

Legal Professionalism in the Life and Career of Norman Lickers

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It is fitting that I am presenting an historical vignette about the life of Norman Lickers at the thirteenth colloquium in the series presented by the Chief Justice of Ontario's Advisory Committee on Professionalism, since my work on his life finds its original genesis in Constance Backhouse's paper on Gender and Race from the inaugural colloquium in 2003.¹ Professor Backhouse's brief discussion of Lickers was the foundation from which I started my investigation, and her willingness to endorse my project in early 2008 can surely be credited for helping the Lickers family to agree to work with me on this project. While I'm not sure that I can provide any insights of value into legal professionalism – as I am not a lawyer, or even a law student – I can present previously unknown information about Lickers as well as correct some misinformation about his life and career.

Many have been under the impression that Lickers was the first lawyer of Aboriginal ancestry in Ontario, and possibly in Canada (myself included). This is incorrect. Predated by two Upper Canada lawyers of partial Aboriginal ancestry in the early 1860s (Solomon White and William John Simcoe Kerr) as well as a lawyer of Mohawk ancestry in Quebec (Norman Saylor of the Kahnawake Reserve), Norman Lickers was not the first when he became a member of the Law Society in the fall of

¹ Constance Backhouse "Gender and Race in the Construction of 'Legal Professionalism': Historical Perspectives" (Presented to the Chief Justice of Ontario's Advisory Committee on Professionalism, October 20, 2003).

1938.² Though he was celebrated in *The Globe and Mail*, the *Toronto Daily Star* and *The Brantford Expositor* as the first “full-blooded Indian lawyer in Ontario”,³ our current understanding of cultural identity somewhat complicates assessments of one or another lawyer being the first to claim the accomplishment. One thing we can claim as certain (according LSUC records) is that Norman Lickers was the only First Nations lawyer called to the bar in Ontario between 1865 and 1966.⁴

The only Aboriginal lawyer to be called to the Bar for an entire century was disbarred after just 12 years of practice. What legend, what legacy, what lesson can we draw from this? Well, the first lesson is that it is unfortunate that in 1950 there were no support mechanisms in place to help him cope with the life-altering change of disbarment, especially since – and this is the second lesson – Lickers’ sense of duty toward his community, his unwavering ethic of public service, indicates a lifelong commitment to legal professionalism in its most idealistic sense.⁵

One of the most singular fascinations I have had with Lickers’ story in the almost three years I’ve been researching his life is the swiftness of the descent he experienced from the high of being commissioned counsel to a Parliamentary review of the Indian

² Solomon White was called to the Bar in 1865; William John Simcoe Kerr was called in 1862; Norman Saylor was called in Quebec in 1935. Ann-Marie Langlois and Susan Lewthwaite provided this information from the LSUC archive, and it can also be found as part of the “Diversifying the Bar: Lawyers Make History” Project.

³ “Norman Lickers First Ontario Indian Lawyer” *The Brantford Expositor* (November 18, 1938); “First Indian Called to Bar” *The Globe and Mail* (November 18, 1938); “First Indian Lawyer” *Toronto Daily Star* (November 18, 1938).

⁴ In 1966 two men from Six Nations were called to the Ontario Bar: Howard Staats and Peter Isaacs. This information comes from the LSUC archive via Ann-Marie Langlois.

⁵ I have taken my understanding of legal professionalism from the “Chief Justice of Ontario’s Advisory Committee on Professionalism Working Group on the Definition of Professionalism ‘Elements of Professionalism’” paper available at: <http://www.lsuc.on.ca>.

Act, to the post-disbarment low of tending to his in-laws' chickens and dairy cows as a farm hand on the Six Nations Reserve.⁶

Lickers' sudden reversal of fortune can be attributed – according to hearsay – to a bungled mortgage transaction, followed by a complaint from one of the parties involved to the Law Society. Unfortunately, since his disciplinary file is not accessible for research purposes, I am woefully unaware of the details or the allegations. We can hold conferences and colloquia where we talk about professionalism as an abstraction, but for the Lickers family the consequences of his disbarment are vividly felt even today. Keith Lickers – Norman's only surviving child, an Aboriginal Education Officer with the Ontario Ministry of Education for over three decades – and his wife Phyllis have opened their hearts, and even their home to me in order to facilitate my research. He has described in detail his father's character, attitude, habits, taste in music, appreciation for books, his weaknesses and his strengths. But he has been unwilling, or perhaps even unable, to describe to me in detail the circumstances surrounding the disbarment. Sixty years, one month and three days after the fact (he was disbarred on September 28th, 1950), more than a simple scar obscures the memories of Lickers' legal career; there is a void at the exact centre-point of his life which leeches the focus away from the unique, exceptional accomplishments of this intelligent, complicated, and fascinating man. I am

⁶ I am reminded by Justice Winkler's recent discussion of Professionalism that each and every lawyer who is disbarred experiences the same descent: "[Practicing law] is a privilege [...] that can be lost in a vanishing moment, should you fail to live up to the high professional standards imposed upon you by virtue of your entry into the community of lawyers." Chief Justice Warren K. Winkler at the Law Society of Upper Canada's Call to the Bar Ceremony, Toronto, June 15, 2010 Pg. 3.
http://www.lsuc.on.ca/media/jul0910_calltobar_chiefjustice.pdf

haunted by questions of what he could have done, who he could have been, had he retained the ability to practice law.

