

**PROCEEDINGS AT HEARING  
OF  
FEBRUARY 19, 2021**

**COMMISSIONER AUSTIN F. CULLEN**

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**February 19, 2021**

**(Via Videoconference)**

**(PROCEEDINGS COMMENCED AT 9:30 A.M.)**

THE REGISTRAR: Good morning. The hearing is now resumed. Mr. Commissioner.

THE COMMISSIONER: Yes. Thank you, Madam Registrar. Yes, Mr. Martland.

MR. MARTLAND: Mr. Commissioner, thank you. We have today -- we've been hearing of course these last few days evidence that relates to housing prices in British Columbia and in particular in the Lower Mainland. Today we have some important evidence from Professor Henry Yu who will be addressing how some of the discourse relating to foreign investment, immigration and housing prices can skew into patterns of stereotypical or racist thinking.

Madam Registrar, Professor Yu will be affirmed, please.

**HENRY YU, a witness for  
the commission,  
affirmed.**

THE REGISTRAR: Please state your full name and spell your first name and last name for the record.

THE WITNESS: Henry S.N. Y-u, Henry Yu. And I'm

1                   associate professor of history at the University  
2                   of British Columbia.

3                   MR. MARTLAND: Madam Registrar, if we could please  
4                   have the witness's CV displayed.

5                   **EXAMINATION BY MR. MARTLAND:**

6                   Q     And, professor, you'll see the contact  
7                   information has been removed but you'll  
8                   recognize that as being your curriculum vitae;  
9                   is that right?

10                  A     Yes, that is my CV.

11                  MR. MARTLAND: All right. And, Mr. Commissioner,  
12                  I'll asking that please be marked as next  
13                  exhibit.

14                  THE COMMISSIONER: Very well. That will be 640.

15                  THE REGISTRAR: Exhibit 640.

16                  **EXHIBIT 640: Curriculum vitae of Henry Yu**  
17                  **(redacted)**

18                  MR. MARTLAND:

19                  Q     And as we see on the display that, sir, you have  
20                  a PhD and MA in history from Princeton, and  
21                  secondly a BA in honours history from UBC?

22                  A     Yes, that's correct.

23                  Q     Your position is that you're an associate  
24                  professor in the department of history at UBC.  
25                  And in addition that, as we see in the academic

1 list on display there and onwards, you've held a  
2 series of positions including at Princeton, UCLA  
3 and Yale and also have received a number of  
4 awards for your work.

5 A That's correct, yes.

6 Q You've written extensively on the topic of  
7 immigration and the relationship between  
8 European settler communities in North America  
9 and Asian populations in those communities.  
10 Indeed you've written two books and dozens of  
11 articles on those very topics.

12 A Yes, it's my area of speciality is trans-Pacific  
13 migration and settlements in the Americas and in  
14 Australia and New Zealand.

15 MR. MARTLAND: Thank you. Madam Registrar, if we can  
16 take that document down but if you could please  
17 find -- I think it will be number 9 on a list of  
18 documents -- a paper that has the title of "Then  
19 and Now."

20 Q And, professor, what I'm proposing to do is to  
21 start by looking at three different -- it's a  
22 highly selective look at some of your academic  
23 work that relates to some of what we are looking  
24 at. Three of your different papers. And I  
25 won't be going through them in any great detail,

1 but I will ask you a few questions and then  
2 we'll move into evidence and a discussion around  
3 a number of topics.

4 And so I think you'll see there a paper  
5 which comes from -- a paper, maybe a chapter,  
6 from a 2006 book called *The World of*  
7 *Transnational Asian Americans* and the title is  
8 "Then and Now: Trans-Pacific Ethnic Chinese  
9 Migrants in Historical Context." You recognize  
10 that as being what I've just described?

11 A Yes, it is.

12 MR. MARTLAND: Mr. Commissioner, if the paper could  
13 please be marked as exhibit 641.

14 THE COMMISSIONER: Yes, very well.

15 THE REGISTRAR:

16 **EXHIBIT 641: Then and Now: Trans-Pacific**  
17 **Ethnic Chinese Migrants in Historical Context -**  
18 **Henry Yu - January 2006**

19 MR. MARTLAND:

20 Q And as I say, I won't spend a great deal of  
21 detail but to give us a sense of this. As you  
22 see from the display there you start by writing:

23 "How are we to conceive of contemporary  
24 Pacific migrations, in the light of those  
25 that occurred a century ago, and

1                    conversely, how are we to conceive of  
2                    historical migrations in the light of  
3                    those we see now?"

4                    The specific example that you go on to the  
5                    describe is:

6                    "... the flow of migrants from the  
7                    southeastern coast of what is now the  
8                    People's Republic of China that moved  
9                    outwards to, and often back, from the  
10                    Pacific basin over last three centuries."

11                    And to carry on my reading from your paper, if  
12                    we could flip to the second page of the paper.  
13                    And about the middle of the page the  
14                    paragraph beginning "this quick sketch." You  
15                    set out there at the second line you say:

16                    "Two main questions for the essay: 1)  
17                    what is the role of studying trans-Pacific  
18                    Chinese migration in understanding both  
19                    contemporary and historical periods of  
20                    global migration, and 2) is there  
21                    something so fundamentally new about  
22                    recent migrations as to warrant claims  
23                    that 'transnational' migration networks  
24                    are a recent development?"

25                    So with my having I guess set it up by reading

1           those fairly introductory portions, if you could  
2           give us a quick precis of what you address in  
3           the course of this paper, please.

4           A    I think the motivation for the paper, one was it  
5           was delivered as a talk in Tokyo as well as  
6           numerous other universities, the University of  
7           Tokyo and other places in Australia, and so  
8           written up after a series of talks that were  
9           actually prompted at the time by a lot of, you  
10          know, what seemed like recent Chinese migrations  
11          to places like Australia, Canada, United States  
12          and Japan. That's why in fact one of the places  
13          was the University of Tokyo. And they were  
14          trying to understand was this novel, was this --  
15          you know, there's a lot of talk about this being  
16          very new and transnational, that term was used a  
17          lot.

18                   And I think the novelty of it, what, as a  
19          historian -- and, you know, I'm not -- I wasn't  
20          alone. There's many historians who are saying  
21          this is not novel, the kinds of migrations that  
22          were occurring were actually cut off, you know,  
23          you could say a hundred years ago by a number of  
24          exclusionary immigration policies that went  
25          across from New Zealand, Australia, Canada,



1 United States in the period between about 1880  
2 and the 1920s.

3 And so Canada cut off Chinese migration in  
4 1923 formerly what was euphemistically called  
5 the *Chinese Immigration Act*, which was actually  
6 better known historically as the *Chinese*  
7 *Exclusion Act* since on July 1st, Canada Day,  
8 Dominion Day at the time, Chinese were formally  
9 legally excluded. And that is the first time in  
10 Canadian history that there was a formal  
11 exclusion of a group, a national group or a  
12 racial group in that sense.

13 But that had followed actually the head tax  
14 in 1885. Obviously from 1885 to 1923. The head  
15 tax was designed to slow down or stop or at  
16 least penalize financially Chinese who were  
17 migrating to Canada and raising revenue at the  
18 same time before income taxes. But that was  
19 within the context of New Zealand having a poll  
20 tax, which was actually the model for the head  
21 tax in Canada. Australia had immigration  
22 exclusion as well as the equivalent of poll  
23 taxes depending on which Australian colony. The  
24 United States had the *Chinese Exclusion Act* --  
25 again, they were forthright; they just called it

1                   the *Chinese Exclusion Act* -- in 1882.

2                   And so this was part of the broader Pacific  
3 basin, you could say, a number of what were  
4 settlements and colonial settlements that were  
5 really organized politically around white  
6 supremacy. And I say that just matter of  
7 factually. I mean, I know some people get upset  
8 when you use the term "white supremacy" and it  
9 sounds like, are you saying that these people  
10 were Nazis? Well, in that period white  
11 supremacy was one of the ways in which a lot of  
12 these new nations, Canada in 1867, were  
13 organizing and organizing some people, European  
14 migrants, to basically create a story that their  
15 arrival was morally right and taking away  
16 indigenous land unilaterally and declaring it  
17 Crown land was normal and okay.

18                   That happened in Australia. It happened  
19 here in Canada. In the United States there was  
20 a similar form of basically political white  
21 supremacy up and down the west coast in places  
22 like California, Oregon, Washington state. So  
23 British Columbia was not alone in what was  
24 happening. It was happening all around the  
25 Pacific.

1                   Also Chinese migrants were coming from  
2                   Guangdong province in southeastern China and  
3                   they were going all around the Pacific as well  
4                   as southeast Asia.

5                   So it was -- the paper, just in essence, to  
6                   kind of end the synopsis here, was an attempt to  
7                   kind of talk about what was going on now, and  
8                   now meant -- really for the Canadian context  
9                   from 1968 onwards and that now would have been  
10                  different for Australia since they ended the  
11                  white Australia immigration policy a little  
12                  later than Canada's 1968 immigration reforms.

13                  So the timing of now depends on which  
14                  nation, but basically in the 1970s or so onwards  
15                  you've seen, you could say, a resumption of  
16                  non-white trans-Pacific migration all across and  
17                  around the Pacific and that is because of the  
18                  longer history of how white supremacy was the  
19                  dominant form of political organizing, you could  
20                  say, in many of these countries.

21                  And then by the 1940s and 50s -- and here's  
22                  where Nazis come into play -- Nazis basically  
23                  made white supremacy look bad during the  
24                  period -- during the Second World War as well as  
25                  after, there was a shift in the politics of

1 white supremacy where by 1948, 1950, into the  
2 1950s, you had things like the civil rights  
3 movement in the United States but you also had a  
4 quiet dismantling legally of white supremacy in  
5 Canada. If you think about the first provincial  
6 legislation to outlaw -- to make illegal housing  
7 discrimination that was in the 1960s based on  
8 race. It was the first also laws in 19 --  
9 around the same time to outlaw job segregation  
10 or job discrimination based on race.

11 And so we dismantled legal white supremacy  
12 over the periods from the 1940s through the  
13 1960s. And so it's an attempt to kind of bring  
14 these together to -- perhaps as a historical  
15 reminder that actually those kind of migrations  
16 that were quite common in the late 19th century  
17 through the early 20th century, they were  
18 actually cut off. And it was only as, again as  
19 a shorthand, Nazi's made white supremacy look  
20 bad. And that's why when you use the term right  
21 now "white supremacy" most people are horrified  
22 and rightly feel repugnance towards that term,  
23 but again as a form of political organizing it  
24 was quite common. Not universal. It was  
25 political. Was there were some people who were

1                   pushing for it and others who actually thought  
2                   it was a terrible idea.

3                   Q    So I take you to be using that term, when you  
4                   describe these governments in the late 1800  
5                   early 1900s in the US and a number of  
6                   commonwealth or former UK British colonies, I  
7                   suppose, that really have as an organizing  
8                   principle essentially white governments. And as  
9                   you said, the Americans were more abrupt or  
10                  direct in their titling of the act, but it is  
11                  exclusion of a group of people based on  
12                  ethnicity.

13                  A    Yes. And I think the key is to not understand  
14                  it only as moral. And I just mentioned, you  
15                  know -- I said when you say Nazis and white  
16                  supremacy there's a reason why we feel moral  
17                  repugnance because, you know, there was a world  
18                  war fought, there was horrific things done in  
19                  the name of white supremacy, you know, Shoah, or  
20                  the holocaust and many things that were actually  
21                  parts of successful political movements.

22                                And I want to emphasize that it's not like  
23                                everybody was racist. People will say oh yeah,  
24                                everybody was racist back then. That's not  
25                                true. Not everyone was racist. If you were a

1           victim or a target of white supremacy, you  
2           weren't going along with this, you were actually  
3           often actually struggling and resisting and, you  
4           know, quite overtly. But what it was was it was  
5           a way of organizing and it captured state  
6           governments. And so when we say oh, these  
7           governments were all racist, it's like -- we  
8           have to be careful because often it was  
9           political elections in democracies. And these  
10          were all democracies, you could say, Australia,  
11          New Zealand, Canada, United States. State power  
12          was captured by the politics in the white  
13          supremacy.

14                   And that means that you could create what  
15                   seemed like demographic majorities. And one of  
16                   the ways you created a demographic majority that  
17                   could capture a government is by not allowing  
18                   non-whites to vote. You might think of it this  
19                   way now as everything that was actually policies  
20                   that were engineered in places like  
21                   British Columbia, the American south, Australia,  
22                   disenfranchisement of non-whites, for instance,  
23                   housing segregation, land was only available to  
24                   some people, not to others. Jobs -- only some  
25                   jobs for others. Everything that you associate

1                   with South African apartheid.

2                   So the anti-apartheid movement that we all  
3                   perhaps do remember in our lifetime, depending  
4                   on how old you are, in the 1980s and 90s,  
5                   everything that we were saying was wrong, those  
6                   were all pioneered -- and I use that term very  
7                   specifically -- they were all pioneered in  
8                   places like British Columbia and the American  
9                   south.

10                  When South African architects of apartheid,  
11                  legal apartheid before 1948 were looking around  
12                  for best practices around the world, one of the  
13                  places they explicitly visited was  
14                  British Columbia. What they liked here was the  
15                  reserve system of clearing people, indigenous  
16                  peoples off of the best real estate, let's call  
17                  it, into reserves and how successful  
18                  British Columbia state government, you know, had  
19                  been in that process working with the federal  
20                  government. How disenfranchisement of  
21                  non-whites -- again 1871, as soon as  
22                  British Columbia as a colony joins the dominion,  
23                  one of the first acts of new provincial  
24                  legislature is to disenfranchise non-whites, is  
25                  to pass legislation saying Chinese who could

1                   vote now could not. So Chinese actually lost  
2                   the vote.

3                   And so if you think of the tools of white  
4                   supremacy that were pioneered and crafted here  
5                   in order to capture state power, those were  
6                   actually emulated by South African architects of  
7                   apartheid. And so that's one way to realize  
8                   that we were actually, you know, historically  
9                   part of the novelty and innovation of using  
10                  white supremacy to organize migrants from Europe  
11                  predominantly who were then given the privileges  
12                  of being white.

13                  It's not like people in Finland were running  
14                  around saying, we're white, we're white. They  
15                  were, you know, from small Finnish villages,  
16                  fishing villages, There's Norwegian fishing  
17                  villages. They came together as white within  
18                  places like British Columbia or New Zealand  
19                  because they were arriving and then being told,  
20                  you get Crown land that's been pre-empted. In  
21                  other words taken from indigenous peoples  
22                  unilaterally. You get it for free; you get a  
23                  hundred and whatever acres you want; it's yours.  
24                  But those other people arriving from other  
25                  places, they don't get it. If you're Chinese,



1                   you don't get pre-empted Crown land.

2                   And Crown land even that concept that all of  
3                   this unceded territory -- we acknowledge at the  
4                   beginning of formal meetings and hearings in  
5                   British Columbia and in the city of Vancouver  
6                   and other places, at UBC where I teach, we've  
7                   been acknowledging for decades we're on unceded  
8                   territory. It means that there was no deal made  
9                   to take the land away; it was unilaterally  
10                  declared Crown land.

11                  And so I think one of the difficult things  
12                  is to understand that the novelty of the last  
13                  50 years of all these Asians coming and as if  
14                  the norm, what is normal, is a world that is  
15                  British Columbia is white.

16                  There were political campaigns: white man's  
17                  province. My colleague Patricia Roy, who taught  
18                  for decades at you U Vic, you know, wrote an  
19                  incredibly well-researched trilogy of books  
20                  about the rise of a white man's province as an  
21                  idea, how it was politically made popular. How  
22                  campaigns, slogans, there was a bar song called  
23                  "White Canada Forever," some of the most popular  
24                  pieces of bar, you know, kind of singalong music  
25                  in the early 20th century.

1                   So white supremacy is popularized, made  
2                   politically useful and captures a state, you  
3                   could say. And that's where laws --  
4                   increasingly number of laws are passed in the  
5                   early 20th century that are exclusionary, that  
6                   are racist, to use that very specific term. But  
7                   they're discriminatory based on racial  
8                   difference.

9                   Q     That's very with useful. And I will be circling  
10                  back to a number of the themes that you've  
11                  touched on through that.

12                 MR. MARTLAND: I'm going to go to a different paper,  
13                  which will be number 7 on the list, Madam  
14                  Registrar, which is the paper "Global Migrants  
15                  and the New Pacific Canada."

16                 Q     Professor, you'll recognize this as an article  
17                  that you wrote in 2009 published in  
18                  *International Journal*?

19                 A     Yes.

20                 Q     And again to read from the very start there, you  
21                  talk about the new Canada.

22                                 "In the last quarter of a --"

23                 MR. MARTLAND: And maybe I should pause because I  
24                  don't want to forget to mark it as an exhibit.  
25                  Mr. Commissioner, if I could please ask this



1                   Toronto and Vancouver have become the  
2                   urban capitals of Pacific Canada, and  
3                   Vancouver in particular has become a city  
4                   in which the term 'visible minority' to  
5                   describe Asians makes no sense."

