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A Graduating Essay Submitted in Partial Fulfillment of the Requirements in the

Honours Programme.

For the Degree of

Bachelor of Arts

In the

Department

Of

History

University of Victoria

April 2, 2024

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Growing up in my hometown of Port Alberni, British Columbia, I have always known the
name A.W. Neill. Many of my friends attended friends

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significance of naming honorifics and public history,¹ an examination of Neill and his anti-Asian racism in relation to covenants will provide a deeper understanding of covenants as a piece of public history that is seldom discussed. I will also consider the history of racially restrictive covenants, other recent cases of covenant discoveries, and how governments are considering the large-scale redaction of restrictive clauses in land titles.

Racially restrictive covenants have long played a hidden role in the historical segregation and systematic discrimination of minoritized groups. Although the direct effects of racially restrictive covenants may seem small, they are a significant, yet subtle contribution to the culture of white supremacy on which Canada was built.

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A.W. Neill was born in Scotland in 1868, and immigrated to Canada in 1881. He purchased 160 acres of land in the Alberni Valley and, after a brief stint in the military and trip home to Scotland to visit his ill father, he returned to Canada in 1897. The following year, Neill was elected as a member of the Legislative Assembly of British Columbia, which began his career in politics. Over the next two decades, he also served as a federal Indian Agent for the Alberni Valley, and as an Alderman and mayor of the municipality of Alberni, before he was elected as an independent member of Parliament for the Comox-Alberni riding in 1921.² In his

¹ Ian Baird, “The Commemorative Landscape as a Space of Anti-Racist Activism: Confronting the Legacies of Anti-Japanese Canadian Racism on Vancouver Island,” *A ME: A* 21, no. 5 (2022): 590-591, <https://acme-journal.org/index.php/acme/article/view/1970>; Ian Baird, “The Politics of Honorific Naming: Alan Webster Neill and Anti-Asian Racism in Port Alberni, British Columbia, Canada,” in *L* : A N P A p a e

Baird (2022), 590.

inaugural campaign, Neill advertised his platform, which included granting fishing licenses to only White British subjects and “absolute exclusion” of “Asiatic” immigrants.³

While he is remembered for his victory in passing the Old Age Pension Act in 1927, or for his 1931 Bill declaring Veteran’s Day (previously known as Armistice Day) as its own legal holiday,⁴ Neill’s 24-year career as a member of Parliament is marred by his staunch anti-Asian racism and support for Indigenous assimilation. On the topic “Oriental

fisheries, sawmills, canneries, and fish plants, in order to “protect” white jobs, particularly in the fishing industry.⁶ In the late 1930s and early 1940s, Neill was a vocal supporter of the confiscation of Japanese Canadian property and subsequent internment and exile from Canada.⁷

In a short biography written by MP Gordon Graydon, he

considered as economic competition to white workers, and there was concern that “hordes” of Asian immigrants were detrimental to the development of “white British Columbia.”¹² Politicians began to restrict Asian immigration to British Columbia with policies like the Chinese Head Tax, and introduced barriers that made employment difficult for those already living in the province. Municipalities were given the responsibility of providing licenses for certain trades and professions, which allowed them to increase the costs or outright deny licenses to people of Chinese descent who worked as laundrymen, pawnbrokers, fishermen, or miners.¹³ Enforced segregation elsewhere, like in churches and public schools, limited contact between Chinese and white Canadians. School boards refused to admit Chinese children who were not born in Canada, and Chinese parents were not allowed to run as school board trustees. One MLA expressed his concern for the moral “evils” that would arise if Asian and white children were allowed to mix in public schools.¹⁴ Soon, Chinatowns were painted as hosts to opium-peddlers and gambling dens, tempting white men and gouging them for their money

since 1872), politicians continued to employ racist rhetoric as justification for anti-Asian policies against a population who could not vote in response and had no voice in politics.²³

As racist as his political career proves him to be, A.W. Neill’s opinions were not radical in his time. Politicians like Neill, comfortable in their explicit prejudice and confident in limiting the rights of Asian immigrants and Indigenous peoples, were hugely influential in shaping British Columbia and Canada. The policies that they supported shaped the lives and experiences of Asian immigrants and white Canadians, who were comfortable with the privileges their whiteness provided them.