In the summer of 1913 Norman was born at “Lickers’ Corner” on the Six Nations Reserve in southern Ontario. He was the youngest of six children born to Henry Edgar Lickers (a farmer) and Mary Jane Sickles Antone, originally from the nearby Oneida Reserve. Mary Jane died when Norman was still quite young, likely around the age of five or six, with the result that the two youngest children, Harry and Norman, were sent to live at the Mohawk Institute, an Anglican residential school just outside Brantford, approximately 20 kilometers away from their home. Their father can be considered part of the group of reformers on the Reserve who sought to adopt the anglo-Canadian agricultural lifestyle; they also sought to replace the hereditary council of chiefs on the Reserve with an elective system (they succeeded in this in 1924).⁷ Members of the Seneca Nation by birth, the Lickers family did not practice the traditional religion of the Longhouse but instead were active in the Baptist church, one of the most popular religious sects on the Reserve. Another indication of the Lickers family’s reform tendencies relates to language: the 1911 Census identifies Henry and Jane as both speaking “Indian” languages in addition to English, but interestingly, the children are listed only as English-speakers.⁸

Harry and Norman Lickers (and possibly their sister Grace) were sent to the Mohawk Institute sometime around the death of their Mother, likely in 1919. The

⁷ Sally Weaver “Six Nations of the Grand River, Ontario” in William C. Sturevant, General Ed. *Handbook of North American Indians*, Volume 15 “Northeast” Bruce Trigger, Volume Ed. (Washington D.C.: Smithsonian Institution, 1978) 48. Weaver used the term “progressives”, but I prefer to describe the group as reformers, a less value-laden term.

⁸ 1911 Census of Canada. District No. 56 Brant, Tuscarora Township Page 9.
<http://data2.collectionscanada.gc.ca/1911/pdf/e001978819.pdf>

Principal in charge of the Institute for the first three years of the Lickers' residence was a woman named Anne Boyce. Trained as a nurse, she was the daughter of a former Principal, Robert Ashton, who had administrated the school from 1872 to 1911.⁹ Considering how long Ashton was Principal, it is likely that Anne herself was raised on the school grounds – although her educational experience was probably quite different than that of the students from Six Nations.

The Lickers children can be considered relatively fortunate to be enrolled at the Mohawk Institute during the 1920s (as opposed to any other decade in the school's operational history). Considered by the Department of Indian Affairs to be a competent Principal, Boyce emphasized recreational activities, strove to maintain a balance between academic and vocational instruction, and attempted to improve the health of the students.¹⁰ However good her intentions were, there was little she could do with the limited operating budget.¹¹

The core mission of the residential school system across Canada was to train the students in European-style agriculture, vocational work, and domestic duties, not to mention converting the children to Christian values; once the students had learned these skills, they were expected to assimilate and become Good Canadians. In keeping with the mission of the schools, the students' day was structured to give equal weight to academic and vocational instruction: half the day was devoted to lessons indoors, while the other half was spent performing manual labour.

⁹ Elizabeth Graham *The Mush Hole: Life at Two Residential Schools* (Waterloo: Heffle Publishing, 1997) 10.

¹⁰ Jennifer Pettit *From Longhouse to Schoolhouse: The Mohawk Institute 1834-1970* (M.A. Thesis, University of Western Ontario Department of History, 1993) [unpublished] 90.

¹¹ Pettit 91. In 1922 Anne Boyce married the Boys' Headmaster Sidney Rogers, and from their marriage through 1929 they were co-Principals of the Institute. During their tenure the per capita student funding from the Department of Indian Affairs was reduced by \$40 (\$200 to \$160), and even further emphasis was placed on the financial contributions of the students' labour.

The boys would work the fields, in the garden, care for the animals, clean the barns, maintain the buildings, as well as receive lessons in mechanics, carpentry and upholstery. The girls were responsible for the indoor work, domestic duties such as preparing and cooking the daily meals for the students and staff, washing the laundry, sewing and mending the school uniforms, as well as cleaning the interior of the building. Younger students of both genders were generally exempt from these duties, and received a full-day of classroom instruction.¹²

This aspect of residential school life is not well-known, since it pales in comparison to some of the abuses that have been unearthed in recent decades. But the reality is that the residential school system was maintained through child labour; profits from the farm made up the funding shortfalls from the churches and the government.¹³

The children at the Institute were denied the wholesome food that they produced on the farm, and could not understand why they were not served the eggs, whole milk, butter and meat that were available.¹⁴ An anonymous participant in an oral history project about the Mohawk Institute – and a former classmate of Norman Lickers – recalls an incident in which young Norman figures prominently:

We used to go to the greenhouse [...]. There was one time we went out there and there was lawyer Lickers – he wasn't lawyer Lickers at the time he was only one of us kids. They had us pulling carrots, and Norman ate so many carrots that he upset his stomach. Every chance we got we ate something. We didn't spend enough time at school to get an education – you'd go to school half-a-day, and half-a-day work. One thing I will say, it made men out of us.¹⁵

¹² Pettit 92 and Graham 20.

¹³ Pettit 92.

¹⁴ Graham 25.

¹⁵ Graham 358. The nickname "Lawyer Lickers" has been mentioned by many Six Nations residents who knew – or at least knew of – Norman Lickers. Somehow the nickname "Bob" also attached itself to him.

Residential schools were permitted to keep students up to the age of 16, after which they were expected to find employment, go back to the Reserve, or to continue on to high school, as Norman and Harry did at Brantford Collegiate Institute (BCI). Norman attended until 1931, and had likely enrolled in the fall of 1927. For a status Indian to attend the Collegiate – because it was under provincial jurisdiction – the Department of Indian Affairs paid a per capita tuition to the province. In most cases the DIA also provided an additional \$100 grant per student to cover transportation expenses to and from the reserve, or – more commonly – to assist with the costs of boarding in town while attending school.¹⁶ However, \$100 was not enough to cover either transportation or boarding costs for an entire year, with the result that many qualified students simply did not attend secondary school at all. In 1929, only six males and one female Aboriginal student attended high school in Brantford; Harry and Norman Lickers were two of them.¹⁷ The brothers got around the \$100 problem by boarding at the Mohawk Institute, only five kilometers away from the high school.