6                   Could you help us understand a bit about what  
7                   you describe as the new Pacific Canada and what  
8                   you're addressing in this paper.

9                   A        Sure. I think there's a couple of things that  
10                   perhaps most of us understand at a kind of  
11                   experiential level. You've felt it if you live  
12                   in Vancouver, Toronto and in many ways Montreal,  
13                   the three largest cities of Canada. The  
14                   majority of new migrants, the people who came  
15                   since the 1970s, since we reformed immigration  
16                   policy in 1967, the points system is basically  
17                   to remove racial preferences from immigration.

18                   So it was built, the original immigration  
19                   policies in Canada, around white supremacy,  
20                   around the exclusion of non-whites on the whole  
21                   and the use of various forms of policy to  
22                   privilege and centre Canadian settlement on  
23                   European migration. And not all of Europe  
24                   either. I mean, there was preferences again for  
25                   people from certain parts of northwestern

1           Europe, but not to get into the details of that.  
2           But 1967 turned it into a points system which  
3           was basically, you could say, blind to race and  
4           now emphasized things like education, someone in  
5           a profession that we like, do they have family  
6           members already here. So it's the removal of  
7           preferential -- racial preference.

8                        So what happened after that is that at first  
9           there didn't seem to be a huge shift in change  
10          and partly that's because the rules were still  
11          designed not to fundamentally change Canada. I  
12          mean, if you -- family reunification, for  
13          instance. If you're a society that's already  
14          dominated by, you know, descendants of people  
15          who came from Europe, you are not going to think  
16          that family reunification policies are going to  
17          fundamentally shift your demographic profile  
18          because family of people already here would be  
19          more people related to people already here.

20                       So again I think one of the things that  
21          perhaps was quiet about the shifts and changes  
22          is that a lot of new migrants were coming to  
23          cities. So they were urban to urban. Again,  
24          just very quickly, from historical point of view  
25          a lot of migration in the 19th century, so

1                   150 years ago, was rural to rural. In fact a  
2                   majority of people lived in rural places in  
3                   Canada. It wasn't -- we didn't shift to a  
4                   majority urban society until around World War I,  
5                   around 1915 to 1918. Since then we've become  
6                   increasingly urban. And so now you think about  
7                   the vast majority of Canadians are urban or  
8                   suburban, you know, living within the area of an  
9                   urban concentration.

10                   And so increasingly migration has been urban  
11                   to urban. People come from other cities around  
12                   the world to our cities. And so what has  
13                   happened is our major cities have become the  
14                   major destinations for new migration and  
15                   therefore our cities have changed more quickly.  
16                   And again this is experientially -- I think  
17                   anybody who's living here will realize, yeah,  
18                   our cities are quite diverse globally because of  
19                   the changes in immigration policy.

20                   You have people now coming from all around  
21                   the world. And a place like Vancouver and a  
22                   place like Toronto -- in fact Toronto is one of  
23                   the most diverse cities in all of North America  
24                   in terms of origin. Toronto and Chicago are  
25                   right up there as the most diverse cities in

1 terms of the origins of the peoples who live  
2 there.

3 And so one of the things that I was trying  
4 to point out was that this diversity in terms of  
5 origin has predominantly affected our cities.  
6 And so, again, if you look at the Stats Canada  
7 statistics, you can go online, it's very easy to  
8 look up, you can see that, again, the majority  
9 of visibility minorities, so those we category  
10 as non-white, live in cities. Our main cities.

11 Another sort of -- again, something that we  
12 experience is that because of that shift to  
13 trans-Pacific migration as being really the bulk  
14 of new migrations in the last 50 years -- and,  
15 again, there's a chart in this article you can  
16 take a look at, you can look at the top ten  
17 places of origin, you know, in terms of new  
18 migrations or new immigrants, new arrivals --  
19 and basically European national origins have  
20 dropped off and our top three at the time I  
21 wrote the article was China, the Philippines and  
22 India.

23 And so how that has kind of reshaped our  
24 cities is visible. I mean, literally you can  
25 see that our cities have become more diverse and

1 Asian residents and citizens who basically in  
2 1950 were a minority, again a visible  
3 minority -- that's when that term really made  
4 sense -- were no -- it didn't make sense anymore  
5 because -- for a place like Vancouver where a  
6 quarter of our population was ethnic Chinese  
7 heritage.

8 Now, some of them are fourth generation,  
9 some -- like me and others are -- were, you  
10 know, second generation or more recent. But the  
11 visibility of that kind of trans-Pacific  
12 migration -- in fact even in 2006 Chinese  
13 migrants were not the number one sending region.  
14 People weren't -- it wasn't China as number one  
15 sending region. At that time India and the  
16 Philippines were actually quite high, you know,  
17 depending on which year you pick. You know,  
18 people from India, that was the number one  
19 origin.

20 So that is basically the argument. Now,  
21 there's another aspect which is tied to the  
22 article that we were just speaking about which  
23 is, again, is this so novel. What was novel  
24 about it and what isn't. And so I think that's  
25 a slightly different question, as I said, that



1                   was the heart of the previous one.

2                   And just to give you context for this paper,  
3                   I was asked to actually write this paper as part  
4                   of the celebration of the 25th anniversary of  
5                   the Asia Pacific Foundation being founded. And  
6                   so that was created as a bipartisan federal --  
7                   you know, federal entity by -- I believe it was  
8                   at the time Joe Clark and Jack Austin, who were  
9                   the two -- a Conservative and a Liberal, you  
10                  know, sort of political icons who believed that  
11                  we needed to have more knowledge about Asia  
12                  produced in, you know, basically a non-partisan  
13                  way by academics and experts and research.

14                  And that's -- and so just to give the  
15                  context for this paper and why this paper was  
16                  even written was I was asked to give a talk at  
17                  that celebration, so to speak, on the 25th  
18                  anniversary in Ottawa, and then this paper came  
19                  out of it. So basically the things that I was  
20                  asked to speak about. And so it is a  
21                  crystallization, you could say, of a moment of  
22                  reflection on our history and also on the  
23                  history of the founding of the Asia Pacific  
24                  Foundation as really a non-profit based here in  
25                  Vancouver again, not Ottawa, to look at this

1 long-standing relationship between Canada and,  
2 you know, across the Pacific but also the very,  
3 you could say, substantial changes that have  
4 been occurring.

5 MR. MARTLAND: Thank you. If we could please bring  
6 up, Madam Registrar, I think it will be tab 8 in  
7 the list of documents, a review essay called --  
8 there we see it -- "Is Vancouver the Future Or  
9 the Past? Asian Migrants and White Supremacy."

10 Q Professor, you'll recognize this as being your  
11 paper in *Pacific Historical Review* from 2006?

12 A Yes, it's my -- a review essay of several  
13 studies about Vancouver and British Columbia.

14 MR. MARTLAND: Mr. Commissioner, if this could please  
15 be marked as exhibit 643.

16 THE COMMISSIONER: Very, very well. 643.

17 MR. MARTLAND: Thank you.

18 THE REGISTRAR: Exhibit 643.

19 **EXHIBIT 643: Review Essay - Is Vancouver the**  
20 **Future or the Past - Henry Yu - 2006**

21 MR. MARTLAND:

22 Q And we see there at the very start mention of  
23 Expo 86 in Vancouver. You go on to address some  
24 of the themes. If we go down a little bit we  
25 can see reference -- and I won't read it all

1 out, but you talk about Vancouver achieving an  
2 almost iconic status as the harbinger of a  
3 coming transnational Pacific world. If you  
4 could please in a brief way tell us a little bit  
5 about the topics you're addressing in this paper  
6 specifically about the city or the region of  
7 Vancouver.

8 A Yeah, it was a review essay which meant that I  
9 was actually reviewing other scholars' work. So  
10 just to be totally clear that the two books in  
11 question that you can see right there listed.  
12 One was a book about recent Pacific Rim  
13 migration by a scholar name Katharyne Mitchell,  
14 who is now teaching at University of Washington  
15 in Seattle. At the time she was a Berkeley PhD.  
16 When she did this research worked actually here  
17 for -- as a post-doc with, I believe, David Ley,  
18 a professor, my colleague in geography.

19 So it was really focused actually on recent  
20 migrations across the Pacific, specifically  
21 Chinese, and how it had been reshaping places  
22 like Vancouver. And so that was one book that  
23 was being reviewed. And the other was again the  
24 scholar I mentioned before, Patricia Roy, and  
25 this was the third book in her trilogy.

1                   Actually, sorry, not the third book. It was the  
2                   second book in her trilogy, the middle book,  
3                   about basically the period from 1914 to 1941  
4                   where this consolidating -- and this was her  
5                   title, "Consolidating a White Man's Province."  
6                   And her argument was this was the period really,  
7                   you know, in that middle part of  
8                   British Columbia's history, you know, that  
9                   middle 50 years, you could say when white  
10                  supremacy was consolidated.

11                  Where the politics of white supremacy  
12                  designed to capture, you could say, the  
13                  province's political power, you know, in terms  
14                  of its legislature and government and all the  
15                  policies that could enacted if you could capture  
16                  that same power, that this was the height of  
17                  that process. And that in that period you had  
18                  many of the most sort of straightforward forms  
19                  of racial discrimination, exclusion and not just  
20                  in immigration, as I said the 1923 *Chinese*  
21                  *Exclusion Act* being one indicator, but things  
22                  like removal of Japanese Canadians during the  
23                  Second World War and afterwards. After the war  
24                  was over the liquidation advisedly used of their  
25                  property so that they had nothing to return to.

1                   Other things, again, I think that are quite  
2                   important to understand in that period is just  
3                   the normalcy that was achieved by the politics  
4                   of white supremacy. So, you know, we had a Ku  
5                   Klux Klan. A lot of people don't remember that  
6                   or realize it, but we had a Ku Klux Klan that  
7                   was organized in Shaughnessy. And that was a  
8                   way in which the politics of white supremacy  
9                   became so normal that people just felt in  
10                  everyday life that that was the way it was.

11                  And I mean that not only that if you had  
12                  kind of the privileges of being a white British  
13                  Columbian or a white Canadian, that it was a  
14                  redundant term. You didn't have to say white  
15                  British Columbian. You know, a white man's  
16                  province was with a political slogan that once  
17                  it was successfully implemented you didn't have  
18                  to say "British Columbia is a white man's  
19                  province"; it just became normal to understand  
20                  British Columbia as built for white residents  
21                  and that everybody else didn't belong.

22                  And that in fact that achievement that  
23                  Patricia Roy was trying to explain as a scholar,  
24                  how did we come to a world where it was just so  
25                  normal to say "white Canadian" and think that

1                   Canadians are white. That you didn't have to  
2                   say "white Canadian," you just say "Canadian" or  
3                   "British Columbian" and you just imagine who a  
4                   British Columbian is and you imagine a European  
5                   settler.

6           Q       And it's effectively weaved into the concept or  
7                   the abstract concept of what being a British  
8                   Columbian or maybe a Canadian is, you're saying  
9                   it really implied white European descent, not  
10                  First Nations, not ethnically Asian, what have  
11                  you?

12          A       Exactly. And I think that's really something  
13                  difficult for people to understand right now how  
14                  that took a lot of work. When we say well,  
15                  everybody back then was racist, often what we're  
16                  saying is well, everybody -- this was normal.  
17                  But how do you make something normal when it's  
18                  not normal before. So, you know, as a historian  
19                  you can't just pick a date and say well, yeah,  
20                  everybody thought this way in 1942. You know,  
21                  actually not everyone thought that way.

22                               Japanese Canadians, for instance, I am  
23                               pretty sure didn't want to be removed from their  
24                               homes and lose all their jobs and be -- and then  
25                               have all their property sold pennies on the

1           dollar without their permission. You know, so  
2           if you say everybody was racist, you go, well, I  
3           don't believe Japanese Canadians wanted what was  
4           done to them to be done. I don't believe most  
5           indigenous peoples would say yeah, take away our  
6           land and, you know, give us a little corner of  
7           what we used to live in and call it "reserve"  
8           and make us get a pass in order to leave that  
9           little plot of land. Or Chinese weren't saying  
10          yeah, please, don't allow us to live in all  
11          kinds of places and please don't allow us to  
12          operate businesses in all kind of places.

13                 So even the idea that there's a normalcy and  
14          that we think that it's okay to say well, yeah,  
15          well, everybody was racist back then. Well,  
16          that took work to create a sense of who belongs,  
17          who deserves things like land, who deserves to  
18          vote, who deserves to be able to make money  
19          here, who deserves to receive, for instance,  
20          pre-empted land. So that meant if you came from,  
21          you know, just to name -- if you came from  
22          Scotland or if you came from Norway or if you  
23          came from Germany, you could arrive and you  
24          basically were allowed to get pre-empted land,  
25          land that had been taken from indigenous peoples

1                   and now it could be yours. For free. For  
2                   basically the price of the registration fee in  
3                   order to register you to be now the rightful  
4                   owner. If you are non-white, you could -- none  
5                   of that was yours, and in fact if you were  
6                   indigenous that was -- this was your land that  
7                   was being given away.

8                   So it's like fencing stolen goods. You  
9                   know, if someone comes to you with a stolen  
10                  stereo and you say, here, it's a free stereo,  
11                  now that becomes normal. If you're a white  
12                  British Columbian you get free stereos; you get  
13                  pre-empted land. If you're non-white, you don't.  
14                  It doesn't belong to you. It's not yours. It's  
15                  either been taken from you if you're Indigenous  
16                  or it's being given to others and you being  
17                  here, you don't belong.

18                  And so that sense of belonging was at the  
19                  centre of this -- my review of these two  
20                  scholar's work was that, you know, these are two  
21                  studies, in other words, of seemingly two very  
22                  different periods of time. That period between  
23                  World War I and World War II where this becomes  
24                  normal and then Katharyne Mitchell in describing  
25                  the 1980s basically, you know, the period around



1           Expo 86 before and afterwards, why is it that in  
2           this period having people coming from Hong  
3           Kong -- in particular a lot of this was about  
4           Hong Kong Chinese migration in the 1980s before  
5           the 1997 reversion of political control from the  
6           British to the Chinese -- that that moment  
7           seemed such a novelty, such a huge break from  
8           the past.

9                     And in sort of talking about these, as with  
10           the previous essay, they are not disconnected  
11           from each other. Again, in the ways that I  
12           was -- that, you know, in the previous essay to  
13           bring these two moments together is to  
14           understand that they are actually our history as  
15           British Columbians. It's one single history,  
16           it's one single story and the story is not the  
17           one that often we believe sort of as part of our  
18           education growing up here which is this place  
19           was pioneered by white settlement, and native  
20           peoples, as the term is often called, kind of  
21           disappeared. And then we became the natives.  
22           "We" meaning white British Columbians became the  
23           next -- so, again, in 1920s at the same time  
24           that the Ku Klux Klan was being organized, there  
25           was native sons and daughters of

1                   British Columbia. And what that meant was  
2                   actually people who lived in places like  
3                   Shaughnessy, saying, we are the natives; we are  
4                   native to -- and you see that in many legal  
5                   terms, you know --

6           Q       Taking the term -- transposing that term to  
7                   refer to the white settler population.

8           A       Exactly. And so if you think of that kind of  
9                   magic, I would -- I call it a kind of magical  
10                  alchemy because first you sort of use the term  
11                  native and speak about indigenous peoples, you  
12                  know, a status Indian; they're native. And  
13                  you'll see a lot of anti-, again, legislation  
14                  that's sort of aimed at indigenous peoples,  
15                  referring to them as natives.

16                         And then you begin to get this magical  
17                         alchemy in the period that Dr. Roy describes  
18                         where you begin to think of, I'm European  
19                         migrant and in particular a migrant who is from  
20                         the British Isles, and now I'm the native; I'm  
21                         the native of British Columbia and it's for me.  
22                         And that sense of a normalcy of what is mine,  
23                         what belongs to me, even if you just got off the  
24                         train, you know, the CPR that would bring you  
25                         from, say, the east coast, if you arrive in

1                   Halifax by ship and then you get -- eventually  
2                   get on a train to come out west. Well, that  
3                   train becomes the symbol of going west to a  
4                   place like British Columbia. It's the edge of  
5                   empire, you could say.

6                   And the fact that for instance, the  
7                   British Columbia portions were built by Chinese  
8                   labour who came across the ocean, that becomes a  
9                   kind of footnote because the dominant story is  
10                  this place, this white British Columbia, white  
11                  man's province, is ours naturally and normally.  
12                  And I think that is the thing that is very  
13                  difficult for people even now to understand how  
14                  much work, how much political work it took and  
15                  how much we still actually use many of these  
16                  categories of belonging of who deserves things  
17                  like land, who deserves to make money and to  
18                  enjoy the wealth here or the -- and the  
19                  resources. And I think those are the most  
20                  difficult for people to understand unless you  
21                  understand this history as one history.

