

BRIAN SMALLSHAW

*AS if*  
**THEY WERE**  
*the* **ENEMY**

THE DISPOSSESSION OF  
JAPANESE CANADIANS  
ON SALTSRING ISLAND





*As if They Were the Enemy*  
*The Dispossession of Japanese Canadians*  
*on Saltspring Island*

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**University  
of Victoria**  
Libraries

2020



The title *As if They Were the Enemy* is drawn from the last sentence of Order-in-Council 469 which empowered the Custodian of Enemy Property to liquidate Japanese Canadian-owned property:

Wherever, under Orders in Council under the *War Measures Act*, Chapter 206 of the Revised Statutes of Canada 1927, the Custodian has been vested with the power and responsibility of controlling and managing any property of persons of the Japanese race evacuated from the protected areas, such power and responsibility shall be deemed to include and to have included from the date of the vesting of such property in the Custodian, the power to liquidate, sell, or otherwise dispose of such property; and for the purpose of such liquidation, sale or other disposition the Consolidated Regulations Respecting Trading with the Enemy (1939) shall apply mutatis mutandis **as if the property belonged to an enemy** (*emphasis added*) within the meaning of the said Consolidated Regulations.



# TABLE OF CONTENTS

List of Tables	iii
List of Figures	iv
Acknowledgements	v
Chapter 1 Introduction	1
<i>Primary Sources</i>	9
<i>Other Secondary Sources</i>	11
Chapter 2 Frontier Diversity	15
<i>Early Years of Settlement</i>	17
<i>Frontier Egalitarianism</i>	21
<i>The Early 20th Century</i>	23
<i>The Decade Before the Second World War</i>	27
Chapter 3 Incarceration in the Interior	35
<i>Macgregor Macintosh</i>	36
<i>The Decision to Uproot</i>	38
<i>Saltspringers Uprooted</i>	45
<i>Gavin Mouat, Agent for the Custodian on Saltspring</i>	57
Chapter 4 Taking Property from Canadians	63
<i>The Decision to Liquidate</i>	64
<i>Resistance to Dispossession</i>	76
<i>First Legal Challenge to Dispossession</i>	78
<i>Sale of Saltspring Properties</i>	80
Chapter 5 Contesting Dispossession	89
<i>The Nakashima Ruling</i>	92
<i>Iwasaki and the Bird Commission</i>	94

Chapter 6 Persevering for Justice	109
<i>Iwasaki Goes to Court</i>	111
Chapter 7 Coming to Terms with Past Injustice	133
Bibliography	
<i>Archival Materials</i>	145
<i>Government Publications</i>	146
<i>Newspapers</i>	147
<i>Interviews, Lectures, Audio/Video Recordings</i>	147
<i>Articles and Books</i>	148
Appendices	155

## LIST OF TABLES

<i>Table 2.1</i>	<i>Summary Report of Japanese Population</i>	29
<i>Table 3.1</i>	<i>Japanese Canadians Uprooted from Saltspring Island</i>	46
<i>Table 3.2</i>	<i>Key to Vested Properties</i>	51
<i>Table 6.1</i>	<i>Ownership Chain of Iwasaki Property</i>	116

## LIST OF FIGURES

<i>Figure 1.1</i>	<i>Japanese Canadians Leaving Saltspring</i>	2
<i>Figure 2.1</i>	<i>Saltspring Central School – Class of 1929</i>	16
<i>Figure 2.2</i>	<i>Okano family greenhouses in 1941</i>	30
<i>Figure 2.3</i>	<i>Japanese Canadian Properties on Saltspring Island, 1941</i>	31
<i>Figure 3.1</i>	<i>Vested Properties on Saltspring Island, 1942–1945</i>	46
<i>Figure 3.2</i>	<i>Japanese Canadians Departing from Saltspring</i>	54
<i>Figure 4.1</i>	<i>Notice for the auction of the chattels of Japanese Canadian Saltspringers</i>	81
<i>Figure 4.2</i>	<i>Notice of the tender bid auction for properties not sold to the Veterans Land Administration</i>	83
<i>Figure 4.3</i>	<i>Announcement in Saanich Peninsula and Gulf Islands Review, 13 April 1938</i>	85
<i>Figure 7.1</i>	<i>Co-operative Commonwealth Federation Election Campaign Ad</i>	139
<i>Figure 7.2</i>	<i>Heiwa Garden, Ganges, Saltspring Island</i>	140

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This book was written with financial assistance from the National Association of Japanese Canadians and the Asian Canadians on Vancouver Island project at the University of Victoria. Their help is deeply appreciated.



## CHAPTER 1

# *Introduction*

**O**N 22 APRIL 1942, the Canadian Pacific Railway (CPR) ship the ss *Princess Mary* was docked at the wharf in Ganges on Saltspring Island. It was not a regular ferry run. The ship was chartered by the Canadian government to take all Japanese Canadian residents off the island (see Figure 1.1) to Vancouver where they would be held at Hastings Park, a temporary detention centre, before being shipped off to ghost towns in the interior of British Columbia and other points further east. It was the traumatic beginning to years of struggle in exile from their idyllic island home.

They left behind thriving farms and businesses, many of which were built up over a number of decades. For them and about 22,000 other Japanese Canadians on the West Coast, 1942 was the beginning of many hard years that did not end with the Second World War. The racist politicians who drove them from the coast after Pearl Harbor would find ways to keep them away until four years after the end of the war. Even after they were allowed to return, painful and bitter memories of being uprooted and exiled meant that few Japanese Canadians would ever move back to the places from which they had been forcibly removed. Only the Murakami family would ever return to live on Saltspring Island. In 1954, they returned to the island with

the intention of buying back the land that had been taken from them. They were unsuccessful. Despite the systemic and social racism they faced, they decided to start over. They purchased land and with relentless drive and hard work managed to once again flourish. They remain on the island to this day, steadfast in their determination to ensure that the injustices of the past are not forgotten.



**Figure 1.1** Japanese Canadians Leaving Saltspring. Photo: Sam Mikado. Used with permission from the Salt Spring Island Archives.

Soon after moving to the island 25 years ago, I heard about the Murakami family's story. The experiences they shared prompted me to dig deeper into the history of the dispossession of Japanese Canadian land on Saltspring Island. Later, I heard the story of Torazo Iwasaki, who lost a large property on the north end of the island that ended up in the hands of the local agent for the Custodian of Enemy Property, a member of a prominent Saltspring family. I found many conflicting accounts about what happened to the Iwasaki property, and, like many stories on the island, Iwasaki's story had entered the realm of folklore. On a small island that many regard as a paradise, this dark story from the past seemed to be at odds with the island's reputation of harmonious diversity, stretching back to the beginning of its settler history in the mid-1800s—a reputation that may not be wholly deserved.

This story is a microhistory of the uprooting of Japanese Canadians and the dispossession of their lands as it occurred on Saltspring Island. Focusing on a single place and a limited number of people can reveal details that are

lost when looking at the big picture. How did these profoundly disruptive events affect individuals, families, and communities? How did they respond to the adversity they faced? What were the long-term effects on the communities in which they lived? Truths can be lost when events are viewed in the aggregate. Homing in on what happened to a small number of people, living on a tiny island can shine a light on truths obscured by the generalizations of the bigger story.

As such, I engage with the established literature on the Japanese Canadian uprooting during World War II, particularly in regard to the ongoing debate related to the decisions to forcibly remove all Japanese Canadians from the West Coast and to liquidate their property. Earlier writers have offered a range of explanations for the expulsion. Patricia Roy argued that although there may not have been a genuine security threat, in calling for their removal, politicians in British Columbia (BC) were simply responding to fears among the general population that Japanese Canadians posed a danger. Roy downplayed the racist and economic motivations among British Columbians, favouring the view that BC politicians were responding to the public's fears, rather than stoking them, and asserted that a major reason for uprooting Japanese Canadians was to protect them from physical attacks that might have followed the verbal assaults.<sup>1</sup> Other scholars, like Daniel Heidt, in writing about Howard Green, argued that while BC politicians may have held racist views about Japanese Canadians, Green's calls for their removal from the coast were motivated by a genuine concern about security, despite the fact that his assessment of Japan's military threat had been incorrect.<sup>2</sup>

The views of Roy and Heidt differed from Japanese Canadian scholars Adachi,<sup>3</sup> Sunahara,<sup>4</sup> and Miki,<sup>5</sup> who viewed the intentions of racist BC politicians to remove Japanese Canadians from the coast as the main motivation for the uprooting. Sunahara tackled the question of whether BC

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1 Patricia Roy, *The Triumph of Citizenship: The Japanese and Chinese in Canada, 1941–67* (Vancouver: UBC Press, 2007), 66.

2 Daniel Heidt, "Howard Charles Green and Japanese Canadians" *BC Studies*, no. 164 (Winter 2009/10): 31.

3 Ken Adachi, *The Enemy That Never Was: A History of the Japanese Canadians* (Toronto: McClelland and Stewart Ltd., 1976).

4 Ann Gomer Sunahara, *The Politics of Racism: The Uprooting of Japanese Canadians During the Second World War* (Toronto: James Lorimer and Company, 1981, 2000).

5 Roy Miki, *Redress: Inside the Japanese Canadian Call for Justice* (Vancouver: Raincoast Books, 2005).

politicians were responding to public opinion or misrepresenting Japanese Canadians to further their own goals. She noted interesting differences of opinion between the BC Mainland and the Southern Vancouver Island area, which includes the area under study in this book:

The records of Prime Minister King tell a very different story [about BC public opinion]. Between 17 December 1941 and 10 January 1942, when the matter went to Cabinet, the Office of the Prime Minister received only forty-five letters and resolutions on the subject of Japanese Canadians, twenty-eight of which demanded the incarceration of all Japanese Canadians or of only Japanese aliens ...

Although most of B.C.'s Japanese population lived on the Mainland, in or around Vancouver, of the twenty-eight letters and resolutions demanding the removal of all or part of the Japanese minority, only eight had come from the Mainland. The remaining twenty came from communities in and around Victoria, where the Japanese population was comparatively small.<sup>6</sup>

A study of what happened on Saltspring supports Sunahara's contention that the loudest demands for the wholesale uprooting of Japanese Canadians did not come from the general public, but rather from local politicians who had been calling for their expulsion for years, even preceding the events of Pearl Harbor. In his recent work, John Price pointed to a network of provincial and municipal politicians who were determined to ethnically cleanse British Columbia of Japanese Canadians.<sup>7</sup>

While BC politicians played the lead role in the expulsion, I share Mona Oikawa's view that this conception of power "does not address how a national project, such as the Internment, could be accomplished if only a few people wielded power over Japanese Canadians."<sup>8</sup> Assigning responsibility to a few politicians should not absolve others for their active participation in the process. The uprooting could not have been accomplished without a series of deft legal steps taken by the federal government to grant itself the power

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6 Sunahara, 28.

7 John Price, "Seventy-five Years is Long Enough' Parts 1 & 2," *The Bulletin: A Journal of Japanese Canadian Community, History and Culture*, (January & February 2017).

8 Mona Oikawa, *Cartographies of Violence: Japanese Canadian Women, Memory, and the Subjects of the Internment* (Toronto: University of Toronto Press, 2012), 7.

to treat Canadian citizens like enemy aliens. It would not have occurred without federal bureaucrats at the ready to overlook basic principles of justice and acquire land taken from Japanese Canadians to give to returning veterans. It would not have been possible without a national security apparatus ready to ignore what their own experts were telling them and participate in the forced removal of thousands of families from the coast. Oikawa quoted Foucault, who stated, “Power is exercised through networks, and individuals do not simply circulate in those networks; they are in a position to both submit to and exercise this power.”<sup>9</sup> This is a microhistory, but the events on Saltspring must be situated in the larger picture to be fully understood.

Prior to and during World War II people of Japanese heritage were never referred to as ‘Japanese Canadians,’ but simply as ‘the Japanese’ or derogatively, ‘the Japs.’ The earliest arrivals among them came to the island not long after the first settlers had immigrated in 1859 and began displacing the First Nations owners and inhabitants before the creation of the province that would be known as British Columbia. From the beginning they were racialized as ‘Japanese,’ and, much like those labelled ‘Chinese’ or ‘Indian,’ they suffered racist exclusion—they were denied the rights and privileges enjoyed by settlers from Europe and the United States.

Racism is a central part of this story. The government’s Orders-in-Council that ordered the liquidation of Japanese Canadian land explicitly referred to the land owners as “persons of the Japanese race.” In coming to an understanding of how racism operated against Japanese Canadians in the years around World War II, I drew upon the work of Timothy Stanley, *Contesting White Supremacy*. Stanley explained how racism makes race:

[I]t is not human differences per se that make racisms but racisms make ‘race.’ It is racism that makes particular differences (both real and imagined) count in specific times and places, that is, that signifies them. Among other things, this means that I do not see racisms only as individual prejudices or discriminatory acts against people because of their so-called race. Although I do not deny that racist prejudice exists and can have consequences, I see racisms as historical phenomena that lead people to believe that racial categories are meaningful and that enact consequences on people based on the categories into which they are placed. As

such, racism is not the inevitable outcome of human difference. It is one of the things that make particular real or imagined difference important and that in turn shape how people interact with each other based on these alleged differences. Thus, it is racism, not 'race,' that structures contemporary societies.<sup>10</sup>

The group of people referred to as the 'Japanese' in the World War II era were not classified as such because of their nationality or the language they spoke; the majority of them were Canadians (or British subjects) and many did not speak Japanese. They were persecuted because they or their parents or grandparents came from Japan, and based on this fact alone they were all—men, women, and children—forcibly removed from their homes on the West Coast and dispossessed of their property.

Canadians who were born in Germany and Italy, or whose parents or grandparents were born in those two countries, were not rounded up and placed in detention camps nor was their property taken. As Stanley said, "If racism is not an inevitable outcome of human difference, it is the outcome of human action."<sup>11</sup> When the orders came to remove "persons of the Japanese race" from the coast and dispossess their property, Canada had declared war on Japan, in solidarity with the United States, but it had not been attacked by Japan and was already more than two years into a brutal war with Germany. While acknowledging that the persecution of the Jews in Europe was a far greater atrocity, the irony of being sent to detention camps by a government committed to fighting the racist Nazi regime was not lost on Japanese Canadians.

It is important to understand that the racialization of Japanese Canadians did not begin with the hysteria that followed the attack on Pearl Harbor. Immigrants from Japan had been racialized from the moment they first began arriving on the West Coast in 1877. Most of the settlers who first arrived in the mid-1800s, in what would become British Columbia, were intent on building a "white man's province." As settlement began, immigrants arriving from Asia were systematically excluded from political and economic power. The provincial franchise was taken from Japanese Canadians in 1895,<sup>12</sup> and immigrants from Japan were excluded from many

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10 Timothy J. Stanley, *Contesting White Supremacy: School Segregation, Anti-Racism, and the Making of Chinese-Canadians* (Vancouver: UBC Press, 2011), 6.

11 Stanley, 7.

12 "The Pre-World War II Years," Reference Timeline, *Japanese Canadian History*, accessed 26

occupations. They could not be doctors, lawyers, or schoolteachers, and they were prohibited from leasing Crown land for logging. The racism directed at Japanese Canadians during World War II was not an anomaly, it was only a more extreme form of what they'd suffered since arriving in Canada, and, indeed, it did not end with the war. At the end of the World War II, the government passed the *National Emergency Transitional Powers Act*, effectively extending the powers it had under the *War Measures Act*, enabling the government to keep Japanese Canadians from returning to the coast. The exclusion would only end in 1949, the same year these Canadian citizens finally got the vote.<sup>13</sup>

Japanese Canadians were not passive in the face of the racism they suffered. A narrative within the story of the uprooting is that they were mostly stoic and silent in the face of mistreatment, the Japanese term *shikatagani*, "it cannot be helped," is often used to describe their response. Mona Oikawa has examined how this trope of the silent survivor differs from her own experience as the daughter of detained parents, and how it is part of a national strategy of forgetting the violence that was committed by the Canadian government against some of its citizens. For Oikawa, the use of *shikataganai* as an explanation of the Japanese Canadian behaviour during the uprooting is itself part of their othering, as it portrays them as a homogenized group compliant with the injustices of the uprooting. While used by some Japanese Canadians to describe their own reaction to what happened to them, the term is misunderstood as passivity, rather than as a shorthand to describe a complex strategy for surviving difficult circumstances and catastrophic loss.<sup>14</sup>

Certainly many Japanese Canadians showed remarkable forbearance and restraint despite the mistreatment they received. Nevertheless, from early on in their presence in Canada they fought back against what was happening to them through such actions as Tomokichi Homma's legal battle for the franchise in 1900<sup>15</sup> and the resistance by Japanese Canadian fishermen

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March 2017, [http://www.japanesecanadianhistory.net/reference\\_timeline.htm](http://www.japanesecanadianhistory.net/reference_timeline.htm).

13 A clause in the federal Elections Act had stated that citizens denied the right to vote in provincial elections would be barred from voting federally as well. That clause was dropped on 15 June 1948, at which time Japanese Canadians could vote federally but not provincially. In 1948, the provincial Elections Act was also widened to include Japanese Canadians, but they would not have the right to exercise their provincial franchise until federal restrictions preventing their return to BC were lifted on 1 April 1949. Adachi, 344–46.

14 Oikawa, 51.

15 Patricia Roy, *A White Man's Province: British Columbia Politicians and Chinese and Japanese Immigrants, 1858–1914* (Vancouver: UBC Press, 2003), 21.

to exclusionary licensing practices in the 1920s. The contrasting responses to racism are described in the characters of the two aunts in Joy Kogawa's famous novel *Obasan*.<sup>16</sup> Aunt Aya quietly perseveres while Aunt Emily rails against the injustice they are suffering. Oikawa noted how the enormous popularity of the novel brought attention to a history that had previously been mostly ignored. While it set up the binary of the two aunts, its emphasis on Aunt Aya contributed to the 'silent survivor' representations of Asian Canadians.<sup>17</sup>

As Stanley explained, racism changes over time. Just as racism is inconsistent and varies among individuals, so too are people's responses to prejudice and discrimination. While being uprooted and having their land taken from them, Japanese Canadians found themselves in a "damned if you do, damned if you don't" situation. Resistance could be construed as disloyalty and cooperation could be construed as acceptance of injustice, yet many chose to fight back. In looking at the uprooting and dispossession of Japanese Canadians on Saltspring Island, this history focuses on two families who have been notable for their resistance to racist injustice: the Murakami family, who returned to the island after exclusion from the coast was lifted, and Torazo Iwasaki, whose resistance began the day he was taken from the island, continued during the Bird Commission hearings, and culminated in a lawsuit he brought against the government in the 1960s in an attempt to have his land returned.

Racism suffered by Japanese Canadians depended on the development of language with special terms to separate and exclude. Whether they were born in Canada, naturalized first-generation immigrants, or Japanese nationals, Japanese Canadians were always described as 'the Japanese' or 'Japs', the latter becoming pejorative around World War II. These derogatory terms were used to describe people born in Canada, and by World War II even those born to parents who themselves had been born in Canada, people who spoke English as their first language and who may have spoken little or no Japanese. Describing them as 'the Japanese' is the language of othering, of exclusion. Having no wish to perpetuate such exclusionary language, in this book, with the exception of newly arrived immigrants, all people of Japanese heritage, whether born in Canada or not, and whether or not they held Canadian citizenship, are described as Japanese Canadians. It might be argued that individuals who weren't Canadian citizens, either

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16 Joy Kogawa, *Obasan* (Toronto: Penguin Group, 1981).

17 Oikawa, 58–60.

by birth or by naturalization, shouldn't be referred to as Canadians, but these were all people living in Canada and with a commitment to the country, which in my view is more important than the legal status of their citizenship. I considered using the term *Nikkei*, a Japanese word meaning "of Japanese descent" that has been gaining wider usage, but because it is not an English word and is unknown to many English speakers it may inappropriately reinforce notions of foreignness or strangeness.

When Japanese Canadians were being forcibly removed from their homes on the West Coast and relocated to towns in the BC interior and farms in Alberta, the term used to describe the process was 'evacuation' and the people to whom it was being done were 'evacuees.' These euphemisms served a number of purposes. They masked the forced nature of the removal, making it seem voluntary, as though they were being rescued from the scene of a natural disaster, like a flood. The terms also suggested that the removal was for their own good, sometimes carrying the subtle implication that they faced a threat from Canadians who might have viewed them as the enemy. Throughout their exile from the West Coast, even while formulating ways to keep them from returning, they were described as 'evacuees.' I have not used this term in this book and instead refer to these events as the 'forced removal,' 'removal,' or 'uprooting' of Japanese Canadians.

The process of removing Japanese Canadians from the coast and sending them to camps in the interior is most often referred to as 'the Internment,' the places where they were held were called 'internment camps,' and the people themselves were sometimes called 'internees.' This term carries the connotation of punishment, as though they were being held because of some crime they had committed, or that they were enemy aliens, which they were not. Since use of those terms tends to perpetuate a false idea, I prefer more neutral terms such as 'detention' and 'detainees.'

## Primary Sources

In conducting research for this book I relied mostly on primary sources (i.e., interviewing and speaking with those who have lived experiences, and examining the original documents from the period). The Salt Spring Island Archive<sup>18</sup> is a rich source of information on the island's early history, and I

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<sup>18</sup> The Salt Spring Island Archive has a great deal of material available on their website: <http://saltspringarchives.com/>. Readers will note that the archive uses 'Salt Spring' instead of 'Saltspring'. There is no consensus on which is the correct spelling of the island's name, nor has there ever been; as with so many things on the island there has been a great deal of debate on the question for many years with no definitive resolution as to which is correct.

am grateful for their generosity in allowing me to reproduce many of the historical photos that I have included. The archive of the Salt Spring Japanese Garden Society has also been very useful. Other important primary sources include the newspaper of record for the island before, during, and after World War II, the *Saanich Peninsula and Gulf Islands Review*.<sup>19</sup> Although the newspaper is based in Sidney, on the Saanich Peninsula, it offered good coverage of Saltspring news. Saltspring's own newspaper, *The Gulf Islands Driftwood*, only began publishing in 1960, and I found it useful for the period that it covered.

Files of the Custodian of Enemy Property at Library and Archives Canada were extensively reviewed, including internal correspondence and communications, files from the Standing Committee on Orientals in BC, reports, ledgers, documents on 'Japanese Matters', reports from the Japanese Property Claims Commission, as well as the files of the Soldier Settlement Board. Also included in this review were the archival material in the Glenn McPherson Fonds at the University of British Columbia and the F. G. Shears Fonds at the Thomas Fisher Rare Book Library at the University of Toronto. I am indebted to the Landscapes of Injustice Project based at the University of Victoria for providing access to these sources. At LAC I not only accessed the Torazo Iwasaki file, containing material assembled for his court trial in 1967, which in turn included material from his hearing at the Bird Commission, but retrieved records of cabinet Orders-in-Council and wartime regulations from the Privy Council archive and the Canada Gazette.

Face-to-face conversations with Rose and Richard Murakami are what first prompted my desire to dig deeper into the history of the Japanese Canadian uprooting on Saltspring, and interviews with others who lived through this period were an important part of this research. I have also made use of recorded interviews by other local historians. While potentially suffering from the limitations of human memory, interviews provide a window into how people felt and continue to feel about the events of the past. The interviews were invaluable contributions to this book.

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For no good reason I prefer 'Saltspring' to 'Salt Spring' and will use it in this book except where the two-word version is a part of a given name.

19 The Sidney Museum and Archives maintains an archive of the *Saanich Peninsula and Gulf Islands Review* and I am indebted to them for providing access to it.

## Other Secondary Sources

Secondary sources provided useful information for my research into this period in our history. In addition to the works of Japanese Canadian scholars mentioned above, I have used Maryka Omatsu's *Bittersweet Passage: Redress and the Japanese Canadian Experience*. Local historians have provided much useful material. These include Rose Murakami's *Ganbaru: the Murakami Family of Salt Spring Island*, Charles Kahn's *Salt Spring: The Story of an Island*, Chris Hatfield's *Forgotten Cusheon Cove, Salt Spring Island*, Peter Murray's *Homesteads and Snug Harbours: The Gulf Islands*, and Ann-Lee and Gordon Switzer's *Gateway to Promise: Canada's First Japanese Community*. For the early history of Saltspring Island, I relied on Chris Arnett's *The Terror of the Coast: Land Alienation and Colonial War on Vancouver Island and the Gulf Islands, 1849–1863*, Ruth Sandwell's *Contesting Rural Space: Land Policy and Practices of Resettlement on Saltspring Island, 1859–1891*, Crawford Kilian's *Go Do Some Good Thing*, and Bea Hamilton's *Salt Spring Island*. For background on BC's history and its development as a white settler state, I referenced Patricia Roy's trilogy—*A White Man's Province: British Columbia Politicians and Chinese and Japanese Immigrants, 1858–1914*, *The Oriental Question: Consolidating a White Man's Province, 1914–41*, and *The Triumph of Citizenship: The Japanese and Chinese in Canada, 1941–1967*. I also reviewed John Price's *Orienteering Canada: Race, Empire, and the Transpacific* and W. Peter Ward's *White Canada Forever: Popular Attitudes and Public Policy Towards Orientals in British Columbia*. For information on the uprooting as it occurred in the United States and how citizens resisted the forced removal I relied upon Greg Robinson's *A Tragedy of Democracy: Japanese Confinement in North America*, Roger Daniel's *The Decision to Relocate the Japanese Americans*, and Stephanie Bangarth's *Voices Raised in Protest: Defending North American Citizens of Japanese Ancestry, 1942–49*.

I am keenly aware that I am not and cannot be objective in the writing of this history. I have a personal relationship with a number of the individuals who are important figures in the story that I recount in this book, and I am a member of the community that it describes. I moved to Saltspring Island in 1994 with my Japanese wife and young son after living in Tokyo for the previous 14 years. When we first moved into the community there were very few Japanese Canadians living on Saltspring other than the Murakami family, but since then the number has steadily grown to the point where the population now approaches the number who were resident on the island in 1942. Like us, many of these people are

curious about the Japanese Canadian history of the island—this book is written for them.

Although I became more interested in the history of the Japanese Canadian uprooting after moving to Saltspring, I was aware of it at an early age. Growing up in Saskatchewan, a friend of my parents and a colleague of my father's in the provincial government was a Japanese Canadian who had been uprooted from the West Coast during World War II. After that experience, Tom Tamaki and his brother George both became lawyers, determined to ensure that they would never again be subjected to such injustice. Tom became an administrator in Saskatchewan's provincial government, working in the Department of Mineral Resources with my father, while George, together with Tom Shoyama, was part of Tommy Douglas' "brain trust"<sup>20</sup> after he was elected premier of Saskatchewan. The Tamakis and Shoyama overcame racist exclusion and joined the government. Over the protests of the Co-operative Commonwealth Federation BC caucus, George Tamaki was hired as a senior legal advisor in 1946.<sup>21</sup> Shoyama joined shortly after and went on to have a long and distinguished career in the provincial and federal governments, being a key figure in the introduction of Medicare in Saskatchewan in 1962. Their stories, which I only vaguely understood when I was young, made me realize that the uprooting of Japanese Canadians was not only a story of stoic perseverance, but also resistance.

I am aware that as a white, male Canadian of British heritage, I am a part of a group that has enjoyed unmerited privilege in Canada's settler society and was responsible for the racist exclusion of First Nations, Asian Canadians, and settlers of other nationalities. I wasn't alive when the uprooting happened, but a generation before I was born some Anglo Canadians not unlike myself attempted to ethnically cleanse British Columbia to make it a "white man's province."

There may be some who feel that the acknowledgment of injustices perpetrated by individuals in the past unfairly implicates their descendants or their families. Some may also feel that it is improper to hold individuals in the past to the moral standards of the present. Neither of these things is

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20 Formally titled the Economic Advisory and Planning Board, in addition to Tamaki and Shoyama, the 'Brain Trust' also included Morris Shumiatcher, who would later author the Saskatchewan Bill of Rights and have a long and distinguished career as a lawyer, and George Cadbury, grandson of the founder of the British chocolate dynasty and later president of the national NDP.

21 Kam Teo, "Kiyoshi Izumi: Saskatchewan Nisei Architect," *Nikkei Images*, Nikkei National Museum & Cultural Centre 20, no. 14 (2015).

true. Descendants only bear responsibility for the actions of their ancestors if they try to conceal the truth or whitewash what happened. An understanding that moral standards change over time should not deter us from identifying injustices and naming those who perpetrated them. I know that there are people in my community who may prefer this history be forgotten and subscribe to the belief that time heals all wounds. This is a history of racist exclusion in a province and country uncomfortable with the discussion of its racist past, and three-quarters of a century after the uprooting of Japanese Canadian Saltspringers there are still open wounds. Understanding what happened is the medicine needed for healing, and hopefully for preventing similar injuries in the future.



## CHAPTER 2

*Frontier Diversity*

**S**ALTSRING ISLAND sits in the sheltered waters between southern Vancouver Island and the Mainland, near the northern tip of the Saanich Peninsula. Nestled within the southern Gulf Islands, it is part of the territory of the Coast Salish Nations of Vancouver Island<sup>22</sup> and has never been ceded by treaty to the settlers who began arriving in 1859. Post-contact Saltspring has been long known for the diversity of its population. In addition to settlers from Britain and other parts of Canada, it was also a destination for settlers from Hawaii, who arrived on Hudson Bay Company ships, and free African Americans from the United States. Figure 2.1 shows the diversity in at the Saltspring Central School in 1929.

People from Japan became an important part of Saltspring's cultural mix soon after its post-1859 settlement. In this chapter, I describe the roles they played in the community as well as the shifting and an inconsistent nature of the many forms of racism on the island.

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22 Chris Arnett, "An introduction to First Nations' history in the Gulf Islands," Salt Spring Island Archives, accessed 20 October 2014, <http://saltspringarchives.com/multicultural/firstnations/index.html>.

Before World War II people of Japanese descent comprised a very small portion of Canada's ethnic mix. As cited in the *Canada Year Book 1947*, according to the 1941 census, people describing themselves as being of the Japanese race totalled 23,149 individuals, or 0.20% of the population.<sup>23</sup> The vast majority of these people lived in BC.<sup>24</sup>



**Figure 2.1** Saltspring Central School – Class of 1929. Photo: Photographer unknown. Used with permission from the Salt Spring Island Archives.

In the 1941 census, within the subdivision of “Saltspring and the Islands” (now referred to as the southern Gulf Islands), there were 172 Japanese out of a total population of 3,145.<sup>25</sup> At 5.47%, this was likely the highest density of Japanese Canadians in the country, and certainly a higher concentration

23 Statistics Canada, “Racial origins of the population, census years 1871 to 1941, with percentage distribution for 1941,” *Canada Year Book Historical Collection*, Archived Content (1947), [http://www65.statcan.gc.ca/acyb02/1947/acyb02\\_19470117013b-eng.htm](http://www65.statcan.gc.ca/acyb02/1947/acyb02_19470117013b-eng.htm).

24 Statistics Canada, “Percentage of population by birthplace,” 1941 Census, vol. 1: 170.

25 “Population by principal origins, for census subdivisions,” British Columbia Division 5, Subdivision B, ‘Saltspring & Islands’ 1941 Census vol. 2: 502–3. This was up from 794 in 1911 and was a bit less than one third of Saltspring’s current population of over 10,000. Statistics Canada, 1911 Census (2012), Salt Spring Island Archives, accessed 20 October 2014, <http://saltspringarchives.com/stats/1911census.htm>. GeoSearch. 2011 Census. Statistics Canada Catalogue no. 92-142-XWE. Ottawa, Ontario. Data updated 2 October 2012.

than we have today. Of the southern Gulf Islands, only Mayne Island likely had a higher density than Saltspring, where it is thought that about one third of the island's population was Japanese Canadian.<sup>26</sup>

## Early Years of Settlement

Governor James Douglas first began encouraging settlers to go to Saltspring in 1858, although no treaty had been concluded with the Hul'qumi'num and WSÁNEĆ owners of the island. The first settlers to arrive were clearly aware that they were using land that belonged to others because of the First Nations presence on the island. However, as the Indigenous presence diminished over time, a narrative developed that is still commonly heard today, that Saltspring was only used seasonally and, therefore, didn't really belong to anybody prior to their arrival. Chris Arnett has done a great deal to debunk this myth, and his archaeological work has shown that while the island may have only be used seasonally at the time of the arrival of the first settlers, this can likely be attributed to the depopulation of the coast of Indigenous peoples by disease prior to the arrival of settlers. The island was certainly inhabited year round for long periods over the previous millennia.<sup>27</sup>

Written accounts of early settler life on Saltspring concentrated on the white colonialists and provided only glimpses of others who settled on the island, so it is difficult to determine precisely when the first Japanese arrived. The earliest record of a Japanese living in nearby Victoria was 1885.<sup>28</sup> The 1891 census listed a number of Chinese and Hawaiians living on Saltspring, but no Japanese, although it is likely some were living on the island at the time. There is a birth record of 11 March 1893 for Frank Uyehara, so presumably his parents, Kinzo Uyehara and Mutsu Murota, arrived sometime before that date. Frank grew up to have a storied career running logging camps in the Gulf Islands and elsewhere.<sup>29</sup> The earliest

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26 With about 80 people on Mayne, it may have even had a higher number of Japanese Canadians, and not just a higher percentage of the population. Marie Elliot, *Mayne Island & the Outer Gulf Islands: A History* (Mayne: Gulf Islands Press, 1984), 37.

27 Chris Arnett, *The Terror of the Coast: Land Alienation and Colonial War on Vancouver Island and the Gulf Islands, 1849–1863* (Burnaby: Talonbooks, 1999).

28 Ann-Lee and Gordon, *Switzer Gateway to Promise: Canada's First Japanese Community* (Victoria: Ti-Jean Press, 2012), 34.

29 "Births Among Early Settlers on Salt Spring" Salt Spring Island Archives, accessed 19 January 2017, <http://saltspringarchives.com/stats/Births.html>. There is sketch of Frank's colourful life in *The New Canadian*, 1 March 1939, accessed 19 January 2017, <http://newspapers.lib.sfu.ca/tnc-34745/page-3>.

textual records of Japanese living on the island can be found in the writing of Reverend E. F. Wilson, which include his diary, a monthly newsheet that he published, and a promotional pamphlet he was commissioned to produce in 1894. A diary entry from 1894, most likely written in April, mentions the hiring of a Japanese labourer to dig drainage for a field. In a promotional pamphlet for the island in 1894 and published the following year, Wilson included an approximate population breakdown that suggested the cosmopolitan nature of the island at the time:

The present population of the island is estimated to be 450. A large number of different nationalities are represented. There are approximately, old and young, 160 English (or Canadians), 50 Scotch, 20 Irish, 22 Portuguese, 13 Swedes, 4 Germans, 2 Norwegians, 34 Americans, 90 Halfbreeds, 40 Colored, or partly colored people, 6 Sandwich Islanders [Hawaiians], 10 Japanese, also 1 Egyptian, 2 Greeks, 1 Patagonian.<sup>30</sup>

In December of the following year, Wilson recorded in his diary that Japanese were hired to cut firewood. In 1899, he reported having a Japanese servant named Yammawitch.<sup>31</sup>

Beyond these textual records are oral histories and undated photographs suggesting that the first Japanese arrived on the island well before 1894. From the recollections of the Ruckle family, early settlers on the island who developed a sizeable farm that would later become Ruckle Provincial Park, it is thought that Henry Ruckle hired Japanese workers to help with land clearing soon after pre-empting land on Beaver Point in 1872.<sup>32</sup> There is a photo of Japanese workers on the Ruckle farm on southeast Saltspring thought to be circa 1880. The caption accompanying the photo in the archives stated they were employed on the farm “between 1875 and 1900.” The McLennans, another white settler family on the south end of the island, after their arrival in 1882 were also known to have hired Japanese workers to help clear their land.<sup>33</sup> It was said that Raffles Purdy hired Japanese workers for

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30 E. F. Wilson, *Salt Spring Island British Columbia* (Saltspring: Salt Spring Island Historical Society, original 1895, reprint unknown), 24, accessed 7 October 2016, <http://saltspringarchives.com/douments/bookleti894.pdf>.

31 Reverend Wilson Diary–1894, accessed 5 October 2016, <http://saltspringarchives.com/wilson/diary.html>.

32 Charles Kahn, *Salt Spring: The Story of an Island* (Madeira Park: Harbour Publishing, 1998), 91. No reference is provided for this, but Kahn tells me that it comes from an oral history, and therefore the date may not be reliable.

land clearing on Beddis Road in 1897.<sup>34</sup> A class photo of the Beaver Point schoolhouse, circa 1887, shows several children who might be Japanese—suggesting there were Japanese families on the island at the time.<sup>35</sup>

If the earliest of these dates was confirmed, it would rewrite the record for the arrival of the first Japanese person in Canada—now thought to be Manzo Nagano who arrived in New Westminster in 1877.<sup>36</sup>

The 1901 census recorded about 67 Japanese living on Saltspring.<sup>37</sup> Their relationship to the head of the household was often listed as ‘domestic’ or ‘farm hand,’ and in one case, ‘foreman,’ but the majority were listed as ‘lodger.’ Whatever the date of their first arrival, the records show a substantial number of Japanese living and working on Saltspring by the last years of the 1800s. Most, if not all were men, and many were likely working as loggers. They were valued for their hard work and loyalty. Leonard Tolson, a white settler who came to the island in 1889, offered this praise:

I employed Jap labour and learned to admire the Japs for their efficiency and faithfulness to their employers. (One of them, Yama, spent the night on the roof with a bucket of water because there was a forest fire nearby. We were away.)<sup>38</sup>

In one photo, the Japanese workers on the Ruckle farm are named (‘Omadan and wife’). The people photographed were not simply anonymous

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33 As quoted on “Salt Spring’s Japanese Canadian Community,” Salt Spring Island Archives, accessed 5 October 2016, <http://saltspringarchives.com/japanese/index.html>. This comes from p. 94 (1998) of Charles Kahn’s book *Salt Spring: The Story of an Island* which gives no reference, but Kahn told me that the information comes from an oral history and therefore the dates may not be accurate.

34 Peter Murray, *Homesteads and Snug Harbours* (Ganges: Horsdal & Schubart, 1991), 106.

35 BC Archives photo reproduced in Peter Murray, *Homesteads and Snug Harbours* (Ganges: Horsdal & Schubart, 1991), 105.

36 “Japanese Canadian Timeline: The Early Years,” Nikkei National Museum & Cultural Centre, accessed 5 October 2016, <http://centre.nikkeiplace.org/japanese-canadian-timeline/>.

37 The number is approximate because in many cases the poor Romanization of the spelling of Japanese names makes it difficult to be sure if the person was Japanese. Other writers have the number as low as 51, but it was certainly higher than that. Statistics Canada, 1901 Census, accessed 5 October 2016, <http://saltspringarchives.com/stats/census1901.htm>.

