1992. He was elevated to the Manitoba Court of Appeal in 2007, retiring from that Court in 2018.

12 Gordon McKinnon is a Partner at TDS specializing in civil litigation and administrative law.

13 William Gange practices law with Gange, Collins and Associates in Winnipeg, Manitoba.

14 E. William Olson was a partner at TDS when he passed away in 2020. He was highly recognized in the areas of insurance law, construction law, labour and employment law, alternative dispute resolution and commercial litigation.

firm – myself being one of the lawyers – with John Burgess[15] in Brandon. He did the commercial work, I did the litigation work, and there was another lawyer who did the criminal work. I stayed there for about eighteen months and there's a lot of positive things about it, but ultimately it was not the right move for me. So, I phoned TDS and said, "If I wanted to come back, what would you think?" and they said, "you're welcome to come back." I'm grateful to them. So, I went back[to Winnipeg] and I went back to work at TDS.

DLM: Now, at some point you transitioned into corporate/commercial work, right?

THMW: I transitioned to the Wheat Board,[16] which had more of a corporate/commercial focus, I would say, but I still did more of the litigation work, but other work as well. I went to the Wheat Board because it looked like a fascinating opportunity. They actually advertised for a corporate-commercial lawyer, which I did not consider myself to be. I talked to the General Counsel there and said, "I'm not sure I'm a fit, but it looks like an interesting job." He said, "Well, throw your name in anyway," so I did. I did that because I just thought, it was a billion-dollar venture through the Wheat Board, but they did all kinds of law that we didn't typically have a chance to work in, in Winnipeg. A lot of transportation law, shipping law, international-trade issues, very fascinating work. That was attractive to me and I like a good challenge. Knowing absolutely zero about grain, I thought it would be an interesting change, so that's what I did, I jumped into that position.

BPS: Times have changed in the profession. When you were in the early stages in your career, that was still a time when there were litigation giants. I'm not saying there aren't very capable people now, but a lot more stuff is resolved through mediation and so on and so forth. Those days, yeah you

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15 John Burgess currently practices law at Burgess Law Office in Brandon, Manitoba.

16 The Canadian Wheat Board (CWB) was a marketing board established in 1935 and headquartered in Winnipeg, Manitoba. Until 2012, the CWB was the sole buyer of wheat and barley in Manitoba, Saskatchewan, Alberta, and parts of British Columbia, after which it was transitioned to a voluntary, private organization.

had these charismatic figures: Mel Myers[17] and D'Arcy McCaffrey.[18] Was there somebody at TDS who was one of those charismatic litigator types?

THMW: Al MacInnes, who was my principal. Bill Olson. There's a ton of fantastic [people]. Bill Gange, Gord McKinnon, Blair Graham.[19] There's a lot of fabulous litigators there. So, yes, I learned a lot from every one of them.

DLM: Did you run a lot of trials, or did you not get senior enough before you left?

THMW: I was usually second chair. For the trials that I did on my own, they would've been trials that were not as significant. But I did get to work on some big files alongside some more senior counsel. It's funny because at those big firms in the day, it was very much for the first while, "carry my bags. Sit, watch, listen, and learn." That's what I did. I do remember [Laughs] Gord McKinnon letting me lead the prosecution of a veterinarian at a fairly junior age, and that was a fantastic experience.

DLM: So, you did professional discipline trials?

THMW: We did some professional discipline trials, as well, yeah.

DLM: Alright. I also found it interesting that you did your MBA[20] while working at the Wheat Board. Did I have that right?

THMW: Yes, you do.

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17 Mel Myers is a lawyer in Winnipeg, Manitoba, with expertise in both labour and human rights. He has served as the Chair of the Manitoba Human Rights Commission, and the Chair of the Automobile Injury Compensation Appeal Commission. He was a partner in the Winnipeg firm of Myers, Weinberg LLP until his retirement in 2001.

18 D'Arcy McCaffrey was a lawyer in Winnipeg and co-founder of Taylor McCaffrey LLP. He died in 1998

19 Blair Graham currently works in Winnipeg as an Alternative Dispute Resolution Professional. He was also a partner at TDS from 1987 to 2012.

20 Master of Business Administration.

DLM: You're already a lawyer, you've been at the small firm, you've been at the big firm, and you're at a billion-dollar public enterprise, and you still have kids that are under the age of twelve – I'm assuming at this point – and you decide, "What I really need now is to go back to school?" [Laughs]. I say that admirably by the way.

THMW: Some days I think it was admirable and other days I think it was absolute insanity, and that's probably the reality of what it was. At the Wheat Board, there was myself, Jim McLandress[21] was General Counsel who's around my age, and Dayna Spiring.[22] The three of us had the best little law firm going. Jim, as General Counsel, was not going to go anywhere, fairly enough. I was Senior Legal Counsel, but I knew I wanted to do more than that. I wanted to be more involved. I had had the discussion, with Jim and others there, that I would probably start looking elsewhere, because I had other ambitions to do something else. At the same time, I was always very intrigued and interested in the business end of Wheat Board, the strategic end. I loved those parts of discussions, so I thought an MBA would be an interesting undertaking, because of all those interests. The Wheat Board didn't really want me to leave, and I really wanted to do an MBA, so we came to an agreement that I would do my MBA, they would support me through it, and then when I finished, I would move on to the business end of the Canadian Wheat Board, which is what I did. So, after I finished my MBA, I became the Director of Strategic Planning and Corporate Policy for the Wheat Board, and I still was a practicing lawyer and was involved in some of the legal aspects of it. I was also very involved in some of the international issues surrounding the trade of grain and strategic planning for the Wheat Board and corporate policy. It was pretty interesting.

BPS: Just one connector before we pick up the narrative. You were at TDS, you were mentored by – the list you gave is an incredible group of professionals – what was the origin of the transition from private practice to the Wheat Board?

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21 Jim McLandress, KC is currently a lawyer, mediator and arbitrator in Winnipeg. He was formerly the Chief Legal Officer at Vexxit.

22 Dayna Spiring is lawyer who was formerly the CEO of Economic Development Winnipeg.

THMW: Bryan, honestly, it was just one day reading an ad that was in the paper where there were just all of these areas of law that I thought I wouldn't have an opportunity to be exposed to and to work in. The international aspect really intrigued me and I just thought it was something I would look into. Having looked into it, and throwing my name in, I didn't know whether I would get it or not. But it took me down another fantastic path for ten years. Up to that point in my career, I felt, honestly, quite blessed. I had a fantastic career at TDS with great people. My experience in Brandon was also very good, but in a completely different way.

To say the Wheat Board was a fascinating place to work is an understatement, because it was a very political place. I didn't know that really when I joined. When I say "a very political place," it was subject to a lot of politics, and there's always internal politics, of course. It also had one of the most highly educated workforces that I had seen, because of the grain industry., There were many, many graduates from the U of M, and the University of Saskatchewan … so people very passionate about the role that the Wheat Board played in the grain industry. It operated on an international stage and gave me the opportunity [to travel]. I traveled to London, Brussels, Japan, Australia, doing work for the Wheat Board. It was fascinating.

DLM: My dad traveled a lot for work and it was challenging for him. He found it very difficult in a lot of places. You know, when you'd be gone for two weeks, just to reacclimate with relatively young kids. What was that like for you, that international travel? Did reacclimatization to Winnipeg - was that a thing that you dealt with?

THMW: Not really, because my travel was not on a weekly or monthly basis. We would have these trips a few times a year. I mean, there's no doubt that being away for a week or ten days has an impact on your family. I don't know that I had to get back into the fold when I came back, I wasn't really gone for that length of time on my travels. But I had a very, very supportive partner who – there were no domestic lines between what the jobs for each of us was – and he jumped in, in a big way, all the time.

DLM: Can we move onto your judicial career?

THMW: Yes.

DLM: You spent ten years at the Wheat Board. I know you did litigation, you were more on the litigation side than other things, but you also did the business development side of things near the end of your time with the Wheat Board. My experience in corporate/commercial law taught me that the biggest goal was "Get the deal done." Keeping everybody happy, or at least satisfied, with the deal, was part of the job. You didn't want the other side to sign the deal and hate your guts for it, because that would create problems later on. But, being a judge, you don't get to keep everybody happy, that just doesn't enter the equation. Was that a shift for you?

THMW: I think it is a shift. I think anyone who goes from practicing, whether it's corporate-commercial, or a litigator, or Crown or defense lawyers, you're an advocate. You're always advocating for one side or the other, and in a commercial deal you're advocating for, as you say, your client to get the best deal you can get for them.

The shift in being a judge is you have to sit much quieter, and you do not advocate, obviously, for one side or the other. It does take getting used to, and you do have to put your head in a different space. Because I didn't come from a criminal law background, I think that happened a bit more easily for me, because I sat and listened and didn't say anything–didn't say much–because I was still learning my way through what the role was, to be honest with you. Even now, in the position that I'm in, I say to new judges, "You've got to give yourself at least a year to find your judicial persona and to learn how to be a judge." I think that applied equally to me when I did that transition.

BPS: Just to back a step, we went from Wheat Board to Darcy asking about some of the differences, but was this another, "Oh, I saw an ad and I figured, 'let's try something new?'"