22                  MR. MARTLAND: Madam Registrar, we don't need the  
23                  document displayed anymore.

24                  Q     But to pick up, Professor, on what you were just  
25                  describing, I take part of your comment to be

1           the effect that none of this is either  
2           accidental or inevitable. There was a great  
3           deal of effort and deliberation into really  
4           structuring a system where the way the power is  
5           held and wielded was very deliberately to the  
6           benefit of one population and to the exclusion  
7           or detriment of others.

8           A     Yeah, I think you've put it quite well in that  
9           the work it took to build it -- and now one of  
10          the interesting things from a historical point  
11          of view is once you build something, you know,  
12          it's hard to change.

13                 So I'll give you an example. If you say if  
14          you can't vote, you can't become a member of the  
15          bar or of the medical association, or  
16          engineering -- professional engineers  
17          association. So it seems very innocuous. Of  
18          course people with these very serious  
19          professions should have the franchise, should be  
20          voting members, citizens of the place that they  
21          are professionals. Yet with that little policy,  
22          you could say, you will disenfranchise literally  
23          non-whites. But not only that you will also  
24          make it impossible for them to be making  
25          arguments in court. And so you can pass all

1                   kinds of things with little resistance.

2                   There was a law in British Columbia that if  
3                   you were indigenous, you couldn't gather in  
4                   order to talk about land claims. That was  
5                   against the law. Now, if you want to challenge  
6                   that law, you'd have to find a lawyer who is  
7                   willing to fight for you because you can't go  
8                   make an argument in court. You can't be a  
9                   member of the bar.

10                  And so one of the things that was  
11                  accomplished through white supremacy was a  
12                  normalcy as to who our professions are. Who are  
13                  doctors. Who are lawyers. Who are engineers.  
14                  And that becomes so normal that it becomes very  
15                  difficult to dismantle even as, you know, after  
16                  1947 Chinese could now become lawyers. And you  
17                  see immediately a man like Douglas Jung who  
18                  volunteered to fight for Canada during the  
19                  Second World War. Both he and his brother  
20                  Arthur Jung, they both volunteered to fight even  
21                  though they have no rights as citizens. They  
22                  cannot vote. They cannot become lawyers. They  
23                  cannot become doctors. They cannot -- there's  
24                  places that they cannot live. There's jobs they  
25                  cannot hold. And yet they volunteer.

1                   And Douglas Jung, you know, becomes a  
2                   veteran after the war and then becomes a lawyer.  
3                   He is able to go to law school. And it's not  
4                   that he couldn't before, it's just that now he  
5                   can go to law school and actually become a  
6                   lawyer versus going to law school, learning law  
7                   and then having to become like Douglas -- sorry,  
8                   Gordon Cumyow, goes becomes a trained lawyer and  
9                   can only be a court interpreter because he can't  
10                  be a member of the bar.

11                  And so within one generation the difference  
12                  between Gordon Cumyow and Douglas Jung is that  
13                  Douglas Jung after 1947 can vote and now can be  
14                  a lawyer. Douglas Jung goes on to become a  
15                  lawyer, he goes to Osgoode Hall to do law  
16                  school, graduates, and in 1957 becomes the  
17                  member of parliament representing Vancouver  
18                  Centre. He becomes the first Chinese Canadian  
19                  to be elected to federal office. After that he  
20                  becomes the ambassador for Canada to the United  
21                  Nations.

22                  In fact when he is -- there's a story that  
23                  his family told, and this is the privilege of  
24                  hearing this from his own descendants that when  
25                  he was ceded at the United Nations someone

1                   questioned him saying, no, this is for the  
2                   Canadian ambassador. Again, the assumption  
3                   being the Canadian ambassador has got to be  
4                   white because that's what's normal by that  
5                   period of time.

6                   And so I think the achievements of white  
7                   supremacy to normalize, to use that kind of  
8                   fancy term, but just to make normal, to create  
9                   such norms that what does a lawyer look like.  
10                  Well, of course the lawyer is white. What's an  
11                  engineer look like? Well, of course it's -- and  
12                  this is notwithstanding, like, gendered norms  
13                  like he's also probably male. But at that time  
14                  race is incredibly powerful as a kind of just  
15                  presumption of what is normal, but it takes work  
16                  to create that. You have to have exclusionary  
17                  policies. You have to actually say no, you are  
18                  not allowed in order to create that sense of  
19                  normalcy.

20                  And the Douglas Jung story is a way to just  
21                  think with how quickly and yet how slowly also  
22                  these things change. So quickly is as soon as  
23                  Douglas Jung is allowed, he literally goes to  
24                  fight for that privilege. And he risks his life  
25                  along with many other Chinese Canadians who

1                   become veterans.

2                   And many of them take advantage very quickly  
3                   of the opening as they literally have fought for  
4                   the vote, struggled for the vote and they get  
5                   the vote. And now they're going to be able to  
6                   become lawyers and doctors. So you can say it's  
7                   very quick, but then long term it takes a long  
8                   time to erode the sense that they are abnormal,  
9                   that they are still the first Chinese Canadian  
10                  lawyer, or wow, I've never met a Chinese  
11                  Canadian lawyer; how interesting; how different.

12                  And so that sense of normalcy which is  
13                  actually a legacy, you could say, of white  
14                  supremacy, that takes a lot longer than the  
15                  legal dismantling to take hold and take effect.  
16                  And I think that would be one thing I would say  
17                  is very crucial to understand what is happening  
18                  right now in British Columbia. You know,  
19                  just -- Premier Horgan yesterday had to address,  
20                  you know, anti-Asian racism. What is going on?  
21                  Why are people blaming Chinese and people who  
22                  look Chinese for everything? And I think that's  
23                  one of the most difficult things to understand  
24                  is that we may have dismantled the legal  
25                  apparatus of our version of apartheid, but what



1                   takes much longer as a kind of legacy of that is  
2                   the sense of what normalcy was in that period  
3                   that Patricia Roy described. And so when she  
4                   used the term "consolidating" a white man's  
5                   province, it meant consolidating not just the  
6                   legal structures but consolidating what those  
7                   legal structures and policies would create as a  
8                   sense of a normal British Columbia is a white  
9                   man's province.

10                Q    I wonder if you could -- if I could circle back  
11                   to one of the comments you made. And you  
12                   described and touched on different points in  
13                   time in which there have been sort of periods of  
14                   migration in particular -- both ways, but in  
15                   particular from China and from east Asia to  
16                   Canada, but in particular Vancouver and the  
17                   Province of BC. You described one of those  
18                   periods being that period in the 80s, I think  
19                   around Expo 86 and in the 80s through to the  
20                   1997 so-called handover back to China and  
21                   Governor Chris Patton and all of the  
22                   anticipation that surrounded that and the  
23                   implications in terms of migration.

24                                Could you tell us a little bit about  
25                   different periods of time that you think are



1                   Scotland if they came from Scotland or Wales.  
2                   So that idea of mobility of people was actually  
3                   part of the imperial routes, these kind of  
4                   pathways that you could take within the British  
5                   Empire.

6                   And in fact if you -- there's a wonderful  
7                   study that just sort of thinks about Scots and  
8                   Cantonese, so -- and moving along the same  
9                   routes. They're taking the same ships, you  
10                  know, and they're moving along the same pathways  
11                  and they're going the same directions, in  
12                  multiple directions. And that was really fairly  
13                  normative. Again, if you were a migration  
14                  scholar, you look at how people move around,  
15                  that's actually quite normal for the 19th and  
16                  early 20th century. And in fact if you look at  
17                  family histories and if people here think about,  
18                  okay, if you dig around family history, we seem  
19                  to think about the last place you land as okay,  
20                  there you are. But how many other places have  
21                  you been in your life and how many -- you know,  
22                  moving around, that kind of peripatetic people's  
23                  life journeys, where do they go to school; it's  
24                  different from where they eventually get their  
25                  first job and eventually they settle down and

1                   have kids somewhere and then their kids go  
2                   somewhere.

3                   So, you know, if you think of the multiple  
4                   locations people have been at, you know, as a  
5                   migration scholar -- I study migration history;  
6                   I study people moving -- actually it's quite  
7                   normative this sort of multiple locations. But  
8                   one of the things that you could see happening  
9                   in the 1980s as we saw Hong Kong Chinese come is  
10                  the visibility of their mobility. What they  
11                  were doing, it's like wow, look at these people;  
12                  they move back and forth.

13                  But actually, you know, you think of a lot  
14                  of people -- you know, how many Canadians go to  
15                  teach English in Japan at the time in the 1980s,  
16                  or now you finish your schooling, you go teach  
17                  English in China, you learn some Chinese at the  
18                  same time, then you get a job. The kind of  
19                  moving back and forth across the Pacific is  
20                  actually quite common, it's just we notice it as  
21                  being strange with certain sets of people. And  
22                  I think that focus in the 1980s started to arise  
23                  that Hong Kong Chinese, you know, they are  
24                  circular in their motions. They move around a  
25                  lot, and that's strange and of note; that's

1 weird.

2 And I'll just sort of go to the second part  
3 of your question, which is if you think about  
4 people moving around and some people moving  
5 around it's weird, strange, and other people you  
6 don't even think about it. Your kids, you know,  
7 they decide to go to somewhere to look for a  
8 job, perfectly normal. Someone leaving the  
9 Maritimes to come to British Columbia for a job,  
10 perfectly normal. Albertans cross back and  
11 forth between the British Columbia -- you know,  
12 across the provincial border, perfectly normal;  
13 right? You go teach English somewhere,  
14 perfectly normal. But Hong Kong Chinese coming  
15 and going back, strange.

16 If you think about capital like people, and  
17 this is I think crucial for understanding the  
18 issues that you're dealing with in this  
19 commission, every time you start to think about  
20 Chinese people and what they do as weird, if you  
21 just slop in the word "capital" or "money" and  
22 you'll see that there are parallels between how  
23 we understand the strangeness or the abnormal  
24 quality of Chinese people doing this. Just swap  
25 in "capital," swap in "money."

1                   It's perfectly fine for a 500-year-old plus  
2                   company like Grosvenor to move capital around  
3                   everywhere around the world. They were moving  
4                   it all around the British Empire, investing it  
5                   in all kinds of places, including places like  
6                   British Columbia. Is it okay that Grosvenor  
7                   moves capital around everywhere within the  
8                   empire? Perfectly normal. It's okay. In fact  
9                   accepted. But if you are Chinese capital or  
10                  you're a Chinese person and you move around,  
11                  that's suspect. That we've got to check out a  
12                  little bit more. And I think that would be my  
13                  way of kind of to give a frame for some issues  
14                  of mobility and whose mobility is up for  
15                  question. Whose belonging is up for question  
16                  because how will we attack someone as not  
17                  belonging? Well, because they move around a  
18                  lot.

19                  If you are -- I'll give you a very good  
20                  example because it's actually one of the  
21                  examples I often used in my own historical  
22                  research is that you have people who were, you  
23                  know, raised in British Columbia and who go on  
24                  mission to China or to Japan. You could leave  
25                  as a teenager and go on mission, you know, and

1           you were going to be missionary for basically  
2           your whole life. And then you could come back  
3           to retire to British Columbia and you belonged.  
4           In fact it was laudable that you had just spent  
5           45, 50 years trying to bring the good word to,  
6           you know, the people in China or Japan.

7                     You belonged when you were young, you  
8           belonged when you weren't here for 50 years and  
9           you belonged when you came back. We don't label  
10          that as a circular migrant, as someone who is  
11          mobile and moving around. And did their being  
12          in China for 50 years somehow undermine their  
13          belonging when they came back here to retire?  
14          Do we sort of think of them as well, geez, you  
15          really don't deserve your retirement and pension  
16          benefits because you didn't put any money into  
17          our system, so we really have to take a look at  
18          you.

19                    I use that as an explicit example to kind of  
20          think about how what seemed like abstract  
21          circular migration. We, you know, I have  
22          colleagues, very smart colleagues -- I like them  
23          immensely as colleagues and I like them as  
24          people -- but often they will make conceptual  
25          slips where they will use very abstract

1 categories like circularity, this is novel, this  
2 is people moving around and being in multiple  
3 places, how novel. These Hong Kong Chinese,  
4 they seem to be able to be back and forth  
5 between Hong Kong and Canada.

6 And then I will say well, how many --  
7 actually I know lots of people who are Canadian  
8 foreign service folks in global -- you know, who  
9 are foreign affairs and they're constantly  
10 moving around. They may be strange because they  
11 are diplomats, but we don't say these Canadian  
12 diplomats are so weird. You know, we have to  
13 understand their motion and their mobility as  
14 something that really ought to be explained as  
15 strange. You know, what cultural trait leads  
16 these people who are in foreign affairs to do  
17 this. We think of it as a personal choice. We  
18 think of it as laudable that they're doing it on  
19 behalf of our nation.

20 So I just -- I raise this as a way of just  
21 framing as we perhaps talk a little bit about  
22 the character of money and our, moral  
23 evaluations of money. I'm happy to talk about  
24 that, but within the frame of people and money,  
25 sometimes it's useful heuristically to just --



1                   when we say a bunch of stuff about people or  
2                   when we say a bunch of stuff about money, an  
3                   object that moves around, swap it, and is there  
4                   something distinctive about how we talk about  
5                   Chinese money and Chinese people.

6           Q        It's effectively -- I take it that's a technique  
7                   or a method of testing the proposition a little  
8                   bit because as I hear you describe, it makes me  
9                   ask or wonder to what extent there's sort of --  
10                  and I don't know in this is the right framework  
11                  to use, but to think of it in terms of  
12                  visibility versus invisibility. So if a bunch  
13                  of money moves here from a British or, let's  
14                  say, an American investment company or person  
15                  and purchases real estate, that seems to be  
16                  relatively invisible compared to the perception  
17                  that -- I remember in Banff, Alberta, in the  
18                  1980s and 90s there was this sense that the  
19                  Japanese were buying up the place. So that  
20                  was -- seemed to me at one level reflective not  
21                  the fact that money outside Alberta had moved  
22                  into Banff but rather that you had a group of  
23                  people perceived to be foreign and maybe that  
24                  circles back to your comments about belonging.  
25           A        Yeah, exactly. And I think you've put it very

1 well to use the term visibility/invisibility.  
2 It's a very uniquely Canadian term of visible  
3 minorities. In fact if you just think about  
4 what could that actually mean. Because it's a  
5 term no one else uses. Again, I've been in a  
6 lot of places around the world, you know,  
7 scholars who would think about race, people who  
8 normally just think about -- nobody else uses  
9 this term.

10 So what is it about in Canada very  
11 specifically that we thought this was a useful  
12 term. I'm not again trying to evaluate whether  
13 it is a useful term or not, but what leads us in  
14 Canada to think it's useful. And part of what  
15 that is based upon is the assumed invisibility  
16 of a majority. That there is a majority white  
17 Canada or a majority white British Columbia that  
18 is normal, and then there's these visible  
19 people. They're visible to us precisely because  
20 of the invisibility of everyone else, and that  
21 is manufactured. That takes political work. It  
22 takes historical immigration policy. It takes  
23 disenfranchisement. It takes all these things  
24 to create the invisible majority which is  
25 implied or only makes sense to think of a

1                   visible minority within the context of the  
2                   invisibility majority.

3                   And so if you think about that and take --  
4                   you know, build on what you were raising as a  
5                   distinction, the invisibility of capital that  
6                   travels globally that has German origins if  
7                   whatever American, British, you know, again the  
8                   example of Grosvenor is a good one. This is a  
9                   privately -- you know, it's a family company  
10                  that's been in the -- you know, generation after  
11                  generation. And I don't mean to pick on  
12                  Grosvenor. It's just an example of invisible  
13                  money. That when Grosvenor's capital moves  
14                  around and sinks into real estate in a place  
15                  like Vancouver, it's invisible. But the  
16                  visibility of some people, and again going back  
17                  to the context of that article about what is  
18                  going on in our cities that there's this  
19                  visibility, a rise of non-white populations in  
20                  our cities, these particular Asian bodies that  
21                  are visible, these visible minorities and why is  
22                  it that as they approach larger and larger  
23                  proportions, you know, 5 percent, 10 percent,  
24                  15 percent, 20 percent, why is this bothering  
25                  people so much? And why is the money seemingly

1 associated with them -- I'll put kind of  
2 asterisks around that. Is there really  
3 something called Chinese money? Is there really  
4 something that -- is the money actually moving  
5 from where you think it's moving from.

6 So I'll give you an example. You see a real  
7 estate agent in front of a house and you see --  
8 it looks like a couple interested in buying it.  
9 They have Asian faces. Are you assuming that  
10 they're all from China?

