

Interview with Joan Jack*

BRYAN P. SCHWARTZ

I. INTRODUCTION-EARLY LIFE

Bryan P. Schwartz (BPS): Okay Joan, let's just go back to the beginning. Which community did you grow up in?

Joan Jack (JJ): I grew up in Berens Rivers, Manitoba.¹

BPS: Many Winnipeggers have never been there, never seen it. Can you tell us a bit about what the experience was?

JJ: When I was a child, there was about maybe between eight hundred and one thousand people there. Maybe a little bit more. It's doubled because you know, Aboriginal people have a lot of children. We lived on an island because my father was a store keeper and there was no road. There was no road when I was a child, the river was the road; everybody had boats. The Métis people lived on the south side, and the treaty people lived on the north side of the river.

BPS: So, is that one of those things where the Métis community was effectively founded by people who lost their status under the old *Indian Act*?² They founded a side by side community?

* Interview conducted by Bryan P. Schwartz. Joan Jack is an Anishinaabe Ikwe from Berens River First Nation. She entered the University of British Columbia, Faculty of Law in 1991 and returned to Manitoba to article under Jack London in 1995. Joan was called to the bar in 1996. She started the Nakina Centre for Aboriginal Loving and Learning in 1997 and opened her own law office in Berens River in 2003.

¹ Berens River, Manitoba is a First Nations community located approximately 270 air kilometres north of Winnipeg. It has a population of approximately 3,300 people.

² *Indian Act*, RSC 1985, c I-5.

JJ: Some of them. And some of them I don't think ever had status. I'd say after Bill c-31 in 1985,³ in Berens River, 99.9% of people qualified for status. Like, there might have been one guy.

BPS: Did some of them move back to the community?

JJ: No, as a consequence of '85. Not that I'm aware of.

BPS: If we compare then and now, what percentage of your community would have moved to the cities then and now?

JJ: Berens River is one of the communities that are really hanging on to its population. Our on-reserve population is still larger; I'd say it's like sixty-fourty. So, Berens has grown to be close to 3,000. So it's a big community and there are roads on both sides of the river now. Nineteen kilometres of road. Everybody has vehicles.

BPS: Growing up was it an issue in the community that some people had status and some people didn't?

JJ: Oh very! Yeah.

BPS: So growing up some people viewed you differently because you're not really status, you're not really official, or what?

JJ: I think it was more that the communities were distinct. The Métis community was different than the status community.

BPS: So you grew up in...

JJ: On the island really.

BPS: Is the island part of the reserve or part of the Métis community?

³ Bill C-31, *An Act to amend the Indian Act*, 1st Sess, 1985 (first reading 28 February 1985).

JJ: It was part of Crown land. My grandpa bought it. He leased it for 99 years.

BPS: So where did you go to school? On the reserve? In the community?

JJ: What happened in Berens River was the reserve leased land to Frontiers School Division⁴ in '71, '72 maybe '68, '69, somewhere around there. So, at the beginning I went up the river to the school, there was a school basically in the United Church, essentially an Indian day school. I went there for, I think, kindergarten and Grade 1. We would get picked up by boat in the summer and then by bombardier in the winter. (Laughs)

BPS: Was the school in the United Church both for the reserve and the Métis community?

JJ: Yeah. Originally, though, the Catholics had a little red school on the Métis side, but that wasn't running anymore. I don't know why. I never thought about this. I don't know why.

BPS: There are so many issues now with identity in the First Nations and Métis communities. There is the *Daniels*⁵ decision now, reinstatement issues, lots of litigation.

JJ: Yeah, and the whole day school piece, which I worked on for years. There are people registered from the 'Little Red School' that closed, as we call it. Then there are people registered from the United Church Indian day school. The residential school in Berens at the Catholic Church did not qualify as a residential school under the IRSSA.⁶ But even Phil Fontaine⁷ stayed there at one point.

BPS: I didn't know that.

⁴ The Frontier School Division is Manitoba's largest geographical school division, covering fourteen schools located in northern Manitoba.

⁵ *Daniels v Canada*, 2016 SCC 12, [2016] 1 SCR 99.

⁶ The Indian Residential Schools Settlement Agreement (IRSSA) came into effect by recognizing the effects of residential schools and creating a multi-billion dollar fund to support former victims of residential schools.

⁷ Larry Phillip (Phil) Fontaine is a prominent Canadian Aboriginal leader.

JJ: Yeah, yeah.

BPS: Was the school all Indigenous kids?

JJ: Yeah, unless the teachers had kids.

BPS: In the classroom was there a big identity gap between the Métis and status people?

JJ: I don't know. In my recollection it was more of an economic gap. When I now look back, I basically had a middle class life. We, as children of the store keeper, had things that other people didn't have. And so, because of the economic gap, I was picked on.

BPS: Did you know growing up that you were bound for post-secondary education?

JJ: No. I had this image in mind though. Berens was a fly-in community, so we ordered everything out of a catalogue. I don't know why, but I used to have this image in my mind that I would be wearing a navy suit, and a skirt. I don't know where I got that from, but, it was in my mind that I would be doing something like that. Later on, like way later on, I remembered the memory and I thought, "Oh my God!" The Eaton's catalogue inspired me to go to university. (Laughs)

BPS: My students wouldn't have any idea what either of us are talking about. This catalogue was a central part of Canadian culture.

JJ: Absolutely.

BPS: In western Canada, that was the closest thing to the internet, right? That was your connection to the outside world!

JJ: And last year's catalogue became this year's out house paper. (Laughs)

BPS: Yeah, that's true.

JJ: I was thinking that. Paper!

BPS: My mom grew up in a farm in southeastern Saskatchewan. Many uses for the catalogue. It was informational, it was commercial and it was functional.

JJ: Yeah. (Laughter)

II. LAW SCHOOL

BPS: Growing up in Berens River what made you think you'd want to be a lawyer?

JJ: I didn't have any intention of being a lawyer. In retrospect, I think my story is interesting. I was working in Winnipeg. My undergrad is in business education, which is two years at Red River College and two years at University of Manitoba. So, I'm actually a business education teacher as well. When I finished that, I wanted to teach at the engineering access program. So I ended up teaching, doing the upgrading really, in communication for the engineering students that came in to ENGAP.⁸ I worked for about two years on campus when one of the lab instructors in the actual technical communications faculty got ill with cancer. The faculty approached ENGAP and said, "Could Joan take that lab?" That was really key in my development because Dr. Parker, who may even be still teaching in communications over there, actually failed engineering students. She's an excellent technical writer, and at the beginning she would mark my marking. So, I'm an excellent writer as a consequence of her. That was a great experience.

BPS: What finally ticked that made you want to come to law school?

JJ: Well, my aunt is actually the first Indigenous woman to graduate from the commerce faculty.

⁸ The Engineering Access Program (ENGAP) is a program at the University of Manitoba that assists Indigenous students by providing resources and academic, financial, personal, and social support to succeed in the Faculty of Engineering.

BPS: What's her name?

JJ: Jacinta Wiebe. She's about 70 now. She did an honours degree in economics, and then her honours degree in commerce. She was studying at the time that I was teaching. Her and I were sitting together at the student union, and my mom had just sent me a letter from Nanaimo, with information from a Department of Justice poster. The Department of Justice of Canada used to sponsor ten Métis or non-status Indians through law school per year nationally. I was non-status at the time. My mom wrote me a letter saying, "You should apply for this." I had no intention of being a lawyer. I was telling my aunt that day that I had gotten this letter from my mom, her sister, and my aunt said that she thought it was a good idea!

BPS: What year was that?

JJ: 1988. I didn't apply for my status until '91. But anyways, she said, "you should go! You'd be good." I said, "Oh God, I don't think I could." I think every student thinks that they're not smart enough or whatever. She actually took my hand and said, "We're going to go to Robson Hall, and were going to get the stuff." So I got the stuff and then I wrote the LSAT.

