

Why won't the pieces fit:

Uncovering Deviations in the Compensation Awarded to Japanese Canadians at the Bird

Commission

by

Nathaniel James Hayes

BA (Honours), University of Victoria, 2014

A Thesis Submitted in Partial Fulfillment  
of the Requirements for the Degree of

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# SUPERVISORY COMMITTEE

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## **ABSTRACT**

In developing the Bird Commission, its commissioner, Henry I. Bird, and other officials eventually chose to compensate Japanese Canadians for the forced sale of their property below free market value using property categories and set percentages. They developed strict formulas for each category that should have been easy to follow when reimbursing claimants. However, this was not the case.

Commission officials failed to follow the procedures that they had developed when awarding compensation to Japanese Canadians. Claimants could collect awards that were below or above the amounts that the commission's procedure predicted. This thesis aims to understand the reasons why Bird Commission officials failed to follow the formulas that they had developed when compensating Japanese Canadians for the dispossession of their property through an examination of the Bird Commission Casefiles and Custodian Casefiles. Using information gathered from these government records, this analysis employs statistical analysis to explain the factors which influenced commission officials to alter awards. Considering the historical context of the commission, this analysis also offers explanations for why the factors uncovered using regression analysis may have impacted the commission and its outcomes.

Recognizing the deviations in the Bird Commission's compensation offers new insights into the commission's operations and impacts on Japanese Canadians. It highlights a close relationship between the commission and officials from the Office of the Custodian of Enemy Property, and it participates with the work of other scholars in acknowledging the efforts that Japanese Canadians made in making the Canadian government confront the injustices it had conducted against them.

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Starting my research into and examination of the Bird Commission was no easy task, and it would have been more difficult without the help of members of the *Landscapes of Injustice* who had experience with the Bird Commission Casefiles and the Custodian Casefiles. I cannot emphasize enough the amount of support that Kaitlin Findlay offered me as I began my research. Her own work acted as a foundation for me to start my research, and she helped me to understand the Bird Commission Casefiles. Without her, I might still be lost in those records. Thank you as well to Natsuki Abe. She shared with me her experience and expertise with the Custodian Casefiles, which allowed me to quickly understand and incorporate those records into my research.

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# Introduction

Throughout my studies, I have lived two lives. One has been my joy of history and learning about the world of the past. Like an adventure waiting for me, I have always enjoyed learning about what life was like before. Yet, this did not always match with my other passion: math. A realm where there was always an answer if you were willing to try new things and had the patience to discover it, math offered a brief respite from the tumultuous ambiguity of history where the most interesting things have never been as black and white as we want to believe. In this thesis, I found a way to bring these two passions together.

My research for this thesis has focused on the Royal Commission to Investigate Complaints of Canadian Citizens of Japanese Origin who Resided in British Columbia in 1941, That Their Real and Personal Property had been Disposed of by the Custodian of Enemy Property at Prices Less than the Fair Market Value (otherwise known as the Bird Commission).<sup>1</sup> Following the Japanese Empire's attack on Pearl Harbor and Hong Kong, the Canadian government chose to forcibly remove all Japanese Canadians from Canada's west coast.<sup>2</sup> Many were processed through Hastings Park before eventually being interned in camps in British Columbia's interior at places such as Kaslo, New Denver, Sandon, Greenwood, and Tashme.<sup>3</sup> In the summer of 2019, I had the privilege to visit these areas as part of a field school and to

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<sup>1</sup> Library and Archives Canada, "Royal Commission to Investigate Complaints of Canadian Citizens of Japanese Origin who Resided in British Columbia in 1941, That Their Real and Personal Property had been Dispossessed of by the Custodian of Enemy Property at Prices Less than the Fair Market Value." <https://recherche-collection-search.bac-lac.gc.ca/eng/home/record?app=FonAndCol&IdNumber=188> (accessed 1 May 2022).

<sup>2</sup> Ken Adachi, *The Enemy That Never Was: A History of the Japanese Canadians* (Toronto: McClelland and Stewart Ltd., 1976), 199. Greg Robinson provides greater detail about the Canadian government's initial response to the Japanese Empire's attacks and detail about the reaction of Canadians to this news. See Greg Robinson, *A Tragedy of Democracy: Japanese Confinement in North America* (New York: Columbia University Press, 2011), 63-65.

<sup>3</sup> Adachi, *The Enemy That Never Was*, 248, 253.

experience their remoteness. It chilled me to think that thousands of people were sent to these places with barely enough supplies to survive the winter of 1942.

With the removal of people from their homes, an act which separated them from most of their possessions, the Canadian government faced a self-made challenge. It had promised to protect the property that owners had entrusted with the Office of the Custodian of Enemy Property (the Custodian) and needed to follow through with that promise.<sup>4</sup> However, this promise was broken. Overwhelmed with the amount of property this entailed but also guided by the racist intentions of government officials eager to remove any possibility of Japanese Canadians returning to British Columbia, the Custodian started in 1943 to forcibly sell the property with which it was vested.<sup>5</sup> Japanese Canadians protested these actions in letters to government officials and they also brought forward court challenges to contest the forced sales.<sup>6</sup> However, these actions failed to stop the Custodian's sales. The Custodian held the funds from the sale of each individual's property and released them as needed to Japanese Canadians to support themselves during their internment.<sup>7</sup> The forced sales and the mandated use of the sales' proceeds to support their own internment was disastrous for many if not all Japanese Canadians because the wealth that they had created was liquidated and used to support themselves and their

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<sup>4</sup> Eric M. Adams, Jordan Stanger-Ross, and the Landscapes of Injustice Research Collective, "Promises of Law: The Unlawful Dispossession of Japanese Canadians," in *Landscapes of Injustice: A New Perspective on the Internment and Dispossession of Japanese Canadians*, ed. Jordan Stanger-Ross (Montreal and Kingston: McGill-Queen's University Press, 2020), 265.

<sup>5</sup> *Ibid.*, 267-268.

<sup>6</sup> Jordan Stanger-Ross, Nicholas Blomley, and the Landscapes of Injustice Research Collective, "'My Land is Worth a Million Dollars': How Japanese Canadians Contested Their Dispossession in the 1940s," in *Landscapes of Injustice: A New Perspective on the Internment and Dispossession of Japanese Canadians*, ed. Jordan Stanger-Ross (Montreal and Kingston: McGill-Queen's University Press, 2020), 129; Adams, Stanger-Ross, and Landscapes of Injustice Research Collective, "Promises of Law," 273.

<sup>7</sup> W. Peter Ward, *The Japanese in Canada*, (Ottawa: Canadian Historical Review, 1982), 14.

families.<sup>8</sup> Nearing retirement, most first generation Japanese Canadians were no longer of an age where they could rebuild their wealth; their children, second generation Japanese Canadians (and even some of the third generation), faced the responsibility of rebuilding their lives while supporting their parents.<sup>9</sup> In addition to these harsh economic realities, it was uncovered that the prices at which the Custodian had sold the property of Japanese Canadians were below market value.<sup>10</sup>

The Custodian's low sale prices became apparent at a time when public perceptions around the Canadian government's treatment of Japanese Canadians were shifting. In 1944 Prime Minister Mackenzie King acknowledged that not a single person of Japanese descent had committed an act of sabotage in Canada, but he still decided that Japanese Canadians could not live in British Columbia.<sup>11</sup> King made this decision so that Canada's policies regarding Japanese

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<sup>8</sup> Michiko Midge Ayukawa, *Hiroshima Immigrants in Canada 1891-1941* (Vancouver: UBC Press, 2008), 126; Mona Oikawa, *Cartographies of Violence: Japanese Canadian Women, Memory, and the Subjects of the Internment* (Toronto: University of Toronto Press, 2012), 3.

<sup>9</sup> Ayukawa, *Hiroshima Immigrants in Canada 1891-1941*, 126.

<sup>10</sup> Kaitlin Findlay and the Landscapes of Injustice Research Collective, "Creating the Bird Commission: How the Canadian State Addressed Japanese Canadians' Calls for Fair Compensation," in *Landscapes of Injustice: A New Perspective on the Internment and Dispossession of Japanese Canadians*, ed. Jordan Stanger-Ross (Montreal and Kingston: McGill-Queen's University Press, 2020), 307; Patricia E. Roy, "Lessons in Citizenship, 1945-1949: The Delayed Return of the Japanese to Canada's Pacific Coast," in *Nikkei in the Pacific Northwest: Japanese Americans and Japanese Canadians in the Twentieth Century*, ed. Louis Fiset and Gail M. Nomura (Seattle: University of Washington Press, 2005), 256. Patricia Roy describes the Custodian's prices as "fire sale prices." Importantly, Roy also remarks that Japanese Americans were allowed to sell their property, after the United States Government confiscated it, under similar conditions; that is, at "fire sale prices." This suggests a similarity in the outcomes of different policies imposed by different governments on individuals of Japanese descent in Canada and the United States. See Patricia E. Roy, "Canadian and American Treatment of the Nikkei, 1890-1949: A Comparison," *American Review of Canadian Studies*, 45, no. 1 (2015): 58.

<sup>11</sup> Pamela Sugiman, "'These Feelings That Fill My Heart': Japanese Canadian Women's Memories of Internment," *Oral History* 34, no.2 (Autumn 2006): 73.

Canadians matched the policies that the United States imposed on Japanese Americans.<sup>12</sup> This led to the Canadian government forcing Japanese Canadians to decide between moving east of the Rocky Mountains or being exiled to Japan. Out of frustration, many individuals at first elected to go to Japan, but, as time passed, many Japanese Canadians changed their minds.<sup>13</sup> At first, the Canadian government would not allow any individuals who had chosen to be taken to Japan to remain in Canada; however, groups supporting Japanese Canadians challenged King and his government at the Supreme Court of Canada and later, through appeal, the Judicial Committee of the Privy Council.<sup>14</sup> In 1946, the Judicial Committee determined that the Canadian government did have the power to exile Canadian citizens.<sup>15</sup> Yet, by this time most Canadians were against the forced deportations and the renunciation of their citizenship. Bowing to public pressure, King and his government halted the forced exile of Japanese Canadians.<sup>16</sup> Out of the original 10,000 people who had at first decided to go to Japan, 3964 Japanese Canadians were exiled there.<sup>17</sup>

The change in public opinion towards the treatment of Japanese Canadians also impacted decisions regarding their loss of property. Historian Patricia Roy notes that by 1947 even in British Columbia, where most people had supported the discriminatory policies against people of

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<sup>12</sup> Roy, "Canadian and American Treatment of the Nikkei, 1890-1949," 60-61.

<sup>13</sup> *Ibid.*, 61.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*

<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.* According to Lieutenant-Colonel Oscar Orr of the Canadian Army group that was stationed in Tokyo, Japanese Canadians arriving from Canada were processed through the same camps as Japanese repatriates returning from former Japanese overseas territorial possessions. However, he notes that Japanese Canadians were exempt from some of the stages of entering Japan in 1946 such as baggage inspection or disinfecting. See Tatsuo Kage, *Uprooted Again: Japanese Canadians Move to Japan After World War II*, trans. Kathleen Chisato Merken (Victoria: TI Jean Press, 2012), 21, 24; and Lori Watt, *When Empire Comes Home: Repatriation and Reintegration in Postwar Japan* (Cambridge, MA: Harvard University Press, 2009), 1, 39-41.

Japanese descent, public opinion had shifted, and there was now widespread sympathy towards Japanese Canadians because of the Canadian government's actions against them.<sup>18</sup> Likely concerned about public perception, on 24 January 1947, King and his cabinet announced that no further Japanese Canadians would be forcibly exiled and that compensation would be awarded for the Custodian's sales that were below market value.<sup>19</sup> Concerned about the Custodian's sales prices, the Co-Operative Committee on Japanese Canadians (CCJC) had already started investigating the Custodian's sale prices in 1946, and upon King's announcement in January of 1947, the CCJC and their allies pushed to make sure that the Canadian government followed through with this promise.<sup>20</sup> Their efforts brought the Custodian's sales before the Standing Committee on Public Accounts (SCPA), where it was revealed that the sales made by the Custodian to the Veterans' Land Act Administration were considerably undervalued.<sup>21</sup> Japanese Canadians and their advocates called for a public inquiry into their dispossession, which was further echoed by parliamentarians on 17 June 1947, following the hearings held by the SCPA.<sup>22</sup> In response, the government set up the Bird Commission to investigate the nature of the land sales.

I became interested in the Bird Commission because of my involvement with the *Landscapes of Injustice* Project and hearing about the work of its then Research Coordinator, Kaitlin Findlay. Her work on the commission provided a foundation from which to begin my

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<sup>18</sup> Roy, "Canadian and American Treatment of the Nikkei, 1890-1949," 61.

<sup>19</sup> Findlay and Landscapes of Injustice Research Collective, "Creating the Bird Commission," 311.

<sup>20</sup> Findlay and Landscapes of Injustice Research Collective, "Creating the Bird Commission," 311.

<sup>21</sup> Findlay and Landscapes of Injustice Research Collective, "Creating the Bird Commission," 311-312.

<sup>22</sup> Findlay and Landscapes of Injustice Research Collective, "Creating the Bird Commission," 312.

analysis. Her work examined the construction of the Bird Commission through the development of policy prior to and during the commission. Findlay ultimately uncovered that the commission acted as a space where two competing narratives interacted. She found that Japanese Canadians had pushed for state accountability by emphasizing their experiences during their internment and dispossession, while the Canadian government had attempted to disregard these experiences and underscore the need to account for any limited errors in procedure.<sup>23</sup> Understanding these aspects of the commission freed me to examine its results; that is, the compensation that the commission awarded Japanese Canadians.

At first, I wanted to know the role of gender in the commission. Did compensation differ between men and women? The Bird Commission did not always clarify the gender of a claimant, so I looked for that information in the Custodian's casefiles. These records proved rich in information; they allowed other avenues of analysis as they included reports from the Royal Canadian Mounted Police (RCMP) that indicated an individual's citizenship status in 1942. These records also provided information on a person's marital status, their employment, and their age. My analysis relied on tying this information to the compensation claimants received from the commission.

The results of the Bird Commission for claimants are detailed on a green coversheet at the start of each casefile (see Figure 1). A table with headings and titles provides brief explanations for the methods used to calculate compensation, but these tables fall short in many ways. This is where my passion for math kicked in.

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<sup>23</sup> Kaitlin Findlay, "The Bird Commission, Japanese Canadians, and the Challenge of Reparations in the Wake of State Violence," (MA Thesis, University of Victoria, 2017), 9; Findlay and Landscapes of Injustice Research Collective, "Creating the Bird Commission," 301.

Overwhelmed with information from the Custodian's casefiles and those from the Bird Commission, I started where it seemed practical: because I did not fully understand the commission's mechanisms for awarding compensation, I needed to understand these formulas before I could attempt any analysis of their results. I had to know how the coversheet worked, and to do that, I had to replicate their results by using the rules that commission officials had laid out for compensating owners.

When I did the math, I was surprised. The commission operated, as Findlay had shown, by classifying owners into several large categories and compensating them according to standardized formulas. If the type of property being claimed, and certain other key bits of information were known, then calculating compensation should have been simple math, the application of formulas. But, it was not. Instead, the compensation Japanese Canadians received broke the commission's own rules. The results of the process involved something other than the explicit categories and their formulas. Why were there inconsistencies in the results? What factors led to these inconsistencies, and why?

To answer these questions, I relied on social science methods such as regression analysis. In applying these methods, I was influenced by other historians who have used these forms of analysis. In particular, Eric Sager and his work "Employment Contracts in Merchant Shipping: An Argument for Social Science History." In this chapter, Sager discusses a method for incorporating the rigorous analysis of sources, which historians regularly perform, and the forms of investigation that allow scholars to draw information from large collections of sources such as casefiles. He emphasizes that historians who use casefiles need to attend to their provenance; that

is, “the nature, structure, and intent of the records in the context of their creation.”<sup>24</sup> Throughout my work, I attempt to incorporate this understanding into my analysis. I also take inspiration from Peter Baskerville and his work, *A Silent Revolution? Gender and Wealth in English Canada 1860-1930*. In his analysis of gender in the ownership of property and investments, Baskerville offers an example for incorporating social science analysis in general and regression analysis specifically into historical research. Following these examples, my research attempts to bring quantitative analysis together with the usual evaluation of texts historians often perform. With this understanding, I felt more confident moving forward with my examination of the two sets of casefiles.

My research situates itself between other scholars who have worked on the Bird Commission. As already mentioned, I built directly off Findlay’s findings in her research. Her investigation of the commission enabled me to focus closely on its results because the origins of the Bird Commission had already been addressed. I was able to incorporate the commission’s construction into the reasons for the deviations I uncovered. While there is certainly more room to expand on the Bird Commission and its results, my research also complements Jordan Stanger-Ross’s analysis of the commission. In his chapter “The Economic Impacts of the Dispossession,” Stanger-Ross concludes that the Bird Commission awarded compensation that provided Japanese Canadians with the market value of their homes, yet he emphasizes that it unjustly deprived Japanese Canadians of assets that they would not have chosen to sell, stripping

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<sup>24</sup> Eric Sager, “Employment Contracts in Merchant Shipping: An Argument for Social Science History,” in *On the Case: Explorations in Social History*, ed. Franca Iacovetta and Wendy Mitchinson (Toronto: University of Toronto Press, 1998), 49.

them of the wealth that should have flowed to them in the years that followed.<sup>25</sup> My research provides new insights into how the Bird Commission awarded compensation to claimants, which perhaps challenges the work of Stanger-Ross and Findlay (as well as other prominent scholars) who relied on previous understandings of the rules for compensation at the commission.

Looking closely at the rules that the commission used to award compensation, this work contributes to a new understanding of the Bird Commission. This research shows the way property categories and their respective reimbursement formulas were developed. It underscores the impact that the narrative struggle between Japanese Canadians and the Canadian state had on the compensation that was awarded to claimants. Then, using regression analysis, my work explains how certain conditions in the lives of Japanese Canadians and certain forms of testimony affected the compensation claimants collected at the end of the commission. To make sense of the compensation process, I reveal systemic, patterned outcomes, and provide, probable explanations for why these patterns emerged.

Ultimately, I show that the Bird Commission's compensation rules were not followed because of the testimony and evidence claimants and government lawyers presented at the hearings. Using regression analysis, I examine 264 Bird Commission casefiles and Custodian casefiles to indicate the types of testimony that influenced commission officials to deviate from the commission's formulaic approach to compensation. The most impactful testimony highlighted the body of knowledge that the Custodian and other government institutions created regarding the property of Japanese Canadians. This testimony also stressed that commission officials responded to Japanese Canadians' efforts to have their property rights recognized.

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<sup>25</sup> Jordan Stanger-Ross, "The Economic Impacts of the Dispossession," in *Landscapes of Injustice: A New Perspective on the Internment and Dispossession of Japanese Canadians*, ed. Jordan Stanger-Ross (Montreal and Kingston: McGill-Queen's University Press, 2020), 339.

The chapters which follow proceed thematically. The first chapter presents the rules for compensation at the Bird Commission. It does this through a detailed analysis and comparison of the commissioner's concluding report, which outlined the ways that different types of property were meant to be compensated, and the casefile coversheets that recorded the commission's final formulaic approach to compensation. The second chapter demonstrates that the compensation Japanese Canadians received did not follow the commission's own rules. Through an examination of the 264 randomly selected cases from the Bird Commission, the results show that over half of the examined cases did not receive compensation that matched the amounts predicted by the commission's procedure: many claimants received greater or lower amounts of compensation. Compensation, I argue in chapters three and four, did not follow strict formulas, but rather reflected the commission officials' views of claimants' individual circumstances and the testimony that they provided at the hearings. These two chapters reveal the results of my regression analysis on the commission and Custodian casefiles. The third chapter presents an analysis of the conditions that existed prior to the Bird Commission, such as the types of property Japanese Canadians owned as well as their type of employment, gender, citizenship status, marital status, and age. It indicates which of these conditions increased the odds of a claimant's compensation deviating from the commission's rules and the direction of the deviation. The fourth chapter is based on a similar analysis. It examines the impact that the testimony had on the compensation Japanese Canadians collected. Together, these chapters highlight the alterations in the compensation that was awarded to Japanese Canadians at the Bird Commission.

As my analysis came together, I noted the close relationship that existed between Bird Commission officials and those of the Custodian. Rather than carefully examining the actions of

Custodian officials and the processes they followed to sell the property of Japanese Canadians, commission officials relied on the records that the Custodian, and other government bodies associated with the sales, created to determine the compensation that they awarded to Japanese Canadians. Rather than the evidence that claimants provided in their testimony, commission officials showed a greater appreciation for the values that Japanese Canadians expressed in their testimony such as the rights of property owners in a liberal democracy. In fact, Commissioner Bird and his supporting sub commissioners tended to rely on the Custodian's records when confronted with a decision between trusting the word of Japanese Canadians or considering the evidence provided by the government.

In his closing remarks for one of the hearings, a sub commissioner reflected that "it is up to us [commissioners and lawyers] to protect them [Japanese Canadians] as far as we can, and that is what we are trying to do."<sup>26</sup> Understanding the emphasis that commission officials placed on the evidence provided by the Custodian compared to the evidence of Japanese Canadians for the value of their property, my analysis does not support that claim. Commission officials were not trying to protect Japanese Canadians. If anything, they were making an effort to support the Custodian and its perception of culpability for the forced sales of Japanese Canadians' property.

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<sup>26</sup> Landscapes of Injustice Archive (hereafter LIA), Library and Archives Canada (hereafter LAC), Bird Commission, RG-33-69, Volume 20, File 0430, Bird Commission Casefile of Fukuye Ujiye, 24 June 1948, 8 (pdf 10), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_20\\_file\\_0430.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_20_file_0430.html) .

**Chapter 1:**  
**The Rules for Compensation at the Bird Commission**

When the hearings of the Bird Commission finished, its commissioner, Henry I. Bird, presented his methods for awarding compensation to the roughly 1500 claimants who had filed claims in a final report. Commissioner Bird stated that the “reasons for the conclusions reached ... in respect of all claims classified in the seven categories later mentioned are expressed in this report.”<sup>1</sup> His report totalled 67 pages and two appendices.<sup>2</sup> The report outlined Commissioner Bird’s methodology, which involved separating the claims of Japanese Canadians into distinct property categories and applying a common percentage to award compensation to claimants in each category.

However, this approach to compensation was not planned from the beginning. Initially, each case that claimants brought before the commission was to be considered independently of the others. The commissioner and lawyers representing the government felt that this would create an overly long commission, based on the number of problems uncovered in the early hearings.<sup>3</sup> In response to these concerns, Glenn McPherson, the executive assistant to the Custodian, advised Commissioner Bird to pay out compensation based on a general percentage that could be applied to all claims.<sup>4</sup> Commissioner Bird made several proposals to claimants’ counsel and supporting organizations such as the National Japanese Canadian Citizens Association (NJCCA) outlining his intent to compensate Japanese Canadians with a common percentage according to

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<sup>1</sup> Nikkei National Museum (hereafter NNM), Sunahara Collection, Research Materials, 2018.16.1.57.1 Bird Commission Report, 1950, 1, [https://nikkeimuseum.org/www/item\\_detail.php?art\\_id=A41602](https://nikkeimuseum.org/www/item_detail.php?art_id=A41602).

<sup>2</sup> Ibid., Title Page (pdf 1).

<sup>3</sup> Findlay, “Creating the Bird Commission,” 321.

<sup>4</sup> Findlay, “Creating the Bird Commission,” 322; Jordan Stanger-Ross and Will Archibald, “The Unfaithful Custodian: Glenn McPherson and the Dispossession of Japanese Canadians,” in *Landscapes of Injustice: A New Perspective on the Internment and Dispossession of Japanese Canadians*, ed. Jordan Stanger-Ross (Montreal and Kingston: McGill-Queen’s University Press, 2020), 161.

property categories.<sup>5</sup> Those representing Japanese Canadians resisted because they felt it was important for each claim to be heard at the hearings and considered independently.<sup>6</sup> Out of necessity they eventually changed this position; the financial burden of the commission on claimants led their legal representatives and advocates to accept Commissioner Bird's categorical approach using percentages in September 1948.<sup>7</sup>

At a general level all parties accepted a categorical approach to compensation. But the devil lay in the details. The commissioner's report provided an overall summary of the methods used to determine compensation, but it did not present an identifiable procedure for awarding compensation. To remedy this gap in knowledge, the commission's approach to compensation was conveyed in a coversheet on each file, outlining the award to each claimant and the process for determining the amount to be reimbursed. In effect, within the general context of a categorical approach, the rationale for each claimant's award was explained on the cover sheet.

The question becomes: to what extent were these individual explanations consistent with the Bird Commission's general explanation as to how the categorical approach would be applied? This chapter explores Commissioner Bird's decisions for each property type and how he and other commission officials decided to compensate Japanese Canadians. It discusses the connections between methods of compensating Japanese Canadians outlined in Commissioner Bird's report and their translation into casefile documents. For each of the seven property categories that organized the compensation that was awarded to Japanese Canadians, an example is provided to demonstrate the way these categories were supposed to work.

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<sup>5</sup> Findlay, "Creating the Bird Commission," 323.

<sup>6</sup> *Ibid.*, 322-323.

<sup>7</sup> *Ibid.*, 323.

Name of Claimant IMADA, Mrs. Ito Case 1  
Custodian File 6996

REAL PROPERTY										
Greater Vancouver		Rural (except V.L.A.)			V.L.A. (except Mission Village)		V.L.A. Mission Village		Total	
Sale Price	5% thereof & 12.50	Sale Price	10% thereof	Charges 12.50 & Comm.	Sale Price	Total Award 80% of all Sale Prices % of Amount Total	Sale Price	Total Award 125% of all Sale Prices: % of Amount Total		
					2983.		2714.93			2714.93
PERSONAL PROPERTY										
Motor Vehicles				Boats and Boat Gear						
Sale Price	25% thereof	Sale Price	Nelson Bros. 23.5% of Sale Price	Other Sales 28.5% of Sale Price	Equipment charges paid to purchasers in error. Repay to owners	Amount of Claims for Boat Gear Declared & Recorded & Not Found	45% of amount in next preceding column			
NETS										
Total award for Nets plus Sale Price	Total Claim for Nets Sold, Declared Not Found and Recorded Now Missing			Percentage Total Award to Total Claim	Claim for Nets Sold Declared, Not Found, & Recorded Now Missing	Apply % ratio to Claim	Deduct Custodian Sale Price			
MISCELLANEOUS CHATELS										
Claim for goods Sold By Auction	Sale Price of Goods Sold By Auction	Rebates of charges 30% of Sale Price	Ratio in % of Sale Price to Claim	Claim for goods Declared Not Found, Recorded Now Missing, & Sold Not Paid	Applica-tion of % ratio to amount in next preceding column	Sale Price of goods Sold by Tender	12% of Sale Price			
			46%	250.00		115.00				115.00
TOTAL RECOMMENDATION									2829.93	

1540

Figure 1: Bird Commission Casefile Coversheet. This is the cover sheet for the first Bird Commission casefile, regarding Imada Ito's claim.<sup>8</sup>

<sup>8</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 1, File 0001, Bird Commission Casefile of Imada Ito, 8 December 1947, Coversheet (pdf 1), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_01\\_file\\_0001.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_01_file_0001.html).

Commissioner Bird separated Japanese Canadians' property claims into seven categories: (1) real estate property in Greater Vancouver, (2) rural and urban real estate property not located within Greater Vancouver, (3) real estate property "sold to the Director, Veterans' Land Act," (VLA) (4) "Motor cars and trucks," (5) "Fishing nets and fishing gear," (6) "Fishing vessels and boat gear," and (7) "Miscellaneous personal property."<sup>9</sup> To simplify the files, officials combined categories; Commissioner Bird's seven categories were grouped into four areas: real property, personal property, nets, and miscellaneous chattels as shown in Figure 1. This created four areas of analysis that were more understandable.

### **Real Property**

Under the category of real property, the Bird Commission compensated Japanese Canadians for real estate property: homes, buildings, and land. The commission divided real estate property according to location and the type of sale; "Greater Vancouver," "Rural (except V.L.A.)," "V.L.A. (except Mission Village)," and "V.L.A. Mission Village" became the categories commission officials used to consider claims related to real property.<sup>10</sup> All compensation Japanese Canadians received from the commission were based on the Custodian's sale prices.

Relatively simple formulas were introduced for real property located in Greater Vancouver or not sold under the VLA. The properties in Greater Vancouver, according to Commissioner Bird, were sold for "fair market value."<sup>11</sup> However, he found fault with the director of the Custodian for forcing Japanese Canadians in the area to pay for a five percent

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<sup>9</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 5.

<sup>10</sup> LIA, LAC, Bird Commission, Bird Commission Casefile of Imada Ito, Coversheet (pdf 1).