11 Q They've been here generations before the white  
12 person watching them necessarily.

13 A If I'm going to buy a house is someone saying  
14 look, it's another foreigner; it's another  
15 person from China. The visibility of race -- I  
16 think we understand that concept. "Visible  
17 minority" is our way of saying race or racism or  
18 racial discrimination or racial difference, and  
19 yet it's actually also a way of hiding it  
20 because in some sense it both points to the  
21 invisible majority and yet also obscures that  
22 there is this invisible normal that we don't  
23 make note of and we don't mind.

24 So we don't mind foreigners investing here  
25 and I'll use very explicitly the foreign buyers

1 tax that was passed five years ago. And full  
2 disclosure, I have made known both publicly as  
3 well as within that court case that -- you know,  
4 some of the same points that I'm making now  
5 which is what is -- what do you mean by  
6 "foreigner"? Who do you think you mean when you  
7 say "foreign buyer"? And if you -- if you are  
8 saying Grosvenor, then okay. I'm okay with you  
9 not liking foreign capital. But if you only  
10 think it's Chinese, then you've got a problem.

11 And you've got a problem in not knowing what  
12 you're really saying when you say "foreigner,"  
13 then, because American -- again if you go back  
14 to my former colleague, who's now retired,  
15 Michael Goldberg, who was at the time the school  
16 of commerce now the Sauder School of Commerce,  
17 you know, he did this study back when the Hong  
18 Kong Chinese seemingly were overtaking  
19 Vancouver. And he looked at it and is, like,  
20 there's lots of sources of foreign investment at  
21 that time. American, German, you know, British.  
22 And yet why was this small proportion, which is  
23 not even approaching 50 percent -- it was in  
24 fact a very small proportion at that time of the  
25 total foreign capital coming in and yet people

1                   were up in arms.

2                   And I think that is from -- you know, this  
3                   is a long, long answer to I think your original  
4                   question about let's talk about the 80s. But I  
5                   think one of the reasons why the 80s is  
6                   interesting in this moment, it is history. Even  
7                   though I lived through it and I think probably  
8                   most of the people on this panel lived through  
9                   it, it is history. My students who are 18, you  
10                  know, when I try to explain the 80s, it's  
11                  history to them, so --

12                 Q    Yeah, teach it to them. Yeah.

13                 A    And I always take it as if my students didn't  
14                   live through it, then it must be history. But  
15                   in some sense what maybe in our lifetime, if we  
16                   treat it as this was a historical moment and I  
17                   have to explain it as history to a whole  
18                   generation now of people, I think one of the  
19                   things that's very distinctive about what  
20                   happened in the 1980s, and you saw headlines of  
21                   Hongcouver, you know, that there was this  
22                   takeover.

23                   I sort of mention a couple of things that  
24                   just to help us think about it as history. One  
25                   is which neighbourhoods were the hot spots for

1                   that kind of decrying of Hong Kong and foreign,  
2                   you know, influence and capital. It wasn't East  
3                   Van. I lived in East Van at the time. You  
4                   know, full disclosure, near Clark Park, Knight  
5                   and 17th. Nobody was up in arms about the  
6                   Chinese. I mean, my block -- literally I was in  
7                   a cul-de-sac at Knight and 17th, you know. We  
8                   had a Romanian, a Hungarian family, an Italian  
9                   family, we had, you know, three or four, I  
10                  think, Chinese Canadian families. One -- like,  
11                  we were all from somewhere else. Nobody was  
12                  sort of saying the Hong Kong Chinese are the  
13                  real problem, though, because we had all in some  
14                  sense come from somewhere else on that block.  
15                  So East Van was not some place where people were  
16                  decrying Hongcouver and things.

17                  If you look at the actual neighbourhoods,  
18                  places like Kerrisdale, Shaughnessy, even  
19                  British Properties wasn't that big a deal. But  
20                  if you look at the neighbourhoods, they were  
21                  places that, again thinking back to Patricia  
22                  Roy's argument about -- they were the places  
23                  that had been consolidated as a white man's  
24                  province. As a place that was really not --  
25                  Shaughnessy it's okay to be in there if you're

1 Chinese if you're a servant. It's kind of like  
2 Harry Potter; it's okay if you're under the  
3 staircase. If you're the butler, you're the cook,  
4 you're okay in Shaughnessy. In fact most  
5 Shaughnessy homes employed Chinese servants, so  
6 Chinese were everywhere in Shaughnessy, but not  
7 as homeowners. You weren't buying a place in  
8 Shaughnessy if you were Chinese in the 1920s to  
9 1940s. No, not good. Servant, good.

10 And so I think that normal -- sense of a  
11 normal order in fact was one of the things that  
12 really saw this outcry in the 1980s. I always  
13 say to my students, the amazing thing about that  
14 moment, the Hongcouver moment, is not that it  
15 happened. From a historical point of view it's  
16 almost inevitable, you could say, that something  
17 like this was going to happen. To me the  
18 amazing thing was how short-lived it was. What  
19 I mean by that is that really within a few years  
20 after -- from 1986 Expo, if you want to say it,  
21 there were -- there was former supreme court  
22 justices saying, who is this province for,  
23 essentially. The *Vancouver Sun* I believe op-ed  
24 piece, you know, from a retired supreme court  
25 justice saying, you know, this is not who we



1                   built British Columbia for. Again, that  
2                   normalcy that Patricia Roy mentioned.

3                   But then really by 1997 I think younger  
4                   generations of British Columbians said, this is  
5                   who we are; this is -- you know, we go to school  
6                   together; we have our -- you know, this is a  
7                   city that has actually already changed. We have  
8                   romantic relationships. We have couples. We  
9                   have children together. You know, again in  
10                  1990s it was also when so many of our young went  
11                  to Japan to teach English. Something you  
12                  mentioned. And it becomes so normal to think of  
13                  this trans-Pacific connection between Vancouver  
14                  and places like Japan and Hong Kong. And not at  
15                  that time yet China. China had not really  
16                  opened up to the point where mainland China was  
17                  one of those places that our youth considered  
18                  going.

19                  But -- and I think that is -- from a  
20                  historical point of view is the short-lived  
21                  nature of that. And in fact we've kind of  
22                  forgot what it was like with the Hongcouver and  
23                  everything until five, six years ago when  
24                  mainland Chinese suddenly we have, they're  
25                  taking over. And all of a sudden we started --

1                   some of us anyways, to have that echo of,  
2                   haven't we seen this before? It's like -- it's  
3                   sort of like a syndicated TV series. I think  
4                   I've seen this episode. And in some sense --

5           Q       An echo of --

6           A       An echo of an earlier time. And I think that is  
7                   useful to understand that echo because it's like  
8                   yeah, I've seen this before; I think I lived  
9                   through it. And one of the things to remark,  
10                  again, is how short-lived that feeling was in  
11                  the 1990s of alarm. And you could say it's  
12                  dated. And now we barely remember how the media  
13                  outcry and so many news headlines and, you  
14                  know -- so I think that's one of the things.

15                         And I'll say this to say this will pass,  
16                         like, what's happening right now. It's just  
17                         that our capacity for forgetting the enduring  
18                         legacies of our history, that enduring ability  
19                         within a place like British Columbia to blame a  
20                         set of people for something that is not really  
21                         what's going on. And I think that may be the  
22                         most germane way to segue in some sense into the  
23                         present moment because that -- as you see with  
24                         the quickness to have the rise of anti-Asian  
25                         hate crime within days, you could say, of the

1                   onset of the pandemic.

2           Q       Yeah.

3           A       The ease with which British Columbians, you  
4                   could say -- not all. I am not saying everybody  
5                   British Columbian. But the ease within this  
6                   society of being able to understand a problem as  
7                   being the Chinese problem. That is, I think,  
8                   something that you can't understand, you know,  
9                   why we're so quick in the 1980s to blame Hong  
10                  Kong Chinese for basically for investments that  
11                  were coming from all around the world. But we  
12                  don't -- the invisibility of capital that was  
13                  coming from Germany, Britain, United States and  
14                  the visibility of Chinese capital, I think that  
15                  is important to understand.

16          Q       Let me turn to that question about Chinese  
17                  capital in particular. And we haven't brought  
18                  you in as an expert on currency controls or  
19                  currency capital controls.

20          A       Thankfully. Thankfully, no.

21          Q       Don't worry. But I think you also do have a  
22                  useful perspective on this. And I'd like to do  
23                  this a little bit by just marching my way  
24                  through a few news reports or articles that  
25                  speak to the question.

1 MR. MARTLAND: So we have an article, Madam  
2 Registrar, the article by David Keohane from the  
3 *Financial Times*.

4 Q Professor Yu, you'll see that on screen. The  
5 title's fairly self-explanatory. It dates to  
6 March of 2016. "So You Want to Get Your Money  
7 Out of China?" It's this little bit of, I  
8 guess, a sense of humour to this. But it's  
9 called the "Cut and Keep Edition." It starts by  
10 saying:

11 "You're a rich Party official go-getter on  
12 the Chinese mainland, with an eye on how  
13 much the renminbi might fall over the next  
14 year.

15 You know there's a very decent chance  
16 that capital controls are going to be  
17 tightened up soon.

18 You know that at the moment you can  
19 still get your capital out of China - even  
20 if it's a bit more than the annually  
21 permitted \$50,000 per person - and that  
22 it's probably going to cost you to do so."

23 A Yeah.

24 Q I'll just pause maybe to ask, you've had --  
25 you're familiar with this article describing the

1 moment in time, I guess, immediately before but  
2 in anticipation of tightening currency controls?

3 A Yes, actually I do -- I am familiar with this  
4 one as well as others from that time. Yeah.

5 MR. MARTLAND: Okay. Mr. Commissioner, if this could  
6 please be marked -- I think exhibit 644, if my  
7 numbering is right.

8 THE COMMISSIONER: Numbering is, and yes, it can be.

9 THE REGISTRAR: Exhibit 644.

10 MR. MARTLAND: All right. That's a relief.

11 **EXHIBIT 644: So you want to get your money out**  
12 **of China - Cut out and keep edition - FT**  
13 **Alphaville, by David Keohane - March 3, 2016**

14 MR. MARTLAND:

15 Q Page 2, in the table that we see -- and maybe we  
16 can zoom in a little bit there. But you can see  
17 in the left-hand side there's a number of  
18 different methods that are put forward. It's  
19 Titled "How to Turn a Small Fortune in China  
20 Into a Small Fortune Somewhere Else." And I'll  
21 just do this very quickly, but you see reference  
22 to what the writer in the *Financial Times*  
23 describes "individual transfers of funds - up to  
24 \$50,000/person/year"; "physically moving cash  
25 out of China"; "underground branch providing

1                   'matchmaking' services." 4, "over and  
2                   under-invoicing imports/exports." 5, "outbound  
3                   direct investment by corporates." 6, "step  
4                   transactions within holy owned groups." 7,  
5                   "fake purchases with UnionPay cards and refunds  
6                   for cash." 8, "Buy USD insurance policies." 9,  
7                   "Macau junkets." 10, the "purchase of luxury  
8                   goods as a store of value." If we go down the  
9                   list a little bit. Bitcoin transfers, PayPal  
10                  transfers. Those are all being identified as  
11                  sort of this in cheat sheet as to how to move  
12                  money around, alternatives that are put on  
13                  offer.

14                   Why don't I turn to -- I'll just sort of  
15                   carry on in marching my way through these  
16                   documents. If we could please go to the Keith  
17                   Bradsher article next. This is the *New York*  
18                   *Times* reporter Keith Bradsher, November 2016.  
19                   You're familiar with this article called  
20                   "Chinese Tightens Control on Overseas Use of Its  
21                   Currency"?

22                  A     Yes.

23                  MR. MARTLAND: Mr. Commissioner, if this might be  
24                   marked 645, please.

25                  THE COMMISSIONER: Very well.

1 THE REGISTRAR: Exhibit 645.

2 **EXHIBIT 645: China Tightens Controls on**  
3 **Overseas Use of Its Currency - *The New York***  
4 ***Times* - by Keith Bradsher - Nov 29, 2016**

5 MR. MARTLAND:

6 Q And just to continue to cover the ground here  
7 because some of this gives us a useful  
8 understanding of the timeline of things. And  
9 how it connects back to things that we are going  
10 to be asking you about in this province.

11 The first article I'd gone to was from  
12 March 2016 talking about imminent or anticipated  
13 restrictions. We then see this title "Chinese  
14 Tightens Controls Over Overseas Use of Its  
15 Currency." And the lead on the story is:

16 "As an exodus of money adds to the  
17 pressure on a slowing economy, regulators  
18 are trying to put the brakes on overseas  
19 use of China's currency by increasing the  
20 scrutiny of certain overseas deals.

21 The decision to restrict overseas use  
22 of the renminbi represents a setback in  
23 China's long-term drive to turn the  
24 currency into a rival to the dollar and  
25 euro in the global marketplace."

1                   And I won't read from it, but that paper -- that  
2                   article, rather, describes a number of the  
3                   measures that are being implemented late in  
4                   2016.

5                   Next if we could please go to another  
6                   *Financial Times* article, this one by Gabriel  
7                   Wildau. And I'll just pause to have you  
8                   identify that as an article you are familiar  
9                   with. "Chinese Foreign Property Investment At a  
10                  4-Year Low Amid Clampdown." The article date is  
11                  November 2017.

12                  A     Yes.

13                  MR. MARTLAND: Mr. Commissioner, if that could be  
14                  marked, please, as exhibit 646.

15                  THE COMMISSIONER: Yes, very well.

16                  THE REGISTRAR: Exhibit 646.

17                                 **EXHIBIT 646: Chinese Foreign Property**  
18                                 **Investment At 4-Year Low Amid Clampdown -**  
19                                 ***Financial Times*, by Gabriel Wildau -**  
20                                 **November 22, 2017**

21                  MR. MARTLAND:

22                  Q     And the reference there, if we look down under  
23                  the picture of the Waldorf Astoria, I'm relying  
24                  not on personal knowledge but on the headline  
25                  header to the picture there.



1 "Chinese investment in foreign real estate  
2 hit its lowest in more than four years in  
3 the third quarter, highlighting how  
4 tighter capital controls are reshaping  
5 global asset markets.

6 Chinese insurers, banks and  
7 private-equity groups have emerged in  
8 recent years as among the most important  
9 bidders for prime office buildings and  
10 luxury hotels in London, New York, Sydney  
11 and other major cities.

12 But fears over capital flight and  
13 currency depreciation prompted Beijing to  
14 clamp down on a broad range of foreign  
15 deal making late last year."

16 So hopefully that's a little bit of a quick wake  
17 to situate ourselves in time in terms of some of  
18 these restrictions to the flow of currency and  
19 capital out of China.

20 What I'd like to do with that, as a fairly  
21 long preamble to the question, I suppose, is  
22 turn to you and ask you to comment on the impact  
23 that that had, I suppose generally but in  
24 particular in the Lower Mainland, to your  
25 observation.

1           A     I think one of the reasons why I'm kind of  
2                   familiar with some of this, the media, is  
3                   precisely because it was the last five years  
4                   and, you know, a number of things obviously,  
5                   again from a perspective of migration and the  
6                   movement of people as well as the movement of  
7                   capital, you know, have occurred in the last  
8                   five years. And I think there's two things that  
9                   I would observe about these stories.

10                   One is many of them are -- I guess you would  
11                   say factually true. They are describing in  
12                   reportage, you know, some things that are  
13                   happening. There are the restrictions on  
14                   capital being made as part of policies,  
15                   decisions by the Chinese government, it has  
16                   effects on people in China who have money and  
17                   the decisions they're making as to where to put  
18                   money into safe investments. These are the  
19                   kinds of decisions that are based again on  
20                   policy and how it affects what you can and  
21                   cannot do.

22                   So in that sense they seem relatively  
23                   straightforward, I think as people read them.  
24                   The first piece, though, I would point out is,  
25                   one, that the tone is interesting because it's

1                   written in this satirical way.

2           Q       Yeah.

3           A       Based on yes, if you're a rich person in China,  
4                   here is what you can do to kind of go protect  
5                   your money. Now, obviously the first question  
6                   is why is this funny, and who would think it's  
7                   funny. Not just the writer. The writer  
8                   obviously thinks it's funny. But why in writing  
9                   this do they think it's -- you know, it is  
10                  something that is satirical and should elicit  
11                  humour. And I think that's a kind of revealing  
12                  way to understand, you know, what are the things  
13                  that we find disturbing and humourous and to be  
14                  made fun of or mocked.

15                         If this was mocking, again, Israeli money,  
16                         let's say, because there's some kinds of  
17                         restrictions in Israel, or German money or  
18                         British -- you know, British outflows, you know,  
19                         the last article is one that's a straightforward  
20                         seeming reportage about capital restrictions.  
21                         It could be any country. China. How it  
22                         affects, again, markets, and things like that.  
23                         It's like -- it's business --

24           Q       Yes.

25           A       The satirical piece. Why is this funny? Who

1                   does that writer thinks will think it's funny?  
2                   And, again, I don't have all the answers. I'm  
3                   not in that person's head. But that is a kind  
4                   of question to think of what it is that's taboo.  
5                   Often humour revolves around the breaking of  
6                   something that is not taboo, that is something  
7                   that we shouldn't do or some group of people  
8                   that we shouldn't be making fun of but we're  
9                   making fun of.