Despite his lengthy record as an outspoken racist, Port Alberni has remembered Neill fondly. In 1957, three years before his death at the age of 91, a Port Alberni school was named in his honour, which he took great pride in.²⁴ An article that appeared in *D* in 1973 refers to Neill as “a servant of the people,” and lists a watered-down version of his accomplishments, void of any mention of his racist politics, and instead recounting amusing tales and anecdotes. The article includes a photo of Neill and the caption “A.W. Neill... thank him for pensions.”²⁵ More recently, despite increasing public awareness of Neill’s past (see section below), one local wrote to the editor of the *A N* in defense of Neill, stating that he “lived in a different time,” and that his opinions are “no reason to vilify his name.”²⁶

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 “LETTER: A.W. Neill Shouldn’t be Vilified in Our Day and Age for Decisions Made in a Different Era,” *A N*, October 19, 2023, <https://www.albernavalleynews.com/cresid>

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Neill's legacy was brought to the forefront of Port Alberni's attention in 2016, when a former Alberni resident notified city councillor Chris Alemany and school board trustee Rosemarie Buchanan about Neill's racist past. Both Alemany and Buchanan did their own research, and decided to use their roles as elected public servants to attempt to rename the street ~~and~~ and the school that

School was to be changed, then Maquinna School should change as well. One commented on an early post about the potential school renaming:

Chief maquinna killed many white settlers and was famous for taking white settlers as slaves. If we're changing school names because of political correctness, why not start with this racist mass murderer and slaver [sic]³⁰

The same commenter continued in a separate comment:

Aw neil didn't kill anybody or take slaves. If you consider what was going on at the time as a factor, WE WERE AT WAR WITH THE JAPANESE, what seems like racist bigotry today seemed like protecting canadians from the enemy back in the time [sic]³¹

Another post, with 43 comments, mostly political

should not change.³⁴ The council ultimately voted against changing the name of Neill Street, and as of Spring 2024, no further official efforts have been made to change the name.³⁵

Following the city council vote, Buchanan, a trustee of 23 years, proposed renaming A.W. Neill Elementary School at a school board meeting. The reaction of the board was mixed, and some trustees opposed the idea, as they thought such an action would be “changing history.”³⁶ However, there was no policy in place to change the name of a school, and the board needed to develop a plan before the renaming issue could be seriously considered. Buchanan was insistent on the drafting said policy, and after it was finished, she officially introduced the topic of renaming A.W. Neill School in 2019.


Consultations with parents and students attending the school were mostly supportive and encouraging of changing the name. Several names were suggested, including K opic

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In 2018, Valerie Harrison, a retired teacher, purchased a property in the Alberni Valley to retire closer to her daughter. After the purchase, Harrison was informed that there was a covenant on her new house. Since she once worked placing covenants on heritage homes and properties with historical significance, Harrison was excited to learn more, and imagined that the property might have a covenant protecting wildlife. However, she was appalled to discover that the deed included a racially restrictive covenant.³⁹

Neill sold two lots on Margaret Street in Port Alberni, one in 1909, and another in 1912. Both sales, to the same gentlemen, included an indenture between seller and buyer that barred “the premises hereby described to be used or occupied by Orientals (otherwise than as domestic servants) nor allow the premises to be used under a liquor license or for immoral purposes.”⁴⁰ Although the covenant is now illegal and unenforceable, the language remained within the document. Harrison, bothered that none of the property’s previous owners had made any efforts to have the covenant removed, decided to do something about it. Harrison’s daughter, a teacher, connected her with Anne Ostwald, the Social Justice 12 teacher at Alberni District Secondary School.⁴¹