<sup>11</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 22.

commission on the sales and an additional expense of \$12.50 for the work of the Custodian.<sup>12</sup> Commissioner Bird recommended that these amounts be paid back to Japanese Canadians. Outside of Vancouver and for real property outside of the VLA sales, the commissioner concluded that the Custodian, despite applying “all reasonable effort,” had failed to provide “fair market” values.<sup>13</sup> Commissioner Bird recommended awarding claimants 10% of the Custodian’s sale price plus any charges for commissions on the sale of properties outside of Greater Vancouver.<sup>14</sup>

Further compensation was owed in the case of lands sold by the Custodian to the Director of the VLA, Gordon Murchison. The VLA associated properties were sold as part of a policy designed to benefit a specific group: veterans returning from the Second World War.<sup>15</sup> Robert England and Walter Woods, members of the “Subcommittee on Land Settlement,” designed the VLA to emphasize the committee’s goal of “re-establishing” veterans on agricultural land.<sup>16</sup> For Ian Mackenzie, the federal minister of Pensions, National Health and Veterans’ Affairs as well as an architect of the internment and dispossession of Japanese Canadians, the VLA solved two problems: postwar economic reconstruction following an influx of veterans and the permanent

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<sup>12</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 22.

<sup>13</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 25. All dollar figures throughout this thesis are from the time of analysis. They represent the original value printed in each document in the 1940s. Although possibly in urban areas such as Victoria, real properties in this category were described as rural on the Bird Commission casefile coversheets.

<sup>14</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 25.

<sup>15</sup> Richard Harris and Tricia Shulist, “Canada’s Reluctant Housing Program: The Veterans’ land Act, 1942-75,” *The Canadian Historical Review* 82, no.2 (June 2001): VLA Article, Canada’s Reluctant Housing Program, 255-256.

<sup>16</sup> Harris and Shulist, “Canada’s Reluctant Housing Program,” 255-256. In the article, it is unclear for which overarching committee or group the Subcommittee on Land Settlement is a subcommittee. However, it may possibly be the General Advisory Committee because the Subcommittee on Land Settlement produced a report for this committee.

removal of Japanese Canadians from the west coast of British Columbia.<sup>17</sup> If Japanese Canadians were forced to sell their rural properties, which were suitable for agriculture, then veterans could replace them as the owners and operators of productive farmland; veterans would be employed and Japanese Canadians would lose their holdings on the coast. To secure Japanese Canadians' homes, Mackenzie, Murchison, and members of the Soldier Settlement Board (as well as officials in the city of Vancouver) worked in 1942 to convince the Custodian to sell Japanese Canadians' rural real estate.<sup>18</sup>

For the Custodian and government officials, selling the property owned by Japanese Canadians provided a solution for multiple self-made problems: there would no longer be a need to manage and store any property; the resulting funds could be used by Japanese Canadians to support themselves during their internment; and, without homes to return to in British Columbia, Japanese Canadians would be forced to spread across Canada, outside of the Pacific province.<sup>19</sup> With these goals in reach, the government passed Order-in-Council 469 in January 1943, which allowed for the forced sale of all property owned by Japanese Canadians.<sup>20</sup>

Murchison lost no time in making a move to purchase the arable real property of Japanese Canadians for the VLA. Initially, Murchison offered to pay \$750,000 for all 768 properties deemed suitable as farmland for veterans, but the Custodian's Rural Advisory Committee rejected this offer for being too low.<sup>21</sup> The properties Murchison was interested in

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<sup>17</sup> Ann Sunahara, *The Politics of Racism* (Toronto: James Lorimer and Company, 1981), 89.

<sup>18</sup> Adams, Stanger-Ross, and Landscapes of Injustice Research Collective, "Promises of Law," 267.

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*, 268; Sunahara, *The Politics of Racism*, 90-92. Sunahara discusses Mackenzie's role in the dispossession of Japanese Canadians, which Stanger-Ross and others have now shown was only a contributory role.

<sup>21</sup> Peter Neary, "Zennosuke Inouye's Land: A Canadian Veterans Affair Dilemma," *The Canadian Historical Review* 85, no.3 (September 2004): 5; Sunahara, *The Politics of Racism*, 94;

purchasing were assessed at a value of \$1,200,000.<sup>22</sup> Undeterred, Murchison made a second offer of \$850,000, but he made it clear that no further offer would be made if this bid was not accepted.<sup>23</sup> The Custodian's Rural Advisory Committee relented and accepted the deal.<sup>24</sup> The one Japanese Canadian representative on the committee, Yasutaro Yamaga, resigned in protest.<sup>25</sup> With these decisions, the rights and interests of Japanese Canadians were sacrificed to benefit returning veterans from the Second World War.<sup>26</sup>

Commissioner Bird recognized malfeasance in the sale of 768 Japanese Canadian owned properties to the VLA. After analyzing appraisals from experts on agricultural land evaluation, the commissioner concluded that the real property sold to the director of the VLA was

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Adachi, *The Enemy That Never Was*, 329. Adachi quotes the original offer as \$825, 000, but both Neary and Sunahara agree that the original offer was \$750,000.

<sup>22</sup> Sunahara, *The Politics of Racism*, 94. This assessment was based on taxes at the time.

<sup>23</sup> Sunahara, *The Politics of Racism*, 94; Adachi, *The Enemy That Never Was*, 329.

<sup>24</sup> Sunahara, *The Politics of Racism*, 94. Adachi explains in footnote 56 for chapter thirteen that Murchison later paid only \$792,265 for 741 real estate properties but also reduced the amount owed to Japanese Canadian owners by an additional \$52,115. See Adachi, *The Enemy That Never Was*, 406; NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 27.

<sup>25</sup> Sunahara, *The Politics of Racism*, 94.

<sup>26</sup> In theory, Japanese Canadians could apply for land through the VLA as it was designed to support veterans regardless of race. In practice, however, the VLA failed to support Canadians of Japanese and Indigenous descent. Only one Japanese Canadian veteran was able to retain his land, Zennosuke Inouye, and most Indigenous Canadians could not access the program because of the Canadian government's reserve system. This is an opportunity for further research. Looking through sources I could not find any analysis based on race regarding which soldiers took advantage of the VLA. An analysis looking at the veterans that used the VLA to acquire land could answer whether race was a significant factor in determining who received support from the VLA. Many soldiers of diverse backgrounds in Canada fought in the Second World War, which suggests that many people of different racial backgrounds could have applied for support in acquiring land through the VLA. There are specific historical works that examine the relationship of the VLA with Indigenous Canadians, but more could be done to examine race and its relationship to the VLA during the Second World War. See R. Scott Sheffield, "Veterans' Benefits and Indigenous Veterans of the Second Word War," *Wicazo Sa Review* 32, no.1 (Spring 2017): 65; Jack Granatstein, "Ethnic and Religious Enlistment in Canada During the Second World War," *Canadian Jewish Studies* 21 (February 2015), 174-180; Roy Ito, *We Went to War* (Stittsville, Ontario: Canada's Wings, 1984), 151-153, 302-305.

undervalued, the extent of the shortfall depending on the community in question. According to Commissioner Bird's report, real estate was undervalued in Richmond by 73%, in Mission by 87%, in Surrey by 113%, in Delta by 117%, in Maple Ridge by 136%, and in Mission Village by 212%.<sup>27</sup> However, to contain the total costs of compensation, Commissioner Bird recommended distributing a fixed total of \$680,000 amongst the claimants according to the percentages that the VLA undervalued property in each municipality.<sup>28</sup>

Using Commissioner Bird's recommendations, commission officials, including the commissioner, created a procedure for reimbursing Japanese Canadians for the Custodian's forced sale of their real property. Individuals who had real estate in Greater Vancouver were to receive five percent of the Custodian's sale price plus an additional \$12.50.<sup>29</sup> For example, Kina Kuwabara had two properties categorized as part of Greater Vancouver, which the Custodian sold for \$2200 and \$700.<sup>30</sup> The commission then applied the compensation percentage of five percent to each sale price, which resulted in compensation amounts of \$110 and \$35, respectively.<sup>31</sup> After adding the additional \$12.50 for each property, the commission reached Kuwabara's total real property payment amount of \$170.<sup>32</sup> Japanese Canadians who had property classified as rural but not a part of the VLA sales were projected to collect 10% of the Custodian's sale price plus the charge of \$12.50 for the Custodian's services. They also should have obtained any additional commission that was taken from the sale price. Nobushige Yoshida,

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<sup>27</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 37.

<sup>28</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.53.8, Memorandum to Claimants, Re: Offer of Settlement, Japanese Claims Commission, 1950. The figure of \$680,000 represented 80% of Murchison's purchase price (\$850,000) from the Custodian for the 768 rural properties.

<sup>29</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 67, File 1342, Bird Commission Casefile of Kina Kuwabara, 2 June 1948, Coversheet (pdf 1), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_67\\_file\\_1342.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_67_file_1342.html).

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> Ibid.

whose real estate property was sold by the Custodian for \$800, received \$80 from the Custodian's sale price, \$12.50 from the Custodian's charges, and \$40 from the commission on the sale.<sup>33</sup> In total, Yoshida received roughly \$133 from the commission.<sup>34</sup>

Following Commissioner Bird's recommendations, the casefiles show that individuals received compensation from properties sold to the VLA according to where they lived. Coming from Steveston, Bunkichi Yamasaki received 80% of the Custodian's individual-specific sale price as reimbursement: with a Custodian's sale price of \$48, Yamasaki received \$38.40 in return from the commission.<sup>35</sup> Looking closer at the casefiles, Figure 1 shows that properties in Mission Village were separated from the other VLA sales. These properties were to be awarded their percentage of 212% from a fund totalling 125% of the Custodian's sale price of properties sold to the VLA from Mission Village, which was confirmed in a memorandum written to the claimants.<sup>36</sup> However, from the cases I examined, I could not find any cases from Mission Village where claimants collected compensation that totalled 212% of the Custodian's sale price. The evidence I collected shows claimants receiving 125% of the sale price as compensation. For example, Kyuchi Aoki owned two properties within Mission Village, which the Custodian sold

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<sup>33</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 39, File 0768, Bird Commission Casefile of Nobushige Yoshida, 13 October 1948, Coversheet (pdf 1), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_39\\_file\\_0786.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_39_file_0786.html) .

<sup>34</sup> Ibid.

<sup>35</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 31, File 0639 , Bird Commission Casefile of Bunkichi Yamasaki, 1 September 1948, Coversheet (pdf 1), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_31\\_file\\_0639.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_31_file_0639.html) . I could find no examples of claimants receiving compensation in the VLA sales that adhered to the percentages that Commissioner Bird laid out in his report. Because Steveston was not listed as a municipality, I checked Yamasaki's compensation against the average expected amount of 80% and it proved to be accurate.

<sup>36</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.53.8, Memorandum to Claimants, 1950. It is unclear why Commissioner Bird did not include this information in his report, and information in the memorandum seems to suggest that the commissioner's report was written after the memorandum because it notes that further discussions are needed to determine specific formulas for awarding claimants from the VLA sales.

for \$869 and \$185.<sup>37</sup> Aoki received \$1317.50 for his real estate properties, or 125% of the Custodian's combined sale prices.<sup>38</sup> This seems realistic to me considering the circumstances. With one municipality drawing from an amount totalling 125% of their combined sales prices, all claimants with property here could expect to collect 125% of the Custodian's sales price as compensation, rather than the 212% of the Custodian's sale price that Commissioner Bird suggested claimants from Mission Village should have received.

Thus, Commissioner Bird and other commission officials determined a method for repaying Japanese Canadians for the forced sale of their real estate. On the surface, this process appeared well structured and easily applied. For real estate property sold in Greater Vancouver or outside of the VLA sales, the compensation formulas were relatively simple. Claimants whose property was sold to the VLA were reimbursed according to the location of their homes. This created a little more complexity in determining the appropriate amount of compensation to award claimants.

### **Personal Property: What was it?**

For the commissioner and other officials, personal property presented another difficult task. Whereas real property was relatively easy to understand, personal property could theoretically include anything according to the commission. As the commission progressed, what constituted as personal property changed over time.

Initially, personal property was all grouped together in a single category, comprised of everything outside of real estate that Japanese Canadians lost. For example, Wakamatsu Yashiki

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<sup>37</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 53, File 1046, Bird Commission Casefile of Kyuchi Aoki, 14 May 1948, Coversheet (pdf 1), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_53\\_file\\_1046.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_53_file_1046.html) .

<sup>38</sup> Ibid.

made a claim for a motor vehicle and nets at the Bird Commission.<sup>39</sup> Yashiki provided an “Itemized description of personal property” to make his claim, where he listed “6 Gillnets, ... Cork Lines, ... Lead Lines, [and a] Federal Truck.”<sup>40</sup> In doing so, Yashiki and other Japanese Canadians followed the instructions on their claims forms informing them that “‘personal property’ [included] shares, bonds, mortgages, loans, notes and all other forms of property not included in real estate.”<sup>41</sup> However, the commission eventually separated vehicles, boats, and nets from the other forms of personal property.

The circumstances under which vehicles, vessels, and nets were initially seized may explain why they ultimately received a special classification. After the attack on Hong Kong and Pearl Harbor, on 8 December 1941, the Royal Canadian Navy impounded all fishing vessels owned by Japanese Canadians.<sup>42</sup> In January a special committee known as the Japanese Fishing Vessel Disposal Committee (JFVDC) was created to sell or lease the fishing vessels of Japanese Canadians.<sup>43</sup> The committee operated from January 1942 until July 1942, at which time the Custodian took over the responsibilities of the JFVDC.<sup>44</sup> Under the terms of reference, Commissioner Bird rejected any claims made for fishing vessels sold by the JFVDC, yet the commissioner was willing to compensate owners for damages to vessels that were later sold by

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<sup>39</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 12, File 0218, Bird Commission Casefile of Wakamatsu Yashiki, 29 April 1948, Coversheet (pdf 1), Claim Form (pdf 11), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_12\\_file\\_0218.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_12_file_0218.html) .

<sup>40</sup> Ibid., 11.

<sup>41</sup> Ibid. These forms were standard and appeared in every case at the Bird Commission.

<sup>42</sup> Sunahara, *The Politics of Racism*, 24.

<sup>43</sup> Jordan Stanger-Ross, “Introduction and Reflections,” in *Witness to Loss: Race, Culpability, and Memory in the Dispossession of Japanese Canadians*, ed. Jordan Stanger-Ross and Pamela Sugiman (Montreal and Kingston: McGill-Queen’s University Press, 2017), xxix.

<sup>44</sup> Ibid.

the Custodian.<sup>45</sup> Under similar circumstances to fishing vessels, the Canadian government required all Japanese Canadians on the Pacific Coast to “surrender ... all motor vehicles ... on or before March 9<sup>th</sup> 1942” to the Royal Canadian Mounted Police and “These vehicles ... were assembled and stored in the open at Vancouver and Victoria.”<sup>46</sup> The Custodian took over responsibility for the vehicles of Japanese Canadians later in the spring of 1942.<sup>47</sup> While considering the level of compensation to award claimants for vehicles, Commissioner Bird noted that the Custodian had appraisers judge the worth of Japanese Canadians’ motor vehicles “in the open and without facilities for adequate tests.”<sup>48</sup> He concluded that the appraisals were “superficial examinations of the vehicles.”<sup>49</sup> In his report, Commissioner Bird reported that the storage conditions and treatment of fishing vessels and motor vehicles were similar as both suffered exposure to the elements. Judging from their parallel circumstances, Commissioner Bird and commission officials may have decided to group these two forms of property together.

Other forms of movable property came with their own complications. Fishing nets in particular posed a problem for the commission. Nets proved challenging because of their initial storage, their quick deterioration, and their appearance (nets had few, if any, distinguishing traits).<sup>50</sup> Like fishing vessels and motor vehicles, the initial storage of nets proved challenging and ultimately damaging to the nets themselves. There was a difference though: the Custodian was the first to collect and store the nets, whereas the Royal Canadian Navy and RCMP had

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<sup>45</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 42, 44. While under the care of the Royal Canadian Navy, fishing vessels suffered damage, which the commissioner was willing to recognize at the commission.

<sup>46</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 51.

<sup>47</sup> Stanger-Ross, “Introduction and Reflections,” xxix.

<sup>48</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 51-52.

<sup>49</sup> *Ibid.*, 52.

<sup>50</sup> *Ibid.*, 46-47.

initially collected fishing vessels and motor vehicles, respectively. Registering this distinction in the process of collection and storage, Commissioner Bird likely decided it was necessary to consider nets a distinct category of property.<sup>51</sup>

For fishing vessels, motor vehicles, and nets, Commissioner Bird recognized the mistreatment these forms of property received during their initial collection and storage. This recognition meant that the commissioner needed to take special consideration in the process for compensating Japanese Canadians for these forms of property.

### **Motor Vehicles**

Commissioner Bird's recommendations for motor vehicles were directly translated into the commission's procedure for awarding compensation. Commissioner Bird concluded that the Custodian's inadequate storage and assessment of motor vehicles diminished their overall value. The commissioner noted that the Custodian sold vehicles, on average, for "30 to 35 per cent lower ... than dealer and Red Book prices," but car dealers also provided "some form of guarantee of efficient operation covering a limited period."<sup>52</sup> When selling vehicles, the Custodian made no such guarantees.<sup>53</sup> This lack of efficient operation guarantee likely reduced the prices for motor vehicles to a certain degree. The commissioner considered these factors when determining the compensation Japanese Canadians should receive for the forced sale of

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<sup>51</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 1, File 0001, Bird Commission Casefile of Imada Ito, Coversheet (pdf 1).

<sup>52</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 53-54. Commissioner Bird describes the 'Red Book' as a car sales trade "publication" where "various makes and models" of motor vehicles were recorded with their respective values. Regarding the percentages of the Custodian's motor vehicles sales prices compared to the free market sales, the lowest percentage difference was five percent under and 75% under. Only seven of the 60 motor vehicles that the Custodian sold received a percentage where the Custodian's price was greater than the free market.

<sup>53</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 53.

their motor vehicles. He recommended awarding Japanese Canadians 25% of the Custodian's sale price as compensation.<sup>54</sup>

Notably, the commissioner's recommendations transferred directly into procedure.<sup>55</sup> Bird Commission officials recorded the sale prices for Japanese Canadians' motor vehicles and awarded 25% of the sale price to claimants. Sadao Suzuki's claim at the commission is an example of the commission following its procedure. The Custodian sold his Ford Truck for \$550, and Suzuki was awarded \$137.50 in compensation, exactly 25% of the Custodian's sale price.<sup>56</sup> Compared to other types of property at the Bird Commission, compensation for motor vehicles was relatively straightforward.

## **Boats and Boat Gear**

Following the terms of reference, Commissioner Bird considered only those fishing vessels that came into the Custodian's possession for reimbursement at the Bird Commission.<sup>57</sup> He decided that the Custodian had sold the fishing vessels of Japanese Canadians for "fair market value ... at the date of sale."<sup>58</sup> However, the commissioner recognized that, due to how

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<sup>54</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 54.

<sup>55</sup> I say directly here because for other categories there are differences between the coversheets and Commissioner Bird's report.

<sup>56</sup> Sadao, Suzuki. Bird Commission Casefile 855, 1, 12.

<sup>57</sup> Adachi, *The Enemy That Never Was*, 330; NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 42. However, some Japanese Canadians did make claims for fishing vessels that the Custodian did not sell. This was made in protest of the terms of reference and with hope that they could receive compensation if the terms were ever changed. See LIA, LAC, Bird Commission, RG-33-69, Volume 39, File 0788, Bird Commission Casefile of Motochiro Yoshihara, 13 October 1948, Coversheet (pdf 1), Proof of Claim (pdf 20), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_39\\_file\\_0788.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_39_file_0788.html) ; LIA, LAC, Bird Commission, RG-33-69, Volume 46, File 0916, Bird Commission Casefile of Keitaro Matsubara, 16 September 1948, Coversheet (pdf 1), Claim Form (pdf 10), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_46\\_file\\_0916.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_46_file_0916.html) .

<sup>58</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 44.

long fishing vessels were exposed to harsh conditions and that they were not adequately cared for while in the Canadian government's possession, Japanese Canadians' fishing vessels "suffered [an] abnormal depreciation in value between the date of surrender to the Royal Canadian Navy and the date of sale."<sup>59</sup> His recommendations took this devaluation into account.

While all vessels sold by the Custodian had been damaged prior to sale, the extent of this damage varied. Before the JFVDC transferred management and control of all Japanese Canadian fishing vessels to the Custodian, the committee had arranged an agreement for Nelson Bros. Ltd. to purchase some or all of a group of 51 vessels.<sup>60</sup> Nelson Bros. Ltd. exercised this agreement before the agreement expired "and subsequent to the vesting [of the particular vessels] in the Custodian."<sup>61</sup> Commissioner Bird determined that the vessels transferred to Nelson Bros. Ltd. were exposed to the elements for a shorter period, and thus recommended a smaller amount of compensation for the owners of these vessels.<sup>62</sup> According to the commissioner, Japanese Canadian owners with vessels sold by Nelson Bros. Ltd. should have received 10% of the Custodian's sale price, while other boats should have received 15% of the Custodian's sale price because they endured "exposure for 10 months or longer."<sup>63</sup>

For all vessels, the commissioner noted that the Custodian charged Japanese Canadians for expenses such as "watchmen's services, wharfage, [and] appraisers' fees and insurance;" the Custodian recouped these expenses from the sale prices, even in the case of vessels transferred to Nelson Bros. Ltd.<sup>64</sup> On each sale, the Custodian charged Japanese Canadians roughly 13% to

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<sup>59</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 44.

<sup>60</sup> *Ibid.*, 43.

<sup>61</sup> *Ibid.*

<sup>62</sup> *Ibid.*, 45.

<sup>63</sup> *Ibid.*

<sup>64</sup> *Ibid.*, 43.

14% of the sale price.<sup>65</sup> Additionally, Japanese Canadians should have received compensation for how the Royal Canadian Navy mishandled their boats and lost some of their boating equipment, but, “due to an error on the part of a member of the Custodian’s staff,” individuals who purchased Japanese Canadian owned vessels received the payment for damages and missing gear.<sup>66</sup> Commissioner Bird recommended that all Japanese Canadians with fishing vessel claims be reimbursed for the expenses that the Custodian charged, meaning an additional 13% to 14% of the Custodian’s sale price in compensation, and receive the money for damages and lost equipment mistakenly given to the buyers.<sup>67</sup> In total, following Commissioner Bird’s conclusions, this meant Japanese Canadians should have received roughly 23% to 24% of the Custodian’s sale price in compensation for vessel sales under the Nelson Bros. Ltd., and about 28% to 29% of the sale price for fishing vessels the Custodian sold by other means. If Japanese Canadians’ vessels qualified for compensation for damages or missing equipment, then they also should have received this amount.

For the most part, Commissioner Bird’s recommendations were fully integrated into the commission’s repayment procedures. The compensation awarded to Nuinosuke Okawa and Eichi Oseki demonstrate the way reimbursement amounts were calculated. For Okawa, whose boat was sold for \$550 by sellers other than Nelson Bros. Ltd., he received \$156.75, or about 29%, for the Custodian’s sale of his vessel and no additional compensation for damages because the purchaser was not mistakenly paid in Okawa’s case.<sup>68</sup> For Oseki, the Custodian sold his vessel to Nelson Bros. Ltd. for \$315 and Oseki received \$74.02 in compensation, roughly 24% of the sale

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<sup>65</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 43.

<sup>66</sup> *Ibid.*, 44.

<sup>67</sup> *Ibid.*, 44-45.

<sup>68</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 16, File 0314, Bird Commission Casefile of Nuinosuke Okawa, 4 June 1948, Coversheet (pdf 1). [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_16\\_file\\_0314.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_16_file_0314.html)

price, and an additional amount of \$38.75 for damage payments mistakenly paid to the purchaser.<sup>69</sup>

Japanese Canadian fishers could also receive compensation for lost gear. The commission awarded claimants 45% of the value they claimed for equipment that the Custodian had lost.<sup>70</sup> For example, Katsutaro Hori claimed \$50 for lost boating gear, and he received \$22.50 in compensation.<sup>71</sup> Commissioner Bird or other commission officials did not explain how they determined the compensation percentage of 45% for missing or lost boat gear, but this became the standard amount that claimants received for this type of property. This approach favoured the government, as it supported the idea that Japanese Canadians exaggerated their property valuations because Commissioner Bird purposefully awarded less than half of the amounts claimed.<sup>72</sup>

For boats and boating gear, Commissioner Bird's recommendations and the enacted procedure were fairly close. The commissioner's recommended compensation percentages were included as was his decision to pay Japanese Canadians the damage payments, mistakenly given to purchasers. In addition, the commission awarded compensation for missing boating gear. Like motor vehicles, Commissioner Bird's recommendations and the procedure for awarding compensation for fishing vessels and related gear were clear and direct.

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<sup>69</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 36, File 0730, Bird Commission Casefile of Eichi Oseki, 29 September 1948, Coversheet (pdf 1). [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_36\\_file\\_0730.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_36_file_0730.html)

<sup>70</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 16, File 0314, Bird Commission Casefile of Nuinosuke Okawa, Coversheet (pdf 1).

<sup>71</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 3, File 0047, Bird Commission Casefile of Katsutaro Hori, 19 January 1948, Coversheet (pdf 1). [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_03\\_file\\_0047.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_03_file_0047.html)

<sup>72</sup> Findlay, "Creating the Bird Commission," 320. Findlay relates that the lawyers representing Japanese Canadians attempted to craft claims to counteract rumours of exaggeration.

## Nets

As indicated earlier, nets posed a unique challenge for the commission. The Custodian's officials acknowledged the challenges of maintaining this type of property in evidence submitted to Commissioner Bird.<sup>73</sup> The commissioner recognized these issues and attempted to account for them in his recommendations.

Commissioner Bird only accepted claims for nets that the Custodian had recorded and sold or that Japanese Canadians had declared to the Custodian but the Custodian lost.<sup>74</sup> However, the Custodian's inability to track, locate, and manage nets meant that they were unable to compensate Japanese Canadians accurately.<sup>75</sup> Commissioner Bird developed a plan that attempted to compensate Japanese Canadians for the Custodian's forced sale of their nets.

As the Custodian acknowledged its problems with selling nets, the commissioner determined that the Custodian's sales did not achieve "fair market value."<sup>76</sup> He advised awarding Japanese Canadians 25% of "the assumed [Custodian's] selling price."<sup>77</sup> In cases where there was no selling price or where claimants claimed for missing nets, Commissioner Bird determined that individuals should receive compensation, "based upon the over-all ratio between claims for all goods sold and all claims for like property, with the addition of [25%,] to average selling price, to achieve fair market value."<sup>78</sup> However, Commissioner Bird's recommendation proved difficult to translate into application.

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<sup>73</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 46-47.

<sup>74</sup> *Ibid.*, 49.

<sup>75</sup> *Ibid.*, 48.

<sup>76</sup> *Ibid.*, 48-49.

<sup>77</sup> *Ibid.*, 50.

<sup>78</sup> *Ibid.*

The commissioner and other officials created two processes for awarding compensation in net claims: total claim versus the Custodian's sale price.<sup>79</sup> I found no evidence in the cases I examined that showed claimants using the process of total claim.<sup>80</sup> Most Japanese Canadians chose to make a claim according to the Custodian's sale price of nets. This involved applying a percent ratio, usually 70%, to a claimant's claim, and then deducting the Custodian's estimated sale price based on the claimant's description of their nets.<sup>81</sup> For example, Shigeru Kishino claimed \$265 and \$185 for two nets; a total claim of \$450.<sup>82</sup> After applying the percent ratio of 70% to Kishino's total claim for nets, the commission awarded Kishino \$315, after which the commission deducted the Custodian's sale price of \$170 for the two nets to award Kishino \$145 in compensation.<sup>83</sup>

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<sup>79</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 36, File 0730, Bird Commission Casefile of Eichi Oseki, Coversheet (pdf 1).

<sup>80</sup> Ibid. This process involved comparing the Custodian's sale price with the total amount claimed by a claimant, which was then transformed into a percentage to determine the amount of compensation.

<sup>81</sup> Ibid. The Custodian estimated the sale prices associated with each claimant, based on information claimants provided regarding their nets. Bird Commission officials recorded the owner's claim for nets declared to the Custodian, applied a percent "ratio to [c]laim," and then deducted the Custodian's sale price to determine the amount to award the owner. There is no explanation given for why 70% was the usual percent ratio applied to net claims at the commission. To determine this, I divided the amount in the "Apply % ratio to Claim" column on the casefile coversheet by the "Claim for Nets Sold, Declared Not Found, & Recorded Now Missing" column. This calculation routinely returned 70%. See LIA, LAC, Bird Commission, RG-33-69, Volume 36, File 0730, Bird Commission Casefile of Eichi Oseki, 29 September 1948, Coversheet (pdf 1); LIA, LAC, Bird Commission, RG-33-69, Volume 29, File 0592, Bird Commission Casefile of Ukiyoshi Yasui, 19 August 1948, Coversheet (pdf 1), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_29\\_file\\_0592.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_29_file_0592.html) ; LIA, LAC, Bird Commission, RG-33-69, Volume 67, File 1340, Bird Commission Casefile of Shigeru Kishino, 2 June 1948, Coversheet (pdf 1), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_67\\_file\\_1340.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_67_file_1340.html) .