THMW: [Laughs] What was the impetus?

BPS: Yeah.

THMW: So, it had been suggested to me that I put my name forward a few times before, and I had not. I was having a pretty good time at the Wheat Board. I was in a role that I really enjoyed. It was a very vibrant place to be and to work. But, that changed, and the Wheat Board – there's a long story of the history of the Wheat Board, and some of it, I'm sure, yet to be written – transitioned from the entity that it was, to a different entity. The federal government changed its mandate and there was a real period of unrest, very public unrest – demonstration, gag orders, very political temperature, towards the end of my time there.[23] It wasn't the place that I had come to when I first started there, and it wasn't going to be that same place going forward. So, it was an opportunity to transition out and to be transitioned out and to do something different. I considered what my options were, and I knew, having been at the Wheat Board – and as I say, it was such a fascinating and invigorating place – I knew I needed a challenge, and that I needed to be able to do something that was going to be different from what I had done before. And, I loved to learn, I really am a lifelong learner, so I decided I would put my name forward.

DLM: You talked about a judicial persona. So, you're different when you go to work, than you are when you're at home? I'm just curious what you mean by that, because I think it's probably true. I've experienced that with other people I know in other professions. When they go to work, they behave in a particular way, because this is how you do "XYZ", whether it's social work or whatever. They're very different than they are in the rest of their lives. I wonder what you see as either your judicial, or the general persona that comes with putting on the robe.

THMW: I think your fundamental underlying personality is the same, I'll say that. I don't think you become a completely different person when you put on the robe. Having said that, I do think that you have to find what you're comfortable with in terms of how much you interact with the people who are in front of you, how you word things carefully and diplomatically,

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[23] The Canadian Wheat Board, which was initially established as a monopsony in 1935 (the sole buyer of wheat and barley in the Prairies) lost its marketing power in 2012 when the Harper Government passed Bill C-18, *An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts*, 1st session, 41st Parl, 2011 (as passed by the House of Commons 15 December 2011) which established a timeline for its eventual privatization.

where in your home life you might be a little less conscious of the words that you use. I think you have to be mindful that the people who appear in front of you are watching you and picking up on cues that you may not necessarily know that you are giving. So, when I say a "judicial persona," I mean that you have to find your comfort zone in sitting in your robes and portraying all of the things that we swear that we will do when we become a judge: how we maintain our impartiality and how we reflect our independence; how we communicate; and when we communicate. I think all of those things, Darcy, go into what I consider to be a "judicial persona."

BPS: There's an essence of the performative part of the whole system. We could do judging in garages, but we don't. We do it in fancy marble buildings, and there's a reason for that. There's a reason you put on robes. There's symbolism, there's emotions, and so on, that are evoked in various ways, the architecture, the garb. The point you make about reading things into it, that sounds right. I mean you want to be a human being on the Bench, but if you've got habits like staring away while somebody is talking, that might be you thinking, but you've got to think about, "Well, does the litigant think I wasn't paying attention?", or if you were looking up at the ceiling while somebody was talking about somebody else, does that mean you were listening to somebody more than the other? We all do things that we don't know we do, and I would think, "Yeah, there must be a learning curve there about the difference between what you're actually thinking and the way you project." But, how do you get the feedback as to what you're projecting? How do you learn what people are misunderstanding, or are impressed by?

THMW: I think that's a very good question, and I think that some judges will say to you that they don't get feedback, and they don't get enough feedback on how they are perceived. But, you do ultimately get feedback because there are people who will talk to you, whether they're other judges who somebody made a comment to, or – the clerks are great [Laughs] for telling you how other people think you're doing. That is an area where I think some people would like more feedback. How are they perceived as a judge? So, you don't always get the feedback. Just to be clear, it's more – the habits you have and the mannerisms that you have are important – but, fundamentally acting in a manner that allows people to be confident in the decisions you are making, that you are making them independently, that

you are impartial, that you have listened to them, you've heard them, whether you agree with them or not at the end of the day, but you have heard what they have to say. All of that is fundamentally important to the public having confidence in our judicial system.

BPS: It sounds to me like one of the things you said, about being a lifelong learner, would be a useful temperamental thing to being a judge. One of the things you want to project – it's easier to do if you're actually feeling it – is, "I'm interested in what you have to say." You went through many job transitions, different educational experiences – at least three, right: sociology, law, business. So, you're always learning stuff, so just by character and temperament, it sounds to me – obviously you're a doer – you're learning things, listening to people's stories comes to you more naturally as a judge than I think it would come to some people.

THMW: That may be. I had been in leadership roles before, so you learn in meetings when to talk and when not to talk, when to make your point and when not to make your point, when to emphasize and when not to. So, I think that kind of experience probably assists you when you get to the Bench, but to be very candid, and as everybody knows, once I was appointed--because I'm sure they all Googled me, thinking, "Who the heck is this that's been appointed to the Provincial Court?"--They knew I didn't have much criminal-law experience, really not much at all, and so when I would go into court, I was very studious and I did listen very carefully. And counsel were very good to me. They would say, "Your Honour, we're requesting this, and you will know that that is in section so-and-so of the *Criminal Code*,"[24] and I would say, "Oh, thank you." If they didn't say that, I would just say, "Counsel, my jurisdiction for what you're asking is where? Point me in the right direction." I was not afraid to ask the questions that I needed to ask. I made a decision from very early on that I wasn't going to pretend I knew things that I didn't know, and that I would take a minute to figure out what I had to figure out, and counsel were very good to me in that regard. I think that that helped. I think just being okay with not knowing everything, and being okay with acknowledging that other people didn't know everything at the start, helped a lot for me.

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24 *Criminal Code*, RSC 1985, c C-46.

BPS: Was it a challenge adapting to the responsibility? You had many responsible positions, but it's not quite the same as deciding how long someone is going to stay in a correctional facility. And earlier in the interview you mentioned being introduced to inmates. Interestingly, we had another interview[ee] who also had, early in their career, the experience of actually seeing a jail from the inside, by way of professional observation, and it had an impact on them as well.[25] But, now you're deciding on six months, two years, five years – that sounds, to me anyway, [like] that's heavy. How is that for you, getting used to it, having that level of responsibility for intervention in people's lives?

THMW: I think that's probably one of the biggest responsibilities and sometimes one of the most difficult to deal with. Once you decide that somebody is guilty, what is the appropriate sentence? Thankfully, we have a lot of case law that you can look to that's going to assist you in what an appropriate sentence is in all of the circumstances. But we also have *Gladue* reports[26] and pre-sentence reports, and personal circumstances. I don't have to tell any of you that sentencing is a very individualistic exercise, and it's more of an art than a science. Yes, it's not the easiest part of the job for sure. I hope, on some level, we don't ever get complacent about it, because every single person who appears before you deserves the benefit of having that thorough analysis and proper consideration given to something that is a life-altering experience for them.

BPS: I just want to pick up on a point you just made. You first started judging and you're learning stuff, and you're intently interested in understanding the mechanics. After you've been there for a while, you've been doing it for a long time, lawyers are going to say the same things you've heard fifty times before. An offender is going to tell you, "Yeah, I'm sorry, I'm sorry," whatever it is they're encouraged to say by way of indicating remorse. How difficult is it, or did you ever find it a challenge, to do

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25 Darcy L. MacPherson & Bryan P. Schwartz, "Interview with the Honourable Raymond Wyant", Man LJ [Forthcoming in 2025] ["Wyant"].

26 *Gladue* Reports outline "the special consideration that judges must give an Aboriginal person when setting bail or during sentencing." (See Jay Istvanffy, *Gladue Primer* (Victoria: Legal Services Society, 2011) at 3.) These reports were established based on Section 718.2(e) of the *Criminal Code* and the decision of the Supreme Court of Canada in *R v Gladue*, [1999] 1 SCR 688.

precisely what you talked about, which is getting up every day and saying, "I have to treat this like the first case. I have to be just as interested, just as attentive, just as diligent?" Is there a burnout thing you have to struggle with, or a routinization you have to struggle with?

THMW: I think that you have to guard against that, but that is a very real risk. When you're in a sentencing court, you're doing sentencings one after another. There are times when you have to really concentrate hard, not to get this case mixed up with that case. And, if you need to take a minute, then you have to take a minute. But ultimately, you do focus on what's in front of you. I can only compare it to a doctor. They may do five-hundred appendectomies, but they've got one in front of them at the moment. And the one in front of them is the one that they're focused on. I recognize there's always differences in cases. There's no *pro forma* application of the sentencing principles. You have to look at them and consider them. What do they mean in this case? What does his background mean as it applies to the principles that I have to consider? Every case, ultimately, is different in some way. When you've got a big, heavy workload, particularly in Provincial Court, it definitely can be a challenge.

DLM: You came to that challenge, as you said, with relatively little criminal-law experience. A modicum of litigation experience in the civil realm, but very little in the criminal side of things. How much work did you have to do to get ready to do that every day? Were you reading files in a way that was different than you think the people who were born and raised and weaned on criminal law can look at a file and just, "Okay, I've got the guts of this thing" in a three-minute read. How many cases did you take home at night for the next day, going, "Okay, I really need to do some work here."?

