Laws and Policies relating to the Chinese in New Zealand

Contributed by Steven Young
Thursday, 09 August 2007
Last Updated Thursday, 09 August 2007

A
guide to the law and policies

Relating to the Chinese in New Zealand

1871
- 1996

Contents

Acknowledgements 1

Foreword 3

Introduction 5

New Zealand: ‘working man's paradise' 5

Types of Legislation enacted against Chinese 6

Immigration 6

Periods of New Zealand's Chinese Immigration Policy 6

1866 - 1880 Period of toleration 7

1881 - 1920 Period of restriction - "The Yellow Peril" tide of legislation 7

1920 - 1939 ‘White New Zealand' - period of exclusion and permit system 7

1939 - 1947 War refugees - period of humanitarianism 8

1948 - 1970 Assimilation - periods of family reunion 8

1971 - 1987 Period of professional immigrants 8

1987 - 1997 ‘Asian Invasion' - the door opens and closes again 9

Administrative Matters 9

Stated Policy and its Implementation in Practice 10

Comparison of Immigration and Immigration Restriction with other Groups 10

Favoured immigrants 10

‘Undesirable immigrants 11

Other Laws relating to Chinese 11

Economic 11

Moral 12

Other Acts relating to Chinese 13

Conclusion 13

How to Use the Guide 15

Finding what you need 15

Glossary of terms 17

Essays 21

Poll-Tax 23

Tax raised 24

Abolition 25

Unlucky last 26

Administrative complications 26

Exemptions 26

Tax evasion 27

Naturalisation 30

Reintroduction of naturalisation 37

Privileges and exemptions for naturalised Chinese 42

Exemption from Certificate of Registration provision 43

Legislation naturalised Chinese not exempt from 43

Rights and privileges denied non-naturalised Chinese in New Zealand 43

Disabilities of Aliens 44

Government service 44

Public Service 44

Post & Telegraph Department 44

Railways 44

Police Department 44

Armed Forces 44

Masters mates and marine engineers 44

Engine drivers 44

Dentists 45

Medical practitioners 45

Barristers and solicitors 45

Architects 45

Radio operators licenses 45

Aircraft personnel 45

Pilots 45

Aircraft maintenance engineers 45

Flight engineers 45

Education 46

Bursaries 46

Scholarships 46

Local Body Elections 46

Harbour Boards 46

Reserve Bank 46

Jury service 46

Adoption 46

Electoral rights 46

Change of name, address, occupation 47

British ships 47

Land

agents, auctioneers, licensees 47

Closing
hours of shops 47

Status of Chinese
marriage in New Zealand 47

Wife
of non-naturalised Chinese New Zealander loses NZ citizenship 48

Naturalisation
of aliens during wartime 48

Thumb-prints and
Education Test 51

The
thumb-print 51

Education
test 53

Notes 55

Certificates
of Registration 57

Local-born
Chinese and Certificates of Registration 59

Chronology
of Certificates of Exemption 62

Temporary
and Permanent Permits 67

1939
Concession 70

Chinese
Business Managers 72

Students 75

Post
-World War Two student schemes 80

Colombo Plan 80

Private
students 80

Women 84

1939
Wives and Children 88

The legal
status of children born in New
Zealand under the 1939 concession 89

Certificates
of Registration for children born in New Zealand
under the 1939 concession 90

Remittances 92

Chinese
Ownership of Land 94

War
Service 97

Business
Immigration Policy 101

Occupational
Priority List and Traditional Source Countries 108

Registration
of Aliens 112

Chronology
of Registration of Aliens Acts and Regulations 113

Discrimination
in Administration of Immigration Policy 115

The case
of Adrian Chan 115

The case
of Lawrence Wong 116

The case of Alan Young 117

Chronological List of Acts, Regulations and Policy Decisions 119

Chronological list of events 120-313

Appendices 315

Short Chronology of Government Policy and Legislation toward Chinese 317

Chronological list of Legislation affecting Chinese

(includes Bills thrown out & Repealing Acts) 324

Chronological list of Legislation relating to Chinese Immigration

(includes Bills thrown out and Repealing Acts) 327

Alphabetical list of Legislation relating to Chinese

(includes Bills thrown out) 328

Chronology of 1881 Chinese Immigrants Act 331

Immigration Restrictions at a Glance 332

Chronology of Policy by Political Party 334

Relevant Ministries 334

Ministers of Immigration 335

Chinese Population in New Zealand 1871 - 1996 336

Regulations relating to
Chinese under Immigration Acts 337

Customs Department Circular
Memos 339

Petitions 369

Petition against Asiatic and other Immigration Bill 1895 370

Petition against Asiatic Restriction Act 1896 372

Petition against Asian Restriction Act 1896 373

Petition against Chinese Immigration Amendment Act 1907 375

List of Chinese
petitions against discriminatory legislation 379

Examples of Immigration
Forms 381

Bibliography 393

Index 399

Acknowledgements

Although the compilation of this guide has
caused some sleepless nights, this has been more than offset by the

satisfactions inherent in original research. The drudgery is compensated by the joys of discovery and the solving of sometimes seemingly intractable research problems.

I would like to thank the following people who have supported and encouraged me while I was carrying out the project: David Fung, Esther Fung, James Ng, Manying Ip, Kirsten Wong and, of course, the New Zealand Chinese Association-in particular Charlie Young whose idea it was to compile this guide in the first place.
Thank you all.

FOREWORD

This guide was commissioned in June 1994 by the New Zealand Chinese Association.

The aim was to provide an easy-to-use guide to the many laws and policies relating to the Chinese in New Zealand over the past 130 years.

Compared with the actual size of the New Zealand Chinese community, the sheer number of laws, policies and regulations relating to Chinese is enormous. This is significant, not only because it shows what New Zealand has felt about the Chinese, but also because each law, policy and regulation has been a barrier against which generations of Chinese New Zealanders have had to struggle to survive.

Unfortunately the complex legislative and administrative process, combined with the number of laws and policies enacted against Chinese, have made this area of history almost inaccessible. To enter the world of laws, regulations and policy decisions is to enter a shadowy Kafkaesque hall of mirrors. It is hoped, therefore, that this guide will provide a map to what has so far been

inaccessible, and become a useful research tool for historians, researchers, genealogists and anyone interested in Chinese New Zealand history. I would add that in writing this guide it is the practical side that has been emphasized. The injustice and racism inherent in the laws and policies set out here speak for themselves. An attempt to provide some context, however, has been made in the essay section.