<sup>82</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 67, File 1340, Bird Commission Casefile of Shigeru Kishino, Coversheet (pdf 1).

<sup>83</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 67, File 1340, Bird Commission Casefile of Shigeru Kishino, 2 June 1948, Coversheet (pdf 1).

In awarding compensation for nets to claimants, Commissioner Bird recognized the Custodian's mishandling of property. He provided two methods for reimbursing Japanese Canadians in an attempt to approach the market value of the nets. Like boat gear, the commissioner's recommendations seem to have taken into account the speculation of exaggerated claims as the eventual favoured method compensated Japanese Canadians only to a level of 70% and then subtracted the Custodian's sale price.

### **Miscellaneous Chattels**

For the commission, "Miscellaneous Chattels" encapsulated all property other than real estate, motor vehicles, vessels, and nets. This could include home items such as furniture, religious items such as shrines, or buildings on plots of land not owned by the claimant.<sup>84</sup> As in the case of other moveable property, chattels brought their own complications and sets of compensation rules.

The Custodian used both auctions and tender sales to sell the chattel of Japanese Canadians.<sup>85</sup> For both forms of sales, Commissioner Bird concluded that "fair prices were realized" because he was "entirely satisfied that every reasonable and businesslike effort was made by the organization set up by the Custodian to dispose of these goods in the best interest of

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<sup>84</sup> Kaitlin Findlay, Nicholas Blomley, and the Landscapes of Injustice Research Collective "(De)valuation: The State Mismanagement of Japanese Canadian Personal Property in the 1940s," in *Landscapes of Injustice: A New Perspective on the Internment and Dispossession of Japanese Canadians*, ed. Jordan Stanger-Ross (Montreal and Kingston: McGill-Queen's University Press, 2020), 235; NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 58. It is unclear why buildings on land owned by others was defined as miscellaneous chattel, but Commissioner Bird included this type of property under that category.

<sup>85</sup> Sale by tender is a sale process where people submit hidden bids to purchase property, and the seller considers each bid within a specific time before selecting which offer to take in exchange for the property.

the owners.”<sup>86</sup> This claim relied on a very narrow understanding of the “interests of the owners.”<sup>87</sup> Despite being advised to consult Japanese Canadian families directly about items with sentimental value, the Custodian’s officials did not contact owners and took the initiative to decide which property families wanted to preserve.<sup>88</sup> Kaitlin Findlay and Nicholas Blomley discuss how the Custodian’s methods to forcibly sell the chattel of Japanese Canadians’ relied on a type of valuation that denied the possibility that owners might have their own, personal, reasons for keeping the things that they owned.<sup>89</sup> For the Custodian, how much non-Japanese Canadians were willing to spend to buy the property of Japanese Canadians defined the value of that property. No consideration was given to what the rightful owners actually wanted.

Despite Commissioner Bird’s praise for auction and tender sales, he did recognize the need to reimburse Japanese Canadians. The Custodian had charged Japanese Canadians the cost for “handling ... advertising and [the] auctioneers’ fees,” which equaled roughly 23% of the Custodian’s sale price for sales at auction.<sup>90</sup> For similar charges, the Custodian forced Japanese Canadians to pay 12% of the Custodian’s sale price for tender sales.<sup>91</sup> For auction sales, the commissioner recommended repaying Japanese Canadians the costs that the Custodian had charged and an additional approximately seven percent of the Custodian’s sale price.<sup>92</sup> In total, Commissioner Bird decided to reimburse Japanese Canadians 30% of the Custodian’s sale price for auctions and 12% of the Custodian’s sale price for tender sales.<sup>93</sup>

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<sup>86</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 57-58.

<sup>87</sup> *Ibid.*

<sup>88</sup> Findlay, Blomley, and Landscapes of Injustice Research Collective, “(De)valuation,” 234-235.

<sup>89</sup> *Ibid.*, 237.

<sup>90</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 57.

<sup>91</sup> *Ibid.*

<sup>92</sup> *Ibid.*

<sup>93</sup> *Ibid.*

In application, the commission seemed to follow Commissioner Bird's decisions on compensation for auction and tender sales. For example, the Custodian sold Ukiyoshi Yasui's chattel at auction for \$33.75 and Yasui received \$10.12, roughly 30% of the sale price, as compensation for the sale of his property at auction by the Custodian.<sup>94</sup> The Custodian also sold some of Yasui's chattel by tender for \$15, for which Yasui received \$1.80 in repayment of the Custodian's charges or 12% of the Custodian's sale price.<sup>95</sup>

Yet, the Custodian had been unable to sell all the chattel Japanese Canadians owned, and this complicated matters. In many cases, the Custodian was unable to locate miscellaneous chattel. To protect their belongings, Japanese Canadians hid their chattel, which made it difficult for the Custodian's employees to locate and collect these items.<sup>96</sup> At the same time, when the Canadian government forced Japanese Canadians from their homes, non-Japanese Canadians used their absence to steal, ransack, and vandalize all types of property Japanese Canadians were forced to leave behind.<sup>97</sup> With Japanese Canadians hiding their chattel and non-Japanese Canadians stealing and destroying it, the Custodian struggled to locate, record, capture, and protect many of the belongings that Japanese Canadians left behind. Even when the Custodian managed to secure and store chattel from the homes of Japanese Canadians, the inability of officials to document and protect the property they held resulted in belongings being misplaced,

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<sup>94</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 29, File 0592, Bird Commission Casefile of Ukiyoshi Yasui, Coversheet (pdf 1).

<sup>95</sup> Ibid.

<sup>96</sup> Findlay, Blomley, and Landscapes of Injustice Research Collective, "(De)valuation," 224; Kaitlin Findlay, Heather Read, Jordan Stanger-Ross, and the Landscapes of Injustice Research Collective, "Remembering Acts of Ownership," in *Landscapes of Injustice: A New Perspective on the Internment and Dispossession of Japanese Canadians*, ed. Jordan Stanger-Ross (Montreal and Kingston: McGill-Queen's University Press, 2020), 375.

<sup>97</sup> Findlay, Blomley, and Landscapes of Injustice Research Collective, "(De)valuation," 227-228. One of many devastating accounts explains how the Kitsilano Buddhist Mission was broken into and vandalized five times.

mislaidd, and still stolen.<sup>98</sup> At the commission, Commissioner Bird was forced to consider Japanese Canadians' efforts to protect their property, the illegal actions of non-Japanese Canadians, and the Custodian's ineptitude in maintaining chattel with claims for lost and missing property.

Commissioner Bird recognized that Japanese Canadians had entrusted their chattel with the Custodian based on an understanding that their belongings would be protected and agreed that Japanese Canadians were owed compensation for their missing possessions. Therefore, to compensate claimants for their missing chattel, he recommended applying a percentage based on a comparison between the amount they claimed for their chattel sold at auction and the amount they received from the Custodian for chattel sold at auction.<sup>99</sup> For example, Hosho Nako claimed \$135 for his chattel sold at auction and the Custodian sold his property for \$56.75; that is, the Custodian's sale price for Nako's auctioned property was roughly 42% of the amount Nako claimed as compensation for his chattel sold at auction.<sup>100</sup> Nako also claimed that \$659.50 worth of this chattel had been lost or stolen.<sup>101</sup> The commission applied the ratio of 42% from the auction sales to reimburse Nako \$277.25 for his missing property.<sup>102</sup> In other words, it seems that the auction prices were used as a measure of the extent to which Nako, and each other individual Japanese Canadian, tended to exaggerate, according to commission officials, the value of their missing chattel.

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<sup>98</sup> Findlay, Blomley, and Landscapes of Injustice Research Collective, "(De)valuation," 225.

<sup>99</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 59-60.

<sup>100</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 10, File 0177, Bird Commission Casefile of Hosho Nako, 24 February 1948, Coversheet (pdf 1), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_10\\_file\\_0177.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_10_file_0177.html).

<sup>101</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 10, File 0177, Bird Commission Casefile of Hosho Nako, Coversheet (pdf 1).

<sup>102</sup> Ibid.

The commissioner also made a recommendation in the case where a claimant had no chattel sold at auction to establish baseline compensation for missing chattel. If the Custodian had not sold any of a claimant's chattel by auction, then he recommended using "the over-all ratio of selling price to claim" to determine an appropriate percentage for reimbursement to the claimant.<sup>103</sup> Commissioner Bird did not define this percentage in his report, but in application it seemed to be 46%.<sup>104</sup> Yukiye Fukumoto's claim provides an example of this situation at the commission. Fukumoto claimed \$71 for her lost or stolen chattel.<sup>105</sup> As Fukumoto had no chattel that the Custodian sold at auction, the commission applied 46% to her claimed amount, which resulted in Fukumoto's reimbursement of \$32.66.<sup>106</sup>

Importantly, for miscellaneous chattel, Commissioner Bird relayed his trust in the Custodian's work to manage Japanese Canadians' chattel. He only felt it necessary to reimburse claimants for the Custodian's fees, suggesting that the sale prices accurately reflected the market value of the chattel. The commissioner confirmed his trust in the Custodian's sale practices by

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<sup>103</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 61.

<sup>104</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 1, File 0001, Bird Commission Casefile of Imada Ito, 8 December 1947, Coversheet (pdf 1); LIA, LAC, Bird Commission, RG-33-69, Volume 60, File 1185, Bird Commission Casefile of Sadamu Sato, 28 October 1948, Coversheet (pdf 1), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_60\\_file\\_1185.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_60_file_1185.html) ; LIA, LAC, Bird Commission, RG-33-69, Volume 25, File 0514, Bird Commission Casefile of Yukiye Fukumoto, 2 August 1948, Coversheet (pdf 1), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_25\\_file\\_0514.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_25_file_0514.html) . These three casefiles represent a situation where the claimant had no auctioned chattel but made a claim for missing items. The commission applied a compensation percentage of 46% in all three cases. It is unclear how the commission determined this percentage because the numbers Commissioner Bird provides regarding over-all sales price and over-all claimed amount do not result in 46%. It is possible that commission officials used a specific number for the over-all claim for auctioned goods, but Commissioner Bird does not provide this number in his report. See NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 55, 56-57.

<sup>105</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 25, File 0514, Bird Commission Casefile of Yukiye Fukumoto, Coversheet (pdf 1).

<sup>106</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 25, File 0514, Bird Commission Casefile of Yukiye Fukumoto, Coversheet (pdf 1).

basing payment for missing items on a ratio, which relied on the Custodian's valuation of Japanese Canadians' chattel property.

## **Special**

Commissioner Bird classified certain cases as special because he felt that these cases “could not equitably be disposed of on the basis applied to claims included in a category classification.”<sup>107</sup>

Particular cases required special attention to make sure claimants received, what Commissioner Bird felt was, a fair price for their property. Claims that needed the designation of special could appear under any category: real estate, personal property, nets, or miscellaneous chattel.

Commissioner Bird considered these cases “independently.”<sup>108</sup> What the commissioner meant is unclear. He did not provide any rationale for why certain cases were designated as special in his report.<sup>109</sup> The implications of a “special” designation were not obvious in the record, but they were a part of the rules that the commissioner designed for the commission.

## **Conclusions**

Looking at the procedures Commissioner Bird developed to reimburse Japanese Canadians, he seemed to favour the Custodian's valuation. The faults that the commissioner found were often associated with extra charges that agents of the Custodian forced Japanese

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<sup>107</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 1.

<sup>108</sup> Ibid.

<sup>109</sup> Ibid. Commissioner Bird mentions Appendix 2, which contains his reasoning for why particular cases were deemed special, but this is not attached to his report. In the cases I examined, some claimants received a printed comment indicating that an amount was considered special such as Moto Morishita who received \$770 marked as “SPECIAL.” However, no further explanation was provided as to why he was awarded this amount and it was determined to be special. See LIA, LAC, Bird Commission, RG-33-69, Volume 63, File 1249, Bird Commission Casefile of Moto Morishita, 15 November 1948, Coversheet (pdf 1), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_63\\_file\\_1249.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_63_file_1249.html) .

Canadians to pay in the forced sale of their property, or they were associated with the mistreatment of property, either perpetrated by the Custodian as in the case of nets and motor vehicles or other government agencies such as the Royal Canadian Navy. In most cases, the commissioner did not admonish the Custodian for its sales and the prices it reached (an exception being the VLA sales). In fact, at times, Commissioner Bird relied on the Custodian's valuation to establish the amount of compensation for property, believing the valuation to be an accurate representation of the property's actual value. In many ways, the commissioner's process for reimbursing claimants seemed to mitigate the blame that could be associated with the Custodian.

Commissioner Bird may have been influenced by his close association with some officials from the Custodian. Findlay relates that one lawyer, who was representing the claimants at the commission, witnessed McPherson, the Custodian's executive assistant, passing confidential information to the commissioner that the lawyer had told McPherson.<sup>110</sup> Additionally, in his final report, Commissioner Bird expressed his gratitude "to F.G. Shears, Esquire, Director of the Custodian's office at Vancouver, B.C., and the members of the Director's staff, whose services [were] made available continuously from the beginning of the Inquiry."<sup>111</sup> There were clear connections between Commissioner Bird and Custodian officials. Therefore, it is difficult to distance the commission from the Custodian and its actions during the internment and dispossession of Japanese Canadians. The compensation procedure that Commissioner Bird developed provides further evidence for placing the Bird Commission within the Canadian government's dispossession policies because of the favour it showed the Custodian.

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<sup>110</sup> Findlay and Landscapes of Injustice Research Collective, "Creating the Bird Commission," 321.

<sup>111</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1 Bird Commission Report, 66.

This sentiment is further expressed when considering the concerns of Japanese Canadians. The valuation they placed on their real property was primarily ignored in the compensation procedures. In some instances, such as the chattel property, a claimant's valuation was diminished in consideration of the Custodian's sales prices for the same category of property. The commission's compensation procedure revealed the commissioner's concern for the Custodian, rather than the claimants.

In support for the Custodian, Commissioner Bird presented relatively straightforward formulas for most property categories. Each category received a general percentage to determine the level of compensation to award Japanese Canadians for the loss of their property. Within this categorical system, little to no effort was made to consider the specific concerns of claimants. The main outlier in this sense was the category for real property that the Custodian sold to the VLA. The commissioner needed to create specific procedures for different municipalities where the VLA had purchased Japanese Canadians' homes. A general percentage was not possible. This, however, aligned with the reason for the commission's creation. In May 1947, the Standing Committee on Public Accounts brought forward evidence from the Custodian and advocates representing Japanese Canadians that revealed the devaluation of Japanese Canadians' property, especially in the Custodian's sale of farms to the VLA.<sup>112</sup> Before the Bird Commission started, there were publicly recognized problems with the real property sales associated with the VLA. The complexity in Commissioner Bird's process for compensating Japanese Canadians for their farms that were sold to the VLA was likely expected because they were already noted as an area of concern. Consequently, this matched with the Canadian government's aim to demonstrate its own accountability. However, the simplicity alluded to in most of the commissioner's categories

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<sup>112</sup> Findlay Landscapes of Injustice Research Collective, "Creating the Bird Commission," 311-312.

for compensating Japanese Canadians hid a larger issue. In many cases, as we shall see in the next chapter, the commission failed to follow its procedures for repaying Japanese Canadians for the forced sale of their property.

## **Chapter 2: Deviations at the Bird Commission**

Haruno Matsuoka testified before the Bird Commission on May 5, 1948, boldly presenting her claims for compensation against the injustice she and her family had endured. When asked whether a kitchen stove she claimed for compensation was different from a stove her husband had claimed, Haruno stated, “Yes. It was mine.”<sup>1</sup> In response, J.W.G. Hunter, the lawyer representing the Canadian government, directed Commissioner Bird’s attention to Haruno’s J.P. form, a document that the Custodian attempted to have all Japanese Canadians complete, which detailed the extent of their property. Hunter asked the commissioner to “observe that under the statement ‘Personal Property’ the word ‘none’ is inserted.”<sup>2</sup> Standing in front of Commissioner Bird, answering questions submitted by lawyers, and speaking through an interpreter, Haruno expressed knowledge of her property and her connection to it. Hunter, representing the Canadian government, challenged Haruno’s knowledge of her property using the constructed set of records from the government’s actions against Japanese Canadians. Haruno’s experience and her interaction with representatives of the Canadian government at the Bird Commission resemble those that all Japanese Canadians faced at the commission and provide important insights into the application of the Bird Commission’s procedure for awarding compensation. Ultimately, that procedure resulted in varying outcomes. The systematic and formulaic approach Commissioner Bird and other officials created was unevenly applied.

Before her appearance at the Bird Commission, Haruno had made a good life for herself in Canada.<sup>3</sup> With her husband, Tsunehichi Matsuoka, Haruno owned two pieces of land in New

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<sup>1</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 50, File 1006, Bird Commission Casefile of Haruno Matsuoka, 5 May 1948, Hearing Transcript (pdf5), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_50\\_file\\_1006.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_50_file_1006.html) .

<sup>2</sup> Ibid., (pdf 6).

<sup>3</sup> LIA, Collections, Custodian Case Files, Reel C-9384, File 8675, Haruno Matsuoka, 8 May 1942, RCMP Report (pdf5), [https://loi.uvic.ca/archive/C-9384\\_8675.html](https://loi.uvic.ca/archive/C-9384_8675.html) .

Westminster.<sup>4</sup> On the first piece of land, they built a “five-room dwelling house, 2 chicken houses, 3 brooder houses, [a] barn, [a] woodshed, [a] garage, [and a] bathhouse,” and on the second, they had a “Packing house.”<sup>5</sup> Tsunehichi and Haruno grew strawberries and raspberries on their lands, which produced a modest income for them.<sup>6</sup> They were able to purchase additional items such as essential farm tools and kitchen stoves for their home.<sup>7</sup> Together, they built a home in Canada.

All of this was disrupted by the Canadian government through the actions of the Custodian. After being forcibly uprooted to Rosebery on 23 September 1942, the Custodian sold Haruno and Tsunehichi’s pieces of land for \$1417 and \$725, and the Custodian then lost their personal possessions.<sup>8</sup> At the Bird Commission, Haruno focused her claim on the land that the Custodian had sold for \$725 and the personal belongings that she had stored there. Speaking through her lawyer, R.A. Best, and relying on her son Minoru Matsuoka, Haruno expressed her connection with her property through descriptions of investments of time and labour: the preparation of the farm for planting, the planting of crops, and the use of tools to harvest and

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<sup>4</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 50, File 1005, Bird Commission Casefile of Tsunekichi Matsuoka, 5 May 1948, Copy of Custodian Casefile (pdf 30), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_50\\_file\\_1005.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_50_file_1005.html) ; LIA, LAC, Bird Commission, RG-33-69, Volume 50, File 1006, Bird Commission Casefile of Haruno Matsuoka, Hearing Transcript (pdf 4).

<sup>5</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 50, File 1005, Bird Commission Casefile of Tsunekichi Matsuoka, Copy of Custodian Casefile (pdf 30); LIA, Collections, Custodian Case Files, Reel C-9384, File 8675, Haruno Matsuoka, Property Declaration Form (pdf2).

<sup>6</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 50, File 1005, Bird Commission Casefile of Tsunekichi Matsuoka, Hearing Transcript (pdf 6-7); LIA, LAC, Bird Commission, RG-33-69, Volume 50, File 1006, Bird Commission Casefile of Haruno Matsuoka, Hearing Transcript (9pdf).

<sup>7</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 50, File 1006, Bird Commission Casefile of Haruno Matsuoka, Hearing Transcript (5pdf).

<sup>8</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 50, File 1006, Bird Commission Casefile of Haruno Matsuoka, Hearing Transcript (6pdf); LIA, LAC, Bird Commission, RG-33-69, Volume 50, File 1005, Bird Commission Casefile of Tsunekichi Matsuoka, Coversheet (pdf1).

produce those crops.<sup>9</sup> Hunter disregarded Haruno's description of investments and emphasized the financial value of her property; his examination centred on the property's appraisal, various assessments, and specific sale prices.<sup>10</sup>

Following the hearing, Haruno's real property claim was recognized but her chattel claim was denied. Her land was sold under the VLA, and Haruno received \$490.51 as compensation for the sale.<sup>11</sup> Haruno also received an additional \$87.50, without any explanation.<sup>12</sup> Still, the amount was lower than it should have been, even according to the Commission's own rules. Her reimbursement was just 71% of the amount that the commissioner had said a claimant with her case details should receive for the forced sale of their property, even with the additional unexplained award.

Like Haruno, Kozo Kitagawa's compensation did not follow the Bird Commission's guidelines. Kozo opened a retail store at 86 Moncton Street in Steveston known as "Omiya & Company," which doubled as a home for him and his family.<sup>13</sup> He had a large family; he and his wife, Masa Kitagawa, had six children, who were born between 1927 and 1939.<sup>14</sup> The family stored a large variety of items at their home and business. His business was a paint supply store, which also sold supporting items such as brushes.<sup>15</sup> Kozo's personal property reveals that his business endeavours in Canada were successful. He owned "Japanese Kimonos and silken goods,"

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<sup>9</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 50, File 1006, Bird Commission Casefile of Haruno Matsuoka, Hearing Transcript (pdf 5 – pdf 14).

<sup>10</sup> Ibid., (pdf 8).

<sup>11</sup> Ibid., (pdf 1).

<sup>12</sup> Ibid.

<sup>13</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 10, File 0170, Bird Commission Casefile of Kozo Kitagawa, 20 February 1948, Hearing Transcript (pdf 5, 16), Claim Form (pdf 34), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_10\\_file\\_0170.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_10_file_0170.html) .

<sup>14</sup> LIA, Collections, Custodian Case Files, Reel C-9318, File 1380, Kozo Kitagawa, 20 March 1942, RCMP Report (pdf5), [https://loi.uvic.ca/archive/C-9318\\_1380.html](https://loi.uvic.ca/archive/C-9318_1380.html) .

<sup>15</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 10, File 0170, Bird Commission Casefile of Kozo Kitagawa, Claim Form (pdf 37).

“silverware,” “Japanese musical instruments,” seven beds, and Japanese opera items such as traditional Japanese theatre clothes and wigs.<sup>16</sup> By working together, Kozo and Masa made a life for themselves and created a foundation for their children to start their lives as they grew older.

The Canadian government’s decision to forcibly uproot all Japanese Canadians from the coast of British Columbia ruptured Kozo and Masa’s dreams. Kozo was forcibly removed to Bridge River on 25 May 1942.<sup>17</sup> While he was in Bridge River, the Custodian sold Kozo’s home and business for \$2950.<sup>18</sup> The items in the store were sold, but many were also stolen. At Kozo’s commission hearing, his lawyer, R.J. McMaster read letters from a Mr. King, who lived in Steveston, which described two break-ins at Kozo’s business and home.<sup>19</sup> As a result of these crimes, the Custodian was unable to account for most of Kozo’s goods or personal possessions.<sup>20</sup>

Through his lawyer, Kozo described his property and its value. Using Kozo’s testimony form, McMaster related the conditions of Kozo’s property, the improvements Kozo completed, and the extent of Kozo’s business and personal belongings.<sup>21</sup> Hunter appeared as a representative of the state. In the government’s defence, Hunter directed Commissioner Bird to documents showing details of sales: “As your Lordship will probably recall from the evidence, the stock-in-trade was sold to a man by the name of Anderson, and the real property was sold on December

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<sup>16</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 10, File 0170, Bird Commission Casefile of Kozo Kitagawa, Claim Form (pdf 36-37). The Japanese opera possibly refers to Kabuki, a type of traditional Japanese theatre.

<sup>17</sup> LIA, Collections, Custodian Case Files, Reel C-9318, File 1380, Kozo Kitagawa, RCMP Report (pdf 5). It is unclear if his family was forcibly uprooted with him.

<sup>18</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 10, File 0170, Bird Commission Casefile of Kozo Kitagawa, Coversheet (pdf 1).

<sup>19</sup> Ibid., Hearing Transcript (pdf 16).

<sup>20</sup> Ibid., (pdf 22).

<sup>21</sup> Ibid., (pdf 5, 8).

1<sup>st</sup>, 1944, to a woman by the name of Lily Shapiro.”<sup>22</sup> Hunter also concentrated on prices and sale prices as he noted that the “paint which the claimant has valued at \$1200 was sold for \$300.”<sup>23</sup> After hearing the evidence and arguments from Kozo’s case, Commissioner Bird applied the commission’s guidelines to Kozo’s claims for compensation.

For his real estate property, Kozo received 10% of the Custodian’s sale price, the return of the Custodian’s charges, and the realtor’s commission, which came to roughly \$603.<sup>24</sup> For his chattel claim, however, Commissioner Bird applied none of the commission’s rules; Kozo was awarded \$6000 without any explanation.<sup>25</sup> It is likely that this amount was offered as compensation because of Kozo’s paint supply business, but it is difficult to know for certain what was intended with this payment. As a result, it is unclear what Kozo should have received, but based on the information provided, it would seem that he was significantly better compensated than the regulations would normally have entailed. Indeed, Kozo left the commission with compensation worth 1095% more than what he should have received had the normal procedure been followed. Like Haruno, Kozo’s compensation broke from the guidelines that the commissioner and officials had worked to establish. Both had received unexplained amounts, yet the deviation from procedure had drastically different results for the two claimants.

Unlike Haruno and Kozo, Naojiro Nakatsu’s compensation closely followed the commission’s procedure for compensation created by Commissioner Bird and other officials. Naojiro lived a few doors down from Kozo at 82 Moncton Street in Steveston, in a building he

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<sup>22</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 10, File 0170, Bird Commission Casefile of Kozo Kitagawa, Hearing Transcript (pdf 26).

<sup>23</sup> Ibid.

<sup>24</sup> Ibid., Coversheet (pdf 1).

<sup>25</sup> Ibid.

built with his own hands.<sup>26</sup> There, he opened a bakery with his wife, Gen.<sup>27</sup> Naojiro's home and business occupied the same building, which was a "1 storey store with 4 rooms."<sup>28</sup> In his home and bakery, Naojiro had an "Ice Box (For coca-cola)," "Three Beds," "One Trunk," a "Cash Register," and an assortment of household furniture and goods such as plates and cabinets.<sup>29</sup> While Naojiro owned the store in name, it is likely that Gen operated it because Naojiro worked for A.B.C. Packers Ltd. as a fisherman.<sup>30</sup> Naojiro and Gen improved their home and business by fixing the roof and making a new foundation. At the same time as they worked on their business, they grew their family. Naojiro and Gen had three girls and one son.<sup>31</sup>

On 1 May 1942, Naojiro and Gen were forcibly uprooted and then interned at Greenwood, British Columbia.<sup>32</sup> During their time in Greenwood, the Custodian forcibly sold their property.

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<sup>26</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 15, File 0300, Bird Commission Casefile of Naojiro Nakatsu, 1 June 1948, Hearing Transcript (pdf 8), Claim Form (pdf 22), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_15\\_file\\_0300.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_15_file_0300.html) ; LIA, Collections, Custodian Case Files, Reel C-9335, File 3334, Naojiro Nakatsu, 14 April 1942, Property Declaration Form (pdf 2), [https://loi.uvic.ca/archive/C-9335\\_3334.html](https://loi.uvic.ca/archive/C-9335_3334.html) .

<sup>27</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 15, File 0300, Bird Commission Casefile of Naojiro Nakatsu, Hearing Transcript (pdf 8), Claim Form (pdf 22); LIA, Collections, Custodian Case Files, Reel C-9335, File 3334, Naojiro Nakatsu, Property Declaration Form (pdf2).

<sup>28</sup> LIA, Collections, Custodian Case Files, Reel C-9335, File 3334, Naojiro Nakatsu, Property Declaration Form (pdf 2).

<sup>29</sup> Ibid., Correspondence (pdf 24).

<sup>30</sup> Ibid., Property Declaration Form (pdf2). This was not uncommon. As Naojiro and Gen came from Japan, they held Meiji cultural values, which meant Gen was expected to care for her husband. These cares could include looking after her husband's home financial needs, such as a home business, while Naojiro fished. See Joanna Liddle and Sachiko Nakajima, *Rising Suns, Rising Daughters: Gender, Class, and Power in Japan* (New York: Zed Books, 2000), 52-54; Midge Ayukawa, "Good Wives and Wise Mothers: Japanese Picture Brides in Early Twentieth Century British Columbia," *BC Studies* 105-106, Summer/Spring (1995): 105.

<sup>31</sup> LIA, Collections, Custodian Case Files, Reel C-9361, File 5785, Gen Nakatsu, 23 April 1942, Property Declaration Form (pdf 2), [https://loi.uvic.ca/archive/C-9361\\_5785.html](https://loi.uvic.ca/archive/C-9361_5785.html) .