While at high school Norman was very involved in athletics. Distance running and track and field were his specialties, but he also played basketball. In the 1930 B.C.I. yearbook “The Hello” brief descriptions of each of the 9 players on the basketball team reveal the nickname assigned to each young man: Norman Lickers was the Chief. He “has lots of condition and sticks to his check like a leech. Chief has a good corner shot and is noted for his coolness in the midst of a red-hot game.”¹⁸ It seems evident that

¹⁶ For example: “Moved by John Lickers and seconded by Archie Russell that the usual grant of \$100.00 per head for high school students be continued, also supply all the textbooks for same for the year 1925 with special assistance to deserving cases – Carried.” *General Minutes of the Six Nations Band Council* (Six Nations of the Grand River Records Office. Ohsweken, Ontario) December 18, 1924.

¹⁷ Graham 17.

¹⁸ “Boys Junior Basketball Team” *The Hello* (Brantford: Brantford Collegiate Institute, 1930) 105 and 106.

Lickers fit in well with his teammates Jack, Gus, Hick, Squirt, Muddy, Nibble, Zippy, and Milky, and that his identity as an “Indian” even helped him create a place for himself in the school. Attending the Collegiate and participating in team sports gave Lickers his first non-segregated educational experience, and it influenced his attitude towards education for the remainder of his life. He continued to be involved in team sports throughout his life as a team member and a coach, and later advocated for an integrated educational policy in which Aboriginal and non-Aboriginal students would attend school together.¹⁹

To celebrate his enrollment at the University of Western Ontario in the fall of 1931, the Brantford Expositor ran a short article profiling him and two other new UWO students:

Norman Lickers, Indian student, who is best known for his work on the middle distance events of the Province, has another side of his make-up to his credit. The Indian youth is credited with being one of the best students in the school in the year concluded this summer. This is something of which the lad who hails from the Mohawk Institute might well be proud. Lickers’ brains are evidently as sound as his wind and legs. This is a great combination. He will attend Western University, a fine example of the race that produces such good runners. His success recalls Jamieson and other good Indian boys.²⁰

At Western Lickers was a resident at Huron College, an Anglican school which granted Divinity degrees and provided lodging for young men in other degree programs.²¹ His place at Huron was likely arranged with help from an alumnus, the Principal of the Mohawk Institute from 1929, Rev. Horace W. Snell.²²

¹⁹ Association of Iroquois and Allied Indians. *Position Paper* (Presented on November 27, 1971 to Minister of Indian Affairs, Jean Chrétien at the former Mohawk Institute) 44.

²⁰ “Local Athletes to Attend Western University” *The Brantford Expositor* (September 23, 1931).

²¹ James T. Talman *Huron College: 1863-1963* (London, Ontario: Huron College, Hunter Printing Ltd., 1963) 82.

²² Graham 10.

Echoing his time at BCI, Lickers was quite involved in social, recreational and athletic activities while at Western. He was a member of the Huron College Student Executive Council, the Debating Union, the Political Economy Club, the MacDonald-Cartier Club (representatives of the Liberal-Conservative Party at the University, an ironic membership since, as far as I can tell, Lickers never pursued enfranchisement nor had it thrust upon him, and therefore was unable to vote), as well as the track and harrier (cross-country) teams.²³

Prior to his graduation from UWO in the summer of 1934, Lickers was again featured in the news. The *London Free Press* published an article commemorating his achievement:

Mary Wong, Vivacious Chinese Girl and Norman Lickers, Brantford Indian, on List for Graduation at University.

[I]n June extreme East and extreme West will walk side by side in the march of the graduates.

Out of the Orient comes Mary Wong, Chinese vivacious, stately, scholarly. Out of the Occident steps Norman Lickers, Indian virile, athletic, scholarly. [...]

Both of these students have been outstanding in academic, social and athletic life at the College. Miss Wong has been the outstanding player on the women's basketball team during her stay at the school, while Lickers has been the class of the distance runners.

The two exemplify the best of their races. But to Western it is not East meeting West but merely two Canadians receiving their awards for work done.²⁴

Racist generalizations aside, the article is notable because of an interesting coincidence:

Mary Wong is the older sister of Gretta Wong Grant, who would become the first female lawyer of Chinese ancestry in Canada.²⁵

²³ Information about Lickers' recreational activities at UWO can be found in the year book *Occidentalia*.

²⁴ "Mary Wong, Vivacious Chinese Girl, and Norman Lickers, Brantford Indian, on List for Graduation at University" *London Free Press* (April 27, 1934).

²⁵ Constance Backhouse "Gretta Wong Grant: Canada's First Chinese-Canadian Female Lawyer" *The Windsor Yearbook of Access to Justice* Volume 15 (1996): 3-46.

Lickers enrolled as a student at Osgoode Hall in the fall of 1934, and through the next 4 years completed his articling with John O'Meara Trepanier in Brantford, a young lawyer only 6 years older than Lickers. Trepanier was a Catholic with a strong community-service orientation. In fact, in 1955 he was made a Knight Commander of St. Gregory by Pope Pius XII in recognition of his dedication to the church and community.²⁶ To be Catholic in Brantford in the 1930s was out of the norm in a city dominated by a Protestant population (a population which included Lickers, who began to identify as a non-practising Anglican after attending the Mohawk Institute and Huron College). I cannot find any information as to how they first came into contact, but it seems evident that Trepanier's commitment to public service had a strong influence on Lickers, or vice-versa.