BPS: So you went to University of British Columbia because they had a sponsored position there?

JJ: Well first what happened was I applied to the University of Manitoba. I did the LSAT, and I didn't really study because I have a really big ego and I thought I was smart enough not to study. (Laughs) I got a mediocre mark. The Dean called me out for it, he said, "What makes you think you're going to get into law school with this kind of an LSAT?" And I said, "You told me it was not that important. That you had an affirmative action program here." And he said, "Well no, this shows that you're not smart enough, you're not good enough. No you got to go write again." I was livid, like I've kept that memory alive. Then I actually studied for the LSAT, and I got a really good mark. I decided to apply at the University of Manitoba, University of Saskatchewan, and the University of British Columbia. I was accepted at all three.

BPS: So, you had a sense that the law was a pathway to political reform?

JJ: Power. Political power.

BPS: Right. So, you had ambitions to eventually be a political leader?

JJ: Absolutely, yeah.

BPS: Did you have a role model growing up?

JJ: My grandpa, my mom's dad. He was one of the founding members of the Manitoba Métis Federation.⁹ My grandpa and grandma were original board members.

BPS: Did you go to the Saskatchewan program before law school?¹⁰

JJ: Yeah.

BPS: And is there anything you'd like to tell us about that experience?

JJ: Totally worthwhile. I have told everyone that I have met to go! Go! It's great because it gave me an idea of what was coming.

BPS: What year did you eventually go to University of British Columbia?

JJ: '88.

BPS: That was probably before there was a very significant Indigenous student population?

JJ: No, there were quite a few. In all three years there was close to sixty students.

BPS: In the three years combined?

⁹ The Manitoba Métis Foundation (MMF) is a political representative for Métis people in Manitoba.

¹⁰ The Program of Legal Studies for Native People (PLSNP) is often a condition for acceptance to law school, and counts as a property law credit for first year law. It is an eight-week course offered in the summer prior to beginning law school.

JJ: Yeah.

BPS: That's pretty substantial.

JJ: Yeah, Shirley Olsen, from Peguis,¹¹ was the one who told me I should go to UBC because there were a lot of First Nations students there.

BPS: So in terms of social interactions at UBC, as an Indigenous law student were you more socially connected with the other Indigenous students? Was there sort of a natural alliance? Or did you find that you could socially mix well with the other law students?

JJ: Neither. I think the competition in law school, at least when I was there, created an environment where, rather than cooperative relationships, the relationships were adversarial. People did things like rip stuff out of the library books, because we didn't have the internet back then.

BPS: That sounds pretty rough.

JJ: I made a couple of friends, in both communities. For example, Jenny Jack,¹² which is why I ended up north in British Columbia. We actually deliberately ran Jenny Jack as the student union law school president. There had never been an Indigenous president. Jenny was very, very dark, squat, a little bit chubby, and had long, black, thick hair. She was so outspoken. A group of Indigenous and non-Indigenous students decided to see if we could get her elected. I was her scrutineer. I'll never forget that look on that guy's face she beat.

BPS: (laughs)

JJ: You know, he was one of those big, perfect white boys from privilege. She didn't beat him by much, like maybe about six or seven votes, but he

¹¹ Shirley Olsen (1955-1990) was a Canadian residential school survivor, lawyer, and the former Executive Director of the Assembly of Manitoba Chiefs. She was from Peguis, Manitoba, a First Nations community located approximately 145 kilometres north of Winnipeg, Manitoba.

¹² Jenny Jack was a former partner at Pape Salter Teillet LLP.

just couldn't believe that this Indian woman beat him. It was awesome. (Laughs)

BPS: Since it was such a competitive environment was it lonely there?

JJ: I got pregnant in second year, so that also changed things for me. Second year law school had started, and I went to the doctor, because I was due but the baby was late. I said, "This weekend you're inducing me because I'm not missing anymore school." Basically, I was induced on a Saturday and back in school on Monday, that was it.

BPS: Wow!

JJ: Yeah, I drove back and forth from Burnaby¹³ three times a day to the law school. I deliberately failed some stupid little course. I thought, "Okay, I'm not going make it with this child and law school and get decent enough marks," so I just picked some dummy course that I didn't even go to so that I could stay in there. At the time there was nothing at the university accommodating women at all. A couple of times I did bring my daughter to the school, but nursing her was not welcomed at that time.

BPS: So if you're advising us at this law school, what sorts of support, if any, do you need for Indigenous students? Should there be special programs to specifically support First Nations students? Or, are we past that?

JJ: I definitely don't think we are past that. I am going to give you my personal opinion, which would probably offend everybody. But, there was direct correlation in law school between how strong you felt about being an Indigenous person and how well you did. Or, people would try to blend in, and say they were Indigenous to get any kind of benefit. That kind of behaviour is a consequence of colonization, as well, this cultural self-hate. My daughter calls them tax Indians. They only show up at the gas stations with their status card to get a break, but the rest of the time, no matter how brown they are, they don't even identify because they hate themselves.

¹³ Burnaby, British Columbia is a located approximately 14 kilometres east of Vancouver, British Columbia.

Those people did super well in law school. Actually, DeLloyd¹⁴ saved me. I would've failed.

BPS: He's a strong minded person.

JJ: I did research for him, I was writing about Indigenous law and Ojibway law and all that. He took a red pen through ten typed pages.

BPS: He still reads with the red pen in hand.

JJ: Yes! And you know, when I came to get it I swore at him. He said, "I don't know what that is. That's not what you're here to learn. I don't even care what that is. Nobody here cares what that is." And this was in '88, eh. He said, "You have to learn what we're here to teach you, and you signed up, so don't you be cry babying around about it." And I was like, "Woah dude!" (Laughs) And then we became friends. We became friends because I got it.

III. POST LAW SCHOOL

BPS: Do you feel at this point people can talk comfortably, non-Indigenous person to Indigenous person, about legal issues and political issues? Or is there still some holding back or patronizing?

JJ: I don't run in these circles, so I wouldn't know about these circles. But, the places that I go there still are. You know, our people are afraid to offend the white people. When I was in law school, a bunch of us students were standing around, we were all going off about whatever. I remember I said something, and then Norm, this kid from old money around Toronto said, "Don't talk like that Joan, we won't support you." I was like, "Free speech for everybody in Canada except me? No!" You have to support me on principle, eh? Like, not because you don't like the way my message is being delivered.

¹⁴ DeLloyd Guth is a professor at the University of Manitoba, Faculty of Law, a position he has held since 1993. He was a visiting Associate Professor of Law at the University of British Columbia from 1982 to 1993.

BPS: So there's some holding back. Is the mainstream community candid in speaking, or are the mainstream people afraid of offending Indigenous peoples?

JJ: I just had a conversation with a white woman in a vehicle last night or the night before. She said, "I was in an argument with my dad because he was calling your people Indians. And I was trying to tell my dad that people don't like to be called that anymore." She said, "I'm really confused." And I said, "What do you do when you meet anybody? If identity is an issue, then you typically ask them, what do I call you? How would you like me to refer to you? You know." You pretty much have to ask every single First Nation person! If I meet somebody who is obviously Jewish or Greek or whatever I say, "I don't know many Jewish people, I don't know many black people, I don't know what to say, tell me what to say!" And then they tell me, "Say this." I said to her, "It's ultimately about relating with us. Being in a relationship. Not objectifying us and saying, 'I'm not sure if I should call this a swivel chair or a leaning chair.' We're not objects. Ask the person what they want to be called." And she's like, "Oh my dad will never do that." Oh well, then he'll never know anybody.

BPS: Well, I'm curious about this question professionally as well as societally.