Although everything has been done to make this guide as comprehensive as possible, it would be vain indeed to think that it is complete or free of mistakes. As Herbert Williams said in the introduction to his 1924 bibliography of printed Maori, ‘It would be lunacy to hope that the list here given is complete - or ever can be complete - and vanity to claim that it is free from errors; but it is hoped that at least it may be useful.' That is also the hope of this guidebook.

Nigel
Murphy 1997

INTRODUCTION

‘The past is never dead. It's not even past'

William Faulkner

New Zealand's legislation and policy relating to Chinese can be divided into three main areas: immigration, economics and morality. These three areas precisely mirror the fears that European New Zealanders had about Chinese.

The motivation behind these laws and policies was the white New Zealand perception that the Chinese were a threat to the country. This threat was perceived to be, again, in three main areas; racial, economic and moral. It was believed that the Chinese, being racially and morally inferior, would undermine the white basis of the country, and the living and working conditions of the working classes. To understand the fears that led New Zealand to enact laws and policies against the Chinese it is necessary to examine the myths and dreams that lay at the foundation of the ‘New Zealand dream'.

New Zealand: ‘working man's paradise'

New Zealand was founded as a white man's paradise. More specifically, as an Anglo-Saxon and working man's paradise. Edward Gibbon Wakefield, founder of the New Zealand Company - the nation's principal colonizer-envisaged the new colony as a more perfect version of the English agrarian society. The Company selected its immigrants with great care ‘respectful hard-working rural labourers and cultured men of capital' were the desired groups to build the projected ‘fairer Britain of the South Seas'. Similar criteria motivated the Otago and Canterbury colonisers.

Later came ‘refugees' from the nineteenth-century English industrial poverty and oppressive class system. They came seeking economic freedom, and many of these were Fabians and other social idealists determined to set in place social welfare and egalitarian ideals. As W. T. Roy notes, ‘Not only were the early settlers seeking better economic conditions, but some of them were also utopian idealists of various persuasions with one doctrine in common - social egalitarianism.'(1)

Because of them, New Zealand became a social laboratory introducing many innovative social welfare policies that made it the envy of the world. In addition, the care with which new immigrants were selected meant the vast majority of the population were of Anglo-Saxon British stock, albeit, of the working classes.

There was therefore a high degree of idealism and working class egalitarianism in the foundation of New Zealand society. All these fine ideals, however, were only intended for white New Zealanders. The social and economic miracle did not extend to non-whites. In the twisted world of the late- nineteenth and early twentieth-centuries the non-white races not only didn't fit, but were an actual threat. They were seen as a dangerous contaminant or

virus that if let in to the country would destroy the white race. Non-whites were the classic Jungian ‘other', and the Chinese were the worst. Chinese were seen as a moral, social, religious, health and economic threat, and therefore had to be kept out of New Zealand at all costs. Keeping New Zealand white and protecting the living standards of European New Zealanders was the purpose of all the laws and policies enacted against the Chinese.

It is perhaps not surprising that politicians such as Richard John Seddon and William Pember Reeves, who are famed as champions of the working class and leaders in social reform, should also have been at the forefront of the anti-Chinese movement. What these men (and others like them) wanted was to protect the New Zealand working man's way of life. It was the protection of a dream and a way of life that they, in their eyes, had worked so hard to achieve. So precious was the dream and so dangerous were the Chinese, that they introduced measures they would never have dreamed of using against their own kind.

A few people realised the double standard being put in play at the time. The main objections were that they ran counter to British notions of fair play.
Ironically, the very fact that the Chinese were not British and white made the double standard acceptable.
There was no contradiction between the glorification of the European working man and the damnation of his Chinese counterpart. With regard to the Chinese, ordinary standards of human behaviour did not apply.

There was, therefore, an almost unanimous agreement on the need to exclude the Chinese from New Zealand. As Bickleen Fong says, ‘all parties agreed that restricting Asiatics was a necessity, and that the final concern of legislation was to keep New Zealand white; they differed only in the methods to be used.'(2) Such was the genesis of all the legislation and policies enacted against the Chinese in New Zealand.

TYPES OF LEGISLATION ENACTED AGAINST CHINESE

Immigration

As noted above, legislation with regard to Chinese falls into three areas: immigration, economic and moral. By far the most significant of these areas is immigration.

PERIODS OF NEW ZEALAND'S CHINESE IMMIGRATION POLICY

New Zealand's Chinese immigration policy can be divided into six broad time periods. In the first two periods, legislation was restricted by New Zealand's need to obtain the ‘Royal Assent' for all Bills relating to foreign policy.

Although desired, total exclusion was not possible in the period to 1920 due to New Zealand's colonial status. Until 1947, when New Zealand achieved full legislative independence under the Statute of Westminster, all laws relating to foreign affairs passed by the New Zealand Parliament had to receive the Royal Assent from the Crown's representative, the Governor-General. As the issue of Chinese immigration impinged on Britain's foreign affairs dealings with China, New Zealand was not at liberty to legislate as it saw fit on the matter. Any Act excluding the Chinese from New Zealand would have caused damage and embarrassment to Britain and therefore would not receive the Royal Assent. The inability of New Zealand to legislate freely on the issue of Chinese immigration was the reason behind its many attempts to restrict it.

The emphasis on how to achieve restriction changed over the years, but the aim remained relatively constant. Among the terms use to describe restriction were exclusion, assimilation and control.

In the period to 1920 restriction was used as an alternative to exclusion. From the 1920s to 1980s, the period best described as the ‘White New Zealand' period, exclusion was the rule. However, various loopholes and exceptions to the rule meant that significant numbers of Chinese entered during this period. In the period from the 1950s to the 1970s, assimilation was used in conjunction with a policy of exclusion. The 1970s to 1990s saw a combination of immigration control with some liberalisation of laws in the late 1980s and early 1990s. The liberalisation, however, was very much a case of economic self-interest. It was quickly followed by a reversion back to a policy of control.

The main features of these periods can be described as follows:

1866 - 1880 Period of toleration

Although there were no restrictions on immigration during this period efforts were increasingly made both within and

outside Parliament to introduce restriction. In 1871 a Select Committee of Inquiry was set up to investigate the issue of Chinese immigration in response to an outcry from Otago goldminers. In 1879 then Premier Sir George Grey sent a memorandum to Parliament on Chinese immigration. This gave fresh impetus to calls for restrictive legislation.