Upon his call to the bar in 1938, Lickers obtained a \$300 loan from the Six Nations Band Council to establish his law practice.²⁷ The office where Lickers set up shop was located at 20 Market Street, above a grocery store, on the edge of the Market Square in downtown Brantford. With his name emblazoned in gold letters on the window he settled in to a steady (though not particularly lucrative) stream of work that included wills and estates, insurance, civil proceedings, as well as one high-profile local murder trial in which he defended a young Six Nations man on murder charges.²⁸

²⁶ Information from J. O. Trepanier's LSUC member file, communicated by Ann-Marie Langlois.

²⁷ *General Minutes of the Six Nations Band Council* (Six Nations of the Grand River Records Office. Ohsweken, Ontario) May 5, 1938. Norman's father, who was still farming on the Reserve, had to guarantee the loan on his behalf.

²⁸ Library and Archives Canada, Capital Case Files, RG 13, volume 1671, file "Maynard Jonathan", reproduction copy number CC647, parts 1 and 2. Maynard Jonathan, 17 years old, was convicted of murdering elderly Six Nations resident Isaac Hill in 1948. Jonathan's death sentence was commuted to life imprisonment. His Capital Case file is a richly detailed source, and I thank Constance Backhouse for her advice in obtaining it.

In the summer of 1940 Lickers married Freda Flowers, a young lady the same age as him (27 years old) who had been adopted with her sister Margaret into the Jamieson family, well-known educators who resided on the “Woodlands” farming estate on the Reserve. Freda’s adoptive siblings were quite well educated: Tom was a medical doctor practicing in Detroit, Elmer was a PhD in pedagogy and head of the Chemistry Department at North Toronto Collegiate, and Andrew, Nora, Julia and Mary were all teachers in day schools on the Reserve. In Brantford, Norman and Freda lived in a second-floor flat on George Street, a respectable address a few blocks from his office and a stone’s throw from the courthouse.

Through the late 1930s, Lickers was a member of an organization in Brantford called The Native Sons of Canada. Interestingly, this group was not an Aboriginal fraternity (though given the title, you could be forgiven for assuming it was), it was a nationalist club with branches across Canada. Established in 1921 in British Columbia, by 1938 it had spread across the country with nearly 100 assemblies, and Brantford had the most members.²⁹ Interested in promoting Canadian history, in lobbying for a distinctive Canadian flag, for a Canadian national anthem, in sponsoring talks on national character and in distributing newsletters, the group also displayed some capital-N Nativist undertones (and sometimes overtones!). Membership, for example, was limited to “male[s], native Canadian born, of white or Canadian Indian descent, of eighteen years or over who have not been naturalized in any foreign state”;³⁰ anti-Semitic materials were

²⁹ “Brantford Leads! The Twelve Largest Assemblies.” *The Native Son* (Brantford, Ontario, November 1939 Issue). *The Native Son* is a newsletter published by the Brantford Native Sons. Only a few issues remain extant.

³⁰ “Memorial Presented by the National Council, Native Sons of Canada to the Leaders of all Parties in the House of Commons.” This is an undated (likely late 1930s) pamphlet available in the Thomas Fisher Rare Book Library Canadiana Collection.

published under the auspices of the organization in Montreal in 1935;³¹ and in October 1938 the Brantford local assembly published a breakdown of the “Population of Brantford, Classified According to Racial Origin” with statistics drawn from the 1931 census.³² (Interestingly, of 30,000 inhabitants, only 120 “Indians” resided in Brantford that year.)

The Brantford chapter of The Native Sons of Canada celebrated its fifth anniversary in 1940, but Lickers’ involvement with the group can only be dated to the summer of 1937 when he was the goalie on the Native Sons Lacrosse team (which boasted many players hailing from Six Nations).³³ From there he became the convener of the Sports Committee and served as Treasurer for the 1939/1940 year.³⁴ In the fall of 1940, at the age of 27, he was elected President of the Brantford Assembly.³⁵ Lickers – in a speech at a banquet held to celebrate the Native Sons’ victory in the Softball league’s championship game – urged the group to further emphasize their sports programming, something unsurprising considering sport was one of his passions.³⁶ In the following years, as the war effort picked up and Brantford girded its factories with men producing military armaments instead of farm implements, the softball games and sports banquets came to an end. The Native Sons in Brantford seem to have lost steam during the war,

³¹ Dr. P. E. Lalanne “Why we Should Oppose the Jew” A Lecture Delivered September 15th, 1935 to The Native Sons of Canada, Ottawa District (Montreal, 1935). This is another pamphlet available in the Thomas Fisher Rare Books Library Canadiana Collection.

³² “Population of Brantford Classified According to Racial Origin” *The Native Son* (Brantford, Ontario, October 1938 Issue).

³³ “Native Sons and Mimico Hit Game: Lacrosse Team Outplays Mimico 55 of 60 Minutes in a Glorious Tilt Friday” *The Brantford Expositor* (June 5, 1937).

³⁴ “1939-1940 Committees” *The Native Son* (Brantford, Ontario, November 1939 Issue).

³⁵ “Norman Lickers Named President of Native Sons” *The Brantford Expositor* (October 10, 1940).

³⁶ “Native Sons Had Banquet; City League Champs” *The Brantford Expositor* (November 8, 1940).

though some chapters remained active throughout Canada into the 1950s and early 1960s.³⁷

After the end of WWII, members of the House of Commons decided that it was time to begin a revision of the antiquated Indian Act. In May of 1946 it was ordered:

That the Senate do unite with the House of Commons in the appointment of a joint committee of both houses to examine and consider the Indian Act, Chapter 98, R.S.C., 1927, and amendments thereto, and to suggest such amendments as they deem advisable, with authority to investigate and report on Indian administration in general and, in particular, the following matters:

- 1) Treaty rights and obligations
- 2) Band Membership
- 3) Liability of Indians to pay taxes
- 4) Enfranchisement of Indians both voluntary and involuntary
- 5) Eligibility of Indians to vote at Dominion elections
- 6) The encroachment of white persons on Indian reserves
- 7) The operation of day and residential schools
- 8) And any other matter pertaining to the social and economic status of Indians and their advancement which, in the opinion of such a committee, may be incorporated into the revised Act.³⁸