JJ: I did ultimately finish with saying to her that these days it's trending that we call ourselves Indigenous because of the United Nations Declaration on the Rights of Indigenous People.¹⁵ My mom was at the repatriation of the constitution as an elected member of the Manitoba Métis Federation in one of the regions. She told me that they fought to try to get Indigenous in at that time, but that Aboriginal was the closest Canada would come.

BPS: Right. It was involved in the constitutional processes, but not at the table in the 1981-1982 round. I was just thinking in terms of the legal professions and other consultants dealing with First Nations and other Aboriginal communities or Indigenous communities. There's an industry,

¹⁵ The United Nations Declaration on the Rights of Indigenous Peoples was adopted by the United Nations General Assembly in 2007. Canada is one of 144 states in favour of the declaration. The declaration outlines a universal framework of rights and standards of living for Indigenous peoples.

of course, of people advising. What does it look like from the other side? Does a Canadian have the sense that consultants are being straight with them or telling you what you want to hear so they'll get business? Or, is that an issue?

JJ: I've always lived in the communities and I've met very few consultants that are really actually there to have a long term relationship. It's a business arrangement. It's an economic arrangement. It's something they are interested in. They could even be passionate about it, but ultimately it's an economic relationship, and when the work dries up they're gone. But, there are a few people that have been there forever and if there is any work we always want them and identity just fades away.

BPS: I always tell people that as a lawyer our job is to tell you what you need to know, not what you want to hear. Is there an issue with consultants not being sufficiently frank because they don't want to offend or they want to keep getting work?

JJ: I think there is, but there's also an issue with consultants not being sufficiently educated about our world view. So they're too quick to dismiss something as 'not winning' or not being appropriate because they don't even understand that it's a chair, they're thinking it's a baseball. They don't even get it because they don't even get us. As a lawyer, I've encountered that all the time with other lawyers, white lawyers, Aboriginal law lawyers, who would say, "Oh no, the case law says..." I would be like, "I don't really care." Every time a case was won it was a new argument when it started, you know? So the fact that you're trying to dismiss something because it's not in line with the line misses the point. So I think there's a great need for the law society to actually educate the students going out of here in Indigenous world views and philosophies and how we see things.

BPS: We're on the cusp of something new. We have the TRC report,¹⁶ and all law schools will undoubtedly accept the recommendations that there will be a larger Indigenous component in their educational program. That raises

¹⁶ The Truth and Reconciliation Commission's mandate is to educate and inform Canadians on Indian Residential Schools, and to help promote reconciliation. The TRC's final report consisted of 94 "calls to action" regarding the legacy of the Indian Residential Schools and the process of reconciliation.

all kinds of interesting questions in my mind about how will they actually do that. So what approach is more content? Mandatory courses in Aboriginal law? Or maybe just having a more pervasive approach. For example, instead of just having a course called “Indigenous Law,” in family law, don’t just teach mainstream family law, but make sure you deal with the distinctly Indigenous aspects of family law. Do you have any views on what we should be emphasizing or how we should be doing this? Because it’s a very practical question for us right now.

JJ: Wouldn’t then the issue become whether those are established rights or not? I could just hear the faculty debating it. “Why are talking about Indians in course ‘spaghetti’ when the case law hasn’t established that they have a right to spaghetti.” Then there would be the whole flood gates concern. For example, are we then going to talk about transgender people in every course? There are all kinds of rights that people have.

BPS: Yeah, I don’t have the answer to these questions, that’s why I’m asking them.

JJ: Well, you know what the answer is, and why Indigenous rights do need to be discussed? Because it’s our damn land, that’s why! Unless it’s a transgender Indigenous person. (Laughs) But ultimately, that’s why. German people come from Germany, French people come from France, you know? People come from somewhere in the world. We come from here. And that’s why we need to be included in every element. Not to mention that 90% of the kids in care are Indigenous. So, in family law you better be talking about us. For goodness sake! That’s the underlying justification for including us. I think there should be a mandatory, because you should force the racist to pass or fail. People need a better understanding of who we are, and how we see the world.

BPS: Operationally, how would you actually do that? Getting to know the law and getting to know a people as a people or individuals within that community as individuals. In orientation now we might have an elder or something.

JJ: It’s warm and fuzzy.

BPS: Yeah, it's not really getting to know somebody and having really a searching conversation. It's more ceremonial.

JJ: One of the big things that really piss me off is access. Our people don't have access to justice, even if it's the wrong justice, sometimes we might want access to it. For example, the federal government right now is requiring women on reserve who are separated from their partners to show that they have actually sought support through the maintenance programs. Otherwise, they don't qualify for income assistance. However, there are 21 fly-in communities in the east side lake Winnipeg. How does any woman there get a lawyer from Legal Aid? Okay, so they have to wait for the court to fly in to the community. And then you got the Legal Aid heroes who have two thousand cases each, mostly criminal. The mother there is saying, "If you're not my lawyer I won't get welfare. I have six kids." Legal Aid requires a lawyer to fill out the forms, so even on their breaks these Legal Aid lawyers are filling their forms. It's a huge problem of access. So then you get women living in violent situations because it's the only way they can get welfare.

BPS: So, if you wanted the students in a family law course to get a sense of what actually is going on out there...?

JJ: You'd need volunteer clinics. But, that would cost money, eh? Yeah, I don't know the logistics; I would have to think about it. When we fly out for medical appointments you can coordinate that the person goes to a legal clinic. For free, by the way. (Laughs) So I would try to envision something where I promoted a Legal Aid clinic.

BPS: Yeah, I guess what this conversation illustrates is that as a law faculty we don't go straight from "we've got to do something" to "what do we do." We have to have a whole lot of conversations with people like you as to what the options are and what's practical, what's useful.

JJ: Absolutely.

BPS: The interaction between the reserve and the city is now an extremely complicated issue. You often have sub-communities where most of the First Nations community actually live outside of the community.

JJ: A lot of those people live outside of the community because what they need is not in the community. That's why they live outside the community

BPS: I was talking to Elijah Harper¹⁷ once and said, "Do the people who leave your community, Red Sucker, come back and help support?"

JJ: They're not welcome back.

BPS: He said, "No, they tend not to go back." It's a difficult commute for one thing, but also they're not welcome back because you abandoned us?

JJ: You're acting like a white woman now.

BPS: Oh, is it sort of like, "You don't get us anymore because you're too immersed?"

JJ: You're not from here. I actually was talking to a chauvinist on Facebook the other day. We were in messenger, and he said, "Go away, you're not from here anymore, don't come back." (Laughs) And then he blocked me.

BPS: In the future, should non-Aboriginal people think about being lawyers to Aboriginal people? Or is that something that can or should be done only by Indigenous lawyers?

JJ: No, I totally think that if somebody feels called and has a passion to serve anyone then they should. I think this is a very Indigenous worldview, as well. It's not Indigenous people who've said we don't want you here. (Laughs). It's not. It's maybe, "You're behaving in a way that's inappropriate," but it's not that we don't want you.

BPS: I think there's a governance institute out on the west coast?

JJ: Yes, I sat on the board for a while actually. The same one that Elijah was on.

¹⁷ Elijah Harper (1949-2013) was an Oji-Cree politician, consultant and policy analyst from Red Sucker Lake, Manitoba, who played a significant role in the ultimate rejection of the Meech Lake Accord.

BPS: It seems to me that there is a very strong need for a well-educated, effective Indigenous civil service.

JJ: We don't offer anything.

BPS: We don't have anything here right?

JJ: Not that I know of. The University of Winnipeg has an Indigenous governance master's program.

BPS: Oh, master's program.

JJ: Well, Wab Kinew¹⁸ was heading that.