1881 - 1920 Period of restriction-‘The Yellow Peril' tide of legislation

This period saw the most intensive efforts by the New Zealand government to limit or exclude Chinese from the country. Following the lead of Australia, New Zealand introduced a raft of increasingly severe legislative restrictions.
The poll tax and tonnage restrictions were introduced in 1881. These were raised in 1888 and 1896. Pressure from Britain forced the introduction of the less blatantly racist education test in 1907. Attempts to stamp out poll-tax evasion and illegal immigration brought in thumb-printing and photographing of new immigrants. Although successful in reducing the number of immigrants, and the overall Chinese population, it was felt these measures were not sufficiently effective.

1920 - 1939 ‘White New Zealand'-period of exclusion and permit system

The introduction of the permit or application system brought the desired solution to the Chinese immigration ‘problem'.

At its discretion, the government could exclude any immigrant it chose without reference to specific groups. The new law largely removed immigration policy from the domain of public debate.
The system was thought effective enough to repeal both the education test and thumb-printing system. Tonnage restrictions and the poll-tax, however, remained. An annual quota of 100 entry permits to Chinese was abolished in 1926 and thereafter, entry was possible only on short-term basis or under a student concession.
The policy of almost total exclusion of Chinese and other Asians, which began during this period and continued until the late 1980s, has justly been called the ‘White New Zealand' policy.

1939 - 1947 War refugees-period of humanitarianism

The war in China
(which began in 1937) persuaded the government to introduce a concession which
allowed Chinese men to bring their families to New Zealand for two years. Introduced in 1939, it was to be a temporary measure only and was not intended to create a permanent increase in the Chinese
population. Conditions in China
prevented the families from returning and, in 1947, a large number of Chinese
on temporary permits remained in the country.
As a humanitarian gesture the government decided to grant permanent
residence to all those affected. The
decision was made reluctantly, being seen as a, ‘drastic step taken to solve a problem to which there appeared to be no easy solution'(3) Chinese immigration
was seen to be a continuing problem and it was decided to undertake a review of
policy in an attempt to solve it.

1948 - 1970 Assimilation-period of family reunion

The policy review, undertaken in 1950, resolved
to end Chinese immigration. Temporary
permits and concessions such as the student scheme were abolished. As part of this policy it was decided to allow Chinese men to send for their immediate families, consisting of wives and
dependent children, in order to reunite the family group in New Zealand. Once this was done all possible means were taken to break the link with China
and to assimilate the local community into the New Zealand way of life.

As part of its assimilation policy the
government reduced the length of time Chinese could go overseas on a re-entry
permit from four years to eighteen months.
It also refused entry permits to teachers in Chinese schools. The
government saw the schools as a hindrance to the assimilation of young
Chinese. With few exceptions policy
until 1970 remained that of prohibiting the entry of new Chinese, and only
allowing entry to the wives and children of Chinese men already resident in the country.

1971 - 1987 Period of
professional immigrants

Several factors combined to bring about a gradual loosening of the rigid restriction against Chinese immigration. Britain's 1973 entry into the European Union forced New Zealand to look for new trading partners. A freer immigration policy towards the nationals of potential new trading partners was seen as essential.

The growth of the idea of multiculturalism also saw the abandonment of the assimilation policy. New Zealand became increasingly intolerant of racism both at home and abroad, and this was reflected in government policy.

The third Labour Government espoused a new non-discriminatory policy on immigration. Its 1974 immigration review opened the door to Chinese with professional qualifications. The family reunion policy was also widened to include parents of resident Chinese. This liberalisation was offset, however, by a continuing preference for migrants from Western Europe. The White New Zealand policy continued to be enforced by the ‘Traditional Source Country' list, which favoured migrants from regions such as Britain, Holland, Germany and Scandinavia. Despite the minor changes outlined above, the principles developed in 1951 continued unchanged until the late 1980s.

1987 - 1997 ‘Asian Invasion'-the door opens and closes again

In 1987 the fourth Labour Government introduced a further radical rethink of immigration policy. The abolition of the Traditional Source Country list for selecting migrants, the introduction of the Business Immigration Policy and a policy of selecting migrants purely on personal merit saw, for the first time in over 100 years, a truly non-discriminatory immigration policy in New Zealand. This opening of the door was completed in 1991 with the introduction of the points system which graded applicants on set criteria, irrespective of ethnic or geographic background. The unexpected arrival of large numbers of ethnic Chinese, however, led to a negative backlash from the New Zealand public. The National Government responded by tightening its policy towards Chinese immigrants in 1995 and 1996. It introduced an English language test and linked residency with tax payments. These changes were aimed specifically at Chinese migrants from Hong Kong and Taiwan. Effectively, they spelt the end of the open-door policy.

With the introduction of these policies New Zealand has reverted once again to the exclusionist ‘pro-European policies of bygone days.'(4)

ADMINISTRATIVE MATTERS

Issues of administration had a significant bearing on the means by which New Zealand's Chinese immigration policy was arrived at. As noted above, the Royal Assent meant New Zealand was unable to pass a total exclusion Act on Chinese immigration.
The solution to this problem was only discovered in 1920 with the introduction of the permit system.
Immigration was to be on application only, at the discretion of the Minister of Customs. The 1920 Act therefore set the precedent of separating legislation and policy.

Legislation became the administrative framework within which policy was to be administered and enforced. As Sedgwick noted, the 1920 Act, ‘removed the matter from the arena of public and parliamentary debate and lodged policy decision with Cabinet, and implementation with the Minister of Customs and later the Minister of Immigration'. (5) The precedent set by the 1920 Act has been followed with little change to the present day.
It was stated in 1987 that,

immigration legislation does not generally prescribe who may enter New Zealand and under what conditions. That is a matter for the executive to decide in the light of policy adopted by the Government of the day.
The role of immigration legislation and regulations is rather to provide the legal framework within which policy is carried out.(6)

The implications of this system with regard to the framing of immigration policy are significant. By keeping immigration policy out of the domain of public discussion, the government could effectively keep New Zealand white by stealth. The period up to 1920 was therefore the time of overt policy making since criteria for immigration were set out clearly in legislation while the period after 1920 can be called the period of covert policy making.
Policy was made behind closed doors generally by the Minister in charge of immigration in conjunction with Cabinet.