THMW: For the first long while, many. Many. I read all the time. Before I actually put my name in to be a judge, I actually researched what that meant. "What does it mean to be a judge in a criminal court?" "What do you do?", "What are the important cases?" "What do the cases say?" I read them to try to figure out what the role was, but I read them to see if I thought it was interesting, because I didn't want to put my name in if I did not think it was going to be an interesting job. Then, when I was appointed, it is overwhelming, because it is a different world. Thankfully, we have a very good program here where you shadow judges before you sit. Some people

for longer than others, there's been a few judges that are ready to jump right in from their criminal experience. So, you shadow, and you ask questions, and you listen, and I read. I read and I read and I read. My colleagues were very good to me and many of them have what we call, "bench books," that have all the fundamental and important cases, principles, precedents, it breaks down how they analyze things. I read all of that. We still do a lot of that on an ongoing basis. So, the law, as you guys know, is ever-changing, so we have to continue to read and to learn. It was a steep learning curve, but it was a very worthwhile learning curve, and I'm still learning.

DLM: Let me hit you with a bit of an easier one. What's the best thing about hearing cases?

THMW: The best thing about hearing cases, I think, if you are a creature of watching human habit, is hearing the stories and hearing the impact on people's lives, trying to sort of put that all together and understand properly what's happened. Darcy, I'm going to be honest with you, that's a hard question and I think it's very hard to communicate properly the answer, because it sounds like I'm sitting watching a play – which, you sort of are. So, when you say "the best thing" about the cases, I think it's the privilege of trying to understand and put together the pieces of a story. But, in our court, those stories are often quite sad and tragic, so the word "best" throws me off a little bit.

DLM: I understand. You're not saying it's great that these people have found themselves in front of you, but for you, the story is the thing that grabs you.

THMW: Yes, the story, and sort of being able to put together the pieces, letting people be heard. It's a very important part of our process.

BPS: The play metaphor, that seems to me, that's about right. A play is a very stylized . . . presentation of a series of events. It seems to me the courtroom is too, right? You never get to hear the whole story, because we've got rules about evidence, rules about materiality, and so on and so forth, excluding some things. Very frequently, you're not going to hear from the accused, who knows a lot of the story, but you never actually are going to hear directly what their side of the story is. Do you get a sense that, in our

system, there's a significant difference between what really happened, and the stylized, filtered way it's presented in our system? By the time it's finished, does an impartial jury have a pretty good sense of what the story is? Any thoughts about that?

THMW: I think in most cases, by the time it's done, you have a pretty good sense of what happened, accepting that you maybe don't have all of it. Because you can sit there and a question will pop into your head, and it doesn't get asked, and then you just go, "Okay, well that's not going to be part of it." So, you have to have enough to make a decision, and if you don't have enough, that also helps you make a decision [Laughs]. By the end of it, generally, I would say you have a fairly good idea of what the story is. I will also tell you – and this also goes back to when I was a new judge – initially, you walk into court, and the lawyers just start. So, there's no context. You don't have a file. You know this is maybe a sexual assault or this is an aggravated assault trial. That's all you know, going in. So, initially I would sit there – and I'm a note-taker, I'm a mad note-taker – I'd be taking notes, taking notes, and I'd be saying to myself, "Okay, that's the issue." We'd be going along and going along and, "Oh, no, no, that's not the issue." So, I keep writing and keep writing, and, "Okay, well that must be the issue." And then I'd realize, "No, that's not the issue either." So, I'd be going along and it'd occur to me, "I have no idea what the issue is here. What's the problem?" So, when I go in, I just started asking at the outset, I'd say, "Counsel, Crown, give me the Coles notes of what I'm going to hear. How many witnesses are there? What are they going to tell me? And Defense, if you want to say anything, that's fine, and if you don't, that's fine as well. But tell me what I'm dealing with." It made a huge difference to me, because I knew then, "What am I supposed to be focusing on?" If identification is not an issue, then I don't have to focus on all of those things that go into a proper identification. So, it was helpful for me to put together the story and have an outline of the story before I started.

BPS: In that regard, in terms of the activity as a judge, you could be hearing both sides of the story that counsel choose to present, and sometimes, for very good reasons you don't know as the decision-maker, each side doesn't want to bring out a certain part of the story. It happens, right? The Crown might not want to bring it out for some reason, the Defense for another reason. What's your view of that? Does the judge basically deal with the case

that's presented by both sides? The judge is thinking, "Well, there's part of the story I haven't heard about, should I be asking?" What's your view of that?

THMW: I'm going to say, generally, you deal with the story that you are given and the facts that you're given. I think, occasionally, there's room to ask questions on certain things. And I can't give you a category of what that is, but there may be times where if something just doesn't make sense, I would probably ask and just say, "I am not understanding this piece of something, so can you help me?" Their response may be, "Well, we're not going there," which tells me something. Or, they may realize that whatever they're trying to communicate is not working, and they're going to have to shift a bit to get that information in front of you. But I think you can't be – this goes back to the beginning – you have to decide what your persona is. You don't want to have the judicial persona where you're interfering, or seem to be interfering, with somebody's case. There may be reasons they're not putting something in front of you. Sometimes I think you just have to accept that's what it is.

DLM: I've always said – and I worked alongside Provincial Court judges for a while when I worked for the Provincial Court in my home province of PEI when I was in law school – that I think that Provincial Court judges hold more law in their head than any other judge that I've ever known. You guys deal with multiple decisions, typically, in a day. Seven sentencings in a morning and a trial decision in an afternoon if you need to, bails, and other things. Is my perception accurate from your point of view, and what other characteristics do you think your colleagues hold in abundance, because of the things that they deal with so regularly?

THMW: First of all, you're right. They hold a ton of stuff in their heads. They know a lot of law. The longer you've been here, the more that you know. Because we practice mostly criminal law, it is a specialized area of law. We have a bit of an advantage, in that, some of the stuff that we see is going to be repetitive, so you're able to deal with that. But, the word, "multitaskers" is probably underrated. The ability to separate out one thought and one case from the next, because that's exactly what they do, every day, sometimes several times a day. So, they're super-dedicated, committed, bright people who really want to ensure that they've got the law

straight and that they apply it properly, so they do hold all of those things in their head at the same time. I will tell you this is an incredibly impressive Bench. The quality of the judges here, their work ethic, their commitment to issues around access to justice and giving people a fair hearing, letting them know they've been heard, it's outstanding. They really are incredible hard-working people.

DLM: Terrific. Okay, I'm ready to move onto your position as Chief Judge, if that's okay.

THMW: Sure.

DLM: Great. So, after four years on the Bench, you applied for and were selected for the job of Chief Judge by the Attorney General. When you started this job - and you're six years in now, I think?

THMW: Yes, just over six years as Chief.

DLM: - What was your greatest ambition for this role? I use "ambition" advisedly, I don't mean it in your being ambitious, but I think you have done some things - and we'll get into that in a minute - in this role that a lot of people would have considered to be very ambitious things to take on. When you took this job, was that what you were thinking? "I want to get this done, that done," or was it just, "I want to serve in a different way, this is an opportunity that's there?" So, was there a grand plan that you were trying to formulate for yourself, or was it something else?

THMW: No, I think I thought that the combination of the experience I had accumulated as a judge and my previous experience, particularly on the strategic-planning side, and sort of corporate-policy side, could be married together so that I could contribute to the administration of the Court. I did really want to focus on continuing this Court of excellence, and sort of improving some of the efficiencies around the Court to make it run a bit better. I also saw that, particularly in the North, we didn't seem to have the resources that we needed to do justice in the North the way that it should be. So, I thought it was important to increase the resources and be able to expand our presence there, to be able to increase access to justice for people

in the North. And I was interested in increasing - I'm going to say - the administrative independence of the Court.

DLM: Okay, there's some of these that you've actually done a fairly public job in accomplishing, or at least putting those things very much on the table. Let's talk about a couple of them. The first is, when you were coming into this job, the process had already been started to look at whether we could reduce the number of preliminary inquiries that were taking up a lot of court time and adding to a lot of delay – well, "delay" is a loaded word, but, adding to the time that it took to trial is perhaps the less loaded way to put that – at that time.[27] You and your predecessor, and the other Chief Justices worked quite hard on getting us over that finish line. Do you want to talk a little bit about that?

THMW: Yes, so that was a very, very interesting time. The kind of discussion we wanted was to have a pilot project in Manitoba that would reduce the number of prelims [preliminary inquiries] that were occurring in the Court.[28] Of course, that's also efficiency-driven. But I think by that point in time, the disclosure obligations on the Crown were far more extensive than they were in the past.[29] The reality was that the bar for committal after a prelim is pretty low. I saw value in the discussion and at the time I was involved in it, there was consensus among the three Chiefs and the then-minister, that that was something that was worth taking a look at and seeing if we could move forward. So, we wrote to the Federal Minister of Justice to open up that conversation and see if we could have a talk about that. It wasn't without controversy, as you know.[30] A couple of things, I think, flowed from that, for me. One was that I had to learn how to deal with

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27 See Laura Glowacki, "Manitoba looks to get rid of preliminary inquiries to deal with court backlog", *CBC News* (24 February 2017), available online: <https://www.cbc.ca/news/canada/manitoba/manitoba-preliminary-hearings-pilot-1.3998883>.