BPS: Oh, I didn't know that. But when you say a master's program, it already sounds like there's a whole lot of stuff you got to get through to get there in the first place.

JJ: Yeah I think U of W also has an undergrad program, because one of my cousins is in there right now.

BPS: Is that something that should be done more by management schools? Should be done by public administration schools? Is that something we should be doing as a law school?

JJ: I don't know. We'd have to talk about it more, but I do have a quick opinion on it. I think that on the first blush, it would be more like a public administration thing, with some courses in the law school or in the other faculties. But, this is really about public service and Indigenous governments and public service and what does that look like in our communities, because right now, all we're fancy Indian agents. We're just implementing the programs from the federal government. They decide all the programs, they pretend to consult with us and they do what they want. It's all about discharging liability.

¹⁸ Wabanakwut (Wab) Kinew is the leader of the New Democratic Party in Manitoba, and the leader of the opposition in the Legislative Assembly of Manitoba. He was raised in Winnipeg Manitoba, but is from Onigaming First Nation, located in Northwestern Ontario.

BPS: Well one model, I think it's called the 'Harvard Model,' is that Indigenous government should make a strenuous effort to separate the political branches from the civil service. So, if you have an Indigenous civil service, say running the school system, keep the principle and so on insulated from politics. The politician gives general direction but they are not involved in micromanagement. That's what some of the literature says. Do have any thoughts about that?

JJ: Tons of thoughts about that. I think that's a huge problem. Here I am disagreeing with Harvard. I think that some of the findings of that project are valid, that people need to have their identity. Jack¹⁹ and I used to have this argument, economic emancipation, you know? Like what are you going to share, your poverty, you know? And it's true in a reciprocal economy, Indigenous economies originally were reciprocal. What are you going to share? Your welfare cheque? You know, you can't have a potlach or a giveaway at a powwow with welfare money. You need a lot of money for an Indigenous economy to work. So, the big problem is that colonization has fractured communities and families and relations. We have the Royal Commission,²⁰ the TRC, everyone says that and everybody knows that. Our relation, our ability to relate with each other is broken right now, so we don't move through conflict well together. That in itself has become identified as an Indigenous characteristic. Indigenous don't like conflict. And you know what, if you do not move through conflict you can never build consensus.

BPS: Well, that's one of the reasons why I keep asking this question. In my view, there are tremendous challenges out there, which don't have easy answers. Everything from identity, to how you improve the economic situation without reinforcing a dependency.

¹⁹ Jack London graduated from the University of Manitoba, Faculty of Law in 1966 and completed his LLM at Harvard Law in 1971. He is currently Senior Counsel at Pitblado Law, in Winnipeg, Manitoba.

²⁰ The Royal Commission on Aboriginal Peoples (RCAP) was authorized to both investigate and propose solutions to the challenges affecting the relationship between Aboriginal peoples in Canada with the Canadian government and wider Canadian society.

JJ: So let's go back to your question, which is a relevant one. Let's use treaty land entitlement as an example. The idea that politics should be separate from all this trust money that we're giving these Indians here, every nineteen or twenty-one TLE communities²¹ in Manitoba have a corporation that is set up with a board, and then there is the chief-in-counsel. No one would admit this publicly, but what happens is that this group runs the trust for a while, while this group runs the First Nation, and there's an election at the chief-in-counsel and then they come over here and they just fight each other.

BPS: Yeah, I've been a lawyer in some of those conflicts.

JJ: So the idea that there should be no connection between the government and the money, politics and business, whose idea was that? White people connect their business to politics all the time. There are firms in Winnipeg that are known as liberal firms. Everybody knows they're liberal firms. Or they're more conservative firms.

BPS: Well some of that is a problem. Like cronyism or political purges.

JJ: Oh I see, so they don't want to bring more problems to us? No, there has to be accountability to the people. Like, how are these individual trustees over here, who are just individuals, they're not connected to the collective, they're individuals. Some of them end up on boards, economic development corporations for years and then they rubber stamp stuff. Usually what happens is 'smarty-pants Indian graduates from school' or you know 'used car sales man' comes home and realizes, "Wow, you know, I can do stuff here." So people end up running corporations. And then the boards end up rubber stamping because they get them from the community who aren't empowered and don't know what their obligations are or anything and who are typically the enemies of the government. (Laughs) And, so how is this good?

BPS: Right. You're an outspoken person. Say you're in a small community and say you're in the outs with the chief because you criticized him politically. Well you don't want to lose your job working for the hospital.

²¹ Treaty land entitlement settlement agreements were negotiated between First Nations and the Government of Canada regarding land purchases and acquisitions.

JJ: Hence, Joan is unemployed.

BPS: Okay, so there is a problem here.

JJ: Yeah, for real. If you open your mouth, the economy in our community is not big enough that you would be able to maintain your job.

BPS: I've made that case about the entire province of Manitoba. So much of the economy is based on government transfers in this province and people are afraid to speak out.

JJ: There's an old joke that goes around the reserve that says, "Be careful. The toes you step on today may be connected to the chief's ass you got to kiss tomorrow." Because you know, anybody can run for chief. They don't even need to have qualifications or anything.

BPS: I'm not saying the Harvard Model is entirely right, but maybe it is good sometimes to insulate people so they can do a technocratic job without always worrying about their employment situation. Sometimes you want to go to the chief's office and say, "You know this policy is not working and it's bad for the kids," without having to worry.

JJ: But, if you insulate the institution and you have to develop all these things without bringing the people along, who gets the jobs? White people. Not our people.

BPS: So, you would want some reasonable measure of democratic accountability and political direction and some sort of professionalism in the technocracy. Achieving that is especially difficult in a small community.

JJ: Trying to create disconnection is the wrong approach. Responsible connection would be the more proper approach – for the community to realize how everything is connected. The grassroots people know that. This must be mapped out in the community, to have that kind of idea, and to talk about accountability throughout the community.

BPS: Well, yeah I've certainly seen and read very complicated specific claim settlements. They were written by people who, granted I'm not the most expert person on living in a reserve community, didn't look like they knew very much about the practical realities of the reserves. Really complicated schemes about when you can sue the trust and when you can't. And I'm thinking, this is all ivory tower stuff. Think practically. Do you really want to have incentives for suits, and how much money is going to be consumed at litigation?

JJ: Well it brings to raise the whole issue of informed consent and the ability to consult as it applies to our governments. Do people really understand what it is that they're supporting? Mostly not.

BPS: It's almost paradoxical, but the modern culture is these agreements, self-government agreements, treaty land entitlements, you name it. Because the ethos now is fully informed consent, "Make sure you've got your lawyers, and let's nail down everything in a two hundred fifty page legal agreement." Which raises the question, does anybody understand this? On the one hand, as lawyers you try to make sure you've actually clarified things, that things are nailed down, that there will be no future misunderstandings, and people know what they're signing. On the other hand, the more you get these massive technical agreements, you have to ask yourself how can any ordinary person understand this?

JJ: So, it's the law firms that have to invest in ensuring that there is informed consent; the community is not going to. They don't have the capacity. But they will end up paying the legal bill anyway. There are some lawyers that are super good at all the detail, and then there are other lawyers that are really good at explaining all that detail. So it's kind of like a two-step process, and those people have to go in. But, the law firms won't pay the money or don't realize they should, I don't know.

I just had a conversation with a partner at Gowlings²² the other day about the day schools, because they're taking over the day schools. He was asking all these questions, and I said, "You know, you really need to hire me. Otherwise, why am I going to spend all my time teaching you about my

²² Gowlings WLG is one of the largest law firms in Canada, with offices in multiple cities across the country.

community?” He says, “Oh, I doubt that we would do that.” Well, then I’ve got to go change my baby’s diaper. The law firms don’t see that as part of their business management. The law firms aren’t properly informing people about what’s going on. I think they’re responsible because they are all getting to pay their mortgages and send their kids off to college, but what about the person on the reserve that doesn’t even understand what their chief is doing?