In many ways the earlier method favoured the immigrant. As David Williams noted in 1978, ‘The anti-Chinese legislation of last century [was] a much better model for laws regulating immigration than our current laws which lay down no proper criteria for decision-making but confer enormously wide discretionary powers on the Minister of Immigration and his officials.'(7)

A distinctive difference between the two periods is this: pre-1920 all legislation restricting Chinese immigration mentioned Chinese by name. Post-1920 Chinese were never mentioned, although the immigration restrictions were actually greater.

STATED POLICY AND ITS IMPLEMENTATION IN PRACTICE

The difference between publicly-stated policy and policy as it is actually implemented is also reflected on the level of individual migrants. It has been noted by many commentators that not insignificant numbers of Chinese continued to enter New Zealand on a permanent basis despite the rigorous restrictions in place at the time. The explanation is that publicly-stated policy and how policy works in practice are often two different things. In many cases it is not what you know but who you know that matters.

However, the fact that many Chinese entered New Zealand during the 1920s though to the 1970s should not detract from the fact that New Zealand's immigration-policy aim was to exclude or restrict Chinese immigration as much as possible. Exceptions to the rules do not alter the rules themselves.

COMPARISON OF IMMIGRATION AND IMMIGRATION RESTRICTION WITH OTHER GROUPS

Favoured migrants

For most of its post-colonial history New Zealand has been a country of British settlement. Until 1948, when New Zealand citizenship was created, there was no differentiation between Britain and New Zealand, and until 1974 there were no restrictions at all on immigration from Britain.

A policy of assisted immigration for British immigrants, with a preference for Protestant Anglo-Celts, was therefore put in place to create and maintain a white New Zealand. Assisted immigration schemes for British immigrants continued well into this century and were only terminated in 1975.

In addition, there were also a variety of free or assisted schemes for non-British immigrants at various times. These generally favoured immigrants who were

as close as possible, in race and outlook, to the dominant group. These included immigrants from Germany and Scandinavia in the 1870s and the Dutch in the 1950s. In the 1960s and 1970s immigration from the Pacific Islands was encouraged in response to a shortage of unskilled labour. A small number of immigrants from various other countries also arrived with neither encouragement nor restriction. These included French, Bohemians, Poles and Swiss. The main criteria was the ability to assimilate into New Zealand society, reflecting the policy of maintaining a white European population.

‘Undesirable immigrants'

Chinese were not the only group seen to be a threat to New Zealand. The Immigration Restriction Act 1899 introduced a language test for all non-British immigrants. Although primarily aimed at Indians, Yugoslavians and Lebanese (called Assyrians at the time), the test was designed to exclude any non-British racial group. Its effectiveness was weakened by the fact that the test was attached as a schedule to the Act, enabling it to be easily rote-learned.
Chinese were excluded from this Act as it was thought they had been dealt with by legislation already in place. In 1919 the Undesirable Immigrants Exclusion Act was enacted to exclude alien ex-enemies as well as Bolsheviks.

The introduction of the permit system in 1920 enabled New Zealand to control immigration without explanation or justification. As policy favoured immigration from Britain and Western Europe, other nationalities naturally suffered.
The policy was explained in 1954 as aiming to, ‘encourage Northern Europeans, e.g. Norwegians, Danes, Dutch and to discourage Southern Europeans such as Italians and to exclude all coloured races'(7) In practice this meant applicants from Southern Europe and the Mediterranean were only given permits on humanitarian grounds, although those with family connections, as well as Greeks and Yugoslavians, were treated more liberally. Asians other than Indians and Chinese were denied entry altogether, while only the wives and children of those groups were admitted. The ‘White New Zealand' policy of the 1920s to 1980s did not only affect Chinese.

OTHER LAWS RELATING TO CHINESE

Although the main thrust of legislative activity against Chinese was aimed at immigration, a significant number of laws were passed restricting the lives of Chinese New Zealanders. These laws fell into two areas; moral and economic.

Economic

Economic legislation aimed to protect the living standards of New Zealand workers from the perceived threat of Chinese. The Chinese habit of working long hours and living frugally to support families in China was seen as undermining the economic well-being of working people.

Several protectionist laws were passed to restrict Chinese economic competition. These were aimed at restricting the hours Chinese businesses could stay open, as well as the number of unpaid people who could be employed in a Chinese business. As almost all were run as partnerships or family concerns, most people who worked in them were unpaid. This was seen as giving Chinese an unfair advantage over Europeans who had to pay their employees at a set rate, diminishing their profits. Since Chinese had less outlay in wages they were also able to sell at lower prices, undercutting their European competitors.

The 1910 Factories Amendment Act placed restrictions on the hours that laundries with more than two staff could work. This clearly discriminated against Chinese laundries which were very labour intensive and required at least two people to make them effective. The Shops and Offices Act 1904 and its 1927 amendment also sought to control the opening hours and numbers of unpaid workers in Chinese businesses. The 1904 Act stated that only British subjects were able to decide the opening hours of shops in a particular district. This effectively debarred Chinese from being able to take part in that decision-making process.

With regard to wages, the 1927 amendment stated that every person working in a fruitshop, except the registered owner and spouse, was deemed to be a shop-assistant and was to be paid the award rate. This was designed to prevent Chinese using their family as unpaid labour as well as having a number of Chinese form a co-operative and run the business as a partnership.

While these laws were effective in reducing the perceived competition of Chinese businesses, they were also rightly seen as being of an oppressive nature. Speaking in reference to the Factories Amendment Act in 1910, Legislative Councillor Walter Carncross said ‘This is the kind of legislation from which I dissent very strongly . . . It is an attempt to get at the unfortunate Chinaman. I have no sympathy whatever with this kind of legislation that interferes with a Chinaman working as long as he chooses'(8) Unfortunately, others disagreed with this view.

Moral

One of the objections to Chinese immigration was that they were a moral danger to the country. The main threat was seen to be their gambling, opium smoking and sexuality, especially the danger of inter-marriage and miscegenation. Miscegenation was a popular theory which maintained that the offspring of two races would be inferior to the parents.