28 *Ibid.*

29 See eg *R v Stinchcombe*, [1991] 3 SCR 326, where the Supreme Court established the Crown's legal duty to disclose all information relevant to the case to the defence.

30 See Mike McIntyre, "Anonymous complaint of 'backroom political lobbying' against top Manitoba judges dismissed", *Winnipeg Free Press* (8 June 2017), available online: https://www.winnipegfreepress.com/breakingnews/2017/06/08/manitobas-top-judges-challenged [*Anonymous complaint dismissed*].

controversy at a very early stage of my career as Chief Judge. There were some difficult moments in that for me. I was not used to that level of controversy surrounding an issue. Did I learn anything from that? Of course I did. And going through controversy does make you stronger. But I didn't question the premise of what it was we were trying to do.

DLM: Ultimately it became the law, right? They changed the *Criminal Code*.[31]

THMW: Ultimately it became the law, and the Supreme Court of Canada in *Jordan*[32] had already made mention of prelims and the fact that the courts, as well as every other player in this system, has an obligation to take a look at what we can do to make the system more efficient and move matters through the system more quickly.[33] But, having said that, I appreciate that it was, clearly, a hot topic.

DLM: Yes, it's remarkable to me. Was there a point at which you said, "I'm trying to do what's best, and it's not up to me what the law is, but we think this is important?" And ultimately, you got some very serious professional blowback on that stuff. All three of the Chief Judge and Chief Justices had complaints made against them. None of them were found to have been made out. The complaints seemed to allege that the judges should not even had the temerity to open up the conversation with government.

THMW: That also is very interesting to me, because the other thing that I learned is there's what I'll call a "continuum of tolerance" for when judges, including Chief Justices and Judges, should be speaking to government. Some people think that the separation of powers means that we ought never to talk to government – and I mean the executive and legislative branch of government - and others move further along that continuum, as I do,

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31 See Bill C-75, *An Act to amend the Criminal Code, the Youth Criminal Justice Act and other Acts and to make consequential amendments to other Acts*, 1st session, 42nd Parl, 2019, cl 238 to 542 (as passed by the House of Commons 21 June 2019). This Bill, once passed, retained the same title as an Act of Parliament. The Act can be found at SC 2019, c 25. The Act restricts the use of preliminary inquiries to citrcumstances where an accused facescharges punishable by a maximum term of 14 years or more.

32 *R v Jordan*, 2016 SCC 27, [2016] 1 SCR 631 [*Jordan*].

33 *Ibid* at para 137-140.

towards the end which says, "It's absolutely necessary. Part of the work of the Chief Judge and Chief Justice in leadership roles requires having conversations with other parts of government that impact the administration and efficiency of the courts." The knowledge that administrators of courts have has to be part of the discussion, because they're the ones who actually understand what the impacts of different policies are. Those conversations are extremely important to have. The fact that we had had conversation was criticized, but I was very happy to see the complaints, when they resolved, dismiss the idea that the discussio something inappropriate.[34]

DLM: Okay, and you also mentioned *Jordan*. *Jordan* is one of the few cases I know that sent massive shockwaves through the criminal-justice system at virtually every level, right?

THMW: Right.

DLM: For defense lawyers, for prosecutors, for judges, for Superior Court judges, Courts of Appeal, everybody's dealing with *Jordan*. What was your first reaction to this, "Hello, seismic shift time?"

THMW: I think I might've been Chief for a month, I'm not sure, I'll have to go back and see when the decision came out, but it was shortly after I was appointed Chief. It was like, "Oh my God, how are we going to manage these timelines and make sure everything gets through the system as directed?" So, there were immediately many, many meetings. Meetings at all levels, meetings among stakeholders. Internal meetings, trying to figure out how we're going to deal with *Jordan*.[35] I sit on the Canadian Council of Chief Justices, which is Chiefs and Associate Chiefs across the country. We had committees on how we were going to deal with *Jordan*. There were committees in so many places, everybody was looking at the issue. Again, I think it was a concerted effort by a number of stakeholders, a number of

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34 *Anonymous complaint dismissed, supra, note* 30.

35 The Supreme Court in *Jordan, supra* note 32, overturned the framework for allowing a stay of proceedings based on trial delay established in *Morin,* establishing a new framework with delay "ceilings" dependent on the level of court or other circumstances. If a court delay exceeds its ceiling, there is a rebuttable presumption that the delay is unreasonable and a violation of the accused's section 11(b) Charter Right.

players in the system, trying to figure out how we're going to get matters dealt with in the timeframes that we had. It meant relooking at "How are we doing things, how can we do it better, where is the time being dragged, and what is our responsibility as the court to ensure that matters are moving forward in a more timely manner?" I think we became far more – I won't say aggressive – in tune with now looking at the dates that things were happening, when matters were in front of you; Asking for explanations and setting shorter timelines; Increasing the case management of cases to ensure that issues were dealt with and to see if we could help the parties come to agreements on things to reduce the amount of court time so you could [be] scheduled. There were a lot of steps taken to deal with *Jordan*.

DLM: I'm curious – and I ask this sincerely, because I think there's a lot of superior, you know, Court of Appeal and Supreme Court of Canada judges, who never sat in Provincial Court, individuals who didn't sit through the grind that it is to sit and hear this many cases in a day or that many sentencings – did you every get the sense when you read *Jordan*, "These people may never really understand what we do?"

THMW: Well, I wouldn't say that about the Supreme Court of Canada [Laughs]. I'm not sure I'd say that. I do think there was a bit of a collective gasp. Like, "How, with the volume that we have, are we going to be able to manage this?" I can tell you, when I became Chief, there were only certain, limited, matters that we scheduled ourselves as a Court. At that point, the Crown was scheduling many of the matters. So, we have taken over much of the scheduling in Winnipeg, in some of our major centres. And that makes a difference for us because now we have more control over what's being scheduled when, and can ask more questions. For us, it's still a challenge because we still don't schedule on a lot of our circuit courts, particularly in the North, so we have less control over what's happening there. So, that is still something that's being actively worked on, to take control over all of the schedules, so that we can manage getting cases through within the *Jordan* timelines, but also other efficiencies as well. It did certainly lead us in different directions than we were going in the past.

DLM: That's really interesting, because I was thinking about our Court of Appeal – I deal with our Court of Appeal in a program that we do with

them – and I noted when we interviewed Chief Justice Chartier,[36] in Manitoba, that there are other members of the Court of Appeal who began their judicial careers in provincial court, including Chief Justice Chartier himself, now-Justice Champagne,[37] and Chief Justice Joyal[38] have all done a stint in the provincial court before being elevated – sorry, I'm forgetting one in the Court of Appeal . . .

THMW: Justice Janice leMaistre.[39]

DLM: I'm sorry, I wanted to make sure that I didn't forget somebody. Maybe you're not the person to ask, but I assume that those experiences change how you approach some of those issues?

THMW: I think it is fair to ask. I think that those are four prominent individuals who have a very good understanding of the working of the Provincial Court, and I think that it's advantageous to them to have that understanding. It puts things into context for them, because they've been here, and they know that we're a busy court. I know during COVID, Chief Justice Joyal and Chief Justice Chartier and I worked very closely together

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36 The Honourable Richard JF Chartier served as Chief Justice of Manitoba from 2013 to 2022. The Manitoba Law Journal interviewed Chief Justice Chartier twice. The first interview was done shortly after entering the position of Chief Justice. See The Honourable Richard J. Chartier, "An Interview with the Chief Justice of Manitoba" (2013) 37:1 Manitoba Law Journal 43. The second interview was done about 10 weeks before his departure as Chief Justice. It is forthcoming (2025).

37 The Honourable Kenneth Champagne was appointed to the Court of Queen's Bench in 2018. Before this, he was appointed as a Judge of the Provincial Court in 2005, and served a seven-year term as the Chief Judge of the Provincial Court from 2009 to 2016. Justice Champagne was not elevated to the Court of Appeal, unlike the other individuals on the list. However, like these others, he was selected to be elevated from the judiciary selected by the Province of Manitoba (the Provincial Court of Manitoba), to the judiciary selected by the executive branch of the federal government (the Court of Queen's or King's Bench, as the case may be).

38 The Honourable Glenn Joyal was appointed as the Chief Justice of the Manitoba Court of Queen's Bench in 2011. Prior to this, he served on the Provincial Court for nine years, the Court of Appeal for two months, and was appointed a Judge of the Court of Queen's Bench in 2007.

39 The Honourable Janice leMaistre was appointed as a Justice of the Manitoba Court of Appeal in 2015. Before this, she served as a Judge (2006-2009) and then the Associate Chief Judge (2009-2015) of the Provincial Court of Manitoba.

on a taskforce team, and a number of times, Chief Justice Chartier said, "I am so grateful I am not the Chief of the trial court through COVID."

DLM: [Laughs] I think he said roughly the same thing during our interview with him.