10                   So I would sort of go to the question of  
11                   what is going on in the last five years that  
12                   lead us again to very visibly see wealthy  
13                   Chinese, make fun of wealthy Chinese, resent  
14                   wealthy Chinese to begin to actually have  
15                   emotional reactions to wealthy Chinese. And I  
16                   say this to differentiate it from, I may be a  
17                   person who wants to make fun of rich people just  
18                   in general. I resent people with wealth, and so  
19                   I'm just going to make fun of rich people in  
20                   general. That's one thing.

21                   Q     Right.

22                   A     But what's so funny and what's so emotionally,  
23                   you know, titillating about rich Chinese. And I  
24                   think that is something that's a very relevant  
25                   question over the last five years, going back to

1                   our visibility/invisibility. What is leading us  
2                   to joke and to mock and tease and to find some  
3                   level of resentment against people who are  
4                   Chinese with money. That we need to make fun of  
5                   them somehow because we've - - is there some  
6                   level of we don't believe it's legitimate that  
7                   they have money or that they -- we don't like  
8                   that they have money or we don't like the power  
9                   that that money brings them.

10                   We don't mind a Hollywood producer, you  
11                   know, to come here and to buy a \$37 million home  
12                   because they're a Hollywood producer and somehow  
13                   they deserve it because we like their movies.  
14                   But 37 million for someone who made it rich  
15                   who's clearly nouveau riche who just made their  
16                   money from China and China is rising as a global  
17                   power, and it all becomes mixed up to, I don't  
18                   like it and I am going enjoy reading an article  
19                   making fun of those people.

20                   MR. MARTLAND: Yeah. Maybe, Madam Registrar, I could  
21                   ask you to please bring up that exhibit 644.

22                   Q     Just because I want to have the right one on  
23                   display as I ask you one or two questions. Some  
24                   part of the article seems to be a bit factual in  
25                   saying look, here is that table I went through,

1                   these are identified as potentially methods of  
2                   moving money.

3           A     Yeah.

4           Q     But under the first -- this is the Keohane  
5                   article.  There we are?

6           MR. MARTLAND:  If we look at the very top please,  
7                   Madam Registrar, the start of the article on  
8                   page 1.

9           Q     You see there that does seem to be an attempt at  
10                  humour or something glib to say "you're a  
11                  rich" -- capital P -- "Party."  That's the --  
12                  that's referring to some sort of conception of  
13                  the communist party.

14          A     Yeah.

15          Q     Go-getter.  Chinese mainland.  An eye on how  
16                  much the currency may fall.

17          A     Yeah.

18          Q     That's what you're referring to in terms of the  
19                  tone that you say is distinctive about this?

20          A     Yeah.  And, again, I think that has to do with  
21                  the context of lots of news stories about the  
22                  illegitimacy of the nouveau riche of China and  
23                  particularly I think this -- what in fact the  
24                  Chinese government itself was nominally saying  
25                  they were going -- they were trying to fight,

1                   which is corrupt party officials and corruption  
2                   and how people in power in China were now a  
3                   target of anti-corruption campaigns.

4                   And so the party -- you know, again, the  
5                   reference to rich party official is in some  
6                   sense resonating with what at that time Xi  
7                   Jinping was -- you know, political campaigns  
8                   that were legal campaigns to target graft and  
9                   corruption within, again, the Chinese state but  
10                  also within its economy.

11                  So now, again, why is this funny and who  
12                  reading this will find it funny. Who will find  
13                  it actually maddening. I think there's a lot of  
14                  people who in China itself who -- you know, why  
15                  those campaigns existed is a lot of people were  
16                  righteously furious about how people in power  
17                  could use that power to make money in ways that  
18                  were considered there illegitimate and wrong.  
19                  So I -- but, again, is that funny or is that  
20                  some -- you know, where are we here in  
21                  British Columbia in terms of thinking about our  
22                  position about that.

23                  Now, it's one thing to read a newspaper  
24                  article or a piece and say oh yes, that's funny;  
25                  yeah, I think it it's wrong that people new to

1 money, you know, how did they gain it; do we  
2 have moral judgments about how people make  
3 money. You know, we can judge every one of our  
4 neighbours. Money is a funny thing. Making  
5 money and whether it's clean or you feel that  
6 the way a neighbour -- is it legitimate or  
7 illegitimate how they've made their money. And,  
8 you know, that's perhaps a different question  
9 within a place like British Columbia, but  
10 certainly it's been, you know -- and I'll use  
11 the term. It's racialized in the ways that  
12 we've talked about before about who we judge to  
13 have made money in legitimate ways and are we  
14 actually also applying that same standard to  
15 everyone.

16 You know, again, I don't mind if you just  
17 resent rich people. From a historical point of  
18 view, if you don't like rich people, then be  
19 equal opportunity and make fun of and be  
20 resentful and pass laws and policy that treat  
21 wealth in some sense in a colour-blind manner.  
22 It sounds funny to say, but if you don't like  
23 money that is illegitimate, then go after money  
24 that's illegitimate across the board. If you  
25 don't like speculation in real estate, then pass



1 a speculation tax that taxes all speculation.  
2 If you don't like people buying luxury goods and  
3 somehow you resent the ability of someone to pay  
4 for a \$250,000 Lamborghini, then tax luxury  
5 goods.

6 But when you start to target people because  
7 it feels wrong that that set of people is making  
8 money and therefore we're going target their  
9 ability to make money, move money, spend money,  
10 then I think you're on in some sense uncertain  
11 ground both within a place like Canada that has  
12 constitutional protections for arbitrarily  
13 targeting a set of people and also within this  
14 longer history of British Columbia where who we  
15 think visibly is doing something we don't like  
16 and that we blame for something that's a broader  
17 ill.

18 So I'll use the -- at this time precisely in  
19 the 2015 to 2018 period is when we were --  
20 there's lots of public discourse about housing  
21 affordability.

22 Q Yeah.

23 A About whether housing prices are too high.  
24 Whether -- now, to me the basic question is is  
25 housing unaffordable because we treat housing as

1                   a commodity. We trade it like corn, you know,  
2                   is traded on the Chicago stock Exchange. In  
3                   other words, we are betting on futures, we're  
4                   betting on the price going up and we're  
5                   investing using credit and leveraging, you know,  
6                   putting 20 percent down in order to buy a place  
7                   and then betting, in essence speculating, that  
8                   it's going to go up so that we never really have  
9                   to pay off the whole value of the condo.

10                   So are we treating housing as a commodity  
11                   and therefore it's perfectly understandable why  
12                   the prices go up. They're a speculative  
13                   commodity and that's why it's unaffordable. Or  
14                   are we saying it's unaffordable and it's the  
15                   fault of the Chinese. And just as with -- in  
16                   the 1980s with blaming Hong Kong Chinese you're  
17                   blaming one segment of a market for the  
18                   consequences of the whole market being a  
19                   speculative real estate market.

20                   And I think that's where -- I know this  
21                   seems disconnected to this set of articles but  
22                   it's not actually because these sets of articles  
23                   are coming out at a time when things are going  
24                   on in China in terms of policy, restrictions,  
25                   anti-corruption campaigns, restrictions of

1 capital outflows because the Chinese state is  
2 both -- and here is where I do know enough about  
3 this as an area of expertise because as a  
4 migration expert I was -- you know, one of the  
5 things that interested me about this moment was  
6 precisely how these government campaigns were  
7 actually having effects on migration. Migration  
8 of people, as I said, as well as the migration  
9 of capital. Sometimes they're tied together,  
10 sometimes they're not.

11 And so that's why thinking about this  
12 moment, you know, as an area of my own research  
13 expertise that this is tied together. So our  
14 public discourse about housing affordability is  
15 tied intimately, you could say, within a larger  
16 media public discourse to articles like this.  
17 And so I read them together, I would say, is  
18 the -- you know, in a strange way -- of course  
19 we read the newspapers. If you -- you know, in  
20 an old school way, if you read the whole  
21 newspaper you're reading the business section at  
22 the same time you're reading the front  
23 headlines. But I think in some sense as a  
24 scholar it's important to read how people are  
25 talking about China, how people are talking



1 I don't know if I read the same news article or  
2 maybe didn't read all of what the comments were,  
3 in any event. But I also know there was some  
4 media coverage that related to the Vancouver  
5 Police Department referring to a very disturbing  
6 rise in public violence against in particular  
7 East Asian people. I gather that's more often  
8 women than men. And an increase in the range  
9 from a dozen incidents in 2019 about a hundred  
10 incidents in the city of Vancouver in 2020  
11 coinciding with the pandemic.

12 So I'm sort of picking up on that comment  
13 that you made as a bit of a segue into asking  
14 you this question. Some of that would appear to  
15 be examples of pretty blatant outright racism  
16 and violence against people because of their  
17 ethnic identity, but I take it to be the case  
18 that there's a whole layer to discrimination or  
19 racist thinking that may be quite invisible and  
20 perhaps -- even if we are dealing with questions  
21 of unconscious bias perhaps even unknown to the  
22 person who may be well-meaning and yet unaware  
23 that buried into their thinking and their  
24 approach they have drawn distinctions or  
25 categorized in a way that isn't necessarily

1                   deliberate and yet is really driven by  
2                   discriminatory thinking.

3                   So I'd like to -- that's not a very well put  
4                   question. But I'd like to have you comment on  
5                   that distinction and then connect it to the  
6                   comments you've been discussing thus far today.

7           A       Yeah. Yeah, just to follow your question and  
8                   your connection, I think, of current events.  
9                   And again, now, just as a quick caveat, I'm a  
10                  historian. I look backwards obviously and study  
11                  the past, and yet in a certain way, you know,  
12                  everything that happened yesterday and beyond is  
13                  the past. So it's yesterday's news article.  
14                  And we -- you know, you may -- we may think of  
15                  is as a contemporary news event, you know, but  
16                  just to be clear, it happened, it's yesterday,  
17                  so yesterday is the past, and now it's part of  
18                  the purview.

19                 And in particular I think the context that  
20                 you mentioned, which is how do we understand,  
21                 you know, basically beginning in March of last  
22                 year as the global pandemic hit, why the -- you  
23                 know, this has obviously been -- we're all --  
24                 you know, we're on Zoom because this has  
25                 reshaped everyone's lives. And so there's

1 obviously a lot of stress, a lot of -- it is a  
2 crisis and it seems to be a long impact and I'm  
3 just stating the obvious.

4 But why -- when things are in crisis mode,  
5 who do we blame and who do we very quickly go to  
6 as the problem. Now, I'm using the "we" in a  
7 bit of a loose manner obviously because we --  
8 you know, if we're thinking about that doesn't  
9 mean that any of us are going around beating up  
10 90-year-old men that we think are Chinese. But  
11 why is it that -- as we think about the housing  
12 unaffordability crisis, you could say, or the  
13 sense that the housing prices are too high both  
14 now and in the 1908s and 90s, why, if you go,  
15 you know, again, a hundred years back, you have  
16 the idea that the Chinese are again a threat,  
17 you know, morally. A threat to the way of life.

18 Why, again, in 1942 that, you know, the fact  
19 that we are at war with Japan doesn't mean we  
20 have to go and round up everyone who's Japanese  
21 Canadian, you know, who looks Japanese, and not  
22 only do we need to move them but we need to sell  
23 all their property. The United States for all  
24 the problems, they didn't sell Japanese  
25 Americans' property. They in fact started to

1 allow Japanese Americans out of camps by late  
2 1942. We kept Japanese Canadians off the West  
3 Coast longer after the war than we did during  
4 war. We did not allow Japanese Canadians back  
5 to the West Coast until 1949 and only after we  
6 had liquidated most of the property owned, land  
7 as well as boats and other things.

8 So I raise this as a way of understanding in  
9 the broader long-term context of blame, of the  
10 visibility argument that I think, you know, we  
11 were making earlier is also one in which the  
12 visibility of certain set of people as the party  
13 to blame when we have in fact complex causality,  
14 let's call it. There's lots of things going on  
15 and yet we are going to go straight to this set  
16 of people as the problem. That is a legacy of  
17 that long history of white supremacy. That is a  
18 legacy of the visibility of certain sets of  
19 people as a problem, and when there are problems  
20 that it feels much more normal and easier to  
21 think of them as a problem and talk about it --  
22 them as a problem. And so part of when you  
23 showed newspaper articles, what often -- op-ed  
24 pieces and newspaper articles, you can actually  
25 track them.



1                   With Google now it's actually quite easy.  
2                   You know, I don't want to say it is easy to be a  
3                   scholar, but it is easy to track newspapers  
4                   articles because Google does it for you. There  
5                   you're tracking most of the electronic traffic  
6                   and you can use keywords and you can actually  
7                   create a table and a chart that shows from  
8                   2015 -- basically actually it's 2013, 2014,  
9                   onwards the increasing number of newspaper  
10                  articles and other -- multimedia also, other  
11                  media forms. And this not even talking about  
12                  social media, by the way, but just the kind of  
13                  things that show up in formal media or legacy  
14                  media, we often call it, the old school kind of  
15                  media formats, of people talking increasingly --  
16                  you know, certain writers appear again and again  
17                  and again, but you start to get a lot of  
18                  discussion of foreign, foreigners, Chinese.

19                  And so in that context, the articles that  
20                  you showed before the break, are within a rising  
21                  discourse in that period of the Chinese as a  
22                  problem for when we're thinking about money and  
23                  the negative effects of money and investment.  
24                  Real estate is one, but not the only one. Real  
25                  estate occurs again and again and housing

1                   unaffordability occurs again and you but you  
2                   could also see money itself is a problem, that  
3                   rich Chinese are a problem. There's a lot of  
4                   mocking of rich Chinese. There's a lot of  
5                   stories about just their being rich and how  
6                   inappropriate it is and their behaviour is  
7                   inappropriate.

8                   Now, again don't get me wrong, I think it  
9                   is -- you know, and this is a personal  
10                  disclosure. If there's an unconscious bias I  
11                  have is that yeah, I don't think the L learners  
12                  limit -- or learners licence on a \$250,000  
13                  sports car, I think there's something wrong  
14                  and -- I think there's something wrong about  
15                  that. But to me it's about, you know, someone  
16                  who doesn't yet know how to drive and has a  
17                  learners permit driving a \$250,000 car that can  
18                  go 300 miles per hour. But if we say that it's  
19                  Chinese that are the problem, then that's a  
20                  different territory.

21                  And so I think that is one of the things  
22                  that I would just point out about the last  
23                  five years of history is that there are ways in  
24                  which we talk about money and Chinese money that  
25                  is resonant with a long history, the history

1                   we've described earlier, and that in looking to  
2                   see some of those resonances or those echoes or  
3                   those connections I think you -- it's another --  
4                   again, it's a heuristic device.

5                   A way of sort of saying, let's take a step  
6                   back and check. We are talking about particular  
7                   forms of money investment. Would we be as  
8                   outraged if we swapped in Israeli, British,  
9                   German, American. Every time you see the word  
10                  "Chinese," would we be as outraged if you  
11                  swapped in another group that we don't mind, you  
12                  know, invisibly okay group. That's one  
13                  heuristic device and that gets to what -- I know  
14                  some people call it unconscious bias versus  
15                  conscious. You know, whether it's conscious or  
16                  not, you know, the way to perhaps make it  
17                  conscious and to make it apparent is to use  
18                  little heuristic devices of, let's swap in this  
19                  word. Let's swap in identifiers or identity  
20                  markers that are national or racial or ethnic.  
21                  Let's swap it and see what happens when we do  
22                  that.

23                  Now, that's not going to give you right away  
24                  a surfacing of that kind of legacy that I'm  
25                  talking about, but it's one way as a first sort

1                   of tool. I think another way is -- I'm sorry,  
2                   and just to finish that thought. Would we mind  
3                   someone doing it if -- you know, if someone else  
4                   that we liked did it. I think that's one of the  
5                   checks on this process. The other is what is it  
6                   that we see as clean and dirty. And, you know,  
7                   phrases like "money laundering" or "illicit,"  
8                   "corrupt," these are, again, moral evaluators.  
9                   We are making a judgment about the cleanliness  
10                  of money.

11                   I'll give you an example. I don't know if  
12                   any of you dislike Rhodes scholars or think that  
13                   Rhodes scholars are bunk or idiots or think that  
14                   they're bad people. I doubt it. I hope that  
15                   none of you do. But let's just take the example  
16                   of Rhodes scholars. Rhodes scholars are -- we  
17                   elevate Rhodes scholars. We say -- if someone  
18                   is a Rhodes scholar we say, so and so, Rhodes  
19                   scholar. And we mean that that means that  
20                   they're smart, you know, natural leaders.  
21                   Well-rounded people. People to be valorized.  
22                   So I don't know if many of you know the history  
23                   of Cecil Rhodes who endowed this Rhodes  
24                   scholarship. But in the context of Rhodesia and  
25                   our use of white supremacy in colonial

1                    acquisition of other people's stuff, let's call  
2                    it, he was a pretty nasty guy, using that moral  
3                    language.