A number of laws were passed in an attempt to control the supposed moral threat posed by these practices. The 1881 Gaming and Lotteries Act and its amendments made Chinese games of chance, such as pakapoo and fan-tan, illegal. These laws were used very effectively as a stick to persecute Chinese, but were not very effective in controlling gambling. The double standard in arresting Chinese for playing pakapoo and fan-tan while ignoring equally widespread European gambling was noted time and again, but did little to stop the persecution of Chinese under the gaming acts. The Opium Prohibition Act of 1901, which prohibited the importation of opium and criminalised its use, was also an effective tool to persecute Chinese. Although Chinese themselves had largely been instrumental in bringing about the Act, the fact that opium smoking was seen as a ‘Chinese evil' led to what seems like a campaign against the Chinese. What was worse was that under the Act, any Chinese home could be entered by police without a search warrant if they suspected opium smoking was going on.

Although no laws were passed in New Zealand forbidding Chinese marriage with Europeans (unlike Samoa where a law forbidding marriages between Chinese and Samoans was passed), the fear of miscegenation remained and came to a head in 1929. A combination of European and Maori groups, including the Minister of Native affairs, Apirana Ngata, created an uproar by pointing out the fact that large numbers of Maori women were working on Chinese and Indian market gardens in Pukekohe. The fear was that sexual relations between Chinese men and Maori women would cause a lowering of the Maori race by so-called miscegenation. A Parliamentary Select Committee was convened to look into the matter. The Committee's intrusion into the private lives of the Chinese men and Maori women involved must constitute one of the most disgraceful episodes in New Zealand race relations.

OTHER ACTS RELATING TO CHINESE

There are four other Acts affecting Chinese which fit into none of the above categories:

The

Shearers' Accommodation Act of 1898 stipulated that Chinese employed in the shearing industry were to be housed in separate accommodation from other workers. A fine of twenty-five pounds was to be imposed on employers who did not comply.

Chinese were specifically excluded from the provisions of the Old Age Pensions Act of 1898, the 1911 Widows' Pensions Act and the 1926 Family Allowances Act.

CONCLUSION

It is difficult to remain impassive when faced with the overwhelming body of legislation enacted against the Chinese over the past 110 and more years. The pathos and relevance of the history is given added dimension in the words of older Chinese New Zealanders as they speak about their own lives, and the lives of their parents and grandparents. There is no denying that this body of legislation, and the social attitudes which brought it into being, had a very real effect on the day-to-day lives of ordinary Chinese New Zealand men and women. Families were separated-often for decades, businesses were targeted, and parents were discouraged from passing on a rich cultural heritage which was their children's birthright. Let these facts be remembered.

(1) Roy 1966, p.38

(2) Fong, p.28

(3) National Archives. Labour Department. L 22/1/81 Customs Department memo C 33/253/M Asian immigration. 29 Sept 1950, p.4

(4) Thompson, p.24

(5) Sedgwick, p.254

(6) Burke, 1987, p.36

(7) Williams 1978, p.193

(8) Department of Labour
policy statement, quoted in Martin p.278

(9) NZPD vol.153, 1910 p.1132

HOW TO USE THE GUIDE

This guide has been divided into three main sections:

1) The main interest areas in context

This
section deals with the main topics relating to government policy and Chinese
New Zealanders, for example specific aspects of immigration law and policy,
land ownership, war service, women and naturalisation. Each topic is put in its historical context.

2) Chronological list of all Acts, regulations
and policy decisions

The largest section of the Guide.
It lists every Act, regulation and policy decision, along with explanatory notes and full reference details.

3) Appendices

Includes full texts of relevant materials, for example petitions, Customs Department memos, forms, lists and tables, as well as other reference aids such as chronological and alphabetical lists of legislation and policy relating to Chinese.

FINDING WHAT YOU NEED

For a general overview see the Introduction, then use the essays on the main subjects of interest and the Chronological list.

To find a specific Act or regulation the index at the back of this book has an alphabetical list along with the dates. Find the date, and look in the Chronological list of Acts, regulations and policy decisions.

To find a specific subject refer to the subject index and essays section.

GLOSSARY OF TERMS

Act Final versions of Bills that have become law.

Amendment Act Refer to Principal Act.

Appendices to the Journals

of the House of

Representatives

(AJHR) Annual series that publishes almost all paperwork presented in Parliament. This includes petitions, government department reports, financial statements, diplomatic correspondence etc.

Bill A draft piece of legislation that is put before the House. It goes through three sittings and may be amended. If it is passed it becomes an Act of Parliament.

Cabinet Select inner group within the ruling government, usually comprising Ministers with portfolios. It is the major decision-making body of government, deciding on policy, legislation and expenditure. Cabinet's decisions are made without reference to Parliament or the other sitting MPs in the government.

Consolidation Because Acts are frequently amended it often becomes confusing to work out what all the amendments are. When an Act gets too confusing to read because there are so many amendments in different locations, the Act is ‘consolidated'. It is reprinted with all its amendments incorporated into the main body of the Act. The original Act is then repealed and the consolidated Act takes over. The first consolidation was in 1908. Since 1979 they have been called Reprinted Statutes of New Zealand.

Continuance When an Act or section of an Act is consolidated and repealed without any changes.

Government policy This is decided by Cabinet and is meant to be a guide for government departments. Policy is not specifically related to Acts of Parliament and does not get debated in the House. Neither is it considered necessary for government policy to be made public, although sometimes it is.

House Short title of the House of Representatives.

House of

Representatives Formal title of the Parliament of New Zealand.

Legislation Alternate name for Acts of Parliament.

Legislative

Council The Upper House of the New Zealand Parliament, consisting of members appointed by the Governor-General, which could review, amend and reject legislation that had been passed by the House of Representatives. It was in existence between 1854 and 1952.

Local Acts Deal with a specific region, eg: The Auckland Electric Power Board Act 1921-1922.

Long title The actual title of an Act of Parliament. Because these can often be very long, the title is referred to as the ‘long title'. See also Short title.

New Zealand

Gazette The official newspaper of the government. The Gazette publishes a wide range of official notices and proclamations. Up to 1936, all the regulations were published in it. After 1936 the regulations were published separately in the Statutory Regulations. As it was not a legal requirement to publish notice of all Acts in the gazette not all Acts were gazetted.

Parliament Legislative assembly of the country, consisting of the current government and the opposition.

Parliamentary

Debates The published texts of all speeches and debates in the House. Before 1950 it included the speeches from the Legislative Council.

Principal Act When Acts are passed there is often a need to change parts of them at a later date. This is because Acts don't always take every situation into account or may not be clear on certain points. Parliament then passes another Act to amend the original one. The original Act is referred to as the Principal Act. The latter Acts are Amendment Acts and are intended to be read as part of the Principal Act.