38 “Salt Spring’s Japanese Canadian Community,” Chapter in Charles Kahn, *Salt Spring: the Story of an Island*, (Harbour Publishing, 1998). Salt Spring Island Archives, accessed 5 October 2016, [http://saltspringarchives.com/Japanese\\_Canadians/](http://saltspringarchives.com/Japanese_Canadians/). Quote is from reminiscences for his family dated 1941.

workers, implying a closer relationship between them and the Ruckle family than that of a farmer and his hired help.

Not all Japanese residents on the island before the turn of the century were confined to doing low-paid work for others. In at least one case they were the employer. In his newssheet of October 1898 Reverend Wilson reported the following:

Our Japanese friend, Mr. Kinso, is busy these days converting our Douglas firs into props for Mexican mines, and piles for wharves and bridges in China. There will be a succession of ships coming in to load, and quite a large number of hands, both white men and Japs are at work in the camp.<sup>39</sup>

What is known about the position of Japanese immigrants within the society of Saltspring in the last decades of the 1800s? Considering the racialized basis for the dispossession of Japanese Canadian land that took place about a half a century later, it is worth considering the role of race in the social relations in early Saltspring settler society.

In the late 19th century, Saltspring was remarkably cosmopolitan. Immigrants from Britain formed the largest group. However, in addition to the Indigenous communities who still lived full time on the island and a proportionally small number of Asians, a substantial number of African Americans and Hawaiians also resided on Saltspring. About half of the island's first settlers were African Americans who left the United States at the invitation of Vancouver Island's second Governor, James Douglas, and arrived on the island in 1858. Although many moved away in the following decades, they held many prominent positions in the community. The island's first schoolteacher, John C. Jones, was African American and he taught for his first ten years without being paid.<sup>40</sup>

In the first decade of settlement after 1858 there was certainly considerable friction between the settlers and the Indigenous owners of the land. Ruth Sandwell and John Lutz documented the violence that occurred between the first African American settlers and the Indigenous residents of the island, highlighted by a number of murders in the early years.<sup>41</sup> Fearing

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39 Reverend E.F. Wilson, *Salt Spring Island Parish and Home*, October 1898, Salt Spring Island Archives, accessed 10 October 2016, <http://saltspringarchives.com/wilson/ParishandHome/images/1898/1898010.pdf>

40 Bea Hamilton, *Salt Spring Island* (Vancouver: Mitchell Press Limited, 1969), 23–24.

41 Ruth Sandwell and John Lutz, "Who Killed William Robinson: Race, Justice and Settling

for their lives, a number of African American settlers chose to leave the island, which led to the dissolution of the early advantage these settlers had over their European counterparts in terms of ownership of the best land.

## Frontier Egalitarianism

Histories of the island, such as Bea Hamilton's *Salt Spring Island*,<sup>42</sup> emphasized the harmony that existed among different settler groups.

There was no problem of integration on the island. The Negro people joined in all the community projects over the years, working side by side with the white people, they held responsible positions in all organizations, sang in the church choirs, ran butcher shops, worked on the highway and were very much a part of island community life.<sup>43</sup>

This pastoral perspective of race relations on Saltspring was, of course, the view of a white person. Was the early settler society of Saltspring really harmonious? Hamilton's contention was supported by the fact that an African American, Abraham Copeland, was voted in as a member a three-person school board—the first elected body on the island.<sup>44</sup> When the Township of Saltspring was formed in 1873, two of the seven people on the first town council were African American. Kilian, in his history of the African American pioneers of British Columbia, was in general agreement with Hamilton in his assessment of the relative lack of racism on Saltspring in the early years.<sup>45</sup> He believed it was a result of the hard frontier life on the island, arguing that racial prejudice was a luxury few could afford.

This lack of racial hostility was no doubt grounded in the same circumstances as in the gold fields. Confronted with a rich but

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the Land," accessed 12 October 2016, <http://canadianmysteries.ca/sites/robinson/home/indexen.html>. R.W. Sandwell *Contesting Rural Space: Land Policy and Practices of Resettlement on Saltspring Island, 1859–1891* (Montreal: McGill-Queen's University Press, 2005), 159–192.

42 Bea Hamilton, *Salt Spring Island* (Vancouver: Mitchell Press, 1969).

43 Ibid, 23.

44 Crawford Kilian, *Go Do Some Good Thing* (Vancouver: Douglas & McIntyre, 1978), 113.

45 As Kilian noted, however, this was after the first very violent decade of settlement when there were a number of murders of black settlers.

dangerous country, Blacks and whites could not afford to be bigoted; prejudice was a luxury of Victoria's comfortable bourgeoisie. When a neighbor's help meant the margin of survival, it scarcely mattered whether he were Black, white, Indian, Hawaiian, or Maori.<sup>46</sup>

It did seem that the violence that characterized Indigenous-settler relations during the early years of settlement on the island had abated by the 1870s. This has been attributed to the marriages that took place between male settlers and Indigenous women. By 1881, 27% of the marriages on the island were between Indigenous women and non-Indigenous men.<sup>47</sup> These mixed ethnicity families remained prominent in the community over time, and their descendants continue to live on the island a century and a half later.

This led me to consider if a kind of frontier egalitarianism existed on the island at that time. In her study of early land use on Saltspring, Sandwell concluded that the situation was complex. Certainly there was institutionalized racism. Indigenous peoples lost the right to pre-empt land after 1866, and land pre-emption was also not available to people classed as 'Orientals,' which at the time meant Chinese and Japanese. On the other hand, African Americans and Hawaiians, who were unable to purchase land in the United States, were allowed to pre-empt land on Saltspring. In a detailed analysis of the size of property holdings Sandwell found that though African Americans enjoyed an early advantage over other settlers, in the years that followed the average size of their pre-emptions tended to shrink faster than those of whites.<sup>48</sup>

Other information surfaced to challenge the picture of African American-white racial harmony on the island. Protests occurred when Clark Whims, an African American, tried to elope with the constable's thirteen-year-old daughter. Those protesting were accused of racism, suggesting that racial tensions existed, and that racism did not go uncontested. In 1885, a complaint was made that settlers would not tolerate the hiring of an African American constable<sup>49</sup>—suggesting that some dark undercurrents existed in the pool of racial harmony described by some island historians. Saltspring Island in the late 19th century was likely more diverse than it is now, despite

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46 Kilian, 102.

47 Sandwell, 178–180.

48 Sandwell, 187.

49 Sandwell, 185.

the fact that there was no uniformity of attitudes about race. Some people were racist, but racism seems to have been less pervasive in the social relations of Saltspringers than elsewhere in BC at the time.

## The Early 20th Century

In the first decades of the 20th century, evidence emerged of a larger number of Japanese workers on the island, but little is known about many of them. At Cusheon Cove, on the island's southeast peninsula, a sawmill employed as many as 150 workers, many of them Norwegians and Swedes, but also Chinese and Japanese. The mill operated from 1908 to 1931, and archaeological and historical research conducted by Hatfield, a later owner of the property, uncovered evidence that the Chinese and Japanese workers were quartered separately in their own bunkhouses. Among the Japanese workers, only one is known by name, a man named Mieto who died after an accident at the mill. Amongst the broken pottery excavated from the site of the Japanese bunkhouse, Hatfield found a number of items that may have belonged to a woman, an intriguing clue that it might not have been an all-male workforce.

We know even less about the camp that existed near Musgrave at the south end of Saltspring. Through Walmus Newman's recollection we learn that there was a camp of 60 Japanese loggers near Musgrave Landing in 1929.<sup>50</sup> An unreferenced source in the Salt Spring Island Archives stated that they were "cutting pilings for the Japanese government."<sup>51</sup> Around the same time, Howard Horel, a member of an old Saltspring family that is still present on the island, was said to have been in partnership with a Mr. Nakamura in his logging business.<sup>52</sup> About a decade later there was a Taki Nakamura living on Saltspring who may have been the partner, but Nakamura is a common family name.

Kyrle Symons, a teacher at the Beaver Point School from 1908 to 1910, wrote in his memoir that Japanese workers at the nearby Monk farm would come to the small log cabin where he lived for reading lessons.

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50 "Salt Spring's Japanese Canadian Community," Salt Spring Island Archives, accessed 24 October 2016, [http://saltspringarchives.com/Japanese\\_Canadians/](http://saltspringarchives.com/Japanese_Canadians/).

51 "Japanese Canadian Presence on Salt Spring Before 1941," Salt Spring Island Archives, accessed 24 October 2016, [http://saltspringarchives.com/Japanese-Canadian\\_Presence\\_pre-ww3.html](http://saltspringarchives.com/Japanese-Canadian_Presence_pre-ww3.html).

52 Charles Kahn, *Salt Spring: The Story of an Island*, (Madeira Park: Harbour Publishing, 1998), 207.

Mr. Monk had some Japs working for him, and they used to come to me at night, to learn to read from an infant's Reader; in return they used to cut and stack a fine lot of fire-wood for us every Sunday. They were deeply interested in the baby. I have snapshots of all these people and things, and very precious they are.<sup>53</sup>

It is noteworthy that Symons treasured his memories of interacting with Japanese labourers.

The Murakami's family history on Saltspring dates from the present (2020) back to 1909, when the current generation's maternal grandparents first came to the island. Kumanosuke Okano emigrated from Hiroshima and was joined by his wife Riyo Kimura in 1902. Their daughter Kimiko was born in 1904 in Steveston, BC, the first Japanese Canadian baby to be born there.

In 1909, the Okano family moved to Duck Bay on Saltspring where they made their living by fishing. Discriminatory licensing, which reduced the number of licenses available to Japanese Canadian fishers, prompted them to turn to farming. In 1919, the family sold their boats and used the money to purchase property on Sharp Road near the end of Booth Inlet, the area of the island where the Japanese Canadian farms would be concentrated. In the years that followed, their farm flourished, with their extensive greenhouse operation supplying tomatoes to wholesalers in Vancouver and Victoria.

On a visit to Japan in 1925, young Kimiko was introduced to Katsuyori Murakami, and the two married the following year. The 'Gentleman's Agreement' that restricted immigration of Japanese men to less than 400 individuals a year made it difficult for Katsuyori to emigrate to Canada, but with the sponsorship of the Okano family he was able to come in 1927, just before immigration from Japan was even further restricted.

During their first five years together the young couple worked on the Okano family farm, and by 1932 they had saved enough to purchase 17 acres nearby on Sharp Road. There they built up a prosperous farm, producing vegetables and strawberries for the Victoria market, with an egg operation of more than 5,000 birds. Katsuyori and Kimiko were looking forward to paying off the last of their debts after the 1942 harvest, but their hopes were dashed when they were uprooted from the island in April of that year. The

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53 Kyrlé C. Symons, *That Amazing Institution: The Story of St. Michael's School, Victoria B.C. from 1910–1948* as transcribed on the Salt Spring Island Archives website, accessed 20 October 2016, <http://saltspringarchives.com/symons/amazingInstitution.htm>.

couple were fiercely hardworking and tenacious. After the incredible hardship of the uprooting and having their land sold against their will, they were the only Japanese Canadian family to return to the island to start again.<sup>54</sup>

The story of the Tasaka family on Saltspring offers some insights into how Japanese Canadians were situated within the larger community on the island in the early 20th century. After migrating to North America in 1893, Isaburo Tasaka, the scion of the family in Canada, returned to Japan to find a wife. He met Yorie Hato, and they came to Canada in 1903. Two years later they were living on Saltspring. The Tasaka family home was located behind what is now Embe Bakery, at the corner of Seaview Avenue and the Fulford-Ganges Road in Ganges.<sup>55</sup> They lived at this location until 1929 when they moved to Steveston, BC, on the Mainland.

In the years that followed, Yorie gave birth to 19 children, 15 of whom survived into adulthood. Supporting his large and growing family was challenging, and, like a lot of islanders, Isaburo did whatever he could to make a living. Members of the family who grew up on the island remembered being poor, but always having enough to eat. Isaburo often brought home fish. They cultivated a big garden, and, although they didn't often get beef or pork, there was the occasional chicken. The kids would gather oysters, clams, and crabs.<sup>56</sup> The family was part of the sharing economy on the island. Isaburo would trade fish for plums with a neighbour, and Mr. Bullock, a well-to-do man on the island, would allow the Tasaka kids to come and pick cherries from his tree.<sup>57</sup>

One of the ways the Tasaka family earned money was through the production of charcoal for use by fish canneries and for the manufacture of explosives and other products. Japanese Canadians operated a number of charcoal kilns throughout the Gulf Islands, and the Tasaka kiln was located behind the family home in what is now known as Mouat Park.<sup>58</sup> Isaburo and his sons cut maple and alder in the surrounding forest and turned it into charcoal, which in 1923 was sold in Victoria for soap making for 30

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54 Rose Murakami, *Ganbaru: the Murakami Family of Salt Spring Island* (Ganges: Japanese Garden Society of Salt Spring Island, 2005), 13.

55 Ted Ohashi and Yvonne Wakabayashi, *Tasaka* (North Vancouver: self-published family history, 2005), 13, 38.

56 Ohashi and Wakabayashi, 42–43.

57 Ohashi and Wakabayashi, 42.

58 Ohashi and Wakabayashi, 40. For more information on the Japanese Canadian charcoal kilns of the Southern Gulf Islands, see *Island Forest Embers*, a booklet published by the Japanese Garden Society of Salt Spring Island.

cents a sack.<sup>59</sup> It was hard, hot, dirty work, but it was an important source of income for the family.

The kiln was situated on land that was owned by Mr. William Allen McAfee, a blacksmith on the island who was very friendly with the Tasakas and other Japanese Canadian families. He permitted the Tasakas to use his property for charcoal making in return for some charcoal to use in his blacksmithing business. Long after the Tasakas left the island in 1929, in the early 1950s when the Murakami family returned to the island after the uprooting, they remembered seeing the meticulously dressed McAfee out for a walk, cane in hand and hat on head. He often stopped in to chat with the Murakamis, and knowing that they were starting over again on Saltspring, allowed them to cut whatever firewood they needed from his property.<sup>60</sup>

The Tasaka family's memories of the generosity of individuals like McAfee and Bullock suggests that racist attitudes on the island, although not absent, were far from universal. Family member Masue, daughter of Isaburo, doesn't recall feeling discrimination on the island. Her parents were well liked, as were the children. She also remembered being invited to picnics with other *hakujin* (white) children.<sup>61</sup> As in the early years of settlement, it appears that overt expressions of racism were rare on Saltspring. The racism that did exist was more subtle, and the Japanese Canadians also had some true allies on the island.

Torazo Iwasaki, who came to own a very large property on the north end of Saltspring, first arrived in Canada in 1901 from the City of Numazu in Shizuoka prefecture in Japan. He became a naturalized Canadian in 1907, married Fuku (née Shiokawa)<sup>62</sup> in 1918, and shortly after moved to

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59 Recollected by Isaburo Tasaka's son Ty, as told to Stephen Nemtin and recorded in "Japanese Charcoal Pit Kilns on the Gulf Islands" *BC Historical News* 34, no. 3 (Spring 2001): 3.

60 Recollection of Rose Murakami as related in email correspondence, 25 October 2016. In McAfee's conversations with the Murakamis, he often said that he wanted his property to be turned into a park for the enjoyment of islanders after his death. After he passed away in 1959, they were told by Gavin Mouat (of the Salt Spring Land Co.) that the land would become a park and that they could no longer cut firewood. When it became a park the following year, they were surprised to learn that it was called Mouat Park, suggesting that it was a donation from the Mouat family, instead of McAfee Park. The certificate of indenture in which the land was conveyed to Mouat covered no less than twelve titles, only three of which were for the land that would become the park. It may have been that McAfee had a verbal agreement with Mouat that those parcels would be donated to province as a park, but it leaves unanswered the question of why it came to be called Mouat Park instead of McAfee Park.

61 Ohashi and Wakabayashi, 43.

62 Library and Archives Canada (LAC), RCMP Information Form dated 5 April 1943 collected while the Iwasaki's were interned in Greenwood, File 59100, Vol 2825 Part 2 1943-1968.

Saltspring. Torazo worked as chief engineer on a ship named the *William Grant* and earned money beachcombing and collecting logs off of the beaches and selling them.<sup>63</sup> In 1928, the Iwasakis moved onto the north Saltspring property given to Carl Walters as a Crown Land Grant on 1 April 1887, and owned by the Pottinger family of Duncan, BC since 15 March 1905.<sup>64</sup>

In the years that followed, Iwasaki lived on the property, logging and clearing land for farming, with his pea crop being the most profitable. He had cows that produced seven gallons of milk a day. He had also set up a small portable sawmill and sold logs off the property to an agent in Vancouver who exported them overseas and also sold them to Japanese herring fishermen for the construction of wharves. The last three of their four children were born on the property and went to school on the island.<sup>65</sup>

## The Decade Before the Second World War

As the decade of the 1930s progressed, Saltspringers were reading newspaper accounts of the Japanese advance into China, while local politicians gave fiery speeches about ‘the racial question’ and fanned anti-Asian sentiments with rumours of illegal immigration from Japan. Immigration from Japan had been severely curtailed for decades, but many racists in the province were convinced that any number was too many and implied Japanese were entering the country illegally.

Under the ‘Gentlemen’s Agreement’ concluded between Canada and Japan in 1908 after the race riot in Vancouver the previous year, Japan agreed to limit the emigration of adult men to 400 per year, and this number was further reduced in 1923 and 1928. Under the ‘picture bride’ system, more women than men began entering the country from Japan, and, because the ‘Gentlemen’s Agreement’ was not a written regulation, it

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63 From the transcript of the Evidence on Commission of Torajo [sic] Iwasaki, 8 March 1968, in the Exchequer Court of Canada, 5 July 1968, 7.

64 Land Registry Act Form A in Pocket 5742i at the Land Title and Survey Authority of British Columbia in Victoria, accessed on 5 February 2016 by Wendy Smith of Wendy Smith Registry Services Ltd. In a Certificate of Indefeasible Title granted to Charles Pottinger on 11 November 1924, the property is listed as being 524.8 acres. Title 583071, at the Land Title and Survey Authority of British Columbia in Victoria, accessed on 5 February 2016 by Wendy Smith of Wendy Smith Registry Services Ltd.

65 From the transcript of the Evidence on Commission of Torajo [sic] Iwasaki, 8 March 1968 in the Exchequer Court trial, 26 March 1968, 7–8.

fuelled speculation among whites who wanted to exclude the Japanese from the coast that large numbers of people were illegally entering Canada.<sup>66</sup>

An alleged human smuggling ring was uncovered by the Royal Canadian Mounted Police (RCMP) in 1931, in which it was asserted that about 2,500 Japanese had illegally entered the country over the previous 15 years. In the highly publicized investigation that followed, it was concluded that 2,200 of these had fled the country fearing apprehension, 213 were arrested, 161 deported, and 47 were allowed to stay. The rest were thought to be still at large.<sup>67</sup>

Despite the meagre findings of this investigation, rumours of illegal immigration continued to circulate, prompting Prime Minister Mackenzie King to appoint a Board of Review in 1938 headed by Hugh Keenleyside. The board toured the province investigating every available lead. After that method turned up little, the RCMP was authorized to undertake “controlled sampling,” which were unannounced spot checks of a number of communities with Japanese populations throughout the province.<sup>68</sup>

Saltspring Island was one of the communities sampled. According to the RCMP report dated 23 July 1938,<sup>69</sup> on 19 July 1938, an RCMP team consisting of Lieutenant-Corporal R. W. Kells (the writer of the report), Constables Owen-Jones and Henry ‘F.’, as well as a ‘Mr. Wynd’ of the Immigration Department, travelled to Saltspring aboard the Canadian Pacific steamship *Princess Mary* to check the “Naturalization Papers, Passports and Birth Certificates of the Japanese Population of the above mentioned island.”<sup>70</sup> Table 2.1 presents a summary report of the Japanese population.

They found 62 Japanese out of a reported population of 1,200 people. They owned a total of 997 acres, which were mostly small properties of 5 to 30 acres, with two owning larger properties of 200 and 600 acres. The report noted that property on the island was valued at \$100 an acre, which turned out to be considerably higher than the appraisals made when the land was later seized and sold by the government.

The report summarized the Japanese population as follows.

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66 Adachi, 81–85.

67 Adachi, 180.

68 Ibid, 180.

69 RCMP Division File No S49B, Vancouver BC Detachment, 23 July 1938.

70 Ibid.

**Table 2.1 Summary Report of Japanese Population**

Gender and Stage of Development	No. of People
Adults Male	19
Adults Female	9
Children Male	13
Children Female	21
<b>Total</b>	<b>62</b>

The report also noted that all Canadian-born children spoke English fluently. After completing its investigation, the group returned to Vancouver on the *Princess Mary* on 21 July 1938, and reported, “No illegal entrants were found on this investigation.”<sup>71</sup>

The RCMP report is interesting in a number of respects. First of all, the people enumerated in the report are referred to as ‘the Japanese.’ This was despite the fact that the majority of these individuals were Canadian born, virtually all were Canadian citizens, and all were legal residents of Canada. The writer of the report had internalized the concept of Canada as a white settler state to such a degree that no qualification was given in his description of the nationality of the people he was describing, and the author did not suggest that these citizens were Canadian (not Japanese Canadian, Canadians of Japanese descent, people of Japanese extraction, etc.). These citizens were completely othered and racialized as “Japanese.”

Second, in regard to the date of arrival in Canada of many of the older *issei*, members of the community who were born in Japan, had been residents in Canada a very long time when the report was written. Nakamura Taki, 30 years; Ishijima Magoe, a citizen for 22 years and a 36-year resident of Saltspring; Murakami Tsunetaro, a citizen of 24 years; and Ito Nakazo, 31 years—these ‘Japanese’ were not newly arrived immigrants acculturating to life in Canada. Most of these residents had been in Canada for decades, had established farms and businesses, and were successfully raising large families.

Third, woven into the bureaucratic language of the report were depictions of the Japanese Canadian families who were certainly thriving and productive members of their community. For example, the following description does not suggest marginalization or poverty: “Owns 21 Acres. 3

<sup>71</sup> RCMP.

Greenhouses. 4 Poultry Houses. 5 room house. 300 poultry. About 10 acres cultivated, mostly in berries."<sup>72</sup>



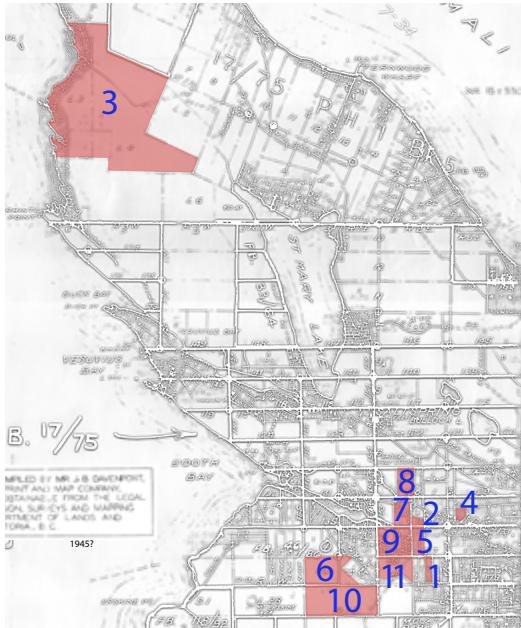
**Figure 2.2** Okano family greenhouses in 1941, with other Japanese Canadian properties in the distance. Murakami Family Collection. Photo: Photographer unknown. Used with permission from the Salt Spring Island Archives.

At the time the RCMP conducted their investigation on Saltspring, there were eleven Japanese Canadian-owned farms on the island, mostly clustered in the fertile land around the end of Booth Inlet. A number of these residents were running greenhouse operations. Those on the Okano farm were very large. Figure 2.2 shows a number of Japanese Canadian greenhouses in 1941. These farms were very productive, accounting for a substantial portion of the island's food shipments to off-island markets and employing non-family labour. Figure 2.3 is a map locating the Japanese Canadian properties on Saltspring Island. In the recollection of Don Cunningham, before the war, this part of the island was known as "Japtown."<sup>73</sup>

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72 RCMP.

73 "Don Cunningham talks about the Old Days of Salt Spring Island" Part 3, accessed 2 February 2017, <https://vimeo.com/202494241>.



No.	Owner	Acres
1	Masakichi Inouye	9.74
2	Nakazo Ito	5.0
3	Toraso Iwasaki	598.85
4	Masukichi Mikado	5.76
5	Katsuyori Murakami	17.04
6	Masayoshi Murakami	65.89
7	Morihei Murakami	21.0
8	Tsunetaro Murakami	26.8
9	Kumanosuki Okano	49.32
10	Kumanosuki Okano	100.0
11	Sueyuki Okano	38.7

**Figure 2.3** Japanese Canadian Properties on Saltspring Island, 1941. Compiled by Jay Thomas with assistance from Dan Arnold, Joni Devlin, and Caffyn Kelley for the Salt Spring Japanese Garden Society, March 2006; corrections and additions by Brian Smallshaw.

Although the Immigration Board of Review did not find the widespread illegal immigration that some had suspected, there were still many people calling for the expulsion of Asians.

Acutely aware of the growing racism in British Columbia, Japanese Canadians were eager to demonstrate their loyalty in the face of the German-Italian-Japanese axis that was forming. With the first issuance of war bonds in 1940, Japanese Canadians responded enthusiastically, and by the summer of 1941 their purchases in the Victory Loan Drive totalled \$340,200, almost \$6,000,000 in today's dollars.<sup>74</sup> Many were also eager to enlist in the military to demonstrate their loyalty. There had been some discussion within the Army about the formation of all-Nikkei units, but in the end the opportunity to enlist never came. The *Dominion Militia Act* governing conscription of all British subjects between 18 and 45 made no distinction regarding those without the franchise (voting rights). Adachi asserted that the issue of the franchise was behind the decision to exclude

74 Adachi, 186.

Japanese Canadians from military service. Vancouver City Council had specifically asked the federal government for assurance that the franchise would not be granted to Japanese Canadians serving in the armed forces.<sup>75</sup>

A committee formed to study the matter of Japanese Canadian enlistment recommended against allowing it, not because their loyalty was in question, but for fear of the reaction of the white population in BC. No doubt recalling the disturbances of 1907 in Vancouver, they felt race riots were a real possibility.<sup>76</sup>

The composition of the committee hints at the seriousness with which the government took the issue: Lieutenant-Colonel A. W. Sparling of the Department of National Defence, Assistant Commissioner F. J. Mead of the RCMP, Dr. Hugh Keenleyside of the Department of External Affairs, and Sir George Sansom, a British historian of Japan. The committee held hearings in Vancouver and Victoria in October 1940 and heard testimony from 57 witnesses, including eight Japanese Canadians. Tasked with trying to determine the causes of hostility between the white and Japanese populations, the committee specifically sought to determine if the friction constituted a threat, and if it existed, the best means of mitigating it. In concluding their study, the committee could find no evidence of disloyalty among the Japanese Canadian population. In fact, the committee found them to be model citizens. They did, however, find that tensions between the white and Japanese Canadian communities were being stoked by individuals seeking political advantage.<sup>77</sup>

Prime Minister Mackenzie King was concerned enough about the possibility of subversion, however, that he decided to go ahead with a registration of the Japanese Canadian population of British Columbia.<sup>78</sup> Many in the community accepted this as being necessary to calm suspicions, receiving a pledge of cooperation from the Japanese Canadian Citizens League.

The RCMP registration ran from early March to the end of August 1941. There were no public notices or articles of any kind in the *Saanich Peninsula and Gulf Islands Review*. A five-man liaison committee established to work with the RCMP included, once again, Lieutenant-Colonel Sparling and F. J.

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75 Adachi, 189.

76 Special Committee on Orientals Report and Recommendations, December, 1940 (Ottawa: King's Printer, 1941), 12, as cited by Adachi, 189–190.

77 Adachi, 190–191.

78 J.W. Pickersgill, *The Mackenzie King Record: 1939–1944* (Toronto: University of Toronto Press, 1960), 151.

Mead, together with Mayor Fred Hume of New Westminster, Professor Henry Angus of the University of British Columbia, and Saltspring Member of the Legislative Assembly (MLA) Lieutenant-Colonel MacGregor MacIntosh. It was a volatile mix of people, as Angus was known to be sympathetic to the Japanese Canadians, while MacIntosh was virulently racist.<sup>79</sup>

Racism is expressed in many ways, and on Saltspring, in the years before World War II, it likely took subtle forms more often than the overt declarations of racist politicians. About three weeks before MacIntosh and Cunliffe spoke in Ganges on “the racial question,” the *Saanich Peninsula and Gulf Islands Review* ran a story at the top of its front page on the “pretty wedding” of Mary Kazuko Mikado and Peter Murakami at St. Paul’s Church in Ganges, complete with long, detailed descriptions of what the bride and bridesmaids wore for the occasion and the beautiful decorations in the house where the reception was held. Continued on the fifth page, it is a happy recounting of a joyous occasion. A man named J. N. Rogers offered his toast to the groom, and Captain Best<sup>80</sup> was also present, wishing “the newly married couple every happiness in their future life and also, on behalf of the Canadians present, expressed thanks for the invitation and reception, which they had been proud to accept.”<sup>81</sup> The article was full of warmth and genuine goodwill, yet the title, “Japanese Girl Pretty Bride at Ganges” and the reference to Best speaking on behalf of “Canadians” when it was likely that virtually everybody in the church was a Canadian citizen belies the divide that existed between ‘the Japanese’ and ‘the Canadians.’ In 1938, this divide wasn’t a gulf, but if a young woman like Mary Mikado who was born in Ganges could be described as a “Japanese girl” and a friend could stand up at her wedding and offer a toast on behalf of “the Canadians,” there is an apparent degree of separation.

More evidence of this divide was revealed in the following year in the social column for Saltspring in *The New Canadian*, the English-language newspaper for Japanese Canadians published in Vancouver. In a report on a whist (card game) drive that was run as a benefit for the completion of some public tennis courts, the ‘pioneer’ participation of Victor and Jimmy Okano, Luke, Phillip, Martha, Peter, and Mary Murakami, Gerald and Helen

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79 Adachi, 192.

80 Captain V.C. Best of Ganges is an intriguing figure who warrants more study. Kate Siemen’s website, *Witnessing Internment* <https://witnessinternment.wordpress.com/>, produced as a BA Honours thesis, is a rich source of information.

81 “Japanese Girl Pretty Bride at Ganges,” *Saanich Peninsula and Gulf Islands Review*, 14 December 1938, 1, 5.

Ito, and Dixie and Isabel Nakamura was favourably noted. "The local residents are very pleased to see the Nisei taking an active part, and sincerely hope that this is only a beginning."<sup>82</sup>

For the most part, the Japanese Canadian members of the community were rarely mentioned in the local newspaper, but they were not absent. In the social columns of the *Saanich Peninsula and Gulf Islands Review*, there was often news about the comings and goings of the people of the island, discussions of who was home to visit, bazaars, bake sales, church events, weddings, and so on. Japanese names occasionally appeared in this publication. I wondered, when the uprooting began in the early months of 1942, were there any expressions of solidarity or sympathy with the Japanese Canadian members of the community? Other than official notices regarding the 'evacuation' and vesting of property, the only hint of the impending uprooting from Saltspring comes in a little article about a Christian confirmation:

GANGES, April 8.— The Lord Bishop of the diocese made a special trip recently to Salt Spring for the purpose of confirming seven young Japanese, who may shortly be leaving the island. The candidates, who were presented for confirmation by Archdeacon G. H. Holmes, included Martha Murakami, Joan Mikado, Edward Numajiri, Paul Hirano, Douglas Mikado, Robert Mikado and George Murakami. The service took place at St. George's Church, Ganges, where the bishop in his very human address to the young candidates, referred to the difficult times through which they were passing.<sup>83</sup>

A small number of racists had shifted the agenda to make the removal of the entire Japanese Canadian population off the BC Coast necessary for the security of the country, despite assurances from the military and police authorities that these residents posed no threat at all. When the uprooting happened, it occurred without a peep of protest from the rest of the community.

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82 "Ganges Gleanings," *The New Canadian*, 15 February 1939, 5, accessed 21 January 2017, <http://newspapers.lib.sfu.ca/tnc-34752/page-5>. The writer was V.C. Best, likely the same Captain Best who spoke at the wedding the year before.

83 "Salt Spring Scene of Confirmation," *Saanich Peninsula and Gulf Islands Review*, 8 April 1942, 1.

## CHAPTER 3

*Incarceration in the Interior*

**J**APANESE CANADIANS on Saltspring Island and elsewhere on the coast came face to face with the ugly visage of aggressive racism in the late 1930s as Japan's imperial invasion of China in 1937 created fertile terrain for demonization. On Saltspring, the chief proponent for what would culminate as an attempt at ethnic cleansing was Lieutenant-Colonel Macgregor Macintosh, MLA for the island during part of the 1930s.<sup>84</sup> Macintosh was one of a number of influential BC politicians who led the drive to forcibly remove Japanese Canadians from the coast. These politicians were not unopposed in their effort, but they succeeded because Japanese Canadians had been thoroughly racialized as 'the Japanese'. In this chapter, I document how Japanese Canadians on Saltspring reacted to the

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84 Various capitalizations have been used in the spelling of Macintosh's name, for example 'Macgregor' and 'MacGregor' and 'Macintosh' and 'MacIntosh'. Newspaper spellings of the day seemed to prefer 'Macgregor Macintosh' so that is what I have used.

resurgence of racism in the 1930s, the events leading up to the decision to uproot them from their homes, and the initial dispossession of their properties.

## Macgregor Macintosh

Lieutenant-Colonel Macgregor Fullarton Macintosh was the Conservative MLA for the provincial riding of The Islands. (In 1941, the area was redistributed into the new Nanaimo and the Islands riding.) His racist attitudes toward Asians were well known to his constituents, but this was apparently not a barrier to success at the ballot box. He was first elected in a by-election in 1931, the only nominee when the seat was vacated in 1930 after C. W. Peck resigned to accept an appointment to the Canada Pension Tribunal.<sup>85</sup> Though Peck chose not to run again in 1933,<sup>86</sup> Macintosh was not re-elected. Macintosh was elected a second time in 1937 with 45% of the vote, beating out his nearest rival, Liberal Alexander McDonald, who only received 33%.<sup>87</sup>

Macintosh was a veteran of the First World War and a Saltspringer who lived on a farm on Weston Lake in the south end of the island. He lost an arm in the war, and the Nikkei islanders referred to him as *teinashi*, or 'armless'.<sup>88</sup> In 1931, he founded the local branch of the Canadian Legion,<sup>89</sup> and a decade later on 2 July 1941, by then a colonel, he was re-elected president of that organization, serving together with fellow officer Gavin Mouat. At the outbreak of the European war in 1939, Macintosh rejoined his old regiment Princess Patricia's Canadian Light Infantry and took command of the Canadian Small Arms Training Centre for Western Canada in Lethbridge. After being promoted to Lieutenant-Colonel in October 1940, he retired from the army in May 1941 because of ill health. He ran in the

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85 Elections British Columbia, *Elections British Columbia Electoral History of British Columbia 1871-1986* (Victoria: Elections British Columbia and the Legislative Library, 1988), 171, [http://elections.bc.ca/docs/rpt/1871-1986\\_ElectoralHistoryofBC.pdf](http://elections.bc.ca/docs/rpt/1871-1986_ElectoralHistoryofBC.pdf).

86 Interestingly, though Macintosh was virulently anti-Japanese and wanted to deport all Japanese Canadians to Japan, he strongly supported giving the franchise to Japanese Canadian veterans of WWI. When he sat as an MLA in 1931, in the legislature he praised 'unusual bravery' of the Japanese Canadian soldiers and said that granting them the right to vote would be "a gracious act of recognition for men who fought under the British flag." As quoted in Adachi, 155.

87 Elections British Columbia, *Electoral History of British Columbia 1871-1986*, 186, [http://elections.bc.ca/docs/rpt/1871-1986\\_ElectoralHistoryofBC.pdf](http://elections.bc.ca/docs/rpt/1871-1986_ElectoralHistoryofBC.pdf).

88 Rose Murakami, telephone conversation with author, 16 March 2015.

89 From the *Farr: Fernwood Area*, Book Project, Salt Spring Archive website, accessed 15 March 2015, <http://saltspringarchives.com/publications/BookProject.pdf>.

provincial election of October 1941 in the newly formed riding of Saanich, but narrowly lost to the Liberal candidate, Norman Whittaker.

In the late 1930s, Macintosh was publicly advocating for the expulsion of all Japanese Canadians, saying that they never could become “white Britishers, white Canadians.”<sup>90</sup> As an important organizer for the provincial Conservative Party, his statements were reported in newspapers *Salt Spring: The Story of an Island* as far away as Prince George.<sup>91</sup> On the evening of 27 January 1938, Macintosh addressed a public meeting in Mahon Hall in Ganges (the largest town on Saltspring) with 150 citizens present. After discussing a number of political issues, he turned his attention to “the Japanese question,” a subject that was received with “great interest,” according to the news report on the story. It’s noteworthy that he was challenged in his views by a Captain Best:

Captain Macintosh’s references to the Japanese penetration of B.C. were received with great interest and the attitude of the Canadian-born Japanese was expressed in a written statement read by their spokesman, Captain V. C. Best. Captain Macintosh in reply said that he was not in any way actuated by personal animosity but that B.C. must answer now the question “Is this province to be for the white man or the Oriental?”<sup>92</sup>

The story was important enough to be at the top of the front page, and while the content of Best’s statement was not recorded, it’s clear that the Japanese Canadian Saltspringers had prepared for the meeting and that there were allies ready to stand up in public meetings and respond to expressions of racism. Near the end of the article, the author noted that Macintosh spoke the following day to a well-attended meeting in Fulford, on the southern end of the island, at which, “[m]any questions were asked on the Japanese problem in B.C.”<sup>93</sup>

The meeting was covered by *The Daily Colonist*, which reported that on the ‘Oriental question,’ Macintosh “stated he had been severely scored for his speeches and criticism on this matter, but he said he spoke with no

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90 Patricia E. Roy, “Educating the ‘East’: British Columbia and the Oriental Question in the Interwar Years” *BC Studies* no. 18 (Summer 1973): 50, <https://doi.org/10.14288/bcs.v0i18.777>.

91 “Behind the Headlines at Ottawa” *Prince George Citizen*, 10 March 1938, 7.

92 “Japanese Question to the Fore,” *Saanich Peninsula & Gulf Islands Review*, 2 February 1938, 1.

93 Ibid.

animosity to the individual and his remarks were in no way influenced by present conditions in China."<sup>94</sup> Macintosh was not deterred despite being "severely scored" for his racist speeches.