4                                       So is the money that Cecil Rhodes made dirty  
5                    and therefore is the Rhodes scholarship money  
6                    laundering? Is it a way of valorizing,  
7                    cleansing that money so that now that we give it  
8                    out as scholarships under his name, the money is  
9                    fungible. It could have been raised and created  
10                    in a certain way. Now it's endowments and, you  
11                    know -- that we now are giving Rhodes scholars  
12                    away -- or Rhodes scholarships away. And there  
13                    are Rhodes scholars who are valorized. Is this  
14                    money laundering? Would you consider Rhodes  
15                    scholarships money laundering?

16                                       Now, some people actually, yeah, they  
17                    probably do think that the origin of the  
18                    money -- and even though it's money is fungible  
19                    and it can be converted into other things that  
20                    somehow the process of conversion of the money  
21                    that Cecil Rhodes made in blood diamonds in  
22                    Rhodesia or whatever you want to say, the  
23                    origins of money, it's dirtiness and processes  
24                    of cleansing it. I think those are the kinds of  
25                    things also that are pertinent to think about

1                   the last five years is our concern with the  
2                   origins of money here.

3                   Again, I'm not myself having a personal  
4                   opinion about whether money that is corruptly  
5                   made, you know, somehow we shouldn't touch it or  
6                   shouldn't allow it in here. I'm just pointing  
7                   out that the newspaper media discourse about the  
8                   origins of money in China is something to note,  
9                   and whether we are applying the same scrutiny to  
10                  the origin of money made everywhere else or all  
11                  our own money. You know, how far are we going  
12                  to go to scrutinize the origins of money in the  
13                  processes of cleansing it.

14                  Now, I don't have an answer to that. I'm  
15                  not the person to ask about that. But I am  
16                  pointing out that we do seem to have an  
17                  excessive concern over the last five years with  
18                  the origins of Chinese money and its effects and  
19                  its use. And I say that, "excessive," in the  
20                  context of our earlier discussions about  
21                  excessive attention to money in real estate from  
22                  Hong Kong Chinese in the 80s and 90s and the  
23                  visibility as excessive.

24                  Q     So to pick up on that and in particular your  
25                  comments about money laundering, I wonder if you

1                   could comment on -- do you have an observation  
2                   as to whether the sort of tag or taint of  
3                   labelling something as -- or identifying  
4                   something as money laundering to your  
5                   observation does that in the public -- some of  
6                   the public discourse connected to the either  
7                   Chinese citizens or those of Chinese ethnicity  
8                   more often than other groups? Has that been a  
9                   predisposition that you have observed?

10           A    I would say that the number of stories, as I was  
11                   just mentioning before, is clearly one where  
12                   there's a volume to the number of stories that  
13                   discuss Chinese money as foreign money and  
14                   things like that, especially in particular  
15                   markets like housing. So there's a volume  
16                   argument there, but, again, volume itself is not  
17                   an argument for something strange going on. You  
18                   know, there's lots of stories about actual  
19                   current events that there should be a volume to  
20                   them because they are important significant  
21                   events, and so you'll see a rise in the volume.

22                                What I would point out, however, is that is  
23                   that volume tied -- what is it tied to? Is it  
24                   tied, for instance, to, as the *New York Times*  
25                   article that you showed, there are now capital

1 controls in terms of the flow of capital.  
2 There's now a policy in China, so to speak, in  
3 2016, you know, in that period, where the  
4 Chinese government is trying to restrict the  
5 investment of money by Chinese citizens outside  
6 of China. And there are various motivations  
7 policy-wise why they want to restrict money  
8 going out, but that is -- you know, there's a  
9 volume of stories about that. Okay. We can  
10 understand why because there's a change in  
11 policy and it's going to affect things.

12 But in terms of the consequences, for  
13 instance, of Chinese money on real estate, how  
14 does that affect British Columbia's local real  
15 estate economy. Well, if it's a business  
16 section article about, look, the amounts of  
17 money coming from China, they account for X  
18 proportion of our overall real estate  
19 investments, overall in the market, those are  
20 all kinds of stories that are interesting from a  
21 business and real estate point of view. But  
22 there are also a lot of articles that are  
23 occurring at that time over the last five years  
24 about the legitimacy of the money, whether all  
25 money that is seen to be Chinese is actually



1 from China.

2 So I used the example before a break of if  
3 I'm sitting there looking at a place, is someone  
4 seeing me and are they assuming that I'm a  
5 mainland Chinese party official? You know, the  
6 topic of mockery of corrupt party officials; how  
7 do you move your money out. In other words, the  
8 visibility -- this is where we use terms like  
9 racism is every time you see someone with black  
10 hair that looks like me doing something that is,  
11 quote, a legitimate practice, buying or selling  
12 a home, are we seeing it as illegitimate or  
13 somehow a problem. Because we are telling  
14 stories at a great volume about capital controls  
15 in China and whether there's more or less money  
16 coming from China into our local real estate  
17 market and the implication, I think, being  
18 there's something we don't like about money  
19 coming from China.

20 There's something we don't like about the  
21 origin of money that's made in China that we are  
22 using a storytelling method of saying party  
23 officials are corrupt; money made in China is  
24 corrupt; therefore money coming from China --  
25 there's a series of syllogisms. If A, then B,

1           then C. And, you know, in some sense we're  
2           shortcutting through those logical, seemingly  
3           rational equivalences, and tagging all money  
4           that seems Chinese as somehow illegitimate. And  
5           I think that's where that volume of stories, the  
6           kind of outcry, that sense of almost moral panic  
7           that really does, I think, shape not all stories  
8           but shapes the volume itself.

9                        What is our interest in the visibility of  
10           this money? And I think that would be my way of  
11           saying, yeah, if you look at it, take a step  
12           back and you look at the patterns of the media  
13           discourse, you know, there is something to be  
14           analyzed in terms of what is the rising interest  
15           an indication of.

16           Q        Yeah. And I wonder, to develop that, to sort of  
17           put it through the prism of what the reality is  
18           in terms of this, it might be useful --

19           MR. MARTLAND: Madam Registrar, if I can ask you to  
20           please look at and bring up exhibit 602, the  
21           overview report on Lower Mainland housing  
22           prices. In particular exhibit N, which is some  
23           slides that were prepared by the BC Real Estate  
24           Association.

25                        And you can see these -- what I'll do here,

1 I'll walk through a little bit of this and then  
2 ask the question.

3 If we could go to the third page, please, of  
4 this. One page down from there, please. There  
5 we are. "The Speculation Tax in Perspective."

6 Q If you have a look at the left side of that  
7 page, please, Dr. Yu, that would be help.

8 "Putting the speculation tax in  
9 perspective. The overwhelming majority of  
10 households in BC are residents who occupy  
11 their homes. Another significant share of  
12 owners are residents and non-residents who  
13 rent their units."

14 So I guess investors. Property owners.

15 "A very small share of total households,  
16 less than .5%, are non-resident owners who  
17 leave their units vacant or households  
18 whose primary breadwinner earns more than  
19 50 percent of household income outside of  
20 BC, so-called satellite families."

21 AND we then see that graph that -- the bar graph  
22 that displays that sort of in proportion that  
23 really sort of underlines how small a proportion  
24 it is that fall into that last category,  
25 non-resident, vacant or satellite family.

1                   Just to carry on with it on the next page,  
2                   please, back to about foreign buyers back on the  
3                   left side we see:

4                   "Foreign buyers accounted for 3.3% of all  
5                   provincial residential transactions in  
6                   2018. 3.6% in Metro Vancouver in 2017  
7                   prior to the increase and expansion of the  
8                   foreign buyer tax in February of 2018.

9                   The share of foreign transactions declined  
10                  to 2.4% in BC and 3% in Metro Vancouver in  
11                  2018."

12                 The authors say:

13                 "That decline was primarily the result of  
14                 a continued trend of falling foreign  
15                 transactions since the original foreign  
16                 buyers tax implemented in 2016 and the  
17                 imposition of more strict capital controls  
18                 by the Chinese government in 2017."

19                 So I wonder, having sort of put those figures  
20                 out there and without trying to drill down here  
21                 or test the veracity or accuracy of all of those  
22                 numbers, but do you have a reaction as to  
23                 whether there's a disconnect between what those  
24                 kinds of figures seem to tell us and then what  
25                 you have to say about public and media discourse

1                   in the area.

2           A       Yes.

3           Q       Before I let you answer, I'll just maybe ask --

4           MR. MARTLAND: Madam Registrar, we don't, I think,

5                   need the document displayed further now that

6                   I've done that.

7           THE WITNESS: Thanks. Yeah, I mean, I'd be happy to.

8                   And one of the reasons why is, again, for me

9                   this is something that, you know, has been a

10                  subject of scrutiny for myself, which is

11                  scrutinizing -- going back to what we were just

12                  talking about before you showed the tables. The

13                  volume of discussion, does that proportionally

14                  match with the volume of actual investment or

15                  the proportion -- you know, the numbers you

16                  showed. Again, I will leave it to my colleagues

17                  over in Sauder, who I've had many discussions

18                  with, by the way. You know, we do -- before

19                  COVID we did talk about things like this. And I

20                  think one of the things that was always a

21                  subject of interest in discussions with

22                  colleagues who are economists and who are in the

23                  business school is, yeah, what is the importance

24                  of 5 percent, 4 percent, 3 percent. What is the

25                  difference between 3.4 percent and 3.1 percent

1                   as -- from an economics point of view impact on  
2                   the overall market.

3                   And so one of the questions that I think a  
4                   lot of research went into was if that small  
5                   difference between, say -- I think it was 3.4  
6                   versus 3.1, say, from one year to the other, you  
7                   know, does a .3 percent decline actually reshape  
8                   overall prices. You know, and some people will  
9                   make arguments, quite intelligent arguments,  
10                  that well, yea, it does have some effect.  
11                  There's some delta, difference, that is -- could  
12                  be attributed causally to that shift, but on the  
13                  whole the overall market is not being reshaped  
14                  by these proportions of change. I think that we  
15                  can agree.

16                  And therefore from -- again, to answer the  
17                  question of what is it that is remarkable is  
18                  that these small, small changes that may or may  
19                  not have, you know, financial impact in terms of  
20                  the prices going up, again proportionately small  
21                  percentage of, there sure is a lot of talk about  
22                  that small percentage in terms of public  
23                  discourse, within media but also, again, in who  
24                  we are blaming for the overall problems  
25                  indicated by prices. Again, affordability

1                   issues, the ability for younger generations to  
2                   enter into the real estate market.

3                   And I think the invisibility corollary is  
4                   how much -- and if you look at those same  
5                   figures, how many people are owners of property  
6                   who are renting who are British Columbia  
7                   residents who happen to not be Chinese either  
8                   but who bought houses a generation ago, if you  
9                   bought something in the early 1970s, you can get  
10                  a house, you know, 10,000, 18,000, 30,000 and if  
11                  all you did was not die -- and not to make light  
12                  of it, but you are singular accomplishment as a  
13                  home buyer in early 1970s is to not die and make  
14                  it to 2020. And for not dying and still owning  
15                  that house, you know, most places in  
16                  metropolitan Vancouver you are now are a  
17                  millionaire because you own the house that is in  
18                  the millions. Now, a lot of that -- and you're  
19                  renting out because you are now older, your kids  
20                  have moved on, even your grandkids have moved on  
21                  you're renting out space that you own.

22                  Now, I'm not trying to demonize a  
23                  residential homeowner who is renting. In fact  
24                  they're providing a lot of the affordable  
25                  housing within the city. But we are not talking

1                   about that set which makes up a larger  
2                   proportion of our homeowners and people who are  
3                   renting or not renting their excess spaces than  
4                   speculative real estate buying by party  
5                   officials in China. So there's an element of  
6                   the spectacular. And I'll use that term very,  
7                   very pointedly that we find spectacular, a  
8                   spectacle, something to tell stories about, talk  
9                   about when we hear about one or two or five or  
10                  ten, some small actual number compared to the  
11                  total of buyers from China who are buying  
12                  property sight unseen. And then we repeat and  
13                  talk about those stories. And they do begin to  
14                  infect and taint our discourse about things like  
15                  housing affordability. About who is to blame  
16                  for the problems at hand.

17                  And I think that is what I would respond to  
18                  in the data that you've shown us is, again, if  
19                  we were to search that data and find some other  
20                  set of, quote, foreign non-resident buyers that  
21                  are American Hollywood types, would they be just  
22                  as small a number and yet could be just as  
23                  spectacular. If a Hollywood star who is -- you  
24                  know, these are a handful of people. If they  
25                  buy an incredibly beautiful waterfront home in





1                    literature dealing with the role of foreign  
2                    investment and housing prices in BC or when  
3                    thinking about these questions and issues about  
4                    the distinction between capital movement,  
5                    capital flight, sometimes it's called, and money  
6                    laundering?

7                    A    I think one of the things -- obviously  
8                    there's -- we've talked about a lot of things  
9                    and I'm sure I've talked too much. Please take  
10                   that as my apology for being a professor. We  
11                   get paid to talk. So if --

12                   Q    Well, they say that of lawyers too, so I'm not  
13                   going to throw that stone.

14                   A    We're all guilty of that prolixity. But if  
15                   we -- if there's one thing I'd say, just  
16                   pointing back to, you know, some of the key  
17                   things that I'd say are interesting perhaps for  
18                   the commission and for the Commissioner to see  
19                   is just the visibility of certain forms of  
20                   capital and certain types of people and why is  
21                   it that we see them as visible. And then to tie  
22                   it to that term of "visibility minority" and the  
23                   history of that.

24                                      And I think whether the terms we use are  
25                   also -- you know, obviously these are

1                   politically loaded terms, and there's a reason.  
2                   We are using terms like "money laundering," we  
3                   are using terms like "capital flight" in a  
4                   particular context where, you know, we don't  
5                   like something that is happening. There's some  
6                   consequence that's often implied by the movement  
7                   of capital here. So if it's housing  
8                   affordability then -- you know, then that is  
9                   often implied in stories and implied in sort of  
10                  the outcry.

11                  I would also say that in some sense what is  
12                  very interesting to me is that conception -- and  
13                  although it may seem philosophical and abstract  
14                  between clean and dirty money, when I use the  
15                  example of Cecil Rhodes, it was again to point  
16                  out that those are often political choices about  
17                  who -- you know, what are we tolerating as in  
18                  again, a market economy, you know, what are  
19                  legitimate. So, for instance, what is corrupt  
20                  and what is legitimate.

21                  Are we thinking geez we don't want any  
22                  Italian money because in Italy there's lot of  
23                  corruption. People have to bribe people and pay  
24                  off others so therefore if there's any money  
25                  coming from Italy, are we sure it's clean?

1                   Should we be having capital restrictions on  
2                   Italian money because of what he think of Italy  
3                   and the Italian economy and whether money made  
4                   in Italy is clean money or whether someone in  
5                   order even to open a business and get a licence,  
6                   they needed to bribe an official. Is that  
7                   bribery of an official, an Italian official in  
8                   order to just get -- do something that perhaps  
9                   here in Canada is done for a fee and it's  
10                  straightforward, everybody's treated the same.  
11                  That's a corrupt system.

12                   If we are going to be evaluating the  
13                   corruption of economies all around the world and  
14                   whether we would like to have money flow from  
15                   those places, that's going to be a gargantuan  
16                   task and that's going to be one that perhaps is  
17                   not the best use of our resources. And here I'm  
18                   getting into obviously an opinion that's a  
19                   citizen's opinion versus -- but I raise this as  
20                   if we're going to pinpoint, you know, and spend  
21                   time like this commission is on looking at  
22                   problems, I think it is important to ask  
23                   ourselves what is considered a problem. Are we  
24                   thinking of money laundering as a problem worth  
25                   our investment and time and resources. Are we

1                   doing this in a way that if we swapped in --  
2                   that heuristic device of swapped in another  
3                   country. I mentioned Italy.

4                   If we're going to get into investigate the  
5                   clean origins of money, we're going to be in a  
6                   different business, then I think we as  
7                   professionals, you as lawyers, me as historians.  
8                   I'm not sure I want to spend the rest of my  
9                   career looking into the clean origins of capital  
10                  that comes here. But if we are going to then do  
11                  it, then actually do it. Then don't pinpoint  
12                  one set of people. And that is perhaps the tie  
13                  to the argument I -- the overall argument I  
14                  would make in response to your question. We've  
15                  been doing that for 150 years. We've been  
16                  spending our resources pinpointing the blame on  
17                  broader problems.

18                  And I'll put it another way. If you want to  
19                  look at real estate in particular, and you asked  
20                  this question of me. This is a speculative real  
21                  estate economy Metro Vancouver. It's been one  
22                  since day one. The CPR chose to end their route  
23                  here because of the possibility of a speculative  
24                  real estate economy that would lead them to make  
25                  actually money in places like Marathon Realty.