Private Member's

Bill A Bill presented to the House by an individual member of Parliament. Most Bills are presented to the House on behalf of the current government.

Public Acts Legislation that affects everyone in the country e.g. Employment

Contracts Act 1987.

Regulations Sets of legislation related to Acts. Usually they set out the finer details that have not been dealt with under the relevant Act.

Repealed (Acts) Acts that are revoked or cancelled by Parliament are repealed. Sections or parts of Acts can also be repealed leaving the rest of the Act intact.

Royal Assent Because New Zealand was originally a colony, all New Zealand's laws had to be approved by the King or Queen before being passed into law. The representative of the Crown, the Governor General, usually gives the Royal Assent. The Crown may refuse to give its assent to an Act. The Act is then ‘reserved'. This is very rare, but one Act relating to the Chinese in New Zealand was ‘reserved'.

Short title Because the actual title of an Act of Parliament is often very long, the Act is given an alternative ‘Short title', by which it is more commonly known. For example, An Act to Further Amend the Law Regulating the Immigration of Chinese, is more commonly known by its short title, The Chinese Immigrants Act Amendment Act, 1896.
See also Long title.

Statute Alternate name for an Act of Parliament. see Act.

Statutory

Regulations see Regulations.

ESSAYS

POLL-TAX

Of all the legislation and policy enacted against the Chinese in New Zealand the most notorious is undoubtedly the poll-tax. Introduced in 1881 as part of the 1881 Chinese Immigrants Act, it was the main plank in New Zealand's policy of excluding Chinese from New Zealand. As the first enactment restricting the entry of a specific class of people into New Zealand, it set a precedent for immigration restriction in this country, a precedent not only for increasingly severe restrictions against Chinese immigration, but also for restrictions on other immigrants. As such the Chinese immigration policy the poll tax ushered in set the tone for all subsequent immigration policy in this country.

For the New Zealand government the poll tax was a compromise solution to an apparently unsolvable problem. The problem was how to both exclude the Chinese from New Zealand and satisfy the Imperial Government in Britain. In the nineteenth century, New Zealand, as a British colony, was unable to legislate freely on areas of policy that affected Imperial interests. These included ‘constitutional amendments, foreign relations, external trade and the disposal of public funds'. In the case of Acts that involved these areas of Imperial interest, the approval of the Crown had to be given. As the issue of Chinese immigration impinged on Britain's foreign affairs dealings with China, New Zealand was unable to legislate on this issue as it saw fit. An Act passed by the New Zealand government that totally excluded the Chinese would have compromised Britain's dealings with China, and would therefore not receive the Royal Assent. The only solution was to attempt to erect some barrier that would make it as difficult as possible for the Chinese to come to New Zealand.
The solution was found in a poll tax, or entry tax, to be paid by every Chinese immigrant coming to New Zealand.

The idea of a poll tax to restrict immigration was not a New Zealand innovation. It was initially devised in California, which in 1852 passed the California Act requiring all alien immigrants to pay an entry fee of five dollars.
The first use of this model of immigration restriction against the Chinese was in the Australian state of Victoria. In 1855, in response to the arrival of thousands of Chinese on the Victorian gold-fields, the Victorian legislature passed the Act to Make Provision for Certain Immigrants. This imposed a ten pound poll tax on all Chinese immigrants to Victoria.
Although somewhat ineffective, the importance of the Act lay in its setting a precedent for using an entry-tax to restrict Chinese immigration to the Australasian colonies. The fact that the Act received the Royal Assent gave the green light to other colonies to also use this particular method in the future.

Other Australian colonies, following the precedent set by Victoria, soon imposed their own poll taxes. In 1861 New South Wales imposed a ten pound poll tax, and in 1877, Queensland did likewise. By 1887 all the Australian colonies had imposed a poll tax.

Following the Australian example, New Zealand also introduced an entry tax to restrict Chinese immigration. The early advocates for a poll tax came from Otago where the majority of Chinese had migrated. Francis Dillon Bell, member for Wallace, raised the possibility of restriction as early as 1861. In 1870 T L Shepherd, MP for Dunstan, suggested that a fifty pound poll-tax be imposed on Chinese immigrants and in 1871, during the Select Committee on Chinese immigration, a twenty pound poll-tax was mooted.(1) All these attempts failed. It was not until 1881 that New Zealand finally passed the Chinese Immigrants Act 1881 placing a ten pound entry-tax on all Chinese immigrants, regardless of place of origin.

Several factors combined to bring about the passing of the New Zealand poll-tax. In the late 1870s a new anti-Chinese movement, led by recently-arrived Australian gold-miners, began on the West Coast. Unlike earlier anti-Chinese activists in Otago, the West Coast anti-Chinese movement was better organised and had the support of radical anti-Chinese MPs in Parliament. These included the West Coast MPs, and the Prime Minister himself, George Grey.

Another factor was the onset of a severe economic depression in 1878 that was to profoundly affect New Zealand for the next ten years. By 1880 effects of the depression were keenly felt throughout New Zealand, especially by the working classes. A recurring pattern throughout the history of the British colonial nations was the coinciding of economic downturn with an upsurge of anti-Chinese agitation. At these times it was the Chinese who were blamed for the economic misery being suffered.

The final factor in this mix was the eruption of violent anti-Chinese agitation in Australia. A mass movement following the anti-Chinese seamen's strike of 1878 (which New Zealand also joined) led to the 1881 Inter-Colonial Conference in which the colonies of Australia and New Zealand agreed to legislate uniformly on Chinese immigration. One of the recommendations proposed at the conference was that a ten pound entry-tax should be imposed on all Chinese immigrants. An agreement which directly led to New Zealand's 1881 imposition of the ten pound poll-tax.

As with the Victorian Act of 1855, a precedent was thus set for restricting the immigration of a specific set of people. With the precedent set, the restrictions became increasingly severe.

Tax raised

In 1893 Richard John Seddon, the most radical anti-Chinese activist in Parliament, was elected Prime Minister and immediately began pushing for more drastic restrictions on Chinese immigration. Aided and encouraged by a new anti-Chinese movement which began in the mid-1890s, he introduced a comprehensive anti-Asiatic Bill which included raising the poll-tax to one hundred pounds. Rejected in 1895, it was eventually passed in 1896 but did not receive the Royal Assent, mainly because the definition of ‘Asiatic' included British Indians. Seddon compromised and introduced another Bill that omitted the offending clauses, but retained the increase in the poll-tax. In its new form it was passed as the Chinese Immigrants Act Amendment Act 1896. The Act had the overwhelming popular support of the working class and a large majority of the New Zealand population.