The opposition referred to in the *Daily Colonist* article may have come from Dr. Raymond Rush, the island's doctor at the time. Rose Murakami cites her father's recollection that Dr. Rush stood up in the meeting to demand Macintosh come with him to see the Okano home and farm, Rose's maternal grandparents' place, to see how they lived.<sup>95</sup> Challenges to his racist views didn't, however, seem to dissuade Macintosh from airing them. A year later he would again be at Mahon Hall, joined by F. S. Cunliffe, federal Conservative candidate for the Nanaimo riding. Cunliffe "spoke of the difficulties to be contended with regarding the racial question, and mentioned places in Saskatchewan where the English language was not even known."<sup>96</sup> Given the low number of immigrants from Asia in Saskatchewan, perhaps Cunliffe's racism extended beyond the 'Oriental question'.

## The Decision to Uproot

In 1940, the federal government created the Standing Committee on Orientals to gather advice on matters related to Asian Canadians. The committee was composed of four British Columbians: Professor Henry F. Angus of the University of British Columbia; Assistant Commissioner Frederick J. Mead of the Royal Canadian Mounted Police; Lieutenant-Colonel A. W. Sparling of the Department of National Defence; and Mayor F. J. Hume of New Westminster. Lieutenant-Colonel Macgregor Macintosh joined the committee on 7 January 1941.

A separate Special Committee on Orientals was formed in 1940 to look into the enlistment of Asian Canadians, with Keenleyside, Mead, Sparling from the Standing Committee, plus Dr. George Sansom, a professor of Asian Studies at Columbia University. All were strongly in support of allowing Asian Canadians to enlist, with the exception of Sparling, who, judging from a statement made later in the war, believed that having them

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94 "Islands Member Heard at Ganges," *The Daily Colonist* 1 February 1938, 16, <http://ia802703.us.archive.org/28/items/dailycolonisto238uvic/dailycolonisto238uvic.pdf>.

95 Rose Murakami, *Ganbaru*, (Ganges: Japanese Garden Society of Salt Spring Island, 2005), 13.

96 "Market Act and Oriental Discussed," *Saanich Peninsula and Gulf Islands Review*, 18 January 1939, 1.

serve alongside white soldiers might lead to racial incidents in the armed forces. Sparling's view prevailed and Japanese Canadians were not allowed to enlist.<sup>97</sup> This was a big disappointment to Japanese Canadians, who were eager to demonstrate their loyalty, which stood in sharp contrast to what happened in the United States, where Japanese Americans who served in Europe were later widely praised for their exceptional bravery.

Immediately after the attack on Pearl Harbor, there was a sharp surge in racial tensions in British Columbia. There were no riots on Saltspring, but there *were* strong expressions of anti-Japanese sentiment. Alice, the oldest of the Murakami family's children, who was 13 at the time, was abused by her teachers in front of her classmates. Some of the students from her school threw stones at her on her way to and from school. When her mother Kimiko was shopping, members of her church congregation, who she previously had considered friends, loudly whispered about 'those Japs' in her presence.<sup>98</sup>

With the upsurge in anti-Japanese Canadian racism, muscular colonialists such as Macintosh used the situation to their advantage. On 8–9 January 1942 a conference was convened in Ottawa of the Standing Committee on Orientals in British Columbia to discuss the 'Japanese Problem in British Columbia'. This meeting laid the groundwork for the uprooting of Japanese Canadians that shortly followed. Twenty-five people attended, all of them high-ranking members of the government, military, and police, and most of them either current or past residents of BC. The conference was chaired by the strongly anti-Japanese Ian Mackenzie, Minister of Pensions and National Health and included Lieutenant-Colonel Macgregor Macintosh. Mackenzie and Macintosh, along with R. L. Maitland, BC Conservative Leader, and George Pearson, BC Minister of Labour, led the charge for uprooting, using the threat of riots to make their point. The group also included others who were sympathetic to Japanese Canadians like H. F. Angus, Special Assistant to the Under Secretary of State for External Affairs, and H. L. Keenleyside, Under Secretary of State for External Affairs.<sup>99</sup>

The minutes of the conference highlight the tension that existed between some British Columbians who wanted the wholesale removal of Japanese Canadians and others who did not, or who had a more restrained view.

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97 Sunahara, 11.

98 Murakami, 15–16.

99 LAC, Standing Committee on Orientals, Minutes from the "Conference on the Japanese Problem in British Columbia," 8–9 January 1942, LAC RG117 vol. 0001 File 2 Part 3.

Many British Columbians in the group did not accept the assurances of the military and police that the Japanese Canadians posed no threat, while maintaining that the bigger concern was the safety of the Japanese Canadians themselves:

The people of British Columbia were definitely alarmed by the Japanese menace. There is grave danger that the anti-Japanese riots may break out and that it will be necessary to call out the troops to defend Japanese residents from attack by other Canadians.<sup>100</sup>

It seems unlikely that people like Mackenzie and Macintosh who had been calling for the removal of Japanese Canadians from Canada since long before Pearl Harbor were terribly worried about the need to protect them. Their view was countered by members of the conference from Ottawa, including Mr. Couper from the Department of Labour who noted “the impending labour shortage in Canada and argued that racial discrimination was not only unjust but inefficient, and thus affected detrimentally Canada’s war effort.”<sup>101</sup>

There was considerable discussion at the conference about the impact that Canada’s treatment of Japanese Canadians would have on Japan’s treatment of Canadian prisoners of war captured in Hong Kong. Hugh Keenleyside from External Affairs pointed out Japan would likely retaliate in kind if it believed Japanese Canadians were being mistreated, and if the Canadian government were to decide on the wholesale internment of Japanese Canadians the action would likely be opposed by the British (UK) government, which was concerned about the fate of captured British nationals. Keenleyside’s view is interesting in a number of respects: the wholesale internment of Japanese Canadians was already being contemplated; they understood that such an action could be considered mistreatment; and the Canadian government considered the views of the UK government, but later decided to align with the American policy of wholesale internment.<sup>102</sup>

The conference concluded with an agreement to drop the proposal that had been discussed to “remove all persons of Japanese racial origin from the

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100 LAC, Standing Committee, 6.

101 Ibid, 6.

102 Ibid, 7.

Pacific coast," but to proceed with the removal of all adult male Japanese nationals. In demanding the latter, the representatives from BC

emphasized that in their opinion it was the minimum necessary to satisfy the people of British Columbia and prevent riots and it was pointed out that the assurances of the Armed Forces and of the Royal Canadian Mounted Police did not extend to denying dangers of anti-Japanese rioting.<sup>103</sup>

In their efforts to remove Japanese Canadians from the coast, racist BC politicians consistently used the threat of rioting as a justification for their position. Was there a possibility of anti-Japanese rioting? Certainly there was a historical precedent for it given the 1907 riots in Vancouver, and there were expressions of anti-Japanese sentiment in the month following Pearl Harbor, but responses to the attack fell well short of hysteria.

Several weeks after the attack on Pearl Harbor discussion about the formation of a Home Guard militia appeared in the *Saanich Peninsula and Gulf Islands Review*, which led to the establishment of the Gulf Islands Rangers at the beginning of April by Macgregor Macintosh (with its office on the premises of Salt Spring Lands, the real estate firm owned by Gavin Mouat).<sup>104</sup>

The first racist caricatures of the Japanese enemy didn't appear in the local newspaper until two and a half months after Pearl Harbor.<sup>105</sup> If the people of British Columbia were alarmed at the 'Japanese menace,' as the BC members of the committee maintained, they were mostly channelling their fear into the creation of militias and organizing blackouts in case of air raids.

About a week after the Ottawa conference on 8–9 January 1942 organized by Ian Mackenzie, as a compromise with BC politicians demanding action, the government announced on 14 January that all male Japanese nationals between the ages of 18 and 45 would be removed from the coast by 1 April 1942.<sup>106</sup> Under this "partial evacuation," on 17 March,<sup>107</sup> five men were taken from Saltspring by the RCMP (including one who was

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103 LAC, Standing Committee, 8.

104 "Gulf Islands Rangers' Auxiliary Defence Corps Being Formed," *Saanich Peninsula and Gulf Islands Review*, 1 April 1942, 1.

105 "Stop this Menace," ad for Victory Bonds, *Saanich Peninsula and Gulf Islands Review*, 25 February 1942, 3.

106 Adachi, 208.

107 Murakami, 17.

much older than 45) and sent to the Yellowhead Prison Camp: Katsuyori Murakami, 43; Masakichi Inouye, 61; Michio Inouye, 22; Masayoshi Murakami, 30; and Umeo Luke Murakami, 27.<sup>108</sup>

Many years later, Rose Murakami recalled the bitter memory of her father, Katsuyori, being taken away in the back of a pickup truck by the RCMP. Before leaving, he had his children line up, patted them on the head, and made them promise to be good kids and do everything their mother asked. He had undergone an appendectomy not long before and walked slowly to the truck to leave, too slowly for the RCMP officer who shoved him, causing him to fall down. Painfully picking himself up, he climbed aboard the back of the truck. As the family watched their father leave, the truck jerked forward and he fell again—a painful departure made excruciating by the insensitivity of the police officer.<sup>109</sup> Katsuyori was a Japanese national, having been born in Japan and never naturalized, but his wife Kimiko, although born in Steveston, was also considered a Japanese national because she was married to one.<sup>110</sup>

What was not envisioned when the partial evacuation was first planned was the enormous anxiety and hardship that resulted when families were broken up. On Saltspring, after her husband Katsuyori was taken away, Kimiko Murakami was left to manage the family farm on her own, with five children between the ages of one and thirteen.<sup>111</sup> The separation of families became a major point of contention that prompted resistance by Japanese Canadians to the ‘evacuation’ from the coast.

On 16 January 1942, several days after the ‘partial evacuation’ was announced, Order-in-Council P.C. 365 was enacted to authorize the creation of a ‘protected area’ from which enemy aliens could be removed, later defined as the area along the BC coast to 100 miles inland.<sup>112</sup> The federal

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108 Recollection of Mary Kitagawa as documented in notes in the Salt Spring Japanese Garden Society Archive.

109 Story told by Rose Murakami in a discussion following a talk given by Brian Smallshaw to the Salt Spring Japanese Garden Society, 18 February 2016, and notes from a conversation with Rose Murakami by Brenda Guiled, 12 April 2012.

110 Murakami, 14. There is some doubt as to why Kimiko was considered a Japanese national since she had been born in Canada. The Murakamis believe it was because her husband Katsuyori was a Japanese national, but it may have been because she had left Canada and been out of the country for an extended period. More research is required on this.

111 Murakami, 17. A similar number of Japanese Canadians were earlier taken from Mayne Island, as reported in the 22 April issue of the *Saanich Peninsula and Gulf Islands Review*, 14 or 21 April 1942, 5.

112 See Appendix 2.

government was under pressure from anti-Japanese groups in BC who wanted all Japanese Canadians removed from the coast. Although Premier Hart of BC was satisfied with the 'partial evacuation' that had been carried out, other groups and individuals sought a stronger response. Macgregor Macintosh, no longer an MLA but still very active in the Conservative Party, took every opportunity to urge the federal government to remove "all Japanese of all ages" from the coast, saying that their presence was one of the "worst menaces" that BC faced.<sup>113</sup> Thomas Reid, Liberal Member of Parliament from New Westminster, was calling for all Japanese Canadians to be "deported." The municipal governments of Vancouver and Victoria, and groups such as the Canadian Legion and the Imperial Order Daughters of the Empire wanted them removed from the coast, and no distinctions were made between Canadian-born and naturalized Japanese Canadians. After the 'protected area' was announced, groups in the BC interior protested that they didn't want them there.<sup>114</sup>

Japanese Canadian fishermen had their boats confiscated immediately after Pearl Harbor, and, having experienced how badly that was handled and the ham-fisted 'partial evacuation' of adult males, Japanese Canadians were not inclined to leave the protected area without assurances that their property would be protected. The federal government was reluctant to uproot Japanese Canadians; Prime Minister Mackenzie King initially thought it would be a "very great problem to move the Japanese and particularly to deal with the ones who are naturalized citizens or Canadian-born."<sup>115</sup> King feared attacks on Japanese Canadians over news of Japanese atrocities in Asia and harsh treatment of Canadian prisoners of war captured in Hong Kong, but finally caved to pressure from racist politicians, municipal governments, and other groups in BC who were demanding the complete removal of all Japanese Canadians from the coast. As Adachi noted, when Prime Minister King finally decided that Japanese Canadian civil liberties would be suspended and they would be moved out of the protected area, an act of evil replaced the threat of evil.<sup>116</sup>

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113 "The Scoreboard," *The New Canadian*, 13 February 1942, p1, accessed 20 January 2017, <http://newspapers.lib.sfu.ca/tnc-33356/page-1>

114 Adachi, 211–213.

115 Adachi, citing J.W. Pikersgill, *The Mackenzie King Record: 1939–1944* (Toronto: University of Toronto Press, 1960), 354.

116 Adachi, 211.

On 24 February 1942, the Privy Council enacted Order-in-Council P.C. 1486<sup>117</sup> empowering the Minister of Justice to remove “any and all persons” deemed a threat to national security from the previously designated ‘protected area’ along the coast. Although the drafted order was unspecific, it would only be applied to Japanese Canadians.<sup>118</sup> On 26 February the Minister of Justice, Louis St. Laurent, issued an order requiring all “persons of the Japanese race,” men, women, and children, to leave the protected area “forthwith.” Katsuyori, still on Saltspring at the time, was gravely concerned about what would happen, and, as events transpired, he was right to be worried.

A week later, a notice appeared in the local newspaper addressed to “Persons of the Japanese Race,” advising them that under Order-in-Council P.C. 1665 they were required to vest with the Custodian whatever property they would be unable to take with them when they were removed from the coast. Rather than waiting for the ‘evacuation,’ they were advised to report their property immediately so that the Custodian could “take prompt action to protect and administer the same.” The notice was signed by Glenn W. McPherson, Deputy Custodian, and dated 11 March 1942.<sup>119</sup>

While some Japanese Canadians feared the worst, that the government was confiscating their land, most were more optimistic. The operative portion of Order-in-Council P.C. 1665 began with the phrase, “As a protective measure only,”<sup>120</sup> leading many of those who vested their property to hope that it would be held in trust for them for the duration of their internment and until their return to the island.

At this point, the second key figure in the uprooting and dispossession of Saltspringers appears on the scene. Gavin C. Mouat, a member of a prominent family with a long history on the island (that continues to the present), was appointed the Custodian’s agent for the Gulf Islands because he was a director of Salt Spring Lands Ltd., a real estate firm that dated from the 1920s, in which he held a 20% equity stake during the years of World War II.

Prior to the uprooting, Mouat had a good relationship with the Japanese Canadian community on the island. In 1939, Mouat was very involved in a community effort to build a new school on the island, an institution that

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117 See Appendix 3.

118 Sunahara, 37.

119 “Notice to Persons of the Japanese Race,” *Saanich Peninsula and Gulf Islands Review*, 18 March 1942, 2.

120 See Appendix 4.

would come to be known as the Consolidated School because it brought together, under one roof, a number of smaller schools. Mouat donated the land where it would be built, and he actively canvassed his fellow islanders to make cash donations to the project.<sup>121</sup> A short article in the newspaper recorded the results of his solicitations in the previous week and Japanese Canadian members of the community responded generously. They made up more than half of the list, and he received \$25 donations from the Itos, the three different Murakami families, the Okanos, the Mikados, the Numajiris, and the Iwasakis.<sup>122</sup>

## Saltspringers Uprooted

As directed by the agent of the Custodian, Japanese Canadian Saltspringers were ordered to sell off their livestock, leave their crops as they were, and prepare to be ‘evacuated,’—a term used for the forced removal of Japanese Canadians from the island. For Kimiko Murakami, this meant selling off approximately 5,000 chickens from the family farm on Sharp Road—the abrupt end of a thriving business that had been painstakingly built up over many years.<sup>123</sup>

The impact of Orders-in-Council 1486124 and 1665125 were devastating and meant that all Japanese Canadians on the island were to be uprooted and their property confiscated, as shown in Table 3.1.<sup>126</sup> Families who owned property are indicated by a grey background, and the property number corresponds to the numbers on the map (Figure 3.1), and to the Key to Vested Properties which follows that.

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121 “The Board of School Trustees of Salt Spring United,” *Saanich Peninsula and Gulf Islands Review*, 28 June 1939, 2.

122 “Additional Donations for School,” *Saanich Peninsula and Gulf Islands Review*, 19 July 1939, 1.

123 Murakami, 20.

124 See Appendix 3.

125 See Appendix 4.

126 Several people listed in the table, indicated by an asterisk before their names, were not among the detainees, but I have included them because there is some utility in having a list of families that is as complete as possible.

Table 3.1 Japanese Canadians Uprooted from Saltspring Island

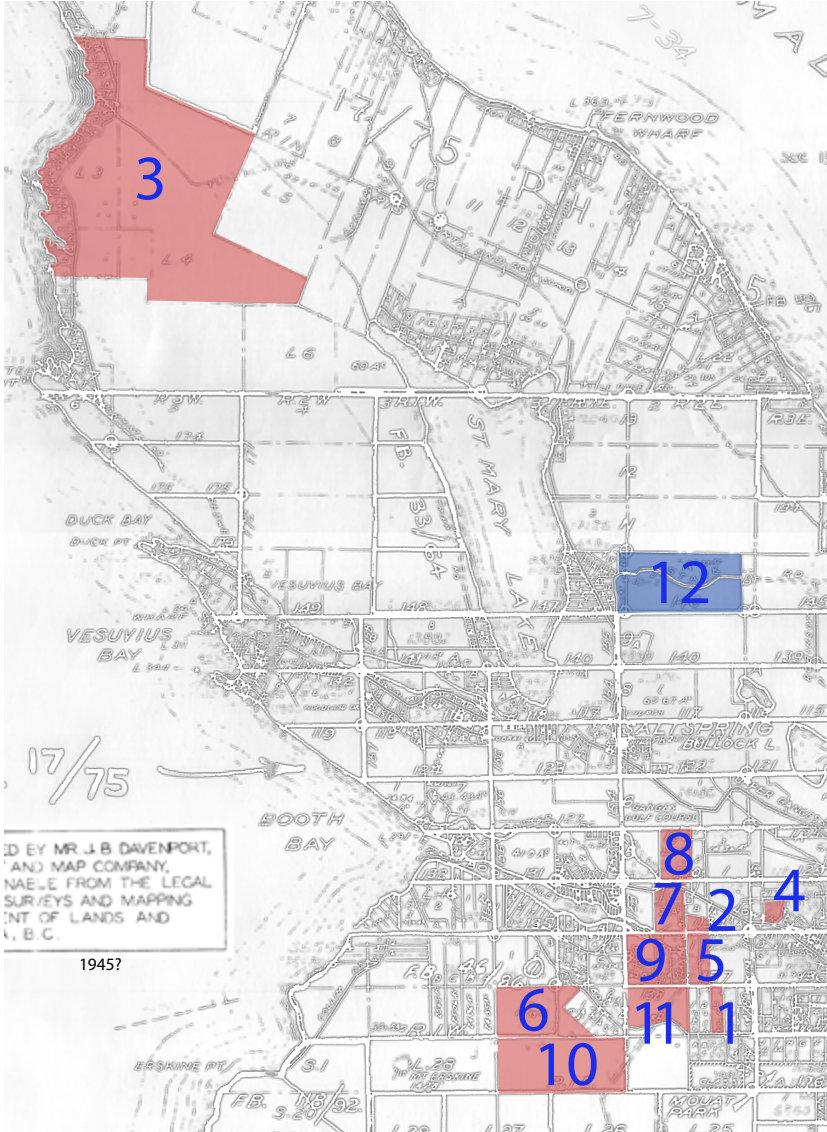
Family Name, Given Name	Born, Birth Date, Immigration/ Naturalization/Citizenship
Ando, Chiyo	Japan, immigrated 1903 lived on Okano K. property
Hirano, Sugimatsu (Noah)	Fukuoka 1872, d. Toronto ON 1949
Hirano, Komae	Fukuoka ?, d. Toronto ON ?
Hirano, Yoriko (Ruth)	Prince Rupert BC 1923
Hirano, Tsuyoshi (Paul)	Prince Rupert BC ?, d. Toronto ON
two other grown children	living in Vancouver
<b><u>PROPERTY 1</u></b>	
Inouye, Masakichi	Kagoshima 1881, d. New Denver BC, Japanese national
Inouye, Ei	Kagoshima 1886, d. Glenwood AB
Inouye, Michio (Ron)	Japan 1920, Japanese national
Inouye, Takashi	Japan 1927
Inouye, Tamiko	Chemainus BC 1929
Inouye, Teruko	Chemainus BC 1931
Inouye, Kinuko	Chemainus BC 1933
Ishijima, Magoe	Japan 1865, naturalized 1915, d. Vernon BC 15 May 1958
<b><u>PROPERTY 2</u></b>	
Ito, Nakazo	Japan 1877, immigrated/naturalized 1907, d. Vernon BC 1946
Ito, Hatsue	b. Japan 1884, d. Ganges 1928
Ito, Haruko	Ganges 1914
Ito, Masao	1918, d. 1938 Vancouver BC
Ito, Kazumi (Jerry)	Ganges 1919
Ito, Eichi (Ken)	Ganges 1921
Ito, Kawano (Grace)	Okanagan 1921
* Ito, Sueko	Mission BC 1924, d. Ganges 1925

Family Name, Given Name	Born, Birth Date, Immigration/ Naturalization/Citizenship
<b><u>PROPERTY 3</u></b>	
Iwasaki, Torazo	Japan 1880, immigrated/naturalized 1907, d. Vancouver 1972
Iwasaki, Fuku	Japan, immigrated 1918 - British Consular Certificate, d. Thunder Bay ON 1974
Iwasaki, Hideko (Eileen)	Victoria 1919
Iwasaki, Mitsuko	Ganges 1921
Iwasaki, Setsuko (Iris)	Ganges 1925
Iwasaki, Tsuruko (Sherry)	Ganges 1930
Iwasaki, Torao (Ray)	Ganges 1933
<b><u>PROPERTY 4</u></b>	
Mikado, Masukichi	Hiroshima 1886, immigrated 1924, d. Magrath AB 1955
Mikado, Tsutayo	Hiroshima 1898, Admitted as 'returned' Canadian 30 January 1928, d. Magrath AB 1996
* Mikado, Masayo Okada	Ganges d. Japan 1927
Mikado, Masuo (Mano) (Mark)	Ganges 1917, d. 1 January 2003
Mikado, Shigeiko (Martha)	later attached to property 7
Mikado, Kazuko (Mary)	Ganges 1 October 1921
Mikado, Kuniko	Ganges 3 December 1923, d. Lethbridge AB 1944
Mikado, Haruichi (Doug)	Ganges 14 April 1925
Mikado, Shujoso (Shoso) (Bob)	Ganges 19 April 1928
Mikado, Isamu (Sam)	Ganges 12 March 1931
<b><u>PROPERTY 5</u></b>	
Murakami, Katsuyori	Japan, 1899 naturalized 1948, d. Saltspring 1988
Murakami, Kimiko (Okano)	Steveston 1904 (Japanese citizenship), d. Saltspring 1997
Murakami, Atsuko (Alice)	Ganges 1928
Murakami, Taeko (Violet)	Ganges 1930
Murakami, Keiko (Mary)	Ganges 1934
Murakami, Takako (Rose)	Ganges 1937
Murakami, Katsuhide (Richard)	Ganges 1941
Murakami, Yorohide (Bruce)	New Denver, 1 Oct. 1944, d. November 2009 Langley

Family Name, Given Name	Born, Birth Date, Immigration/ Naturalization/Citizenship
<b><u>PROPERTY 6</u></b>	
Okano, Masayoshi (Victor)	Japan 1912, immigrated 1922, d. Moose Jaw SK
<b><u>PROPERTY 7</u></b>	
Murakami, Morihei	Hiroshima, immigrated 1931, d. Coaldale AB 1977
Murakami, Sukino (Okano)	Hiroshima, immigrated 1931, d. Coaldale AB 1976
Murakami, Yumeo (Luke)	Japan 1915, immigrated 1931, d. Margrath AB
Murakami, Shigeko	Ganges 1919
Murakami, Katsunori (George)	Ganges 1925
Murakami, Phillip	
Murakami, John (Philip's son)	Ganges 1940
Mikado, Shigeko (Martha)	Ganges 22 August 1919
<b><u>PROPERTY 8</u></b>	
Murakami, Tsunetaro	Japan, naturalized 1914
Murakami, Tameo	Steveston, 1910
Murakami, Peter	
* Murakami, ?	in Rose Murakami's recollection - d. by suicide in ocean?
Nakamura, Taki (Mrs., moved to Victoria?)	Japan, immigrated 1908
Nakamura, Shigeru	Port Hammond BC 1910
Nakamura, Makiyo	Kennedy BC 1920
Nakamura, Suekichi	Strawberry Hill BC 1922
Nakamura, Shichiro	Ganges 1923
Nakamura, Tomiko	Ganges 1927
Nakamura, Haruko	Ganges 1929
Numajiri, Hikotaro (Yoshi)	Japan, naturalized 1909
Numajiri, Shizuko	Japan, wife of naturalized citizen
Numajiri, Sachi	Ganges 1915
Numajiri, Ichiro	Ganges 1918
Numajiri, Kanako	Ganges 1921
Numajiri, Kaoru	Ganges 1925, lived on Okano K. property
Ohara, Sajiro	Japan 1885, naturalized d. Lemon Creek BC 1942
Ohara, Tsuyu	Japan 1900, d. Burnaby BC 1989
Ohara, Emiko	Steveston 1921

<b>Family Name, Given Name</b>	<b>Born, Birth Date, Immigration/ Naturalization/Citizenship</b>
Ohara, Ayako	Chemainus 1924, d. Midway BC 1996
Yamasaki, Takeo	Steveston 1911
Ohara, Hiroshi	Duncan 1926, d. Duck Bay, Manitoba 1962
Ohara, Mariko (Rose)	Steveston 1928, d. Vancouver 1955
Ohara, Kazuyo (Mary)	Galiano BC 1929
Ohara, Iwami	Cowachin 1931, d. Burnaby 2001
Ohara, Minoru	Cowachin 1932
<b><u>PROPERTY 9, PROPERTY 10</u></b>	
Okano, Kumanosuke (Victor)	Japan 1872, immigrated/naturalized 1900, d. Cardston AB 1949
Okano, Evelyn	wife of Victor
Okano, Riyo (Kimura)	Japan 1879, immigrated 1902, naturalized 1903, d. Saltspring 1957
Okano, Sayoko	Ganges 1906 (died 1939)
Okano, Masatoshi	Steveston 1916
<b><u>PROPERTY 11</u></b>	
Okano, Sueyuki (James, Jim)	Ganges 1922, d. Langley BC 1989
Okano, Moritaro (Billy)	Japan 1889 naturalized, d. Vancouver 1967 - Okano Kumanosuke's nephew, returned to Saltspring after fishing boats confiscated
Tottori, Katsutarō	Japan 1870, naturalized 1909, d. New Denver BC
Takebe, Etsujiro	Japan 1874, naturalized 1908, d. Ganges 24 Oct 1951

It should be noted that Murakami is a common family name in Japan and that the several<sup>1</sup> Murakami families on the island were not related. Compiled based on information from the RCMP Report to the Immigration Act Board of Review of 1938, the memories of the Murakami family (Rose Murakami, Keiko Mary Kitagawa [Murakami]), and information collected by Charles Kahn for his book, *Salt Spring: The Story of an Island*<sup>1</sup>.



**Figure 3.1** Vested Properties on Salt Spring Island, 1942–1945. Compiled by Jay Thomas with assistance from Dan Arnold, Joni Devlin, and Caffyn Kelley for the Salt Spring Japanese Garden Society, March 2006; corrections and additions by Brian Smallshaw.

Table 3.2 Key to Vested Properties

No.	Owner	Legal Description		Sold To	Sale Price
1	Masakichi Inouye	Lot 3, Sec. 2, Range 2E, North SSI, Cowichan Dist. Plan 2495	9.74	Joseph M. Ford March, 1945	\$1,550.00
2	Nakazo Ito	Lot 1, Sec. 4, Range 2E North SSI, Cowichan Dist. Plan 3769.	5	VLA, 1944	\$969.00
3	Torazo Iwasaki	Lots 3 & 4, North SSI, Cowichan Dist., Incl. Parcel "A", except that part of 4 lying S of S boundary of 3 and its production east to intersection with "A".	598.85	S.S. Lands Ltd. March, 1945	\$5,250.00
4	Masukichi Mikado	Amended Parcel "G" of Sec. 4, Range 3E, North SSI Cowichan Dist.	5.76	VLA, 1944	\$1,544.00
5	Katsuyori Murakami	Lot 1, Sec. 3 Range 2E, Plan 3912, and part of east 1/2 of Sec. 3, Range 2E, Plan 246R, North SSI Cowichan Dist.	17.04	VLA, 1944	\$1,284.00
6	Masayoshi Murakami	Lot 2, Sec. 2, Range 1E, North SSI, Cowichan Dist. Plan 4329.	65.89	Fred Orr, 1945	\$300.00

7	Morihei Murakami	Part of E 1/2 of W 1/2 of Sec. 4, Range 2E, North SSI Cowichan Dist. lying to S of public road, except east 25 ft. thereof.	21	VLA	\$2,342.00
8	Tsunetaro Murakami	Lot C of Sec. 4 and 5, Range 2E, North SSI Cowichan Dist., Plan 2183. 25 ac. and Lot 2 of Sec. 4, North SSI, Cowichan Dist. Plan 3805, 1.77 ac.	26.8	VLA	\$988 Lot C \$174.00 Lot 2
9	Kumanosuke Okano	W 1/2 of Sec.3, Range 2E, (except E 25') and the N. 20' of Sec. 3, Range 1E lying east of public road, Plan 2143.	About 49.32	VLA, 1944	\$2,926.00
10	Kumanosuke Okano	Sec. 1, Range 1E, North SSI, Cowichan Dist.	100	VLA, 1944	\$245.00
11	Sueyuki Okano	Part of W 1/2 of Sec.2, Range 2E, North SSI, Cowichan	38.7	VLA, 1944	\$189.00
12	Miles Acheson	Pt. Sec. 10, R E, Plan 438-R and parcel A, Sec. 10, R2E, NSSI,	105.88	returned to owner	

Compiled by Jay Thomas with assistance from Dan Arnold, Joni Devlin, and Caffyn Kelley for the Salt Spring Japanese Garden Society, March 2006. Corrected and updated by Brian Smallshaw.

Twelve properties on Saltspring were vested with the Custodian of Enemy Property, eleven of which belonged to Japanese Canadians. The twelfth belonged to Miles Acheson who, despite being a Canadian citizen, was regarded as an enemy alien because he was resident in Japanese-controlled China at the time. Miles and his wife Hilda de Vere Beauclerk were English aristocrats who had moved to Saltspring during the 1930s. At the beginning of the Pacific War, Miles was working in Shanghai with the Chinese Maritime Customs Service, the agency responsible for overseeing

foreign trade in China. His wife joined him in September 1941, leaving their two daughters on Saltspring in the care of a nanny. When Shanghai was taken over by Japanese forces, the Achesons were trapped in China, unable to return to Canada. As residents of Japanese-occupied China, their property was vested with the Custodian, but unlike Japanese Canadian-owned properties, their land was carefully looked after for the duration of the war and not liquidated with the Japanese Canadian properties. After they arrived back in Canada in November 1945, their property was returned to them, highlighting the racism that underpinned the liquidation of Japanese Canadian property.<sup>127</sup>

The months of March and April 1942 were hell for Japanese Canadians on Saltspring. By this point, Canada had been at war for two and a half years, but the mood on the West Coast had shifted dramatically after Pearl Harbor—the war no longer felt so distant. Despite assurances from military authorities that no serious danger existed, many people succumbed to scaremongering and believed Japan was a genuine threat. For some, the shock of the attack shifted them from a mildly negative view of Japanese Canadians to open hostility.

On Saltspring, the newly formed Air Raid Precautions (Civilian Protection) group held its first meeting in Ganges on 11 March 1942. Gavin Mouat spoke on the need for preparedness and cooperation, and Macgregor Macintosh, also in attendance, spoke of the “Home Guard and his interest in military offensive.”<sup>128</sup>

On 17 March 1942, males without Canadian citizenship were taken away to do road work in the detention camps of the interior. Several weeks later, on 8 April, the grim mood of those who remained was revealed in a small notice in the newspaper about a hastily organized Christian confirmation service that was held for some young members of the Japanese Canadian community referred to in the previous chapter. It was attended by Mr. and Mrs. V. C. Best, H. W. Bullock (Harry Bullock, the ‘Squire of Saltspring’), and other prominent islanders.<sup>129</sup>

Finally, the order to leave came. On 22 April 1942, the Japanese Canadian population of Saltspring that had not already been taken from the island, about 80 individuals, were ordered to pack up what belongings they could

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127 LAC, Miles Malcolm Acheson, RG117-A-3, Vol. 2225, File 12177.

128 “A.R.P. Meeting Attended by Many Citizens,” *Saanich Peninsula and Gulf Islands Review*, 11 March 1942, 1.

129 “Salt Spring Scene of Confirmation,” *Saanich Peninsula and Gulf Islands Review*, 8 April 1942, 1.

carry (150 pounds for adults, 75 pounds for children). Unsure of when or if they'd be able to return, they felt anxious about their property and worried over how it would be cared for in their absence. As they were preparing to leave, Gavin Mouat assured Kimiko, "Don't worry Kimi, not one chopstick will be moved."<sup>130</sup>



**Figure 3.2** Japanese Canadians Departing from Saltspring. Photo: Photographer unknown. Used with permission from the Salt Spring Island Archives.

Reflecting on this now, three-quarters of a century after the event, it is difficult to gauge the reaction of the white residents of the island to the uprooting, but there are some clues. There are two photographs of the event in the archive. The photographer is unknown, but the fact that photographs were taken suggests that, in some minds at least, the event was important enough to record. Figure 3.2 shows white residents of the island standing on the wharf—whether they were there to see them off or were just watching out of curiosity we have no way of knowing, but one white resident who was there recalled the event with sadness. Manson Toynbee, nephew of Gavin Mouat, said he was upset at “the expulsion ... of the Japanese.” In an audio recording of an interview, which occurred years later, he remembered the community-mindedness of the Japanese Canadians on the island and their support for island projects such as the construction of a new school. His best friend throughout his elementary school years was

<sup>130</sup> Murakami, 26.

Shoso Mikado, and he was dismayed when the boat came to take away the Japanese Canadians. He was on the wharf at Ganges with his father and was saddened that there weren't a lot of other people around, but explained the small numbers by saying, "A lot of people were torn by this. They were afraid they might break down, some of them, if they were present."<sup>131</sup>

Like the story of Mary Mikado's wedding, Toynbee's remembrances reveal a great deal about the racialization of Japanese Canadians and how racism operates. There's no reason to doubt that Toynbee had genuine affection and respect for the Japanese Canadian members of his community and that one of them was his closest friend growing up. Yet, like everyone else on the island, he had thoroughly internalized the idea that they were 'the Japanese,' while he was not labelled a Shetlander, Scot, or white. Seeing his friends forcibly taken from the island caused him real anxiety—racism harms more than just the racialized—and, of course, as a young teenager he was powerless to challenge a racist state policy. In his recollection, people stayed away when the day of removal came because they were afraid of breaking down in public. This might have been true for some, but considering the Murakami children's remembrances of racial slurs and attacks in the months after Pearl Harbor, they might have also been concerned about publicly showing sympathy for a group of people who had become 'the enemy'.

The Japanese Canadian Saltspringers were not without friends and allies; why did nobody step forward, or even express some regret about what was happening? The many forms of racism are not uniform or consistent.<sup>132</sup> Some who stayed away likely welcomed their removal, while many more may have shrugged their shoulders and considered it one more thing that had to happen because of the war, like rationing, blackouts, and air raid drills. *Shikataganai*, 'it can't be helped,' was one of the responses of Japanese Canadians to the uprooting, but it was also how some members of the communities from which they were torn coped with the trauma. The 'authorities know best,' 'it's for their own protection,' 'it's only a temporary evacuation.' In this way racist state policy marched forward with little opposition.

The uprooted Japanese Canadians were then loaded aboard the *Princess Mary*, a ferry serving the islands, to be taken to the Hastings Park Detention Centre in Vancouver. They were forced to leave behind almost everything

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131 "Manson Toynbee's Childhood on SSI," audio recording of an interview with Manson Toynbee, date unknown, Salt Spring Island Archive, accessed 18 January 2017, [http://saltspringarchives.com/audio/114\\_Manson\\_Toynbee.html](http://saltspringarchives.com/audio/114_Manson_Toynbee.html)

132 Stanley, 7.

they had—farms, businesses, livelihoods, and friends. With the notable exception of the Murakami family, they would never return to live on Saltspring. The trauma of being forcibly removed from their beautiful island homes was exacerbated by the fact that they had little idea of what was to come. In Kimiko Murakami's case, she was distraught at the possibility that she might not be reunited with Katsuyori, still in detention at a road camp. When the boat stopped at Mayne Island, Torazo Iwasaki left the boat, declaring that his home and property were back on Saltspring and he was not going to leave them. His act of resistance contradicts the common notion that Japanese Canadians accepted injustice without protest. He was eventually coaxed back onto the boat, but it would not be his last effort to fight back against what was being done to him.<sup>133</sup> Of the removal of Japanese Canadians from Vancouver Island and the Gulf Islands, the BC Securities Commission, which managed the process, reported several days later, "No trouble of any kind was experienced and the Japanese people on the Island co-operated willingly and cheerfully in this enforced evacuation."<sup>134</sup>

There is no mention of the Saltspring uprooting in the *Saanich Peninsula and Gulf Islands Review*, but there was a short entry in the Mayne Island section of the 22 April 1942, issue that says, "The Japanese on the island are all gone, having left Tuesday by special boat to Vancouver. Their greenhouses are being run by Chinamen till the crop is out."<sup>135</sup> There was one other reference to the uprooting in the same issue that, although brief, revealed the attitudes of some of the people toward members of their community about to be taken away. In the Local Notes and Personals section for Saanich, one post read,

In honor of Miss Kinuko Baba, who leaves today (Wednesday) with the Japanese evacuating, for Vancouver, a surprise party was held by the young people of the Children's Church on Tuesday evening when a presentation of a cedar chest of writing paper was made as a farewell gift. An enjoyable evening was spent together.<sup>136</sup>

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133 Ibid, 20.

134 "1500 Total from Vancouver Is.," *The New Canadian*, 25 April 1942, 1.

135 "Local Notes and Personals," *Saanich Peninsula and Gulf Islands Review*, 22 April 1942, 2.

136 "Additional Donations for School," *Saanich Peninsula and Gulf Islands Review*, 19 July 1939, 1.

Young Kinuko had many friends in the community who were sad to see her go, but for them it was viewed as an 'evacuation,' a bit sad but not ill-intentioned, regrettable but just one more sacrifice that had to be made because of the war. Throughout the war, the uprooting was described as an 'evacuation,' a euphemism that papered over the wrenching dislocation of thousands of people from their homes, lives, farms, and businesses, and a surprisingly durable narrative that survives to the present.