Early in the meetings of the approximately two dozen members of the Senate and the House of Commons, Lickers was invited to Ottawa to meet with the Steering Subcommittee to interview for a position as Counsel and Liaison officer acting on behalf of the Indians of Canada as an intermediary with the Indian Act Committee. On June 4, 1946 Minister of Mines and Resources James Glen spoke in favour of hiring Lickers:

The gentleman whom we saw is a practicing lawyer or barrister in Brantford, Ontario. He is a member of the Six Nations Band. He is conversant in Indian affairs and he has been in touch at times with a great many of the organizations throughout the Dominion. The proposition that

³⁷ Forrest Duncan Pass “‘The Wondrous Story and Traditions of the Country’: The Native Sons of British Columbia and the Role of Myth in the Formation of an Urban Middle Class” *B.C. Studies* No. 151 (Autumn 2006). See page 7, note 18 for more possibilities why The Native Sons declined in popularity.

³⁸ Canada. Parliament. Special Joint Committee of the Senate and the House of Commons to Examine and Consider the Indian Act. *Minutes of Proceedings and Evidence* (May 16, 1946) iii. Hereafter referred to as the SJC.

we put to him was that we needed someone who could so direct the representations of the Indians that they might be streamlined into a channel that would be of benefit to our committee. We are having requests now from a great many organizations throughout the Dominion that wish to make representations. We cannot have them come down here in a body and sit around here. They will have to be organized [...]. The subcommittee thought that someone who was more or less connected with the Indians would give a degree of confidence to the Indians in the thought that their cases would be properly presented. So, having that in mind, we saw this gentleman this morning and we were quite impressed with him because he seemed to know just exactly what we would require.³⁹

In the 15 pages devoted to the discussion of hiring Lickers as a Liaison Officer and Counsel in the Minutes and Proceedings, John Charlton (MP for Brantford and Brant county) advocated on behalf of hiring Lickers, stating that he knew him “quite well” on a personal level, that he was capable of doing the work, and that Indians all over Canada would be very “proud” to know that one of their own was in Ottawa working on their behalf.⁴⁰

Within a week (by June 11th) Lickers was in Ottawa; he began to organize the affairs of the Committee and to attend the meetings in which witnesses were invited to give testimony about their experience in Indian affairs and administration. For the meetings taking place in the year 1946, administrators and employees from the Department of Indian Affairs – as well as a few selected other witnesses – made representations and provided written briefs to the committee. Throughout 1947, representatives from First Nations across the country appeared before the committee on a province-by-province basis in an effort to provide a thorough overview of the state of Indian Affairs, or, as they referred to it at the time, the state of the “Indian Problem”. In 1948 the Committee embarked on a line-by-line revision of the Indian Act itself, and

³⁹ SJC (June 4, 1946) 39.

⁴⁰ Ibid, pgs 46 and 50.

made recommendations in the final report suggesting “that, with few exceptions, all sections of the Act be either repealed or amended”.⁴¹

In this limited number of pages I can’t provide as in-depth an analysis of Lickers’ involvement in the committee as I would like, but I can point out some examples of his prescient identification of issues which – though far from resolved in 1951 when the amended Act was made law – framed the Indian Act debate for the remainder of the 20th Century. When posing his question to witnesses – aside from his concern with technical legal matters – Lickers was interested in 1) access to higher education for interested and capable students; 2) equal opportunity employment for First Nations peoples in the Canadian civil service and the private sector; 3) increasing the capacity and opportunity for a degree of self-government on Reserves; 4) aligning Indian Act liquor laws with the liquor laws as they applied to non-Indian Canadians; and 5) the enfranchisement issue: whether First Nations people in Canada were interested in becoming Canadian Citizens with full voting privileges.

By the time the Committee had submitted its final report in June of 1948, Lickers had made contacts with some of the most influential First Nations leaders in Canada. Nascent organizations like the Indian Association of Alberta and the North American Indian Brotherhood were bolstered from the attention given to the committee’s work by press all over Canada, and from the dissemination of previously-unknown statistical and administrative information made public through the printing and mailing of thousands of copies of booklets containing the minutes and evidence of the committee.⁴²

⁴¹ SJC (June 22, 1948) 186.

⁴² SJC (August 6, 1946) 745. Brigadier-General O. M. Martin, a former Six Nations Band Member, had this to say about the booklets: “I want to say that I have learned more about Indian affairs since reading the minutes of your proceedings than I ever knew before, except knowledge of the Indian himself [...]”

Unfortunately, by the time the government invited Indian leaders to Ottawa to attend a conference in early 1951 to discuss the proposed Indian Act, Lickers had been disbarred.⁴³ Perhaps, if he were still a lawyer, he would have been part of the process; perhaps not. I can find no evidence of his involvement in either the consultations or in the drafting of the 1951 Indian Act in the years following his disbarment.

After a few years working on the farm, recovering from the shock and humiliation of the sudden change, Lickers was persuaded by some of the men on the Reserve to become involved in steel-working, a vocation for which Six Nations men in Quebec and Ontario had become famous. Not one for heights, Lickers' duties with the steel workers at Hamilton Bridge and Tank involved administration: taking care of scheduling, payroll, budgets, reports, etc. All evidence indicates that he enjoyed the work, as he continued with it for a number of years. Eventually he left the company to do a similar kind of work for Ontario Hydro during the construction of the Nanticoke energy facility on the edge of Lake Erie, not far from the Six Nations Reserve.