THMW: Because he appreciates the difference in the challenges, scheduling challenges, volume challenges, that we have.

DLM: Okay, so we've talked a little bit about the changes when things go upward. Can we talk for a minute about Judicial Justices of the Peace? It was a thing that I didn't know that much about before I came to Manitoba, and there aren't going to be many opportunities for people to speak about this group in the judiciary, so I wanted to give you a chance to talk about them.

THMW: Thank you very much, and I do appreciate it. The Judicial Justices of the Peace are part of the Provincial Court of Manitoba, and they fulfill a very important role. I think that one of the most misunderstood facts about – what I call "JJP's" - is that they are independent judicial officers, they are not civil servants. So, the decisions that they make stand, similar to a decision of a judge. They play an important role, they are often the first person an arrested person will see, because you're bringing someone before, usually a Judicial Justice of the Peace, within 24 hours to see if they want the opportunity to go for bail. They do a lot of our warrants and judicial authorizations. They also do applications under *The Mental Health Act*;[40] the protection orders are another big part of their responsibilities. They also sit on trials in what would typically be known as "Traffic Court."

DLM: Under the *Highway Traffic Act*.[41]

THMW: Under the *Highway Traffic Act* and *The Provincial Offences Act*.[42] So, in Manitoba we have twenty-one Judicial Justices of the Peace. They are spread throughout the province. They work shifts and there's JJP's available 24 hours a day, not always in person, sometimes by phone, but overnight if

40 *The Mental Health Act*, CCSM, c M110.

41 *The Highway Traffic Act*, CCSM, c H60.

42 *The Provincial Offences Act*, CCSM, c P160.

there's an emergency warrant, they're available. So, they play a very important role, and they are sometimes a forgotten part of the Court, but they work very hard. We're grateful for all of their work and that they are a part of our Court.

DLM: Okay. You mentioned COVID. Nobody can talk about anything, you know, do an interview like this, in 2022 without talking about COVID. You've been the Chief Judge throughout this entire thing, and I would think that the closure of the Court, as you implied when you mentioned Chief Justice Chartier, would have been especially difficult for the Provincial Court, because *Jordan* for one, because you can't just leave, "Well, we'll come back to this in six months when the courts can open again." The Court of Appeal might be able to get away with that. They could simply be at home writing or doing the other things that they need to do, and clearing whatever backlog they might've had. The Provincial Court can't do that. I'm assuming there must've been days during this pandemic when you go, "Oh, forget it, I quit, I can make more money doing less work than dealing with all of this." How do you get through that as an administrator?

THMW: I won't lie, there were some very, very tough days through COVID. Just when you thought you were getting a handle on one piece of it, something else would come at you. When COVID hit, the three Chiefs and the Executive Board of Administration did get together, and we put a taskforce together to deal with a number of issues. We also met with the profession very early on in the pandemic. I think the very, very difficult decisions that we made to close court to the public was tough, but then when we did have to adjourn hearings, that was a very difficult thing to do. Just to be clear, for us, we did not adjourn matters for people who were in custody, subject to some of our circuits, where we could just not get there. But, we continued on hearing bails, hearing sentencings for in-custody people and doing trials for in-custody people, but we had to shut down court to out-of-custody matters, all kinds of other – you know, child-protection matters, which we brought back pretty quickly, family matters that we dealt with – and all along, we realized that this is having such a profound effect on so many people's lives. An accused who is out-of-custody still has, often, many conditions that are hanging over their head. We kept adjourning their matter and adjourning their matter, remaining mindful that that was something that they had to carry. Complainants who didn't have the

opportunity to testify are waiting and waiting. There were so many people who were affected profoundly. We didn't just have to do it once, we did it a number of times. I haven't looked back at the final number, but I think we issued something like eighty-four notices to the profession, which was every time we had to close down something. Then, as things started to get better, we would start to open up slowly, so you put out another notice, and we would do limited things. We would limit the people who could come and limit the matters that could be heard, and then we would have to shut down all over again. It was a team effort. I will tell you that the administrative team, the Associate Chief Judges that I have here, our trial coordinators, just did an amazing job, an absolutely amazing job to keep as much going as we could. And we're still dealing with it.

DLM: I know that there's very little good about a pandemic, there shouldn't be, just the word strikes fear, but there must've been things that you had to try because we're in a pandemic, that you thought, "Well, that didn't work so badly, maybe we could keep it for post-pandemic times." Was there anything like that?

THMW: There were many things like that. Silver linings or just highlights that were very positive was the way that the judiciary, executives of court administration, courts admin, and the stakeholders came together to deal with matters. We had a lot of meetings, a lot of discussion. "How are we going to do this?" It took a joint effort to do all those things. That cooperation and collaboration and shared frustration, sometimes at just not being able to get everything where you wanted it to be, it was great discourse and just a great community effort, I'm going to say, to deal with things. It also forced us to do things in ways we wouldn't normally do.do it. We did a lot of things by telephone. That was to get those things done. I will say today that doing things by telephone is not ideal, for a number of reasons, but there are circumstances where that can be used going forward. The use of technology increased and, again, while we're still trying to work our way through what we would keep at the end of the day and what we won't, there are certainly things that we will keep. But there was also frustration with the technology, because we couldn't get the technology fast enough. And we still don't have the technology properly in place, for example, to bridge our

correctional centres to what I'll call our "Teams[43] Courtrooms," so that everyone can appear video at the same time. But it rapidly increased the use of technology in the courtrooms and that was a very positive thing. It's opened up all new avenues. We've talked about cameras in the courtroom, and that was a pilot project many years ago – and we still have policies on that – but now we've moved to, "How are we going to manage access to the public through Zoom[44] and through Teams, with some of the unique challenges that now presents, in terms of recordings and privacy and not distributing various hearings?" So, yes, there have been some very positive things that have come out of COVID, and it forced us to step out of our comfort zone and try new things, and some very good things will come out of that.

DLM: In addition to your work that we talked about already in changing the availability of preliminary inquiries, you got behind an initiative to start a drug court in Brandon.[45] I've got that correct right?

THMW: Yes.

DLM: Now, whenever you start something new, there always needs to be somebody at the top end who says, "I'm behind this, I'm willing to support this." Why was that something you wanted to get behind?

THMW: Well, I'm going to credit John Guy,[46] now retired, with really starting our drug-treatment court and our mental-health court in Winnipeg. We've seen the success that it has and the benefits it has for a certain population who end up before the Court because of their addictions or the other issues that they have. Those programs are most definitely worthwhile to spread throughout the province. The Westman region[47] already had in

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43 Microsoft Teams is an application that offers video meeting calls, among other features.

44 Zoom is an application that provides video meeting calls among other features.

45 See Manitoba Government, News Release, "Province Announces Westman Drug Treatment Court Pilot" (10 June 2019), online: <https://news.gov.mb.ca/news/index.html?item=45379&posted=2019-06-10>

46 The Honourable John Guy was Associate Chief Judge from 2013 to 2019. He was appointed a judge of the Provincial Court in 1989.

47 The Westman region is an informal geographical region in the southeastern corner of Manitoba. It includes Brandon, Neepawa, Virden, and other communities.

place a very strong hub model, where all of the various court services come together and meet regularly. We were able to leverage some of those services and access to some of those people and introduce the drug-treatment court, initially just in Brandon, but we've spread it out now to Westman.

Why do I think it's important? All of these types of court – and I'm going to throw in our FASD court,[48] which we also started in the last few years – and I credit Judge Mary Kate Harvie with starting that court, as a first in the country. These are very vulnerable populations, and they are a microcosm of what we need to do on a larger scale in the criminal-justice system. As you know, many people end up in the criminal courts, not because they're bad people, but because they've done bad things. But they do not have the supports behind them to help them find their way out of a troubled situation. So, when you're in drug-treatment court or mental-health court, and FASD court, you're surrounded by supports, whether it's people who are helping you find housing or various services that you need counseling, get you to appointments, those wraparound services can be available, as are the supports and accountability that you need to have when you commit yourself to one of those programs. I think they are incredibly worthwhile, and I think they are needed on an expanded basis. I would love to have those courts in every centre that we have so that every person in the province could have access to them.

DLM: Terrific. When the courts were trying to reopen in Indigenous communities, you came out very publicly and worked actively with the Assembly of Manitoba Chiefs[49] to ensure that First Nations communities had a voice in how that reopening would happen, to ensure the protection of those communities, right?

THMW: Yes.

DLM: Why was that particularly important? I have my own thoughts about why it was important, but I'd like to hear why you thought it was important,

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48 Fetal Alcohol Spectrum Disorder.

49 The Assembly of Manitoba Chiefs is an organization comprised of Chiefs in Manitoba which advocates on challenges affecting First Nations communities in Manitoba.

for you to be on record, in public, not only working behind the scenes with groups to get things reopened, but to do it publicly.