After their removal to the Hastings Park Detention Centre in Vancouver, the Saltspringers were transported to internment camps in the Interior of British Columbia. They would remain there and in towns in Alberta until 1949, four years after the end of the war, when they were finally permitted to return to the coast. Some would choose to move further east, beyond the Rockies.

In many ways, the process of vesting the eleven properties that belonged to the Saltspring Japanese Canadians was no different than it was for the 939 farms<sup>137</sup> that were vested on the entire British Columbia Coast. The vast majority of the farms that were taken by the Custodian were in the Fraser Valley, and their administration would be managed directly from the Custodian's Vancouver office. By contrast, the farms of the Gulf Islands were less accessible to administrators, and, being so few, they were not given much attention by the Custodian's office, preoccupied as it was with trying to cope with the enormous job of suddenly having to manage a large number of properties and maintain food production for the war effort.

## **Gavin Mouat, Agent for the Custodian on Saltspring**

Mouat served as an agent for the Custodian throughout World War II, but between 20 March and 30 September 1942 he was also an employee of the Custodian's Vancouver office, receiving a total of \$1,269.60 in salary after tax deductions, a handsome fee considering that this was about the same as the price of one of the Ford cars offered by his family's dealership on the island. In his work, Mouat was tasked with renting out and managing the properties that had been vested with the Custodian. He was given a free hand to do this within a month after his employment by the Custodian's office.

Mouat was a busy man, involved in a variety of business ventures. His work of renting out and managing the Japanese Canadian properties for the Custodian's office was not a top priority, evidenced by the fact that only five of the eleven properties were rented out in 1942 and most of what was

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137 Sunahara, 90.

left behind on them was vandalized. Years later, after returning to Saltspring, the Murakamis were angered to find the personal property of Japanese Canadians being sold in garage sales, salt in a painful wound.

The extensive greenhouses on several of the Japanese Canadian farms near the end of Booth Inlet were smashed. Three-quarters of a century later, the current owners of the properties still cannot put their hands into the soil without wearing heavy gloves because of the broken glass. These properties were not situated in a remote part of the island. They were close to the town of Ganges, in the most densely populated area of Saltspring. Even if Gavin Mouat wasn't doing his job in looking after the vested properties, it's difficult to believe that nearby residents remained unaware of the destruction taking place.

An alternative explanation for the destruction of the greenhouses exists in the memory of at least one Saltspring resident at the time. According to Don Cunningham, in the absence of their owners and people fuelling the wood-burning stoves to keep the greenhouses warm in the winter, snow loads on their roofs caused panes to break.<sup>138</sup> It's difficult to judge the validity of this memory. While it may be true, and it's also possible that both memories are true, that snow loads broke some glass and vandals broke others; it's not hard to believe that this is part of a collective effort to bury negative memories of the past. The wanton destruction of the island's most impressive farming operation is a stain on the reputation of all Saltspringers who were not uprooted. The effort made to find a different way to remember the story reveals the lasting injury suffered by all of the island's residents. The racist policies of the uprooting harmed more than the Japanese Canadians.

On the large Iwasaki property on the north end of Saltspring, the buildings were vandalized and some of the logging equipment that had been left behind was stolen, while the rest was vandalized to the point of worthlessness. Mouat filed a list of chattels on the property with the Custodian's office in Vancouver on 7 October 1942, but, as was later revealed, officials in the Custodian's office were not pleased to learn that there was nothing left of value on the property and were not satisfied with the excuse that the property was in a remote location. In a letter to Mouat, R. G. Bell of the Custodian's office wrote,

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138 "Don Cunningham talks about the Old Days of Salt Spring Island. Part 3," accessed 2 February 2017, <https://vimeo.com/202494241>.

In reviewing this file we find that you wrote our Protection Department ... on the 28th May, 1945, reporting that the place (Iwasaki's property) was in a "terrible mess" and that nothing of any value was left, due to the place being broken into "time and time again."

While this very unsatisfactory state of affairs may be attributed to the isolated position of the property, and that it was open to passing boat traffic but not accessible by road, it would still appear to be inadequate to account for the disappearance of such heavy equipment as the portable sawmill, and other items included in the list of chattels checked and confirmed by you in October, 1942.

Mr. Iwasaki left the Keys of his property with Mr. B. A. Wilson, his neighbour, and as some, and we hope much, equipment may have been moved to the latter's premises for better protection, we would be obliged if you would again go into this matter and report back as fully and as promptly as possible, to enable us to reply to the proposition we have received through the Department of Labour.<sup>139</sup>

What Bell didn't realize is that Mouat's own property bordered Iwasaki's to the north, making the remote location excuse even thinner. Mouat was able to rent out a part of Iwasaki's property in his absence, but it didn't go well. In May 1942, Margaret Simpson agreed to rent the property to grow strawberries for the next 15 months at a cost of five dollars a month. Two months later, furious that Mouat's sheep kept getting into the garden and destroying her plants, she wrote to him to conclude her lease early:

Your suggestion that in order to remedy conditions we should fence a part of the break, and raise the existing fence, entailing considerable labour on our part without your offering any assistance or co-operation in keeping your sheep off Iwasaki's land is so very one sided that it is not worth considering. When I complained to you of the damage done by your sheep and said that I would be forced to give up the place you replied

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139 LAC, Letter R.G. Bell to Gavin C. Mouat, Part 2, 30 January 1946, RG117-A-3, Vol. 2825, File 59100.

“Please Yourself” so the course I have taken in writing this letter will not be unexpected.<sup>140</sup>

Internal memos from Glenn McPherson in the Vancouver office of the Custodian suggest that they were not entirely satisfied with his work. One memo to Mr. Wright dated 27 August 1942, stated, “Re: Mr. Mouat. I do not think Mr. Mouat should be employed by the Enemy Section.” Another on the same day to Mr. Alexander said,

Re: Mr. Mouat

Mr. Mouat will be very valuable to the Custodian’s Office on the Island, but I do not think there is a position for him here or that he should be used in the Enemy Section.

Would you please, therefore, make arrangements with him that he will represent us on the Island and receive the usual Agency Commission on Real Estate Rentals, and any fees for special work that he may do for us.<sup>141</sup>

It is regrettable that most of the correspondence between the Custodian’s Vancouver office and Mouat was destroyed when the office was closed in 1952, but there are bits of information in the archive. The following year, on 23 July 1943, H. F. Green of the Vancouver office issued another internal memo to K. W. Wright on the subject of Gavin C. Mouat that suggests there was some discussion about whether he should be retained by the office, and if so, in what capacity.

Re: Mr. Gavin C. Mouat—Ganges

With reference to Mr. Alexander’s memorandum to you of July 21st on the above agent, I am giving you the following notes which may be helpful to you when you see him.

I should mention that in April last year I was sent over to Salt Spring Island to go into the question of Japanese properties there and on Mayne Island. I then thought that Mr.

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<sup>140</sup> LAC, Letter Margaret Simpson to Gavin C. Mouat, Part 2, 23 June 1942, RG117-A-3, Vol. 2825, File 59100.

<sup>141</sup> LAC, Excerpts from memos quoted in a letter to R.W. Law of the Civil Litigation Section of the Department of Justice from M. Robitaille, Assistant Deputy Custodian & Counsel in preparation for the 1968 Iwasaki case in Exchequer Court, Part 2, 1 February 1968, RG117-A-3, Vol. 2825, File 59100.

Mouat was a capable man who would make a satisfactory agent and I still believe that if he has not lost interest, he can serve us satisfactorily. He is very familiar with conditions and people on the island and was obviously liked by at least some of the Japanese, very few of whom were evacuated at the time I visited Salt Spring Island.

During my visit, I registered most of the Salt Spring Island Japanese and took lists of their chattels. These lists I left with Mr. Mouat for final checking on evacuation, returning to Vancouver with the original "JP"s in most cases bearing the words under Statement of Personal Property "As per lists attached". In some but I believe not all cases, Mr. Mouat did recheck the lists on evacuation but for a number of Japanese we have received no copies of these for our files.<sup>142</sup>

There follows a paragraph regarding the situation on Mayne Island, and then Green closes with the following statement:

Attached are enclosures giving chapter and verse for these contentions and the files themselves in order that you may investigate any points which I have not made clear. My main complaint against Mr. Mouat is that he does not answer our letters and in fact, has not I believe, answered one of this Department's letters this year. My fears may be quite unjustified and all chattels may be perfectly in order, but from one perhaps not very reliable report that I have received, I am afraid that a great many things may be found missing.<sup>143</sup>

Gavin Mouat wasn't doing the job that he was being paid to do. The relationship that existed between Mouat and the members of the Japanese Canadian community meant that in April 1942, when they were being moved off the island, they believed Mouat's assurances that their properties would be kept safe in their absence. Due to the trust invested in him, when

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142 Memorandum H.F. Green to K.W. Wright regarding Gavin Mouat, 23 July 1943, Images 2581, 2582 C-9469, Office of the Custodian of Enemy Property, Vancouver Office, Office Files, Canadiana Héritage, accessed 4 May 2016, [http://heritage.canadiana.ca/view/oocihm.lac\\_reel\\_c9469/2581?r=0&s=4](http://heritage.canadiana.ca/view/oocihm.lac_reel_c9469/2581?r=0&s=4).

143 Ibid.

their properties were vandalized and forcibly sold, and Mouat himself ended up with the largest of them, the sense of betrayal was keenly felt.<sup>144</sup>

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<sup>144</sup> Interviews with Rose Murakami and Mary Kitagawa.

## CHAPTER 4

# *Taking Property from Canadians*

**T**HE CANADIAN GOVERNMENT'S decision to sell off Japanese Canadian properties less than a year after their owners had been forcibly removed from them sent a seismic shock through a group of people still struggling to cope with the trauma of being ripped from their homes and communities. The move felt like an enormous trick: Japanese Canadians had been willing to cooperate with the uprooting on the understanding that their property would be held in safekeeping during their absence. Suddenly, the government was breaking the trust and embarking on the wholesale liquidation of their properties. The reaction was instant and forceful but ultimately futile, and the rage and bitterness that was generated would continue for decades.

Japanese Canadian historians have closely scrutinized the events of 1943–1945. This is unsurprising, considering that it stands as the second largest dispossession of property in Canada; the first being suffered by First Nations from before Confederation to the present. The Canadian govern-

ment's liquidation of property was in striking contrast to actions in the United States, where Japanese American property was held by a special agency established for the purpose and was returned to their owners at the end of the war. Although Patricia Roy only briefly mentions the dispossession, almost as though it was an unavoidable consequence of the uprooting,<sup>145</sup> by contrast Adachi, Sunahara, and Miki have all carefully analyzed the machinations that led up to, and the repercussions that followed from the government's decision to liquidate the properties. Research into the Custodian's files presented in this book builds upon the work of those writers and suggests that, although there was no secret master plan to dispossess Japanese Canadians of their properties, the involvement of the Soldier Settlement Board from at least April 1942, while the uprooting was still underway, leads to the conclusion that liquidation was an option under consideration from the outset.

As mentioned previously, the Custodian's management of the eleven Japanese Canadian properties on Saltspring didn't go well during 1942. Of the eleven properties, five were rented, and there is fragmentary information on the rents that were paid. Mouat's poor reporting and the fact that many documents were destroyed when the Vancouver office of the Custodian was closed in the early 1950s leaves us with an incomplete picture of the rental of the Saltspring properties. All these issues paled in comparison to the strife caused by the Canadian government introducing new regulations to liquidate the properties owned by Japanese Canadians. Life for the Iwasaki, Murakami, and other Japanese Canadian families on the island would never be the same.

## The Decision to Liquidate

On 19 January 1943, less than a year after the Japanese Canadians had been removed from the coast, the cabinet of Prime Minister Mackenzie King adopted Order-in-Council P.C. 469,<sup>146</sup> giving the Custodian the power to liquidate Japanese Canadian property. The move was shocking for a group of people who had complied with government orders to leave the coast, trusting that the Custodian would be holding their properties "as a protective measure only." How had the government come to this decision so soon after the uprooting?

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<sup>145</sup> Patricia E. Roy, *The Triumph of Citizenship: The Japanese and Chinese in Canada* (Vancouver, BC: University of British Columbia Press, 2008), 115–17.

<sup>146</sup> See Appendix 6.

From the time the Japanese Canadians were removed from the West Coast, there were people in positions of power within government who had other ideas about what should be done with their farms. They believed the Japanese Canadians would not be coming back and their farms should be given to returning veterans at the end of the war. Order-in-Council P.C. 1457, enacted in February 1942, prohibited Japanese Canadians from purchasing or leasing real estate without a permit from the Minister of Justice.<sup>147</sup> As early as 14 April 1942, Ian Mackenzie, the Minister of Pensions and National Health and a well-known anti-Japanese racist, wrote a letter proposing that the Japanese Canadian farms of the Fraser Valley be given to returning veterans, noting that it would be unfortunate to miss the opportunity to acquire them even though the *Veterans' Land Act* had not yet passed.<sup>148</sup> Major Gordon Murchison, head of the Soldier Settlement Board, referred to Mackenzie's letter in a memo he wrote on 22 April to his superior, T. A. Crerar, the Minister of Mines and Resources. Murchison was not entirely convinced of the merits of acquiring the farms for veterans and was concerned about the burden they would be taking on in managing the farms until the end of the war. Instead, he proposed that the Soldier Settlement Board conduct a survey of their value and suitability for returning veterans.

Five days later Murchison received authorization for the surveys and he dispatched his subordinate, I. T. Barnet, to carry out assessments of the farms in the Fraser Valley and also in the "unorganized territories," encompassing Vancouver Island, the Gulf Islands, and elsewhere. As appraisals got underway, the idea that the Soldier Settlement Board would be acquiring many of the Japanese Canadian farms acquired a kind of inevitability. As soon as 12 May 1942, an early draft of what would become Order-in-Council P.C. 5523 was prepared. When finally released on 29 June, the order not only authorized the Soldier Settlement Board to conduct appraisals, it stipulated that no land owned by Japanese Canadians would be sold or leased without the prior authorization of the Director of the Soldier Settlement Board.<sup>149</sup> Thus, in addition to gaining a veto over sales to other parties, the board mandated to provide farms for returning soldiers

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147 Humphrey Mitchell, Minister of Labour, and Arthur J. MacNamara, Deputy-Minister of Labour and Director of National Selective Service, *Report of the Department of Labour on the Administration of Japanese Affairs in Canada 1942-1944* (reprint) (New York: Arno Press, 1978), 27.

148 Sunahara, Chapter 5.

149 See Appendix 7.

also determined the value of the properties it would be buying. All of this happened a mere nine weeks after the Saltspringers were forced off their properties.

Officials within the Custodian of Enemy Property's office were keenly aware of the conflict of interest that resulted from the Soldier Settlement Board conducting appraisals of property that it would likely be purchasing. Writing to Murchison on 7 July 1942, Under-Secretary of State and Deputy Custodian of Enemy Property, Dr. Ephraim Herbert Coleman, sought confirmation that copies of all appraiser reports would be forwarded to the Custodian's office. He stressed that values as appraised by the Soldier Settlement Board should be considered "approximate" and "not to be taken as representing prices which your board might have in contemplation for purchase."<sup>150</sup>

Despite Coleman's expressed concerns, the Soldier Settlement Board's appraisals were the basis for the price they paid for the 769 properties they later purchased. For the duration of the war, the government sought to maintain the fiction that the appraisals were fair, but by mid-1944, at least within the Department of Labour (which included the National Selective Service), there was the explicit understanding that the properties had been expropriated (the precise term used) for the purposes of postwar veteran settlement.<sup>151</sup>

Coleman's statements to Murchison about appraised values were not rooted in a concern for the interests of Japanese Canadians. The minutes of a meeting held in the Vancouver office record that it was confirmed that Regulation 44 (1) of the Consolidated Regulations empowered the Custodian to charge any amount up to 2% on property that he administered, and, for any property sold, and the Custodian was under no obligation to forward the money to the previous owner. Saying a decision would be made once the forced removal of the Japanese Canadians was complete, the minutes stated,

At present all Japanese evacuated by the Security Commission are being taken care of by the Commission so they should not be in need of money and until the Commission announces the Japanese are all moved out of the protected area no funds should be released.<sup>152</sup>

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150 LAC, Letter from Coleman to Murchison, Part 1, 8 July 1942, RG117, Vol. 2496, File 57899.

151 Mitchell, MacNamara, 26.

152 "Points Discussed at Meeting, July 13th, 1942", F.G. Shears Fonds, Correspondence, Box 2, Folder 6, Thomas Fisher Rare Book Library.

In the Custodian's office, concern about the interests of the Japanese Canadians was eclipsed by a concern that their forced removal and the vesting of their property would prove to be a burden on Canadian taxpayers.

Glenn McPherson, Deputy Custodian and the official overseeing the operation of the Custodian's Vancouver office, wrote to Coleman, his superior, on 15 July 1942:

We have been careful not to give the Commission any undertaking that we would remit funds to these [wealthy Japanese who moved to the interior ahead of the internment] Japanese. On this point I would suggest that the property having vested in the Custodian is his property and while he owes a duty to the Japanese, he owes a duty also to the creditors, municipal tax collectors, and the tax payers of Canada generally, and the question of maintenance while they are evacuated is for the Security commission rather than the Custodian.<sup>153</sup>

Preventing financial liability to Canadian taxpayers was a top priority for the Custodian's office.

Throughout the summer and fall of 1942, the Soldier Settlement Board, in conjunction with the Custodian's office in Vancouver, managed the Japanese Canadian farms. It was a massive undertaking and things quickly started to go wrong. Finding tenants to manage over 800 farms was an enormous challenge during wartime when many able-bodied men were away fighting in Europe. Moreover, the food produced on the farms was vital for the war effort. Japanese Canadians dominated the berry-growing and chicken and egg businesses; the troops could possibly do without the berries, but the production of chickens and eggs was essential. Trying to manage these farms with tenants did not go well. As the Custodian soon learned, a tenant would never work as hard as an owner, and they could not simply step in and expect to do well managing a business as complex as a farm.<sup>154</sup>

By the end of November 1942, politicians at the ministerial level in Ottawa began discussing the difficulties with leases, the poor productivity of tenants, the complications of the dual Soldier Settlement Board-Custodian management arrangement, and uncertainty about the ability to

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153 LAC, Letter to Coleman from McPherson, 15 July 1942, RG117, Vol. 0001, File 13.

154 LAC, Part 2.1, RG117, Vol. 2497.

maintain the farms in the absence of their Japanese Canadian owners. On 30 November, T. A. Crerar, Minister of Mines and Resources, and the politician responsible for the Soldier Settlement Board and Murchison's superior, wrote to Norman McLarty, Secretary of State, to whom the Custodian reported. He noted that appraisals of 939 Japanese Canadian farms had been completed and found to have an aggregate value of \$1,059,419, a figure he called "conservative." He noted that only two applications for the sale of land had been submitted to the Director of the Soldier Settlement Board since the passing of the Order-in-Council requiring his approval before sale, concluding, "The Order in Council very definitely checked any local tendency there may have been toward exploiting the circumstances under which these Japanese people were placed."<sup>155</sup> This implied his belief that the order in council was for the benefit of the Japanese Canadians.

According to Crerar, the problems in administering the Japanese Canadian properties stemmed from the fact that responsibility for it was divided between the Soldier Settlement Board and the Custodian. His suggestion that Dr. Coleman might welcome greater assistance from Murchison in managing the properties was clearly a pitch for even greater involvement of the Soldier Settlement Board.

At that point Crerar stepped back to take a longer term view of the management of the Japanese Canadian properties, contemplating that it would be very different if a decision was made about the "non-return" of the Japanese Canadians to the coast. Considering the events that followed, it's worth noting the thinking of top levels of government at the end of 1942:

The foregoing deals with immediate problems of administration, but future administration of these lands will be considerably simplified depending upon what decisions are contemplated with regard to the return or non-return of the Japanese people to the Pacific Coast area, and the basis upon which the Dominion Government may have to consider claims for reparation. As stated above, these farm properties were carefully inspected and appraised early last summer, and therefore the Dominion Government is in a position to determine the equity of the Japanese farmers at the time they were evacuated. If they are not going to return to the farms,

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155 LAC, Letter from Crerar to Norman McLarty, Part 1, 30 November 1942, RG117, Vol. 2496, File 57899.

the administrative programme should provide for the disposition of the farms in an orderly manner rather than continued attempts to lease them. If this course were followed monies received from such sales could be deposited with the Official Custodian. If the sale price realized were less than the valuations made last summer, consideration would have to be given to the final basis of settlement with the owners. It appears to me that the principle should be accepted of compensating these Japanese people on the basis of values which were believed to exist when they were evacuated from their farms.<sup>156</sup>

In acquiescing to the demands of racist politicians in British Columbia pushing for the removal of Japanese Canadians from the coast, the government created an administrative nightmare for itself. Admitting that it had been a mistake and allowing them to return was never considered as an option. In considering the possibility that the Japanese Canadians would not be permitted to return, Crerar proposed that they liquidate the farms rather than continuing to try to lease them. They didn't seem to consider the fact that if the Soldier Settlement Board purchased the farms, tenants would still be required to operate the farms until the veterans returned, and that was nowhere in sight in November 1942.

In calling for a decision about the return or non-return of 'the Japanese people,' Crerar ignored the fact that the majority of them were either naturalized or born in Canada, yet he acknowledged that the government might have to consider claims for reparations. Several paragraphs later, in summing up, he listed three considerations: the "inevitable deterioration of these Japanese farm properties," "the fact that the great majority of this group of Japanese people are British nationals," and "the uncertainty as to the time and circumstances under which these people may ever return to their homes."<sup>157</sup> Earlier in the letter he'd suggested the properties should be liquidated, but concluded by saying only that a decision needed to be made. Crerar's letter had the tone of fair play and due consideration of the rights of owners, while discussing the possibility of selling off their properties against their wishes.

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156 LAC, Letter from Crerar to Norman McLarty, Part 1, 30 November 1942, RG117, Vol. 2496, File 57899.

157 Ibid.

Under Secretary of State Coleman sent a copy of Crerar's letter, speculating on what to do with the Japanese Canadian farms, to Glenn McPherson on 7 December 1942 (exactly one year after the Pearl Harbor attack).<sup>158</sup> In his cover letter, he mentioned that he favoured the idea of giving the Soldier Settlement Board "the rather trying duty of looking after the farm properties." Five days later, McPherson responded with a proposal that all Japanese Canadian properties be liquidated, saying, "It is obvious, both in the city and country, that Japanese property is going to deteriorate rapidly and will not, in some cases, be sufficiently revenue bearing to pay fixed and operating charges."<sup>159</sup>

Concern that the deterioration of the properties, particularly the rural ones, would become a financial burden on the government trumped concerns about the legitimacy of selling properties against the wishes of their owners. In addition, he said that the deterioration of the real property and the loss of chattels might soon "liquidate the capital investment," which is to say that it would render the properties worthless, while acknowledging that liquidation "might cause dissatisfaction among evacuees."<sup>160</sup>

McPherson was advocating this policy with the clear understanding that it would likely be resisted by the Japanese Canadian owners, but he felt that it was fulfilling a government duty to minimize economic loss to the owners and cost to the government. His outline of the differing objectives of the Custodian and Soldier Settlement Board is revealing:

1. The Custodian's objective, as I interpret it, is to minimize the economic loss both to the Japanese evacuee and the economic picture generally.
2. The Soldier Settlement of Canada's objective, because of the very purpose of their organization, is to obtain the best of the lands and they were not primarily interested in the Japanese. With the Custodian as owner there is no reason why they could not purchase the land if a liquidation policy were decided upon. Criticism from the Japanese and their legal representatives (who are quite voluble even now) would be voiced because of a **trustee purchasing trust assets** [emphasis added] as it were

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158 LAC, Letter from E.H. Coleman to G.W. McPherson, Part 1, 7 December 1942, RG117, Vol. 2496, File 57899.

159 LAC, Letter from Glenn McPherson to E.H. Coleman, Part 1, 12 December 1942, RG117, Vol. 2496, File 57899.

160 Ibid.

if the Soldier Settlement of Canada takes over completely.<sup>161</sup>

This acknowledgment of the different interests of the Custodian and the Soldier Settlement Board revealed their concern about being perceived as violating a trust if the Custodian had simply handed over all responsibilities for the properties to the Soldier Settlement Board. That any kind of trust existed between the Custodian and the Japanese Canadian owners would be vigorously denied later, when the legality of the sales was challenged in the post-war court cases, and we can wonder if those cases might have gone differently had this document been available to the Japanese Canadians' legal counsel.

McPherson's response also highlights the fact that even prior to liquidation the Japanese Canadians were resisting what was being done to them. They weren't just expressing their dissatisfaction. They had hired legal counsel, and McPherson knew he faced a legal battle in liquidating the properties.

To prevent the appearance that the Soldier Settlement Board would be selling to itself properties that it had been entrusted, McPherson then outlined an administrative sleight of hand in which the Custodian would remain as the trustee of the properties (and that word was used), and the Director of the Soldier Settlement Board would be appointed as his deputy under Regulation 6 (2) of the Consolidated Regulations Respecting Trading with the Enemy (1939) to handle their management. In the same letter, McPherson indicated that he was aware that the plan might be badly received by the Japanese Canadians:

I suggest that an amending Order in Council is not necessary and would only confuse the tenants and the Japanese. The Japanese might interpret it as meaning the Soldier Settlement of Canada were taking over and their interests would not be protected. I believe the problem can be handled under the Regulations, the Director being in effect the official agent of the Custodian.<sup>162</sup>

Under this arrangement, the Custodian would continue to hold title to the land, conclude leases as owner, receive rents from the Soldier Settlement

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161 LAC, Letter from Glenn McPherson to E.H. Coleman, 12 December 1942.

162 LAC, Letter from Glenn McPherson to E.H. Coleman, 12 December 1942.

Board and pay taxes, and, importantly, “[b]e in a position of principal to the Director [of the Soldier Settlement Board] and continue to deal with the Japanese as trustee.”<sup>163</sup>

Upon receipt, McPherson’s superiors, Coleman and McLarty, forwarded the letter to Crerar, Minister of Mines and Resources and Ian Mackenzie, Minister of Pensions and National Health, who promptly replied suggesting that a meeting of a cabinet committee on Japanese questions be convened. This meeting, chaired by Mackenzie, also included Humphrey Mitchell, Minister of Labour, J. G. Gardiner, Minister of Agriculture, and Norman McLarty, Secretary of State. Mackenzie added:

My opinion is (but my opinion may not be sustained by Council) that we should take over all these urban properties, as, to my mind, they are very much in the nature of definite slums. Of course, Council may not agree with my already publicly-expressed opinion that these Japanese should never be allowed to return to the coast of British Columbia.<sup>164</sup>

Unlike fellow Minister Crerar, who viewed the Japanese Canadians’ “return or non-return” to the coast as an open question, Mackenzie made it perfectly clear where he stood. His chief concern related to the urban properties of his Vancouver Centre riding, and he used slum clearance as a justification for selling off Japanese Canadian property.

The meeting took place on 11 January 1943, in Crerar’s office, with Ministers Mackenzie, Crerar, McLarty, and Humphrey Mitchell (Minister of Labour), along with Coleman, MacNamara, Murchison, and McPherson. It was at this meeting that the decision to give the Custodian the power to liquidate Japanese Canadian property was finalized.<sup>165</sup> These politicians also decided that two advisory committees of three people each would be convened to oversee the process, one for the urban properties of Vancouver and another for the rural properties. There was no mention at this point that they would include a Japanese Canadian representative—this came

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163 Ibid.

164 LAC, Letter from Ian Mackenzie to Norman McLarty, Part 1, 23 December 1942, RG117, Vol. 2496, File 57899.

165 This pivotal meeting took place in Crerar’s office, with Crerar himself present. This contradicts Sunahara’s assertions that Crerar never attended Cabinet Committee on Japanese Questions meetings and may not have been aware of the Order-in-Council ordering the sell-off of Japanese property. Sunahara, 94.

later. Contrary to McPherson's earlier recommendation, they decided that all responsibility for the farms should be withdrawn from the Soldier Settlement Board, because it was expected that they would soon be buying a large number of them.<sup>166</sup> Not doing so would have looked too much like a conflict of interest.

Within government there was a great deal of discussion about the interpretation of the terms "management and control" and whether it gave them the power to liquidate.<sup>167</sup> Section 12 of Order-in-Council P.C. 1665, amended and strengthened by Order-in-Council P.C. 2483,<sup>168</sup> vested Japanese Canadian property with the Custodian. The common understanding of the word 'vesting' was that the property was entrusted to the Custodian for safe-keeping, and here it was reinforced by the language of the orders in council in which the operative paragraph included the phrases, "As a protective measure only ..." and "subject to the management and control of the Custodian." The government did nothing to clarify this thinking, and, in fact, encouraged it because the removal of Japanese Canadians from the coast would have been far more difficult if they believed that their property was being confiscated. In legal terms, the meaning of the word 'vesting' gave the government complete, unqualified ownership of the properties, with no obligations whatsoever to the original owners. Nevertheless, it was felt that another order in council was required to empower the Custodian to liquidate. Therefore, after the meeting, Glenn McPherson drafted what would become Order-in-Council P.C. 469.

McPherson's drafted order circulated to the Minister of Pensions and National Health (Ian Mackenzie), the Minister of Labour (Humphrey Mitchell), the Minister of Mines and Resources (Thomas Crerar), the Minister of Fisheries (Ernest Bertrand), and the Minister of Justice (Louis St. Laurent). Ian Mackenzie responded, the following day, with a minor change to the wording (which wasn't adopted), and the rest replied that they were happy with the order as drafted. Mitchell forwarded a note that he received from A. MacNamara, Deputy Minister of Labour, who was concerned "the action will probably make Japanese very difficult to manage" and that "sit-

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166 LAC, Memo McPherson to Coleman of notes from 11 Jan 1943 meeting, Part 2.1, RG117, Vol. 2497, File 57899.

167 Ibid.

168 See Appendix 5.

down strikes and possibly sabotage may be expected."<sup>169</sup> His recommendation that liquidation happen gradually was ignored.

Order-in-Council P.C. 469<sup>170</sup> was enacted on 19 January 1943, giving the Custodian the power to liquidate Japanese Canadian property under the *War Measures Act*, Chapter 206 of the Revised Statutes of Canada 1927, Section 3 (f), which states, "Appropriation, control, forfeiture and disposition of property and of the use thereof."<sup>171</sup> The operative paragraph in the order in council reads:

That wherever, under Orders made by your Excellency in Council under the War Measures Act, Chapter 206 of the Revised Statutes of Canada 1927, the Custodian has been vested with the power and responsibility of controlling and managing any property of persons of the Japanese race evacuated from the protected areas, such power and responsibility shall be deemed to include and to have included from the date of the vesting of such property in the Custodian, the power to liquidate, sell, or otherwise dispose of such property and for the purpose of such liquidation, sale or other disposition the Consolidated Regulations Respecting Trading with the Enemy (1939) shall apply mutatis mutandis **as if the property belonged to an enemy** [emphasis added] within the meaning of the said Consolidated Regulations.<sup>172</sup>

Thus, 'evacuee' property was to be treated like enemy-owned property. With this order in council, the Canadian government found a way to treat its own citizens like enemies, without ever defining them as such. Imagine the paragraph above with "persons of the Japanese race" replaced with "British subjects," which the majority of them were.

The Soldier Settlement Board was taken out of the picture entirely, placing an extra load on the already over-taxed Custodian's office in Vancouver, but it was understood to be necessary because they needed to put some distance between the Soldier Settlement Board and the management of the properties before their purchase by the Soldier Settlement

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<sup>169</sup> LAC, Copy of note in file A. MacNamara to Hon. Mr. Mitchell, copied to E.H. Coleman, 18 January 1943, Part 1, RG117, Vol. 2496, File 57899.

<sup>170</sup> See Appendix 6.

<sup>171</sup> See Appendix 6.

<sup>172</sup> See Appendix 6.

Board.<sup>173</sup> The government didn't want Japanese Canadians to know about the new policy,<sup>174</sup> but it didn't take long for the cat to get out of the bag—five days to be exact. The *Vancouver Sun's* headline for 23 January 1943, read, "Seized Jap Property Will Be Sold – War Veterans to Get First Choice." Lest anybody be concerned that the sale might be unfair to the owners, readers were told, "No confiscation is involved. The price obtained on the open market will be paid over to the Japanese owners." Those owners were likely not reassured by the next sentence, informing them that "British Columbia members of Parliament have been pressing for this action for some time, and Hon. Ian Mackenzie placed the matter before the cabinet."<sup>175</sup>

Examining the bureaucratic route taken in coming to the decision to forcefully liquidate Japanese Canadian land revealed an interesting sequence of events:

1. Japanese Canadian property was vested with the Custodian of Enemy Property, despite the fact that the Japanese Canadians were never legally defined as enemies. It appears no other options for the management of the property were considered, despite the fact that Japanese American property was entrusted to an agency created for the purpose.
2. The Soldier Settlement Board, the agency responsible for providing land to returning veterans, was involved in managing Japanese Canadian property from as early as April 1942. Selling the farms to the Soldier Settlement Board satisfied the demands of influential racist politicians like Ian Mackenzie and Macgregor Macintosh who wanted the land for returning veterans and wanted to make it more difficult for Japanese Canadians to return to the coast after the war.
3. Soon after taking control of Japanese Canadian farms, the Custodian's office realized that it was almost impossible to manage them properly, and in their care these assets rapidly deteriorated.
4. The government officials responsible knew they were on tenuous legal ground in using a regulation intended for enemy

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173 LAC, Letter from McPherson to Shears, 'Re: Custodian Matters', 20 January 1943, Part 2.1, RG117, Vol. 2497, File 57899.

174 Ibid.

175 LAC, "Seized Jap Property Will Be Sold," *Vancouver Sun*, 23 January 1943. Clipping in Part 2.1, RG117, Vol. 2497, File 57899.

property to liquidate property belonging to Canadian citizens, but they justified it on the basis that they were protecting Japanese Canadian interests.

5. Selling the farms saved the government money in management costs while also ensuring that more Japanese Canadians would have the money to pay for their own incarceration. (This will be examined in the next section.)

## Resistance to Dispossession

Reaction by the Japanese Canadian community was swift. The headline on 6 February of *The New Canadian* entitled, "Ottawa Order Authorizes Sale of 'Seized' Property,"<sup>176</sup> offered more questions than answers about what was happening—noting that it was yet to be confirmed if the order authorized the sale of property held by the Custodian, even though the order that had vested it stipulated that it was being held "as a protective measure only."

By the following week, the shock had fully set in, but it was still not known if the order only applied to urban properties or also included farms. News articles noted that the Vancouver City Council saw the move as being the "forerunner of a policy of Japanese exclusion after the war."<sup>177</sup> It takes a quote from *The Province* by Alderman G. H. Worthington: "If these properties are disposed of it will be an additional argument against the reoccupation of Vancouver by Japanese. It is another step in getting the Japs out of our country, and Vancouver must co-operate."<sup>178</sup>

The costs of maintaining the incarcerated Japanese Canadians became an issue in early 1943. After the BC Securities Commission (the federal agency established to oversee the uprooting) had largely completed its work, the incarceration, control, and maintenance of the Japanese Canadians fell to the Department of Labour, headed by Minister Humphrey Mitchell. These costs were expected to increase after the BC government announced its intention at the end of January to introduce legislation barring Japanese Canadian children from BC schools. School boards in the interior were refusing to assume the cost of schooling, and the legislation being

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176 "Ottawa Order Authorizes Sale of 'Seized' Property," *The New Canadian*, 6 February 1943, 1, accessed 19 January 2017, <http://newspapers.lib.sfu.ca/tnc-32936/page-1>.

177 "Three-Man Board to Advise on Sale of Property," *The New Canadian*, 13 February 1943, 1, accessed 19 January 2017, <http://newspapers.lib.sfu.ca/tnc-32927/page-1>.

178 Ibid, 1.

considered was to legalize what was already happening.<sup>179</sup> The growing costs for the federal government added impetus to find ways to make the Japanese Canadians pay for their own incarceration.

Several weeks later, members of the press wanted to know if the sale of Japanese Canadian property meant that their former owners would be banned from returning to the coast. The manager of the Custodian's Vancouver office, F. G. Shears, didn't respond definitively, but indicated that might be the case:

A lot of people are assuming that because the property may be sold the Japanese will not come back. The indications are that if this property is sold it is to be done with a view toward this end, but on the other hand it could also mean that the Dominion Government prefers to have the property held for them in cash.<sup>180</sup>

If the sale of their properties wasn't actually *intended* as a means for preventing the Japanese Canadians from returning to the coast (although it certainly was for politicians like Ian Mackenzie), members of the public had surmised that it would have that effect. Shears might have also added that if the government preferred to hold their property in cash, it was because they wanted the Japanese Canadians to have the funds to pay for their own incarceration.

Negotiations between the Soldier Settlement Board and the Custodian for the sale of Japanese Canadian farms for returning veterans continued through the first three months of 1943. The Custodian pushed for the board to purchase all of the confiscated rural properties, including those in fishing areas, while also trying to maintain the fiction that these would not be forced sales. An undated document in the files of the Soldier Settlement Board on the terms of reference for the operation of the Rural Advisory Committee under the subheading "Government Policy" stated, "(i) Liquidation primarily to preserve assets (ii) Not a forced liquidation."<sup>181</sup>

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179 "Controversy on Proposal to Legalize School Ban" 6 February 1943 p1 *The New Canadian* <http://newspapers.lib.sfu.ca/islandora/object/tnc:32936> Accessed 19 January 2017

180 LAC, "Government Prefers Money: Selling of Japanese Property Does Not Mean Japs Banned" *The Province*, 11 February 1943, Clipping in Part 2.1, RG117, Vol. 2497, File 57899.

181 LAC, Undated file "The Advisory Committee of Rural Property," Part 2.1, RG117, Vol. 2497, File 57899.

For their part, Japanese Canadians did not buy the story that liquidation was anything but forced, and the Custodian's office was concerned that they might face legal challenges that would prevent the liquidation. A front-page article on 3 April 1943 of *The New Canadian* called for the formation of a Japanese Canadian property owners association and the pooling of resources to mount a legal challenge.<sup>182</sup> After reading the article, Shears wrote to McPherson expressing his concern that liquidation might be held up if the "validity of our power to act is attacked."<sup>183</sup>

## First Legal Challenge to Dispossession

About five weeks later, and two days after receiving an offer from Barnett of the Soldier Settlement Board of \$750,000 for 769 farms, the validity of their power to liquidate *was* attacked. On 19 May 1943, McPherson wrote to Coleman reporting on a meeting he had with a Mr. MacLennan of Messrs. Norris and MacLennan, solicitors for the newly-formed Japanese Property Owners' Association, regarding a suit that he was preparing to launch on behalf of Japanese Canadians should the policy of liquidation be officially announced.