1           Do we consider Marathon Realty, which was the  
2           real estate arm of the CPR -- is that dirty  
3           money? The land that was acquired is unceded  
4           territory. We are -- again, if you are a real  
5           estate -- you know, brokering real estate  
6           transactions, we're brokering stolen stereotypes, to  
7           use that earlier story.

8                         Now, if we really want to start digging into  
9           the more origins of that, then perhaps we should  
10          welcome that but perhaps we should start at  
11          home. Perhaps we should start to think about a  
12          speculative real estate economy is designed to  
13          make money from the trading of land as a  
14          commodity. This is very different from other  
15          places that have different models of, you know,  
16          this is fee simple property; you own it; you own  
17          it outright. There's leasing models that we  
18          also use. We have, you know, 99 year leases as  
19          well. We have other kinds of models for land.  
20          But in the end I would say that as we examine  
21          the involvement of Chinese, let's say, or of  
22          foreigners in our real estate market, then it  
23          perhaps would behoove us to look at the real  
24          estate market itself as the source of some of  
25          the ills.

1                   It's been a speculative real estate market  
2                   from the beginning. It has risen in value right  
3                   from the beginning and, again, from a historians  
4                   point of view, that may seem really obvious to  
5                   an historian because if you look at it, you just  
6                   go, why are we so fixated on housing  
7                   affordability as if it's a problem only when,  
8                   you know, visible set of buyers seem to be  
9                   inordinately -- and in a way that is unwelcome  
10                  to many of us, they seem to be making money from  
11                  this real estate market, and that's  
12                  inappropriate. They shouldn't be and therefore  
13                  we should stop them from making money in it.  
14                  But the rest of us, it's okay that we make money  
15                  in it.

16                  I would say that that is -- that may seem  
17                  broad and philosophical in the context of the  
18                  more narrow scope of this commission, but I  
19                  would say it actually isn't because in order to  
20                  understand why we are interested in these  
21                  spectacular moments, why we are interested in  
22                  the visibility of certain people as investors or  
23                  people moving capital or certain forms of  
24                  capital that we are identifying the category  
25                  because of who is moving it, not the money

1                   itself.

2                   As I said, if you want to get into  
3                   definitions of the morality of a dollar and how  
4                   when it's, you know, converted and it's fungible  
5                   across different kind of fields of investment,  
6                   if we were concerned about that broadly that is  
7                   a much bigger question than the specifics of  
8                   Chinese money and Chinese capital.

9                   MR. MARTLAND: Mr. Yu, thank you. Mr. Commissioner,  
10                   that completes my questions.

11                   THE COMMISSIONER: Thank you, Mr. Martland. We have  
12                   a number of participants who wish to examine  
13                   Professor Yu.

14                   Firstly Ms. Stratton on behalf of the  
15                   province, who has been allocated ten minutes.

16                   MS. STRATTON: Thank you, Mr. Commissioner. Having  
17                   heard the evidence today, I have no questions  
18                   for the witness.

19                   THE COMMISSIONER: Thank you, Ms. Stratton.

20                   Mr. Usher on behalf of the Society of  
21                   Notaries Public of British Columbia, who has  
22                   also been allocated ten minutes.

23                   MR. USHER: Thank you, Mr. Commissioner.

24                   **EXAMINATION BY MR. USHER:**

25                   Q     Professor Yu, a couple of things. In term of



1                   your historical knowledge, I take it that is --  
2                   your expertise is in history.

3           A     Yeah.

4           Q     Are you familiar with the debates in 1974 in  
5                   that era in BC about foreign investment in real  
6                   estate? Is that a something you've looked at?

7           A     It is something that I am aware of. I haven't  
8                   done primary research to the depth of knowing  
9                   everything that came up. I am aware of those  
10                  discussions and how they impacted again into  
11                  media discussions as well as some policy  
12                  discussions. But, for instance, I haven't done  
13                  primary historical research into the records to  
14                  know that exactly how, for instance, ministerial  
15                  discussions were going or how individual  
16                  political representatives, you know, issued  
17                  statements or didn't or had discussions.

18                         So in that sense I would say as a historian  
19                         of, again, migration, it is something that I am  
20                         aware that happened, yeah. But there are  
21                         limits. So I may have to say I actually don't  
22                         know in answer to some of your questions.

23           Q     Right. And do you know if it was an ethnicity  
24                   associated with those concerns at the time?

25           A     At the time I would say -- and I would use the

1 term in a -- you know, use a comparative  
2 analysis on this one. I think one of the  
3 interesting things is at that time I would say  
4 it was less explicitly racialized or tied to a  
5 specific ethnic group as, say, the 1908s and  
6 90s. So when we were discussing how explicit  
7 the association of foreign investment at that  
8 time to Hong Kong Chinese migration, I'd say  
9 that the 1970s moment, '74, '75, really that  
10 moment after the reform of immigration that I  
11 mentioned in 1967 which led to basically an  
12 increasing number of people in the -- you know,  
13 it's 1968 onwards into the 1970s, it is tied to  
14 that.

15 So I would say that you could say that 1974  
16 moment was an awareness that there was a  
17 quickening, you could say, of the economy of BC.  
18 It's one of the reasons why the Canadian  
19 government in the 1960s contemplated immigration  
20 reform was precisely because they considered  
21 migration, in-migration, as a way to create more  
22 activity economically. And so I think there was  
23 a reaction, so to speak, and a response to what  
24 was seen as an impact on real estate, on other  
25 sectors of the BC economy, on the Canadian

1           economy, but it was not in some sense as -- and  
2           this is a comparative analysis. It was not as  
3           ethnicized. It was not specifically directed in  
4           the same way that, say, the 80s, 90s moment or  
5           you could say the 2015, 2016, 2017.

6                     That is a kind of interesting novelty in  
7           itself that somehow in the 1970s moment it  
8           wasn't quite as specific. And not to say,  
9           again, that there wasn't discussion of who was  
10          coming. So I would say that there is an  
11          awareness in the 1970s overall that there are  
12          newer migrants who aren't the same people as who  
13          came, say, in the 1950s. But I don't think  
14          there's as explicit an attempt to make it a  
15          causal link.

16                    I guess that would be my long-winded answer.  
17          But trying to be careful to say that it's not  
18          that the people in the 70s weren't aware that  
19          the changes in immigration were having an  
20          effect. In fact that was very much one of the  
21          reasons why there was a kind of reaction to,  
22          huh, we've changed our rules and look, look  
23          what's happening.

24                    You see newspaper stories, in fact quite a  
25          few of them quite laudatory of the effects of

1                   new migrants. I'll point to one, again, that --  
2                   if you can find is that there's actually, I  
3                   believe, a *McLean's* cover featuring really in  
4                   the mid 70s a lot of newer arrivals in Canada  
5                   and how they were having a very salutary effect  
6                   on the Canadian economy. That they were  
7                   bringing investment, they were bringing energy,  
8                   as entrepreneurs. So you could say that there  
9                   was much -- there was a discourse, say, in the  
10                  early 70s of immigration is good and it's  
11                  bringing good things.

12                                Now, again that's politicized to the  
13                   perspective of support for these policy changes,  
14                   and so they tended to have supported the  
15                   immigration policy changes that occurred in  
16                   1967. I don't know if that's what you're asking  
17                   for, but that's a bit of a context of, I think,  
18                   that 70s moment.

19           Q       Well, you've raised something interesting. What  
20                   you've described is to a degree the whole  
21                   multicultural phenomenon --

22           A       Yeah.

23           Q       -- and the acceptance. Is that all false in  
24                   your mind, or is that all true?

25           A       Oh, not at all. I think that's -- again, from a

1           historian's point of view -- I say that itself  
2           with -- from my perspective as a historian, I  
3           guess, is a more accurate way of putting it that  
4           you could think of that 1970s as, you know, this  
5           is multiculturalism as is defined at that moment  
6           as an attempt to keep the country together. And  
7           this is much about Quebec separatism and the  
8           kind of -- an Anglo-French compromise that's  
9           contained within the federal Liberal party and  
10          the federal liberal politics of creating  
11          something that at first is called biculturalism  
12          and bilingualism.

13                    It becomes multiculturalism in the process  
14          of actually accounting for -- I'll just be  
15          explicit because this was a political voice --  
16          was Ukrainians in Alberta. You know, there's a  
17          lot of politically powerful Ukrainians in  
18          Alberta in that time saying, well, wait a  
19          minute; this biculturalism, bilingualism thing  
20          doesn't work for people like us and we are  
21          Canadian too.

22                    And so multiculturalism as an acceptable  
23          version of who Canada is, as an inclusive  
24          version of Canada, you could say that 1970s  
25          moment is very interesting because it begins to

1                   be very pro-immigrant. There -- that is the  
2                   moment that, as you said, it becomes a good  
3                   thing to consider Canada multicultural. It is  
4                   extending from, again, that -- Patricia Roy's  
5                   sense of a white man's province or white man's  
6                   country to one which, yeah, actually it's a good  
7                   thing to bring these people in.

8                   So I think that -- you're pointing to a  
9                   moment, in other words, when the expansion of  
10                  the -- of who belongs is part of the -- both the  
11                  political as well as the media discourses.

12                Q     Right. Thank you. And I take it if you -- are  
13                    you familiar that in '74 we brought in a  
14                    mandatory citizenship declaration for the  
15                    purchase of real estate?

16                A     Yeah.

17                Q     And that lasted until 1998. Are you familiar  
18                    with that?

19                A     Yes. Yeah. That is again, I think -- I would  
20                    take it again as when -- what we meant by  
21                    foreign -- and, you know, we were talking before  
22                    I think in our discussions about a sense of  
23                    foreignness and belonging and that long history  
24                    of it. I would say that particular policy that  
25                    you're pointing to is again -- you know, we

1                   could tell a historical story about just  
2                   legislation in various forms of -- and what  
3                   people mean by "foreign." That in itself.  
4                   Yeah.

5           Q       So are you familiar with there are both  
6                   provincial and federal laws that prohibit  
7                   discrimination in terms of purchase of real  
8                   estate?

9           A       Yes.

10          Q       Okay. Thank you. One final thing. You  
11                 mentioned a court case. Was that the *Jing Li v.*  
12                 *British Columbia* case?

13          A       Yes, the class action suit, the foreign buyers  
14                 tax, that was filed I think right as the foreign  
15                 buyers tax was --

16          Q       Right. You filed an expert report on that and  
17                 you gave evidence?

18          A       Yes. So just full disclosure, I was asked to  
19                 be -- I was asked by the plaintiff to provide  
20                 expert testimony. Although expert testimony as  
21                 you know is just -- you know, we're not  
22                 choosing sides; we're just asked a bunch of  
23                 questions, then we just answer the questions.  
24                 Yeah.

25          Q       Right. And is it the case that the judge in

1 fact did not admit your report into evidence?

2 A I'm going to say I'm not sure how -- I believe  
3 that that may have happened that it wasn't  
4 admitted. Again, I tend not to follow  
5 everything through. I'm not the lawyer in the  
6 case, so I believe I was told that it wasn't  
7 formally admitted, although, you know, I did  
8 testify. And again I'm not going to pretend I'm  
9 a lawyer, so I am not sure what the distinctions  
10 are as accepting the evidence or not and  
11 whether -- and how that plays out.

12 Q All right. I just if I could read from the  
13 decision.

14 "While I do not doubt Professor Yu's  
15 expertise in relation to history and, in  
16 particular, the history of Asian and  
17 Chinese migration to Canada and the United  
18 States I have decided not to admit his  
19 report into evidence."

20 I'm quoting from paragraph 47 of the judgment.

21 A Yeah. And I -- again, I don't know what was  
22 behind the decision. I don't know the  
23 consequences of not admitting it to evidence.  
24 Again, I was just an expert witness. I do  
25 believe that reading the other parts -- again, I



1           will not pretend as to whether this is  
2           appropriate or not or that it's perfectly  
3           understandable within the decision that the  
4           judge made, but I do believe that other experts'  
5           testimony was admitted. And partially I think  
6           because there was a sense that my historical  
7           expertise -- somehow history ended and therefore  
8           it wasn't pertinent what I was saying too.

9                     And, again, I don't want to read into the  
10           judge's decision past what I'm able to. I'm not  
11           a mind reader and I'm not also legally trained  
12           as to the justification, but I take from the  
13           language of why it was not admitted that it had  
14           to do with historical evidence. And, again, I  
15           mean, I've been at pains today perhaps to talk  
16           about, you know, I don't see a point in time  
17           where history stops. Like we are at every  
18           moment a product of the history. It's not like  
19           oh, 1960s is history, 1980s is history, but  
20           somehow 2015 is no longer history and we are in  
21           a contemporary current affairs and therefore  
22           someone like me is no longer relevant.

23                     As I said, I don't want to -- to be  
24           respectful, I don't know why it wasn't admitted  
25           and I don't know actually what that actually

1 means to not be in evidence.

2 MR. USHER: Thank you. That is all my questions,

3 Professor Yu.

4 THE WITNESS: Sure. Thank you.

5 MR. MARTLAND: Mr. Commissioner, I didn't raise an  
6 objection there. But just for the benefit of  
7 participants our rules do require, Rule 56,  
8 five days' notice of using a document or -- and  
9 indeed our process has been such that we've  
10 asked participants to give notice where there is  
11 to be examination and on what topics. And  
12 Mr. Usher has been counsel since day one, as I  
13 recall the sequence of our participant status.  
14 So I haven't -- it's after the fact here. I  
15 haven't raised it as an objection. But I think  
16 that was close to the line in terms of an end  
17 run around the notice requirement.

18 I think at this point it's a *fait accompli*,  
19 so I don't know that there's more to be said.

20 MR. USHER: With respect, Mr. Martland,

21 Mr. Commissioner, I had no intention of raising  
22 this and had no idea that your witness would  
23 raise the court case in his evidence. So my  
24 apologies if that has offended some rule.

25 MR. MARTLAND: Well, it's -- I'll leave it be. Thank

1                   you.

2                   THE COMMISSIONER: All right. Well, I think as you  
3                   pointed, out Mr. Martland, it's a *fait accompli*  
4                   so we'll simply move on. But certainly  
5                   participants are reminded of the rule which is  
6                   rooted in the need not to surprise witnesses  
7                   with something they haven't had a chance to  
8                   consider in advance of their evidence. But I  
9                   also take Mr. Usher's point.

10                   All right. We'll move on to Ms. Magonet for  
11                   the British Columbia Civil Liberties  
12                   Association, who has been allocated 15 minutes.

13                   MS. MAGONET: Thank you, Mr. Commissioner.

14                   **EXAMINATION BY MS. MAGONET:**

15                   Q     Professor Yu, can you hear me?

16                   A     Yes.

17                   Q     Excellent. So my first question for you is  
18                   regarding data on foreign ownership. The  
19                   commission has heard some evidence from  
20                   economists about how it's at times been  
21                   difficult to obtain data on the levels of  
22                   foreign ownership in British Columbia. And I  
23                   wondered if you had any views on the potential  
24                   recording of citizenship information by a public  
25                   registry such as the Land Title Survey

1 Authority, whether there could be negative  
2 consequences to that type of information being  
3 publicly available?

4 A Let's see. I would be very restricted in the  
5 kinds of expert opinions I would have in  
6 response to that. I would raise -- you know,  
7 my -- I guess my answers to that would be in  
8 particular in the history of the use of  
9 information and data and knowledge gathered by  
10 state agencies or government agencies. And so  
11 this actually came up again. And perhaps this  
12 is apropos Mr. Usher's raising -- you know, I'll  
13 apologize for bringing in the class action suit.  
14 I raised it just as a kind of disclosure that  
15 I'd been an expert witness on previous cases  
16 dealing with real estate.

17 But in this case too I'll introduce  
18 something as a witness that, you know, I was  
19 involved just last year in the fall with the  
20 BC Human Rights Commissioner raising -- or  
21 having a number of hearings about, again,  
22 race-based data and the collection by the  
23 government of race-based data or the publication  
24 of data that they already had in terms of  
25 aggregation of data. What is disaggregated data

1           is the technical term. Like, we gather data in  
2           ways that we don't aggregate along racial or  
3           ethnic categories. It's considered illegitimate  
4           use of the data.

5                        And so there were commission hearings by the  
6           BC Human Rights Commissioner and asked -- again,  
7           tasked by the premier to issue a report. And so  
8           some of what I would say has to do with that  
9           very particular set of discussions which, again,  
10          has a historical dimension because historically  
11          speaking a lot of the reticence, you could say,  
12          to gather certain kinds of data is because of a  
13          long history of misuse of data by people in  
14          power.

15                       So I'll give you a very, very singular  
16          example that is perhaps appropriate to our  
17          discussion today. The ability of the RCMP and  
18          the Canadian government at all levels --  
19          municipal, provincial and federal -- in the  
20          decades before 1942 being able to track Japanese  
21          Canadians -- who was Japanese, who owned  
22          property -- being able to get addresses, for  
23          instance, of knowing where people lived, that  
24          made the very rapid round up of Japanese  
25          Canadians in March 1942 possible.