BPS: You made the point that to get past conflict, you basically have to be candid in the first place. Which is frankly what I think as well. But there are a lot intractable problems we can only make progress on if people are prepared to say what they actually think. And that’s on both sides, right? Some of the perspectives coming from the mainstream side is resisted to, but we might actually have a point sometimes, right?

JJ: Many times. There is also the aspect of strategic timing. If people would understand that it’s not that I’m not hearing you, I hear you, but, for example, I’m thinking we need to do this first and then this, etcetera. There are strong leaders in the community that will say, “Actually now that I get what you’re doing, okay then.” Or they will be like, “No, I still want to do it this way.”

BPS: Yeah, I think what sometimes happens on the non-Indigenous government side, whether that be federal, provincial, or municipal, is “Well we don’t want to offend you, so we’ll give you fifteen technical reasons why we can’t do it,” instead of having a candid conversation, which is “You know, I have a problem with this.” It could stem from all kinds of things. It’s too expensive or it’s just going to repeat dependency. If you actually had that conversation, people might modify their views on both sides and you could actually get further ahead.

JJ: Yeah, but most people, I find, are not personally invested in the situation. Then on our side of the table it is the opposite – there’s very few Indigenous people that end up at these tables that aren’t personally invested somehow. It’s their land or their cousin’s land or they’ve married into it or there’s some kind of a personal investment. On the other side, the culture teaches that you actually shouldn’t be personally invested. This is just business.

BPS: You mean the culture of professionalism means you separate your personal views from your professional views? So, if you're a First Nations negotiator or something, you're kind of torn because mainstream culture says that it is unprofessional to get emotional or personally invested.

JJ: Yeah. I've had the experience where you have somebody on the other side that all of a sudden has a light bulb go off, and suddenly they get it; they join the table in their whole person and the table starts to move a bit. Then INAC²³ moves them because they lost their objectivity. "Oh my god, you're not an Indian fighter anymore."

BPS: Is it a generational thing?

JJ: No, it's still happening.

BPS: I was just asking because I didn't know what answer to expect.

JJ: I can't believe it, I'm so happy, this is very therapeutic. No one has ever asked me any of these questions.

BPS: Well, that's why we're doing this stuff! I was hoping this would actually contribute to the net body of knowledge in the world.

JJ: Good job!

BPS: Did you ever have an experience of working for mainstream government and dealing with an Aboriginal community?

JJ: No, not me.

BPS: Because there's going to be more and more Indigenous people who are now working for federal, provincial or municipal government and they're representing the mainstream in dealing with the Aboriginal communities. I was wondering if you had any views about the tensions or the skills that are required to do that.

²³ Indigenous and Northern Affairs Canada is a Government of Canada department.

JJ: Who comes to mind is my good friend Marie Rose Bench. She was a financial services officer for Indian Affairs for thirteen years and worked on that side and went to the nations all over Manitoba. When you're an FSO, you're basically the representative of Canada controlling all the First Nations money. So you know Marie is very calm, tolerant, and fiercely strong. Like there's a special skill-set that our people have to have because more than once she's been called a sell-out, I'm sure. But, I think there are many people like me who appreciate that. Then there are other ones of us who are again just browning up to get a job and pay their mortgage.

BPS: That's people who you think don't actually identify with the culture?

JJ: No, they haven't addressed their own cultural reconciliation. Yes, things have been done to us, but I think it's incumbent upon each of us to reconcile inside where we land. And this is my own personal view. If you're only identifying as Indigenous to benefit economically you may as well be white. And, I don't mean that in a bad way.

BPS: No, no. There are all these emergent identity issues because we've had this official label 'Indian Act status' which has got really challenging questions ahead because of the 6.2 rule. A lot of people will not be status because of the operation of 6.2. There have been demographic projections that the status population will rise, and then by the end of this century it will plummet as more and more people intermarry. Then you've got people who are status but grow up within the urban centers and may not have the same identity as those growing up in the concentrated community on the reserve. And, of course, the Métis are developing their own identity because the Supreme Court of Canada says that they're one of the section 35 people. There are all kinds of internal disputes, as well as disputes between Métis and other folks, about who is a Métis. But there's another thing that's happening, which is that as we go on, and more people intermarry, more people are going to have Indigenous ancestry. That's just inevitable, right? Sooner or later almost everybody is going to have at least one Indigenous ancestor. What do you do when somebody says "I'm an Indigenous person?" Do you just automatically accept their self-identification, or do we actually somehow screen whether somebody is really Indigenous? It might pose an issue with university faculty acceptance.

JJ: How soon do you think you're going to have this problem?

BPS: Well, for example, the education department has a numerical target for Indigenous people in their faculty. You mentioned that if there's a benefit it might cause some people to shift their identity, which strikes me as not an easy problem.

JJ: Let me clarify what I'm saying. I'm not saying those people who identify just to benefit aren't Indigenous. I'm saying that they are in a different place in their healing path than I am. So that's different than the statistical problem that you're presenting. I'm asking you, how long is it going to be before we're so watered down that that's actually a problem? Like I don't think that problem is going to come. I think you're way ahead of us.

BPS: Well, I don't know. Why don't you start, for example, with education. I think they're going to totally accept self-identification. Well I can see problems with that. Some people saying, "Well the idea was to have more Indigenous people in classrooms, but that person over there just opportunistically chose to identify and they're taking the place of someone else."

JJ: Well, then I think probably then the decision making criteria would have to be broad enough that that is not the deciding factor. There are other things that you're looking at. You're looking at probably grade points. You're looking at need. Do they have six kids? You know there's got to be a broader spectrum of things that you're looking at to give this hand up. And not just, I show up with my 4.0 GPA and realize that my great-great-grandma was Ojibway and I want to get into law school for sure, so this is my best way in.

BPS: Yeah. I don't know if we've had that. I don't know what we actually do right now. I don't know how we're going to do this. I just see it as quite a challenge, I mean who wants to tell somebody you're not really who you say you are? On the other hand, you could actually be unfair to the people who live the life and who have needs for accommodation or for participation...

JJ: Well, ultimately the decision makers at the faculty are going to have to put a lot of thought into this.

BPS: I want to talk to you about the move from the law school experience to practicing law. I think we met for the first time when we were both at Pitblado?

JJ: We may have passed each other.

BPS: The big firms in this city have tried to increase participation by Indigenous people, but have not been very successful numerically. The good intentions, I believe, are actually there, but there hasn't been success. Why hasn't it worked?

JJ: Well, I could be wrong but I think there were four articling students back then when I articulated. I left Pitblado after six months and went with Rhys Jones²⁴ and Diane Kelly,²⁵ Wab's sister.

BPS: Is she Wab's sister? I didn't know that!

JJ: Yeah, Wab's older sister. Diane's mom and Wab's mom are different. I accepted Jack's invitation to article with him because I am from a business background, you know? I wanted to learn. I loved tax law. Call me crazy! But, I actually took tax law in law school and I wanted to bring business acumen to my community, but I didn't get any work. I had a one-minute book review from one of the guys that is still there and one other thing in six months. I only had Jack's work. All the other students were just working like dogs.

BPS: If you're an Aboriginal person at a law firm is there an unstated assumption, "Well, you're only interested in doing Aboriginal work?"

²⁴ Rhys Jones was a partner at Lofchick Jones & Associates located in Winnipeg, Manitoba. He was one of the first lawyers in Canada to devote his practice to Aboriginal law.

²⁵ Diane Kelly is the former Grand chief of the Anishinaabe Nation in Treaty 3 territory. She is a lawyer and was appointed the Assistant Deputy Minister of Child and Family Services in 2015.