MacLennan told McPherson that he intended to seek an injunction on the liquidation of both urban and rural properties under provincial law and hoped to have it heard as a constitutional question in the Supreme Court of British Columbia.<sup>184</sup> McPherson shared with Coleman that he told MacLennan nothing about the on-going negotiations for the farmlands, but did inform him that the urban properties would be shortly listed for sale. The court challenge brought against the government by the Japanese Property Owners' Association, would come to be known as the Nakashima case, after one of the three suppliants in the case, and it was an important act of resistance against the government's actions. There were serious problems with the way the Nakashima case was handled, most notably the three years that Justice J. T. Thorson took to make his ruling—itself a denial of justice and perhaps a deliberate measure to run out the clock while Japanese Canadian properties were being sold off. As Ann Sunahara wrote,

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182 "Legal Opinion Government Disposal Beyond Government Power," *The New Canadian*, 3 April 1943, 1, accessed 19 January 2017, <http://newspapers.lib.sfu.ca/tnc-32864/page-1>.

183 LAC, Letter from Shears to McPherson, 8 April 1943, Part 2.1, RG117, Vol. 2497, File 57899.

184 Sunahara, 95.

While petitions to the Exchequer Court in 1943 normally were heard in four to six weeks, the Japanese Canadian petitions were delayed until 29 May 1944, almost a year later. At the hearing, things went from bad to worse. Before Norris and MacLennan could present their carefully prepared arguments, the case became bogged down on the legal question of whether the Custodian of Enemy Property was in fact a servant of the Crown and therefore accountable in the Exchequer Court. That legal impasse allowed the judge, Mr. Justice J.T. Thorson who as the Hon. J.T. Thorson M.P., Minister of National War Services, had been part of the 1942 Cabinet that had uprooted the Japanese Canadians to adjourn the case indefinitely while he decided the question. True to the obstructionist policy of the federal government, it took him three years to make up his mind. In 1947, two years after the end of the war, Thorson finally decided that the Custodian was not a servant of the Crown and therefore not accountable before the Exchequer Court.<sup>185</sup>

The Nakashima case will be examined in more detail in the following chapter.

McPherson seemed to have an almost schizophrenic attitude regarding the liquidation of the properties. While he was doggedly scheming and working to sell 769 farms to the Soldier Settlement Board, he was also trying to head off a legal challenge for the actions he was taking, yet he still insisted that the sale of the Japanese Canadians' properties was not a forced liquidation. On 22 May 1943, in a memo to Shears, McPherson wrote,

I would again point out that it is not the Custodian's policy to liquidate enemy property unless circumstances indicate liquidation is desirable. As a general rule a property will carry itself and this will include an accumulating of a surplus to cover repairs and possible vacancy. The property should not be sold, but if it appears undesirable to continue the management of the property, when it can be sold in a favourable market as apparently exists to-day, this factor may be considered in arriving at a decision as to the policy to be adopted.<sup>186</sup>

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185 Sunahara, 95.

186 Memo from McPherson to Shears, 22 May 1943, s Folder 7, Box 2, Correspondence, F.G. Shears Fonds, Thomas Fisher Rare Book Library.

Desirable for whom, we may wonder. At the time that McPherson was writing the memo, a study was underway by the Rural Advisory Committee to check the appraisals of the Fraser Valley farms previously conducted by the Soldier Settlement Board. Messrs. D. E. Mackenzie, Hal Menzies, and the Japanese Canadian member of the committee, Yasutaro Tamaga, conducted appraisals of 17 of the properties. Their spot check appraisals were then compared with the Soldier Settlement Board figures and found to be, on average, 50% higher. Just as they were finishing, Judge David Whiteside, the committee chair, indicated that he'd accept \$850,000 for the block of 769 properties.<sup>187</sup> According to Sunahara, this was less than 70% of the Soldier Settlement Board's appraised values,<sup>188</sup> which from their spot checks the committee had found to be very low. Two days later, on 26 May, in protest to the disingenuous process, Yamaga submitted his letter of resignation to Whiteside.<sup>189</sup>

While this was going on, Murchison upped his original offer for the 769 rural properties to \$825,000, but it was rejected. On 29 May 1943, Murchison formally made his final offer of \$850,000.<sup>190</sup> This offer was presented to the Rural Advisory Committee in New Westminster on 14 July 1943, and, after hearing the terms of sale, the committee unanimously recommended that the offer be accepted. This was how the first block of farms was sold to the Soldier Settlement Board, all of which were in the Fraser Valley. Sales of the Saltspring properties would not begin until early in 1944.

## Sale of Saltspring Properties

Following the sale of the first block of farm properties in Fraser Valley to the Veterans Land Administration in 1943, sales of chattels from Japanese Canadian properties on Saltspring Island began in the fall. On 3 November 1943, an auction (see Figure 4.1) was held on the Okano and Murakami

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187 Sunahara, 94.

188 Sunahara actually used the term 'assessed' and not 'appraised', so it's possible she was referring to their tax assessment values. *Ibid.*, 94.

189 Letter from Yamaga to Whiteside quoted in a letter from Shears to McPherson, 2 June 1943, Folder 6, Box 2, Correspondence, F.G. Shears Fonds, Thomas Fisher Rare Book Library.

190 Sunahara writes that it was Barnet who agreed to the purchase, and indeed he did tender the offer of \$825,000, but Murchison's correspondence with McPherson confirms that it was Murchison who made the \$850,000 offer. Considering the magnitude of the purchase, it's likely that Minister Crerar was also involved. LAC, Letter from Murchison to McPherson, 29 May 1943, Part 14, RG117, Vol. 2472, File 55908.

properties. Interestingly, it was conducted by the auctioneers Thwaites and Bazett from the nearby town of Duncan on Vancouver Island. In the decade that included the war years, the bulk of the auctions held on Saltspring and advertised in the *Saanich Peninsula and Gulf Islands Review* were handled by Salt Spring Lands, the firm partially owned by Gavin Mouat, the Custodian's agent for the Gulf Islands. Perhaps Mouat decided it would be better to let another firm handle this one.



**Figure 4.1** Notice for the auction of the chattels of Japanese Canadian Saltspringers. "Auction Sale," *Saanich Peninsula and Gulf Islands Review*, 27 October 1943, 2.

In addition, the Soldier Settlement Board purchased two smaller blocks of properties in February 1944. One was for 11 properties in the Fraser Valley, for which it offered \$6,500, and the Rural Advisory Committee recommended acceptance of \$6,697.32. The second was for 33 properties on Vancouver Island and the Gulf Islands, which included eight of the eleven Japanese Canadian properties on Saltspring Island. For this block the Soldier Settlement Board offered \$35,000, and the committee recommended acceptance of \$38,542.42. In both cases, the committee-recommended prices

were 98% of the Soldier Settlement Board appraised values of the properties.<sup>191</sup>

The other three properties on Saltspring were among the 687 parcels that remained after the last of the sales to the Soldier Settlement Board in February 1944, which were offered for sale in tendered bid auctions. The sale of the three remaining properties on Saltspring, including the large Iwasaki property, which was the most valuable and would later stir up much controversy, was advertised (see Figure 4.2) in the 5 April 1944 issue of the *Saanich Peninsula and Gulf Islands Review*.

What wasn't controversial at the time (but would be today) is the manner in which the bidding was conducted. Ads for the auction stipulated that bids must be received by noon on 15 June 1944.<sup>192</sup> By the deadline, the Custodian's office received three bids for the Iwasaki property, one for \$2,500 from a George Bush in Vancouver, another for \$4,250 from Captain A. M. Smith of 'The Maples' on Saltspring, and a third for \$4,550 from Salt Spring Lands, the firm that was partially owned by Gavin Mouat, the Custodian's agent for the Gulf Islands.<sup>193</sup> Bush's bid was rejected outright, but on 27 June, Shears wrote to the two other bidders informing them that before their bids could be considered they would need to conduct an independent appraisal of the property. Amazingly, the property had been advertised for sale for almost three months, but no valuation of the property had yet been made, and it would take another five weeks before they found somebody to conduct the appraisal.

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190 LAC, Memo from G.W. McPherson, 1 February 1944, RG117, Vol. 0002, File 16.

192 "Real Property For Sale by Tender," *Saanich Peninsula and Gulf Islands Review*, 5 April 1944, 2.

193 LAC, Correspondence between F.G. Shears and bidders on the Iwasaki property, Part 2, RG117-A-3, Vol. 2825, File 59100.

**Department of the Secretary of State of Canada**  
**—Office of the Custodian**

## REAL PROPERTY FOR SALE BY TENDER

The Secretary of State of Canada, acting in his capacity as Custodian under or by virtue of the Revised Regulations Respecting Trading With The Enemy (1943) hereby offers for sale by public tender such interests as are vested in him in certain commercial, residential and unimproved properties situate in the protected area of British Columbia.

**A CATALOGUE** listing the properties above referred to may be examined and further particulars obtained on application to the undersigned or Real Estate Agents. Tenders for the purchase of such property interest vested in the Custodian will be received subject to the following terms and conditions:

1. Each tender must be for one of the parcels described, but a separate tender may be filed for each of several parcels.
2. A tender offering for parcels in the alternative will be considered an offer only for the parcel first named.
3. A certified cheque payable to the order of the Secretary of State as Custodian for ten percent (10%) of the amount offered must accompany each tender. The deposit will be forfeited as liquidated damages if the tender is accepted and not completed by the purchaser immediately upon his being required to do so by the Custodian.
4. Each tender must be in a separate sealed envelope addressed to The Office of the Custodian, 506 Royal Bank Building, 675 West Hastings Street, Vancouver, B.C., and each envelope must be marked on the outside "Tender for Real Estate Catalogue—Parcel No. \_\_\_\_\_".
5. The balance of the purchase price shall be paid in cash provided the purchase price does not exceed \$1,000.00. Provided the purchase price exceeds \$1,000.00 but does not exceed \$3,000.00 the balance may be paid in cash, but consideration will be given to offers of not less than 50% of the purchase price in cash and the remainder within two years, together with interest at 2% (minimum down payment \$1,000.00). Provided the purchase price exceeds \$3,000.00 the balance may be paid in cash, but consideration will be given to offers of not less than 40% of the purchase price in cash and the remainder within two years together with interest at 2% (minimum down payment \$1,500.00).
6. All adjustments will be made as of the date of conveyance or agreement.
7. Properties will be sold subject to existing leases and encumbrances, if any.
8. Properties are offered for sale without any warranty whatsoever by the Custodian as to location or condition of buildings or improvements or the existence or non-existence of any encumbrances.
9. The Custodian reserves the right to cancel any accepted tender and to refund the deposit at any time prior to delivery by him of the conveyance or transfer.
10. Neither the highest nor any tender will necessarily be accepted.

Cheques in respect of unaccepted tenders will be returned in due course.

TENDERS WILL BE RECEIVED BY THE UNDERSIGNED UP TO THE HOUR OF TWELVE O'CLOCK NOON, PACIFIC DAYLIGHT SAVING TIME ON THE **FIRST DAY OF MAY, 1944**, ON THOSE PROPERTIES SITUATE IN THE CITY OF NEW WESTMINSTER, DISTRICT OF DEWIDNEY, MUNICIPALITY OF RICHMOND (INCLUDING STEVENSON TRACT), DELTA, SABLE ISLAND, SAHQUIM, MISSION AND SURREY, AND THE VILLAGES OF MISSION AND TOPING.

TENDERS FOR THE REMAINING PARCELS IN THE CATALOGUE WILL BE RECEIVED BY THE UNDERSIGNED UP TO THE HOUR OF TWELVE O'CLOCK NOON PACIFIC DAYLIGHT SAVING TIME ON THE **FIFTEENTH DAY OF JUNE, 1944**. DATED at Vancouver, British Columbia, this 30th day of March, 1944.

**THE CUSTODIAN,**  
506 Royal Bank Building,  
675 West Hastings Street,  
Vancouver, B. C.

DS REVIEW

SIDNEY, Vancouver Island, B.C., Wednesday, April 5, 1944

**Figure 4.2** Notice of the tender bid auction for properties not sold to the Veterans Land Administration. "Real Property for Sale by Tender," *Saanich Peninsula and Gulf Islands Review*, 5 April 1944, 2.

After telephoning Colonel E. W. Pope in Victoria on 2 August 1944, in the hope that he could recommend somebody, the following day the Custodian's office in Vancouver wrote to Mr. D. K. Wilson, owner of the Vesuvius Inn on Saltspring, requesting his help and acknowledging that there was a conflict of interest in having Mouat do the work:

As explained to you, we must have a proper independent appraisal of each property in the catalogue. Mr. Gavin C. Mouat is our representative for Salt Spring and Mayne Islands and, consequently, is debarred from doing this work for us in that area. We telephoned you after consulting our Victoria Agents.<sup>194</sup>

Although they felt there was a conflict of interest in having Mouat conduct the appraisal, they didn't feel there was a problem in having his firm bid on the property. Mr. Wilson went right to work, delivering his appraisal on 5 August 1944. The appraisal was short enough that it's worth including in full:

TORAZO IWASAKI Lots 3 and 4 North Salt Spring Isl. including parcel A thereof, except that part of said lot 4, lying South of said parcel A and South of the South boundary of said lot 3 and its projection East to intersection with said parcel A, consisting of 598.65 Acres. Buildings on this property are to be considered of no value, consisting only of one very dilapidated shack and one tumbled down shed. Water frontage of approximately one half mile is considered to be the most valuable part of this property and includes several very nice bays. The property has, in general, been logged off. There is at present a very rough road to the property boundary but to put in roads through the property would incur considerable expense. I estimate the value of this property to be \$5000.00.<sup>195</sup>

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194 Memorandum from F.G. Shears to D.T. Braidwood during the Bird Commission inquiry quoting earlier correspondence, 1 December 1949. The contents of this memo and the very fact that it was written suggests that there were serious misgivings within the Custodian's office about the way the sale of Iwasaki's property was conducted. LAC, 1 December 1949, Part 2, RG117-A-3, Vol. 2825, File 59100.

195 LAC, Letter from D. Keith Wilson to R.G. Bell, Office of the Custodian, Vancouver, 5 August 1944, Part 2, RG117-A-3, Vol. 2825, File 59100.

Not counting the legal description of the property, it amounted to five sentences. It contains two serious errors that suggest that if Wilson visited the property at all, he didn't walk very much of it. First, depending on how you measure the length of the shoreline (loosely or tightly following all the small coves), it's either a mile or a mile and a half long. Secondly, it had not been logged off, as only about a third of the timber had been taken from the property. It was likely true that by that time the buildings on the property were worthless, as they had been badly vandalized while in Mouat's care (despite the fact that Mouat's property bordered Iwasaki's to the north). The buildings had likely deteriorated rather recently, because two years earlier, in August 1942, an F. E. Larnder had approached the Custodian with an interest in purchasing a 75-acre portion of the Iwasaki's property that included the buildings, an inquiry that Shears had passed on to Iwasaki's.<sup>196</sup>

However, a more serious problem with Wilson's appraisal is that it can't be considered independent at all, because he was a former employee of Mouat's, and possibly even a current one at that time. In April 1938 (see Figure 4.3), Wilson had joined Salt Spring Lands as manager of their Real Estate Department.



**Figure 4.3** Announcement in the *Saanich Peninsula and Gulf Islands Review*, 13 April 1938, 4.

After receiving Wilson's very flawed appraisal, on 8 August 1944, the Custodian's office in Vancouver wrote to Captain Smith and Salt Spring Lands telling them that they had received an appraisal on the property and indicated that they wouldn't accept any offer below \$5,000. Both were

196 LAC, Letter from Shears to Iwasaki, 27 August 1942. No reply found. Part 3, RG117-A-3, Vol. 2825, File 59100.

offered payment terms of 40% down with the balance in two years.<sup>197</sup> Captain Smith then increased his bid to \$5,000 on 17 August.<sup>198</sup> On 14 August, in a letter from Salt Spring Lands signed by Gavin's brother Gilbert, after first writing, "We are willing to make a higher offer, but we do not want to make offers just for the purpose of bidding the place up for someone else," they upped their bid to \$5,250.<sup>199</sup> On 23 August, Shears wrote to Salt Spring Lands accepting their offer, and asked for a down payment of \$2,000.<sup>200</sup> As agent for the sale, Gavin C. Mouat received a commission of \$262.50 on the sale of the property to his own firm.

The evidence suggests that the sale was handled with some behind-the-scenes management. Was Mouat aware of the appraisal amount, or did he even determine what the value would be? Why did the Custodian stop the bidding at that point? They could have gone back to Captain Smith and asked if he'd be prepared to increase his bid. What kind of backdoor communication existed between Gavin Mouat and the Custodian's office? It's also interesting that the written communication between Salt Spring Lands and the Custodian's office was signed by Gavin Mouat's brother Gilbert, despite the former being much more involved in the firm. We're left wondering if this was a small attempt to minimize the appearance of a conflict of interest.

Also highly suspicious was Salt Spring Lands' letter of reply (again signed by Gilbert Mouat), in which they enclosed a cheque for \$2,000 in down payment, which showed their concern about the legality of the sale:

We want it clearly understood also that in the event of any Court decision making the sales of these lands illegal, any sums that we have paid will be returned to us. Please confirm and oblige.<sup>201</sup>

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197 LAC, Letters from Shears to Captain W.N. Smith and Salt Spring Lands, 8 August 1944, Part 2, RG117-A-3, Vol. 2825, File 59100.

198 LAC, Letter from Shears to Captain Smith, 23 August 1944, acknowledging bid, but declining it. Part 2, RG117-A-3, Vol. 2825, File 59100.

199 LAC, Letter from Salt Spring Lands to Shears, 14 August 1944, Part 2, RG117-A-3, Vol. 2825, File 59100.

200 LAC, Letter from Shears to Salt Spring Lands, 23 August 1944, Part 2, RG117-A-3, Vol. 2825, File 59100.

201 LAC, Letter from Salt Spring Lands to Shears, 28 August 1944, Part 2, RG117-A-3, Vol. 2825, File 59100.

This could be interpreted as either they thought all sales of Japanese Canadian lands might be found to be illegal, or just the particular sale to an agent for the Custodian—clearly the ethics of the sale was on their minds.

The sale was concluded, but wouldn't be formally completed until 20 March 1945, as there were issues connected with the encumbrance of the timber lease that Iwasaki had concluded with Glen Lake Logging. Questions about the presence or absence of Iwasaki's logging equipment on the property would make things drag on until the middle of 1946. Salt Spring Lands sold the Lot 4 portion of the Iwasaki property to Gavin Mouat on 17 October 1945, for \$1,500, and the larger Lot 3 was transferred from the company to Mouat personally on 5 September 1946, for \$4,000.

Torazo Iwasaki was far from impassive in the face of this injustice. Contrary to the narrative that Japanese Canadians meekly accepted what was done to them, Iwasaki fought to have his land returned by bringing a lawsuit against the Canadian government. Other Saltspring Japanese Canadians showed similar determination, returning to the island to seek the restoration of what had unjustly been taken from them.



## CHAPTER 5

# *Contesting Dispossession*

**J**APAN'S SURRENDER on 2 September 1945, at the close of World War II was not the end of internal exile for the Japanese Canadians who had been forcibly relocated to the BC interior and other parts of Canada. They were up against politicians operating under a racist agenda in which the uprooting and removal from the coast was just the first stage in expelling them from the country entirely. In late 1943, at a meeting in Nanaimo attended by Saltspring-based former MLA Macgregor Macintosh, the local Progressive Conservative Association passed a unanimous resolution that went much further than any measures ever taken by the government:

That the Nanaimo Federal Progressive Conservative Association request the Government see that there is not one one [sic] Japanese left in Canada after the war, and that the

Government do not allow them ever to immigrate to Canada again.<sup>202</sup>

The Orders-in-Council that removed Japanese Canadians from the 'protected area' of the coast expired on 1 January 1946, but they were extended by Order-in-Council P.C. 7414 passed under the *National Transitional Emergency Powers Act*.<sup>203</sup> The uprooting had initially been framed as an 'evacuation,' implying that it was a temporary measure for the benefit of those being removed, but by 1945 the government had stepped up its efforts to disperse Japanese Canadians throughout Canada. This was more than just encouragement to move east. A notice issued by T. B. Pickersgill, Commissioner of the Japanese Placement in the Department of Labour, included a threat that failure to comply would be regarded as a lack of cooperation with the government:

Japanese Canadians who want to remain in Canada [that is, those who do not agree to be deported to Japan] should now re-establish themselves east of the Rockies as best evidence of their intentions to co-operate with the government policy of dispersal. Failure to accept employment east of the Rockies may be regarded at a later date as lack of co-operation with the Canadian government in carrying out the policy of dispersal.<sup>204</sup>

After the war ended, the federal government developed a program for 'repatriation'—the deportation—of Japanese Canadians to Japan under Orders-in-Council P.C. 7335, 7356 and 7357. For both the Iwasakis and the Murakamis (and all the other Japanese Canadian families who had been uprooted from Saltspring), the immediate post-war years were as much a struggle as the years before. It wasn't until 2 March 1948, that Order-in-Council P.C. 804 was enacted, allowing Japanese Canadians to return to the Pacific Coast, but only a year later on 1 April 1949. Japanese Canadians displayed remarkable resilience in the face of these measures that had no parallel in the United States, where Japanese Americans were, for the most

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202 "Leave Not One Japanese in Canada After The War," *Saanich Peninsula & Gulf Islands Review*, October 1943, 1. That this article was run at the top of page one of the newspaper says a great deal about the paper's owners and editors.

203 Adachi, 309.

204 As quoted in Adachi, 298.

part, able to return to their homes in 1945. Life would never be the same for the Murakami family or for Torazo Iwasaki and his wife Fuku, yet they continued to seek justice in their own ways.

Katsuyori Murakami was sent to a road camp at Yellowhead Pass between Jasper, Alberta, and Blue River, BC, when the first Japanese Canadians from Saltspring were uprooted in March 1942. His wife Kimiko and their five children, Atsuko (Alice), Taeko (Violet), Keiko (Mary), Takako (Rose), and Katsuhide (Richard), were sent to Greenwood in the BC interior on 1 May 1942. When the married men were released from the road camps, on 21 July 1942, Katsuyori made his way to Magrath, Alberta, where his mother-, father- and brother-in-laws (Okano) were staying. Kimiko and the children left Greenwood and arrived in Magrath on 15 August 1942, and the family was reunited. The following day, the Murakamis were sent to live and work on a farm where the living conditions were atrocious. They were forced to live in a 10- by 15-foot shack, without bathing or cooking facilities, while drawing water from a slough that was used by farm animals.<sup>205</sup>

Katsuyori was compelled to do such heavy farm work that his health began to deteriorate, prompting the oldest sister Alice to write to the BC Securities Commission in protest. An official from the commission visited and agreed that the conditions were intolerable, and arranged for the RCMP to escort the family to a camp in Slocan, BC, in November 1942. There they were required to share a large unheated tent with three other families until January 1943, when they were moved to a camp in Rosebery at the end of Slocan Lake. Conditions in Rosebery were only marginally better than what they had left behind in Alberta. They lived in a 14- by 28-foot uninsulated shack without electricity and a communal tap outside for water. It was a harsh contrast to their home on Saltspring.<sup>206</sup>

The Murakami family remained in Rosebery, BC, until the end of the war when the government put pressure on the Japanese Canadians to either accept 'repatriation' to Japan—actually deportation—or move east of the Rockies. Wanting to stay as close as possible to the coast, the Murakamis opted to move to a sugar beet farm in Magrath, Alberta in May 1946. The government's sugar beet programme in Alberta dated from the beginning of the uprooting, when its desire to move the Japanese Canadians east of the Rockies coincided with the need to increase wartime sugar production. From the outset, Katsuyori and his family faced brutal conditions—forced

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205 Murakami, 23–24.

206 Murakami, 24–25.

to live in shacks that had previously housed migratory workers who only lived in them during the beet-growing season.<sup>207</sup> Once again, eight members of the Murakami family struggled to survive in a 14- by 25-foot shack with no electricity or running water. Drinking water came from a neighbour's well and wash water was carried from an irrigation ditch. In winter, for water they melted snow on a coal-burning kitchen stove. For their first season the family contracted with a farmer whose fields were five miles away to work 35 acres of sugar beets for \$27 an acre.<sup>208</sup>

Faced with the fact that they could not survive on what they earned on the farm, the following spring the family moved into a house that was slightly larger, but even drearier and again without running water or electricity. They worked 30 acres of sugar beets in the 1947 season, and Alice worked in a grocery store, providing extra money that was vital for their livelihood. Rose Murakami remembers Mr. Ririe, the owner of the store, as a very kind man who provided the family with opportunities to earn extra money picking beans and working extra acres of sugar beets.<sup>209</sup>

After three seasons in Magrath, in January 1949, the family moved to Cardston, Alberta, where Kimiko's father Kumanosuke Okano, their son Jim Okano, and a partner operated a restaurant. Heavily in debt and near bankruptcy, the family took over the business, with Kimiko cooking for two shifts a day, Katsuyori baking bread, buns, and pies, and the older children helping out with dishes and waiting tables. It would take the family six years to pay off their debts.

## The Nakashima Ruling

Torazo Iwasaki and his wife Fuku, on the other hand, were interned in Greenwood, BC, and resisted government pressure to move east, although some of their children moved to Ontario.<sup>210</sup> Torazo Iwasaki protested the forced sale of his property by refusing to cash the cheques sent to him, and later by bringing a lawsuit against the Canadian government. He also played an important role in the collective efforts of Japanese Canadians to receive just compensation for the property that had been taken from them. These efforts included the legal challenge begun by the Japanese Canadian

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207 Adachi, 280–281.

208 Murakami, 31, and interviews with Rose Murakami and Mary Kitagawa.

209 Murakami, 29.

210 Torazo Iwasaki's son Ray moved to Toronto before returning to Vancouver in the 1970s. Interview, 13 February 2016.

Property Owners Association in a 1943 court case shortly after the adoption of Order-in-Council P.C. 469 ordering the liquidation of their property. Heard in the Exchequer Court of Canada, it came to be known as the Nakashima case, named after one of the three plaintiffs. The case challenged the legality of the dispossession of Japanese Canadian property and was heard by Judge J. T. Thorson, who had earlier served as the Minister of National War Service in the cabinet<sup>211</sup> that had ordered the uprooting of Japanese Canadians, calling into question his impartiality in the case.

In his judgment, Thorson upheld the validity of Order-in-Council P.C. 469 and rejected the contention that the Custodian acted beyond the scope of the law in using a regulation for enemy property to liquidate Japanese Canadian property. He wrote,

[i]n my opinion even if this were conceded [that the suppliants were not alien enemies within the meaning of the Consolidated Regulations], it would not alter the character of the Custodian's powers and duties. His discretionary powers might be more limited in scope than in the case of alien enemy property but the difference would be one of degree rather than of kind. He would still have very wide, free discretionary powers in the field of control and management. And if P.C. 469 is valid there would be no difference at all in the scope of the Custodian's discretionary powers as between alien enemy property on the one hand and Japanese evacuee property on the other.<sup>212</sup>

Finding the Order-in-Council P.C. 469 to be legally enacted, he concluded that the Custodian was within his rights to treat the property of 'evacuee' Japanese Canadians in exactly the same way as that of enemy aliens:

It therefore follows that the Custodian is under no trust in favour of an alien enemy, but all the rights and powers of the alien enemy in the property are vested in the Custodian, **and**

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211 "Memorable Manitobans: Joseph Thorarinn Thorson (1889–1978)," Manitoba Historical Society website, accessed 18 April 2017, [http://www.mhs.mb.ca/docs/people/thorson\\_jt.shtml](http://www.mhs.mb.ca/docs/people/thorson_jt.shtml).

212 Sheppard quoting P. Thorson in *Nakashima v. The King* (1947), 496.

**the Custodian is in the same position with reference to evacuee property [emphasis added].<sup>213</sup>**

This was the legal mechanism that the government used to confiscate Japanese Canadian property that had been vested with the Custodian. With Order-in-Council P.C. 469, a regulation pertaining to enemy alien property, was used against Canadian citizens. It is unlikely that Thorson could have made the same judgment with the words ‘Canadian citizen’ or ‘British subject’ replacing the term “evacuee” in both of the above paragraphs. It was only because they had been sufficiently racialized as ‘Japanese evacuees’ that Thorson could rule the order in council was valid.

After taking three years to come to a decision, Judge Thorson made an error in judgment—the Custodian of Enemy Property was appointed by the Secretary of State, and thus accountable to him, operated out of his offices, and communicated under his letterhead. Sunahara is correct in her contention that the delay in coming to a decision until 1947, well after most of the properties had been sold off, was an obstruction of justice.

## Iwasaki and the Bird Commission

By the time the decision came down in the Nakashima case, Japanese Canadians across the country began pressing for compensation for losses incurred during their uprooting. The war was over, and with more information becoming public about the abuses that took place, the government was being pressured to address the issue. The government was initially reluctant to acknowledge the demands of Japanese Canadians because of concerns that admitting that they had not received fair prices for their properties would open the government to the charge that the internment and the confiscation of property were unjust. Yet, even some BC politicians acknowledged that the Japanese Canadians were owed some additional compensation for the treatment they’d received during the war.<sup>214</sup>

On 21 April 1947, the Special Committee on Repatriation and Relocation<sup>215</sup> decided to launch an inquiry into wartime losses, and on 18

213 Sheppard quoting P. Thorson in *Nakashima v. The King* (1947), 504.

214 Sunahara, 137.

215 Originally formed on 23 January 1942 as the ‘Cabinet Committee on Japanese Questions’ and chaired by Ian Mackenzie and also including Humphrey Mitchell, Minister of Labour and J.G. Gardiner, Minister of Agriculture, it was tasked with advising the Cabinet on Japanese Canadian policy. Sunahara, footnote 64, 42. In late December 1942 Mackenzie invited Norman McLarty, Secretary of State, to join the committee. Sunahara, 92. In

July *The Royal Commission to Investigate Complaints of Canadian Citizens of Japanese Origin* was established under the authority of Order-in-Council P.C. 1810. Justice Henry Bird of the British Columbia Supreme Court was appointed as its head, and the Commission came to be known as the Bird Commission. Its terms of reference were initially limited to losses in which it could be proved that the Custodian had not exercised “reasonable care” in the supervision or sale of property. However, after protests, its mandate was later widened to include some redress for properties that had been sold “below market price.”<sup>216</sup> According to Roy Miki, from the outset, King’s move to establish the Commission was more about political expediency than actually redressing the injustices committed by the Canadian government upon its own citizens in wartime. But the mood had shifted. Some action was needed to appease the increasingly loud demands for compensation.<sup>217</sup>

Dealing with the claims of over a thousand people spread across the country was unique in the history of Canadian jurisprudence, and a huge task, both for the Commission and those bringing claims against the government. Legal counsel was organized by the Co-operative Committee on Japanese Canadians and the National Japanese Canadian Citizens Association, a Nisei organization formed in 1947 in Toronto, with claimants paying a retainer calculated as a percentage of what they were claiming.<sup>218</sup>

Soon after the Commission began hearings in 1948, it became apparent that the range and complexity of the claims meant that it could take years to complete its work and the cost of legal counsel might exceed the financial resources of the claimants. By the spring of 1949, it was agreed by both sides (with no consensus among Japanese Canadians, and much acrimonious debate that led to lasting rifts within the community<sup>219</sup>) that Bird would come up with a percentage formula for each category of claim, including real property in urban and rural areas, farms sold to the Veterans Land Administration, fishing boats and gear, and miscellaneous property. There would also be a provision for hearing evidence for special cases with “unusual characteristics.” The Iwasaki claim would be one of these, and the

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September 1945 the committee was renamed the Cabinet Committee on Japanese Questions. Sunahara, 109.

216 Adachi, 325–6.

217 Miki, 111–13.

218 Adachi, 326.

219 Miki, 118–126.

hearing that was held for his particular case provides some important insights into one of the earliest steps in the struggle for redress.<sup>220</sup>

The Commission continued through the rest of 1949, and when it had completed its work on 3 March 1950, Bird had 1,434 claims totalling over \$5 million on 2,420 sales of real and personal property. The transcript ran to over 25,000 pages, and there were almost 9,000 exhibits filed. The Commissioner concluded that the Custodian had been so overloaded with work in the first six months of its operation that it could not efficiently carry its duties, but on the whole it had competently fulfilled the task with which it had been charged.<sup>221</sup>

The Commissioner may have thought the Custodian was competent, but the people who had their land forcibly sold did not. As Roy Miki explained, there was a great deal of controversy within the Japanese Canadian community about whether or not they should even participate in the process.<sup>222</sup> On the government side, too big a concession would be tantamount to admitting that its actions during the war had not been 'fair and just.' For some Japanese Canadians, the conflicting concern was that if they did not participate, they might get nothing at all, while on the other hand going along with the limited terms of reference for the commission might preclude future demands for a more just settlement. In the end, they went along with the process as set out by the government. However, as the Iwasaki hearing would show, the Bird Commission was an exercise in making a token response to Japanese Canadian claims for compensation without openly admitting that the government had treated its citizens unfairly.<sup>223</sup>

For sales of Vancouver properties, Bird concluded that they had been sold at fair market value, except that the expenses incurred in selling the properties were charged to the owners, reducing the amount they received. Bird granted those owners a rebate on the commissions they'd been charged, generally about 5% of the price their properties had been sold for.<sup>224</sup>

With respect to the farms sold to the Veterans Land Administration, Bird reviewed the amount received for farms withdrawn from the initial offer to the Veterans Land Administration and subsequently sold by the Custodian, as well as the Land Office Registry records of other sales made in the Fraser

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220 Adachi, 327.

221 Adachi, 327–8.

222 Miki, Chapter 5, 111.

223 Miki, 117.

224 Adachi, 329.

Valley in 1943, and concluded that claimants did not receive fair market value and awarded claimants an additional 80% to what they had received from the Veterans Land Administration.<sup>225</sup>

The Iwasaki claim was considered a special case outside of the Commission's formulaic approach for dealing with rural properties. A hearing was held in Grand Forks on 2 March 1948, with J. W. G. Hunter serving as legal counsel for the government, Robert J. McMaster representing Iwasaki, and D. J. Handford acting as the official interpreter at the hearing.

At the outset of the hearing, Iwasaki's counsel, McMaster, declared that his client had no special expertise in land values when making his claim that his Saltspring property was worth \$60,000 (he and his brother were also making a separate claim on a Vancouver property that they owned together), and McMaster also declared that he knew little about values for such properties. When Bird asked about the acreage, McMaster replied that it was "quite a large acreage, about 600 acres," and then they moved on to a discussion of the claims for chattels, and the nature of the Vancouver property.<sup>226</sup>

McMaster pleaded that since Iwasaki had no special knowledge of real estate values, he would call upon expert evidence and offered as exhibits an appraisal together with Iwasaki's prepared statement: "On behalf of my learned friend I would file what purports to be an extract of the appraisal of D. Keith Wilson with regard to his property, dated 5 August 1944."<sup>227</sup> Since the full appraisal was only one paragraph, about one third of which was the legal description of the property, it's likely that it was the whole appraisal, not just an extract. (The exhibits are not in the archive.)

At this point Bird jumped in to declare,

I do not think I will allow this claim to pass, Mr. McMaster, without making some comment on the extravagance of the claim. I know something of Salt Spring Island and anyone who

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225 Adachi, 329–30.

226 Though not directly related to the Saltspring property, the amount Iwasaki received for the vacant lot he jointly owned with his brother in Vancouver is worth noting. It was purchased in January 1912 for \$3000 and sold by the Custodian in 1944 for \$230. When this is pointed out to Bird, he retorts, 'I suppose he has paid taxes for 35 years and he has to get it out of somebody.' To which McMaster, his counsel replies, 'To whence it goes, he expects it to return my lord.' LAC, Transcript of the 'Japanese Property Claims Commission, Case No. 252, held before Justice H.I. Bird, Commissioner, Grand Forks BC, 2 March 1948, 2, Part 2, RG117-A-3, Vol. 2825, File 59100.

227 LAC, Transcript of the 'Japanese Property Claims Commission, 5.

came up with a proposition that Salt Spring Island lands were worth a thousand dollars an acre would make it ridiculous.<sup>228</sup>

Mr. Bird's knowledge of Salt Spring land prices apparently exceeded his math skills, because a claim of \$60,000 for about 598 acres of land comes closer to \$100 an acre than \$1,000 an acre. It's difficult to know if this was a simple error or an intentional ruse to support Bird's contention that Iwasaki was making an 'extravagant' claim. In any case, McMaster didn't catch it, because he replied, "Probably the problem is the claimant is expanding his idea of the development of the land into the future rather than the present time." To this Bird replied, "Very far into the future. However I will say nothing more on the matter at present."<sup>229</sup>

Whether Bird simply made a basic math error or it was a deliberate tactic is not clear, but for the duration of the hearing he carried on with the idea that Iwasaki was making extravagant claims for the value of his property. McMaster then read expert evidence, which is missing from the archive, regarding the timber contract with Glen Lake Logging. This was an important point, because the land would have been worth a lot more if there was a sizable amount of merchantable timber left on the property when it was offered for sale. Bird inquired about the stumpage price in the agreement and upon learning that it was two dollars per thousand board feet, jumped to the conclusion that if the price was so low then Glen Lake Logging must have taken all that was accessible.<sup>230</sup>

Neither Bird nor McMaster knew how much timber was left on Iwasaki's property when it was sold, but having other contracts to attend to, Glen Lake Logging had likely ceased cutting sometime in 1943, and government timber scalings for the property strongly suggest that about 1.3 million feet out of a total of somewhere between 4 and 5 million feet had been cut when Salt Spring Lands took possession of the property in 1945. This fact is reinforced by a comment from Hall, who conducted the appraisal during the Bird Commission that Mouat had undertaken logging operations on the land after buying it, and aerial photos of 1945 and 1950 showing a substantial reduction in forest cover in the interval.<sup>231</sup>

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228 Ibid, 5.

229 Ibid, 5.

230 Ibid, 7.

231 Photos A9363\_054 (1945) and BC1052\_64 (1950) from the National Earth Observation Data Framework Catalogue of Natural Resources Canada, [https://neodf.nrcan.gc.ca/neodf\\_cat3/](https://neodf.nrcan.gc.ca/neodf_cat3/).