THMW: We've been building relationships with Indigenous communities for quite some time. We recently had our Eagle Feather ceremony,[50] I believe, before the pandemic hit. But even besides that, the Provincial Court has a strategic plan in building stronger relationships with Indigenous people and understanding their needs, and how those needs can better be served within the court context. This is something that we committed to do when we did our strategic plan back in – I'm going to say – 2018. We've seen, historically, when there's been big health crises, that the Indigenous communities did not fare well, and we knew from all the information that we had – and I'm talking about during COVID – that this virus was spreading very quickly. I wanted to make sure that we were in touch with the communities to see how they were doing before we would go back into their communities. In Winnipeg, for example, we put in place protocols: hand sanitizer, we had COVID screening, we had plexiglass put up in courtrooms. I wanted the Indigenous communities to have the opportunity to have the same protections in place before we came in. So, for every community that we sit in, we worked with them to have a discussion about, first, "How is your community? Is your community healthy?", because if they had a high number of COVID cases, we didn't want to be going into the community. We wanted the community to be safe, we wanted the court party to be safe. The only way you can accomplish that is by having communication with the communities. I phoned pretty much every Chief I could get a hold of, if not, Councillors,[51] to have those conversations with them.

Many communities had struck up pandemic committees and had their own rules and protocols in place. Many of them closed their

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[50] See CBC News, "Introduction of sacred eagle feathers into Manitoba courts called a historic moment", *CBC News* (26 September 2019), online: <https://www.cbc.ca/news/canada/manitoba/eagle-feathers-manitoba-court-system-1.5298006>.

[51] A Band Council is the collective body that makes decisions with resect to a Band as defined until the *Indian Act*, RSC 1985, c I-5. Councillors, as referred to here, are the members of the Band Council. There is controversy around the appropriateness of colonial power trying to legislate with resect to another nation (The First Nation). Despite the importance of this controversy, this interview is not the appropriate forum for a discussion of this issue.

communities so that nobody was going in and out at all. Those were conversations we needed to have. We were running a lot of things, we would get into a community by phone, or by video if we could, just to get through the docket. But somebody has COVID, or someone can't leave their community and then not be allowed back in for fourteen days. We didn't want to be putting people in those positions either. So, it was important for us to respect and understand what the Indigenous communities were experiencing so that we could work with them to see if we could find an alternative method of dealing with the matters that they had, while respecting the situation that they had in front of them.

DLM: Terrific. Now, you mentioned something earlier, but I just wanted to give you a chance to speak to it more directly. You've mentioned that certain centres, particularly a couple in the North, I think some of the stuff that I read mentioned Thompson[52] specifically, as needing more resources to be put into it to meet a number of criteria, to run, what you consider, to run well.

THMW: Yes.

DLM: Again, you've been very public about this. A lot of administrators might not want to discuss some of the things that need to get fixed, the "to-do list," as it were. But you wanted to do that. Why was that important?

THMW: I think it's important to recognize that the courts can't run without the proper resources. Everyone has an obligation to ensure that we have the proper resources in place for us to be able to deliver judicial services. The North is a very, very busy place. We don't have enough judicial resources up there to meet what I think are our constitutional obligations of delivering justice fairly and equitably, and to the same level as in other places. Just to be clear, when I'm talking about judicial resources, I'm not just talking about judges. I'm not just saying, "Put more judges in place." We need judges, we need clerks, we need sheriffs, we need the courtrooms to be available so that we can sit on a more regular basis. It's like talking about the medical system to a certain extent. For the medical system, or the

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[52] Thompson is a city with a population of about 13,000. Thompson is 761 kilometers north of Winnipeg.

education system, there are fundamentals that have to be met in order to properly achieve the objectives of those entities. It's not different for the judiciary. So, yes, I have noted the issues that Thompson had, and it's not a secret, and they've become the subject of decisions which pointed out the shortcomings in those areas. So, yes, I am not shy to say that those resources have to be in place in order for us to be able to fulfill our constitutional obligations and to ensure that everybody across the province has equal access to timely justice.

DLM: Thank you. Now, you received the Isabell Ross McClain Hunt[53] award.[54] Do you want to talk about that a little bit?

THMW: Well, obviously it's a huge honour to have been nominated and then to receive the award. I think what I would say is that I had the benefit in my life and in my legal career and judicial career of great women mentors and leaders in my life. I learned from them, and I think it's important to pass along what you learn and to support other – in this case – women, in a judicial career or a legal career, or outside of those avenues. I was the beneficiary of a lot of that support, so it's a "pass-it-along" thing. Obviously, it's a huge honour for me and I'm sure there were many, many other worthy people who it could have gone to.

DLM: And this is given to women who have made a big difference in the legal system and in public service, did I get that right?

THMW: Yes, it is. I think it's given to a woman who helps other women along and is supportive of other women.

DLM: Well, that says quite a bit, doesn't it? In early 2020, you and a number of your other female judicial colleagues spoke at Robson Hall, prior to the pandemic. I believe you did this in person, if I remember correctly, about being women judges. Now, there are relatively few women judges who have been the administrative head of their courts. Names like Beverly

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53 Isabell Ross McClain Hunt (1894-1990) was the first woman to earn a Bachelor of Laws (LL.B.) from the University of Manitoba. She was also the first woman in Western Canada to open a law office.

54 The Isabell Ross McClain Hunt Award recognizes significant achievements by women members of the Manitoba Bar Association.

McLachlin,[55] Constance Glube,[56] Catherine Fraser,[57] come to mind, for me, when I think about that. We've had some judges, including Bertha Wilson,[58] talk about the difference of having a woman judge on a panel. I've never heard any female Chief Judge or Chief Justice speak about what it is to have a woman at the head of the table, as it were, and being the administrative head. I just wanted to give you a chance to talk about it. I don't know if you wanted to be the one to talk about it, but I figured since we've got you here, this would not be a bad time to ask.

THMW: So, again, it's obviously a great honour to be a Chief Judge, and particularly a female Chief of a court. It's interesting – I mentioned earlier that I'm a member of the Canadian Council of Chief Judges – there was a time in the last few years, where all but three Chief Judges of the provincial courts and territories were female.

DLM: I didn't know that.

THMW: Yes. I think there was only three male Chiefs at the time. We did note that as probably a moment in history that doesn't come around very often. I think the responsibilities of Chiefs, whether you're male or female, are largely the same. You're the head administrator of your court and you have an important role to play in the promotion and education of people on judicial independence, and the impartiality of the judiciary, and you want to make sure that what we do allows people to have confidence in our justice system. But I do think that women may bring, at times, a different perspective, or approach things a bit differently. I don't think that that's a bad thing. I'm not sure if it's a good thing or a bad thing, we just are different, and I think that diversity is always a positive thing. Things may get done differently and be communicated, sometimes, differently. I do think that sometimes there are challenges to being the female head of a court. Largely, I would say it's been a very positive experience and I've been very supported in my role, and I will say, in particular, very supported by

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55 Beverly McLachlin served as Chief Justice of the Supreme Court of Canada from 2000 to 2017.

56 Constance Glube served as Chief Justice of Nova Scotia from 1998 to 2004.

57 Catherine Fraser served as Chief Justice of Alberta from 1992 to 2022.

58 Bertha Wilson (1923-2007) served as puisne Justice of the Supreme Court of Canada from 1982 to 1991.

Chief Justice Joyal and Chief Justice Chartier. The three of us have worked very well together in Manitoba.

It would however be unfair of me to suggest it has all been a cake walk as a female Chief. There are still people who do not have the same level of regard for a female Chief. There are those who struggle to communicate with a female Chief in the same way they communicate with males and at times, they appear to be uninterested or dismissive of the ideas and contributions a female Chief brings forward. I have encountered those times as Chief, and they have been difficult times to manage. It is my hope, we arrive at a place in the near future where this is no longer an issue at all and female Chiefs are seen to carry the same value as male Chiefs. Having said that, thankfully, those people were few, and as I say, on the whole, it has been a very positive experience.

DLM: Fair enough.

Part II

DLM: Having been a member of the Provincial Court of Manitoba for almost a decade, what, in your view, makes a really good Provincial Court Judge? Additionally, what characteristics would you not want to see in your colleagues? If you could wave a magic wand and–

THMW: –(laughing) you're going to get me in trouble with that latter part.

DLM: I didn't expect you to name names. Just to be clear on that.

THMW: I think what makes a really great Provincial Court Judge is somebody who is well-rounded, someone who has had life experiences that did not go as smoothly as possible. Those are the experiences that make you more empathetic and understanding to the people who appear before you, in whatever capacity they're appearing. Well-educated, obviously experienced, but I will say that it is also important to have people who come from different backgrounds and disciplines. I think that brings a different perspective to the Court. I think that allows judges to look at things through a different lens than if they were born and raised in the criminal-justice system. To have the balance of those perspectives, I think it makes the Court, as a whole, much stronger. You know, I could recite all the fundamentals like hard-working, integrity, honesty, all the things that you would expect. I think the other most important quality is someone who's a lifelong learner, because our criminal-justice system is changing all the time. The laws are changing, technology is changing. Even the approaches are changing. We must be flexible. So, people who are lifelong learners and people who are adaptable to change, do well in this Court.

DLM: It seems like you're saying that people who are set in their ways may not be the ideal candidate for this job.