1                   And so the use of racialized data for much  
2                   of our history when the government is basically  
3                   pursuing end goals around white supremacy, that  
4                   data can be very dangerous, you know, to  
5                   citizens because it's going to be used for ends  
6                   such as rounding people up and then liquidating  
7                   their property. So I give that example not to  
8                   say we shouldn't be using race-based or  
9                   ethnic-based categories. It's just that there's  
10                  a historical reticence that really arose in the  
11                  1970s and 80s as offices such as the BC Human  
12                  Rights Commissioner came into being and that was  
13                  about protection of privacy, protection of data  
14                  that could be misused.

15                 And so I think some of the current debates  
16                 about the aggregation of data along racial  
17                 categories stem from a long history of I think  
18                 very legitimate debates about for what purpose  
19                 can data be gathered for one purpose be misused.  
20                 Because once it's created, once data is created,  
21                 it's -- it can be used for other purposes and  
22                 therefore what kinds of protections for data  
23                 that is gathered. And so that would be my way  
24                 of answering your framing of a question about  
25                 gathering data from real estate records or

1 citizenship records and tying it and aggregating  
2 data.

3 In other words, you have categories such as  
4 citizenship and then you have categories of  
5 people buying or not buying -- you know, who is  
6 the buyer -- and I think that is the context  
7 historically against, speaking as a historian,  
8 for really legitimate concerns and discussions  
9 about the use of data.

10 Q Thank you. That historical context is very  
11 helpful. My next question for you regards land  
12 titles in British Columbia that historically had  
13 restrictive covenants. So as a historian could  
14 you speak a bit to that. Is it the case that  
15 historically some land titles prohibited  
16 occupation or purchase by people who were Asian?

17 A Yes. And so those -- I mean, the term is an  
18 interesting term itself, you know, a covenant.  
19 Some idea that you are -- you know, again  
20 alluding to the original covenant. That it is  
21 in some sense a moral clause, so to speak, that  
22 it is legally enforceable because, you know,  
23 this is legal land title and if there's  
24 something on there that says you can't sell to,  
25 you know -- and often they would say -- they

1                   would list both racial categories as well as  
2                   often religious categories. So, you know,  
3                   Jewish or Catholic in terms of religion. You  
4                   know, native, black, Chinese or Asiatic. So  
5                   these were on legal titles.

6                   There are other forms where also there was  
7                   an understanding that may not have been written  
8                   out and put into legal title that this area was  
9                   for whites only. And so it varies. So some  
10                  places are very explicit. You know, you can see  
11                  on legal titles in the British properties, for  
12                  instance, in certain places in Victoria, certain  
13                  neighbourhoods, in Vancouver in terms of Metro  
14                  Vancouver itself there are certain  
15                  neighbourhoods that have covenants. Others  
16                  don't. Shaughnessy, for instance -- you know,  
17                  I've mentioned Shaughnessy before as a place  
18                  where the Ku Klux Klan -- Shaughnessy is a place  
19                  where actually the covenants aren't explicit  
20                  about race, but there is a fairly de facto or in  
21                  practice idea that you don't sell to Chinese.

22                  And I think one of the things that -- you  
23                  know, it was mentioned, you know, again, when  
24                  did this become moot legally. Well, when  
25                  legislation was passed that said you could not



1 discriminate based on race in terms of housing,  
2 in terms of rentals, in terms of sales, and  
3 that's the 1960s. So I'd say that, you know,  
4 there are also -- there are ways -- you know,  
5 these things pop up.

6 So again it's interesting that in media you  
7 see it. I think just recently last year in  
8 West Vancouver that one of the council -- West  
9 Vancouver council members raised this and said,  
10 geez, this is in my land title; really? And  
11 should we get rid of these. And so I think it's  
12 a way of understanding the broader point that  
13 perhaps was raised by some of the discussions in  
14 my answer to questions which is there are a lot  
15 of legacies of the history I'm talking about.

16 And so when someone says well, that's all  
17 historical; why are we listening to that guy; he  
18 is just talking about the past. It's like the  
19 past is not over. We live in history. History  
20 shapes us. History shapes who we are. Most  
21 individually, within our family, as a society.  
22 I don't want to make too much of being historian  
23 as if I can -- should talk about anything and  
24 everything, but there is a way in which I think  
25 we forget that there are legacies of the past

1 I'm talking about that are as obvious as a  
2 housing covenant in a legal tight in a home that  
3 you may be purchasing or selling that is an  
4 indication of that long history even when it  
5 does not have legal effect.

6 Even when you cannot actually take someone  
7 to court for selling to an Asiatic or to someone  
8 who is Jewish and say well, actually that's --  
9 it's in my housing covenant. You know, a  
10 neighbour can't take another neighbour to court  
11 for selling their property to someone who is  
12 Jewish. Those days are over where it's legally  
13 empowered by the state and by the power of the  
14 government, but it doesn't mean that it's not  
15 there as a legacy.

16 And in particular going back to an answer to  
17 a question posed by Mr. Martland that in  
18 particular -- in what we think of as normal okay  
19 behaviour versus what is visibly something that  
20 we don't like and is inappropriate. Those  
21 legacies are very strong.

22 And so again that's the underpinning, you  
23 could say, of a lot of reaction to Hong Kong  
24 Chinese coming in. It's not -- Hong Kong  
25 Chinese migrants started to come in the 1970s.

1                   And so when Mr. Usher talked about gee, was  
2                   there already an awareness of the origins of  
3                   people who were different in the 1970s than,  
4                   say, in the 1960s in terms of migrants. Yes,  
5                   there was. But on the whole they weren't moving  
6                   into neighbourhoods that had long histories of  
7                   being segregated. And the 90s was a particular  
8                   moment different from the 1970s precisely  
9                   because too many, it seemed, Hong Kong Chinese  
10                  were going into neighbourhoods had they didn't  
11                  belong. So Kerrisdale; they didn't belong here.  
12                  A heavy reaction in Kerrisdale to Chinese Hong  
13                  Kong Chinese moving in.

14                   And the question of when does a place become  
15                   too Asian. When does it -- when are there too  
16                   many. That in some sense is tied very much to  
17                   your question of housing covenants and these  
18                   clauses. For some places one is too many. For  
19                   some places the norm right from the first moment  
20                   that it is subdivided and developed, the norm  
21                   will be none.

22                  Q    Thank you. I have just one last question for  
23                   you, Professor. You gave evidence earlier about  
24                   the sort of disproportionate visibility or focus  
25                   on Chinese people in public discourse about

1                   dirty money in Vancouver and in the  
2                   unaffordability of the housing market. And I  
3                   was wondering if you could speak at all to the  
4                   real world impacts of that focus. What effect  
5                   do you think that had?

6           A       The effect it has -- that's a big question. So  
7                   in the -- to keep it sort of scoped I'll say --  
8                   I'll give you a couple examples that I think are  
9                   more kind of an example of how we should  
10                  understand causality. So if you're asking me  
11                  gee, you know, this awareness of Chinese as  
12                  being a problem, does it directly lead to  
13                  someone punching a 90-year-old just because they  
14                  look like me; is there a direct causal linkage?  
15                  Could we prove that there's a direct causal  
16                  linkage? I would say no, I can't. Especially  
17                  if it's -- you know, if it's an assault case and  
18                  someone is asking me is this directly related.  
19                  You know, do having all these laws -- or sorry,  
20                  now laws. Do having all these newspaper stories  
21                  and all these spectacular focus on Chinese, does  
22                  it lead someone to out of the blue to punch an  
23                  elderly man just because he thinks that man is  
24                  Chinese? No, obviously not.

25                               But I would say that one of the consequences

1                   and legacies of these spectacular news stories,  
2                   this sort of creation through discourses about  
3                   dirty money laundering, things like that is that  
4                   we begin to see a set of people as a problem.  
5                   And that is fungible, to use that very  
6                   particular term, it's fungible in that you can  
7                   transfer that to other realms and fields.

8                   And so is it so strange when a pandemic hits  
9                   to think it arose in China. Same with the dirty  
10                  money. Same with the -- it's China that is the  
11                  problem. Chinese are to blame for what's going  
12                  on. Is that unreasonable to think that there is  
13                  a chain of causality to the idea that Chinese  
14                  are a problem in general. And that yes, they're  
15                  a problem for housing affordability. Actually  
16                  causally they probably aren't, but we think they  
17                  are and we believe they are and we read a lot of  
18                  newspaper stories and there's a lot of public  
19                  discourse, including on social media, including  
20                  around coffee, you know, table discussions and  
21                  things like that that when there's another  
22                  problem that we would blame Chinese. There,  
23                  from a historian's point of view, not at all.  
24                  We do a lot of analyses.

25                  And I'll give you a couple of examples from

1                   the US just so it doesn't look like we're  
2                   beating up on ourselves as Canadian. In the  
3                   United States the use of racialized humour is  
4                   crucial for understanding the rise of what we  
5                   call Jim Crow segregation in the American south.  
6                   So when you think of the things that the civil  
7                   rights movement in the 1950s was trying to  
8                   overcome; right? African Americans were  
9                   actually legally supposed to be able to vote  
10                  since 1865 as a result of the civil war. And  
11                  yet why in the 1950s was -- most of the American  
12                  South African Americans were not able to vote.  
13                  There was all kind of ways in which they were  
14                  blocked from voting. They also -- there was  
15                  segregated facilities. They could not eat at  
16                  the same places. Could not swim in the same  
17                  places. All this kind of stuff.

18                  When you think about that and how that  
19                  view was built, humour -- and this goes back to  
20                  mocking and satire -- it's crucial. Because if  
21                  you look at the ways in which racialized humour,  
22                  you know, making fun of black people, you know,  
23                  making normal the idea that black people don't  
24                  deserve to vote, that they are stupid,  
25                  laughable, they are bestial, they're primitive,

1           they're -- all these things are actually  
2           popularized in movies, in popular culture, in  
3           songs, in jokes. And that pervasive sense of  
4           normalcy created by popular conceptions of a set  
5           of people, those have powerful political effects.

6           It allows people to then pass laws, to pass  
7           discriminatory legislation to think of as what  
8           is normal and to therefore act upon it in terms  
9           of policy. And that from a historian's point of  
10          view, from a scholarly point of view is  
11          something that I can speak to which is when you  
12          start to see the normalized dehumanization of a  
13          set of people that they are not the same as us,  
14          that they in fact deserve to be treated  
15          differently because they are different and  
16          somehow not quite as deserving of the same  
17          approach, the same respect, the same legal  
18          protections, then you're on a slippery slope.

19          And I think that is where I would say yeah,  
20          there is a link -- links of causality to passing  
21          laws that sometimes now are dog whistles.  
22          Like-- and again I discuss very specifically the  
23          idea of who's foreign that you raised in your  
24          question. When we think of who is foreign, even  
25          the term "immigrant" -- when we say "immigrant"

1           or "refugee," are we more prone to imagine that  
2           person as non-white. Even the opposition  
3           between "settler," "pioneer" versus "immigrant."  
4           Which term raises the awareness of lateness,  
5           someone coming later, of someone who came  
6           afterwards and is therefore not as deserving.

7                        We don't mind if someone who is non-white is  
8           delivering pizzas because they are earning their  
9           way up. They need to -- but if they're rich and  
10          they go right into the British properties, why  
11          do we feel that that's inappropriate. And so  
12          that's where I think the term "foreign," the  
13          term "immigrant" there's a history to how we  
14          normalized who we think of as an immigrant, who  
15          we don't think of as an immigrant.

16                       Even if we use the term "British  
17          immigrant." -- and I'll use the very specific  
18          area of language, the term "accent." If someone  
19          has Glaswegian brogue -- you know, one of my  
20          favourite actors was Sean Connery. I have to  
21          admit I couldn't understand half of what Sean  
22          Connery was saying, but I still loved watching  
23          Sean Connery movies, I love James Bond and all  
24          this kind of stuff. But come on, that's a  
25          really difficult accent.



1                   Is it an inappropriate accent in Canada?  
2                   Not at all. You could show up on a plane from  
3                   Glasgow airport and get off in Toronto, you  
4                   could take a taxi in Kingston and you can talk  
5                   like that and you belong. The moment you step  
6                   off the plane you belong here. But you could  
7                   have a hint of a Chinese accent and the sense of  
8                   your belonging is shaped by how well you  
9                   seemingly speak English. And it's not actually  
10                  that you're understandable. As I said, I  
11                  couldn't really understand half of what Sean  
12                  Connery was saying, but it's a beautiful accent.  
13                  I love the way he speaks. It's -- you know.

14                  And so even the esthetics of language of how  
15                  we think of -- we don't say -- if Sean Connery  
16                  moved to Canada we wouldn't say he's a Scottish  
17                  immigrant or a refugee, if he is trying to flee  
18                  taxation in UK and, you know, the taxation  
19                  rates. Oh my god, he's an economic refugee; he  
20                  wants to pay the lower rate, strange enough in  
21                  Canada, than they are in the United Kingdom. We  
22                  don't think of it that way. We think of it as  
23                  belonging in a natural way.

24                  And so I think the long answer, I'd say --  
25                  perhaps you weren't asking this so my apologies.

1           But I think the way to frame this sense of the  
2           norm, who is normally foreign and who is  
3           normally Canadian -- so even there these are  
4           legal categories that have undergone change. So  
5           from a historical points of view, 1947, the  
6           moments that we created a universal citizenship  
7           regardless of who you were that if you were born  
8           here, birthright citizenship, for instance --  
9           and just -- and I'll stop at this point.

10                    Birthright citizenship is a relatively  
11           recent legal invention. It's invented in world  
12           history basically in the United States as the  
13           idea that if you were born in this territory,  
14           you are a citizen of the United States. That is  
15           really strange, you know, this idea that birth  
16           right citizenship by soil, not by blood but the  
17           soil you were born on confers citizenship. We  
18           did not use that sense in Canada, not until  
19           1947. Now, we did say that some people born  
20           here were Canadian, but not all people born here  
21           were Canadian citizens. It's only in 1947 that  
22           we extended it as a universal concept of  
23           citizenship -- birthright citizenship. So in  
24           some sense that's in some people's lifetimes.  
25           Here are people alive now that were alive to

1 witness that change.

2 And so the fact that it also was the moment  
3 we created non-racialized non-white supremacist  
4 citizenship is also not a coincidence or an  
5 accident that we somewhat begrudgingly, I would  
6 say, said that yeah, we're going to create  
7 universal citizenship for anyone born here no  
8 matter their colour of their skin, no matter  
9 whether they look like me or you or someone  
10 else. The fact that that's such a recent  
11 innovation, one year before South Africa put  
12 together apartheid, like, that is not an  
13 accident either. That our ability to be against  
14 apartheid after 1948 is because in 1947 we began  
15 to dismantle the very architecture of our legal  
16 structure just as South Africa was adopting it.

17 MS. MAGONET: Thank you so much, Professor Yu.

18 Mr. Commissioner, those are my questions.

19 THE COMMISSIONER: Thank you, Ms. Magonet.

20 Now, Mr. Rauch-Davis for Transparency  
21 International Coalition, who has been allocated  
22 ten minutes.

23 MR. RAUCH-DAVIS: Thank you, Mr. Commissioner. Given  
24 this witness's evidence this morning, I have no  
25 further questions for Professor Yu.

1           THE COMMISSIONER: All right. Thank you,  
2                           Mr. Rauch-Davis.

3                           Anything arising Mr. Usher?

4           MR. USHER: No, Mr. Commissioner.

5           THE COMMISSIONER: Thank you. Mr. Martland?

6           MR. MARTLAND: No. Thank you.

7           THE COMMISSIONER: Thank you. Well, thank you,  
8                           Professor Yu. I think there's an aphorism  
9                           that's often attributed to Mark Twain that the  
10                          past doesn't repeat itself but it often rhymes,  
11                          and I think your evidence has helped to  
12                          demonstrate how the past can shape our  
13                          perceptions of the present and has been very  
14                          helpful in reminding us that some of the  
15                          evidence that we have heard in the course of our  
16                          hearings may play into racial or ethnic  
17                          stereotypes instead of simply allowing us to  
18                          make a careful analysis of complex issues, which  
19                          we need to understand in order to address them  
20                          properly and effectively. And I think for that  
21                          I am grateful to you for your evidence. You're  
22                          excused now from further testimony.

23                          And, Mr. Martland, I think we will adjourn  
24                          until Monday morning at 9:30.

25           MR. MARTLAND: Thank you.

1           THE REGISTRAR: The hearing is now adjourned until  
2                           February 22nd, 2021, at 9:30 a.m. Thank you.

3                           **(WITNESS EXCUSED)**

4                           **(PROCEEDINGS ADJOURNED AT 12:28 P.M. TO FEBRUARY 22,**  
5                           **2021)**

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