Rather than trying to correct Bird's misconceptions, McMaster took a conciliatory tone with the Commissioner, saying that Iwasaki's valuation of his property was due to his plans to develop it. To this Bird retorted, "I am reluctant to make any comment with regard to claim [sic], but when a claim so grossly extravagant as this is made, I think comment should be made upon it."<sup>232</sup> He made similar comments regarding Iwasaki's claim for the chattels on the property, which had been vandalized and stolen after he was forced off the property. After asking for confirmation of what chattels had been left on the property, Bird conceded that his view of the matter of chattels was affected by his dim view of the real property claim:

In this instance it is a matter of considerable moment as to whether there is any record to show that this chattel property was there. I have indicated in the remarks that I made previously that I have not been at all impressed with this claimant in view of the values he has put on real estate. Now, if there is anything in this chattel claim at all, it is bound to be affected by the view I have taken of the claimant in regard to his real estate, and if the Custodian did make a check on the chattel property, I would like to know it.<sup>233</sup>

The transcript of the hearing makes it clear that, although present, Iwasaki himself was hardly involved. He had a limited command of English, and years later his son wondered if the hearing might have gone differently had he been fluent in English.<sup>234</sup> His lawyer McMaster did a poor job of defending his interests. He failed to catch the mistake Bird made at the beginning of the hearing in calculating Iwasaki's claim at \$1,000 per acre when it was actually \$100, and, thereafter, never effectively challenged Bird's view that Iwasaki was wildly exaggerating his real and personal property claims. He did take a stab at challenging the idea that the property had been logged off, but failed to shift Bird's view. When Torazo's son Ray was asked about the Bird Commission hearing, he remembered his father derisively referring to McMaster as *Makemasu*, Japanese for 'I lost'.<sup>235</sup>

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232 LAC, Transcript of the 'Japanese Property Claims Commission, Case No. 252, held before Justice H.I. Bird, Commissioner, Grand Forks BC, 2 March 1948, 7, Part 2, RG117-A-3, Vol. 2825, File 59100.

233 *Ibid.*, 16.

234 Interview with Ray Iwasaki, Vancouver, 13 February 2016.

235 *Ibid.*

Iwasaki's claim of \$60,000 for his property was not unreasonable, and in line with property sales at the time. A 7.5-acre property on Saltspring, with a small area cleared and ploughed and about two acres 'partly improved' was offered 'for quick sale' in 1939 just before the outbreak of the European war for \$300.<sup>236</sup> At that rate, Iwasaki's property would have been worth \$23,920, but his property also had a very attractive waterfront, widely acknowledged at the time to be very valuable.

After the March 1948 hearing in Grand Forks, the Bird Commission devoted some effort to make a better assessment of the value of the chattels on Iwasaki's property, although the process seemed directed to confirm Bird's view of Iwasaki's 'extravagant' claims. On 7 May 1948, P. H. Russell of the Commission wrote to Gavin Mouat in an effort to get to the bottom of the chattels question. In writing to the person who bought the property, he tried to resolve why Iwasaki claimed a value of \$50 for a logging donkey that was new in 1939, yet should be worth more if it was actually going to be used for logging. He partially answered his own question with some remarkable logic to make what was stolen or vandalized worthless from the beginning:

I cannot conceive of any piece of heavy logging equipment such as this being powered effectively with a fifty dollar engine, and therefore think that the inference may arise that the real reason that the machine was never used was because it was completely worthless and had from the outset only scrap value. Furthermore, the scrap value on a relatively remote place like Saltspring Island would be nil to anyone but a Japanese as the motor would not be worth removing.<sup>237</sup>

Why "a Japanese" would put a higher scrap value on the engine than other people, and then go to the trouble of transporting it to a "relatively remote place" apparently didn't cross Mr. Russell's mind, suggesting that he harboured the common stereotype of the day, that Asians were prepared to work for nothing. He likely wasn't surprised to hear that Mouat did not feel the value of the chattels listed for the property he had purchased were undervalued, saying that similar items sold at auction on the island went

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<sup>236</sup> "Salt Spring Island," ad by Sidney real estate agent Sparling, *Saanich Peninsula and Gulf Islands Review*, 22 February 1939, 3.

<sup>237</sup> LAC, Letter from P.H. Russell to Gavin C. Mouat, 7 May 1948, Part 2, RG117-A-3, Vol. 2825, File 59100.

for lower prices.<sup>238</sup> Perhaps to allay any concerns that he may have paid too little for the property, Mouat added in a postscript a note that he made a visit to the site and felt that the building was a total loss and actually an encumbrance.<sup>239</sup>

In this way, the Commission satisfied itself that it had looked into the value of the chattels on the property and found them to be of little value. In representing Iwasaki at the Bird Commission, McMaster ordered another appraisal of the property in 1949 from W. M. Hall, who gave his report on 15 June of that year. At two full legal-sized pages of single-spaced text, it is far more detailed than the Wilson appraisal of 1944, but no less puzzling.

In his appraisal, Hall devoted considerable effort to estimating the amount and value of the timber on the property, since for many properties in British Columbia the amount of wood that they contain is a significant determinant of their value. Working from government timber cruises prior to the war and estimates of the amount cut by Glen Lake Logging, Hall gave a detailed assessment of the timber remaining on the property. He came up with a figure of 3.0 million feet of timber on the property in 1944 or 1945, 3.5 million if “pee-wee” logs were included, and noting that most taxation cruises underestimated the amount of harvestable wood by 10–15%. As for the value of the timber that was cut, he said, “A conservative estimate of the value of the stumpage in 1945 would be \$4.00 per M. feet.”<sup>240</sup> Mouat had been actively logging the property since taking possession of it in 1945, and Hall was impressed with the quality of the wood that was taken:

With reference to the present logging operations, I noted in the log boom and dumps that the timber appeared to be of quite good grade, and with the price of logs as it is today, the owner must be doing extremely well out of it.<sup>241</sup>

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238 Although his firm Salt Spring Lands regularly conducted auctions on the island, it did not conduct this one.

239 LAC, Letter from Gavin C. Mouat to P.H. Russell, 18 May 1948, Part 2, RG117-A-3, Vol. 2825, File 59100.

240 LAC, “Appraisal of Iwasaki property by H.M. Hall for McMaster,” 15 June 1949, Part 2, RG117-A-3, Vol. 2825, File 59100.

241 *Ibid.*

An aerial photo of the property taken in 1950<sup>242</sup> showed Mouat had been logging quite intensively in the years after buying the property, and even if he was only receiving the \$4.00 per thousand board feet that was the going rate in 1945, he'd likely made back his purchase price several times over in logs alone.

While doing his appraisal, Hall learned that Mr. Mouat had already sold two lots:

Two parcels have apparently been sold off by Mr. Mouat, one of about two acres, shown the map, to a Major Knapper, taking in cottage that used to be occupied by Mr. Iwasaki, and some of the clearing, for which, I was informed, Major Knapper paid the sum of \$3,000.00; and another parcel in the North-Westerly corner, to a Mr. Guilbride; acreage and price not available. I met Major Knapper and he showed me where his boundaries were, approximately. I searched title again this morning, but neither of these sales has apparently been registered so that I could not verify the acreage or prices of these alienations.<sup>243</sup>

The titles of the lots were not registered until 1952 and 1953, likely because Mouat was not fully paid for them until then. It's unfortunate that Hall did not investigate these sales more fully, because it turned out that 'Major Knapper' (actually Major W. H. Napper) paid \$4,000 for what became Lot 13 of Plan 9115, while Guilbride paid \$6,000 for Lot 16 of the same plan.<sup>244</sup>

Like everyone else, Hall was greatly impressed with the waterfront portion of the property:

The property, especially the sea frontage, together with a strip of land a few hundred feet deep, is an exceptionally desirable one. It can be subdivided into a great many plots, giving a certain amount of sea frontage to each parcel, say in one, two

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242 Photos A9363\_054 (1945) and BC1052\_64 (1950) from the National Earth Observation Data Framework Catalogue, Natural Resources Canada, [https://neodf.nrcan.gc.ca/neodf\\_cat3/](https://neodf.nrcan.gc.ca/neodf_cat3/).

243 LAC, "Appraisal of Iwasaki property by H.M. Hall for McMaster."

244 Land Title and Survey Authority of British Columbia (LTSA) title searches by Wendy Smith, February 2016.

or three-acre blocks. There are a great many delightful building sites, especially where the small bays occur, and along the main bay itself.<sup>245</sup>

Taking into consideration the value in timber on the property, the beauty of waterfront area, and the sales in the four years since Salt Spring Lands took possession of the property, Hall came to the astonishing conclusion that the property was worth \$12,000 in 1945. By his own estimate, the stumpage on the trees on the property was worth that much, and that was what would have been received by simply contracting a logging company to cut them down and carry them away. Had he simply multiplied his mistakenly low figure for the sale of the Napper property by a rough guess as to the number of waterfront lots that could be created from the property he would have come up with a much higher figure. Say, for instance, if he had estimated there would be 20 waterfront properties (there would eventually be 31) and multiplied that by the amount he believed the 'Knapper' property had sold for (\$3,000), he would have arrived at a figure of \$60,000, the amount that Iwasaki was claiming for his property at the time of the Bird Commission inquiry.

The integrity and objectivity of the Hall appraisal was questionable, and there is a hint that there may have been doubts in the Custodian's office as well. Later in the year, on 14 November 1949, F. G. Shears wrote to a Mr. Eustace Smith of Vancouver, asking that he look into the quantity of timber removed from the Iwasaki property after 1 September 1944, that is, after it was sold to Salt Spring Lands.<sup>246</sup> Mr. Smith's reply is not in the archive, but why would Shears have asked if not to gain a better understanding of the value of the property?

We do have an undated record of a conversation between Commissioner Bird and Hall, written up as a memo in the Iwasaki file, and leads me to suspect that the total value of the property may have been decided and communicated to Hall before the appraisal was ever carried out. Bird wrote,

Says approximately 100 acres extending along 1½ miles of water frontage on Satellite Channel, with depth of approximately 300 ft. from high water mark, had a value in August, 1944, of from \$50.00 to \$100.00 per acre – in all, say,

245 LAC, "Appraisal of Iwasaki property by H.M. Hall for McMaster."

246 LAC, Letter from F.G. Shears to Eustace Smith, 14 November 1949, Part 2, RG117-A-3, Vol. 2825, File 59100.

\$7,000.00. The remainder of this 597 parcel is of little value, except for the timber standing thereon in August, 1944.<sup>247</sup>

How could he decide it was worth \$50–100 per acre, while Hall noted in the appraisal that one two-acre lot had already been sold for \$3,000 (actually \$4,000)? The last sentence in Bird's comment regarding the remaining timber may have prompted Shears' letter to Eustace Smith.

Bird's final ruling on Claim No. 252, the Iwasaki property, mirrored the Hall appraisal at \$12,000. It awarded its previous owner \$6,750, plus any charges that were deducted from the original \$5,250 the property was sold for, such as the \$262.50 that Salt Spring Lands collected as a commission for selling the property to itself, and minus his share of the legal fees incurred by the Co-operative Committee on Japanese Canadians for a net total to Iwasaki of \$7,608.95.<sup>248</sup>

In the three page report, he reiterated Hall's calculation of the timber remaining on the property at the time of the sale, 3.0 to 3.5 million feet, yet in his final calculation he decided there was "not less than 2,000,000 ft ... having a stumpage value of \$4.00 per M."<sup>249</sup> He also took the low end of Hall's calculation of the value of the waterfront properties; approximately 100 acres at a minimum of \$50 per acre for a total value of \$5,000. He conceded that the Custodian was "badly served" by the Wilson appraisal during the war, but seemed to have missed Hall's note that two of the waterfront lots had already been sold, one for \$3,000 (although it was actually \$4,000) and the other for an unspecified amount. His tone had changed from the hearing, but he didn't seem to have let go of the idea that Iwasaki was making an "extravagant claim" of \$60,000 for his property.<sup>250</sup>

His conclusion of a \$12,000 value for the property is entirely at odds with his own idea "fair market value," for which a precise legal definition was given in Appendix III of his report on the Commission. Quoting "the learned author of 'Nicholls on Eminent Domain,' 2<sup>nd</sup> Edition, at page 658":

By 'fair market value' is meant the amount of money which a purchaser willing but not obliged to buy the property would

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247 LAC, "Claim No.252 – Iwasaki Torazo," Memo of Conversation between Commissioner and Hall, Part 2, RG117-A-3, Vol. 2825, File 59100.

248 LAC, "Claims Account of the Office of the Custodian of Enemy Property in Vancouver," Part 2, RG117-A-3, Vol. 2825, File 59100.

249 LAC, Claim No.252 – Iwasaki Torazo," Part 2, RG117-A-3, Vol. 2825, File 59100.

250 Ibid.

pay to an owner willing but not obliged to sell it, taking into consideration all uses to which the land was adapted and might in reason be applied.<sup>251</sup>

With that as a guiding principle, he looked to previous court decisions, saying:

Examination of the foregoing and other leading decisions in expropriation cases discloses that various tests have been applied by the Courts in assessing the fair market value of property of diverse types having various characteristics, each assessment being made in the light of existing conditions at the given date.<sup>252</sup>

In his assessment of the Iwasaki property, Bird looked at its uses for logging and housing lots, but ignored its potential for farming, and made no investigation at all of what “a purchaser willing but not obliged to buy” would pay, when in fact there were at least two buyers of lots within the larger property. In this case, no speculation at all was required to determine its value for building lots, had he simply noted the information provided in the Hall appraisal.

Furthermore, in his terms of reference for judging “fair market value,” Bird stated that a valuation should satisfy twenty different tests. Number ten stated that in cases where it was shown that a market existed at or about the given date for property of the type under review “the market price” (at or near the given date) “which if it is not spasmodic or ephemeral is the best test of the fair market value of property of this description.”<sup>253</sup>

It’s hard to imagine that just before the end of the worst war the world had ever seen and at a time when a large number of Japanese Canadian properties were put on the market at once, market prices could be anything *but* “spasmodic or ephemeral.”

The property was subdivided two years after Hall’s appraisal,<sup>254</sup> and, in October 1952, three years after the Bird Commission ruling, Gavin Mouat’s

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251 LAC, Appendix III, 1, “Bird Commission Report,” Part 2, RG117-A-3, Vol. 2825, File 59100.

252 *Ibid.*, 2.

253 LAC, Citing “*Untermeyer v. A.G. for B.C.* (1928) S.C.R. 84, at 91,” Appendix III, 3-4, *Bird Commission Report*, Part 2, RG117-A-3, Vol. 2825, File 59100

254 Survey Plan 9115, A.W. Wolfe-Milner B.C. Land Surveyor, Ganges BC, 19 March 1951. Retrieved from the LTSA by Wendy Smith, 4 February 2016.

subdivision Plan 9115 was registered in the Land Registry Office. It included 31 waterfront properties carved out of the Iwasaki property, plus a number of others on the inland portion of the property. Three days after the plan was registered, title deeds for the Napper and Guilbride properties that Hall noted when he did his appraisal were registered at the Land Registry Office for \$4,000 and \$6,000, respectively. As noted earlier, had Hall guessed low and thought that 20 lots could be surveyed, and then multiplied it by his mistakenly low figure for the Napper property (\$3,000) he would have arrived at a figure of \$60,000, the amount Iwasaki asked for during the Bird Commission inquiry. Even considering that land prices were likely at a low point in 1945 when the country was exhausted after a brutal war, had the waterfront lots been valued at half of what Napper paid, Iwasaki's claim of \$60,000 wasn't extravagant. It was, in fact, conservative.<sup>255</sup>

Certainly Mouat had costs associated with subdividing the property; it had to be surveyed and Sunset Drive needed to be built. However, it's likely that he was able to more than cover these costs with the revenue derived from logging the property. It was a common practice then (and now) for land developers to make back what they paid for a property by selling logs cut from it, and this seems to be what Mouat did. Bird noted that the going stumpage rate was \$4.00 per thousand board feet, but that was what logging companies paid landowners to cut trees on their properties. Mouat logged the property himself, so almost certainly made a great deal more than the stumpage value of the 3.0 to 3.5 million board feet of timber that was on the property when he bought it. Comparing the aerial photos of the property at the time he bought it (1945) and when Commissioner Bird made his judgment (1950) shows that Mouat was hard at work logging the property.<sup>256</sup> It's very likely that he had made back his purchase price on the land several times over by the time he started subdividing and selling lots.

Bird's ruling of a \$12,000 value for the Iwasaki property supports Miki's contention that the low settlements made by the Bird Commission weren't about saving money, they were about defending the government's actions during the war. Thus it seems his indignation at the "extravagant claim" he thought Iwasaki made for his property was feigned and he began the process with the intention of keeping the settlement for the property as low as possible.

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255 Title deeds retrieved from the LTSA by Wendy Smith, February 2016.

256 Photos A9363\_054 (1945) and BC1052\_64 (1950) from the National Earth Observation Data Framework Catalogue, Natural Resources Canada, [https://neodf.nrcan.gc.ca/neodf\\_cat3/](https://neodf.nrcan.gc.ca/neodf_cat3/).

Consider what might have happened if he'd accepted Iwasaki's claim of \$60,000, or even some lower figure that Iwasaki might have accepted. If, for instance, Bird had offered Iwasaki \$50,000, then Iwasaki might still have been unhappy, but it's likely that he would have accepted the money and never brought a lawsuit against the government. But at ten times the original amount that he received (under \$5,000 after the sales commission and other fees were deducted), that settlement would have thrown the whole process of the Bird Commission into doubt. Bird's 80% formula for compensating rural property owners would have looked like a sham, and other claimants would have immediately demanded greater compensation for their properties. Bird knew that he could make an extra concession for the 'special case' of the Iwasaki property, but going too far might have shattered the already shaky confidence in the fairness of the commission and opened the floodgates to a larger number of claims.

From the time Iwasaki's property was sold in 1945 until the end of 1948, the Custodian's office wanted to close his file—they repeatedly issued cheques that in protest Iwasaki refused to cash. In 1947, he wrote to the Custodian protesting the sale of his property, berating them for failing to protect his equipment stored on the property, and refusing to provide the requested Certificates of Title.<sup>257</sup> While the Bird Commission was underway in 1948, it re-issued a cheque for the monies that it had received from the sale of his properties on Saltspring and in Vancouver, a sum of \$4,932.99. It was mailed to him in Greenwood where he was still living, with a short cover letter that included the following statement:

Acceptance by you of this cheque does not prejudice in any way, your claim for loss which you may feel you sustained in the sale of your property, as the Commissioner, the Honourable Mr. Justice Henry I. Bird, has made a ruling to this effect.<sup>258</sup>

Shortly after, on 3 November 1948, Iwasaki cashed the cheque at the Grand Forks branch of the Canadian Bank of Commerce, writing above his signature, "Without Prejudice to Property Loss Claim."<sup>259</sup> Since the fact that

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257 LAC, Protest letter from Iwasaki to Custodian's Vancouver office, 19 August 1947, Part 2, RG117-A-3, Vol. 2825, File 59100.

258 LAC, Letter from W.J. Johnston, Office of the Custodian to Torazo Iwasaki, 5 October 1948 Part 2, RG117-A-3, Vol. 2825, File 59100.

259 LAC, Cancelled cheque for \$4,932.99, 5 October 1948 issued by the Royal Bank of Canada,

he cashed the cheque would later be used against him in court when he brought a suit against the government, the cover letter was a falsehood.

When a cheque for \$7,608.95 was issued on 8 November 1950, following the ruling of Commissioner Bird, Iwasaki waited about six weeks before cashing it on 27 December 1950. After eight years of incarceration at Greenwood, Iwasaki badly needed funds to look after his family and his dire financial circumstances overcame his determination to fight the government for fair compensation or the return of his land, at least for the moment.

For a time, Torazo Iwasaki continued to live in Greenwood, while the two youngest of his five children joined their older siblings in Ontario. His son Ray worked for the City of Toronto for a number of years, appreciating the greater ease he experienced in finding work in a city where people's credentials were more important than what country their parents came from. Eventually, however, he grew tired of the long winters and the lack of fresh seafood and moved back to the West Coast.<sup>260</sup>

Other writers, such as Miki<sup>261</sup> and Sunahara,<sup>262</sup> have documented the flaws and limitations of the Bird Commission, and how conflicted so many Japanese Canadians were in cooperating with it. The decision to go for a blanket formula for compensation instead of climbing the bureaucratic mountain of individual claims might have been unavoidable, but it guaranteed that many claimants would not get fair compensation. Looking into the details of an individual case highlights just how poorly it served many of the people seeking redress. In examining Iwasaki's case, the Commission neglected a number of important considerations, but a simple math error by Justice Bird (either deliberate or accidental) and a (possibly intentional) flawed appraisal, coupled with his contemptuous tone throughout the hearing suggests that he was looking for a way to make the facts of Iwasaki's claim fit a predetermined outcome. Reading the transcript of the Iwasaki hearing adds to the understanding of the Bird Commission given by Sunahara and Miki. In particular, McMaster, as the legal counsel of Japanese Canadians in the Commission, was more of an obsequious and accommodating pleader than a tough negotiator looking out for the best interests of his clients—*Makemasu* indeed. Iwasaki's chances of receiving fair treatment by the Commission were doomed from the outset.

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Part 2, RG117-A-3, Vol. 2825, File 59100,.

260 Interview with Ray Iwasaki, Vancouver, 13 February 2016.

261 Miki, Chapter 5.

262 Sunahara, Chapter 8.

## CHAPTER 6

# *Persevering for Justice*

**F**OR THE MURAKAMIS of Saltspring Island, the 1950s and 1960s were hard years as they attempted to reclaim their land and place on an island that refused to acknowledge the wrongdoing that had occurred.

In September 1954, with Katsuyori at 55 years of age and Kimiko at 50, the Murakami family made the decision to return to Saltspring. To this day, they are the only uprooted family to return permanently to the island,<sup>263</sup> and one of very few Japanese Canadian families outside of Steveston who returned to the place from where they had been uprooted.<sup>264</sup>

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263 In the memory of Don Cunningham, who lived his whole life on Saltspring and was a young boy at the time of the uprooting, three Japanese Canadian families returned to the island, but only the Murakamis chose to stay. "Don Cunningham talks about the Old Days of Salt Spring Island. Part 3," accessed 2 February 2017, <https://vimeo.com/202494241>.

264 Murakami, 32–33.

Twelve years after being torn away from their thriving farm, the family returned to the island to start from scratch. They tried unsuccessfully to buy their old property back, sold by the Custodian to the Veterans Land Administration and currently in the hands of Cliff Wakelin and Frank Downey. When that proved impossible, they bought unimproved land on Rainbow Road near the edge of Ganges from Frank Speed,<sup>265</sup> ironically using Gavin Mouat's firm Salt Spring Lands to make the purchase.

They were not welcomed back to the island. Shortly after returning, a Revenue Canada official appeared at their door, prompted by some islanders to inquire about how they obtained the money to buy the property and return to the island. A senior person from the Anglican Church, into which all of the children had been baptized, came by to inform them that they were not welcome to rejoin the congregation.<sup>266</sup>

The family was distressed to find that the cemetery at Central, behind what is now the movie theatre, had been neglected, vandalized, and used as a dump. Many of the Japanese Canadians who had passed away on the island were buried in the cemetery, and in the 12-year period of their forced removal it had been treated very badly. Had other cemeteries on the island received similar treatment it would have prompted a criminal investigation.

In 1967, the Centennial of Canadian Confederation, a park was created on the waterfront in the town of Ganges to honour the island's pioneers. Donations were canvassed from local citizens and the Murakami family donated money for a cherry tree to be planted to honour the Japanese Canadian pioneers who'd first come to the island before the turn of the previous century. Later in the year, returning from the family's only trip to Japan, they looked for the tree, only to be told that it had never been planted. As recalled by Rose Murakami,

That tree was never planted. A prominent citizen, one of the original directors of the Centennial Park Committee, told mother to get her money back. The Park Committee did not want people of our race to contribute to the park.<sup>267</sup>

Years later, when Richard decided to open an auto repair business on the family property, the Islands Trust, a local governing body responsible for

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<sup>265</sup> Cunningham – Footnote no. 263.

<sup>266</sup> Murakami, 34–35.

<sup>267</sup> Murakami, 38.

regulating development on the Gulf Islands, gave the family a great deal of resistance, including an after-hours phone call from one of the trustees threatening to run them off the island. The business also received threats from an RCMP officer, prompting the family to take their concerns to Japanese Canadian Citizens' Association. Shortly thereafter 'No Parking' signs appeared along the road in front of the auto repair shop in an attempt to curtail business.<sup>268</sup>

At other times over the years, racists on the island went by to yell obscenities at the family, with a number of incidents occurring in the new millennium. The racism of the wartime years didn't end with the war, but through many years of hard work and perseverance, the Murakami family again prospered on the island. They count many allies among their fellow citizens, although the island community has never fully acknowledged the wrong that had been committed against them. Torazo Iwasaki, despite never returning to the island, remained determined to receive justice for the theft of his property.

## Iwasaki Goes to Court

Despite being 86 years old, twenty-two years after his property was taken from him, Torazo Iwasaki decided to go to court to get his land back, or, failing that, \$1.5 million in compensation. He enlisted the support of two young Vancouver lawyers, Ray MacLeod and Dan Small,<sup>269</sup> who launched the case with a letter to Secretary of State Judy LaMarsh on 18 May 1967. After giving the legal description of the property and then a summary of the events surrounding the sale of the Iwasaki property by the Custodian, MacLeod wrote,

We have reviewed the facts concerning the confiscation of the subject property and we have reviewed the legislation under which the confiscation was effected and after much consideration, we are of the opinion and have advised our clients that their property was illegally confiscated.<sup>270</sup>

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<sup>268</sup> *Ibid.*, 37–38.

<sup>269</sup> Ray MacLeod shared a law practice with Dan Small and so the latter's name is on many court documents, but it was MacLeod who primarily fought the case. Interview with Ray MacLeod, 2 April 2016.

<sup>270</sup> LAC, Letter from J. Raymond MacLeod to Judy LaMarsh, 18 May 1967, Part 2, RG117-A-3, Vol. 2825, File 59100.

Then, after acknowledging that the property had been subdivided since it was confiscated and, therefore, difficult for the government to restore title, MacLeod suggested that as an alternative Iwasaki be compensated for his loss in accordance with current property values. He closed by saying that if the government could not come to some kind of decision within the next 60 days, he would advise his clients to initiate legal proceedings.<sup>271</sup>

Over the next few months, the case received a significant amount of press coverage. An article appeared in the *Vancouver Sun* on 23 June 1967, entitled "Couple Asks for \$1.5 Million" and subtitled "Appeal to Canada's Conscience."<sup>272</sup> In considerable detail, the story was told of how Torazo came to Canada in 1901, made a down payment on his property on Saltspring and paid it off in 1940 just before the war, and the Japanese Canadian uprooting. The article named Gavin Mouat as the Custodian's agent on Saltspring, and Salt Spring Lands, with Mouat as its president, was identified as the eventual owner of the property. Amid the national pride of Canada's centennial year, the story of an elderly Japanese Canadian couple having their land sold off against their wishes found a sympathetic audience.

Receiving no response from the government, on 5 September 1967, MacLeod and Small filed their Petition of Right in the Exchequer Court of Canada in Vancouver, arguing that the Secretary of State acted in excess of his jurisdiction and in breach of trust in filing the Vesting Order on the property and conveying the land to the Secretary of State, and acted unlawfully and beyond his jurisdiction in conveying the property to Salt Spring Lands. They asked that the property be returned to Iwasaki, or, failing that, he be paid damages of \$1.5 million.<sup>273</sup>

The Civil Litigation Section of the Department of Justice, led by R. W. Law, went to work crafting its response, and on 10 October 1967, filed its Statement of Defence on behalf of Her Majesty the Queen. It argued that the property in question was within the "protected area," as defined by Order-in-Council P.C. 2483,<sup>274</sup> and the Suppliant (Torazo Iwasaki) is a person of the Japanese race and as such was required to leave the protected area, after which his property was vested with the Custodian. Under Order-in-Council P.C. 469, pursuant to the *War Measures Act*, the land was sold

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271 Ibid.

272 "Couple Asks for \$1.5 Million," *Vancouver Sun*, 23 June 1967, 1.

273 LAC, Petition of Right filed by J.R. MacLeod in the Exchequer Court of Canada in Vancouver, 5 September 1967, Part 2, RG117-A-3, Vol. 2825, File 59100.

274 See Appendix 5.

to Salt Spring Lands Limited. It also stated, "At no time material to the Petition of Right herein was the said Custodian an agent or servant of Her Majesty."<sup>275</sup> As well, the Statement of Defence asserted that the Suppliant had signed a release, which released the Crown and Custodian from all claims. Furthermore, by his laches (lack of diligence in making a legal claim) in making a claim, and because of the Statute of Limitations, his right to challenge the legality of the sale had expired.

The case caused the government considerable embarrassment at a time when it was proclaiming the openness and inclusiveness of Canada, and while its neighbour to the south was beset with civil strife that erupted into race riots the following year. On Saltspring, a front-page story, in the 29 June 1967 issue of the local *Gulf Islands Driftwood* newspaper, explained that the Iwasakis had owned a large property in the Sunset Drive area, which they lost and were seeking compensation of "over one million dollars."<sup>276</sup> The article makes no mention of Gavin Mouat.

In September 1967, an article appeared in *Maclean's* magazine entitled "Canada's day of infamy on Salt Spring Island," outlining the story and the case that MacLeod was bringing to court.<sup>277</sup> It made a point of the "curious fact" that the land ended up in the hands of the agent of the Custodian and that in a single day it had passed to the Secretary of State and then to Salt Spring Lands. The article was sympathetic to the Iwasakis and depicted their lawyers as fighting the good fight against an uncaring, and possibly, even corrupt government.

Over the years, Torado [sic] wrote several protest letters to Ottawa officials and received no satisfactory answers. Then, last January, two young Vancouver lawyers took on the case, because, says one of them, "It had a hell of a strong moral issue.... It became our Centennial project." Predictably enough, Ray MacLeod and Dan Small got the Ottawa runaround until June when they presented a claim to the office of the Secretary of State. The suit has since been referred to the Department of

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275 LAC, "Statement of Defence in the Exchequer Court of Canada between Torazo Iwasaki, Suppliant, and Her Majesty the Queen, Respondent," 10 October 1967, Part 2, RG117-A-3, Vol. 2825, File 59100.

276 "Seek Compensation for Loss of Land," *Gulf Islands Driftwood*, 29 June 1967, 1, accessed 16 March 2016, <http://saltspringarchives.com/driftwood/1967/June29-1967.pdf>.

277 Jon Ruddy and Barry Broadfoot, "Canada's day of infamy on Salt Spring Island," *Maclean's*, 80, no. 9 (September 1967): 1.

Justice. MacLeod hopes to argue the case before the Exchequer Court of Canada, and he thinks that it could lead to a flood of appeals for realistic compensation to Japanese Canadians.<sup>278</sup>

The *Maclean's* article was accompanied by a photo of the sombre-looking Iwasakis with an earnest young Ray MacLeod, captioned, "Torado [*sic*] and Fuku Iwasaki with lawyer MacLeod: a 26-year-old tragedy and a \$1.5-million skeleton in our closet."<sup>279</sup>

The article touched a nerve, at least in some quarters of the government. R. A. Bell, Member of Parliament for Carleton, Ontario, wrote to John Turner, then Registrar General (and later Prime Minister) and member of the Privy Council in the Pearson government to say that he found the article "very disturbing," particularly the fact that the property had ended up in the hands of Gavin Mouat, the Custodian's agent on the island.

Such allegations have a very dilaterious [*sic*] effect on the operations of government. Is there the slightest truth in them? What are the real facts? What action has been taken by the Custodian of Enemy Alien Property, if the facts are not true, to secure equal publicity for this particular article?<sup>280</sup>

Turner acknowledged receipt of Bell's letter and later sent him a short note saying that, since the matter was before the courts, a comment would be inappropriate.<sup>281</sup>

On Saltspring, there was also a strong reaction to some of the press coverage of the Iwasaki trial. A 15 October 1967, segment of the CBC program 'The Way It Is' that covered the story drew a strong response from the island's Chamber of Commerce, which wired the Secretary of State, Judy LaMarsh:

Strong objection re Salt Spring Island portion of The Way It Is program October 15th account guilt inference on part of Salt Spring Lands and deceased Gavin Mouat whereas legal action

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278 Ruddy, Broadfoot.

279 Ibid.

280 LAC, Letter from R.A. Bell MP for Carleton to John Turner MP, 18 September 1967, Part 2, RG117-A-3, Vol. 2825, File 59100.

281 LAC, Letter from John N. Turner to R.A. Bell MP, 27 September 1967, Part 2, RG117-A-3, Vol. 2825, File 59100.

filed against Federal Government Stop Entire Crofton Interview and your inclusion of Horel and Bastedo interviews would have presented a more accurate picture. Demand correction immediate program. Copy of local newspaper following.<sup>282</sup>

In a 1967 news roundup at the beginning of the following year, there was an entry for October: "Salt Spring Island is incensed over showing of CBC film regarding the Iwasaki property and impending claim for substantial compensation by Japanese-Canadian farmer." It's difficult to gauge how widespread this feeling of being incensed really was, but the partners of Salt Spring Lands (Gavin Mouat had died six years earlier) were sufficiently offended that the national broadcaster had cast aspersions on a previous principal of the company that they retained the legal firm, Pearlman and Lindholm of Victoria, to see what could be done about it. They wrote to the Crown's legal counsel on 20 December 1967, concerned about "the innuendo and adverse reflection cast upon the reputation of our client, Salt Spring Lands Ltd."<sup>283</sup>

Interestingly, Lindholm asked about the nature of the position that Gavin Mouat held with the Custodian and what duties he had. He also requested copies of all the correspondence between the Custodian and Mouat and the Secretary of State and Mouat pertaining to the sale of the property. Maxwell's reply suggested that this request was fulfilled. We can speculate about the real purpose of hiring Pearlman and Lindholm. Did they really think that they could somehow suppress the bad publicity their firm and Gavin Mouat were receiving through the court case, or was their real intention to find out more about what Gavin Mouat had actually done 25 years earlier?

The examination for discovery in the Iwasaki trial was held on two dates about three months apart in early- and mid-1968.<sup>284</sup> Both the government and Iwasaki had different representation each time. For the first held on 26 March 1968 in Vancouver, the government was represented by C. R. O. Munro, who did most of the questioning, as well as R. W. Law. Iwasaki was represented by D. W. Small. In addition, Mrs. S. Ito was present as inter-

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282 "Chamber protests TV to Judy La Marsh," *Gulf Islands Driftwood*, 26 October 1967, 1, accessed 16 March 2016, <http://saltspringarchives.com/driftwood/1967/October26-1967.pdf>.

283 LAC, Letter from Louis P. Lindholm to D.S. Maxwell, Deputy Attorney General of Canada 20 December 1967, Part 2, RG117-A-3, Vol. 2825, File 59100.

284 LAC, "Examination for Discovery: Torazo Iwasaki, Suppliant and Her Majesty the Queen, Respondent," in the Exchequer Court of Canada in Vancouver BC, 26 March 1968, 6-8, Part 2, RG117-A-3, Vol. 2825, File 59100.

preter,<sup>285</sup> because, similar to the Bird Commission hearing, Iwasaki was handicapped by his poor understanding of English, and the fact that he was 87 years old when the first examination for discovery was held.

**Table 6.1 Ownership Chain of Iwasaki Property<sup>286</sup>**

Date	Transfer	Character of Deed
1945 October 2	Salt Spring Lands to Gavin Colvin Mouat	Certificate of Indefeasible Title
1945 April 3	Secretary of State to Salt Spring Lands	Registration of Fee-simple
1945 April 3	Secretary of State acting in capacity as Custodian	Registration of Fee-simple
1945 March 1	Secretary of State acting in capacity as Custodian	Vesting Order filed No. 50930
1940 December 13	Helen S. Pottinger to Torazo Iwasaki	Conveyance
1912 May 21	Charles Pottinger to Merchants Investments	Conveyance
1908 March 6	Geo. Whitfield to Charles Pottinger	Conveyance
1905 March 15	Carl Waters to Charles Pottinger	Conveyance
1899 March 23	Michael Finnerty	Release of Mortgage
1892 March 17	Drake et al to Michael Finnerty	Transfer of Mortgage
1888 March 17	Carl Waters to Drake et al	Mortgage
1887 April 1	Crown to Carl Waters	Grant

Munro's initial questioning of Iwasaki was directed at determining his history on Saltspring and when he purchased the property that was later

<sup>285</sup> LAC, "Examination for Discovery: Torazo Iwasaki, Suppliant and Her Majesty the Queen, Respondent", 1.

<sup>286</sup> Land Registry Act Form A #122796, Conveyance from Helen S. Pottinger to Torazo Iwasaki, 13 December 1940 and Land Registry Act Form A #05742. Retrieved by Wendy Smith from the LTSA, 3 February 2016.

taken from him. It was a long and confusing exchange, and Munro didn't really get the information he was looking for, but from the archive and an interview with Iwasaki's son we know that Torazo moved to the island shortly after WWI and that he took title to property on 13 December 1940, after paying \$3,950 for it. The Iwasakis were living and working on the property for many years before acquiring formal ownership, implying a degree of mutual trust between them and the previous owners, the Pottinger family. Table 6.1 presents the ownership chain of the Iwasaki property.

The initial questioning was followed by a long exchange in which Mr. Munro attempted to verify the facts upon which Iwasaki based his 'allegation' that Gavin C. Mouat was the agent for the Custodian. His questioning was intended to draw a line of separation between the Custodian and Mouat, adding a second degree of separation to the one that the government's legal counsel intended to draw between the government and the Custodian, should it be needed in the trial. Interestingly, when Munro asked Iwasaki if Mouat was an agent for the Custodian, he replied that, "Everybody that was on the Salt Spring Island got together and they asked Mr. Mouat to become their Agent."<sup>287</sup> Iwasaki believed that Mouat was selected by the Japanese Canadians of the island and was acting on their behalf.

Iwasaki's mistaken understanding of Mouat's position, that he was chosen by the Japanese Canadian Saltspringers because of his stature as a prominent business owner in the community, meant that for him Mouat's acquisition of his property was more than just some underhanded dealing, it was a betrayal of the trust that had been placed in him by the community. Gavin Mouat was a respected community leader and owner of the island's most prominent real estate firm. Everyone on the island shopped at the Mouat store run by his brother Gilbert, an island institution that carried everything and bought and sold produce from the island's farms.

In Iwasaki's responses to questions in the examination for discovery there was the suggestion that Mouat had designs on acquiring Iwasaki's property from before the uprooting,<sup>288</sup> and that he even went to the point of dissuading the Japanese Canadians from selling their properties to others, telling them they would go to jail if they did. It is possible that this was a point of

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287 LAC, "Examination for Discovery: Torazo Iwasaki, Suppliant and Her Majesty the Queen, Respondent" in the Exchequer Court of Canada in Vancouver BC, 26 March 1968, 11, Part 2, RG117-A-3, Vol. 2825, File 59100.

288 LAC, "Examination for Discovery: Torazo Iwasaki, Suppliant and Her Majesty the Queen, Respondent," in the Exchequer Court of Canada in Vancouver BC, 26 March 1968, 27-28, Part 2, RG117-A-3, Vol. 2825, File 59100.

view developed with the benefit of hindsight on the events as they eventually unfolded, and we have no other evidence that offers to purchase were made for the Japanese Canadian properties on Saltspring. Nevertheless, given what we do know about D. K. Wilson's appraisal, the bidding process, and the purchase by Mouat of the large property adjoining his own, Iwasaki's suggestion that he had designs on it from the beginning is not implausible.