JJ: There was back then. I was very unhappy; it wasn't Jack, I loved Jack. The managing partner wanted to meet with me when I was leaving, and he said, "What's going on?" I said "What explains the fact that all these lawyers are using the other articling students and they're not using me?" He was very upset, but I just told him I'd arranged other articles and was leaving. And I left.

BPS: There is a round table now at the big firms with Aboriginal students to try to get them exposed to the fact that maybe big firm practice is a possibility.

JJ: Howard²⁶ and Marty²⁷ were the two main lawyers that were really nice to me back then and I'm still friends with both of them. I talk to Marty all the time, and I book my quarterly supper with Howard. So it wasn't the people at the firm are, it's the whole system. It's the systemic racism within the big law firms that has to be challenged and examined. The lawyers themselves, like I was saying earlier, need to be taught who we are. And they don't get it anywhere. If they're not getting it at the law school, where are they going to get it? And then they turn into judges. (Laughs)

IV. ABORIGINAL JUSTICE/ MISSING AND MURDERED INDIGENOUS WOMEN AND GIRLS

BPS: There have been a whole bunch of Reports, capital R reports. The Royal Commission on Aboriginal Peoples. The Aboriginal Justice Inquiry in Manitoba. We're on the cusp of another report, which is going to be on missing and murdered Indigenous women. One of the people we interviewed said that it just sounds like it's going to be another report and a waste of money. Put the money into actually helping people at the ground level. So I wanted to ask you a bit about that. You wrote a very passionate op-ed piece, so let me ask you a few questions about that. I know it's very sensitive territory in all respects, but there is a hugely disproportionate representation of Indigenous people in the criminal justice and corrections

²⁶ Howard Morry is a lawyer and partner at Pitblado LLP. He practices in Aboriginal and tax and estate law.

²⁷ Martin Minuk is a partner at MLT Aikins, in Winnipeg, Manitoba.

system. At the legal end, it's almost palliative in some ways. Here's *Gladue*²⁸ and we'll try to take the circumstances into account, but it doesn't really get at fundamental issues. Maybe most of the reform is going to have to take place within the communities and the intergovernmental relations and economically. But, any thoughts on what the legal system is doing right or wrong to deal with the fundamental questions of violence in the communities? Is it a law enforcement issue? Is it a *Gladue* sentencing-judge's issue? Are there more fundamental issues that the legal system really can't deal with?

JJ: What popped into my mind is that when I was elected on counsel in Berens I finally got a seat. I went to the court to watch, because I wanted to see. One of the prisoners that was brought in for appearances was a young man who was charged with assaulting his partner. I don't know if they were married or whatever. In the meantime, since he had been taken away, she had had the baby. I was just so struck as I watched him ask permission to go over and see his child. In the corner of the hall, I kind of watched this young guy, maybe twenty years old, go over to a girl that was maybe seventeen, and has a little baby. I remember thinking, "What the hell?" So that's your question. How do we make that seem better? Is that how the violence should've been handled?

BPS: The inquiry is going to be about the missing Aboriginal women and children, but there are actually more Aboriginal men murdered every year than Aboriginal women.

JJ: I didn't know that.

BPS: Yeah. That's the stats that are coming in. I read one proposal. They really should've made it about violence in the Aboriginal communities and not particularized it to women and children. I know this is a very sensitive topic. But, any thoughts? Was it a mistake or a good idea to focus on women and children? Or, should it have been broader?

²⁸ The *Gladue* Principles require courts to consider the backgrounds of and alternatives to incarceration for Aboriginal offenders in matters of criminal sentencing.

JJ: I didn't know that! You just taught me something. So, I agree with you. It should have been an inquiry into violence, but what's happening is that the women are standing up and saying, "Our children are being killed." That stat really threw me.

BPS: Well, in the legal culture, to some extent, it seems to me there's Aboriginal mainstream and all the tensions and injustices and that relationship. But some of what we do in the mainstream now is, "Okay, so we've got women and children in need, so we'll call the non-paying dad the dead-beat dad." It seems to be a rather negative approach.

JJ: I think it has to do with, and I am just completely guessing here, the fact that most Aboriginal men are killed by other Aboriginal men, I bet.

BPS: Yes, I'd make the same guess.

JJ: Okay. So basically, we're killing each other. So, the issue being a female issue is because there is a group of white or other men, other than Indigenous men that are killing our women and girls. That are targeting our women and girls. They're preying. Sure we can charge the men and all that, but that doesn't really resolve the issue. I'm not an expert on domestic violence; I've only lived through it. I'm not an expert on the solutions. My solution was to leave.

BPS: So, to encourage the women to get out of the relationship?

JJ: Yeah. But I think it's a part of the capacity that has to be built in our community. It's really a women's rights issue that chauvinism and misogyny exist in the world. That our men have come to just think that, that's what they can do. There's a whole born again, fundamentalist Christian movement, all over Canada, actually. There are people in our communities quoting the bible saying the woman was just made from a rib and all that stuff and doesn't really have a say. It's complicated as well in a land-based relationship. I have a land-based relationship with my husband. You could look at it and say that I was subservient to him. If you looked at it through a lens that only saw that. Our division of labour is very clear.

BPS: You're an outspoken person and you're an outspoken writer. Within the Aboriginal communities themselves are people having the conversations that they should be having? Like, "This is something we have got to fix and frankly this is what we have to do?"

JJ: I think privately in homes people are having the conversations. You know, around their kitchen tables they're having the conversations. But, at the band meetings, at the public meetings, the most outspoken will bring those concerns to those tables, but then they're not welcome there because there's an agenda that is driven by the lawyers and the treaty table and the TLE or whatever we're trying to get passed. And, we don't really care about who's punching who, you know, we're trying to get this treaty done.

BPS: Is there any idea about what the next steps are?

JJ: There seems to be a big mucky muck going on right now. I don't know, there's like some people talking about delays. It's about work. People can't get jobs. It's about eating.

BPS: One is material security, everybody needs basics in life. But to some extent that doesn't entirely overlap with employment. It seems to me that people, including young men, need to have something to do. Some place where they can feel useful is really important. You could imagine two very different communities with equal average incomes, one where the band is just distributing money and the other one where the people are earning it. And my guess is that it's the working and the earning that gives people a sense of usefulness. It is very difficult to be a young person and not feel that you're actively contributing by doing some productive work. Any thoughts about that?

JJ: True. That's true. I think that what we're not doing and what we should be doing. I shouldn't apologize for myself, but I feel like a kook, but it has to do with food. When I grew up as a store keeper's daughter, my dad and my mom hunted geese and ducks, but we didn't go hunting like in the traditional culture at all. Most communities are so colonized that they don't anyway around where I am from. In Berens, maybe 10% of the people hunt. It's ironic that the people who hunt are also the people who typically work. You know the ones that are hunting also have jobs.

BPS: There is a joke that if you want something done give it to a busy person.

JJ: Yeah. But, I think that rebuilding the land relations is really important. I got a call from the First Nation corporation the other day. They said, “One of my mechanics hit a moose out at Surprise Lake, we want Brian and the boys to come and get it and to cut it up,” because nobody really knew how at the corporation. I said, “Brian is not here, but the boys are here. I’ll send my boys.” Two of my three sons were home, one being twenty-one and the other fifteen. Later, the other boys that were there that don’t come from hunting families were saying how proud they were – they’re all unemployed – but how proud. One of the young boys came up to me and said, “You know, your sons really know what to do.” They felt good, eh. They felt really good. So that’s self-esteem.

BPS: And your also connecting with your culture and tradition.

JJ: Yeah, absolutely. And feeding. So, you know there’s a whole big thing there. And we’re diabetic, so that’s a whole other aspect.