THMW: I didn't quite see it that way, but I do think that you can't be too set in your ways, particularly in this day and age. I would say, someone who is married to their previous persona will find difficulties because of it, if they are a judge on this Court. The other thing is that when you become a judge in a court like ours, your schedule becomes somebody else's. That is a real adjustment for people to make, because when you're in private practice or

working at a university, you have far more flexibility with your schedule to set. You know when you're going to meet with your clients or when you're going to work on this versus that. When you join the Court, your schedule is handed over to someone else. That is a really hard pivot for a lot of people to make. If you're very set in your ways, that could work against you.

DLM: I think you need to have a lot of trust in the person setting the schedule at some level, particularly in your job as an administrator.

THMW: Yes, you do. We obviously have policies in place so that we can add some flexibility into the system, but I'll give you an example: if you are a Jets ticket holder and you have Jets tickets for certain nights but your circuit demands that you be away on overnights, you may well be missing those games. We do go on circuits sometimes, so it is sometimes uncertain as to whether you can commit to something down the road, because you may be assigned to be somewhere else and that will make it difficult to get back. As you know, sometimes we have multi-day hearings. Or for seasonal matters, we have to work all that into when we assign holidays and writing days and all those sorts of things. So, it's not quite the same flexibility that you would have had prior to coming to the Court, so you have to be open to that and adaptable to the change that inevitably comes with the rule.

DLM: Now, in less than a year, your term as Chief Judge will be coming to an end. What do you think are the advantages and disadvantages, either from your perspective or institutionally of having a seven-year *no-way-no-how* sort of approach to this? What do you think are the, let's start with the advantages?

THMW: I think that the advantage is that you need to establish a vision and plan fairly early on. Having in mind what you'd like to accomplish, because you only have a fixed period of time within which to do that. So, you're always sort of working to a deadline and you have to keep that in mind while you're doing it. It takes a little while to get up to speed on all of the systems that are in play and you have to also be aware of that and work hard to learn that as early-on as possible.
To make the best for the system that you have. I think that it gives you, as the Chief, an opportunity to look down the road and say, "Okay, I know this is my time and this is what I'm going to do" for this period of time.

After that, I'm going to do something different. If you're like me, someone who likes to have change, that's advantageous to me, it is also advantageous to the Court, because it does allow the opportunity for change in the leadership of the Court, for a different vision to come in.

Frankly, if you have somebody who is a challenge as a Chief, they're going to be out at some point in time. You know, realistically, but I think it gives others the opportunity to see themselves in that role and to prepare themselves if that's what they think they might like to do. They can work towards it. So, I think there are advantages to having a term.

I'd say the disadvantages are, you don't always accomplish what you hope to in the period of time that you have. I think that's fairly standard. I'd say that it is probably more pronounced for me, because of COVID. COVID really took a couple of years out of our schedule of what I would have liked to accomplish. I think that some of the continuity that is needed for big projects can be lost. For example, we are going to be changing our technological infrastructure. It is a big project and it'll take a lot of work. So, somebody else is going to come in to something that is already started and lose out on the continuity that was there before. You lose the institutional knowledge that the person had built up over those seven years.

The next Chief starts fresh, which can be a disadvantage. I do think that maybe an ideal way to approach this would be to have a fixed term, but also having the opportunity to extend that for whatever period of time is reasonable (1-3 years). Some other jurisdictions do that. I think it gives balance and the best of both worlds. You have the benefits of the fixed term but can address some of the disadvantages associated with it.

DLM: Interesting. Now, for Provincial Court Judges, there is no mandatory retirement. I'm always curious, universities went through this, right? They went through this idea that we should have mandatory retirement and they've in general moved away from that, to both advantages and disadvantages. As an administrator of a court, what does that do to your planning for the court and to, you know, these, these grand ideas? Because I'm sure that one of the ideas of many chief judges is I'm going to bring new blood, with this court, some people with different, as you've talked about in this interview, people with different backgrounds, people who are who may

not be, you know, the, the perfect individual before they come to the judging and so on.

What does the, the, the not having a set retirement age do to that? And how do you cope with that?

THMW: The first thing I'll say is that may change in the next, in the next while. and may not be, a burning issue. I do believe we're probably the only jurisdiction who does not currently have a set retirement age.[59]

I'm going to do the advantages again. So, the advantages are you have, you have this institutional knowledge and the wisdom of people who have been judges for a long time, who, you know, can really mentor other judges and bring all of that knowledge to the Bench, which serves the Bench well. And they can be faster at things because they they've seen a lot of things before, so they can make decisions. They don't mull over things necessarily like, like others may because they can come to those decisions, properly, but more quickly. It really has not been problematic. Most of the judges, on this Court have retired before the age of 75. They may go on to be Senior Judges.[60] And we, welcome and, value the role of the senior judges in our, in our court because they really bring relief, to the full-time judges and, you know, as they take on more responsibilities and also do more complicated work, they can assist, you know, particularly now, in the situation that we're in, we're we've got a very, very, very heavy workload. But to your point, I think it's the responsibility of every individual judge to really, be honest with themselves and to look at, when it is their time to retire, not just from their personal perspective, but also from the perspective of the Bench. Because there is a time for everybody to retire, and we do need to bring new people in, and, you know, that new enthusiasm, along the way.

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[59] Since the time of this interview, *The Provincial Court Act* has been amended to provide for mandatory retirement of Provincial Court Judges at the age of 75 years. See *The Provincial Court Act*, CCSM c C275, s 5.1

[60] Where a Provincial Court Judge retires prior to the age of 75 years, the retiring judge may indicate to the Chief Judge that he or she is available for judicial work. The judge may then be designated as a Senior Judge of the Provincial Court of Manitoba. See *The Provincial Court Act*, *ibid*, s 6.5.

We manage it by harnessing their wisdom and their knowledge and I think we manage it. It's largely self-managed, as an administrator I have not really had to deal with that very much.

DLM: That's reassuring. Now, this is going to seem like a somewhat odd question. You're coming to the end of your term as Chief Judge. What do you hope, if you could – not wave the magic wand and turn everyone into something they are not – but what would you hope would be the things that people might say about you, about your time in this role?

THMW: I would hope that people would say that I was a fierce defender of judicial and institutional independence. On the provincial and the national level and that I worked really hard to educate people on the importance of those democratic principles and where, you know, the importance of it was in our system. I think that I would hope that people would recognize, the work that we do. I know you're saying "me" – what would they like to say about me? – But, I have to characterize it as the administrative team and the Court, because it is a team effort. I hope that they would say that we took a hard look at *Jordan* and that we worked hard to implement policies and procedures that would make the court more efficient so that we could meet our obligations under that as best we could.

I would hope that they also recognize something else that's been very important to us, – particularly the administrative team – is to try and get systems in place so that we can actually measure our performance to see how we're doing. By using metrics that we can report on in our Annual Report that would allow us to be transparent and accountable for the work that we do. That will allow the public to better understand what the drivers are, the mechanics behind the work that we do.

I would hope that people recognize that I came into the role hoping to increase the resources in the North and work towards having better systems in place in an area. That is something that I felt – and still do – that needs a lot of work and attention, we were able to accomplish some of that by increasing the judicial complement. Working towards increasing the administrative, the clerical staff, the sheriffs, all of the infrastructure that we need to support that as well.

The last thing I would say is, I would hope that people would recognize that we have really worked hard to build relationships with the Indigenous community and to introduce elements into our Court to make their experience more meaningful, more, and, more relevant for them. I'm thinking of introducing the eagle feather into the Court, which I certainly didn't do on my own, but that's just one of the things that the committees (us, [the Court of] Queen's Bench and the Court of Appeal all worked at, but to build the relationships with the Indigenous communities, to see how we can better serve them and to recognize what they need to see in a justice system.

DLM: Thank you. I can't let you out of this interview without talking a little bit about the future. What about the relationship between the law school and the courts? What would be the thing that you would want us to do better to prepare students that appear before you as either articling students or lawyers, particularly young lawyers? The old lawyers say as they get older, we have less and less influence on how they behave or what they do, but for the young lawyers, perhaps we could have more impact as an institution on how our graduates carry themselves and what skills they have going into the courtroom for their first few years. How can we do a better job with the students?

THMW: I'll address that in the context of the criminal law, realm before answering a little more broadly. I think for those students who end up practicing in criminal law, one of the areas that is not well-understood is really the impact of social circumstances on the people who appear before the Court. I think if students could have a better understanding of the effects of mental-health issues, homelessness, addictions, and those people who are vulnerable in our system. If they could understand how social situations like unemployment, homelessness, lack of resources and supports impact the people that are in the system, if they had a better understanding of the population that we deal with often. I think that's a very kind of practical thing that is just not well understood. The law school teaches so many things, but if people can see how those circumstances affect people going through the criminal-justice system, it would change how they understand these processes.

For example, say you're arrested and then go for bail, but people in those situations, they are at a disadvantage, right? They may not have somewhere to live, they might not have the supports to deal with the addictions. All of those things have an impact right from the get-go but continue all the way through the stream. I think that if people understood that better, it would take them to a place of understanding the importance of a criminal-justice system become more…

DLM: Is the word you mean that you're looking for what is a humane?