To all intents and purposes the 1896 Act marked the end of the legislative process concerning the poll-tax. The 1908 consolidation of all previous immigration legislation retained the one hundred pound poll-tax, as did the 1920 Immigration Restriction Amendment Act, which in other respects constituted a major rethink of immigration policy in New Zealand.

Although at the time of the passing of the Immigration Restriction Amendment Act 1920 many people questioned the necessity for retaining the poll-tax, noting that the new Act enabled the government ‘to prevent a single Chinese from landing in New Zealand, and therefore rendered the continuance of the poll-tax unnecessary' (2), the government decided to retain it. In justifying its retention, the Prime Minister, William Massey, said ‘it is an additional safeguard. I have considered the point, but I came to the conclusion that it would not be well to repeal the poll tax clause.'(3)

In 1926 the government once again came under pressure to further restrict the immigration of Chinese. It responded by deciding to suspend granting permanent residence permits to Chinese.
Because of this the issue of the poll-tax was raised once again. It was decided that, ‘seeing no further Chinese were to be admitted, the repeal of the poll-tax could be safely left until consolidating legislation was introduced into Parliament.' (4)

In 1934 the question of the poll-tax was again raised in Cabinet. Since the desirability of abolishing the tax was, ‘tacitly admitted in the Cabinet decision of 1926'(5), the Minister of Customs decided to waive payment of the tax, ‘in the case of any Chinese entering with a permit for permanent residence.' (6) As no permits for permanent residence had been issued to Chinese since 1926 the concession meant little in practical terms. The poll tax clause itself remained on the statute books until 1944.

Abolition

Two factors were decisive in the eventual abolition of the poll-tax. One was the election of the first Labour Government in 1935. The Labour Government proved to be a true friend of the Chinese in this country, abolishing much of the discriminatory legislation against Chinese in New Zealand.

The other factor was the Second World War. As New Zealand became increasingly involved in the Pacific war after 1939, it became clear to New Zealanders that China had been bravely fighting the Japanese since 1937. Her fight against Japanese invasion changed public perceptions. Chinese New Zealanders had gone from being the ‘Yellow Peril' to ‘our brave allies'.

These two important factors combined in 1944 when the Labour Government introduced the Finance Act 1944, Part II of which abolished both the poll-tax and the tonnage restrictions on Chinese. The Minister of Finance, Walter Nash, summed up the government's attitude to the tax and the reasons for abolishing it:

While the law provides that a poll-tax shall be levied on Chinese coming into the country, the tax has not been collected for some years. We now propose to abolish the poll-tax, together with a number of other restrictions. We have no more right to ask the Chinese to pay a poll-tax than we have to ask the Japanese, the Germans, the Spaniards, or the Norwegians. (7)

In conclusion the finance minister acknowledged the injustice that had been done to Chinese New Zealanders for the 62 years that the poll-tax had been in force saying, ‘I do not know of anything more pleasing from the Government's point of view, and from the point of view of any one who understands international and racial affairs and knows a little of the history of the Far East and the Chinese people, than the removing of the blot on our legislation. We are merely saying that the Chinese are as good as any other race, and that we will not in

future countenance any discrimination against them.'(8)

Unlucky
Last

New Zealand was the last of the poll-tax imposing countries to abolish the tax. Australia had repealed her final remaining poll-tax in 1903 and Canada, which had imposed a poll tax on Chinese in 1885, in 1923. New Zealand retained the tax until 1944. While the reasons behind the eventual abolition of the tax were laudatory no credit devolves to New Zealand because of this. The best that can be said is that at last the ‘blot on our legislation' was erased.

During the period the poll tax was levied, the New Zealand government earned approximately £308,080 from its attempts to exclude the Chinese from New Zealand.

ADMINISTRATIVE
COMPLICATIONS

Exemptions

In its attempts to exclude Chinese from New Zealand, the government was forced by diplomatic expediency, as well as common decency and fairness, to exempt certain groups of Chinese from the provisions of the poll tax.

When the poll-tax was first introduced in 1881 it was decided that the following Chinese should be exempt from payment of the tax: Chinese crews of ships (providing they did not land) and Chinese already resident in New Zealand. These were entitled to a certificate of exemption from payment of the tax if they applied within two months of the passing of the Act. In addition a certificate of exemption was available to Chinese resident in New Zealand wishing to undertake a temporary absence from the country. This was based on the theory that, ‘a Chinese who has once paid the tax is not again liable to do so.' (9)

The 1888 Chinese Immigrants Act Amendment Act added several further exemptions from payment of the tax. These included Chinese naturalised in New Zealand, Chinese accredited by the government of China, or under the authority of the British government, and officers and crew of Chinese warships.

In 1910 the Chinese government objected to several of the provisions of the 1908 Immigration Restriction Act and proposed that Chinese merchants, tourists and students be allowed to visit New Zealand for a set period without having to pay the tax.(10) The New Zealand government agreed to this proposal and in 1911 set the time period for the three classes of Chinese visitors. These were six months in the case of merchants and tourists, and six years for Chinese students.(11) Chinese who overstayed these limits were presumably to pay the tax or be deported.

This principle of Chinese visitors being exempt from payment of the poll-tax was again applied to Chinese coming to New Zealand on temporary permits under the 1920 Immigration Restriction Amendment Act. This provision does not, however, appear to have been set out in any official publications. If Chinese on temporary permits were subsequently granted permanent residence, the poll-tax was to be paid.

Tax evasion

One difficulty for the New Zealand government was that these exemptions opened a loophole for new Chinese immigrants to evade payment of the tax. The two main exemptions, the certificate of exemption available to Chinese resident in New Zealand undertaking a temporary absence from the country, and the exemption from payment of the tax for naturalised Chinese, were assiduously used by new immigrants to evade the tax. This was done by buying an exemption certificate or naturalisation papers from a Chinese returning permanently to China. The traffic in these papers was considerable. An Internal Affairs memo of 18 March 1923 summed up the situation,

The Customs Department here has experienced . . . difficulty from time to time and there are in this Department a number of Chinese Naturalisation papers which have been confiscated . . . The motive is of course obvious, viz, to evade payment of the poll-tax etc as provided by the legislation which has been repeated in the Immigration Restriction Act 1908, Part III.(12)

The government and the Customs Department
devised various methods to attempt to prevent this evasion.