<sup>32</sup> Ibid., RCMP Report (pdf 4); LIA, Collections, Custodian Case Files, Reel C-9335, File 3334, Naojiro Nakatsu, Property Declaration Form (pdf 4). Later they may have moved to Midway, BC. Naojiro and Gen were fortunate to be forcibly uprooted together as families were not always kept together. Takeo Nakano was sent to a road camp without his family, and when his work was finished, he was promised that he would be sent to live with his family in Greenwood. This

Naojiro and Gen's home and business were sold for \$1000.<sup>33</sup> The Custodian lost some of their business goods and personal possessions, but the remaining items were sold at auction for \$20.60.<sup>34</sup> By its policies and actions, the Canadian government had torn Naojiro and Gen away from the life they had made for themselves in Canada, and with the forced sale of their property, the Custodian exchanged that life for approximately \$1078.

Naojiro applied for compensation at the Bird Commission, and he presented his claim before Judge Eric P. Dawson in Grand Forks, BC on 1 June 1948.<sup>35</sup> Speaking through his lawyer A.E. Cobus, Naojiro described his home and business as well as the improvements he made to them: a new foundation, a new floor, and a new roof.<sup>36</sup> Naojiro added through a note that the improvements were "done by hired labour and his own labour and material which he purchased."<sup>37</sup> The state's representative, Harold W. McInnes, questioned Naojiro's knowledge of his property. Regarding Naojiro's ice box, McInnes asked whether it belonged "to the Coca Cola Company" instead of Naojiro.<sup>38</sup> McInnes questioned Naojiro on where he purchased his scale, cash register, and stove, and their prices. When Naojiro was unable to provide an answer for where he bought his possessions because "it [was] such a long time ago," McInnes asked "Then

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promise was broken and he was sent to Slocan, so Nakano and others protested. They were sent to jail in Vancouver and ultimately Angler. See Takeo Ujo Nakano, *Within The Barbed Wire Fence: A Japanese Man's Account of His Internment in Canada* (Toronto: James Lorimer & Company Ltd., 2012), 10-11, 38-39, 43, 55.

<sup>33</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 15, File 0300, Bird Commission Casefile of Naojiro Nakatsu, Coversheet (pdf 1).

<sup>34</sup> Ibid.

<sup>35</sup> Ibid., Hearing Transcript (pdf 3).

<sup>36</sup> Ibid., (pdf 8).

<sup>37</sup> Ibid.

<sup>38</sup> Ibid., (pdf 17).

how do you know, then, how much you paid for it if it is so long ago?”<sup>39</sup> Following this interaction, Naojiro’s claims were processed in accordance with the commission’s guidelines.

With his home outside of Vancouver and not sold under the VLA, Naojiro received 10% of the Custodian’s sale price, plus any additional charges, for a total real property reimbursement of \$212.50.<sup>40</sup> For his chattel, Naojiro received \$6.18, or 30% of the Custodian’s auction sale price for rebate charges, and \$144.36 in compensation for items that the Custodian had lost.<sup>41</sup> This amounted to \$150.54 in compensation for chattel. In total, Naojiro received \$363.04 from the Bird Commission.<sup>42</sup> Naojiro’s compensation perfectly matched what the commission’s procedure predicted he should have received for his claim.

For Haruno Matsuoka, Kozo Kitagawa, and Naojiro Nakatsu, the Bird Commission’s procedures were applied differently. For Haruno and Kozo, the commission abandoned its formulaic approach. The reimbursement they collected did not adhere to the commission’s prescribed procedure. The experiences of Haruno, Kozo, and Naojiro show that the Bird Commission’s inconsistency had a considerable impact on the lives of Japanese Canadians, who, following the dispossession, were attempting to rebuild their lives.

The hearings of the commission offer a likely explanation for the commission discarding its structured reimbursement method. They provided a source of variance, which shaped the Bird Commission into an arena for competing narratives surrounding the Canadian government’s policies, laws, and actions against Japanese Canadians. In her analysis of the Bird Commission, Findlay articulates two narratives that were present at the commission. The first narrative

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<sup>39</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 15, File 0300, Bird Commission Casefile of Naojiro Nakatsu, Hearing Transcript (pdf 17).

<sup>40</sup> Ibid., (pdf 1).

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

emphasized that the government's actions were broadly fair and that any sales below market value were the result of procedural errors.<sup>43</sup> Prime Minister Mackenzie-King, his cabinet, and government officials supported this narrative as it displayed an image of the government holding itself accountable for minor procedural errors.<sup>44</sup> To support this narrative, officials from the Canadian government and the Custodian constructed the scope and terms of the Bird Commission in such a manner as to deliberately limit the ability of Japanese Canadians to discuss the larger harms and injustices perpetrated against them. The commission would only handle claims that were measurable and specific; that is, claims centered on a property's monetary value.<sup>45</sup> Additionally, claims would only focus on losses that occurred when the Custodian had possession of the property of Japanese Canadians.<sup>46</sup> Claims that failed to meet these requirements were excluded from receiving compensation. Here, officials from the Canadian government and the Custodian refined the terms of the Bird Commission to favourably present their version of the experiences of Japanese Canadians. Officials tried to silence voices that dissented from this perspective.

In opposition, Japanese Canadians and their allies presented a narrative that demanded the recognition of their rights as “citizens and property owners.”<sup>47</sup> Prior to the Bird Commission, this narrative was presented through the actions that Japanese Canadians performed to assert their rights. When the forced sale of their property was announced, thousands of Japanese

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<sup>43</sup> Findlay and Landscapes of Injustice Research Collective, “Creating the Bird Commission,” 301, 306.

<sup>44</sup> *Ibid.*, 301.

<sup>45</sup> *Ibid.*, 309.

<sup>46</sup> *Ibid.*, 312.

<sup>47</sup> *Ibid.*, 301.

Canadians wrote letters of protest.<sup>48</sup> At the same time, other Japanese Canadians organized to contest the Custodian's forced sale of their property in court. These efforts culminated in the court case *Nakashima v. Canada*, where Eikichi Nakashima, Tadao Wakabayashi, and Jitaro Tanaka presented arguments against the forced sale of their property by the Custodian in May 1944.<sup>49</sup> With these endeavours, Japanese Canadians pushed back against the forced sale of their property, and Japanese Canadians created a competing narrative that emphasized the government of Canada's failure to recognize their rights.

Within the Bird Commission, the state's narrative, focusing on accountability and procedural error, clashed with the narrative of Japanese Canadians, which asserted their rights for compensation as property owners and citizens. As previously mentioned, Commissioner Bird made proposals to dispense with the commission's hearings and only award compensation using property categories. His proposal was partly in response to the disorder of the initial hearings and their perceived inefficiency.<sup>50</sup> In response, Japanese Canadians' lawyers introduced forms intended to limit the testimony of Japanese Canadians to topics related to the commission, such as "market value and the Custodian's management" of property.<sup>51</sup> However, the testimony forms also enabled Japanese Canadians to include "claims for value that evoked loss beyond the restricted terms of reference."<sup>52</sup> The testimony forms were thus beneficial and detrimental to Japanese Canadians. The forms limited their ability to express the extent of their loss in their own words. But, at the same time, it made their loss legible to Commissioner Bird and other

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<sup>48</sup> Stanger-Ross, Blomley, and Landscapes of Injustice Research Collective, "My Land is Worth a Million Dollars," 134.

<sup>49</sup> Adams, Stanger-Ross, and Landscapes of Injustice Research Collective, "Promises of Law," 255.

<sup>50</sup> Findlay and Landscapes of Injustice Research Collective, "Creating the Bird Commission," 316-317.

<sup>51</sup> *Ibid.*, 319-320.

<sup>52</sup> *Ibid.*

officials because it was written in terms that commission officials were willing to accept. In addition, the testimony forms provided a space for Japanese Canadians to include themes that went beyond market value. The inclusion of hearings at the Bird Commission allowed for the voices of Japanese Canadians to be present and to provide broader claims about their losses.

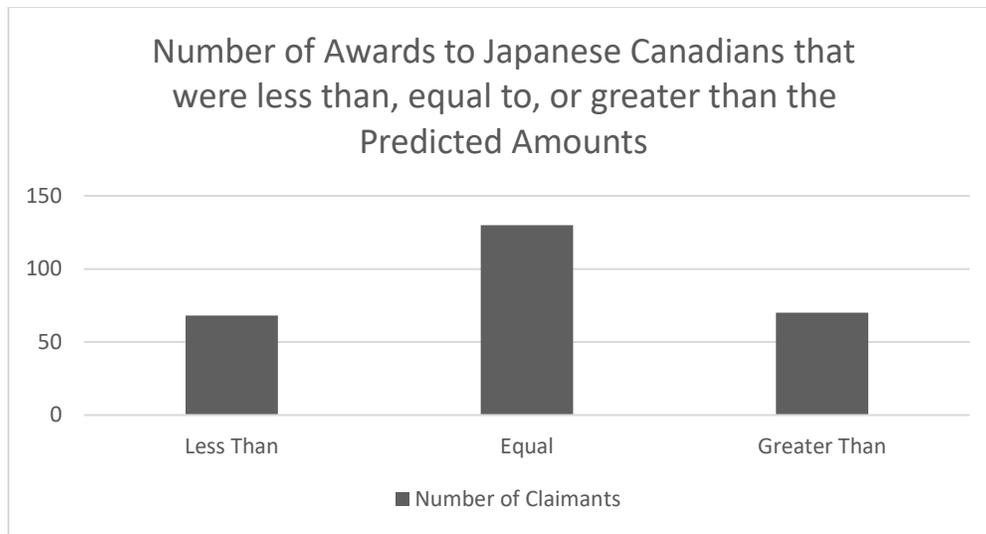
During the hearings, representatives of the Canadian government, such as Hunter and McInnes, presented the state's narrative. They directed attention to the state's collection of records, which the Custodian provided, including its sale prices and valuations and lists created by Japanese Canadians at the time of uprooting. They questioned the knowledge Japanese Canadians presented about their property, as Japanese Canadians relied on their experiences with their land and possessions to present their relationship with their property.

In contrast, Japanese Canadian owners expressed their relationships with their property. They emphasized their personal experience with land, buildings, and possession by describing their efforts to improve property or their time with their belongings. These presentations asserted their ownership of their assets, which articulated their need for compensation because of the violation of their rights, rather than strictly their financial loss.

The varied outcomes at the Bird Commission represent the impact of these competing narratives. The inclusion of forms and categorically determined compensation was intended to limit the voices of Japanese Canadians and enhance the state's version of events, yet Japanese Canadians and their allies found ways of including their narrative. The hearings offered a forum for the Canadian government to present its version of events. State representatives used this opportunity to discredit the knowledge of Japanese Canadians and bolster their own claims regarding the dispossession. At the same time, by finding ways to assert their narrative on the standardized forms and presenting their cases at hearings, Japanese Canadians subverted the

state's narrative with their own, which affirmed their rights in Canada. This competition led to Bird Commission experiences such as Haruno's and Kozo's, experiences where the commission's procedure was not followed.

The results of Haruno Matsuoka, Kozo Kitagawa, and Naojiro Nakatsu provide key examples for the application of the Bird Commission's compensation procedure. The awards of these three individuals show the types of outcomes claimants could have at the commission. People seeking reimbursement collected compensation that was less than, greater than, or equal to the award predicted for them by the commission's procedures. From a random selection of 264 Bird Commission cases, Figure 2 reveals that 66 claimants received compensation that was less than the amount the commission's rules predicted they should receive; 70 people collected compensation from the Bird Commission that was greater than the amount the procedure suggested they should collect; and 128 individuals were reimbursed the exact amount that the commission's rules indicated they should obtain.



*Figure 2: (N=264) Number of Awards given to Japanese Canadians that were less than (66), equal to (128), or greater than (70) the predicted amounts they should have obtained according to the rules of the Bird Commission.<sup>53</sup>*

Adding the numbers of people who received compensation that were less than or greater than the amounts that the commission’s procedure predicted shows that over half of the claimants in the cases I examined obtained compensation that failed to follow the Bird Commission’s own compensation procedure. These numbers reflect that a formulaic approach was inadequate in many cases. In application, the procedure broke down.

The inconsistency of the Bird Commission’s procedure cannot be viewed simply as ‘good’ or ‘bad.’ Instead, this analysis begins by recognizing that the deviations from the commission’s rules were consequential for claimants at the commission. It is essential to recall the context in which claimants were fighting for compensation. Since 1942, they had been forced from their homes, forced to sell their property, and forced to choose between exile to Japan or relocation east of the Rockies. Japanese Canadians were enduring economic, physical, and emotional

<sup>53</sup> The measure of less than, equal to, or greater than was determined with percentages, where the calculation of actual award divided by predicted awarded created the percentage. Percentages of 99% and lower were considered less than, percentages between 99.1% and 100.9% were considered equal, and percentages greater than 100.9% were considered to be greater than.

trauma from the injustices perpetrated by the Canadian government and its extended agencies like the Custodian. The payments from the Bird Commission provided money that was needed to help rebuild their lives or start new ones. In this sense, for claimants who received more from the commission than the procedure would have awarded them, deviation from the procedure was beneficial. For individuals who received less than what the guidelines stipulated, diverging from the procedure was detrimental, as it denied them the compensation that the commission itself determined they were owed, which was yet another injustice they had to endure. However, for all who attended the commission, the money awarded to Japanese Canadians could never compensate them for the loss of their homes and personal possessions, which were worth much more than the dollars they received in return.

Prior to the Bird Commission, efforts by Japanese Canadians to protect their property did little to stop the outcomes of the Canadian government's policies and plans. Protest letters against the dispossession fell on deaf ears and the Exchequer Court case that was years in the making ultimately failed to stop the dispossession of the Japanese Canadian community. However, at the Bird Commission, Japanese Canadians presented their narrative, which emphasized their rights in Canada. As the commission was an evolving process, their voices contributed to its evolution. The commission's forms literally silenced many claimants as their words were read by their representatives, yet the forms also opened avenues for Japanese Canadians to express different forms of valuation, which subverted the aims of the Canadian government. Compensation based on property categories limited the recognition Japanese Canadians received for the injustices they faced, but the hearings guaranteed that each claimant was able to present their story. This allowed claimants to assert their connection to their property

and the meaning they associated with it. These efforts to maintain the presence of Japanese Canadian voices impacted the commission's outcomes.

The hearings offered the Canadian government another avenue to present its own claim at the Bird Commission. State lawyers undermined the knowledge and relationship Japanese Canadians had with their property as they chastised claimants for not knowing where they originally purchased goods or for only providing estimates for prices. Representatives for the Canadian government also stressed the state's knowledge of Japanese Canadians' property over that of the owners. Lawyers like Hunter directed attention to the Canadian government's property records consisting of itemized lists, appraisals, and declarations from owners. By undermining the experiences of Japanese Canadians with their own property and directing commissioners to the state's array of records on the same subject, state representatives affected the outcomes at the Bird Commission.

The commission's failure to follow Commissioner Bird's compensation procedure provides a new understanding of the commission's results. In an analysis of the commission, Stanger-Ross showed that Commissioner Bird awarded compensation which adjusted the amounts Japanese Canadians received for the forced sales of their property by the Custodian to levels similar, if not, equal to amounts that individuals had received when they chose to sell their property on the free market.<sup>54</sup> Yet, Commissioner Bird's categorical compensation approach did not enable this outcome. Considering the number of cases with procedural discrepancies, it is clear that his procedure needed to be disregarded for Japanese Canadians to obtain the free market value of their property. Without the influence of the hearings, the Bird Commission's outcomes may have been entirely different.

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<sup>54</sup> Stanger-Ross and Landscapes of Injustice Research Collective, "The Economic Impacts of Dispossession," 349.

Together, during the hearings, these two sides, Japanese Canadians and legal representatives of the Canadian government, presented competing narratives and ideas regarding the dispossession. The Bird Commission was a space where two competing narratives collided. The result of this collision was an inconsistent procedure. Sometimes the commission applied its rules. Sometimes Japanese Canadians' narratives pushed compensation higher. Sometimes government lawyers succeeded in undermining compensation. To understand these outcomes, we need a deeper analysis of who appeared at the commission, as well as, what they argued.

# **Chapter 3: Before the Bird Commission**

Shizuo Ayukawa was born on April 28, 1898 in Kagoshima, Japan.<sup>1</sup> He immigrated to Canada in 1917 at the age of 19.<sup>2</sup> Around 1934, after working at Matsumoto Boatworks in Steveston and at logging camps in Whonnock and Steelhead, Shizuo moved to Mission where he purchased a nine-acre property near Cherry Avenue.<sup>3</sup> Shizuo settled in with his family consisting of his wife Natsue and his eight children ranging in age from one to twelve.<sup>4</sup> The family had a bungalow with a shingle roof, a barn, a garage, two picker houses, two packing houses, one bathhouse, and 24 fruit trees.<sup>5</sup>

Teruhiko Ikeda, was born in Canada on January 5, 1903.<sup>6</sup> Teruhiko created a life with his wife, Tsutayo, in Steveston, British Columbia.<sup>7</sup> They owned a store on Moncton Street, which Teruhiko first built in 1924.<sup>8</sup> In addition to his role as a store owner, Teruhiko worked for the Fish Packers Corporation as a skipper and a packer.<sup>9</sup> This left him little time to attend to affairs at his store, so his brother-in-law, Shizuma Miyashita, operated the Moncton Street store for

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<sup>1</sup> LIA, Collections, Custodian Case Files, Reel C-9346, File 4611, Shizuo Ayukawa, 24 March 1942, RCMP report (pdf 5), [https://loi.uvic.ca/archive/C-9346\\_4611.html](https://loi.uvic.ca/archive/C-9346_4611.html) ; LIA, Collections, William T. Hashizune, *Japanese Community in Mission: A Brief History, 1904-1942* (Scarborough, Ontario: William T. Hashizune, 2003), [https://loi.uvic.ca/archive/mission\\_community\\_book.html](https://loi.uvic.ca/archive/mission_community_book.html)

<sup>2</sup> LIA, Collections, William T. Hashizune, *Japanese Community in Mission: A Brief History, 1904-1942*.

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.; LIA, Collections, Custodian Case Files, Reel C-9346, File 4611, Shizuo Ayukawa, Property Declaration Form (pdf 2).

<sup>5</sup> LIA, Collections, Custodian Case Files, Reel C-9346, File 4611, Shizuo Ayukawa, Property Declaration Form (pdf 2).

<sup>6</sup> LIA, Collections, Custodian Case Files, Reel C-9337, File 3624, Teruhiko Ikeda, 10 April 1942, RCMP report (pdf 5), [https://loi.uvic.ca/archive/C-9337\\_3624.html](https://loi.uvic.ca/archive/C-9337_3624.html) .

<sup>7</sup> Ibid., Property Declaration Form (pdf 2).

<sup>8</sup> Ibid.; LIA, LAC, Bird Commission, RG-33-69, Volume 32, File 0670, Bird Commission Casefile of Teruhiko Ikeda, 15 September 1948, Hearing Transcript (pdf 9-10), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_32\\_file\\_0670.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_32_file_0670.html) .

<sup>9</sup> LIA, Collections, Custodian Case Files, Reel C-9337, File 3624, Teruhiko Ikeda, Property Declaration Form (pdf 2).

Teruhiko.<sup>10</sup> Together, Teruhiko, Tsutayo, Shizuma, and Teruhiko's sister lived in the back of the store as it had six rooms in addition to the store front.<sup>11</sup> Teruhiko's connection and support of his family did not end with the living and working arrangements he had with his sister and her husband. Teruhiko purchased a home on Chatham Street in 1926, which he referred to as his "brother's house," because his brother, George Yoshinori Ikeda, lived there.<sup>12</sup> As a result of Teruhiko's efforts, the Ikedas had a strong position for their family to grow and prosper in Canada.

However, events in 1941 and 1942 shattered the plans of Shizuo and Teruhiko. In 1942, the government forcibly removed both men from their homes. Shizuo was taken to New Denver, British Columbia, and Teruhiko, under duress, elected to go to Picture Butte, Alberta to work on a sugar beet farm.<sup>13</sup> By 1945, both men were dispossessed of all their property.

In turn, Shizuo and Teruhiko pressed their claims for recompense from the Canadian government at the Bird Commission. However, the two men fared differently at the commission. The compensation each received deviated from Commissioner Bird's general procedural rules but in different ways. Where Shizuo was compensated below the amount mandated by the

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<sup>10</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 32, File 0670, Bird Commission Casefile of Teruhiko Ikeda, Hearing Transcript (pdf9).

<sup>11</sup> LIA, Collections, Custodian Case Files, Reel C-9337, File 3624, Teruhiko Ikeda, Property Declaration Form (pdf 2).

<sup>12</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 32, File 0670, Bird Commission Casefile of Teruhiko Ikeda, Hearing Transcript (pdf 11-13).

<sup>13</sup> LIA, Collections, Custodian Case Files, Reel C-9346, File 4611, Shizuo Ayukawa, RCMP Report (pdf 5); LIA, Collections, Custodian Case Files, Reel C-9351, File 5030, Tsutayo Ikeda, 16 April 1942, RCMP Report (pdf 5), [https://loi.uvic.ca/archive/C-9351\\_5030.html](https://loi.uvic.ca/archive/C-9351_5030.html) ; Adachi, *The Enemy That Never Was*, 238. I chose the words "elected" and qualified it with "under duress" because Teruhiko was forcibly removed from his home, but many Japanese Canadians chose to go to the Prairies and work on sugar beet farms because this seemed more favourable under the circumstances. Working on sugar beet farms seemed to promise housing, workable land, and a stipend of \$1000. In addition, it greatly increased the likelihood that families could stay together. Many of the promises that working on the sugar beet farms seemed to offer, however, proved to be untrue. See Adachi, *The Enemy That Never Was*, 280, 281.

commission's rules, Teruhiko was reimbursed above. As explored in the previous section, deviation from the commission's rules was common, but what led to the difference between these two cases?

To answer that question, it is necessary to situate their cases within a broader frame. As described in Chapter One, Commissioner Bird dealt with the many claims presented by using property categories. For each category, Commissioner Bird created a specific formula. For example, claimants with rural real property not sold to the VLA were to be given 10% of the Custodian's sale price as compensation. Similar formulaic approaches were specified for all other property types. However, I have already shown that these formulas were not applied equally to all claimants. In over half of the cases I examined, claimants received compensation that did not match the amounts predicted by the commission's formulas, as compensation came out above or below the predicted amounts. There was a failure to follow the formulas designed for awarding compensation.

In this section, I will examine the factors that existed prior to the commission's hearings that may have impacted its results. Following that, I will provide probable explanations for why the key factors of real property ownership and its use affected the Bird Commission's outcomes. Ultimately, I will show that most Japanese Canadian real property owners were not disadvantaged by owning their homes and possibly advantaged over claimants who did not own any real property, in relation to the awards that both groups were predicted to receive from the commission. However, there was an exception to this trend. Real property-owning farmers were clearly disadvantaged by owning their farms; that is, farmers who owned real property were more likely to collect compensation that was less than the amounts that the rules of the Bird Commission predicted that they would receive. I will suggest that Japanese Canadians, who did

not farm, could use their real estate to make strong claims to the commission, possibly resulting in higher amounts of compensation than were predicted by the commission's formulas. However, I will contend that farmers who owned their land needed to overcome evidence presented within the Soldier Settlement Board's (SSB's) Farm Appraisal Reports. These reports, seen as credible documentation by the commission, likely had a negative impact on their ability to convey their own accounts of the land they owned, and seemingly supported the efforts of government officials to lower compensation.

### **Descriptive Statistics and Regression Analysis**

For my regression analysis in this section, I considered various aspects of the lives of Japanese Canadians that existed prior to the Bird Commission. Initially, I wanted to know if the variations in compensation that Japanese Canadians received were a result of gender, marital status, citizenship, or other similar factors. I extended this consideration to their type of work and the type of property claims they made. To understand and approach these factors, I relied on the Custodian's casefiles as well as the casefiles from the Bird Commission.<sup>14</sup>

The Custodian casefiles were created to record information about Japanese Canadians as well as their properties, to allow the government to track all Japanese Canadians and their property. The government indicated that all Japanese Canadians should report their property to an agent of the Custodian.<sup>15</sup> These records listed personal details as well as specific property information. Personal details included the individual's name, address, sex, age, occupation,

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<sup>14</sup> Before discussing and presenting the results of my analysis, I am attempting to confront the provenance of my sources. For a greater discussion of provenance of historical sources and its relation to using statistics for historical analysis, see Eric Sager, "Employment Contracts in Merchant Shipping," 49.

<sup>15</sup> Findlay, Blomley, and Landscapes of Injustice Research Collective, "(De)valuation," 216.

employer, marital status, partner's name, and any children's names and ages.<sup>16</sup> Information on a person's property included a "statement of all real property," which was separated into location and buildings; a "statement of personal property owned," which was further divided into items, animals, credit, and stocks and "liabilities."<sup>17</sup> A further page was included from the records of the RCMP, which provided more personal information. This included the person's date of birth, their date of forced removal, their citizenship status, their present address, and their parents' names.<sup>18</sup> This was in addition to their marital status, partner's name, children's names, and their "Former address."<sup>19</sup> Many Custodian casefiles also contained correspondence between officials and Japanese Canadians concerning their property.<sup>20</sup> The Custodian casefiles were intended to make the lives and property of Japanese Canadians visible to the Canadian government.

However, the government's efforts to have the lives of Japanese Canadians and their property documented in official records were not entirely successful. Choosing not to trust the Canadian government, many Japanese Canadians made their own choices for the handling and care of their property. Rather than report their property, individuals sold homes, businesses, and items; others hid items of value (personal and otherwise) in walls or underground; and some Japanese Canadians elected to outright destroy their property.<sup>21</sup> Therefore, the casefiles cannot be considered a definitive list and record of the lives and property of Japanese Canadians. They

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<sup>16</sup> LIA, Collections, Custodian Case Files, Reel C-9386, File 8834, Jutaro Nishimura, 12 May 1942, Property Declaration Form (pdf 2), [https://loi.uvic.ca/archive/C-9386\\_8834.html](https://loi.uvic.ca/archive/C-9386_8834.html) .

<sup>17</sup> Ibid., (pdf 2-4).

<sup>18</sup> Ibid., RCMP Report (pdf 5).

<sup>19</sup> Ibid.

<sup>20</sup> This correspondence could include, but was not limited to, protest letters. Regarding protest letters, see Stanger-Ross, Blomley, and Landscapes of Injustice Research Collective, "My Land is Worth a Million Dollars," 129.

<sup>21</sup> Findlay, Blomley, and Landscapes of Injustice Research Collective, "(De)valuation," 221-222.

are best seen as a conversation or interaction, albeit unequal, between Japanese Canadians and the state.

This exchange continued within the Bird Commission casefiles. These casefiles recorded information related to each Japanese Canadian's claim for compensation. This included figures such as the Custodian's sale price and the amount of compensation awarded by the commission. It also detailed the individuals present at the hearing of the claim such as the commissioners, legal representatives, interpreters, and claimants.<sup>22</sup> The transcript of the hearing usually came after these details, which was then followed by any supporting documents such as property lists, appraisals, and letters of correspondence.<sup>23</sup> The main place of interaction between Japanese Canadians and the Canadian government was within the transcripts of the hearings of the Bird Commission. At the hearings, Japanese Canadians attempted to navigate restrictions that the government imposed on their testimony.<sup>24</sup> These restrictions limited the voices of Japanese Canadians, but they did not silence them completely.

Like the Custodian casefiles, the Bird Commission casefiles also faced limitations through a lack of participation. There was a financial barrier to participating in the commission; claimants were required to pay a retaining fee for their legal representation and ultimately ended up paying a portion of their compensation towards their legal services.<sup>25</sup> Only those able to afford these costs or those who felt it was worth the effort to fight for compensation were able to

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<sup>22</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 12, File 0214, Bird Commission Casefile of Jutaro Nishimura, 28 April 1948, Coversheet (pdf 1), Hearing Transcript (pdf 3), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_12\\_file\\_0214.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_12_file_0214.html) .

<sup>23</sup> Ibid., Supporting Documents (pdf 17-31).

<sup>24</sup> Findlay and Landscapes of Injustice Research Collective, "Creating the Bird Commission," 309. In the next chapter, I intend to examine and discuss these limitations in greater detail. Here, it is more important to note that these restrictions existed and that Japanese Canadians needed to work within them.

<sup>25</sup> Adachi, *The Enemy That Never Was*, 326.