THMW: Yes, maybe. Maybe that's the word. Maybe that's what it is. More humane. But also, I would hope it would lead people more to advocate for increasing social supports for a lot of the people that appear in our courts. Does that make sense?

DLM: It seems like that's something that bothers you about when you have to sentence someone or when you have to decide whether to give bail or not. if I'm reading this right; maybe I'm not.

THMW: Yes, you are, and it's not just even bail. I think it applies throughout.

DLM: If you can simply say this person needs a drug-treatment program or they need supports on where to live, if we put them in jail and just say, "we'll see you in three months," or six months, nine months or a year. All we're going to do is put them back on the street without the supports that they need. What you'd rather have is more supports tied into the criminal-justice system.

THMW: Right. That goes fundamentally with what I would like to see in the criminal-justice system, which is taking a more of a systems approach to dealing with the issues that that we're facing, to recognizing that if we don't address the underlying social issues that bring the people before the Court, that some of these people are just on a revolving path in and out.

If we really want to reduce our remand population, if we really want people to not continually come into the courts, we have to address the issues of

homelessness and substance abuse. We need programs and supports in place and available to assist them.

DLM: That basically answers my next question about the institutional relationships beyond the law school, because it seems like the law school needs to teach students about the realities that when they start appearing in court, they are not restricted to either get this guy probation or that woman jail. It isn't about that, it's about the idea of an underlying problem. Yes, there's crime and we have to deal with that. But, if we don't understand the underlying problems of addiction, domestic abuse, or any number of things. Especially cross-generational harms done particularly in the Indigenous context, but other contexts too, there's a real problem with us simply saying, "Our choices are A, B and C and and they need E, F and G", we're just doing, as you said, the revolving door. Right?

THMW: Okay. Yes. That's great.

DLM: Okay. Well, thank you for that. Let's turn to you for a minute, according to some of the research I saw, you're fairly heavily involved in Special Olympics, at both the provincial and national level.

THMW: Yes.

DLM: Why is that important to you?

THMW: Sadly, I'm not involved with them, anymore but I was for a long number of years, and it is an entity that I hold very close to my heart. I'll tell you how it started, somebody asked me if I would buy tickets to the Sports Celebrity Festival Breakfast. I went and it was phenomenal, it was in support of Special Olympics and it was fantastic. I said to somebody, "what a great event." They said, "well, we're really glad you liked it, why don't you join the committee and you can help us plan it next year?" I said "Sure", and I did. Then, I went to all the people who had forced me to buy tickets to events and made them all buy tickets.

We had a pretty good showing, then they said "Well, why don't you join the board?", and I said "Sure". I worked with them for a number of years in

Manitoba and ultimately became the President of the Board of Manitoba. I was then asked to join the national board as well.

You know, the thing I love about Special Olympics is that the athletes are athletes through and through. These are people who have been dealt some challenges that they have to work through. It isn't just about physical limitations; it includes intellectual disabilities. They also have physical limitations and health issues. As a group of people, I have never been uplifted more in my life. You know, people say to those of us who sit on the Board that we do a great job, and it isn't us. It is the people who participate, the athletes themselves, their families, and supporters. It is just such a fantastic charity and they do such great things. It really changes the lives of these athletes and their families. It has taken so many of them out of a very isolated place and brought them into a very celebrated one

When we had the opportunity, I took my two daughters to the first World Games that were held outside of North America, in Ireland and it was amazing. I love Special Olympics, it is one of the most profound things that I ever participated in. They are very close to my heart and yeah, I did work with them for a long time.

DLM: Okay, now, as you look back on the first decade on the Bench, what gives you hope for the future?

THMW: I think there's a lot of things that give me hope for the future. There are so many dedicated people working in the criminal-justice system, who really want to promote the rule of law and all of these democratic principles that we have that are so important to us. Even more so now, that we have seen what happens in some other places when those fundamentals are disrupted. I've seen it particularly through the last few years, but also even through *Jordan*, how people pulled together to say, "How are we going to figure this out?" and get these things done. You know, based on these timelines and guidelines, people really worked hard for solutions. During COVID, people came together and really worked, as a whole, to keep the system together and working as well as it could. In all of the circumstances, I see people who are committed to our system. There are young and bright lawyers, hardworking and dedicated judges. I see people who are in the administration who are equally committed to making sure that we have a

strong solid system. All of these things give me hope, that we can be flexible enough to roll with what is going to be changes that will be coming to our systems over the next number of years.

DLM: And if there were one thing that you could just again, wave the magic wand and change, what would it be? You've had a lot of challenges that you've had to work through, but this one is the easy one. You've got the magic wand for a second. What's the thing that you think?

THMW: It's a big question.

DLM: It is.

THMW: If I had the magic wand, I would, like to see a system where everyone really and truly has equal access to justice. The easy example of that for me is to look to the North, they don't have the infrastructure in place to manage appearances in some cases by telephone or video. They don't have Internet in many places. They don't have the proper facilities and that makes it very difficult for them to have the same access that other people readily do. Not just for the lawyers, but the services that I've referred to before that should be available for those marginalized people, the vulnerable people, for women who are often caught in a system where they have trouble accessing justice. It is a big question and if I had a wand, that's what I'd like to see, what I would like to look at.

To do that, I would like to look at things like Legal Aid, maybe in a bit of a different way, it could be something similar to our medical system, where people have sort of universal access. I don't know exactly what that looks like but something that's maybe broader than what it is today. Better supported.

DLM: It seems to me you've taken steps at least, even without necessarily being the one to try to bring that to fruition, doing that the hard way, as it were.

THMW: Yes. Sometimes I take the hard path.

DLM: We don't actually have the magic wand to give you.

THMW: What? You don't actually have the magic wand. I know.

DLM: It always reassures me when people say, if it were easy, I'd do this, but I'll do it the hard way. If I have to do it the hard way, I'll do it.

THMW: Yes. I think we all do what we can, right? There are many people who are advocating for the same thing. And we just we really do have to figure out how to get there.

DLM: As judges go, you're still a very young person with a decade on the Bench, six years with Chief Judge behind you and another year you'll be free and clear of this, for better or for worse, so what's next? I mean, is it simply going back to hearing cases or is it something different? If you're not prepared to answer the question, I can understand completely.

THMW: No, I'm happy to answer the question. I am looking forward to going back and hearing cases. I really enjoy it. I enjoyed it before I became Chief, and I had hoped that I would sit more as Chief than I have. On the opportunities that I've had to be back in court sitting, it reminds me of how much I totally enjoy it. I am looking forward to going back to sitting in court to hearing cases, making decisions, and writing decisions. I'm quite happy and content, to have the opportunity to do that.

DLM: It's great. Now, what's the one question you wish I'd asked that I didn't? What would your answer to that question?

THMW: I think the question you didn't ask me is, would I do it again?

DLM: True. I didn't–

THMW: –and the answer is yes, I would do it again. I think if I could, you know, the maybe a day or two here or there that I'd, I'd like to erase, as everybody would. But for the most part, it has been an absolute honour for me to be the Chief of the Provincial Court. The people that I've been able to work with and what I've been able to learn. The opportunities to watch what other Chiefs do in their courts and see what best practices we can bring back to ours, to have the internal discussions or bench meetings. All those

interactions working with the other two Chiefs of the other two courts, it has been an extraordinary experience. I wouldn't trade it and I would do it all over again.

DLM: Well, that gives me a bit of hope when because most administrators go, I did this as a, as a matter of obligation or as a matter of trying to contribute. But I've done my bit for King and Country, so to have somebody who says "if I could do it again, yeah, I'd do it again".

THMW: I should clarify what I mean by "if I could do it again," I'm not suggesting I do another seven years. I'm, I'm quite content, as you say with the seven years I've had. If I knew then what I knew now, I would still have done it.

DLM: That reassures me as to something, you know, because I always say, my dad was an administrator for a very long time and often when he'd start a project, he'd say, "you know, when the project was over," he's like, "I'm really relieved that's done" and "if I'd known it was going to be this much work for that little reward…" or "for, you know, for what happened, I'm glad we got it done." But boy, I wish somebody else had wanted to do it.

THMW: Yes, there are those days for sure.

DLM: Have they announced who your replacement is going to be, to give them lead time to get ready.

THMW: They have not, no. That process has not even begun.

DLM: Okay, I just would have thought that with a year to go, the powers that be might be thinking, "Okay, let's have let's give this person six months to get themselves up to speed." I think that would be great.

THMW: That's what I had. I was announced six months before I actually became the chief, so I had an opportunity to work with Ken Champagne. He is the outgoing Chief and there was a transition period. I think it was very helpful. So, I'm hopeful something like that will happen in this case as well.

DLM: Terrific. We're going to be talking to Justice Champagne as part of this series as well. The goal is to have the last three Chiefs of the Provincial Court.

THMW: Okay. Wow.

DLM: We are also going to be speaking to the outgoing chief of the Court of Appeal. I'm still trying to nail down a time to speak with Chief Justice Joyal of the Court of Queen's Bench. We have his commitment to do it, we just need to set the dates and times.

THMW: Thanks so much for this, I really appreciate it.

DLM: You're very, very welcome.

THMW: Thank you. I, I look forward to the transcription.