BPS: It’s my sense that people really don’t know. If you look at statistics like the level of tuberculosis in the east side and diabetes, if it was visible we would all agree it was a public health crisis. It isn’t just a chronic problem, it’s an emergency. But we don’t. It seems to me it’s largely invisible. Is that your sense? It’s not that the mainstream inherently doesn’t care; the mainstream actually doesn’t really know how serious some of the problems are.

JJ: They don’t. And it still puzzles me how people don’t know. Back to the woman the other night in the car, I said, “I think why that happens, is that in your culture you’re taught that being wrong is bad. You can’t be wrong. You would do anything to not be wrong.” I said, “In our culture being wrong is funny.” (Laughs). As an Indian, you’re not scared to be wrong. People laugh, you know. If you walk, like, just elaborating with the slapstick humor thing, if an Indian at home walks into the door, everybody would laugh their head off and not think anything. Might even tell it a few times and get a few more laughs. But, they won’t think anything less of the person

who walked into the door. But, if a white person walked into the door at the law school here, oh my God, they would cry. Not in public.

BPS: That is really, really interesting.

JJ: So, I said to her, “I think you guys are so scared to be wrong that no matter how many times we say ‘anybody can come to the powwow’ you won’t come, because you don’t know what’s going to happen there and you’re so scared to be wrong.”

BPS: People are so inhibited, “Oh geeze, that was stupid or awkward or...”

JJ: Or it might offend somebody or I might say the wrong thing, or whatever.

BPS: Yeah, I see it as an issue.

JJ: And that just breeds racism. My experience is that most racists are such by accident, it’s not on purpose. It’s not done with malice; they don’t intend to be that way. When I’m racist to someone of another culture, I don’t mean to be. If I am, I correct it as soon as I know it.

BPS: From you’re understanding, it’s like, “Oh, that was a mistake,” but that doesn’t make me a bad person. It’s just that the person needed to learn something.

JJ: Yeah, I just walked into a wall, big deal!

BPS: Yes, I agree. Fear of being wrong is, I think, one of the things that holds back problem solving. “I’m in government or I’m an academic and I don’t want to ever say anything that might possibly offend or make it sound like I’m unenlightened.” So, I mean, the practical implication is that people suffer and die, but, it’s okay because at least we didn’t offend anybody.

JJ: “It’s okay because I still have my pride.” It’s really sad actually Bryan, it’s really sad. I cry about stuff like this. And then I feel sorry for myself because I’m not employable because I’m way too honest. “She’s a loose cannon.”

BPS: Well I think it's an issue in the industry. We need a lot of bold, fresh thinking, first and foremost by Aboriginal academics. Frankly, I think that mainstream academics to some extent had a loss of moral credibility from residential schools. Some of the ambient culture is everybody should be respectful and nobody ever wants to say anything that might offend anybody, which makes it pretty difficult to have legitimate personal conversation. It's not that I'm against respect or anything, but I think part of being respectful is...

JJ: Having the opportunity to learn how.

BPS: Or actually asking. I value your intelligence and maturity enough that I don't mind asking you a hard question Joan. So, if I wanted to point out that more men than women get murdered, you don't take my head off.

JJ: And I did not take your head off, did I? (Laughs). But, I think it was interesting what came out of that. I'm going to think about this some more and pray about it. I think that the reason that we need to speak about murdered and missing Indigenous women right now is because we are being targeted. And the broader issue of violence in our community is one that we're all experiencing, whether we end up taking our own lives or taking the life of another person. We have a problem with violence. So I'm one of the few women that talks about the fact that our men have to stop, you know. We know that colonization is the cause. But we know that now, so stop hitting me please, you know?

BPS: But isn't that the problem too, that people use colonization as this catch all?

JJ: Well when you only have a thirty second clip, what else are you going to use? What I'm basically saying is that we have to take responsibility for ourselves. That concept is actually in our language. When I was in law school I phoned my dad and several other fluent speakers and asked, "How do we say this," as a learning concept. When I talked to my dad about the whole concept of being responsible for yourself and individual rights and all that, he said Dibenindiz. I knew some of the words that he had said, but not the one in the middle. I said, "What did you tell me?" He said, "I told

you, you own yourself. You are responsible for your own behaviour, no one else. You should know that.”

BPS: That’s a very powerful concept.

JJ: Yes! Then Dibenindizomin he said is, “We’re all responsible for each other.” As we talked, what I pulled out of the conversation was that, in that concept of Dibenindizomin is the idea that it’s ridiculous to expect someone who isn’t Dibenindiz to be Dibenindizomin. You know what I mean? You can’t expect someone who is not behaving responsibly to be responsible for other people. So it is incumbent upon those of us who are being responsible. It’s the collective, eh? It’s section 1 of the *Charter*. It’s this whole idea that we can’t move forward without every Indian at the meeting and all this stuff. I don’t think so! I think we have to give everybody the opportunity to be there and help empower them to be there. But you know, we need to go because there’s a bulldozer coming.

BPS: You put something out there that concerns me as well, which is that there is this narrative now that everything that has gone wrong is a product of European repression. And you know what, there’s a lot of truth to that narrative. I don’t think until the whole residential school litigation came after the report...

JJ: And day schools.

BPS: ...Very few people, including myself, had any idea how pervasive and long term-damaging the whole thing was. We knew about residential schools vaguely, but we didn’t have any idea about all the abuse and sexual violence and the way it disrupted family structure, and all kind of stuff. I’m not by any means trying to underestimate that, but at the same time, we don’t want people coming into the world thinking themselves first and foremost as somebody else’s victim. Rather, “Hey, whatever happened did happen and we have to fix some of that, but we also want to succeed in the world. I can’t define myself by what other people did to me. I have to define myself by what I can do in the world.” The words you quoted were powerful.

JJ: It is. And that's what Herb George²⁹ is trying to create at the Centre for First Nations Governance. Herb says that we have to create a new memory in the minds of our children. But, doing that is going to take some time. My husband went to residential school; I have his permission to talk about it whenever I feel like it. He was sexually assaulted. He was sexually assaulted by one of his own brothers in the summer time. So he's not even compensated under the agreement. Student on student has to happen on the property. If you can't prove that there was no supervision and there should've been supervision it's not in there. I have a western process of objectifying things, whereas the Indigenous process is more the process of subjectifying things; it's filtered to yourself and your community, then you have what you need. So, what we've done as a couple for twenty-four years is consciously, and mostly me, I say to him, "Let's talk about that" because he is just being who he is. And then I say, "Well, should we hang that picture there, should we hang those wolf skins there? What's that going to do to our children?"

My one daughter, Loni – that's why I'm in Winnipeg, she's pregnant – she has fallen in love and married an Irish boy, a farmer. She's not visibly Indigenous very much; she's with all white kids in Woodlands. Sometimes it's hard for her she said, because they don't realize who she is, and they talk, eh? She told to me, "Curtis said to me the other day, 'my sisters and white women I know act different than you.'" She said, "What do you mean?" and he said, "Well, you're still like feeding the horses and brushing the horses and doing everything that you normally do even though you're super pregnant now. You're laughing or mad or whatever, you're just being who you are. My sister says thing like, 'I swept the floor, oh I gotta go lie down! I did this, oh I gotta go lie down.'" I said to Loni, "Well, that's a cultural difference. You know, you're not considered disabled in our community when you're pregnant." And this is very opinionated, and also big digression. (Laughs)

BPS: But, that is part of the reason I really enjoy these interviews! Wherever they go, I'm happy to go. Two more big topics I wanted to cover.

JJ: Oh my God, okay!

²⁹ Herb George was president of the National Centre for First Nations Governance, which was a predecessor organization to the current Centre for First Nations Governance, where he is now a Senior Associate.