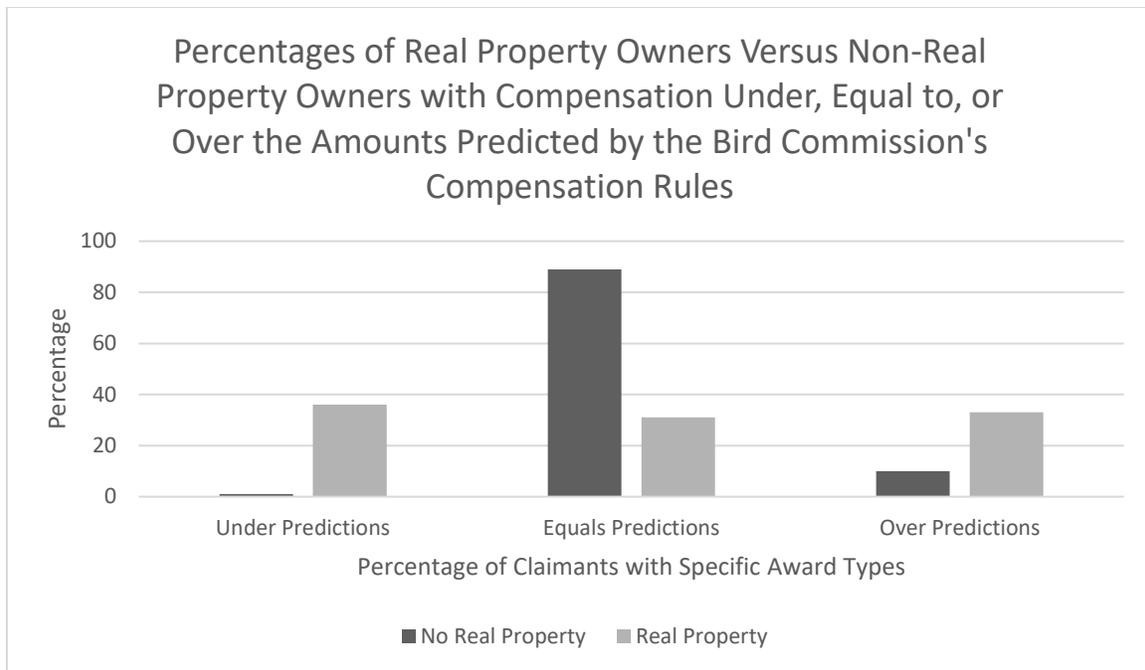
participate in the commission. For some, then, there was also a lack of will. Many Japanese Canadians did not make a claim because they did not trust the Canadian government. Prior to the dispossession, Japanese Canadians had entrusted their property to the Custodian; the government had promised to protect their homes, businesses, and belongings.<sup>26</sup> When this promise was broken, many Japanese Canadians likely did not believe that anything positive would come from another interaction with the government. For others, the broken promise to protect their property pushed them to pursue compensation at the Bird Commission. As Findlay states, “their pursuit of compensation was entwined with a vision of what a just government should be: a government that acknowledged and compensated for the violation of their rights as property owners and citizens.”<sup>27</sup>

Through observations of the data, it became clear that two main factors from the lives of Japanese Canadians seemed to affect whether a claimant’s compensation deviated from the Bird Commission’s formulas and whether this deviation was above or below the commission’s predicted amounts. These factors were real property ownership and real property use based on occupation.

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<sup>26</sup> Stanger-Ross, Adams, and Landscapes of Injustice Research Collective, “Promises of Law,” 265.

<sup>27</sup> Findlay and Landscapes of Injustice Research Collective, “Creating the Bird Commission,” 316.



*Figure 3: (N=264; No RP N = 81; RP N = 183) Percentages of claimants who did not own real property with varied compensation types compared to percentages of real property owners with varied compensation types.*

Among claimants who did not own real property only one percent collected compensation that was below the amount predicted by the Bird Commission’s formulas, 89% obtained compensation that equaled the amount predicted by the commission’s formula, and 10% received compensation that was greater than the amount predicted by the commission’s rules regarding reimbursement. In comparison, looking exclusively at those who did own real property, 36% of claimants obtained compensation that was less than the amount predicted by the commission’s rules, 31% of individuals received compensation that equaled the amount predicted by the commission’s formulas, and 33% collected compensation that was above the amount calculated based on the Bird Commission’s property categories. These figures show that the formulaic approach was often insufficient for compensating losses of real estate. More than two thirds of real property-owners’ compensation in the cases I examined failed to follow the commission’s formulas (69%). In comparison, the compensation of claimants without real property almost

perfectly aligned with the Bird Commission’s formulaic approach to reimbursement. This suggests that real property was particularly challenging as a property category for Bird Commission officials compared to other types of property.<sup>28</sup>

Clearly, real property affected the compensation Japanese Canadians collected at the Bird Commission, but the type of work they performed, and thus the use of their real property, also impacted the compensation claimants received.

**Table 1**  
Percentage of Property Owners in Different Work Areas and their Compensation Compared to the Bird Commission’s Rules

Work Area	Percentage of Owners		
	Under	Equal	Over
Farming	63	14	24
Fishing	13	54	33
Lumber	26	16	58
Service	11	40	49
Housewife	26	56	18
Overall	36	29	34
Totals			

*Table 1: (N=177; Farming N=72; Fishing N=24; Logging N=19; Service N=35; Housewife N=27) The percentage of property owners in specific occupations that received compensation that were Under, Equal, or Over the Bird Commission's predicted amounts of compensation based on the commission's property categories and the respective formulas. Category of Other has been removed because of an overly small group size (N=6).*

Table 1 shows property owners in occupation categories by the compensation they received at the Bird Commission. To determine the occupation areas, I used the occupations in listed Custodian casefiles. For example, people classified as farmers or owning strawberry fields were grouped under farming, whereas loggers and mill workers were grouped under logging. I followed this theme for all categories except for housewives; only those specifically designated

<sup>28</sup> No other type of property at the Bird Commission has such contrasting differences between property owners and non-property owners.

as a housewife were placed in this work area. Notably, 63% of farmers who owned real property received awards that were under the amounts predicted by the commission's formulas. Looking at the other occupation areas, there are larger percentages of claimants who collected compensation from the Bird Commission that equaled the amount predicted by the commission's formulas or exceeded them. Only the occupation of farming is strongly associated with negative outcomes for claimants.

**Table 2:**  
Ordered Logistic Regression with Ratio of Received Award and Predicted Award as  
Dependent Variable for Factors Present Prior to the Bird Commission (N=264)

Variable	Odds Ratios
Real Property Ownership and Occupation Category	
Farmers without Real Property	Reference
Farmers with Real Property	.104 (.093)*
Fishermen without Real property	1.27 (1.02)
Fishermen with Real Property	8.77 (8.23)*
Lumber Industry without Real Property	1.11 (1.29)
Lumber Industry Members with Real Property	8.29 (10.9)
Service Industry without Real Property	.986 (.883)
Service Industry Members with Real Property	10.4 (10.4)*
Housewives without Real Property	.919 (1.14)
Housewives with Real Property	2.67 (2.84)

**Note: \* p<.05; \*\* p<.01; \*\*\* p<.001; All standard errors noted in brackets.**

Variable	Odds Ratios
Living Area Prior to Forced Removal	
Mission	Reference
Vancouver	3.29 (1.80)*
Steveston	3.86 (2.43)*
Haney	4.09 (2.47)*
Southern Islands	6.83 (4.70)**
Other Areas	4.44 (2.93)*

**Note: \* p<.05; \*\* p<.01; \*\*\* p<.001; All standard errors noted in brackets.**

*Table 2: (N=264) Ordered Logistic Regression of the Ratio of Received Awards and Predicted Awards. Specifically, this is an abridged version of the complete model that highlights the variables containing statistically significant differences, controlling for other factors. For the full model please see Appendix A.*

Regression analysis provides more precise insight into these associations.<sup>29</sup> Table 2 shows that farmers who did not own real property had greater odds of receiving compensation that either followed the Bird Commission’s compensation rules or exceeded them compared to farmers who did own real property.<sup>30</sup> Compared to farmers who did not own real property, real property owners in the fishing industry, and the service industry had greater odds of receiving

<sup>29</sup> The regression analysis uses Odds Ratios, therefore, any number greater than 1 shows an increase and any number less than 1 shows a decrease. For example, looking at Farmers who own real property, the odds ratio is .104. This is less than one, so it indicates a decrease in the odds of farmers with real property to receive compensation that followed the commission’s rules or exceeded them compared to farmers without real property by a factor of .104. Whereas, the odds ratio for Fishermen with real property is 8.77. This means that the odds are increased for fishermen with real property to receive compensation that is equal to or exceeds the amounts predicted by the commission’s rules compared to farmers without real property by a factor of 8.77.

<sup>30</sup> This difference is statistically significant, controlling for other factors.

compensation that followed or exceeded the commission's formulas.<sup>31</sup> My analysis also allowed for further tests of significance.<sup>32</sup> These tests showed that claimants in all other occupation categories, regardless of real property ownership, had greater odds of obtaining compensation that equalled or exceeded the predicted compensation of the Bird Commission's reimbursement formulas compared to farmers who owned real property.<sup>33</sup> Similar tests showed that real property ownership did not disadvantage claimants in other property categories. In fact, the results of my analysis suggest that real property ownership may have benefitted claimants who owned real property by increasing their odds of receiving compensation that equalled or exceeded the commission's predicted amount compared with claimants in the same occupation categories who did not own real property.<sup>34</sup>

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<sup>31</sup> Interestingly, the results also express that Japanese Canadians who lived in areas other than Mission had greater odds of collecting compensation that followed the commission's formulas or exceeded those amounts, compared to claimants who lived in Mission. However, none of the data I collected can offer a reasonable explanation for this difference. In fact, factors such as there being more VLA affected claimants in Mission, which could reasonably be expected to cause this difference, proves to be untrue compared to all areas. Therefore, this point requires further research to fully understand the meaning of this difference.

<sup>32</sup> Table of tests to be included in table listed in Appendix B.

<sup>33</sup> These differences are statistically significant controlling for other variables.

<sup>34</sup> For my analysis, I created an interaction between real property ownership and the occupation categories. In this interaction, we can see that at least two occupation categories (service and fishing) have statistically significant differences compared to farmers who did not own real property. There are no statistically significant differences between claimants who did not own real property for all occupation categories, including farmers, and there are no statistically significant differences between claimants with different levels of property ownership in the same occupation category, except for farming. However, through the interaction, every variable related to property ownership and occupation uses farmers without any real property as a reference. Looking at the coefficients in my regression analysis, there are larger differences between farmers without property and other occupation areas where claimants did own real property compared to farmers without property and other occupation areas where claimants did not own real property. In fact, in some instances certain occupations categories where claimants did not own real property, such as the service industry, are less likely to receive compensation that equaled or exceeded the commission's predicted amount compared to farmers who did not own real property. Taking this all together, it creates a spectrum where property ownership disadvantaged farmers, but seems to have advantaged individuals in other occupation categories,

Although only some of the differences in expected compensation are statistically significant, together, they all suggest a trend where property owners generally fared better at the commission, receiving or exceeding the formulaic amounts devised by Commissioner Bird. The only exception to this trend being farmers who owned real property. Compared to all other claimants, they were at a greater risk of receiving compensation that was less than the projected amount. These results seem to indicate that real property ownership and the ways in which Japanese Canadians used their real property affected the compensation they received from the Bird Commission.

### **The Importance of Real Property**

For Bird Commission officials, it was likely more difficult to apply standard formulas to real property. The idea that any property can be replaced with something of equal value assumes that property only receives value based on its utility; that is, property's worth is based on its usefulness in a market of exchange.<sup>35</sup> However, this view fails to account for the different ways in which people actually value property. Memories and other meanings can become embedded within property. People make lives on and through property. This is particularly apparent with real property.

Ownership of real property dictates the ways in which others will interact with it. This is because real property ownership serves “as a basis for human sociability.”<sup>36</sup> For example, a

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based on the differences seen between claimants with different levels of property ownership in the same occupation category compared to farmers who did not own real property. To be clear, this is not statistically significant, but this trend seems to indicate that real property ownership was an advantage.

<sup>35</sup> Stanger-Ross, Blomley, and Landscapes of Injustice Research Collective, “My Land is Worth a Million Dollars,” 132.

<sup>36</sup> *Ibid.*, 133.

property owner and their family may feel especially comfortable altering and entering their home; neighbours may only feel comfortable observing or visiting with permission; and individuals with no connection to a home may not feel comfortable entering, altering, or observing it.<sup>37</sup> Real property and its ownership creates stratified relationships. Allan Greer explains that this is because real property “cannot help but be part of a landscape that has natural, social, and spiritual dimensions.”<sup>38</sup> Greer also suggests that real property contains a temporal dimension as well. Compared with human lives, real property can potentially exist longer than a single person’s life, especially in the case of land.<sup>39</sup> This means ownership of real property will inevitably need to be transferred, with the most likely transfer method being inheritance.<sup>40</sup> So, ownership has implications through time: there is an expectation that ownership may pass through families. Therefore, through its natural, social, spiritual, and temporal boundaries, real property and its ownership interacts with multiple people beyond the owner, and in turn gains a multiplicity of meanings.

The multiplicity of meanings contained within real property likely made it distinct from other types of property at the Bird Commission. Commissioner Bird and other sub-commissioners acted as if other forms of property such as chattel could be easily removed from their other dimensions of meaning such as their environment, or their natural dimension, and thus

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<sup>37</sup> Here, I derive an example from Allan Greer’s explanation that even real property owners need to be aware of their real property’s impact on other real properties in the surrounding area. Because each real property is connected to another, owners of the surrounding area will observe any changes as it affects their real property as well. This is not the case with individuals who are not connected to or near the real property in question. See Allan Greer, *Property and Dispossession: Natives, Empires and Land in Early Modern North America* (Cambridge: Cambridge University Press, 2018), 11-12.

<sup>38</sup> *Ibid.*, 12.

<sup>39</sup> Real property is defined as “fixed property,” which can also include buildings. This suggests that real property can be separated into components such as buildings and land.

<sup>40</sup> Greer, *Property and Dispossession*, 12.

have their value centred on their usefulness.<sup>41</sup> Accordingly, chattel could be treated categorically; the loss of thousands of different personal belongings could be compensated using a single, common formula. This was not the case with real property; the commission could not avoid understanding real property through its natural, social, spiritual, and temporal dimensions. At the hearings, Japanese Canadians with real property made these dimensions central to their arguments for compensation.

Returning to Teruhiko, the store owner mentioned at the beginning of this section, his hearing exemplifies the ways in which real property's value was complicated by its multiplicity of meanings. Teruhiko's family and their relationship with his real properties were the focus of his hearing. First, Teruhiko confirmed that he owned his store on Moncton Street in Steveston and his home on Chatham Street also in Steveston.<sup>42</sup> Yet, he could not relate greater details about the real properties without reference to his family. When A.G. Virtue, Teruhiko's legal counsel, asked "how long [he was] in business," Teruhiko replied that his "brother-in-law, [Shizuma Miyashita,] was running" the store and that he did not "know [for] how long"; Teruhiko concluded that they had operated since the store was built in 1924.<sup>43</sup> Trying to better understand the relationship between Teruhiko, Shizuma, and the store, Virtue checked if Shizuma was only helping with Teruhiko's business. In response, Teruhiko clarified that Shizuma "ran the store mostly, I was out most of the time."<sup>44</sup> Still unsatisfied, Virtue questioned if Teruhiko owned the

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<sup>41</sup> Greer, *Property and Dispossession*, 11-12.

<sup>42</sup> LIA, Collections, Custodian Case Files, Reel C-9337, File 3624, Teruhiko Ikeda, Property Declaration Form (pdf 2); LIA, LAC, Bird Commission, RG-33-69, Volume 32, File 0670, Bird Commission Casefile of Teruhiko Ikeda, Hearing Transcript (pdf 9-10, 11-13).

<sup>43</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 32, File 0670, Bird Commission Casefile of Teruhiko Ikeda, Hearing Transcript, Hearing Transcript (pdf 9).

<sup>44</sup> *Ibid.*

building on Moncton Street; Teruhiko confirmed that he did.<sup>45</sup> Turning to Teruhiko's real property on Chatham Street, Virtue verified that Teruhiko lived at the store on Moncton Street.<sup>46</sup> Following that, Teruhiko explained that his brother, George Yoshinori Ikeda, lived at the Chatham home; this was important because Teruhiko had stored chattel at both properties where Shizuma and George had stored their own chattel.<sup>47</sup> The Custodian had mixed all their items together when the chattel was moved to a warehouse in Vancouver.<sup>48</sup> Accordingly, through his testimony, Teruhiko relayed the layers of meaning that his real properties held. They acted as places where his family lived and thrived. The social dimension of his real properties could not be separated from their value because Shizuma operated the store front and lived there, while George lived at the other home on Chatham Street. Both men, and their families, had invested meaning and value into Teruhiko's real properties. Importantly, the value of Teruhiko's real properties could not be fully understood without consideration given to the dimensions it affected.

Similar circumstances played out at other Bird Commission hearings. Kunji Kuramoto described the effort he had put into improving his real property and that his brother had worked and lived with him on his real property.<sup>49</sup> Thus, Kunji's real property contained another aspect of value. It was shared with him and his brother; Kunji's brother also had an interest in the real property because he had worked and lived there. This social dimension of the real property could

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<sup>45</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 32, File 0670, Bird Commission Casefile of Teruhiko Ikeda, Hearing Transcript, Hearing Transcript (pdf 9-10).

<sup>46</sup> Ibid., (pdf 10).

<sup>47</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 32, File 0670, Bird Commission Casefile of Teruhiko Ikeda, Hearing Transcript (pdf 12).

<sup>48</sup> Ibid., (pdf 12-13).

<sup>49</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 22, File 0472, Bird Commission Casefile of Kunji Kuramoto, 25 March 1948, Hearing Transcript (pdf 11, 20), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_22\\_file\\_0472.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_22_file_0472.html) .

not be divested from the property's value. At Eitaro Aida's hearing, he relied on his son, Yukio Aida, to relate his claim.<sup>50</sup> Through his examination, Yukio revealed that, as a family, they had lived together on Eitaro's real property, a lot of land with four buildings, where Eitaro ran a tailor shop.<sup>51</sup> Like Teruhiko and Kunji, Eitaro emphasized the social dimensions that existed through his real property as his son and family lived in the space. This was brought more to the forefront as Eitaro relied on Yukio to speak for him. However, by relying on Yukio, his son, to speak, Eitaro also expressed the temporal dimension of his real property. Two generations were presenting the importance of Eitaro's real property at the Bird Commission. Like Teruhiko, Kunji and Eitaro expressed that their real property could not easily be replaced; it carried a variety of meanings.

The efforts of Teruhiko, Kunji, and Eitaro to express the different meanings of their real properties seemed to affect their compensation at the Bird Commission. All men received compensation that exceeded the amounts predicted by the commission's formulas. Teruhiko obtained a payment of \$425 instead of the standard ten percent payment for his store on Moncton Street.<sup>52</sup> This resulted in Teruhiko receiving compensation for all his properties that was 323% of his predicted payment. Kunji collected \$1168 for his rural property, which the Custodian sold for \$1600.<sup>53</sup> According to the commission's rules, Kunji was meant to receive \$160. Lastly, the

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<sup>50</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 53, File 1050, Bird Commission Casefile of Eitaro Aida, 14 May 1948, Hearing Transcript (pdf 4), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_53\\_file\\_1050.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_53_file_1050.html).

<sup>51</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 53, File 1050, Bird Commission Casefile of Eitaro Aida, Hearing Transcript (pdf 5-6).

<sup>52</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 32, File 0670, Bird Commission Casefile of Teruhiko Ikeda, Cover sheet (pdf 1).

<sup>53</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 22, File 0472, Bird Commission Casefile of Kunji Kuramoto, Coversheet (pdf 1).

Custodian sold Eitaro's property for \$2450.<sup>54</sup> If the commission's rules were followed, he would have collected \$245. Instead, he collected \$550 in compensation from the Bird Commission.<sup>55</sup>

Consequently, it seems real property proved more challenging for commission officials to compensate according to the commission's formulaic procedures than other forms of property. One possible explanation for this difficulty stems from the hearings. During Bird Commission hearings, Japanese Canadians could express the dimensions of meaning associated with their real properties, in particular the social dimension. This strengthened the efforts of Japanese Canadians to have the Bird Commission be a body for the Canadian government to make amends for and acknowledge the injustices it had perpetrated against Japanese Canadians. In some cases, this worked in their favour as claimants received more compensation than what the commission's rules stated they should receive. However, for others like Shizuo Ayukawa, this was not the case.

### **Farming, the Soldier Settlement Board Reports, and the Entanglement of Counsel**

Claimants who owned their farms fared poorly at the commission. This was possibly because of reports created by the SSB. The Canadian government wanted the Bird Commission to be viewed as an example of the government holding itself accountable; the commission was meant to be seen as the state correcting an error in policy and procedure. The SSB reports provided evidence to support government claims that their procedures were well founded and sound, at least in the view of the commissioners.

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<sup>54</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 53, File 1050, Bird Commission Casefile of Eitaro Aida, Coversheet (pdf 1).

<sup>55</sup> Ibid.

The SSB reports were created as government officials and politicians began to consider seizing the farms owned by Japanese Canadians.<sup>56</sup> With the forced removal of all Japanese Canadians from the west coast in 1942, the officials at the SSB and cabinet minister Ian Mackenzie saw an opportunity to dispossess Japanese Canadians and provide homes to returning soldiers.<sup>57</sup> Even before many were uprooted, the SSB administrator, George Murchison, instructed his department to conduct surveys on all the Japanese Canadian-owned farms.<sup>58</sup> These were completed by September 1942.<sup>59</sup>

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<sup>56</sup> There was a promise by the Canadian government that Japanese Canadians' property would be protected. This promise was later subverted to allow for the forced sale of Japanese Canadians' property. See Adams, Stanger-Ross, and Landscapes of Injustice Research Collective, "Promises of Law," 255-298.

<sup>57</sup> Sunahara, *The Politics of Racism*, 89; Stanger-Ross, Adams, and Landscapes of Injustice Research Collective, "Promises of Law," 267.

<sup>58</sup> Sunahara, *The Politics of Racism*, 90.

<sup>59</sup> *Ibid.*

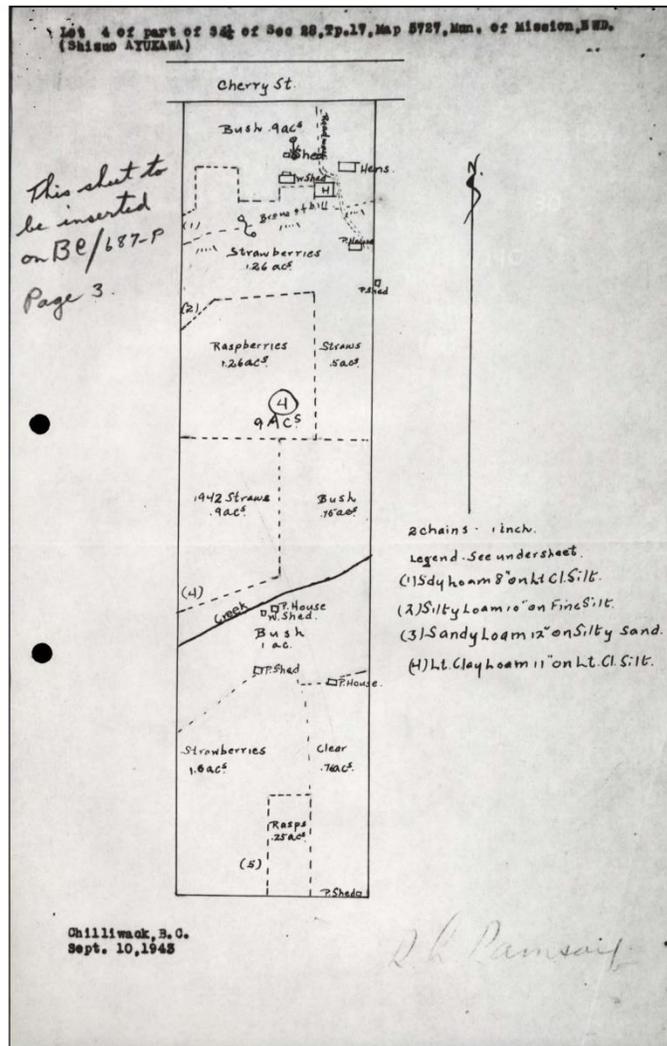


Figure 4: Map Survey of Shizuo Ayukawa's farm in his property's SSB report.<sup>60</sup>

In the SSB reports, surveyors attempted to convey the utility value of each farm and its location. For example, the SSB surveyors reported that “Seasonal berry work ... town jobs at Mission ... Some lumber mill and bush work [and] Some cannery work at Mission” were located near Shizuo’s farm, suggesting the various employment opportunities that were available locally.<sup>61</sup> Regarding his farm, the surveyors described aspects related to the lands capabilities in

<sup>60</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 44, File 0884, Bird Commission Casefile of Shizuo Ayukawa, 9 September 1948, SSB Appraisal (pdf 37), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_44\\_file\\_0884.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_44_file_0884.html).

<sup>61</sup> Ibid., (pdf 35).

producing harvests such as access to water, drainage, and fertility.<sup>62</sup> The SSB surveyors also noted if land had any improvements that could affect its farming potential. In Shizuo's case, the surveyors reported that his land had "No Fencing."<sup>63</sup> The surveyors centred their analysis on the functions suited to the farm. They gave some attention to the natural dimension in the value of the real property, but they paid little to no consideration to the land's value socially, spiritually, or temporally.

Lastly, in their reports, SSB surveyors attempted to quantify the utility value of the farms they assessed. This was done by associating a dollar value with three aspects of the real property. Turning to Shizuo's report, the surveyors declared that the "Value of land, including fences and water supply" was \$434, the "Value buildings add[ed] to [the] land" was \$1000, and the "Value tree and bush fruits add[ed] to [the] land" was \$10.<sup>64</sup> The surveyors concluded that the "Total value of [Shizuo's] property" was thus \$1444.<sup>65</sup> Again, this amount was based on the perceived usefulness of Shizuo's real property; the other dimensions which gave value to Shizuo's farm, considerations that might have prevented him from selling by free choice, were forgotten. Outside of their disregard for real property's other dimensions of value, there were problems with the reports that the SSB surveyors submitted and the valuations that they placed on Japanese Canadians' farms.

The SSB surveyors made mistakes in their assessments of the farms owned by Japanese Canadians. According to Ann Sunahara, the appraisers used criteria intended for farms suffering

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<sup>62</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 44, File 0884, Bird Commission Casefile of Shizuo Ayukawa, SSB Appraisal (pdf 35).

<sup>63</sup> Ibid.

<sup>64</sup> Ibid., (pdf 39).

<sup>65</sup> Ibid.

from the dustbowl in the prairies during the Great Depression.<sup>66</sup> Appraisers also failed to consider the values of prepared crops, the use of the properties for non-agricultural purposes, and the correct worth of the buildings on the farms.<sup>67</sup> This information came to light at hearings held by the Standing Committee on Public Accounts in 1947. At these hearings, members of the Co-Operative Committee on Japanese Canadians exposed evidence that the property of Japanese Canadians was devalued and sold at lower rates, especially on sales by the Custodian to the VLA (the successor to the SSB).<sup>68</sup> Newspapers published these findings at the time, which made this information readily available to the public.<sup>69</sup>

Because of the reported flaws in the processes surrounding the VLA purchases of the real property of Japanese Canadians, the SSB reports should have provided strong evidence to corroborate the losses of Japanese Canadians. Instead, despite the well-documented and publicized faults of the VLA sales, the SSB reports became evidence to support the government's claims that the purpose was to address procedural error. This played out at Shizuo's hearing.

After Shizuo was sworn in, his representative, S. M. Cherniak, began in earnest to discuss the details of Shizuo's real property claim. Cherniak confirmed that Shizuo's "value of the land and buildings [remained] \$5000," and submitted the SSB Appraisal Form, "on behalf of [his] learned friend," F.M. Ferguson, the representative for the Canadian government.<sup>70</sup> Importantly, Cherniak submitted the SSB report, not Ferguson. After submitting, the SSB report but having

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<sup>66</sup> Ann Sunahara, *The Politics of Racism*, 90.

<sup>67</sup> *Ibid.*

<sup>68</sup> Findlay and Landscapes of Injustice Research Collective, "Creating the Bird Commission," 311-312.

<sup>69</sup> *Ibid.*, 312.