Moving back onto the Reserve in 1950 with his wife and five young children after a thirty year absence marked the end of Lickers' formal career in law, but it also heralded his re-dedication to improving his community in tangible ways. In January of 1954 Lickers was elected as a Band Councillor for a term of two years. He was re-elected in 1956, 1966, and 1968, for a total of eight years of service on the council.⁴⁴ During his time on council he participated in and initiated many Reserve improvements such as the restoration of Chiefswood, the home and estate of celebrated Six Nations poet E. Pauline

⁴³ The conference was held from February 28th to March 3rd, 1951, in Ottawa. For more information see: John Leslie *Assimilation, Integration or Termination? The Development of Canadian Indian Policy, 1943-1963* (PhD Thesis, Carleton University Department of History, 1999) [unpublished].

⁴⁴ Rachel Hill *Six Nations of the Grand River Elected Council From 1924 to Present* (Ohsweken, Ontario: Six Nations Council, 2001). www.sixnations.ca/CouncilChronology.pdf

Johnson; the implementation of a revolving loan fund for a housing program; the construction of two bridges crossing the Grand River to improve residents' access to off-reserve employment and services; the creation of a public library in Ohsweken village; the establishment of the Association of Iroquois and Allied Indians; the planning and funding of the Woodland Indian Cultural Education Centre; as well as setting up the Band Council Research Office to collect information on and to pursue land claims. As part of the Council Lickers was directly involved in these projects, but even in the years when he when he was not a Council member his skills were utilized as a consultant and as a volunteer.

Please permit me to fast-forward through the bulk of the 1950s and 1960s to the summer of 1969 when Lickers was in a unique position as a former lawyer and an expert on the Indian Act to protest the Trudeau-Chrétien “White Paper” policy (officially known as the Statement of the Government of Canada on Indian Policy) which proposed to abolish the Indian Act and Indian Reserves.⁴⁵ Within days of the young Indian Affairs Minister Jean Chrétien announcing the policy in the House of Commons, Norman Lickers had prepared a letter on behalf of the Six Nations Band Council in response:

The end result of this new policy is the extermination of the Indian. It is hypocritical to say the Indian people are entitled to an equality which preserves and enriches Indian identity and distinction and then enforce a policy which can only exterminate them. We are not naïve enough to believe that by calling the native population something other than Indian will solve anything. It might be a laudable course to take in some instances, but in dealing with human lives, it does nothing to alleviate their suffering from poverty and discrimination. Doing away with the reserves will not solve the plight of the Indian people.⁴⁶

⁴⁵ Canada. *Statement of the Government of Canada on Indian Policy 1969* (Ottawa: Queen's Printer, 1969).

⁴⁶ *General Minutes of the Six Nations Band Council* July 3, 1969.

In response to opposition from First Nations across the country, Chrétien was forced to delimit the official protests into something his department could manage. He stated that he would only accept representations from organizations, a novel concept in relations between the DIA and Aboriginal groups.⁴⁷ Most of the southern Ontario Bands came together that summer to form the Association of Iroquois and Allied Indians, which would serve as the mouthpiece for their interests to be communicated to the federal government.⁴⁸ By April 1970 the AIAI had drafted a constitution and elected an executive comprised of band council members from each of the 7 member bands: Six Nations, St. Regis, Tyendinaga, Mississauga, Oneida, Gibson, and Moravian. Their goal was to present a position paper as a response to the government's 1969 proposals, and though the AIAI paper has not gone down in history as being as influential as the Indian Association of Alberta's "Red Paper", it remains an important record of the unique position of First Nations groups in southern Ontario.

On November 27th, 1971 AIAI members and their president Norman Lickers presented the position paper to Chrétien in the recently-closed Mohawk Institute. The most succinct statement of AIAI's position is found only 7 pages into the 66 page paper:

The member bands of this Association haven't too much quarrel with the Indian Act. Without it, there would have been no protection of the Reserve lands.

Economic, educational and cultural programs can be carried on within the framework of the existing legislation with only a few minor amendments. It is not the existing legislation that is at fault.⁴⁹

Here the AIAI – and Norman Lickers as one of the main authors of the paper – establishes a thoroughly pragmatic critique of the "White Paper" policy while

⁴⁷ AIAI *Position Paper* pg. 1.

⁴⁸ *General Minutes of the Six Nations Band Council* (April 2, 1970).

⁴⁹ AIAI *Position Paper* pg. 7.

recognizing that legislative equality for First Nations does not guarantee substantive equality, which can only be achieved through economic, educational and cultural development.

Interestingly, in January of 1969 – in the round of consultation the DIA was conducting regarding possible amendments to the Indian Act – Norman Lickers and his fellow Band Councillors framed their approach to the amendment process by focusing on the following:

The Indian Act should be retained as such, but should re-affirm all the Treaties made with any Indian Bands or Tribes. It should set out fully all the rights, privileges and responsibilities of the Indian Bands, Tribes, and Individuals.⁵⁰

Here the Six Nations Council anticipates the almost-unanimous rebuttal from First Nations across Canada to Trudeau and Chrétien: that treaty and land claims need to be properly settled before the Indian Act can be eliminated.⁵¹ That statement holds just as much weight in 2010 as it did in 1969, and in 1982 when Aboriginal rights were affirmed in the Constitution. Chrétien acknowledged this between 1970 and 1976 when he made approximately \$17 million available to Indian and Inuit organizations for land claim and treaty research purposes, money which in southern Ontario was channeled through the AIAI to each member Band to set up research programs on their Reserves.⁵²

Funding for cultural development from the federal government was also channeled through the AIAI, and in 1972 it allowed the member bands to convert the then-empty Mohawk Institute (the residential school ceased operating in the summer of

⁵⁰ *General Minutes of the Six Nations Band Council* (January 9, 1969).

⁵¹ For further discussion of the general backlash to Chretien's proposals see: Sally Weaver *Making Canadian Indian Policy* (Toronto: University of Toronto Press, 1981).