Finally, Munro asked Iwasaki a number of questions challenging his understanding of law. Iwasaki's reply went to the heart of his case against the government:

Q: Mr. Iwasaki, in Paragraph 4 of the Petition of Right, it is alleged the figure of the Exhibit 10 was contrary to the laws of natural justice. I want to know what facts you rely on for that allegation?

A: It was because they [the Japanese Canadians] were Canadians and it was wrong to take their land away.

Q: Thank you, also in paragraph 4, Mr. Iwasaki, it is alleged that the figure of Exhibit 10 was contrary to the provisions of the British North America Act. I would like to know on what facts you rely for that allegation?

A: What is the British America Act? That is not the law, is it?

Mr. Munro: Yes.

Mr. Small: Yes, it is.

Mr. Munro: The British North America Act.

Mr. Small: That is the constitution.

A [the interpreter is translating]: They made him an enemy and they tried to take it away from him.

Mr. Small: I don't know whether that is—

Mr. Munro: Just a minute, that is the answer to the question?

Mr. Small: I agree.

A [the interpreter is translating]: That is the answer to the question, yes. He says he thinks it is wrong, because they made him an enemy and tried to take the land away from him. He went to the United States after and he saw there the American Government gave everything back to them, even the broken glass was fixed and it was given back to them.<sup>289</sup>

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289 LAC, "Examination for Discovery: Torazo Iwasaki, Suppliant and Her Majesty the Queen, Respondent," in the Exchequer Court of Canada in Vancouver BC, 26 March 1968, 40–41,

Iwasaki was making an eloquent, plainspoken appeal for natural justice from the government in a court convened by that same government. As I discuss later in this chapter, Iwasaki was correct in his contention that matters were handled differently in the United States, and the contrast illuminates the scale of the harm perpetrated by the Canadian government.

After about a three-month hiatus, the examination for discovery resumed on 5 July 1968, with different legal counsel on both sides. Ray MacLeod was present for Iwasaki and Norman Mullins and B. J. Hiytsak for the Crown, with the former doing the questioning. Mullins was more civil than Munro, but more aggressive, and he went straight back to Mouat's role as agent for the Custodian. Like Munro had earlier, he sought to cast doubt on the idea that Mouat was actually an official representative of the government. He also repeatedly questioned Iwasaki on his contention that Mouat had promised him that his land would be returned to him after vesting. Iwasaki's answers indicated that the Japanese Canadians fully trusted Mouat to look after their property in their absence.

It's interesting that the government was so committed to distancing itself from Mouat, when the issue of whether or not he was a part of the Custodian's office ultimately had little bearing on the outcome of the case. It was ultimately ruled that there was no trust between the Custodian and those who had their property vested, so there could be no breach of trust. Even if the court had determined that Mouat was legally a representative of the Custodian, whatever he said to the owners of vested property, or whatever he did with their property didn't matter. Perhaps at this point the government's counsel was not so confident of that outcome, or perhaps they were just looking for a fallback in case the court found that a trust existed between the Custodian and the Japanese Canadians.

The Evidence on Commission hearing was held on the same day, 5 July 1968, and it gave Ray MacLeod the opportunity to question his client under oath. MacLeod reviewed the basic facts of his case and then asked if Iwasaki received a cheque in payment for his property. Iwasaki expressed that he had but that it was returned uncashed four times. MacLeod asked if Iwasaki finally cashed it, and Iwasaki confirmed that he did, stating, "I received a letter that if I don't accept that cheque I won't get any cheque, money or the

property."<sup>290</sup> After that incident, the Bird Commission concluded Iwasaki had accepted the \$8,083.50 he was offered and signed the release form.<sup>291</sup>

Iwasaki's concern that had he not cashed the cheque he may have received nothing at all was an important point. Although there is no record of the letter he referred to, there is a copy of the letter accompanying the cheque that was sent to Iwasaki which indicated that acceptance of it would not compromise his claim for greater compensation for the loss of his property.<sup>292</sup> Had either of these letters been produced at the trial perhaps the outcome might have been different.

The trial began on 30 September 1968, at the Vancouver courthouse of the Exchequer Court of Canada with Justice Sheppard presiding. It ran for four days and attracted a fair amount of press coverage in the Vancouver papers and across the country.<sup>293</sup> It was also discussed in the House of Commons by Mr. Woolliams, who related that the government had not only taken Iwasaki's property and given him \$5,000 for it, an agent of the Secretary of State, Gavin C. Mouat, stood to make \$1.45 million from that same property. His main point was not the injustice suffered by Iwasaki, but that it was far too costly for an average citizen to bring cases against the government, with the result that there was one law for the rich and another for the poor.<sup>294</sup>

In court, MacLeod argued that Order-in-Council (469)<sup>295</sup> ordering the sale of Iwasaki's property breached the previous Order-in-Council (1665)<sup>296</sup> that vested it with the Custodian, because both were passed under the *War*

290 LAC, "Evidence on Commission of Torazo Iwasaki, Suppliant, pursuant to the Order of the Honorable Mr. Justice Sheppard," in Vancouver BC, 5 July 1968, 1-5 (quote 4-5), RG117-A-3, Vol. 2825, File 59100.

291 LAC, Release Form signed by Iwasaki 28 October 1950 releasing the government of any obligation to him after payment made following the Bird Commission, RG117-A-3, Vol. 2825, File 59100.

292 LAC, Letter from W.J. Johnston, Office of the Custodian to Torazo Iwasaki, 5 October 1948.

293 "Japanese Sues Gov't," *Vancouver Sun*, 30 September 1968.

"Gov't Order in Land Sale Challenged by Lawyer," *Vancouver Sun*, 1 October 1968.

"\$1.5 million claim before court today," *The Province*, 1 October 1968.

"\$1,500,000 claimed by man after war move." *Ottawa Citizen*, 1 October 1968.

"Claims \$1.5 Million for Seized Land," *Ottawa Journal*, 2 October 1968.

"Wartime land seizure actions claimed invalid," *The Province*, 4 October 1968.

"War restitution claim refuted," *The Province*, 3 October 1968.

"No recourse for Japanese, lawyer says," *The Globe & Mail*, 3 October 1968.

"1947 decision cited in \$1.5 million claim," *The Province*, 2 October 1968.

294 Canada. Parliament. *House of Commons Debates*, 28th Parl, 1st Sess, Vol. 1 Monday, (7 October 1968) at 880.

295 See Appendix 6.

*Measures Act*, which states that no order passed under the act shall revoke any right or liability granted under a previous order. MacLeod stated,

I submit there was a right owing Iwasaki to have his property returned to him and an obligation on the Secretary of State acting as custodian to hold his property for him.<sup>297</sup>

As a result the order in council ordering the sale of the property (469) was void because the earlier order in council (1665) had placed on the Custodian a responsibility to hold the lands in trust for the owners. “That trust was breached by the sale of the property, and the sale by the secretary-of-state to Saltspring Lands Ltd. amount to a fraud,” MacLeod said.<sup>298</sup>

MacLeod also asserted that Gavin C. Mouat acted fraudulently, as he was a director of and shareholder in Salt Spring Lands, Ltd., the firm that purchased the property, while acting as an agent of the Secretary of State.<sup>299</sup>

In the trial, MacLeod also challenged the legality of the discrimination based on race where Orders in Council P.C. 1665 and 469 (among others) referred to “persons of the Japanese race.” He contended that the government failed to define persons of the Japanese race and “that particular term is so ambiguous that it makes the order in council inoperable.”<sup>300</sup> The trial took place about half a year after the race riots in the United States following the assassination of Martin Luther King. Racial discrimination was very much on people’s minds and more widely considered to be unacceptable. In his court challenge, MacLeod took a more modern approach to the concept of race, that there is no biological definition of it, in contrast to the framers of the Orders-in-Council during the war, who took it as an objective fact that required no definition.

On the government’s side, Norman Mullins argued that the case was brought against the wrong party—that it should have been against the Custodian and not the Queen. He also contended that the legislation did not create a trust relationship between Iwasaki and the Custodian, so there could be no breach. He stated that under the authority of the orders in

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296 See Appendix 4.

297 “Gov’t Order in Land Sale Challenged by Lawyer” *Vancouver Sun*, 1 October 1968.

298 *Ibid.*

299 *Ibid.*, also “1947 decision cited in \$1.5 million claim,” *The Province*, 2 October 1968.

300 “Gov’t Order in Land Sale Challenged by Lawyer.”

council, the land became the absolute property of the Custodian, not the Crown. Mullins argued,

The vesting happened as a matter of law. The custodian had unlimited powers. He could even give back the land or the proceeds if he so chose. This was unlimited discretion, not a trust.<sup>301</sup>

In addition to pleading that a 20-year limitation on court actions of this kind disqualified the case,<sup>302</sup> Mullins also argued that the fact that Iwasaki had signed a release after receiving the payment at the conclusion of the Bird Commission inquiry was reason enough for his case to fail.<sup>303</sup> Apparently, neither he nor MacLeod were aware of the letter that accompanied the cheque sent to Iwasaki indicating that acceptance of it would not compromise his claim for greater compensation for the loss of his property.<sup>304</sup>

Countering Mullins' argument, MacLeod asserted that the Orders-in-Council had deprived Iwasaki of his rights, and because they were not restored until well after the cessation of hostilities, Iwasaki could not legally sign a document releasing the government of all responsibilities because he had no civil rights at the time. MacLeod stated, "At the time the release was signed, Iwasaki had no rights. He didn't get any rights back until 1952."<sup>305</sup>

Mr. Justice Sheppard opted to reserve judgment, handing it down about a month later on 29 October 1968, ruling against Iwasaki.<sup>306</sup>

In his Reasons for Judgment, the judge reviewed all of the orders in council related to the dispossession of Japanese Canadian land. He began with the *War Measures Act*,<sup>307</sup> which gave the government absolute power unrestrained by Parliament:

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301 "War restitution claim refuted," *The Province*, 3 October 1968.

302 "Gov't Order in Land Sale Challenged by Lawyer."

303 LAC, "Wartime land seizure actions claimed invalid," *The Province*, 4 October 1968, Part 2, RG117-A-3, Vol. 2825, File 59100.

304 LAC, Letter from W.J. Johnston, Office of the Custodian to Torazo Iwasaki, 5 October 1948.

305 LAC, "Wartime land seizure actions claimed invalid."

306 LAC, "Reasons for Judgment between Torazo Iwasaki, Suppliant and Her Majesty the Queen, Respondent," the Honourable F.A. Sheppard in the Exchequer Court of Canada, 29 October 1968, 24 pages, Part 2, RG117-A-3, Vol. 2825, File 59100

307 *War Measures Act*, R.S.C. 1927, Cap. 206, Sec. 3, see Appendix 1

The Governor in Council<sup>308</sup> may do and authorize such acts and things, and to make from time to time such orders and regulations, as he may by reason of the existence of real or apprehended war, invasion or insurrection deem necessary or advisable for the security, defence, peace, order and welfare of Canada.<sup>309</sup>

These orders and regulations had the full force of law, and moreover, they could be expanded or modified at will.

All orders and regulations made under this section shall have the force of law, and shall be enforced in such manner and by such courts, officers and authorities as the Governor in Council may prescribe, and may be varied, extended or revoked by any subsequent order or regulation.<sup>310</sup>

Many of the actions taken by the government against the Japanese Canadians during and after the war were done so as Orders-in-Council from the Privy Council, amending the Defence of Canada Regulations<sup>311</sup> and the Consolidated Regulations Respecting Trading with the Enemy,<sup>312</sup> sets of regulations enacted under the *War Measures Act*.

After reviewing each of the Orders-in-Council, Sheppard turned to the facts of the case as he understood them, provided an overview of the events surrounding the sale of the Iwasaki property and the claim that Iwasaki made under the Bird Commission. The judge then listed the allegations in the Petition of Right:

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308 "Governor in Council" refers to the Prime Minister and the Cabinet," accessed 12 March 2016, [http://www.parl.gc.ca/About/House/compendium/web-content/c\\_g\\_parliamentaryframework-e.htm](http://www.parl.gc.ca/About/House/compendium/web-content/c_g_parliamentaryframework-e.htm).

309 Excerpt from Section 3 of the *War Measures Act* 1927, See Appendix 1.

310 Excerpt from Section 3 (2) of the *War Measures Act* 1927, See Appendix 1.

311 The Defence of Canada Regulations were a group of 64 regulations enacted under the *War Measures Act* that guided the government's conduct of the war. For example, Regulation 21 (p29-30), gave the Minister of Justice the absolute power to detain any people that he thought may be a threat to public safety or the State, prohibit those people from owning specified articles, and impose restrictions on their movements, employment, place of residence. *Defence of Canada Regulations, 1939*, (Ottawa: King's Printer, 1939), accessed 3 March 2016, <http://archive.org/stream/defenceofcanadari1939cana#page/no/mode/2up>.

312 Consolidated Regulations Respecting Trading with the Enemy 1939, amended 1940, 1941. Full text from 486, [http://constitution.org/cmt/treatises/domke\\_tme\\_in\\_WW2.pdf](http://constitution.org/cmt/treatises/domke_tme_in_WW2.pdf).

- I. A Trust – Secretary of State, the Custodian, took custody in trust for and in the interest of Suppliant.
- II. Breach – The lands were vested in the Custodian and sold and conveyed by him to Salt Spring Lands Ltd.
- III. That such breach imposed liability on the Crown.<sup>313</sup>

In relief, Iwasaki asked:

- (a) That the Crown return the lands or
- (b) Alternatively, pay damages of \$1,500,000.<sup>314</sup>

The judge stated these pleadings may be taken to allege:

- i. A trust in the Custodian to the Suppliant under Orders-in-Council 1665 and 2483.
- ii. The breach thereof in part by reason that Order-in-Council 469 authorizing a sale is alleged ultra vires, therefore there was a breach in the trustee having sold and conveyed to Salt Spring Lands Ltd.
- iii. For such breach the Crown is responsible in account.<sup>315</sup>

Sheppard reasoned the allegations “had not been made good,” and noted that the Suppliant contended that in Orders-in-Council P.C. 1665 and 2483<sup>316</sup> that ordered the vesting of his property “as a protective measure only,” “the control and management of the Custodian” was limited in his application of the Consolidated Regulations to being “for the purpose of protecting the interests of the owner or other person.”<sup>317</sup>

In his judgment, Sheppard relied heavily on the ruling of Justice Thorson<sup>318</sup> in *Nakashima v. The King* (1947), as discussed above. In the

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313 LAC, “Reasons for Judgment between Torazo Iwasaki, Suppliant and Her Majesty the Queen, Respondent,” the Honourable F.A. Sheppard in the Exchequer Court of Canada,” 29 October 1968, 8, Part 2, RG117-A-3, Vol. 2825, File 59100.

314 Ibid, 8.

315 Ibid, 8.

316 See Appendices 4 and 5.

317 LAC, “Reasons for Judgment between Torazo Iwasaki, Suppliant and Her Majesty the Queen, Respondent,” 11–12.

318 In his Reasons for Judgment, Sheppard refers to the judge in the *Nakashima* case as ‘P. Thorson’. This is either an error, or the ‘P’ is ‘President’. The judge in the *Nakashima* case was Joseph Thorarinn Thorson.

Nakashima trial, Order in Council P.C. 469 was challenged as being an ultra vires (Latin for ‘beyond the powers’) application of the regulation. It was certainly a big jump applying a regulation covering the property of enemies to those who were not. Under the *War Measures Act*, the government had the power to designate any person or group as an enemy after which it could treat them in any manner permitted under the Geneva Conventions. But with this legal sleight of hand it was spared the trouble of legally making the Japanese Canadians enemies. The *War Measures Act* changed the way laws were enacted—by orders in council to create regulations instead of passing laws in Parliament—but the country still operated under the rule of law. Justice Thorson ruled that Order-in-Council P.C. 469 was not an ultra vires application of the Defence of Canada Regulations. In my view, this was an error in judgment, and the government’s actions could indeed be challenged on the legality of applying a regulation intended for enemies to those who were never legally defined as such.

In his Reasons for Judgment in *Iwasaki v. The Queen*, Sheppard also cited the argument used in *Nakashima v. The King* that the case was brought against the wrong party, the Crown instead of the Custodian. This was an error of fact, as shown in the legal document transferring ownership of the Iwasaki property to Salt Spring Lands, Limited. It reads,

This Indenture, Made in 1st day of March in the year of our Lord one thousand nine hundred and forty-five.

In Pursuance of the “Short form of Deeds Act”

Between

THE HONOURABLE THE SECRETARY OF STATE OF CANADA

Acting in his capacity as Custodian under the Revised Regulations Respecting Trading with the Enemy (1943) (hereinafter called the “Grantor”)

AND

SALT SPRING LANDS, LIMITED, a company duly incorporated under the laws of the Province of British Columbia.

of Ganges, in the Province of British Columbia.

(hereinafter called the “Grantee”)<sup>319</sup>

Sheppard repeated this error when denying that there was a conflict of interest in Mouat buying the property:

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319 This Indenture form transferring ownership of the Iwasaki property from the Custodian to Salt Spring Lands, 1 March 1945. Retrieved by Wendy Smith from the LTSA, 3 February 2016.

The Custodian sold to Salt Spring Lands Ltd. but the Custodian had no interest in that company and was not selling to himself. Hence there was no conflict on the part of the Custodian ... because Mouat was not selling, and his being agent may have had nothing to do with buying or with selling.<sup>320</sup>

More correctly, the Secretary of State acting in his capacity as Custodian was selling, and Mouat, his agent, did in fact have something to do with the buying of the property. Sheppard may not have known it, but as explained in Chapter 3, Mouat had something to do with the selling of the property; his former (and perhaps current) employee conducted the appraisal that determined the price that he paid for it, and the bidding process was unfair because Mouat was a part of the agency conducting the sale. Certainly, the Custodian's office, and even Mouat himself, had concerns about the legality of Mouat's purchase of Iwasaki's property.

In his Reasons for Judgment, Sheppard also addressed the Suppliant's contention that there was no evidence that Iwasaki was of the Japanese race, saying, "In the Suppliant's examination for discovery (Q. 1 & 2) he gave his name as Iwasaki Torazo, or, in English, Torazo Iwasaki. That is not an English name"—as though a person's name was valid proof of race.

He also contended that when ordered to register as a person of the Japanese race and when ordered to leave the protected area, Iwasaki did so. His lands were vested with the Custodian. Finally, when a commission was convened to investigate claims by Japanese Canadians, he responded and received compensation.<sup>321</sup> Sheppard's argument captured in a nutshell the dilemma that faced Japanese Canadians throughout the uprooting—compliance with the process could be construed as tacit admission of its validity, while resistance to it at any step of the way would have been taken as proof of disloyalty and further justification for the uprooting and dispossession of their property. The Japanese Canadians were in a lose-lose situation, damned if they acquiesced to the government's actions against them, and damned if they resisted.

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320 LAC, "Reasons for Judgment between Torazo Iwasaki, Suppliant and Her Majesty the Queen, Respondent," the Honourable F.A. Sheppard in the Exchequer Court of Canada, 29 October 1968, 8.

321 LAC, "Reasons for Judgment between Torazo Iwasaki, Suppliant and Her Majesty the Queen, Respondent," the Honourable F.A. Sheppard in the Exchequer Court of Canada, 29 October 1968, 15–17.

MacLeod and Small might be given credit for challenging the validity of government's use of "persons of the Japanese race" as a criterion for determining who would be uprooted, yet perhaps their challenge was not direct enough. Instead of arguing that the term was ambiguous and inoperable, maybe they should have confronted the issue more directly, questioning the government's use of race as the determinant of who would be uprooted and dispossessed of their property. The case was heard in 1967, at a time when racial prejudice and conflicts were front-page news. Sheppard's ruling was upholding a policy that was contrary to notions of fairness and equality that were current at the time. He wasn't in a position to change the past, but he could have taken steps to redress the injustice that Iwasaki had suffered.

MacLeod and Small appealed the case on 24 December 1968, and it was heard in the Supreme Court of Canada on the 13, 16, and 17 February 1970. The appeal was dismissed on 23 April 1970, with costs assessed at \$2,857.<sup>322</sup> Following the trial, the government tried to recover costs and, when they weren't forthcoming, hired private investigators to determine if Iwasaki had assets that could be seized to cover the amount. Their report makes for very sad reading. They found Torazo, by then 90 years old, living in a small apartment in Vancouver with his wife Fuku, for which his son paid \$125 per month. He was reported as walking extremely slowly, his wife Fuku went out in a wheelchair, and "their furnishings are very skimpy and limited and of little or no value."<sup>323</sup>

Total expenses for the Exchequer Court and Supreme Court trials came to \$6,845.15, more than half of what Iwasaki received for his property, although of course those were 1970's dollars. After receiving the report from the investigators, R. W. Law at the Department of Justice's Civil Litigation Section wrote to his superiors suggesting that while it was unlikely they'd have any success in recovering costs, they could issue a writ that might be filed so that they could collect something from Iwasaki's assets when he died. The costs were deemed 'uncollectable' and the file was closed.<sup>324</sup>

In the court of public opinion it was a different matter. Press coverage during the trials was generally sympathetic to Iwasaki. The September 1967

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322 Supreme Court of Canada ruling on *Torazo Iwasaki v. Her Majesty the Queen*, 17 February 1970.

323 LAC, "Retail Credit Company report from an investigation into the financial assets of Torazo Iwasaki," 27, 28 May 1970, Part 2, RG117-A-3, Vol. 2825, File 59100.

324 LAC, Letter from R.W. Law to M. Robtaille, Assistant Deputy Custodian, 4 November 1970, Part 2, RG117-A-3, Vol. 2825, File 59100.

*Maclean's* article, mentioned above, likely had the widest readership, and the title alone, "Canada's day of infamy on Salt Spring Island," indicated which side the press was on in discussing what it referred to as "a skeleton in Canada's closet."<sup>325</sup> A 1969 CBC radio segment also opened with a reference to the skeleton, but it was followed by an interview with Ray Macleod who talked about receiving phone calls from strangers upset about the fact that he was "handling the Jap case." He spoke about his firm's initial interest in the case, "the social injustice that was apparent to us," an act he viewed separately from the legal injustice, one that needed to be addressed.<sup>326</sup> On Saltspring, where one man's loss was another's gain, local newspaper coverage suggested the island was 'incensed' at the suggestion that a prominent local businessman had somehow acquired a large tract of land improperly, but that feeling was likely far from universal.

It was a sad end to a remarkable story. Despite his advanced age, Iwasaki showed courage, determination, and tenacity in taking on the Government of Canada. Iwasaki may have understood that he stood little chance of prevailing in a court battle with the government, but he tried anyway and had the courage to stand up and be heard. The story of his struggle for justice should be taught to every student in British Columbia. Although ignored by the court, his contention that things were different in the United States was correct. In the United States, Executive Order 9066 under which Japanese Americans had been incarcerated was rescinded on 2 January 1945, before the end of the war, and they were then permitted to return to their homes. Japanese Americans did not have their property vested by a Custodian, or sold off against their wishes, although many suffered serious property losses, either because they sold it quickly before being incarcerated or because of damage and neglect in their absence.<sup>327</sup> Later in the hearing, Iwasaki pointed out that Japanese immigrants to the United States were not allowed to naturalize, but they still got their property back. That changed in 1952 with the passage of the Walter-McCarran Act,<sup>328</sup> which abolished

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325 Jon Ruddy and Barry Broadfoot, "Canada's day of infamy on Salt Spring Island," *Maclean's*, 80, no. 9 (September 1967): 1.

326 "The case of Torazo Iwasaki, interned Japanese Canadian," *CBC Radio*, 10 April 1969, accessed 17 March 2016, <http://www.cbc.ca/archives/entry/japanese-canadian-internment-the-case-of-torazo-iwasaki>.

327 "Internment of Japanese Americans," *Wikipedia*, accessed 12 April 2016, [https://en.wikipedia.org/wiki/Internment\\_of\\_Japanese\\_Americans#Hardship\\_and\\_material\\_loss](https://en.wikipedia.org/wiki/Internment_of_Japanese_Americans#Hardship_and_material_loss).

328 "Asian American History," Japanese American Citizens League, Accessed 12 April 2016, <https://jacl.org/asian-american-history/>.

the provisions of the Naturalization Act of 1790 that had previously restricted naturalization to “free white persons, of good moral character.”<sup>329</sup> Iwasaki lost his court case and died a bitter man several years later, but the moral case was far from settled, and the Iwasaki trial was an important precursor to the redress movement of the 1980s.

The Iwasaki case likely passed out of the minds of most Canadians, but it lingered longer in the memories of some Saltspringers. In 1971, vandals destroyed plants and berries at the height of the harvest on the Murakami’s Rainbow Road farm. We can only speculate on their motives, but the reaction to the attack and Alice Murakami’s letter to the editor about it tells us something about public attitudes at the time. Alice’s long letter written from her home in California was published in *The Driftwood* on 7 October 1971, under the title, “Racism?”<sup>330</sup> After outlining her family’s history on the island, their forced removal from it, and eventual return to start over, she turned to the vandals themselves:

It is most ironical to me that in the blackness of the night, that you people could crawl like worms out of the gloom and bowels of “That Park”<sup>331</sup> to do such a dastardly act. I know that to perform such a cowardly act there was much premeditation. So I have come to the conclusion, that there still infests in the minds of some people on the island, the great delight of systematically discriminating against people of Japanese descent.

She also related the betrayal of the local Custodian in looking after their property in their absence, noting that when she came to the island and visited the graves of her family, she also made a point of putting a single flower on the Custodian’s grave while asking God for his forgiveness. The letter elicited two responses in the following week’s paper. Regular *Driftwood* contributor and local historian Bea Hamilton expressed her regrets about what had happened and also her thoughts on the uprooting in a long letter under the title, “A Matter for Sadness and Shame.” On the forced removal of Japanese Canadians she wrote,

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329 “Immigration and Nationality Act of 1952,” accessed 12 April 2016, [https://en.wikipedia.org/wiki/Immigration\\_and\\_Nationality\\_Act\\_of\\_1952](https://en.wikipedia.org/wiki/Immigration_and_Nationality_Act_of_1952).

330 “Racism?” *Gulf Islands Driftwood*, 7 October 1971, 4.

331 She is referring to Mouat Park, but does not want to use the name.

From the time that our island started, back in the 1800's, we have had Japanese people working, helping and living with us on the island. Yes, WAR came between, it is true—and your people were banished to camps. That, Alice, was not the fault of the Salt Spring people—but compulsive Military or Governmental rulings—and it may have been the best for some of your people as, in the heat of war, and bitter feelings that arise between nationalities, there could have been uncomfortable incidents at home—in our midst.

You and your people, were safer and likely to be embroiled in home arguments, perhaps by incoming people who resented ANY person connected with Japan; perhaps the same sort of person who deliberately wrecked your parent's garden crops.<sup>332</sup>

Almost three decades after the uprooting and it is still the same narrative that, as harsh as it was, the forced removal of people from their homes was an evacuation for their own good. It had nothing to do with the attitudes of anybody on the island. It was the unfortunate action of a “compulsive” government. Although full of goodwill, when talking about a group of people that she herself acknowledged have been part of the island community since the beginning of settlement, they are still “your people”:

We don't often see your father but we know he is there, somewhere out in that vast field, tending his plants that we may get some produce later on. We love you Alice, and your people and I think you will find many neighbors around Ganges, who, when they realize that some varmint really is harming your people's garden (we found hard to believe that anyone could be so mean), I am sure that our people will help to protect your family and see that their crops are not damaged again.<sup>333</sup>

As well intended as Bea Hamilton's letter was, it is a form of racism. She separated her people from “your people,” even while expressing her love for them. Another writer in the same issue also wrote about her reaction to Alice's letter. In a letter under the title, “She Was Shocked.” It is immediately clear that she wasn't shocked by the incident itself, but by the fact that anybody

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332 “A Matter For Sadness And Shame,” *Gulf Islands Driftwood*, 14 October 1971, 4.

333 Ibid.

might besmirch the name of a prominent islander, while attacking her forgiveness because it is less than complete. For all that it shows about contrasting attitudes on the island, Darlene O'Donnell's letter is worth quoting in full:

While I sympathize with the Murakamis on the damage done to their garden last summer, I was shocked that you would allow the insinuations against a man, now deceased and unable to defend himself, that were contained in the "letters to the editor" from Alice Murakami Tanaka in the *Driftwood* last week.

The forgiveness she speaks of is not evident when through a letter she has made public, she undoubtedly brings much pain to this man's family, who themselves would have been children at the time and would certainly have had nothing to do with the actions of their father, right or wrong.

Although I was also a very small child at the time, I'm sure what was done was under the direction, or at least with the approval of the Canadian Government, and done not only here on Salt Spring but all over Canada.

What right has Mrs. Tanaka to say this person is forgotten. I fail to see how her once yearly visit can determine this. Even if she lived here year around, how could she know what is in the hearts of other people?

As for the R.C.M.P. I am sure they have done all they can and would welcome any advice on how this case and other cases of vandalism against other people of other racial origins can be solved.<sup>334</sup>

O'Donnell's sympathies are clearly overwhelmed by her indignation that Murakami's criticism of a man might cause pain to his children, but it also shows how the institutionalized racism of the Canadian government could be used to legitimize the actions of an islander who had profited handsomely from the uprooting. She was quick to pass judgment on Murakami's letter, but reserved judgment on what Gavin Mouat had done, "right or wrong," during the war, and this was after his actions had been publicly discussed in considerable detail during the Iwasaki trial only three years earlier. It might be said that Iwasaki lost his case in court but won in the court of public opinion, yet among individuals on the island it was less than a total victory.

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334 "She Was Shocked," *Gulf Islands Driftwood*, 14 October 1971, 4.



## CHAPTER 7

# *Coming to Terms with Past Injustice*

**T**HE UPROOTING of Japanese Canadian Saltspringers and the dispossession of their properties left lasting scars on the entire community, not just on those who were directly affected. Many decades later islanders live with the consequences of never having fully come to terms with the injustice perpetrated against a group of people on the basis of their race.

Confronting racism is an uncomfortable subject for liberal white Canadians who view themselves as generous, open-minded, and fair. It's tempting to rationalize the injustice of the past with the explanation that it happened a long time ago when attitudes were different, when the country was at war, and when people had genuine fears for the security of the country. The story of the Japanese Canadian uprooting on the island shows just how threadbare those excuses are. Three-quarters of a century later those who were uprooted still carry the bitterness of the injustice their families suffered, while the descendants of the people who benefited from the forced removal of Japanese Canadians soothe their consciences with

platitudes about the things that happen during times of war. Some of us who arrived more recently wonder about the dark, unspoken history of this tranquil island in the sheltered waters of the Georgia Strait.

The decision to uproot the entire coastal population of Japanese Canadians was a capitulation to racists in provincial and local governments who for political advantage cultivated the fear of a minority that was thriving in spite of racist exclusion. It might be tempting to think that these were individuals in Victoria or Vancouver, but one of the more vocal was Macgregor Macintosh, MLA for Salt Spring and a resident of the island. After the decision was made to forcibly remove all Japanese Canadians from the coast, their property was vested with the Custodian of Enemy Property, with the trust that it would be held for safekeeping in their absence. This research showed that if the intention of later returning it to them ever existed, it dissolved within months of the uprooting. The need to provide farms for returning veterans dovetailed with the goals of racists who wanted to ensure Japanese Canadians had nothing to come back to after the war.

There never was a legitimate reason for uprooting an entire group of people whom the military authorities and the police considered to be exemplary citizens. The only explanation for continuing that exclusion for four years after the war ended was that it was driven by an institutional racism that sought to keep Japanese Canadians away from the West Coast and assimilate them into white Canada, and because doing so was for the political advantage of some West Coast politicians. The extension of the exclusion from the coast was to have ended in 1948, but because of Mackenzie King's concern about losing a by-election for the Vancouver Centre seat of Ian Mackenzie (who was being promoted to the Senate because his alcoholism had reached a point where he could no longer function as Minister), it was further extended until 1949. Liberal BC Premier Byron Johnson assured King that if the exclusion was lifted, losing the seat was a certainty.<sup>335</sup> Political expediency trumped the right of Japanese Canadians to move freely within the country.

It could have ended differently. After Pearl Harbor, there was some discussion within the Canadian government about coordinating Canada's policy with regard to Japanese Canadians with what the United States government was doing. However, from the beginning the two country's policies diverged. In Canada, the uprooting and management of property was handled by the Custodian of Enemy Property, in spite of the fact that

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335 Sunahara, 134.

the people who were forcibly removed from the coast were never legally defined as enemies. By contrast, in the United States, Japanese Americans were uprooted and detained by a new federal agency created for the purpose, the War Relocation Authority (WRA).<sup>336</sup> Japanese Canadians were mostly relocated to work camps, ghost towns, and farms, whereas Japanese Americans were held behind barbed wire with armed guards in towers in what were initially termed “concentration camps.” The most striking differences, however, were in how it ended. On 2 January 1945, before the conclusion of the Pacific War, the orders for the mass exclusion of Japanese Americans were rescinded,<sup>337</sup> while in Canada it would continue for another four years. Japanese Americans did not have their real and moveable property vested with a government agency while they were held in camps. Although not sold off by the government, some 75% of Japanese Americans lost all of their property, and many had their property stolen or vandalized in their absence.<sup>338</sup> By contrast, the Canadian government dispossessed Japanese Canadian property, paid them a fraction of its value, and then gave them an allowance from these funds and forced them to pay for their own incarceration.

Immediately after the war, the Canadian government had the opportunity to address the injustices that it had perpetrated against Japanese Canadians over the previous five years. My examination of how the Canadian government dealt with the Iwasaki case during the Bird Commission revealed it wasn't an investigation into its past errors, but rather a whitewash intended to exonerate itself for its treatment of Japanese Canadians. As one of the more egregious examples of dispossession, the Iwasaki case had the potential to poke a big hole in the government's story that the liquidation of properties was mostly fair and just, so the outcome of the inquiry into the circumstances surrounding its sale was decided in advance: Iwasaki would get a bit more money than other property owners, but not enough to throw the entire compensation scheme into doubt. This

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336 Greg Robinson, *A Tragedy of Democracy: Japanese confinement in North America* (New York, Columbia University Press, 2009), 1.

337 The legality of the exclusion order that uprooted Japanese Americans from the west coast was challenged in court by George Ochikubo in mid-1944. On 1 June 1945 the court ruled that the Western Defense command did not have the authority exclude any Japanese American from the coast, but simultaneously ruled that the army could arrest those who entered the exclusion zone. The decision was rendered moot when the war ended in 1945 and all exclusion orders were cancelled. Robinson, 253–4.

338 Robinson, 257.

examination of the Iwasaki hearings during the Bird Commission reinforces what Adachi, Sunahara, and Miki have written about this period.

The seed of the false narrative on the Iwasaki property took root on the island after the Bird Commission, but the attempt to paper over what had been done to Iwasaki didn't make the problem go away. It continued to fester in the memories of the Iwasaki family, the Murakami family who returned to the island, and among the white residents of the island, who remain uncomfortable with the suspicion that one of their most prominent citizens had used his position to enrich himself at the expense of an uprooted member of the community.

The return of the Murakami family in 1954 brought back unpleasant memories, and their struggle to regain their home on the island was a reminder that their removal was not an 'evacuation' that had their best interests in mind. Their presence disturbed the story that the acquisition of the Japanese Canadian properties on the island was something other than legalized theft. Long after public expressions of racism had become unacceptable, and well into the era when Canadians wanted to believe that their country was a progressive multicultural mosaic, the history of Japanese Canadian dispossession on the island showed that not everyone was an equal player in Canada's settler project. When the individuals who suffered the consequences of our racist past are somewhere else, in another community, it's easier to sustain the myth that it all happened long ago—a consequence of government decisions made in the past and things are different now. We must acknowledge that the people who were comfortable with that false narrative made those who disturbed it unwelcome.

In the 1960s, after the Murakamis returned to Saltspring and were working to rebuild their lives on the island, the Iwasakis continued to struggle for the return of their large north-end property or to get fair compensation for it. By this point, public attitudes had shifted substantially from the war years, and, in 1967, Canada's centennial year, the country was celebrating its multicultural diversity and smugly distinguishing itself from its neighbour to the south where race riots were front-page news. Yet the ruling in Iwasaki's court case showed that the legality of wartime orders in council targeting "persons of the Japanese race" was upheld decades after the point when treatment on the basis of their race had become unacceptable. As Tim Stanley explained, forms of racism change with time and place, and they persist over time.<sup>339</sup>

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339 Stanley, 6.

*Shikataganai*, 'it can't be helped'—the uncomplaining acceptance of adversity is often cited as a cultural quality of the Japanese, and certainly many of the uprooted Japanese Canadians displayed remarkable resilience in the face of the ill treatment that they received. But *ganbatte*, try harder, keep at it, dogged persistence is also a characteristic of the Japanese, and the efforts of both the Murakamis and the Iwasakis to resist the racism they faced reinforced Oikawa's critique of the 'silent survivor' narrative and the view of Japanese Canadians as a homogeneous group. The Murakamis and the Iwasakis responded differently to the uprooting and dispossession of their properties, and understanding their stories adds nuance and detail to what we know about how Japanese Canadians resisted injustice, as chronicled in the writings of Adachi, Sunahara, and Miki.

A study of the Iwasaki court case was an avenue into examining the legality of the government's actions during the uprooting. Many writers have concluded that anything done under the authority of the *War Measures Act* was unchallengeable, but I have taken a more critical approach. Orders-in-Council were enacted under the *War Measures Act* that had the force of law and there was no *Charter of Rights and Freedoms* to which the government had to adhere. As documented in this book, the legality of the Orders-in-Council used to dispossess Japanese Canadians of their property was tested in the Nakashima and Iwasaki cases and found to be valid. The sweeping powers granted to the government under the *War Measures Act* eliminated the need for Parliamentary oversight in the crafting of laws, but the country still operated under the rule of law. That is, it had great freedom in drafting regulations, but it needed to operate within the scope of those regulations and not simply govern by decree. In dispossessing Japanese Canadians of their property, the government applied regulations pertaining to enemies against British subjects who were never legally defined as enemies. In my view, they acted beyond the scope of the law. Furthermore, the courts ruled that no trust had been established between the Custodian and Japanese Canadians when they vested their properties with him, and thus no breach of trust occurred when they were liquidated, but I believe this was an error in judgment. When the properties were vested with the Custodian "as a protective measure only," a trust was created. The legality of the dispossession of Japanese Canadian property is not a closed case and merits further examination by legal scholars.