<sup>70</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 44, File 0884, Bird Commission Casefile of Shizuo Ayukawa, Hearing Transcript (pdf 4).

made no further reference to it, Cherniak read Shizuo's prepared statement for the hearing. Cherniak related that when Shizuo "bought the property, it was all bush and had no buildings on it ... He cleared six and a half acres and constructed about 200 feet of Cedar covered ditching. He dug three wells and ... he planted about 25 mixed fruit trees."<sup>71</sup> Challenging another appraisal, Shizuo claimed that the appraiser had undervalued his land: the appraiser had stated that one acre of Shizuo's property was worth \$20 but Shizuo had paid \$50 an acre "at a time when land was worth less than [that] at [the] date of [the] sale by [the] Custodian."<sup>72</sup> Based on the work Shizuo had put into his home and the increase in land values since the time of purchase, he determined that his home was now worth \$5000. Surprisingly, at this point, Cherniak turned to the SSB report. Cherniak summarized some of the details presented in the appraisal such as the property's distance from Mission, its supply of water, and its surface and drainage.<sup>73</sup>

It seems that presenting the SSB report possibly worked against Shizuo's claim. By referring to the SSB report, Cherniak was possibly trying to acknowledge the report, and thus, subvert Ferguson's use of the report against his client's claim. However, it played out differently at the hearing. First, it limited the space that was set aside for Shizuo to express his loss in his own terms. Instead of centering Shizuo's claim on the full array of meanings his farm held, part of Shizuo's explanation was focused on documentation that highlighted his farm's usefulness. Rather than emphasizing the other dimensions of meaning surrounding Shizuo's real property, attention was diverted to its usefulness. Second, presenting the SSB report emphasized what the Canadian government perceived was the purpose of the commission: correcting an error in its war time policies and showing accountability. It was publicly known that the SSB reports were

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<sup>71</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 44, File 0884, Bird Commission Casefile of Shizuo Ayukawa, SSB Appraisal (pdf 5-6).

<sup>72</sup> Ibid., (pdf 6).

<sup>73</sup> Ibid., (pdf 7).

flawed.<sup>74</sup> Thus, the reports were a documented error in the Custodian's forced sales. This distracted from the main issue, which was that Canadians had been dispossessed of their property. The SSB reports were a symptom of the main sickness.

Lastly, presenting the SSB reports contributed to the entanglement of Japanese Canadians' lawyers within the framework of the Bird Commission. Findlay explains that lawyers representing Japanese Canadians tried to use their legal knowledge in support of their clients.<sup>75</sup> This often resulted in a claimant's legal counsel silencing Japanese Canadians as they attempted to articulate the extent of their loss at the Bird Commission.<sup>76</sup> Rather than supporting their clients to have their voices heard, lawyers for the claimants embroiled themselves within the workings of the commission. This happened to Shizuo as Cherniak drew attention away from the varied meanings Shizuo shared regarding his real property's value by presenting details from the SSB report. The usefulness of Shizuo's farm was emphasized, as opposed to the many meanings it held for Shizuo and his family.

Similar circumstances played out in the hearings of other claimants. Miki Fujimoto and Takehachi Mitsunaga were farmers like Shizuo, and, at their hearings, their lawyers presented the SSB reports related to their farms.<sup>77</sup> Miki and Takehachi's lawyers described the details

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<sup>74</sup> Findlay and Landscapes of Injustice Research Collective, "Creating the Bird Commission," 311-312.

<sup>75</sup> Findlay and Landscapes of Injustice Research Collective, "Creating the Bird Commission," 314.

<sup>76</sup> Findlay and Landscapes of Injustice Research Collective, "Creating the Bird Commission," 314.

<sup>77</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 54, File 1075, Bird Commission Casefile of Miki Fujimoto, 21 May 1948, Hearing Transcript (pdf 5), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_54\\_file\\_1075.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_54_file_1075.html) ; LIA, LAC, Bird Commission, RG-33-69, Volume 46, File 0921, Bird Commission Casefile of Takehachi Mitsunaga, 16 September 1948, Hearing Transcript (pdf 6-7), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_46\\_file\\_0921.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_46_file_0921.html) .

presented in each of their property's respective SSB reports.<sup>78</sup> As was the case with Shizuo, this distracted from the other dimensions of meaning Miki and Takehachi expressed at their hearings: attention was diverted from the losses Miki and Takehachi had suffered to focus on government produced documentation. Moreover, it again emphasized the commission as a method for holding the government accountable for an error in procedure, since the SSB reports were known to be flawed, instead of forcing the government to address the losses it created with its overarching policies of internment and dispossession. It also placed Miki and Takehachi's lawyers within the processes of the Bird Commission, rather than simply as Miki and Takehachi's solicitors.

For Shizuo, Miki, and Takehachi, the effects of presenting the SSB report at their hearings seems to have impacted the compensation they received from the Bird Commission. Shizuo's farm in Mission was sold under the category of VLA for properties outside of Mission Village for \$1405.<sup>79</sup> As compensation, he received roughly \$803, or 57% of his farm's sale price.<sup>80</sup> Based on Commissioner Bird's formulas, Shizuo should have received reimbursement in the amount of nearly \$1208, or approximately 86% of the Custodian's sale price. The Custodian sold Miki Fujimoto's farm in West Langley to the VLA for \$1629, but at the Bird Commission she collected roughly \$756, or 46% of the Custodian's sale price.<sup>81</sup> According to the formulas used at the commission, she should have received \$1303 or 80% of the Custodian's sale price. This was also the case for Takehachi. He had two properties that the Custodian sold to the VLA for

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<sup>78</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 54, File 1075, Bird Commission Casefile of Miki Fujimoto, Hearing Transcript (pdf 5); LIA, LAC, Bird Commission, RG-33-69, Volume 46, File 0921, Bird Commission Casefile of Takehachi Mitsunaga, Hearing Transcript (pdf 6-7).

<sup>79</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 44, File 0884, Bird Commission Casefile of Shizuo Ayukawa, Coversheet (pdf 1).

<sup>80</sup> Ibid.

<sup>81</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 54, File 1075, Bird Commission Casefile of Miki Fujimoto, Coversheet (pdf 1).

\$599 and \$161, and, in total, he was compensated roughly \$388 at the commission.<sup>82</sup> According to the Bird Commission's rules, Takehachi should have received approximately \$653 or 86% percent of the Custodian's sale price.<sup>83</sup>

It seems that the SSB reports became an obstacle for Japanese Canadians who owned farms to overcome at their Bird Commission hearings. The SSB reports offered evidence of procedural error because they were known to be flawed documents, created as the Canadian government prepared to forcibly sell the property owned by Japanese Canadians. By presenting them at the hearings, these documents could detract from the main argument Japanese Canadians were presenting at the commission, which was that there was no single flaw in procedure: the policies and actions of the Canadian government were in themselves an injustice. Thus, the SSB reports supported the government's narrative that the commission was intended to hold the government accountable for any errors in handling the property of Japanese Canadians.

The SSB reports also potentially contributed to the silencing of Japanese Canadian claimants at the commission. As their legal counsel presented the reports, they distracted from the testimony Japanese Canadians provided, which their real property's many dimensions of value. Instead, attention was given to documents that boiled down farms to their value based on utility. This may have resulted in lower amounts of compensation compared to the amounts predicted by the Bird Commission's formulas for farmers who owned real property.

Lastly, because commission officials awarded claimants who owned farms below the formulaic amounts, it seems they felt that the SSB reports were a more accurate representation of the farm's value than the testimony and experiences that Japanese Canadians shared at the

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<sup>82</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 46, File 0921, Bird Commission Casefile of Takehachi Mitsunaga, Coversheet (pdf 1).

<sup>83</sup> Ibid., SSB Appraisal (pdf 20).

hearings. The reports offered an official analysis regarding the value of the land in question, even with their many documented flaws. Japanese Canadians could not provide a similar examination of their land's value because they had never had the opportunity to create one nor had they wanted one. Claimants were forced to rely on their memories to convey the multitude of values that their land carried. Looking at the results of the Bird Commission, officials seem to have viewed Japanese Canadians' memories as unreliable and re-evaluated their views on the SSB reports, favouring the documents to such an extent that they deviated from their formulaic approach to compensation.

## **Conclusions**

For claimants like Teruhiko and Shizuo, the deviations in compensation had immediate consequences. Having lost nearly everything because of the Canadian government, the Bird Commission offered potential recompense for the losses they had suffered. Although not the acknowledgement from the government that Japanese Canadians were seeking, compensation from the Bird Commission could provide immediate funds for Japanese Canadians to rebuild. Therefore, increases and decreases in that amount could have serious impacts on their lives. Whereas the Canadian government at the time was looking for a political win, or at least not to suffer a political setback because of the commission, Japanese Canadians were fighting for a new beginning.<sup>84</sup> However, the emphasis commission officials placed on government records made this more difficult to achieve, especially for farmers.

The special consideration that commission officials seem to have given to the SSB reports suggests that they trusted in institutions, rather than individuals. The SSB reports were

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<sup>84</sup> Findlay and Landscapes of Injustice Research Collective, "Creating the Bird Commission," 301, 307.

publicly known to be flawed and Commissioner Bird alluded to this in his summary findings on the commission.<sup>85</sup> Despite the acknowledgement of their shortcomings, the results of my analysis indicate that officials still believed that the SSB reports offered a more reliable valuation of Japanese Canadians' farms than the testimony of their former owners. This trust in the reports likely stemmed from the processes behind them. An institution involving several people had been involved in the creation of the SSB reports. This created a body of knowledge about Japanese Canadians' farms that commission officials likely viewed as impartial. In comparison, claimants could only offer their personal experiences with their property in support of their claims, which officials probably considered biased and, therefore, lacking in credibility. This shows that the commission failed to consider, or purposefully decided not to consider, the motivations behind the SSB reports because the documents were viewed as objective evaluations, albeit with flaws in their process of creation. Commission officials failed to take the time to think about the reasons why Murchison and other VLA officials commissioned the reports. This may have been outside of the terms of reference of the Bird Commission, but if the motivation and bias of claimants was open to criticism, then the intent of the VLA and the Custodian should have been questioned or at least considered, regardless of their position as institutions.

In some instances though, the voices of Japanese Canadians had an effect on the commission. It seems that, except for farmers, owning real property enabled Japanese Canadians to assert the different values that their property held for them, beyond that of utility that the Custodian, and even the commission, wished to emphasize. This helped many claimants achieve higher levels of compensation that they could use to restart their lives. Yet, my current analysis does not provide a comprehensive understanding of the impact that Japanese Canadians'

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<sup>85</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1, Bird Commission Report, 30-32.

testimony had on the Bird Commission. A closer examination of the hearings, one which will provide that comprehensive understanding, is presented in the next chapter.

**Chapter 4:**  
**At the Bird Commission**

On 30 September 1948, Kojiro Sakamoto presented his claims against the Custodian for the forced sale of his property. When the government's lawyer, G.E.A. Rice, was given the chance to question Sakamoto's claim, a disagreement arose between the presiding sub commissioner, R.M. Edmanson, and Sakamoto's legal counsel, Gladstone Virtue. Virtue doubted the relevance of the government lawyer's line of questioning. Rice seemed to be trying to bring Sakamoto's reliability under suspicion. His questions were concerned with whether Sakamoto had harvested rhubarb prior to his forced removal. Since these questions made no reference to prices or market value, Virtue argued that they had no relevance.<sup>1</sup> Edmanson, presiding, quipped that they spoke to Sakamoto's "credibility."<sup>2</sup> This response did not satisfy Virtue, but he backed down and allowed the cross examination to continue. After a few more questions from Rice, Sakamoto corrected an earlier statement he had given; he clarified that his son had actually written a list of the chattel that Sakamoto was claiming at the commission. Without hesitation, Edmanson addressed Virtue:

You see, Mr. Virtue, there is the very criticism I have in mind of this method of bringing this evidence out. You put into the hands of the man a document, and the majority of these people cannot speak English like you or I, and you say, "Is this true?" and they say, "Yes," and errors unquestionably enter into this thing, and when you are faced with the payment of thousands of dollars you have got to know something about it.<sup>3</sup>

Defending Sakamoto and other Japanese Canadians, Virtue replied, "In a great many of these cases we could bring two or three witnesses to corroborate the evidence of the claimant, but Mr. Justice Bird ruled long before the evidence started that it would not be necessary to bring any

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<sup>1</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 36, File 0735, Bird Commission Casefile of Kojiro Sakamoto, 30 September 1948, Hearing Transcript (pdf 12), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_36\\_file\\_0735.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_36_file_0735.html) .

<sup>2</sup> Ibid.

<sup>3</sup> Ibid., (pdf 19).

corroborative evidence, and we have his ruling to that effect.”<sup>4</sup> Virtue then asked to have Sakamoto’s son testify to support the evidence presented on the list that he had written, and Edmanson allowed Sakamoto’s son to speak on his father’s claim.<sup>5</sup>

This discussion between Edmanson and Virute highlights the distrust that existed at the Bird Commission for Japanese Canadians. According to Commissioner Bird, the testimony of claimants was to be respected and trusted. Edmanson, however, showed clear concern for the evidence that Sakamoto presented. He allowed for Rice to question Sakamoto’s credibility, despite Commissioner Bird’s mandate that the evidence Japanese Canadians provided be considered as credible. This forced Virtue to call on witnesses to support Sakamoto’s claims. Clearly, the concerns around the credibility of Japanese Canadians had become deeply rooted in the Bird Commission.

This exchange also indicates another key aspect in understanding the Bird Commission and its hearings. The hearings were in a constant state of flux. Findlay highlights that “negotiations over terms and how they should be interpreted continued through the initial months of hearings.”<sup>6</sup> Commissioner Bird had set the rules regarding the presentation of evidence, yet Edmanson and Virtue both pushed against these rules: Edmanson by allowing Sakamoto’s credibility to be questioned and Virtue by bringing in Sakamoto’s son to testify. The constant changes in the rules of the commission left all members considering their appropriate course of action. Many, like Edmanson, tried to fall back on what they knew. In the courts, evidence needed to be substantiated and the credibility of a witness had to be proven. He considered this the right way forward. In contrast, Virtue changed. He bought into the terms Commissioner Bird

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<sup>4</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 36, File 0735, Bird Commission Casefile of Kojiro Sakamoto, Hearing Transcript (pdf 20).

<sup>5</sup> Ibid., (pdf 20-21).

<sup>6</sup> Findlay and Landscapes of Injustice Research Collective, “Creating the Bird Commission,” 316.

had established. The different approaches taken by Edmanson and Virtue underscores the need to comprehend the aims that Japanese Canadians and the Canadian government had for the Bird Commission and the ways in which the commission's structure formed around these aims. People at the commission had varying responses when the terms of engagement shifted. An important facet of the Bird Commission were the hearings themselves. They were the setting where Japanese Canadians, their lawyers, the government's lawyers, and commission officials all interacted. To gain a stronger grasp of the factors that shaped compensation, the hearings need to be assessed.

In this section, I will discuss the aims of the Canadian government and Japanese Canadians at the Bird Commission, with a specific emphasis on the impact that these competing aims had on the commission. I will then describe the structure of the hearings. This will provide information on the setting and circumstances in which Japanese Canadians presented their claims. Following this, I will explain the types of testimony Japanese Canadians offered at the hearings and the defence tactics that government lawyers presented in response. I will show that, when the lawyers for the Canadian government stated that a claimant failed to declare their property to the Custodian at the time of uprooting, they succeeded in reducing compensation. In addition, when Japanese Canadians testified about fairness and the value of their property, they increased their chances of better compensation. When government lawyers compelled Japanese Canadians to label or highlight their property as Japanese, then the chances increased for compensation to be less than what was expected. Lastly, if Japanese Canadians expressed a lack of desire to sell their property, then they often had a higher chance of collecting greater levels of compensation. To explain these findings, I propose that the Canadian government and Japanese Canadians were often attempting to affect the perception of a claimant's credibility at the commission. This likely

influenced Bird Commission officials' views of a claimant's reliability, which possibly impacted their decisions regarding a claimant's compensation. I will also submit that government lawyers pushed Japanese Canadians to recognize their property as Japanese in an attempt to explain the Custodian's sale prices based on market conditions at the time. This tactic may have convinced commission officials to lower the compensation awarded to claimants. Lastly, I will suggest that when Japanese Canadians articulated their lack of desire to sell their property, they expressed a lack of consent in the Custodian's sales. In doing so, they claimed the fundamental rights of property that existed in Canada. This likely swayed commission officials because officials probably viewed Canada as a liberal democracy, and therefore, they believed that the control of property was one of the country's fundamental values.

When considering the evidence Japanese Canadians and government lawyers presented at the Bird Commission hearings, commission officials likely tried to incorporate everything into their final decisions regarding compensation. With the conditions of the commission changing at different times, commission officials needed to adapt their means of awarding compensation.<sup>7</sup> The factors that possibly influenced commission officials suggest that they favoured the government's evidence but that the testimony of Japanese Canadians also affected them, when the testimony emphasized fundamental liberal values. This ultimately contributed to compensation results that varied from claimant to claimant.

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<sup>7</sup> Findlay and Landscapes of Injustice Research Collective, "Creating the Bird Commission," 316, 318, 322. Findlay reports that when the commission started essential aspects of the commission were still being determined. She then notes that claimants' lawyers introduced new methods of presenting evidence and that there was a change in the method for determining compensation.

## The Hearings

The aims of the Canadian government and Japanese Canadians framed the testimony of the Bird Commission hearings. In her work, Findlay describes how the government developed the commission as a method for addressing procedural errors that occurred in the enactment of its policies towards Japanese Canadians, whereas claimants used the Bird Commission as an avenue for having their property rights acknowledged.<sup>8</sup> To centre the commission's testimony on policy, the government limited the commission's scope to address only claims that could be directly associated with possible errors made by the Custodian of Enemy Property.<sup>9</sup> This made the commission more manageable, and ultimately, it made the Bird Commission appear as a mechanism to address a measurable loss. These restrictions did not stop Japanese Canadians from making broader claims at the commission. Findlay explains that claimants used standardized commission forms to present not only the market value of their property, but also their own claims about their value as sites of long-term investments and family experiences.<sup>10</sup> They described the intended use of their homes as a place for their families to grow and flourish, and many noted their properties enabled them to support themselves and those that relied on them.<sup>11</sup> Japanese Canadian claims shifted the commission's focus. They made officials acknowledge the injustices Japanese Canadians had faced because of the Canadian government's policies.

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<sup>8</sup> Findlay and Landscapes of Injustice Research Collective, "Creating the Bird Commission," 300-301.

<sup>9</sup> Ibid., 309.

<sup>10</sup> Ibid., 318-320.

<sup>11</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 67, File 1342, Bird Commission Casefile of Kina Kuwabara, Hearing Transcript (pdf 23); LIA, LAC, Bird Commission, RG-33-69, Volume 62, File 1230, Bird Commission Casefile of Manzo Sakamoto, 9 November 1948, Hearing Transcript (pdf 8-9), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_62\\_file\\_1230.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_62_file_1230.html) .

The key components of the Bird Commission hearings were the examination, the cross examination, and the government's defence.<sup>12</sup> This structure expedited the flow of the hearings as it allowed each party to prepare with certain expectations of the hearing process. Importantly, each component offered Japanese Canadians and the Canadian government different opportunities of expression. To understand these key stages of the hearings, consider the proceedings in the case of Manzo Sakamoto.<sup>13</sup>

The examination was led by the legal counsel for the claimant, giving Sakamoto and other Japanese Canadians an opportunity to portray the extent of their losses. During his examination, Sakamoto's lawyer, R.A. Best, asked questions concerning Sakamoto's real property, allowing him to describe "a 10-acre farm near Hammond, British Columbia," which was "used as a small fruit farm."<sup>14</sup> Sakamoto explained that he had cleared "about three-quarters of an acre" himself.<sup>15</sup> Best's questions were intended to draw-out Sakamoto's knowledge of his property, allowing the claimant to express his investments of time and labour into his land. At times, these questions only resulted in single word answers, but in other instances Sakamoto elaborated. When Best asked if Sakamoto was "working for the Hammond sawmill just before evacuation [forced removal]," Sakamoto replied: "After I bought the farm land I never used to be working at all. I stayed in the house and cleared the land."<sup>16</sup> Here, Sakamoto emphasized that his

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<sup>12</sup> At times these parts could be rearranged or repeated with a re-examination or re-cross examination, but in general, hearings usually followed this pattern.

<sup>13</sup> No apparent relation to Kojiro Sakamoto, who was mentioned in the introduction of this chapter.

<sup>14</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 62, File 1230, Bird Commission Casefile of Manzo Sakamoto, Hearing Transcript (pdf 4).

<sup>15</sup> Ibid.

<sup>16</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 62, File 1230, Bird Commission Casefile of Manzo Sakamoto, Hearing Transcript (pdf 4).

property was his means of living because he did not work anywhere else. Sakamoto conveyed loss that went beyond just market value; he had lost time, work, and his investment in the land.

By contrast, Sakamoto and other Japanese Canadians were on the defensive during cross examinations. Government lawyers used their questions to undermine claimants and their credibility. While conducting Sakamoto's cross examination, government solicitor K.A. Christie asked if it was Sakamoto's signature on a form "dated May 1, 1942."<sup>17</sup> Sakamoto answered, "I guess so."<sup>18</sup> Christie then asked Sakamoto: "Do you not know your own writing?"<sup>19</sup> Sakamoto replied, "It is very funny writing."<sup>20</sup> The exchange finished when Christie was satisfied with Sakamoto's admission that the writing looked like his penmanship.<sup>21</sup> With his enquiry, Christie attempted to discredit Sakamoto. Could someone, who seemed unable to recognize their own writing, be trusted? Or, maybe someone else signed on his account? This line of questioning attempted to undermine Sakamoto's credibility.

At the same time, the government's questions sometimes provided opportunities for Japanese Canadians to further illustrate their losses. Concerning 400 fence posts located on Sakamoto's property, Christie asked "When did you buy these fence posts?"<sup>22</sup> Sakamoto answered with "I cut them."<sup>23</sup> Responding to Christie's question, Sakamoto highlighted his investments of time and labour into his property. Sakamoto had cut 400 fence posts himself to further develop his land. Such questions allowed Sakamoto and other claimants to convey their losses in their own terms.

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<sup>17</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 62, File 1230, Bird Commission Casefile of Manzo Sakamoto, Hearing Transcript (pdf 12).

<sup>18</sup> Ibid.

<sup>19</sup> Ibid., (pdf 13).

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid., (pdf 15).

<sup>23</sup> Ibid.

Lastly, the government’s legal counsel always included a statement concerning the state’s position relative to the claim under consideration.<sup>24</sup> In Sakamoto’s case, Christie submitted “that the articles of personal property which were sold at auction were sold at their fair market value, ... that the manure [claimed by Sakamoto] became part of the realty, [and] that the valuation placed on the other articles of personal property [under consideration were] excessive.”<sup>25</sup> Similar statements were submitted at all other hearings.<sup>26</sup> In these statements, Christie and other government lawyers presented the views of the Canadian government concerning the claims presented by Japanese Canadians. The government lawyers often presented little to no evidence in conjunction with their defence because a separate time, outside of the hearings, was set aside for the government to present its evidence.<sup>27</sup> However, the government’s defence statements still provide insights into the government’s views on the claims presented by Japanese Canadians at the Bird Commission, and they formed an important part of the government’s overall defence at the hearings.

### **Testimony Trends, Solicitor Statements, and Regression Results**

Trends emerged within the testimony claimants presented and the statements provided by the government’s legal counsel. Japanese Canadians employed six main strategies to convey their

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<sup>24</sup> This statement could appear throughout the hearing, but it was most commonly made before the cross examination or as a closing remark for the government’s counsel.

<sup>25</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 62, File 1230, Bird Commission Casefile of Manzo Sakamoto, Hearing Transcript (pdf 16).

<sup>26</sup> For examples please see LIA, LAC, Bird Commission, RG-33-69, Volume 45, File 0904, Bird Commission Casefile of Masaji Ibuki, 14 September 1948, Hearing Transcript (pdf 9-10), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_45\\_file\\_0904.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_45_file_0904.html) ; and LIA, LAC, Bird Commission, RG-33-69, Volume 60, File 1197, Bird Commission Casefile of Kyuya Oda, 1 November 1948, Hearing Transcript (pdf 13), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_60\\_file\\_1197.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_60_file_1197.html) .

<sup>27</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 1, File 0001, Bird Commission Casefile of Imada Ito, Hearing Transcript (pdf 6).

losses at the Bird Commission. To challenge the tactics of Japanese Canadians, state lawyers countered with eight defensive strategies in response to the claims made by Japanese Canadians.

Japanese Canadians described improvements to their real property. For example, in her testimony, Hisa Endo described “600 feet of ditching with cedar covers, which was done in 1939 after [Endo and her husband] had purchased the property, ... as an improvement” to her property.<sup>28</sup> Other forms of improvements could include land clearing or cultivation, the latter of which Endo also mentioned in her testimony.<sup>29</sup>

Claimants discussed leaving their property in the care of others prior to their forced removal. This could involve a claimant’s real property as well as other forms of property. Tatsu Nishiyama and his brothers leased their real property to a Francis Gerlach from 14 April 1942, “including all implements, ... for the duration of the war.”<sup>30</sup> Kyuya Oda arranged for a Mr. Ingram “to keep an eye on [his] property ... and if necessary cultivate it.”<sup>31</sup> These arrangements saw Japanese Canadians entrusting their property to others. These individuals were often positioned outside of the Japanese Canadian community because all Japanese Canadians were facing the same restrictions and limitations from the Canadian government.

Some claims emphasized “fair value,” or similar concepts rooted in a just market of exchange. At Yoshio Mori’s hearing, his lawyer R.J. McMaster, reading from the prepared claim

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<sup>28</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 19, File 0403, Bird Commission Casefile of Hisa Endo, 18 June 1948, Hearing Transcript (pdf 4), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_19\\_file\\_0403.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_19_file_0403.html) .

<sup>29</sup> Ibid.

<sup>30</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 52, File 1042, Bird Commission Casefile of Tatsu Nishiyama, Yoshizaemon Nishiyama, Yutaka Nishiyama, Yutaka Nishiyama, and Mitsuru Nishiyama, 13 May 1948, Hearing Transcript (pdf 6), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_52\\_file\\_1042.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_52_file_1042.html) .

<sup>31</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 60, File 1197, Bird Commission Casefile of Kyuya Oda, Hearing Transcript (pdf 8).

form, stated that Mori “considers the value of \$2000.00 which he is claiming is a fair value.”<sup>32</sup> McMaster and other lawyers presented these statements as the words of the claimant, but it seems more likely that McMaster and other legal representatives made efforts to include these words and other similar phrases in an attempt to connect their client’s testimony with the overarching principles of the commission.

At hearings, Japanese Canadians could express their lack of desire to sell their property. This was the case for Shimo Kameda, whose son, James Shigeto Kameda, expressed their family’s position on selling their home. During the examination, R.J. McMaster asked about the tenants occupying the Kameda home and whether they were interested in buying the property.<sup>33</sup> When McMaster asked if “any price [was] discussed,” James replied, “they offered us a price but we weren’t interested.”<sup>34</sup> Claimants at other hearings expressed similar sentiments about potential sales prior to their forced removal, while others directly referred to their lack of consent in the Custodian’s forced sales.

Claimants’ lawyers sometimes encouraged Japanese Canadians to admit that they had lowered their valuation of their property; that is, claimants had accounted for its depreciation in value over time. In Matsu Nishimura’s case, her lawyer, A.E. Cobus, informed the commission that Nishimura “has allowed for depreciation on all the articles” she is claiming.<sup>35</sup> By allowing for depreciation or at least using this kind of language, Cobus and other lawyers were trying to

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<sup>32</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 9, File 0162, Bird Commission Casefile of Yoshio Mori, 18 February 1948, Hearing Transcript (pdf 5), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_09\\_file\\_0162.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_09_file_0162.html) .

<sup>33</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 3, File 0039, Bird Commission Casefile of Shimo Kameda, 15 January 1948, Hearing Transcript (pdf 6-7), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_03\\_file\\_0039.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_03_file_0039.html) .

<sup>34</sup> Ibid., (pdf 7).

<sup>35</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 18, File 0393, Bird Commission Casefile of Matsu Nishimura, 16 June 1948, Hearing Transcript (pdf 6), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_18\\_file\\_0393.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_18_file_0393.html) .

translate Japanese Canadians' claims, like Nishimura's, into the context of the hearing. This became one of the key strategies in a claimant's testimony for having their claims seen as credible.

Lastly, many claimants allowed for their claims to be amended. In these instances, the lawyers representing Japanese Canadians usually announced at the beginning of a claimant's testimony their intention or desire to amend a claim. For example, at Kazue Oye's hearing, her lawyer, R.J. McMaster announced:

I ask leave to amend the claim in this case, your honour, by reducing the claim for the real property to \$1900.00 – the property was sold for \$1100.00 – and by reducing the claim for personal chattels to \$547.75 with respect to which items, the Custodian sold items totalling \$199.90, leaving the net personal property claim at \$347.85.<sup>36</sup>

Such changes were usually accepted without any objections from government lawyers or commission officials unless the claimed amount was increased. Importantly though, this strategy highlights another way in which the legal counsel for Japanese Canadians positioned itself between commission officials and their clients. To make their client's cases more viable in the eyes of the commission, they made amendments to the claims Japanese Canadians brought forward.

In response to these six testimony strategies that claimants brought forward, solicitors representing the government replied with their own responses, with their own statements or through questions. Many of these strategies were repetitive and concise in their presentation, with very little deviation.