⁵² Weaver *Indian Policy*, 199. The channeling of funds through the AIAI became somewhat problematic in 1974 and 1975 as tension grew between the Six Nations and the other member Bands. For more information see the bi-weekly issues of the local Six Nations newspaper the *Tekawennake*..

1970) into the Woodland Indian Cultural Education Centre.⁵³ Boasting a First Nations reference library, audio-visual department, art gallery, and museum, the WCIEC (now called the Woodland Cultural Centre) even today remains one of the premiere resource centres for First Nations history.

Another aspect of the legacy of the 1969 Indian policy proposal was its influence on local politics in the Six Nations Reserve. With the proposed dissolution of the Department of Indian Affairs, many questions arose about the administration of Reserve business. If the Band was going to have self government, which of the two groups that contested leadership on the Reserve would be the one doing the governing? The question dates back to 1924 when the Hereditary Council of Chiefs was ousted from power and the Indian Act was declared to be in force on the Reserve.⁵⁴ The acknowledged leader of the confederacy Chiefs, Levi General (Deskaheh), was in Europe at the time, appealing – in vain – to the League of Nations for assistance maintaining the sovereignty of the Six Nations in Canada.⁵⁵ In the power vacuum created by his absence, a large-scale protest of the council-house coup did not occur. As the decades passed, the Six Nations Confederacy have maintained that they are still sovereign on Six Nations territory, and that the elected council is nothing but a “puppet” of the Canadian government.⁵⁶

Allegiance to either the Elected Council or the Hereditary Council was generally divided along family and religious lines; even the geographical location of one’s home on the Reserve played a part in determining one’s allegiances.⁵⁷ In the spring of 1959 and

⁵³ *General Minutes of the ix Nations Band Council* (April 18, 1972).

⁵⁴ Weaver in *Handbook*, 48.

⁵⁵ See chapters 6 and 7 in E. Brian Titley *A Narrow Vision: Duncan Campbell Scott and the Administration of Indian Affairs in Canada* (Vancouver: University of British Columbia Press, 1986).

⁵⁶ “Six Nations Council Called ‘Puppet’” *The Brantford Expositor* (June 26, 1973).

⁵⁷ Weaver *Handbook* 49.

again in the summer of 1970 supporters of the Hereditary Council placed padlocks on the doors to the Six Nations Council house, locking out the members of the Elected Council. The Elected Council obtained an injunction in 1970 to prevent the further obstruction of work in the council house, but in the summer of 1973 Justice Osler of the Ontario High Court handed down a ruling stating that because of the unique nature of the Six Nations' tract of land along the Grand River, the Indian Act did not apply on the Six Nations Reserve; the Elected Council therefore had no legal basis upon which to govern.⁵⁸ This ruling legitimized (if only temporarily) the Iroquois Confederacy of Chiefs as a form of government on the Reserve.⁵⁹

The flurry of news coverage reacting to the ruling on the Reserve led to reporters being barred from the area surrounding the Onondaga Longhouse (the meeting place of the Confederacy supporters) and to the Elected Council being accused of conducting illegal secret meetings in the Federal government building in Brantford.⁶⁰ While the Elected Council continued to oversee the business of the Reserve until the question could be settled at the Supreme Court (in 1977 the decision was overturned and the Six Nations declared a Band subject to the Indian Act), another matter related to Indian Act law ensnared the Council.⁶¹

In 1970 former Six Nations member Yvonne Bedard returned to live on the Reserve with her two young children after she divorced her husband of six years. When she married outside the Six Nations Band she lost her Indian status, which also meant that her children were born without it. When Ms. Bedard requested permission from the

⁵⁸ *Isaac v. Davey* (1973).

⁵⁹ "Six Nations Council has no Legal Basis: Court" *The Brantford Expositor* (July 13, 1973).

⁶⁰ "Elected Council in Secret Meeting" *The Brantford Expositor* (July 18, 1973).

⁶¹ "Court Upholds Elected System on Reserve" *The Brantford Expositor* (June 2, 1977).

elected Council to reside in the house willed to her by her mother, the Council was obliged to acknowledge that – because she was no longer a member of the Six Nations Band – it was against the law for her to reside on the Reserve. After giving Ms. Bedard fourteen months to transfer her property, the Six Nations Council issued a notice instructing her to leave the Reserve.⁶² Bedard contested it, and in 1971 she won a ruling from Justice Osler stating that section 12(1)(b) of the Indian Act was incompatible with the Canadian Bill of Rights.⁶³ Subjected to a storm of criticism that it was sexist and backward, the Council attempted to defend itself to the media by stating that because Bedard’s residency request was put forward as official Council business, they were obligated to act on it, and further obligated to act in accordance with Indian Act law. At the time there were a few other families allegedly living illegally on the Reserve, but as no one had made official complaints about their presence, the Council had been happy to let the issue lie dormant.⁶⁴

As a test case for the Bill of Rights, *Bedard v. Isaac* (joined with *Lavell v. Canada* for its hearing at the Supreme Court) did not threaten to shake the foundations of the Indian Act in the manner of *R. v. Drybones*, but it did manage to galvanize public opinion and draw attention to the fundamental discrimination exhibited by the very existence of the Indian Act. Groups that intervened in the case with Bedard included the Alberta Committee on Indian Rights for Indian Women Inc., the University Women’s Club of Toronto, University Women Graduates Limited, and more; intervenants for Isaac (i.e. Six Nations) included The Indian Association of Alberta, The Union of British

⁶² *General Minutes of the Six Nations Band Council* (September 7, 1971).

⁶³ *Bédard v. Isaac* (1971).

⁶⁴ “Wed White, Woman Must Leave Six Nations Home” *The Brantford Expositor* (September 1970).