BPS: I've mentioned the TRC and residential schools. Of course I'm using the standard vocabulary of residential schools. You went to a day school, and you are involved now in litigation in that regard?

JJ: Well, I am trying to achieve some kind of justice for them, because the agenda was the same. The government's agenda and the Church's agenda was the same at the residential school as it was at the day school. Basically, Canada's defense to the day school is, "Well, yeah, they may have been sexually abused, but how do we know it didn't happen at home? They went home at night. Yeah they didn't maybe learn, they got hit for speaking their language at the day school. But you know, their parents could've taught them, they went home at night. Ukrainian people teach their kids to speak Ukrainian, they talk English at school."

BPS: Is the risk governments and mainstream thinking, "What are you guys still talking about? I thought we already dealt with this?"

JJ: The average Canadians that I talk to are like, "What!?" they don't want anybody to be left out. They don't want to know that people have been treated that way and not compensated or not acknowledged.

BPS: I'll give you a little preamble to the other thing I wanted to ask you about. I find fascinating what you told me about there being a cultural difference between being worried about doing something stupid and therefore being seen that your actions correlate with identity, and Ojibway culture being very different in that respect. I was listening to a CBC radio show once discussing the topic of how immigrants see ordinary Canadians. An official reported that some immigrants think that Canadians are very mysterious. That surprised me. The official then related this story from an immigrant: "I was working for somebody for three weeks and I thought it was fine. But, after three weeks I got a note saying, 'thanks for working here. Here is your severance.'" So essentially making the point that if Canadians have a problem they're not telling you directly. It's very difficult inside a culture to really appreciate these things without having some extrinsic perspective on it. So I was just interested to hear your remarks about how your ordinary old Canadian appears from Ojibway culture that might surprise me?

JJ: Well, something that is different is the whole work thing, too. People just don't see the whole notion of earning a living outside of the home in the same way. Like people will just stop working and just say, "Well, I'm going to rest for a while."

BPS: I think that might be changing in the mainstream. A typical law student, at least in previous generations would have thought "I'm going to do really well in undergrad, then I'm going to go to law school, then I'm going to get a job at a firm, then I'm going to be very successful so I'm going to be partner." So, you get this whole progressive path in mind for your life. Now, I think millennials are doing it a little bit differently. More of them are saying, "Okay, I did undergrad, now I'm going to Thailand and coming back in a year." What you are describing, I don't know if it's only a different approach to work, or somewhat a different approach to life. Life is not just this steadily mounting path of more and more achievement and success. It's like, you do some things and then you do something else.

JJ: So many people are shocked that I decided I didn't want to practice, even though I have never been particularly successful. If you judge success by money, I am a complete failure, you know? (Laughs) One time Howard said to me, "You're one of the best lawyers I've ever met" I said, "look Howard, you love me too much to bullshit me, okay?" I felt hurt, eh, because I too judge myself and my success as a lawyer in terms of my money, you know?

BPS: Well it's part of the culture of private firms.

JJ: But that's not how we judge each other in our community. It's not even relevant what money you have. What's relevant is how kind you are. And whether you're present. Today we're all really present here, the energy is beautiful. So, this is very Indigenous for me. This is how it usually is all the time at my house. Whether you're in the band meeting or the band office, this is the energy. If a First Nations person shows up and isn't present, it's noticed right away.

BPS: It's interesting you say that Joan. I run a program in Israel every year where I take about thirty of our students. One of my colleagues there in academia said, "You know, in North America people won't tell you what

they're really thinking, there's a lot of inhibition. In this country, what people would regard as incredibly rude in Canada, people are just telling you as a matter of fact, 'Oh you are that, or you did that.'" Everybody acts like they're your brother-in-law, right? We tell you what we're really thinking. I kind of like that.

JJ: Yeah, it's a human characteristic to be human. Hello! It's only when we artificially create these other methods that we objectify our experience and judge each other through that. That's what is dominant in North America, in my experience anyway.

BPS: Of course, being a lawyer and a professional is a very stylized way of communicating. You may have very strong views, but you have to channel it through legal language and legal decorum.

JJ: Unless you're the critic. I don't know much about it, but I did do some reading when I was in law school of legal critics.

BPS: Certainly, lawyers encourage you to speak and project your emotion through very stylized and constrained ways. If you're a consultant or you're a lawyer, you might want to mouth certain platitudes, but you probably don't want to cry or laugh or something because you don't want to sound like you're coming out of your professional shell, right? You have to be professional. If you're charging me this much money, why are you laughing?

JJ: I don't think so, no. I disagree.

BPS: Go ahead.

JJ: Christ, if you're crying all the time we hired the wrong lawyer. (Laughs) But in the moment where other people are crying - which you've probably often observed in our community, because it's often painful - if you feel the pain, then I think you should. And people will trust you more if you can relate with them. Ojibway's are like Popeye, like he says, "I am what I am and that's all that I am." Where I go, there I am, eh? So that the difference between the public and the private that's artificially created by what? The industrial age? The monarchy? I don't know, I'm not a historian. When did that split come? Did it come with the Roman Empire? I don't know.

BPS: That's a very deep question.

JJ: It is. Were the Jews? Did they have a split? We don't have a split.

BPS: There's a book by Richard Sennett called *The Fall of Public Man*.³⁰ It is concerned with the opposite, that we were losing our sense of discretion. Now it's all about letting it all hang out.

JJ: But, that's not to say that in certain situations you don't modify your behaviour. But, you're still present in the experience.

BPS: At any rate, it's kind of coming to me full circle now. It is actually giving me some interesting answers to some of the questions I just asked. For example, your point about, is being human being real? Like somewhat dissolving the private and public boundaries.

JJ: Because then we're in relationship. It's that whole thing about walking into the wall. If you show me that you have compassion for whatever we're experiencing in this moment, I'm not going to attach it to your intelligence. In fact, I'm going to attach it to your integrity, which it goes to anyway. I'm not going to think, "Oh God, we hired a stupid lawyer, all he does is cry," you know?

BPS: Having these kinds of conversations with people like you reinforces my thought that we can add content, we can add more cases, but that's going to fall far short of really getting people to the level of understanding and appreciativeness they should have when working for Indigenous people. There's this whole other element of cultural understanding. And as we discussed, part of doing that is being able to have open and candid human conversations. Not having anybody constantly afraid, "If I ask the wrong question I'm a racist or..."

JJ: Well somebody might still think you're a racist, but who cares? I'm sure there are people who think I'm an asshole, I don't care! You're not going to

³⁰ Richard Sennett, *The Fall of Public Man* (New York: W. W. Norton & Company, 1974).

change their opinion of you anyway. It's what's happening in the moment that's most important. And that's what matters.

BPS: Well, Joan, I hope that we will have people like you, including you, when we actually start rolling this out. It's not only a question of coming up with a plan and then having people like you help implement it, the whole plan would benefit greatly from having people, including people who don't define themselves primarily as technocrats, and having these kinds of conversations and trying to figure out what we can actually do.

JJ: I would love to. I have had such a terrible experience with the legal community that on the way here I thought, "You know what Joan, you should actually go get some therapy, because it's time that you stop being bitter about it." I was scared coming here because I thought, "Oh my God, what if I'm so rude?" A former colleague once said to me, "To be honest Joan, you lasted a lot longer than we thought you would." I just said, "Thank you." You know, it's hard to compete. I don't think we should be forced to compete as Indigenous lawyers. I think we should be empowered.

BPS: Well, I'm hoping that this is the beginning...

JJ: Of something new.

BPS: Yeah, I hope that you will be out here again.

JJ: DeLloyd Guth keeps saying I should do my masters.

BPS: You have the intrepidness and spirit to deal with more of the red pen!

JJ: Mhmm!

BPS: Well, thank you, Joan!