For years, students in Ostwald’s Social Justice 12 class have chosen a final project that is meant to better the community, and often, locals will contact Ostwald with ideas. Whether they choose one of the suggested topics or they come up with an idea independently, the goal is for students to learn how to impact their community by taking action and collaborating with other people. Ostwald proposed removing the covenant on Harrison’s home as a possible project for

 A copy of the original indeÉ
⁴¹Harrison, February 2024.

her students, and three of them, Katie Sara, Justin MacFadden, and Sarah Higginson, were interested.⁴²

The students had never heard of a covenant, and struggled to read the cursive handwriting in which the indenture was written.⁴³ They spent a month researching racially restrictive covenants and Neill's history. At the time, discussions around the possible renaming of A.W. Neill Elementary School were ongoing, and Neill was a popular topic of conversation in the community. Harrison had brought further public attention to Neill's racism and the covenant by writing a letter which was published in the *American Neill*, in hopes of raising awareness on the topic and to potentially inspire others to remove their covenants.⁴⁴ In October of 2018, the three students agreed to take on the project, and helped Harrison with the forms and documents necessary to send to the Land Title and Survey Authority of British Columbia.⁴⁵ When the Land Title office confirmed the removal of the covenant on Harrison's home, they sent a photocopy of the revised document. It was unchanged, other than the sentence disallowing Orientals to own the property, which was crossed out in pen but still completely legible.⁴⁶

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Racially restrictive covenants, such as the covenant Harrison discovered on her Port
Historical O

Alberni house, are more common in Canada than one might as cu

buildings match the character of a neighbourhood.⁴⁷ For

power in Germany resulted in international anti-semitic rhetoric that “legitimiz[ed] discriminatory and exclusionary practices against Jews in Canada.”⁵¹

Covenants, as a broad restriction, did not act as a roadblock for minorities to purchase property, but rather prevented any possible interest in the first place.⁵² If a Japanese man moved to the Alberni Valley in the early 1900s and wished to purchase a home, he might quickly learn that restrictive covenants prevent him from doing so. Instead, he might settle for a different

indifference” to the harm that they caused by singling out a particular racialized group and classifying them as ‘other’.⁵⁵ In this way, Neill’s covenant differs from his role in government: indirect harm versus direct harm.

However, as ^{as} demonstrated in Harrison’s deed, the language and the ideologik

decision “moved forward substantially the achievement of the social equality of mankind.”⁶⁴ It was especially celebrated by Jewish Canadians and racialized minorities, who considered the ruling a massive win in opposing discriminatory policy. In the years following the decision, it was cited in several landmark American cases, including a case in the Michigan Supreme Court which voided a restrictive covenant on a land title barring ownership by Black Americans, and again in the Supreme Court case *Shelley v. Kraemer*,⁶⁵ in which a covenant was found to be an unconstitutional overreach of government power.⁶⁵

In 1948, three years after *R D*, Bernard Wolf, a Jewish man from Ontario, made an offer to buy a property on Lake Huron, at the Beach O’Pines subdivision. However, the subdivision had a clause that barred him from owning property in the community:

The lands and premises herein described shall never be sold, assigned, transferred, leased, rented or in any manner whatsoever alienated to, and shall never be occupied or used in any manner whatsoever by any person of the Jewish, Hebrew, Semitic, Negro or coloured race or blood, it being the intention and purpose of the Grantor, to restrict the ownership, use, occupation and enjoyment of the said recreational development, including the lands and premises herein described, to persons of the white or Caucasian race not excluded by this clause.⁶⁶

Concerned that the covenant may interfere with the sale, Wolf’s solicitor wrote to the seller, Annie Noble, and asked the covenant to be removed. In response, Noble and her solicitor stated that they believed the *R D* decision applied to the sale, and that there would be no issue selling the home to Wolf because the covenant was void under the precedent case law.