In the years before and after the Iwasaki trial, many Japanese Canadians wanted to forget the time of the uprooting and move on with their lives. Many chose to assimilate into white Anglo Canadian culture. Inter-marriage rates were high, and with a predisposition toward hard work, discipline, and

academic achievement, they prospered. After achieving full citizenship rights, many were content to bury the past. In the mid-1970s, however, some Japanese Canadians began to organize to seek a formal acknowledgment by the government of wrongs committed during the war. This led to the redress movement of the 1980s, and after tortuous negotiations with the government, on 22 September 1988, Prime Minister Brian Mulroney rose in the House of Commons to acknowledge the injustices of the uprooting and announced that compensation would be paid to those still living who had been forcibly removed from the coast. At \$21,000 per person, the monetary compensation was not reparation for actual losses, but it did add weight to the sincerity of the acknowledgment. Widely described as an “apology,” the leadership of the redress movement were only looking for an acknowledgment of past wrongs, and that is how the federal government referred to it. Governments have difficulty admitting their mistakes of the past because it makes them vulnerable to charges that they are making mistakes in the present.

Though redress constituted only an acknowledgment and token payment, it held deep significance for Japanese Canadians. Masayo Hora, a *sansei* (third-generation) Japanese Canadian Salt Springer, was born in 1949 in Revelstoke, BC because, at the time, her parents were not allowed to return to their home in Steveston. Speaking at an event on the island to commemorate the 75th anniversary of the Japanese Canadian uprooting, she related how Prime Minister Mulroney’s formal acknowledgment lifted a burden of shame that she had felt because of her family’s forced removal from the coast.<sup>340</sup> Although they were loyal Canadians and had done nothing wrong, to be singled out for such treatment left many Japanese Canadians feeling ashamed of who they were; the redress was an important step in healing the injury of past exclusion.

The enormous relief felt by many Japanese Canadians after redress reveals the long-term psychological impacts of the government’s racist exclusionary policies during World War II and the years after. The forms of racism of that era were not consistent, and Japanese Canadian allies, those who stood with them in resisting injustice, played an important role in mitigating damage. But just as racism varied over time and among groups of people, so did allyship and support. Politically, the Co-operative Commonwealth Federation (CCF) has been credited by historians for supporting Japanese Canadians at a time when they had few friends in government ready to come to their

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<sup>340</sup> Masayo Hora, ‘Return to Steveston, My Family’s Journey,’ talk at the Salt Spring Island Public Library, 14 February 2017.



from the coast without their consent, or even consultation, could be justified.<sup>341</sup> Certainly, overt expressions of racism on the island spiked after Pearl Harbor, but to consider those incidents to be indicative of the reality at the time is like reading newspaper headlines and concluding that murderers lurk in every alleyway. In contrast, the experiences on Saltspring validate Oikawa's assertion that the uprooting may have been driven by a few racist politicians, but it could never have happened without the complicity of many others.<sup>342</sup>

For the rest of the Islanders to truly come to terms with the past will require the acknowledgment that there were many people who either stood by and did nothing or abetted the racist policies that made the uprooting possible. Where was the outcry when Japanese Canadian properties were offered up for sale less than a year after the uprooting? When properties on the island were auctioned off, there was hardly a peep when the local agent of the Custodian entrusted with their safekeeping purchased the most valuable for a pittance. Acquiescence in these actions is complicity and reconciliation cannot be achieved without acknowledging it.



**Figure 7.2** Heiwa Garden, Ganges, Saltspring Island. Photo: Bob Rogers. Courtesy of the Japanese Garden Society of Salt Spring Island.

The creation of the Heiwa Japanese Garden on Saltspring (see Figure 7.2) has helped to soothe some of the bitterness of the past by acknowledging some of the injustices that occurred. It was founded in 2008 by a group of islanders, including Rose Murakami and my wife, Rumiko Kanesaka, a

<sup>341</sup> Roy, *The Triumph of Citizenship*, 66.

<sup>342</sup> Oikawa, 7.

Japanese Canadian of 25 years. The garden was created to honour Salt Spring's Japanese Canadian pioneers while offering islanders a place to contemplate "peace, reconciliation and cross-cultural unity in a Japanese-inspired landscape." The garden was built and jointly maintained by the Salt Spring Island Parks and Recreation Commission and volunteers, some from island's Japanese Canadians, and others from the wider community. A kiosk near the garden gate has panels that outline the dark chapter in the island's history. The shared undertaking of building and maintaining the garden, holding events like the annual Blossom Festival, and the restoration of a charcoal kiln constructed by the Tasaka family has helped to build bridges between communities.

Other efforts to reclaim the Japanese Canadian history of the island continue. Rose Murakami would like to see Sunset Drive, the main road running through the Iwasaki property in the north end of the island, renamed Iwasaki Drive as an acknowledgment of the area's earlier owner. In addition, the park at the edge of the town of Ganges was named 'Mouat Park,' despite the fact that it was originally owned by William McAfee, a blacksmith who is remembered as a friend of the Japanese Canadian community on the island, and who allowed the Tasaka family to build and operate their charcoal kilns on the property (see footnote 60). McAfee is remembered as a friend of the Japanese Canadian Saltspringer community. The land briefly passed through the hands of Gavin Mouat before becoming a park, but since it was McAfee's wish that the land become a park after his death in 1959, Rose Murakami believes it should be renamed McAfee Park. Efforts to push back against the injustices of the past continue.

During the negotiations that led to the redress to Japanese Canadians by the government in 1988, a key demand was that the *War Measures Act* be revised so that no minority group would ever face injustice like they suffered during World War II. A legal brief was prepared by lawyer Ann Sunahara and presented to the government by the National Association of Japanese Canadians. Sixty-five of the 85 proposed amendments were adopted into the new *Emergencies Act*, which became law in 1988, several months before the federal government's redress announcement. They substantially strengthened the legal code against abuses like those that occurred during and after World War II. The Act gives Parliament oversight over Cabinet's use of emergency powers, there is mandatory compensation for the abuse of those powers, and most importantly, it includes a clause designed to prevent a

future cabinet from amending the act to expand its powers to override equality rights as defined in the *Charter of Rights and Freedoms*.<sup>343</sup>

Japanese Canadians have worked tirelessly to ensure the abuses they suffered will never again be inflicted on themselves or another minority group. Our laws failed to protect us during World War II, and the injustices that were perpetrated against a racialized group of Canadians left scars that remain three-quarters of a century later. Current events in Canada and the United States show that politicians are as willing as ever to vilify minority groups as threats to the nation's security for their own political advantage. Understanding how racist exclusion was perpetrated in the past and its long-term consequences make it less likely that such injustice will happen again.

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343 Section 15, Constitution Act, 1982, accessed 22 February 2017, <http://laws-lois.justice.gc.ca/eng/Const/page-15.html-h-45>.





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## APPENDICES

- Appendix 1 War Measures Act 1927*
- Appendix 2 Order-in-Council P.C. 365*
- Appendix 3 Order-in-Council P.C. 1486*
- Appendix 4 Order-in-Council P.C. 1665*
- Appendix 5 Order-in-Council P.C. 2483*
- Appendix 6 Order-in-Council P.C. 469*
- Appendix 7 Order-in-Council P.C. 5523*

# APPENDIX 1

## War Measures Act 1927



### CHAPTER 206.

#### An Act to confer certain powers upon the Governor in Council in the event of War, Invasion, or Insurrection.

##### SHORT TITLE.

**1.** This Act may be cited as the War Measures Act. Short title.  
1914 (2nd session), c. 2, s. 1.

##### EVIDENCE OF WAR.

**2.** The issue of a proclamation by His Majesty, or under Evidence of war, etc. the authority of the Governor in Council shall be conclusive evidence that war, invasion, or insurrection, real or apprehended, exists and has existed for any period of time therein stated, and of its continuance, until by the issue of a further proclamation it is declared that the war, invasion or insurrection no longer exists. 1914 (2nd session), c. 2, s. 4.

##### POWERS OF THE GOVERNOR IN COUNCIL.

**3.** The Governor in Council may do and authorize such Special powers of Governor in Council. acts and things, and make from time to time such orders and regulations, as he may by reason of the existence of real or apprehended war, invasion or insurrection deem necessary or advisable for the security, defence, peace, order and welfare of Canada; and for greater certainty, but not so as to restrict the generality of the foregoing terms, it is hereby declared that the powers of the Governor in Council shall extend to all matters coming within the classes of subjects hereinafter enumerated, that is to say:—

- (a) Censorship and the control and suppression of publications, writings, maps, plans, photographs, communications and means of communication;
- (b) Arrest, detention, exclusion and deportation;
- (c) Control of the harbours, ports and territorial waters of Canada and the movements of vessels;
- (d) Transportation by land, air, or water and the control of the transport of persons and things;

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(e)

R.S., 1927.

(e) Trading, exportation, importation, production and manufacture;

(f) Appropriation, control, forfeiture and disposition of property and of the use thereof.

2. All orders and regulations made under this section shall have the force of law, and shall be enforced in such manner and by such courts, officers and authorities as the Governor in Council may prescribe, and may be varied, extended or revoked by any subsequent order or regulation; but if any order or regulation is varied, extended or revoked, neither the previous operation thereof nor anything duly done thereunder, shall be affected thereby, nor shall any right, privilege, obligation or liability acquired, accrued, accruing or incurred thereunder be affected by such variation, extension or revocation. 1914 (2nd session), c. 2, s. 6.

Imposing penalties.

4. The Governor in Council may prescribe the penalties that may be imposed for violations of orders and regulations made under this Act, and may also prescribe whether such penalties shall be imposed upon summary conviction or upon indictment, but no such penalty shall exceed a fine of five thousand dollars or imprisonment for any term not exceeding five years, or both fine and imprisonment. 1914 (2nd session), c. 2, s. 10.

Release of arrested alien forbidden.

5. No person who is held for deportation under this Act or under any regulation made thereunder, or is under arrest or detention as an alien enemy, or upon suspicion that he is an alien enemy, or to prevent his departure from Canada, shall be released upon bail or otherwise discharged or tried, without the consent of the Minister of Justice. 1914 (2nd session), c. 2, s. 11.

Limitation.

6. The provisions of the three sections last preceding shall only be in force during war, invasion, or insurrection, real or apprehended. 1914 (2nd session), c. 2, s. 3.

#### PROCEDURE.

Fixing compensation.

7. Whenever any property or the use thereof has been appropriated by His Majesty under the provisions of this Act, or any order in council, order or regulation made thereunder, and compensation is to be made therefor and has not been agreed upon, the claim shall be referred by the Minister of Justice to the Exchequer Court, or to a superior or county court of the province within which the claim arises, or to a judge of any such court. 1914 (2nd session), c. 2, s. 7.

**8.** Any ship or vessel used or moved, or any goods, <sup>Forfeitures.</sup> wares or merchandise dealt with, contrary to any order or regulation made under this Act, may be seized and detained and shall be liable to forfeiture, at the instance of the Minister of Justice, upon proceedings in the Exchequer Court of Canada or in any superior court. 1914 (2nd session), c. 2, s. 8.

**9.** Every court mentioned in the two sections last preceding may make rules governing the procedure upon any reference made to, or proceedings taken before, such court or a judge thereof under the said sections. 1914 (2nd session), c. 2, s. 9.

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King's Most Excellent Majesty.

## APPENDIX 2

### Order-in-Council 365

[365]

AT THE GOVERNMENT HOUSE AT OTTAWA

Friday, the 16th day of January, 1942.

PRESENT:

HIS EXCELLENCY THE GOVERNOR  
GENERAL IN COUNCIL

WHEREAS the Minister of Justice reports that by reason of the development of the war it may become necessary to take special measures within certain areas of Canada;

Now, THEREFORE, His Excellency the Governor General in Council, on the recommendation of the Minister of Justice, and under the authority of the War Measures Act, Chapter 206 of the Revised Statutes of Canada 1927, is pleased to amend the Defence of Canada Regulations (Consolidation) 1941, and they are hereby amended by rescinding Regulation 4. thereof and substituting therefor the following Regulation:

“4. (1) The Minister of National Defence with the concurrence of the Minister of Justice may, if it appears necessary or expedient so to do in the public interest and for the efficient prosecution of the War make, in respect of any area in Canada, an order declaring that, after such time as may be specified in such order such area shall be a protected area (hereinafter in this regulation referred to as “protected area”) and subject to the provisions of this regulation.

(2) The Minister of Justice may, with respect to a protected area, make orders in relation to any of the following matters:—

- (a) To require all or any enemy aliens to leave such protected area;
- (b) To prohibit all or any enemy aliens from entering, leaving or returning to such protected area except as permitted pursuant to such order;
- (c) To impose upon all or any enemy aliens, ordinarily resident or actually present in such protected area, such restrictions as may be specified in the order in respect of their employment or business, their movements or places of residence, their associations or communications with other persons, their activities in relation to the dissemination of news or the propagation of opinions or otherwise with respect to the conduct of any such enemy aliens;

- (d) To prohibit or restrict the possession or use by all or any enemy aliens, ordinarily resident or actually present in such protected area, of any specified articles and to require the delivery up by any such enemy aliens aforesaid of any such specified articles to the Royal Canadian Mounted Police;
- (e) To authorize the detention, in such place and under such conditions as he may from time to time direct, of all or any enemy aliens ordinarily resident or actually present in such protected area;
- (f) To authorize the detention of any persons, other than enemy aliens, ordinarily resident or actually present in such protected area in order to prevent such persons from acting in any manner prejudicial to the public safety or the safety of the State;
- (g) To authorize the release, upon such conditions as he may specify, of any person ordered to be detained or any article delivered up pursuant to this Regulation.

(3) Any person in the protected area reasonably believed by any peace officer or by any person acting on behalf of His Majesty to be contravening any order made under this Regulation may, without prejudice to any proceedings which may be taken against him, be removed from the protected area or detained therein by any peace officer or person acting on behalf of His Majesty aforesaid.

(4) This Regulation shall be administered by the Commissioner of the Royal Canadian Mounted Police.

(5) This Regulation and any order made hereunder shall have full force and effect according to its terms notwithstanding anything contained in any other of these Regulations.”

A. D. P. HEENEY,

32-1

Clerk of the Privy Council.

## APPENDIX 3

### Order-in-Council 1486

[1486]

AT THE GOVERNMENT HOUSE AT OTTAWA

Tuesday, the 24th day of February, 1942.

PRESENT:

HIS EXCELLENCY THE GOVERNOR  
GENERAL IN COUNCIL

WHEREAS the Minister of Justice reports that by reason of the development of the war it may become necessary to take special measures within certain areas of Canada;

NOW, THEREFORE, His Excellency the Governor General in Council, on the recommendation of the Minister of Justice, and under the authority of The War Measures Act, Chapter 206 of the Revised Statutes of Canada, 1927, is pleased to amend the Defence of Canada Regulations (Consolidation) 1941, and they are hereby amended by rescinding paragraph 2 of Regulation 4 thereof and substituting therefor the following paragraph:

(2) The Minister of Justice may, with respect to a protected area, make orders in relation to any of the following matters:—

- (a) To require any or all persons to leave such protected area;
- (b) To prohibit any or all persons from entering, leaving or returning to such protected area except as permitted pursuant to such order;
- (c) To impose upon any or all persons ordinarily resident or actually present in such protected area, such restrictions as may be specified in the order in respect of their employment or business, their movements or places of residence, their associations or communications with other persons, their activities in relation to the dissemination of news or the propagation of opinions or otherwise with respect to the conduct of any such persons;
- (d) To prohibit or restrict the possession or use by any or all persons, ordinarily resident or actually present in such protected area, of any specified articles and. to require the delivery up by any such persons aforesaid of any such specified articles to the Royal Canadian Mounted Police;
- (e) To authorize the detention, in such place and under such conditions as he may from time to time direct, of any or all persons ordinarily resident or actually present in such protected area;
- (f) To authorize the release, upon such conditions as he may specify, of any person ordered to be detained or any article delivered up pursuant to this Regulation.

A. D. P. HEENEY,

Clerk of the Privy Council.

## APPENDIX 4

### Order-in-Council 1665

[1665]

AT THE GOVERNMENT HOUSE AT OTTAWA

WEDNESDAY, the 4<sup>th</sup> day of March, 1942

PRESENT:

HIS EXCELLENCY THE GOVERNOR  
GENERAL IN COUNCIL'

WHEREAS in view of the serious situation prevailing in the Province of British Columbia arising out of the war with Japan it is deemed necessary for the security and defence of Canada to further steps for the evacuation of persons of Japanese race from the protected areas in Province;

NOW, THEREFORE, His Excellency General in Council, on the recommendation of the Right Honourable W. L. Mackenzie King, the Prime Minister, and under and by virtue of the powers conferred by the War Measures Act, Chapter 206 of the Revised Statutes of Canada, 1927, is pleased to make the following regulations and they are hereby made and established accordingly:

#### *Interpretation*

1. (1) In these Regulations unless the context otherwise requires—
  - (a) “Commission” means the British Columbia Security Commission established under the provisions of this Order.
  - (b) “Minister” means the Minister of Labour.
  - (c) Other words and phrases shall have the same meaning as in the Defence of Canada Regulations.

#### *British Columbia Security Commission*

2. (1) There shall be a Commission, to be known as the British Columbia Security Commission, which shall consist of three members, a Chairman and two Commissioners, who shall hold office during pleasure.
  - (2) The members of the Commission shall be appointed by the Governor in Council, on the recommendation of the Minister, and shall be paid such remuneration and allowances as may be fixed by the Governor in Council.
  - (3) Except as otherwise herein provided any act of the Commission shall require the concurrence of all members of the Commission.

- (4) Where for any reason any member of the Commission is unable to act, the Minister may appoint temporarily a substitute member, upon such terms and conditions as he may determine.
- (5) The headquarters of the Commission shall be at a place selected by it in the Province of British Columbia, and meetings of the Commission may be held at the headquarters, or at such other place in British Columbia or elsewhere, as the Chairman may decide.
- (6) The members of the Commission shall take and subscribe an oath before any Superior Court judge in the Province of British Columbia, which shall be filed in the office of the Clerk of the Privy sincerely swear that I will faithfully and honestly fulfil the duties which devolve upon me as a member of the British Columbia Security Commission.”

3. The Commission may, with the approval of the Minister, make by-laws not inconsistent with the provisions hereof, for the direction, conduct and government of its business.

4. Every document purporting to be or to contain a by-law, order or other instrument of the Commission, and purporting to be signed by the Chairman, shall be evidence of such by-law, order or other instrument.

5. (1) The Commission may, with the approval of the Minister, employ such professional, technical and other officers, clerks and employees as it may deem necessary for the proper conduct of its affairs, and may, with the approval of the Governor in Council, fix their remuneration.

(2) The Commission may utilize the services of any officer, servant or employee of any department of the Government of Canada loaned by the Minister thereof.

6. (1) The Commission may enter into contracts, and hold property, real or personal, and shall be deemed to have the powers necessary to perform the duties assigned to the Commission, including all powers incidental to the performance of the said duties.

(2) The Commission may sue, and, with the consent of the Attorney General of Canada, be sued in its own name, in respect of its own acts, but such proceedings shall only be taken in the Exchequer Court of Canada.

- (3) The Commission shall in all matters, including those relating to the responsibility of the members of the Commission for the acts of any servant or agent of the Commission, be deemed to be an agent of the Crown.
7. (1) No transaction shall be entered into by the Commission involving an expenditure in excess of fifteen thousand dollars, except with the approval of the Governor in Council.
  - (2) No real property shall be purchased by the Commission except with the approval of the Governor in Council.
8. The Commission may enter into any arrangement with any department of the Government of Canada or of the Government of the Province of British Columbia for the use of or occupation of any Dominion or Provincial Crown Lands.

*Advisory Committee*

9. (1) There shall be appointed by the Governor in Council an Advisory Committee to the British Columbia Security Commission, to consist of not more than twenty members, to advise the Commission on all matters relating to the duties of the Commission.
  - (2) Meetings of the said Advisory Committee may be called by the Chairman of the Commission.
  - (3) Any member of the said Advisory Committee may be paid his actual reasonable disbursements incurred in connection with the performance of the work of the Advisory Committee.

*Duties and Powers of Commission*

10. (1) It shall be the duty of the Commission to plan, supervise and direct the evacuation from the protected areas of British Columbia of all persons of Japanese race.
  - (2) For the purpose of performing the duties aforesaid the Commission shall determine the time and order of the evacuation of such persons, the mode of transport and all matters relative to the placement of such persons.
  - (3) The Commission shall provide for the housing, feeding, care and protection of such persons in so far as the same may be necessary.

- (4) A plan or plans for the evacuation and placement aforesaid shall be submitted to the Minister, and shall be put into operation by the Commission when approved by the Minister.
11. (1) The Commission shall have power to require by order any person of the Japanese race, in any protected area in British Columbia, to remain at his place of residence or to leave his place of residence and to proceed to any other place within or without the protected area at such time and in such manner as the Commission may prescribe in such order, or to order the detention of any such person, and any such order may be enforced by any person nominated by the Commission so to do.
- (2) The Commission may make orders respecting the conduct, activities and discipline of any person evacuated under the provisions of these Regulations.

*Custody of Japanese Property*

12. (1) As a protective measure only, all property situated in any protected area of British Columbia belonging to any person of the Japanese race resident in such area (excepting fishing vessels subject to Order in Council P.C. 288 of the 13th January, 1942, and deposits of money, shares of stock, debentures, bonds or other securities), delivered up to any person by the owner pursuant to the Order of the Minister of Justice dated February 26, 1942, or which is turned over to the Custodian by the owner, or which the owner, on being evacuated, is unable to take with him, shall be vested in and subject to the control and management of the Custodian as defined in the extent as if such property, rights and interests belonged to any enemy within the meaning of the said Regulations.
- (3) The property, rights and interests so vested in and subject to the control and management of the Custodian, or the proceeds *thereof*, shall be dealt with in such manner as the Governor in Council may direct.

*Departmental Assistance*

13. All departments and agencies of the Government of Canada shall assist the Commission by lending to the Commission such personnel and by furnishing such medical aid, hospitalization, food, clothing, transportation, use of land, buildings, equipment, utilities and other supplies and services as are available, and may be required by the Commission, and in particular, but without restricting the generality of the foregoing, there shall be furnished to the Commission,—

- (a) assistance by the Royal Canadian Mounted Police in the compiling of information concerning the persons to be evacuated under these Regulations in the segregation and concentration of such persons and in the maintenance of public security in respect thereof.
- (b) assistance by the Department of Transport in the transportation of persons evacuated under these Regulations.
- (c) assistance by the Department of National Defence by furnishing personnel to advise on and assist in the housing, feeding and clothing of persons evacuated under these Regulations.
- (d) assistance by the Department of Munitions and Supply in advising upon and entering into contracts or other arrangements to provide housing, food, supplies and services for such persons.
- (e) assistance by the Royal Canadian Mounted Police and/ or the Department of National Defence in the protection of persons evacuated under these Regulations and in the maintenance of public security in respect thereof.
- (f) assistance by the Department of Labour in establishment of work camps and in providing employment, and in particular in the absorption of evacuated persons in the Canadian Japanese Construction Corps constituted by Order in Council P.C. 1271 of February 17, 1942, or in the work camps established under Order in Council P.C. 1348 of February 19, 1942, or in any other activity in which such persons can be employed without prejudice to the public safety or the safety of the State, outside the protected areas in British Columbia.

Provided, however, that notwithstanding the provisions of these Regulations any minister responsible for the administration of any of the departments or agencies of the Government shall have the right to determine whether or not any item of assistance requested can be made available.

*Expenses*

14. All expenses or costs incurred by the Commission or by any department or agency of the Government of Canada in connection with the enforcement or administration of these Regulations shall be payable out of moneys appropriated by Parliament to carry out measures deemed necessary in consequence of the existence of a state of war.

*Offences*

15. Every person who contravenes or fails to comply with any of these Regulations or any order or by-law made under any of these Regulations shall be guilty of an offence, and liable, on summary conviction, to a fine not exceeding five hundred dollars, or to imprisonment for a term not exceeding twelve months, or to both such fine and such imprisonment

16. Nothing contained herein shall be construed to limit or derogate from the powers conferred on any authority other than the Commission by the Defence of Canada Regulations or any other statute or law.

A. D. P. HEENEY,

38-1

Clerk of the Privy Council.

## APPENDIX 5

### Order-in-Council 2483

#### **Order in Council amending P.C. 1665—British Columbia Security Commission; defining “Person of the Japanese Race”**

P.C. 2483

AT THE GOVERNMENT HOUSE AT OTTAWA

FRIDAY, the 27<sup>th</sup> day of March, 1942.

PRESENT:

HIS EXCELLENCY

THE GOVERNOR GENERAL IN COUNCIL:

Whereas by Order in Council P.C. 1665 dated March 4, 1942, the British Columbia Security Commission was established for the purpose of planning, supervising and directing the evacuation from the protected areas of British Columbia of all persons of the Japanese race and for such purpose was empowered to determine amongst other things all matters relative to the placement of such persons;

And whereas it is represented to the Minister of Justice that it is desirable to provide that any plan with regard to the placement of such persons be limited to making provision for the temporary placement only of such persons during the continuation of the state of war now existing and that the authority of the Commission should include power to vary or amend any placement order;

And whereas recommendations have been made to the Minister of Justice by the British Columbia Security Commission to the effect that a greater degree of protective control over persons of the Japanese race and the property of such persons be provided for than was provided by the Order establishing the Commission, above referred to;

Now therefore, His Excellency the Governor General in Council, on the recommendation of the Minister of Justice and under and by virtue of the powers conferred by the War Measures Act, Chapter 206, R.S.C., 1927, is pleased to amend the Regulations established by Order in Council P.C. 1665 dated March 4, 1942, as follows:

1. Regulation one is hereby amended by adding thereto the following paragraph:

“(bb) ‘Person of the Japanese race’ means any person of the Japanese race required to leave any protected area of British Columbia by Order of the Minister of Justice under Regulation 4, as amended, of the Defence of Canada Regulations (Consolidation) 1941.”

2. Regulation ten is hereby amended by adding thereto the following paragraphs:

“(5) Any such plan or plans shall make provision for the temporary placement only of such persons during the continuation of the state of war now existing.

“(6) The Commission’s authority relative to the placement of persons shall include power to vary or amend any placement order.”

3. Regulation eleven is hereby amended by rescinding paragraphs two thereof and substituting therefor the following:

“(2) The Commission may make orders respecting the conduct activities and discipline of any person of the Japanese race who is within the protected area or who is ordinarily resident within any protected area but who has left or leaves such area after February 5, 1942.”

4. Regulation twelve is hereby rescinded and the following substituted therefor:

“12 (1) Subject as hereinafter in this Regulation provided, as a protective measure only, all property situated in any protected area of British Columbia belonging to any person of the Japanese race (excepting fishing vessels subject to Order in Council P.C. 288 of January 13, 1942, and deposits of money, shares of stock, debentures, bonds or other securities) delivered up to any person by the owner pursuant to an order of the Minister of Justice, or which is turned over to the Custodian by or on behalf of the owner, or which the owner, on being evacuated from the protected area, is unable to take with him, shall be vested in and subject to the control and management of the Custodian as defined in the Regulations Respecting Trading with the Enemy, (1939); provided, however, that no commission shall be charged by the Custodian in respect of such control and management.

“(2) The Custodian may, notwithstanding anything contained in this Regulation, order that all or any property whatsoever, situated in any protected area of British Columbia, belonging to any person of the Japanese race shall, for the purpose of protecting the interests of the owner or any other person, be vested in the Custodian, and the Custodian shall have full power to administer such property for the benefit of all such interested persons, and shall release such property upon being satisfied that the interests aforesaid will not be prejudiced thereby.

“(3) For the purposes of the control and management of such property by the Custodian, the Consolidated Regulations Respecting Trading with the Enemy, (1939), shall apply mutatis mutandis to the same extent as if the property belonged to any enemy within the meaning of the said Consolidated Regulations.”

(Sgd.) A. D. P. HEENEY,  
*Clerk of the Privy Council.*

## APPENDIX 6

### Order-in-Council 469

From *Canadian War Orders and Regulations 1943*, Vol. 1 Jan. 11, 1943 – April 5, 1943  
p224 – 226

Order in Council revoking P.C. 5523, dated 29<sup>th</sup> June, 1942 and P.C. 6885, dated 20<sup>th</sup> July, 1942—transfer to the Custodian of the property of persons of the Japanese race evacuated from the protected areas of B.C.

P.C. 469

AT THE GOVERNMENT HOUSE AT OTTAWA

Tuesday, the 19<sup>th</sup> day of January, 1943.

PRESENT:

HIS EXCELLENCY

THE GOVERNOR GENERAL IN COUNCIL:

Whereas by Order in Council dated 29<sup>th</sup> June, 1942, (P.C. 5523) amended by Order in Council dated 4<sup>th</sup> August, 1942, (P.C. 6885) Regulations were made imposing certain duties and responsibilities on the Director of Soldier Settlement of Canada in relation to agricultural lands owned by persons of the Japanese race ordinarily resident in the protected areas of British Columbia:

And whereas the Secretary of State reports that the appraisals of lands contemplated by the said Order in Council as amended have been made and that it is the opinion of the Minister of Mines and Resources, to whom the Director of Soldier Settlement of Canada reports under the said Order in Council as amended, that the said Order in Council as amended, should be revoked;

That by Order in Council, dated 20<sup>th</sup> July, 1942, (P.C. 6247) it was provided that on and after the 1<sup>st</sup> August 1942, all unfinished business of the Committee under the Chairmanship of the Honourable Mr. Justice Sidney A. Smith of Vancouver, appointed by Order in Council of 13<sup>th</sup> January, 1942, (P.C. 288) in respect of vessels or equipment vested in the Custodian under the said Order should be transferred to the Custodian, and the Custodian was vested with all vessels and equipment which had not been disposed of under the supervision of the said Committee;

That since the transfer was effected, question has been raised as to the authority of the Custodian to deal with unfinished business of the said committee in relation to vessels or equipment disposed of prior to the 1<sup>st</sup> August, 1942 and it is expedient to remove any doubts in this respect;

That by Orders in Council relating to the property of persons of the Japanese race evacuated from the protected areas of British Columbia, the Custodian has been vested with the responsibility of controlling and managing property belonging to persons of the Japanese race who have been evacuated from the protected areas, except deposits of money, shares of stock, debentures, bonds or other securities or other property which the owner on being evacuated from the protected areas was able to take with him; and

That the evacuation of persons of the Japanese race from the protected areas has now been substantially completed and that it is necessary to provide facilities for liquidation of property in appropriate cases.

Therefore, His Excellency the Governor General in Council, on the recommendation of the Secretary of State, concurred in by the Minister of Mines and Resources, the Minister of Pensions and National Health, the Minister of Labour and the Minister of Fisheries, and under the authority of the War Measures Act, Chapter 206 of the Revised Statutes of Canada, 1927, is pleased to order and doth hereby order as follows:

1. Order in Council, dated 29<sup>th</sup> June, 1942, (P.C. 5523) and amending Order in Council dated 4<sup>th</sup> August, 1942, (P.C. 6885) are hereby revoked.

2. Paragraphs numbered 3 and 4 in Order in Council dated 20th July, 1942, (P.C. 6247) are hereby rescinded and the following are substituted therefor:

3. The Custodian may, where he considers it is advisable so to do, liquidate, sell or otherwise dispose of any such vessel or equipment on such terms and conditions as he deems advisable, and any agreement entered into or document executed by the Custodian on or after August 1, 1942, and prior to the date of this Order, purporting to be an agreement for, or to be, a transfer, conveyance or other disposition of any such vessel or equipment or of any right, title or interest therein is hereby given full legal validity, force and effect as if the Custodian had full power to enter into such agreement or to execute such document, and as if such vessel or equipment or such right, title or interest therein, as the case may be, had been vested in the Custodian, at the time of the entry into such agreement or the execution of such document.

4. Without restricting the generality of the powers hereinbefore conferred, all unfinished business of the said Committee is hereby transferred to the Custodian and shall be deemed to have been so transferred as on and from the 1<sup>st</sup> August, 1942.

Wherever, under Orders in Council under the War Measures Act, Chapter 206 of the Revised Statutes of Canada 1927, the Custodian has been vested with the power and responsibility of controlling and managing any property of persons of the Japanese race evacuated from the protected areas, such power and responsibility shall be deemed to include and to have included from the date of the vesting of such property in the Custodian, the power to liquidate, sell, or otherwise dispose of such property; and for the purpose of such liquidation, sale or other disposition the Consolidated Regulations Respecting Trading with the Enemy (1939) shall apply *mutatis mutandis* as if the property belonged to an enemy within the meaning of the said Consolidated Regulations.

A. D. P. HEENEY,  
*Clerk of the Privy Council.*

## APPENDIX 7

### Order-in-Council 5523

[5523]

AT THE GOVERNMENT HOUSE AT OTTAWA

MONDAY, the 29th day of June, 1942.

PRESENT:

HIS EXCELLENCY THE GOVERNOR  
GENERAL IN COUNCIL

WHEREAS the Minister of Mines and Resources and the Minister of Pensions and National Health report that persons of the Japanese race ordinarily resident in the protected areas of British Columbia have been required by Orders of the Minister of Justice, under Regulation 4 of the Defence of Canada Regulations (Consolidation) 1941, to leave such protected areas;

That many such persons of the Japanese race were or are engaged in agriculture and have been or shall be compelled to abandon farming operations on lands owned by them or by companies which they control;

That it is in the public interest to ascertain the actual number of such Japanese farms, to carry out an appraisalment of their fair present day value, and to consolidate the control of the disposition of these lands by sale, lease, or otherwise;

AND WHEREAS the Ministers are of opinion that by reason of the state of war now existing it is advisable for the security of peace, order and welfare of Canada to make provision for the matters aforesaid;

NOW, THEREFORE, His Excellency the Governor General in Council, on the recommendation of the Minister of Mines and Resources and the Minister of Pensions and National Health and under the authority of the War Measures Act, Chapter 206 of the Revised Statutes of Canada, 1927, is pleased to make the following regulations and they are hereby made and established accordingly:—

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## REGULATIONS

1. In these regulations, unless the context otherwise requires:

- (a) “Director” means the Director of Soldier Settlement of Canada;
- (b) “Japanese company” means any corporation of which the majority of the shares issued by it are owned by persons of the Japanese race, or of which the majority of the directors are persons of the Japanese race;
- (c) “agricultural land” means land and any real or immovable property and any interest, legal or equitable therein, and the right to possession thereof, situated otherwise than within the boundaries of any incorporated city or town;
- (d) “Minister” means the Minister of Mines and Resources;
- (e) “person of the Japanese race” means any person wholly of the Japanese race;
- (d) “protected area in British Columbia” means any area in the province of British Columbia, now or hereafter declared, pursuant to the provisions of Regulation 4 of the Defence of Canada Regulations (Consolidation) 1941, to be a protected area for the purposes of such Regulation.

2. Except with the approval in writing of the Director and in accordance with any terms or conditions therein set out, no person shall, after the date hereof,

- (i) purchase, lease or otherwise acquire or agree to purchase, lease or otherwise acquire, or
- (ii) either for himself or on behalf of the owner, sell, lease or otherwise dispose of or agree to sell, lease or otherwise dispose of,

any agricultural land in a protected area of British Columbia, owned by any person of the Japanese race or by any Japanese company.

3. The Director may, in his sole discretion, refuse to approve or approve, either unconditionally or subject to such terms or conditions as to him seem fair and reasonable, the purchase, sale, lease or other acquisition or disposition, or any agreement therefore, of any agricultural land in a protected area of British Columbia owned by any person of the Japanese race or by any Japanese company.

4. The Director shall cause an appraisal to be made of the fair present day value of all agricultural lands in any protected area of British Columbia owned by persons of the Japanese race or by Japanese companies, and shall report thereon to the Minister.

5. Any person authorized in writing by the Director to act as an inspector under these regulations may, for the purpose of making any appraisal under the last preceding section, or for the purpose of ascertaining whether any person of the Japanese race or any Japanese company is the owner of any agricultural land in a protected area of British Columbia, or for the purpose of determining whether the provisions of these regulations are being or have been complied with,

- (i) enter at all reasonable times and inspect any agricultural land in a protected area of British Columbia, owned by any person of the Japanese race or by any Japanese company, or which is reasonably believed by such inspector to be or to have been owned by any such person or company;
- (ii) examine orally any person occupying or having any interest in agricultural land in a protected area of British Columbia, which is reasonably believed by such inspector to be or to have been owned by a person of the Japanese race or a Japanese company;

- (iii) require any person occupying or having any interest in agricultural land in a protected area of British Columbia, which is reasonably believed by such inspector to be owned by a person of the Japanese race or a Japanese company, or having in his possession any documents relating to any such land, to furnish any information in his possession or such documents to such inspector.

6. The production by any person of any document purporting to be signed by the Director and purporting to authorize such person to act as an inspector under these regulations, shall be evidence of the authority of such person to act as an inspector.

7. Any person,

- (i) who purchases, leases, or otherwise acquires, or sells, leases or otherwise disposes of or agrees to purchase, lease or otherwise acquire, or to sell, lease or otherwise dispose of, any agricultural land in any protected area of British Columbia, owned by any person of the Japanese race or by any Japanese company otherwise than in accordance with these regulations; or
- (ii) who willfully delays or obstructs an inspector in the exercise of any power conferred upon him under these regulations; or
- (iii) who fails to give any information or to produce any documents in his possession if required to do so under these regulations; or
- (iv) who refuses to reply to any reasonable question asked him by an inspector acting under these regulations,

shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding one thousand dollars or to imprisonment for a period not exceeding six months or to both fine and such imprisonment.

8. The burden of proof that any purchase, sale, lease or other acquisition or disposition, or any agreement therefore, of any agricultural land in a protected area of British Columbia, is not a violation of any of the provisions of these regulations, shall be upon the accused.

9. Nothing in these regulations shall be deemed to apply to, or to affect enemy property as defined by the Consolidated Regulations Respecting Trading with the Enemy (1939).

10. All expenses or costs incurred by the Director in connection with this Order shall be payable out of the moneys appropriated by Parliament to carry out measures deemed necessary in consequence of a state of war.

A. D. P. HEENEY,

2-1

Clerk of the Privy Council.



On 22 April 1942, the CPR ship, the *SS Princess Mary*, was docked at the wharf in Ganges on Saltspring Island. The 77 Japanese Canadians taken away to camps in the British Columbia interior that day were among the over 22,000 who were forced into internal exile, and less than a year later, had their property liquidated against their will. Eleven properties on Saltspring were sold, some to the Soldier Settlement Board, and others at auction, including the largest belonging to Torazo Iwasaki that ended up in the hands of the local agent of the Custodian of Enemy Property. In the 1960s Iwasaki took the government to court in an effort to get his property back in a widely publicized case that went all the way to the Supreme Court. He lost his case, but this book argues that though the government was operating under the *War Measures Act*, the liquidation of Japanese Canadian property was a breach of trust, and the illegal application to Canadian citizens of a law governing the property of enemies.



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