Columbia Indian Chiefs, The Union of Ontario Indians, and more.⁶⁵ While it is easy to sympathize with the desire for equality that underlines the goals of Bedard, Lavell et al., the main concern of the Six Nations Council and the Aboriginal organizations from across Canada who intervened was fear; fear of the consequences of a ruling that might invalidate the Indian Act and arrive via a different route at the termination policy proposed by Chrétien in 1969.⁶⁶ Lawyer for the Six Nations Council Burton Kellock spoke to *The Brantford Expositor* in the fall of 1971 in anticipation of Osler's ruling: "Mr. Kellock said that if the Act is declared inoperative by the court '[it] will create a vacuum which cannot be filled, and the result of such a declaration can be described only as anarchy and chaos.'"⁶⁷ Justice Abbott wrote in his dissenting opinion that the case highlights that "the *Canadian Bill of Rights* has substantially affected the doctrine of the supremacy of Parliament. [...] In form the supremacy of Parliament is maintained but in practice I think it has been substantially curtailed."⁶⁸ The court ruled against the women, upholding the validity of the relevant sections of the Indian Act, but by 1985 Parliament had finally amended the offending section, allowing thousands of women and children who had lost their Indian status through marriage to regain their Band memberships.

It is interesting to think about how Lickers might have reflected on the Council's involvement in these two cases; it would have seemed almost inconceivable that Aboriginal issues were receiving attention at the highest levels of government, and not merely being shunted off to the side. As one of the key participants in the shaping of the

⁶⁵ *Attorney General of Canada v. Lavell – Isaac v. Bedard*. Supreme Court of Canada, 1974.

⁶⁶ "In a remarkable demonstration of unity, the National Indian Brotherhood and each of its constituent provincial organizations intervened in the Supreme Court case against Lavell [and Bedard] arguing that the proper way to revise the Indian Act was through Parliament, not the courts." Weaver *Indian Policy* pg. 199.

⁶⁷ "Anarchy, Chaos' Seen if Indian Act Declared Void" *The Brantford Expositor* (November 23, 1971).

⁶⁸ *Attorney General of Canada v. Lavell – Isaac v. Bedard*.

Indian Act in the late 1940s it must have pained him to not be one of the actors in the drama playing out before the court. He did, however, have something to focus on, since after he retired from Ontario Hydro in 1974 he dedicated himself to researching land claims with the Band Council as a Research Consultant. It took almost a decade for he and Phil Monture, a lead researcher with the Band Council⁶⁹ (as well as a number of other Council employees), to progress far enough to file a substantive claim for the bed of the Grand River in 1981.⁷⁰ The slow pace of the land claims process in the 36 years since Lickers began his research has marshalled a new response from young Six Nations members who want, as Lickers phrased it in 1969, a full accounting of what was taken from them and what is owed to them: “the Six Nations would like to have many things settled with the Government of Canada. [We] will insist on a full accounting and will demand payment in full for all past indebtedness. These will include compensation for lands promised but never received [...]; replacement of all trust monies from sale of surrendered lands and timber dues; proper and adequate compensation, if not the return of all lands not surrendered [...]”.⁷¹

Norman Edgar Lickers died of cancer in February 1987, preceded by his wife Freda in 1978. In his 74 years he both witnessed and participated in the most significant debates, issues and events pertaining to Aboriginal rights (in the broadest sense of the term) in the 20th Century. From the unquestioned support of the government and churches for residential schools and assimilation policies, to the lack of Aboriginal representation in higher education, the professional class and in government; from his involvement in

⁶⁹ Phil Monture is still employed with Six Nations as a Land Claim specialist.

⁷⁰ The claim was filed with the Ontario Ministry of Natural Resources on January 26, 1981. See Donald J. Bourgeois “The Six Nations Indian Land Claim to the Bed of the Grand River” *Historical Research Report Series, Report No. 1* (Ontario Ministry of Natural Resources 1986).

⁷¹ *General Minutes of the Six Nations Band Council* (July 3, 1969).

the post-WWII review of the Indian Act, to his protests with the Association of Iroquois and Allied Indians against Chrétien's proposed Indian policy in 1969; from challenges to the Indian Act that rose to the heights of the Supreme Court of Canada, to the entrenchment of Aboriginal Rights in the Constitution in 1982, Lickers was there for all of it.

When I sat down to write this paper I considered framing my discussion of his life as a cyclical journey, tracing the movement of an identity from a place of innate Aboriginality through a process of assimilation and then back again. But this would have been far too simplistic an analysis of Lickers' experience. Throughout the process which we *could* describe as assimilation – attending residential school, finding enough success there to continue on to higher education, and then establishing himself as a lawyer and member of the WASP establishment in Brantford (or at the very least existing on the edges of it) – Lickers resisted assimilation, maintaining a proud (if unconventional) connection to the Aboriginal identity which was very much a part of his character. Legal professionalism (with the obvious exception of his disbarment, about which we do not know the details) meant much more to Lickers than a code of conduct or a lofty ideal; it was a way of life. The spirit of public service which informed and influenced his activities speaks of a commitment to professionalism that transcends the legacy of his short legal career.

Lickers' ultimate legacy is as a bridge between Canadian and Aboriginal societies, between the very different cultures, governments, and peoples constantly re-negotiating their interactions, agreements and disputes. I acknowledge Lickers' exceptional accomplishments and his triumphs over adversity, but I will conclude by re-

stating that I am haunted by the thought of what he might have accomplished had he remained a lawyer. Does a lifetime of good works outweigh a momentary lapse in judgment? We must remember that like most social activities, professionalism is a two-way street; we owe it to Lickers' legacy to reflect not only on the professional responsibilities of individual members to the Law Society, but also on the responsibilities of the Society to the members whose lives will change utterly based on its decisions.