⁶⁴ *Ibid.*, 314.

⁶⁵ Walker, 205.

⁶⁶ *Ibid.*, 191.

However, Wolf and his lawyer requested that the covenant be declared invalid by a court before the sale, just to be safe.⁶⁷

When other property owners at Beach O’Pines learned that Noble planned to sell her cottage to a Jewish man, they retained a lawyer to officially prevent the sale to Wolf, and testified in court that they wished the covenant stay in place as they greatly enjoyed the quality of life it provided. The case soon garnered national attention, and

declares all past and future discriminatory covenants void, and allows for the removal/cancellation of past covenants:

222 (1) A covenant that, directly or indirectly, restricts the sale, ownership, occupation or use of land on account of the sex, race, creed, colour, nationality, ancestry or place of origin of a person, however created, whether before or after the coming into force of this section, is void and of no effect.

(2) The registrar, on application, may cancel a covenant referred to in () that sectir

Vancouver alone, more and more discriminatory land titles are discovered every year. The most obvious answer is that for many, keeping racially restrictive covenants on the books is a reminder of the conscious segregation

individuals took advantage of the opportunity. An additional bill was subsequently proposed to encourage counties to create their own programs to redact discrimination in land titles, in hopes of having more covenants removed from property documents. Homeowners would be notified of the covenant on their home and would have the opportunity to object to the removal, however no action has been taken to implement such programs as of 2023.⁷⁹

These examples demonstrate that, given the option to remove covenants from one's property, few seize the opportunity. Whether it's because people are unaware of the covenants, unaware of the option to amend their land titles, or simply do not care to have them removed, depending on citizens' goodwill to strike racist clauses from their properties has proved to be ineffective as a strategy to remove covenants on a large scale. Increased government intervention may be the best option moving forward. However, adopting legislation is one thing; finding the resources to locate and remove racist language from deeds is a

intergovernmental agreement might provide funding.⁸¹ At the provincial level, West-Van MLA Karin Kirkpatrick has twice introduced a bill to remove discriminatory clauses, once in 2020 and again in 2022, but nothing has become of it.⁸² It seems municipal and provincial governments are both denying full responsibility for the implementation of such a program.

Recently, California has taken a more forward approach. The state passed a law requiring each county establish a program to identify and redact unlawful provisions in public documents relating to properties (e.g. deeds including discriminatory restrictive covenants). In response, L.A. County hired a private company, Extract Systems, in late 2023. The project, which is anticipated to last seven years and cost approximately \$8 million, will comb through an estimated 130 million documents, dating from 1850.⁸³

Covenants are a difficult issue for politicians at local and provincial/state levels. While proposing and passing legislation to remove racially restrictive covenants might be popular with their voters, the logistics of locating, editing, or removing clauses are expensive and time consuming, as evidenced by L.A. County's project. Additionally, there is no guarantee that the

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By canceling names people will forget what happened and why. Canceling history will mean that future generations will have no idea about anything bad that happened. Cancel culture will be the reason bad things will be able to be repeated.⁸⁴

In discussion with Valerie Harrison, the owner of Neill's former home, she shared that she received hate mail since news of the covenant removal was shared in the local newspaper, and as recently as December 2023. Police were involved when the letters became threatening, accusing her of being disrespectful of history. Since then, the letters have become anonymous, but she joked that she could still tell who they were from: "It's the same handwriting, and you know, I was a teacher. 'That's so-and-so's work'"⁸⁵

Perhaps a larger challenge than funding the removal of covenants, is to convince the public that such a project is necessary. In our current political climate, anti-racist initiatives are ~~MS2~~ quick to be labelled

Katie Sara, Justin MacFadden, Sara Higginson, and Chris Alemany, among others. Harrison joked that they should have sold alcohol, in defiance of Neill's still-standing clause

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