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<sup>36</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 5, File 0083, Bird Commission Casefile of Kazue Oye, 6 May 1948, Hearing Transcript (pdf 4), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_05\\_file\\_0083.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_05_file_0083.html) .

Government lawyers used statements that addressed different themes related to the state's position concerning a claim. For example, at Soshichi Tanaka's hearing, the government's lawyer, G.E.A. Rice, stated:

I am submitting, your Honour, that the real estate was sold for its fair market value. I am submitting that the chattels were sold for their fair market value. I am submitting that any of the chattels that the Custodian may be held responsible in any way for, claimed by this claimant, the claim made to the same is exorbitant.<sup>37</sup>

The first theme addressed in Rice's statement concerned "fair market value."<sup>38</sup> He claimed that the Custodian's sale price was equivalent to the real property's market value and that this was also the case with Tanaka's chattel. Rice then referred to the second theme of responsibility. In his wording, he asserted that the Custodian should not be held responsible for some of the chattel property that Tanaka was claiming. Rice presented that the government felt it should not be held responsible for all, if not any, of Tanaka's chattel. The third theme Rice revealed in his statement was the idea of exaggeration. He noted that the government viewed Tanaka's claim for chattel as "exorbitant."<sup>39</sup> Rice emphasized that Tanaka was asking for more in compensation for his chattel than what the free market would have provided. Different themes were presented in a similar manner at other hearings.

At the hearing for Yasoyama Oye, government lawyer, Harold McInnes, submitted "that at no time did this witness declare any of the matters for which he is now claiming, that the same never came into the custody or control of the Custodian and therefore do not come within the

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<sup>37</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 38, File 0763, Bird Commission Casefile of Soshichi Tanaka, 6 October 1948, Hearing Transcript (pdf 10), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_38\\_file\\_0763.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_38_file_0763.html) .

<sup>38</sup> Ibid.

<sup>39</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 38, File 0763, Bird Commission Casefile of Soshichi Tanaka, Hearing Transcript (pdf 10).

terms of reference.”<sup>40</sup> In his statement, McInnes indicated that the Custodian had no record of Oye’s claims. As the Custodian had never held custody of Oye’s property, it did not create a document to preserve Oye’s property in the Custodian’s files. McInnes then built on this tactic, which indicated that no record existed. He noted that without a record of the property being with the Custodian, this meant that Oye’s claim was outside of the terms of reference for the Bird Commission. McInnes tried to position Oye’s claim outside of the procedure created for the commission, and other government lawyers applied similar strategies.

These themes represented the more structured strategies that government lawyers used against the claims Japanese Canadians made at the hearings. They were structured in that they appeared in set phrases, especially when compared with the strategies that Japanese Canadians used in their testimony. However, government lawyers did employ tactics that did not rely on set phrases.

In many hearings, government lawyers pushed claimants to identify their property as Japanese. For example, at Tatsu Sunahara’s hearing, K.A. Christie asked Sunahara “were [the books you claimed] Japanese or English?” Sunahara replied that “there were a number of each.”<sup>41</sup> Christie wanted Sunahara to clarify the specific language of her books.

Government lawyers often entered as evidence protest letters that Japanese Canadians had written concerning the forced sale of their property.<sup>42</sup> For example, at Kametaro Matsuo’s hearing, the state lawyer, Harold McInnes, read from Matsuo’s protest letter. He highlighted

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<sup>40</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 16, File 0323, Bird Commission Casefile of Yasoyama Oye, 7 June 1948, Hearing Transcript (pdf 9), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_16\\_file\\_0323.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_16_file_0323.html) .

<sup>41</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 65, File 1292, Bird Commission Casefile of Tatsu Sunahara, 24 November 1948, Hearing Transcript (pdf 8), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_65\\_file\\_1292.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_65_file_1292.html) .

<sup>42</sup> Stanger-Ross, Blomley, and Landscapes of Injustice Research Collective, “My Land is Worth a Million Dollars,” 129.

Matsuo's objection to the Custodian's valuation of Matsuo's property: "'I [Matsuo] have asked you many number of times to send the chattels to me but you refused and now look what you have done to at least \$100.00 worth of chattels.' That is the pertinent part that I [McInnes] wish to call the attention of the Commissioner to."<sup>43</sup> McInnes emphasized the valuation that Matsuo placed on his property. Government lawyers used these letters to highlight the valuations that Japanese Canadians placed on their property prior to the commission. At other times, they were used to show that claimants had acknowledged the Custodian's actions regarding their property.

Lastly, government lawyers could present a unique position relative to the claims given by Japanese Canadians. Sometimes they acknowledged the validity of claims. These acknowledgements could take different forms, but they often appeared as deviations from the set statements. For example, at Tei Terashita's hearing, Harold McInnes, representing the government, stated:

My learned friend [A.E. Cobus] seems to have pretty well set out the position in this matter. Apparently the goods came into the possession of the Custodian but in the case of the major part of them, they were apparently stolen. Such of them as we were able to recover were sold for their fair market value, it is submitted.<sup>44</sup>

Here, McInnes acknowledged Cobus's presentation and position regarding Terashita's claim. He admitted that Terashita's property was stolen while in the Custodian's possession. Although conciliatory, this approach also supported the government's position. This was an admission of documented error, which substantiated the government's claim that it was holding itself

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<sup>43</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 14, File 0274, Bird Commission Casefile of Kametaro Matsuo, 26 May 1948, Hearing Transcript (pdf18), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_14\\_file\\_0274.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_14_file_0274.html) .

<sup>44</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 16, File 0339, Bird Commission Casefile of Tei Terashita, 9 June 1948, Hearing Transcript (pdf 6), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_16\\_file\\_0339.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_16_file_0339.html) .

accountable for any mistakes made by the Custodian's agents in the process of recording, taking, and selling the property of Japanese Canadians.

The differences between claimant and government strategies support Findlay's insights into the competing aims of Japanese Canadians and the Canadian government. For Japanese Canadians wanting to share their experiences, their testimony was more unpredictable because every claimant's situation varied. In contrast, the government's tactics supported its goal of having the commission reflect a formal legalistic approach, intended to demonstrate accountability for any errors in procedure. The government's defence approaches suggested that the experiences of Japanese Canadians were not unique. As these aims manifested at the hearings, they affected the compensation that Japanese Canadians collected. To understand this interaction and its affects, I coded 264 Bird Commission hearings and performed regression analysis.<sup>45</sup>

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<sup>45</sup> For clarification, the type of analysis was ordered logistic regression.

**Table 3:**

Ordered Logistic Regression with Ratio of Received Award and Predicted Award as Dependent Variable for the Bird Commission Hearings (N=264)<sup>46</sup>

Variable	Odds Ratio
<i>Government Lawyers</i>	
Declared Property to the Custodian	Reference
No Record of Property Declaration with the Custodian	.173 (.113)**
Japanese Cultural Background of Property Not Mentioned	Reference
Japanese Cultural Background of Property Mentioned	.288 (.149)*
<i>Claimants</i>	
“Fair” Valuation Not Mentioned	Reference
“Fair” Valuation Mentioned	2.37 (1.04)*
“No Desire to Sell” Not Stated	Reference
“No Desire to Sell” Stated	3.48 (2.14)*

**Note:** \* p<.05; \*\* p<.01; \*\*\* p<.001; All standard errors noted in brackets.

*Table 3: Ordered Logistic Regression with Ratio of Received Award and Predicted Award as Dependent Variable (N=264). This is an abbreviated version of the Ordered Logistic Regression. For a full model please view Appendix C.*

Table 3 represents the main results from my regression analysis of the hearings. It highlights the types of testimony Japanese Canadians presented and the defence strategies from government lawyers that affected the compensation claimants collected from the Bird Commission. The most effective defence strategies that government lawyers employed were (1) the assertion that claimants had not declared their property to the Custodian, and (2) compelling claimants to

<sup>46</sup> This model uses odds ratios. Therefore, any coefficient greater than 1 represents an increase in the dependent variable when there is a one unit increase in the independent variable being studied, and any coefficient less than 1 represents a decrease in the dependent variable when there is a one unit increase in the independent variable being studied. All coefficients are only true when holding all other variables constant.

acknowledge their property as Japanese. On the other hand, claimants claims that their valuations were fair or reasonable and their reference to a lack of consent in the Custodian's forced sales, resulted in improved outcomes in their cases.

When government lawyers stated that there was no property declaration made to the Custodian by a claimant, then a claimant's odds of receiving compensation greater than the commission's predicted amount decreased by a factor of .173; that is, a claimant was more likely to be reimbursed below what the commission's rules stipulated.<sup>47</sup> Similarly, when Japanese Canadians acknowledged that an item was Japanese, while under cross examination, then their odds of collecting compensation that was greater than the amount predicted by the rules of the Bird Commission decreased by a factor of .288; that is, claimants were more likely to be reimbursed below the amount predicted by the commission's rules.<sup>48</sup>

Other forms of testimony resulted in better compensation for Japanese Canadians at the Bird Commission. When Japanese Canadians used the term "fair value" or similar phrases in their testimony, then their odds of obtaining compensation greater than the amount predicted by the rules of the Bird Commission increased by a factor of 2.37.<sup>49</sup> When Japanese Canadians stated that they did not want to sell their property, then their odds of receiving compensation that

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<sup>47</sup> This difference is statistically significant controlling for other variables. According to ordered logistic regression, this factor increased the odds of a claimant's compensation following the predicted award or being less than the predicted award.

<sup>48</sup> This difference is statistically significant, controlling for other variables. According to ordered logistic regression, this factor increased the odds of a claimant's compensation following the predicted award or being less than the predicted award.

<sup>49</sup> This difference is statistically significant, controlling for other variables. According to ordered logistic regression, this factor increased the odds of a claimant's compensation following the predicted award or being greater than the predicted award.

was greater than the amount predicted by the rules of the commission increased by a factor of 3.48.<sup>50</sup>

Standing before commission officials, Japanese Canadians and lawyers from both sides participated in a battle of words. Each side presented arguments and cases to enhance their respective aims. Considering that Commissioner Bird had created award categories based on formulas, we might have imagined that the strategies used by Japanese Canadians and government lawyers were to no avail. In fact, arguments mattered. Compensation changed based on the interaction of claimants, their lawyers, and government lawyers at the hearings.

### **Credibility**

Credibility was a particular concern at the Bird Commission. As I have already suggested, a major tactic of the government's legal counsel in its cross examination was to try and create doubt about the reliability of a claimant. The government's defence tactic of stating that a claimant had not declared their property to the Custodian leaned on the speculation that Japanese Canadians were exaggerating their claims.

At the hearings for Shigeo Katsura and Haruno Matsuoka, for example, the government's lead counsel, Hunter presented the government's defence. In response to Katsura's chattel claims, Hunter "submitted that [Katsura's] chattels were undeclared [to the Custodian] ... so that no claim should be made for chattels."<sup>51</sup> Likewise, in reply to Matsuoka's claims, Hunter "submitted that [Matsuoka's] chattels were undeclared [to the Custodian] and accordingly never

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<sup>50</sup> This difference is statistically significant, controlling for other variables. According to ordered logistic regression, this factor increased the odds of a claimant's compensation following the predicted award or being greater than the predicted award.

<sup>51</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 50, File 1009, Bird Commission Casefile of Shigeo Katsura, 5 May 1948, Hearing Transcript (pdf 11-12), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_50\\_file\\_1009.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_50_file_1009.html) .

found.”<sup>52</sup>As evidence, Hunter relied on “J.P. form[s.]”<sup>53</sup> These forms, which were roughly four pages in length, contained demographic and property information. Officials from the Custodian had Japanese Canadians complete these forms before being forcibly removed from their homes in 1942.<sup>54</sup> At Katsura’s hearing, Hunter stated, “It will be noted on this J.P. form, which is dated April 16, 1942, that the claimant under ‘statement as to personal property owned’ has declared ‘none’, my lord.”<sup>55</sup> Similarly, at Matsuoka’s hearing, Hunter announced, “My lord, you observe that under the statement ‘Personal Property’ the word ‘none’ is inserted.”<sup>56</sup> Using the Custodian’s property forms and the government’s defence statement together, Hunter attacked the credibility of Katsura and Matsuoka. At the hearing, they were making claims for property, which they had never declared to the Custodian, as shown by the Custodian’s property forms. To commission officials, this evidence likely suggested that Katsura and Matsuoka were making claims beyond the scope of the commission. Both claimants were presenting a claim for property that, according to the Custodian’s records, did not exist. Because the Custodian had no record of the property, the property could not be associated with the Custodian, which put it outside of the commission’s purview. This also created an image issue for Katsura and Matsuoka. Their previous actions and statements did not match their current claims at the Bird Commission. With this evidence, Hunter relied on the idea that Japanese Canadians were exaggerating their claims because Katsura and Matsuoka were trying to collect compensation for property that did not exist

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<sup>52</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 50, File 1006, Bird Commission Casefile of Haruno Matsuoka, 5 May 1948, Hearing Transcript (pdf 6), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_50\\_file\\_1006.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_50_file_1006.html) .

<sup>53</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 50, File 1009, Bird Commission Casefile of Shigeo Katsura, Hearing Transcript (pdf 11-12).

<sup>54</sup> Findlay, Blomley, and Landscapes of Injustice Research Collective, “(De)valuation,” 221.

<sup>55</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 50, File 1009, Bird Commission Casefile of Shigeo Katsura, Hearing Transcript (pdf 11-12).

<sup>56</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 50, File 1006, Bird Commission Casefile of Haruno Matsuoka, Hearing Transcript (pdf 6).

according to the Custodian's records. However, no consideration was given to the dire circumstances under which Japanese Canadians, like Katsura and Matsuoka, filled out the Custodian's property declarations; in the midst of uprooting (undertaken with the assurance that their property would be returned to them), many Japanese Canadians understandably could not manage complete inventories of everything they owned.<sup>57</sup> Nonetheless, the credibility of Katsura and Matsuoka was likely left in doubt for commission officials as they witnessed two claimants attempt to be compensated for property, which Custodian agents had never recorded.

Hunter's defence also brought into question the blameworthiness of the Custodian. With his evidence, he showed that not all Japanese Canadians had declared their property when they were forcibly removed from their homes. He was suggesting that the Custodian could not be blamed for failing to protect and manage property that it had never been entrusted with. Instead, Hunter's argument attempted to shift the blame to Japanese Canadians for not declaring their property to the Custodian's officials. Again, no consideration was given to the circumstances under which Japanese Canadians needed to declare their property. Many had been forced to leave their homes within 24 hours, with Custodian officials arriving to find the warm remains of breakfasts left on dishes.<sup>58</sup>

Hunter's statements and presentation of evidence at Katsura's and Matsuoka's hearings seemed to affect their compensation. Katsura should have collected \$1056, but he obtained \$870.<sup>59</sup> According to the commission's rules, Matsuoka was supposed to obtain \$1105, but her

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<sup>57</sup> Findlay, Blomley, and Landscapes of Injustice Research Collective, "(De)valuation," 221.

<sup>58</sup> *Ibid.*, 224.

<sup>59</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 50, File 1009, Bird Commission Casefile of Shigeo Katsura, Coversheet (pdf 1).

compensation was decreased to \$578.<sup>60</sup> Based on the evidence and statements provided by Hunter, it is possible that commission officials did not perceive Katsura and Matsuoka as reliable or the Custodian as culpable. While the credibility of Katsura and Matsuoka seems to have been called into question, in other cases, the work performed by claimants' lawyers to have Japanese Canadians appear more credible seemed to achieve a different outcome.

Lawyers representing Japanese Canadians appealed to the Canadian government's own emphasis of fair market value to have claimants appear more credible in the eyes of commission officials. When the government announced the creation of a commission to compensate Japanese Canadians, it added the condition that compensation would only be given in cases where the Custodian had sold property for less than fair market value.<sup>61</sup> The government's use of the words "fair value" continued into the commission as government lawyers used this concept in their defence strategies.<sup>62</sup> As if in response, Japanese Canadians' lawyers also incorporated these words into their examinations. For example, at Sukezo Iwamoto's hearing, his lawyer, Virtue employed this language while discussing Iwamoto's claim form. Virtue asked, "What about the values you have put on your land, building and improvements and your personal property? Are they fair values?"<sup>63</sup> At Harry Noburo Baba's hearing, Baba's lawyer, F.A. Brewin employed similar language. Referencing the values Baba had placed on his property, Brewin asked, "And

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<sup>60</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 50, File 1006, Bird Commission Casefile of Haruno Matsuoka, Hearing Transcript (pdf 6).

<sup>61</sup> Findlay, and Landscapes of Injustice Research Collective, "Creating the Bird Commission," 302.

<sup>62</sup> For example, government counsel Colthrust stated: "It will be contended that in both cases - both parcels of land - the real estate sold for a fair market value." See LIA, LAC, Bird Commission, RG-33-69, Volume 6, File 0102, Bird Commission Casefile of Kazuo Imamura, 10 May 1948, Hearing Transcript (pdf 19), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_06\\_file\\_0102.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_06_file_0102.html) .

<sup>63</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 33, File 0674, Bird Commission Casefile of Sukezo Iwamoto, 15 September 1948, Hearing Transcript (pdf 4-5), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_33\\_file\\_0674.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_33_file_0674.html) .

are these fair valuations to your knowledge?”<sup>64</sup> R.J. McMaster clearly addressed the issue of fair market value when representing Kazuo Imamura. After showing two lists of personal property and chattels that McMaster made following Imamura’s instructions, McMaster asked Imamura, “And are the values shown on the right hand side of these two sheets your estimate of a fair market value of all these items at the date of evacuation?”<sup>65</sup> By having claimants describe their claims in terms of fair value, these lawyers were attempting to combat the impression that claimants exaggerated their losses. These words likely made Japanese Canadians appear reasonable, calm, and rational. As a result, commission officials may have viewed claimants who used this language as more credible. The compensation Iwamoto, Baba, and Imamura received suggests that this was the case.

All three claimants collected compensation that exceeded the amounts predicted by the commission’s rules. Iwamoto should have received roughly \$1033, but commission officials awarded him \$1343.<sup>66</sup> Baba was supposed to obtain just \$27 from the Bird Commission, yet he walked away with \$325.<sup>67</sup> Lastly, Imamura was predicted to collect \$2296 from the commission, but officials reimbursed Imamura \$6106.<sup>68</sup> The compensation that Iwamoto, Baba, and Imamura received suggests that the efforts made by their lawyers to have them appear more credible at the hearings had an effect. Possibly trusting in the words of these three claimants, commission

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<sup>64</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 54, File 1084, Bird Commission Casefile of Harry Noburo Baba, 25 May 1948, Hearing Transcript (pdf 9), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_54\\_file\\_1084.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_54_file_1084.html).

<sup>65</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 6, File 0102, Bird Commission Casefile of Kazuo Imamura, Hearing Transcript (pdf 16).

<sup>66</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 33, File 0674, Bird Commission Casefile of Sukezo Iwamoto,, Coversheet (pdf 1).

<sup>67</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 54, File 1084, Bird Commission Casefile of Harry Noburo Baba, Coversheet (pdf 1).

<sup>68</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 6, File 0102, Bird Commission Casefile of Kazuo Imamura, Coversheet (pdf 1).

officials may have looked more favourably on their claims, which led them to increase the compensation Iwamoto, Baba, and Imamura received.

Considering the drastic changes in some cases, such as Imamura's, I want to be clear that I am not suggesting that these words fully account for the deviation from the commission's predicted award. There were multiple other factors, which could influence officials to make alterations. The cases of Iwamoto, Baba, and Imamura are meant to act as examples, which highlight the effects of when lawyers representing Japanese Canadians used the concept of fair value to support claims. As the logistic regression demonstrates, across the entire data set, such claims often led to increased compensation.

All this evidence taken together suggests that credibility proved a crucial theme at the Bird Commission hearings. As claimants came forward to give testimony to hold the Canadian government accountable for the internment and dispossession of Japanese Canadians, they were forced to account for their actions as well. Was this their signature? Why did they not declare this property to the Custodian? Had they sold their rhubarb prior to their forced removal? With these questions and other similar inquiries, government lawyers chiseled away at the credibility of claimants. Switching the focus to the claimant's credibility supported the state's overall goal of the commission's perception. It centred the commission's focus on the procedures of the forced sales because these questions brought attention to the actions of Japanese Canadians and their interactions with those procedures. This made it difficult to step back and consider the consequences of the overarching policies. These questions also shifted the blame from the Custodian by emphasizing that Japanese Canadians had not done enough to enable the Custodian's agents to protect the property of Japanese Canadians. Constrained by the commission's rules and their place between claimants and the state apparatus, lawyers

representing Japanese Canadians mounted a reactionary defence. They employed the government's language of "fair value" to have their clients appear more credible.

### **Market Forces: Demand and Supply**

The government's legal counsel often emphasized the cultural aspects of property. Rather than Japanese Canadians raising the cultural significance and rarity of their property, solicitors for the Canadian government identified the property owned by Japanese Canadians as Japanese. For example, at Takeo Kimura's hearing, a government lawyer, G.E.A. Rice, interrupted an exchange between Kimura and his lawyer to assert that two possessions in question were "Buddhist shrines."<sup>69</sup> Rice's assertion that the shrines were Buddhist powerfully associated them with Japanese Canadians because most of the community continued to practice Buddhism, which was a tradition and cultural connection carried over from Japan.<sup>70</sup> Therefore, Rice's interjection seems to have been made with the intention of associating Kimura's shrines with Japanese culture. In other cases, a more direct connection was made between the property of Japanese Canadians and Japan. While inquiring about Tadaichi Okada's claim for books sold by the Custodian, the representative of the Canadian government, K.A. Christie asked, "What were the books, were they Japanese books, and how many were there?" Okada replied, "There were some English and some Japanese, I cannot say."<sup>71</sup> Under similar circumstances at Kakichi Fujiwara's hearing, Christie questioned Fujiwara on a similar claim for books: "And what kind of books

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<sup>69</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 30, File 0621, Bird Commission Casefile of Takeo Kimura, 27 August 1948, Hearing Transcript (pdf 10), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_30\\_file\\_0621.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_30_file_0621.html) .

<sup>70</sup> Adachi, *The Enemy That Never Was*, 111.

<sup>71</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 58, File 1157, Bird Commission Casefile of Tadaichi Okada, 21 October 1948, Hearing Transcript (pdf 15), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_58\\_file\\_1157.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_58_file_1157.html) .

were these? Were they Japanese, or English, and, how many were there?” In reply, Fujiwara said, “They were nearly all Japanese – just a few English.”<sup>72</sup> Why was it important if Okada’s and Fujiwara’s books were written in Japanese?

At the moment, I have not found any documents explaining why government lawyers wanted property identified as Japanese at the Bird Commission, but I can offer a potential reason to explain their motivation. Government lawyers were probably trying to express that there was a reduced market for property characterized as Japanese, such as Buddhist shrines and Japanese language books. With the forced removal of all Japanese Canadians from the coast of British Columbia, the largest group of people likely interested in this property was removed. The main potential buyers were taken out of the market by the uprooting and internment. At the same time, because of the Canadian government’s decision to dispossess Japanese Canadians and forcibly sell their property, there was an increase in the amount of property from Japan and items viewed as Japanese that were available to be purchased.

During the hearings, Commissioner Bird acknowledged this change in the market. In conversation with R.J. McMaster, the commissioner reasoned “that when the entire group of Japanese was moved from the Coastal area where these lands are, there was an element in the population removed from the market.”<sup>73</sup> Commissioner Bird further remarked that “I just make that comment now to throw out the thought to counsel that that may be a matter they will consider it desirable to comment upon when it comes to debating the question of fair market

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<sup>72</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 62, File 1222, Bird Commission Casefile of Kakichi Fujiwara, 8 November 1948, Hearing Transcript (pdf 10), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_62\\_file\\_1222.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_62_file_1222.html) .

<sup>73</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 4, File 0063, Bird Commission Casefile of Yoshio Shikaze, 10 February 1948, Hearing Transcript (pdf 5), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_04\\_file\\_0063.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_04_file_0063.html) .

value.”<sup>74</sup> The commissioner stated before both groups of lawyers that the forced removal of Japanese Canadians would be considered in the debates around market value. Commissioner Bird could have plainly stated how the circumstances of the forced removal would be viewed and its impact on compensation, yet he left it open for debate. It stands to reason then that government lawyers could then claim, or at least imply, that the Custodian sold property viewed as Japanese for a lower price because there was a decrease in demand, or increase in supply, of such items. Government lawyers likely intended to use this defence because, as Findlay relates, the government wanted to use the commission as an opportunity to demonstrate fair procedure.<sup>75</sup> In the contorted logic of a “fair market” in the context of forced dispossession, the argument that there was a reduced market for property with a Japanese cultural background could be used to justify lower prices.

Despite its hollowness, this argument seems to have influenced commission officials. Kimura, Okada, and Fujiwara all received compensation that was less than the amount predicted by the commission’s rules. Kimura should have been awarded roughly \$415, but he obtained \$342; the commission’s rules projected that Okada should receive about \$774 but he was reimbursed only \$594; and Fujiwara was expected to obtain approximately \$173 but he collected \$142.<sup>76</sup> Similar to the Bird Commission cases I presented regarding credibility, the results from Kimura’s, Okada’s, and Fujiwara’s hearings are meant to act as examples for a larger trend. The

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<sup>74</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 4, File 0063, Bird Commission Casefile of Yoshio Shikaze, Hearing Transcript (pdf 5-6).

<sup>75</sup> Findlay and Landscapes of Injustice Research Collective, “Creating the Bird Commission,” 301, 306.

<sup>76</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 30, File 0621, Bird Commission Casefile of Takeo Kimura, Coversheet (pdf 1); LIA, LAC, Bird Commission, RG-33-69, Volume 58, File 1157, Bird Commission Casefile of Tadaichi Okada, Coversheet (pdf 1); LIA, LAC, Bird Commission, RG-33-69, Volume 62, File 1222, Bird Commission Casefile of Kakichi Fujiwara, Coversheet (pdf 1). Percentages were calculated using amounts and formulas found here.

affect of government lawyers pushing for the identification of property as Japanese is not meant as a complete explanation for the lower rates of compensation for these individuals. However, the compensation awarded to Kimura, Okada, and Fujiwara reflects a larger pattern; across the hearings, as the logistic regressions shows, lower amounts of compensation were awarded when property was identified as Japanese.

Importantly, if this is the line of defence, it demonstrates the commission's denial of the larger injustices Japanese Canadians faced. Positioning the internment and dispossession of Japanese Canadians as a market condition that could be used to defend the devaluation of Japanese Canadian-owned property, the government and the commission displayed a wanton disregard for the idea of fair compensation and the rights of Japanese Canadians. This likely line of argument, and its impact on compensation, demonstrates that the notion of "fair market," divorced from historical context could never, in fact, be fair.

### **Consent**

Some Japanese Canadians said that they had not wanted to sell their property. The commission was already aware that the claimants had not sold by choice. No one had given their consent for their property to be sold. According to the government and the terms of reference of the Bird Commission, consent was not a concern. Still, Japanese Canadians likely intended to voice their claims to property rights, a fundamental value of Canada as a liberal democracy. Notably, when claimants stated they did not want to sell their property, they were more likely to collect compensation that exceeded the commission's projected amount, I propose that, despite the reality that forced sales were the fundamental premise of the entire commission, commission officials nonetheless responded to this direct appeal to Canada's liberal democratic values.

Long before the commission, Japanese Canadians had protested the sale of their property without their consent. When the Canadian government initiated its policy of dispossession, Japanese Canadians wrote protest letters to contest the forced sale of their property. In an examination of these letters, Jordan Stanger-Ross and Nicholas Blomley note two main themes that Japanese Canadians expressed to challenge the government's actions: exchange value and consent.<sup>77</sup> While the theme of exchange value centred on the idea that the Custodian had undervalued Japanese Canadians' property, the letters citing consent articulated a relationship between individuals and the state: property owners had followed the laws, paid their taxes, and participated in society; therefore, the government did not have the right to sell their property without their permission.<sup>78</sup> In short, Japanese Canadians argued that they were entitled to the property rights held by all others living in Canada. In protest letters, Japanese Canadians directly voiced their frustrations with the Custodian's forced sales. They stated that they would not sell. Some questioned Canada's status as a democratic country, while also declaring themselves Canadian citizens whose rights were violated.<sup>79</sup> When Japanese Canadians voiced similar sentiments about the sale of their property at the commission, they were continuing the strategy expressed in protest letters. However, due to the limitations placed on their testimony at the Bird Commission, Japanese Canadians used their voices differently at the hearings.

I had not wanted to sell my property, many claimants said. For example, Manzo Sakamoto explained his reason for not selling his home to an interested buyer prior to his forced removal: "I don't sell because if I sell maybe I spend all my money but if I leave property here I

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<sup>77</sup> Stanger-Ross, Blomley, and Landscapes of Injustice Research Collective, "My Land is Worth a Million Dollars," 138.

<sup>78</sup> Ibid., 138, 144-145.

<sup>79</sup> Ibid., 144-145.

can come back any time. That is why I don't like to sell. That is what I say."<sup>80</sup> Sakamoto did not want to sell because his home provided him with somewhere to return to after the war. By holding onto his property, he would always have a place to live; there was no risk of losing everything as there was if his property was liquidated into cash. At another hearing, Masa Teramura presented a claim related to her deceased husband's estate. In her testimony, it became clear that someone had offered to purchase her property. Teramura explained, "At that time an individual wanted to buy the whole property but I didn't want to sell the house at that time."<sup>81</sup> She made no attempt to discuss her reasons, but Teramura made it clear that she had not wanted to sell her home. Last, Kina Kuwabara owned two pieces of real property in Vancouver. When given the final chance to speak concerning her holdings, Kuwabara made the following statement: "The only thing I would like to add is that I depended on the income from these properties for my living and I did not wish to sell them."<sup>82</sup> Sakamoto, Teramura, and Kuwabara all conveyed that they had not wanted to sell their property.

When Japanese Canadians raised the issue of consent at the Bird Commission hearings, it seemed to influence commission officials. Sakamoto, Teramura, and Kuwabara all collected compensation that exceeded the commission's predicted awards. According to the commission's procedure, Sakamoto was expected to collect \$480; in reality, he collected \$698.<sup>83</sup> If the rules were followed, Teramura should have obtained \$147 for her property; instead, she received

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<sup>80</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 62, File 1230, Bird Commission Casefile of Manzo Sakamoto, Hearing Transcript (pdf 8-9).

<sup>81</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 55, File 1097, Bird Commission Casefile of Masa Teramura, 6 October 1948, Hearing Transcript (pdf 8), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_55\\_file\\_1097.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_55_file_1097.html).

<sup>82</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 67, File 1342, Bird Commission Casefile of Kina Kuwabara, Hearing Transcript (pdf 23).

<sup>83</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 62, File 1230, Bird Commission Casefile of Manzo Sakamoto, Coversheet (pdf 1).

\$167.<sup>84</sup> Lastly, Kuwabara was expected to collect \$272 from the Bird Commission in compensation; however, she got \$285.<sup>85</sup> Why did commission officials seem to respond to a claimant's testimony when they invoked the idea of consent in property sales?

Commission officials probably held an image of Canada as a liberal democracy because liberalism was the primary ideology in the country. Ian McKay notes that the classical model of liberalism was dominant in Canada from the mid-nineteenth century until the 1940s.<sup>86</sup> Therefore, the ideal vision of Canada was constructed around liberalism's "three core elements:" liberty, equality, and property.<sup>87</sup> Although he lists it third, McKay remarks that property must be considered the most fundamental element of liberalism because, to have liberty, an individual must be considered to own themselves.<sup>88</sup> Accordingly, when Japanese Canadians declared that they did not want to sell their real property, they drew the attention of commission officials to the third element of liberalism, likely influencing them to change or alter the compensation Japanese Canadians collected at the commission.

As property owners, claimants should have had control over the decision to sell and the value for which their property was sold. This was an essential right in Canada, based on its framework as a liberal democracy. The response of commission officials suggests that they recognized that Japanese Canadians were entitled to these rights. Yet, they could do no more than provide slightly higher amounts of compensation.

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<sup>84</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 55, File 1097, Bird Commission Casefile of Masa Teramura, Coversheet (pdf 1).

<sup>85</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 67, File 1342, Bird Commission Casefile of Kina Kuwabara, Coversheet (pdf 1).

<sup>86</sup> Ian McKay, "The Liberal Order Framework: A Prospectus for a Reconnaissance of Canadian History," *The Canadian Historical Review* 81, no.4 (December 2000): 625.

<sup>87</sup> *Ibid.*, 624.

<sup>88</sup> *Ibid.*

## Conclusions

The exchange referenced at the beginning of this section offers further insight into the Bird Commission's hearings. In the middle of his debate with Virtue, sub commissioner Edmanson argued that "the basis ... of Mr. Rice's approach [was] to find out something about the credibility of the witness."<sup>89</sup> Despite the documented evidence of mistakes on the part of the Custodian, and by extension the Canadian government, Edmanson was concerned about the credibility of Sakamoto. Looking at my analysis, like Edmanson, other commission officials also seemed concerned with the reliability of Japanese Canadians.

In a twist of logic, Japanese Canadians needed to have their credibility proven at the commission. Their lawyers integrated the commission's focus on fair valuations and market concerns into the testimony of Japanese Canadians in an effort to have claimants appear trustworthy. This should not have been a requirement. No evidence had been found to suggest that Japanese Canadians would lie or cheat the commission. In fact, Custodian officials had introduced these ideas as the Canadian government began considering the establishment of a commission to examine Japanese Canadians' property claims.<sup>90</sup> In a twisted sense of logic, claimants were required to prove their reliability at a hearing where they were seeking compensation for the dispossession and forced sale of their property below market value.

In comparison, the trustworthiness of the Custodian and its officials was never questioned at the commission. Government lawyers had the space to shift the culpability of errors. In some instances, state solicitors could redirect the blame to claimants by highlighting that some Japanese Canadians had failed to declare their property to the Custodian's agents.

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<sup>89</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 36, File 0735, Bird Commission Casefile of Kojiro Sakamoto, Hearing Transcript (pdf 20).

<sup>90</sup> Findlay and Landscapes of Injustice Research Collective, "Creating the Bird Commission," 309.

Rather than questioning the process of declaration and its many flaws, commission officials seem to have accepted this reasoning and found Japanese Canadians culpable for their loss of property. While at other times, lawyers representing the government may have alluded to market forces such as supply and demand, which limited the Custodian's ability to achieve higher sales prices. Again, commission officials seemed to appreciate these concerns as they altered the compensation of Japanese Canadians in response.

At a commission investigating the forced sales of Japanese Canadians' property, officials failed to question the institutions responsible for the sales. Instead, they seemed to trust in the efforts and processes that the Custodian's agents, and others associated with the sales, had performed. They relied on the Custodian's documents and their associated body of knowledge for information. However, this privileged the government's knowledge and records of Japanese Canadians' property above the expertise of the claimants. At the hearings then, the Canadian government and Japanese Canadians were offering different forms of evidence that were not considered equal by commission officials. Japanese Canadians needed to substantiate their experiences whereas government records could be entered without debate.

To push against the Bird Commission's focus on records, Japanese Canadians needed to emphasize fundamental values in their testimony. While the evidence claimants provided could be questioned, their claims to property rights in Canada could not. These claims appear to have led commission officials to consider the wider circumstances under which the property of Japanese Canadians was forcibly sold as they provided higher levels of compensation when claimants expressed the lack of consent in the sale of their homes and possessions.

It seems value arguments may have been a more effective approach at the commission for Japanese Canadians. In the case of the First World War veteran, Zennosuke Inouye,

Commissioner Bird personally pursued reacquiring Inouye's farm for him after hearing his testimony at the commission.<sup>91</sup> The commissioner did not respond to the evidence that Inouye or his lawyer presented about his claim. He made this effort because of Inouye's service for Canada (which he asked to be verified). While commendable, Commissioner Bird's act reaffirmed that the Custodian's records, or documents from other institutions, and a close examination of their creation were not the reason for the commissioner's efforts to return Inouye's property to him. He wanted to acknowledge and recognize the sacrifice that Inouye had made for Canada as a member of the armed forces: a value, I think, most Canadians would have shared at the time and even today.

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<sup>91</sup> LIA, LAC, Bird Commission, RG-33-69, Volume 8, File 0142, Bird Commission Casefile of Zennosuke Inouye, 10 February 1948, Hearing Transcript (pdf 8), [https://loi.uvic.ca/archive/lac\\_rg33-69\\_volume\\_08\\_file\\_0142.html](https://loi.uvic.ca/archive/lac_rg33-69_volume_08_file_0142.html) .

# Conclusion

When Commissioner Bird finally finished the report that concluded his commission, he did not comment on the efforts of claimants to pursue compensation for the dispossession of their property. The commissioner thanked the lawyers who represented Japanese Canadians and the Canadian government for their work as well as the commission's supporting staff, such as the court reporters. Interestingly, Commissioner Bird also acknowledged the work done at the commission by members of the Custodian such as F.G. Shears.<sup>1</sup> At a commission examining the actions of the Custodian and its agents, Commissioner Bird and other commission officials relied heavily on the services of individuals they were expected to investigate. Without a doubt, officials of the Custodian influenced the Bird Commission from its early beginnings to its final days.

In this thesis, I have shown that Commissioner Bird and other officials failed to follow the formulaic rules for awarding compensation that they had created to reimburse Japanese Canadians for the forced sale of their property by the Canadian government. I have shown that commission officials altered Japanese Canadians' compensation in response to the evidence that state solicitors and claimants presented at the hearings. Depending on the testimony each side provided, commission officials could alter a claimant's compensation below or above the amount that was predicted according to the commission's rules.

When government lawyers provided the records of the Custodian or other institutions, commission officials were influenced to lower the compensation that claimants received. This was particularly the case concerning claims for farms. It seems that commission officials trusted the SSB reports, which offered details concerning a farms usefulness, more than the testimony of Japanese Canadians, where they described the variety of meanings that their real property held

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<sup>1</sup> NNM, Sunahara Collection, Research Materials, 2018.16.1.57.1 Bird Commission Report, 66.

for them, because officials tended to lower the compensation of Japanese Canadian farmers. This was similarly true when government lawyers noted that Japanese Canadians did not report their property to the Custodian but made a claim at the Bird Commission. Here, commission officials relied on the Custodian's records to make their judgement, as, when government lawyers presented the Custodian's property forms that stated no property was reported, officials awarded lower amounts of compensation to Japanese Canadians.

Different types of testimony also seemed to impact the decisions that Bird Commission officials made concerning the compensation of Japanese Canadians. When government lawyers seemed to suggest that the influence of market forces affected the sales prices of Japanese Canadians' property by noting that a claimant's property was Japanese or from Japan, officials tended to award lower amounts of compensation. However, when Japanese Canadians made claims for real property other than farms, commission officials seemed to favour the testimony of Japanese Canadians expressing their connections with their homes, as officials seem to have awarded claimants larger amounts of compensation under these circumstances. This was similarly true when claimants expressed that Canada's democratic liberal values had not been respected, such as the rights of property owners, as commission officials tended to respond by awarding higher amounts of compensation.

Looking at the types of evidence that influenced Bird Commission officials, they favoured the body of knowledge that the Canadian government created regarding the property of Japanese Canadians. Despite its known flaws, and others that would be uncovered later, this body of knowledge and its production was never scrutinized. Instead, the expertise of the claimants concerning their own property was judged and questioned. It is difficult not to fault the close relationship between Custodian officials and those of the Bird Commission for the

difference in value placed on the evidence submitted by the Canadian government compared to that expressed by Japanese Canadians. As Commissioner Bird stated, the commission relied extensively on the services of Custodian officials to conduct its operation. At the very minimum, this suggests a conflict of interest, but this also seems to indicate that the Bird Commission may be seen as a continuation of the Custodian's efforts in the dispossession of Japanese Canadians. Under the influence of Custodian officials, the commission became concerned with exaggerated claims from Japanese Canadians, leading to doubts around the credibility of claimants, and Commissioner Bird ultimately pushed for the method of property categories, with set percentages, to award compensation to Japanese Canadians. From the very beginning, Custodian officials were clearly entangled in the processes of the commission, making it difficult, or probably even impossible, for "fair" compensation to be awarded to claimants for the losses they had suffered.

However, despite the influence that Custodian officials appear to have had over the Bird Commission and its operation, Japanese Canadians were able to affect the compensation that they collected in many instances. Under constraints designed to limit their ability to discuss matters beyond market value, claimants found ways to subvert these constraints. This allowed Japanese Canadians to alter the focus of the commission from the government's records of their property and instead emphasize the Canadian government's disregard for their property rights as well as the multitude of meanings that they associated with their homes. While the evidence suggests that Japanese Canadians were disadvantaged from the beginning of the commission, it is important to stress that they were not helpless. On the contrary, the increases in compensation many claimants received, even though Commissioner Bird had outlined a clear formulaic

response for recompense, highlight the results of Japanese Canadians' efforts to hold the Canadian government accountable for their internment and dispossession.

Looking beyond the impact of the Bird Commission on the experiences of Japanese Canadians, my research has more general implications. At a very fundamental level, my analysis reflects the necessity of verifying whether there are any mistakes in the math being completed for a commission or major government initiative, regardless of the simplicity of the formulas.<sup>2</sup> Although the procedures may seem clear, it is still necessary to confirm that the individuals responsible for following through with the calculations have done so without any deviations or mistakes. This is because seemingly objective processes, such as mathematical formulas, are still susceptible to human influence or manipulation, as my study of the Bird Commission has shown. In addition, the inability of commission officials to adhere to the commission's procedures primarily with real property suggests that there are difficulties in quantifying property that is associated with a physical place. Homes, farms, and businesses can carry different meanings depending on each person.<sup>3</sup> Because of the variety of meanings this type of property can carry, it is impractical to quantify real property without taking these meanings into consideration. Here, my analysis of the Bird Commission potentially allows for further comparative studies with other circumstances where governments provided compensation or payment for real property. This would contribute to a broader understanding of real property and the methods for its valuation.

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<sup>2</sup> This likely could be generalized to any study of circumstances where calculations are being performed.

<sup>3</sup> Importantly, the former sites of internment have also changed meaning, as some have become memorials, which carry different meanings for individuals often depending on their relationship to or with the Japanese Canadian community at large in Canada. See Kirsten Emiko McAllister, *Terrain of Memory: A Japanese Memorial Project* (Vancouver: UBC Press, 2010), 13, 17.

When Commissioner Bird submitted his final report to Cabinet in April 1950, his recommendations amounted to a total of \$1,222,829 in awards for the claimants.<sup>4</sup> This total would be increased by \$150,000 to account for special awards paid to the Co-Operative Committee on Japanese Canadians (CCJC) and for claims deemed outside of the terms of reference of the commission.<sup>5</sup> This number fell far short of the \$5,000,000 initially claimed at the start of the Bird Commission by Japanese Canadians.<sup>6</sup> From the perspective of the government and commission officials, it might be fair to conclude that the commission was successful. From the very beginning, market value was the primary tool of analysis that federal officials, and those involved with the commission, used to determine the amount of compensation that should be awarded to claimants.<sup>7</sup> Based on this measurement, Stanger-Ross concludes officials were successful: in most cases the compensation claimants received brought the sale value of their property to an amount that was roughly equivalent to similar real property sales on the free market.<sup>8</sup> Stanger-Ross also found that buyers who had purchased the real property of Japanese Canadians did not exploit the market immediately; that is, they did not buy real estate low only to sell it for a higher price immediately after entering the real estate market.<sup>9</sup>

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<sup>4</sup> Sunahara, *The Politics of Racism*, 142.

<sup>5</sup> *Ibid.*

<sup>6</sup> Adachi, *The Enemy That Never Was*, 328.

<sup>7</sup> Stanger-Ross and Landscapes of Injustice Research Collective, “The Economic Impacts of Dispossession,” 341. Importantly, Stanger-Ross, like other scholars, based their calculations of predicted compensation amounts on a different understanding of the commission’s compensation rules. Previous scholars have assumed that all claimants with property sold under the VLA outside of Mission Village were compensated 80% of the value of their property. In my research, I have shown that this was not the case. Instead, claimants received specific amounts based on compensation percentages based on where they were living, which were drawn from a lump sum totalling 80% of the Custodian’s sale price of the properties sold to the VLA. See Findlay and Landscapes of Injustice Research Collective, “Creating the Bird Commission,” 323; and Adachi, *The Enemy that Never Was*, 330.

<sup>8</sup> *Ibid.*, 343.

<sup>9</sup> *Ibid.*, 345-346.

Still, this level of compensation was achieved through alteration and deviation. The categories of compensation that Commissioner Bird and other commission officials created proved insufficient in providing claimants with the free market value of their property. Commission officials needed to consult the evidence provided by Japanese Canadians and government lawyers at the hearings to reach their compensation goals. This suggests that, without their efforts at the hearings, claimants may not have been reimbursed enough to ensure that the Custodian's forced sales achieved the same value as sales on the free market at the same time. In short, Japanese Canadians once again needed to force the government to meet a promise.<sup>10</sup>

Moving forward, I hope that my analysis of the Bird Commission inspires others to explore the commission itself and other aspects of Japanese Canadian history. There are still questions I have from my research. My analysis suggests that real properties in Mission were compensated at lower levels compared to those from other areas and that there was a difference in reimbursement between Canadian-born men versus men the RCMP classified as Japanese Nationals.<sup>11</sup> I found it difficult to account for these differences in my own work. Further studies of the commission and the lives of Japanese Canadians prior to the Second World War could provide more insight into these differences and their potential effects at the Bird Commission.

Following the settlement of the Bird Commission, Japanese Canadians continued to push the Canadian government for recognition of the injustices it had perpetrated against them. In 1950, Japanese Canadian associations such as the CCJC urged the government to pay the interest

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<sup>10</sup> This is a brief reference to the promise to protect. See Stanger-Ross, Adams, and Landscapes of Injustice Research Collective, "Promises of Law."

<sup>11</sup> See Appendix C.

it had earned from the forced sales to Japanese Canadians.<sup>12</sup> Prime Minister St. Laurent dismissed this request, concluding that the issue was resolved following Commissioner Bird's report.<sup>13</sup> In 1967, Canada's centennial year, Torazo and Fuku Iwasaki took the Canadian government to court for the forced sale of their property on Salt Spring Island.<sup>14</sup> They still felt that the government had a moral and financial duty to compensate them, especially as waterfront land values had ballooned over the last 20 years.<sup>15</sup> Due to the release that the Iwasaki's had signed at the end of the commission, the Supreme Court of Canada ultimately upheld the ruling to dismiss their suit.<sup>16</sup> Yet, these efforts were not in vain. The difficulties with the Bird Commission and those that followed laid the groundwork that would become the Redress Movement of the 1980s.<sup>17</sup> This movement culminated in the Canadian government's acknowledgement of the injustices it had conducted against Japanese Canadians with their internment and dispossession.<sup>18</sup>

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<sup>12</sup> Sunahara, *The Politics of Racism*, 142.

<sup>13</sup> Ibid.

<sup>14</sup> Adachi, *The Enemy That Never Was*, 333-334.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> Art Miki and Audrey Kobayashi, "The Road to Redress: A Presentation to the Landscapes of Injustice Spring Institute, 2018," in *Landscapes of Injustice: A New Perspective on the Internment and Dispossession of Japanese Canadians*, ed. Jordan Stanger-Ross (Montreal and Kingston: McGill-Queen's University Press, 2020), 449-450.

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# Appendices

## Appendix A

**Table 4:**

Full Ordered Logistic Regression with Ratio of Received Award and Predicted Award as Dependent Variable for the Factors Present Prior to the Bird Commission (N=264)<sup>1</sup>

Variable	Odds Ratios
Real Property Ownership and Occupation Category	
Farmers without Real Property	Reference
Farmers with Real Property	.104 (.093)*
Fishermen without Real property	1.27 (1.02)
Fishermen with Real Property	8.77 (8.23)*
Lumber Industry without Real Property	1.11 (1.29)
Lumber Industry Members with Real Property	8.29 (10.9)
Service Industry without Real Property	.986 (.883)
Service Industry Members with Real Property	10.4 (10.4)*
Housewives without Real Property	.919 (1.14)
Housewives with Real Property	2.67 (2.84)
Other Industries without Real Property	2.43 (3.59)
Other Industries with Real Property	20.6 (36.1)

**Note: \* p<.05; \*\* p<.01; \*\*\* p<.001; All standard errors noted in brackets.**

<sup>1</sup> This model uses odds ratios. Therefore, any coefficient greater than 1 represents an increase in the dependent variable when there is a one unit increase in the independent variable being studied, and any coefficient less than 1 represents a decrease in the dependent variable when there is a one unit increase in the independent variable being studied. All coefficients are only true when holding all other variables constant. This model is statistically significant, with a P>.001.

<b>Variable</b>	<b>Odds Ratio</b>
Living Area Prior to Forced Removal Mission	Reference
Vancouver	3.29 (1.80)*
Steveston	3.86 (2.43)*
Haney	4.09 (2.47)*
Southern Islands	6.83 (4.70)**
Other Areas	4.44 (2.93)*
Gender and Citizenship Status	
Canadian-Born Men	Reference
Canadian-Born Women	2.77 (2.44)
Naturalized Men	1.63 (.928)
Naturalized Women	.719 (.667)
Japanese National Men	3.02 (1.70)
Japanese National Women	.215 (.209)
Marital Status	
Married	Reference
Single	2.41 (1.56)
Widowed	1.31 (.781)
Age	1.01 (.016)
Other Forms of Property Ownership	
No Personal Property	Reference
Owned Personal Property	.504 (.211)
No Nets	Reference
Owned Nets	.694 (.304)

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**Note: \* p<.05; \*\* p<.01; \*\*\* p<.001; All standard errors noted in brackets.**

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<b>Variable</b>	<b>Odds Ratio</b>
No Miscellaneous Chattel Owned	Reference
Miscellaneous Chattel	.796 (.232)
Employment Status	
Unemployed	Reference
Employed	1.06 (.653)
Retired	.037 (.063)
Number of Real Properties	1.61 (.653)
Children Status	
No Children	Reference
Had Children	1.34 (.605)

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**Note: \* p<.05; \*\* p<.01; \*\*\* p<.001; All standard errors noted in brackets.**

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## Appendix B

**Table 5:**

Tests for a Significant Difference between Farmers with Real Property and Other Groups

Variable	Chi Squared Value
Fishermen without Real Property	12.7***
Fishermen with Real Property	6.65**
Lumber Industry without Real Property	4.71*
Lumber Industry with Real Property	5.64*
Service Industry without Real Property	7.92**
Service Industry with Real Property	7.80**
Housewives without Real Property	3.43
Housewives with Real Property	3.95*
Other Industries without Real Property	4.82*
Other Industries with Real Property	5.90*

**Note:** \*  $p < .05$ ; \*\*  $p < .01$ ; \*\*\*  $p < .001$ ; All standard errors noted in brackets.

## Appendix C

**Table 6:**

Full Ordered Logistic Regression with Ratio of Received Award and Predicted Award as Dependent Variable for the Bird Commission Hearings (N=264)<sup>2</sup>

Variable	Odds Ratio
<i>Government Lawyers</i>	
Declared Property to the Custodian	Reference
No Record of Property Declaration with the Custodian	.173 (.113)**
Japanese Cultural Background of Property Not Mentioned	Reference
Japanese Cultural Background of Property Mentioned	.288 (.149)*
No Reference to Claimant's Protest Letter	Reference
Claimant's Protest Letter Referenced	.305 (.311)
Custodian's Responsibility Not Questioned	Reference
Custodian's Responsibility Questioned	2.17 (1.00)
No Claim that Custodian Sold Property at Fair Value	Reference
Claimed that Custodian Sold Property at Fair Value	2.18 (1.15)
No Assertion that Claimant's Claims were Excessive	Reference
Asserted that Claimant's Claims were Excessive	.813 (.314)
No Assertion that Claimant's Claims were Outside the Terms of Reference	Reference
Asserted that Claimant's Claims were Outside the Terms of Reference	1.15 (.585)

**Note: \* p<.05; \*\* p<.01; \*\*\* p<.001; All standard errors noted in brackets.**

<sup>2</sup> This model uses odds ratios. Therefore, any coefficient greater than 1 represents an increase in the dependent variable when there is a one unit increase in the independent variable being studied, and any coefficient less than 1 represents a decrease in the dependent variable when there is a one unit increase in the independent variable being studied. All coefficients are only true when holding all other variables constant. This model is statistically significant, with P>.001

Variable	Odds Ratio
<i>Claimants</i>	
“Fair” Valuation Not Mentioned	Reference
“Fair” Valuation Mentioned	2.37 (1.04)*
“No Desire to Sell” Not Stated	Reference
“No Desire to Sell” Stated	3.48 (2.14)*
Did not place Property in the care of Others	Reference
Placed Property in the care of Others	.661 (.278)
Allowed for Depreciation Not Mentioned	Reference
Allowed for Depreciation Mentioned	.674 (.330)
Claim Not Amended	Reference
Claim Amended	1.51 (.565)
Claimants without VLA Real Property Outside of Mission Village, Not Discussing Changes to their Real Property	Reference
Claimants without VLA Real Property Outside of Mission Village, Discussing Changes to their Real Property	.647 (.300)
Claimants with VLA Real Property Outside of Mission Village, Not Discussing Changes to their Real Property	.046 (.047)**
Claimants with VLA Real Property Outside of Mission Village, Discussing Changes to their Real Property	.181 (178)
<i>Other Claimant Factors</i>	
Gender and Citizenship Status	
Canadian-Born Men	Reference
Canadian-Born Women	1.73 (1.800)
Naturalized Men	2.30 (1.53)
Naturalized Women	1.42 (1.55)
Japanese National Men	7.41 (4.88)**
Japanese National Women	.439 (.494)

**Note: \* p<.05; \*\* p<.01; \*\*\* p<.001; All standard errors noted in brackets.**

Variable	Odds Ratio
Age	1.03 (.019)
Marital Status	
Married	Reference
Single	3.67 (2.76)
Widowed	.020 (.039)
Employment Status	
Unemployed	Reference
Employed	1.30 (.963)
Retired	.020 (.039)*
Children Status	
No Children	Reference
Had Children	1.06 (.549)
Number of Real Properties	3.86 (1.95)**
Occupation Category	
Claimants worked in the Farming Industry	Reference
Claimants worked in the Fishing Industry	2.57 (1.61)
Claimants worked in the Logging Industry	4.56 (3.11)*
Claimants worked in the Service Industry	2.32 (1.40)
Claimants who were Housewives	1.33 (1.45)
Claimants worked in Other Industries	20.0 (28.7)*
Real Property Ownership other than Non-Mission Village VLA Sales	
Claimant did not own Real Property in Vancouver	Reference
Claimants owned Real Property in Vancouver	.618 (.534)
Claimants did not own Real Property in Rural Areas	
Claimants did own Real Property in Rural Areas	.331 (.249)
Claimants did not own Real Property in Mission Village	
Claimants did own Real Property in Mission Village	.628 (.254)

**Note: \* p<.05; \*\* p<.01; \*\*\* p<.001; All standard errors noted in brackets.**

Variable	Odds Ratio
<b>Other Forms of Property Ownership</b>	
Claimants did not own Personal Property	Reference
Claimants did own Personal Property	.340 (.173)*
Claimants did not own Nets	Reference
Claimants did own Nets	.954 (.519)
Claimants did not own Miscellaneous Chattel	Reference
Claimants did own Miscellaneous Chattel	.628 (.254)
<b>Living Area Prior to Forced Removal</b>	
Lived in Mission	Reference
Lived in Vancouver	4.26 (4.59)
Lived in Steveston	8.86 (8.10)*
Lived in Haney	20.1 (17.2)***
Lived on the Southern Islands	18.4 (17.8)**
Lived in Other Areas	9.60 (8.98)*
<i>Commission Conditions</i>	
<b>Commissioner Present</b>	
Commissioner Bird was not at the hearing	Reference
Commissioner Bird was at the hearing	16.2 (29.7)
<b>Government Lawyer Present</b>	
J.W.G. Hunter was not at the hearing	Reference
J.W.G. was at the hearing	.163 (.309)
<b>Type of Claimant Counsel Present</b>	
Provincial Lawyers	Reference
Private Lawyers	.457 (.194)
<b>Group of Translators Present</b>	
Translators were part of the Hanford Family	Reference
Translators were NOT part of the Hanford Family	.886 (.440)
<b>Witness</b>	
Witness Did Not Appeared	Reference
Witness Appeared	3.37 (2.27)

**Note: \* p<.05; \*\* p<.01; \*\*\* p<.001; All standard errors noted in brackets.**

Variable	Odds Ratio
Location of Hearing	
Hearing in British Columbia	Reference
Hearing in Ontario	.258 (.326)
Hearing in Alberta	25.0 (38.5)*
Hearing in Manitoba	.162 (.317)
Hearing in Quebec	.197 (.207)
Hearing in Saskatchewan	.687 (.959)
Compensation Changes as the Commission Progressed According to Hearing Location	
Rate of Compensation Change in BC as Time Increases (Months)	.993 (.113)
Rate of Compensation Change in ON as Time Increases (Months)	1.35 (.230)
Rate of Compensation Change in AB as Time Increases (Months)	.790 (.177)
Rate of Compensation Change in MB as Time Increases (Months)	1.49 (.394)
Rate of Compensation Change in QB as Time Increases (Months)	Omitted due to Collinearity
Rate of Compensation Change in SK as Time Increases (Months)	Omitted due to Collinearity

**Note: \* p<.05; \*\* p<.01; \*\*\* p<.001; All standard errors noted in brackets.**