As early as 1883 Customs officials were told
to issue certificates of exemption only to Chinese who could prove they had
been resident in New Zealand prior to the passing of the 1881 Act, and to
deliver the certificate to the applicant only as they were leaving the
country.(13) This was to prevent them
being used, ‘for purposes other than for which they are issued.'(14)

In 1886 it was decided that Customs
officials should retain possession of certificates of exemption from returning
Chinese to prevent them being sent back to China to be used again by Chinese
not entitled to them.(15) In 1887 a
physical description of the holder of the certificate was to be noted on the
certificate as an aid to identification.(16)
It was also decided that the tax was to be collected from any Chinese
who overstayed the time period specified on the certificate. (17)

In 1900 a further tightening of the system
was instituted. Chinese returning from
an overseas visit were to deposit the amount of the poll-tax until
identification of the certificate-holder and proof-of-payment of tax on first
arrival in New Zealand was established.(18)
One method of establishing proof of identity was to take the thumb-prints
of the person in question, a system that came to be universally and fiercely
resented by all Chinese in New Zealand.

In 1902, in an attempt to streamline the
whole process, it was decided to establish proof of original payment of the
poll-tax at the time of issuing the certificate of exemption, not on the return
as previously.(19) Due to difficulties
in establishing proof of original payment of the poll-tax, and threats of legal
action from Chinese exasperated at delays in the return of their deposits, it
was decided in 1903 to drop the requirement of proof of original payment
altogether.(20)

These ad
hoc systems devised by the Customs Department were formalised in 1908 under
the regulations attached to the Immigration
Restriction Act 1908. Any Chinese
returning after the four-year period set out on the re-entry permit was to pay
the tax again, and all returning Chinese had to deposit the tax until
identification was established.(21)
These requirements remained in force until 1934 when Cabinet decided to
waive payment of the poll-tax.

The traffic in naturalisation certificates required a different solution, as it was probably felt that demanding proof of identity from a person who had taken the trouble to become a naturalised citizen of New Zealand was somewhat impolitic, especially as this included the humiliating process of having ones thumb-prints taken. It was therefore decided that the solution would be to cease granting letters of naturalisation to Chinese. This was done on 4 February 1908 by Cabinet decision following a recommendation by the Minister of Internal Affairs. It was felt at the time that the policy of attempting to restrict Chinese immigration to New Zealand warranted such a move. The decision was probably taken at this time and not earlier due to a general review of all government legislation that was going on at that time and resulted in a consolidation in August 1908 of 860 prior enactments. All the legislation concerning immigration, and the restriction of Chinese immigration, was consolidated in the Immigration Restriction Act 1908. An entire group of New Zealanders was therefore disenfranchised in an attempt to prevent a few of them from entering the country without paying an already unjust entry tax. Naturalisation of Chinese was only reintroduced in 1952, 18 years after payment of the poll tax was waived, and eight years after the tax itself was abolished.

(1) AJHR 1871 H-5, p.16

(2) Round Table 1920, p.222

(3) NZPD 1920 vol.187, p.908

(4) Cabinet decision 29 June 1926, in Ponton, p.69

(5) ibid

(6) ibid

(7) NZPD 1944 vol.267 p.724

(8) ibid p.725

(9) Customs Dept memo 15 May 1900

(10) AJHR 1910 A-2 pp.44-45

(11) New Zealand Gazette 1911 no.22, p.1047

(12) National Archives.
Internal Affairs Department
IA 1 116/7 Part 1. Chinese -
general question of naturalisation.

(13) Customs Dept memo 5 June, 23 July 1883

(14) ibid

(15) Customs Dept memo 21
July 1887

(16) ibid 20 Oct 1887

(17) ibid 5 Dec 1887

(18) ibid 15 May 1900

(19) ibid 9 Dec 1902

(20) ibid 6 Oct 1903

(21) New Zealand Gazette 1908 no.93, p.2996

NATURALISATION

Naturalisation is the process whereby immigrants legally acquire citizenship of the country to which they have immigrated. It confers on the naturalised person all the rights, protections, privileges and duties of citizenship. To many immigrants the act of naturalisation is the most important event in the whole process of emigration. By becoming naturalised they have made a commitment to their new country. The importance of this step is therefore acknowledged in many countries by a formal ceremony highlighting the solemnity and significance of the occasion. For the host country it is also an important way of letting new immigrants know they are welcomed and accepted.

Perhaps the most important aspect of naturalisation, however, is that it allows immigrants to partake fully in the civic and political life of their new country. They are able to vote, stand for Parliament, join the Public Service and practise a wide range of occupations closed to non-naturalised people. In effect they are citizens. To deny naturalisation to any person or group of persons is to condemn them to a marginalised existence. Withdrawal of the rights of citizenship renders a person politically powerless and without a voice in the running of the country, or even in matters that affect them personally. It is to say you are not, and never will be, part of us. And yet this is exactly what the New Zealand government did in the case of the Chinese in New Zealand. Between 1908 and 1952 Chinese were denied the right to naturalisation in New Zealand.

The reasons Chinese decided to become naturalised in the years prior to 1908 were varied. Some made a conscious decision to make a commitment to New Zealand, while others may have done so for less altruistic reasons. Of these, the main one was that naturalised Chinese were exempt from the provisions of the various restrictive immigration laws. An Internal Affairs memo discussed the motivations behind early Chinese naturalisation,

Prior to the year 1907 the grant of naturalisation to Chinese was not restricted. From 1884 to 1907 grants averaged only 17 a year. The Chinese population in the early 1880s reached 5,000 declining gradually to about 2,500 in 1907. There was little desire for naturalisation for its own sake and it would seem those seeking it were largely influenced by the exemption from race legislation conferred by the grant.(1)

It was this belief, that Chinese only sought naturalisation so as to evade restrictive immigration laws, which motivated the prohibition of naturalisation of Chinese in New Zealand.

New Zealand was not the only country that denied naturalisation to Chinese. In 1860 California prohibited naturalisation of Chinese, and in 1882 naturalisation of Chinese was abolished in the United States as a whole. In Australia, New South Wales stopped Chinese naturalisation in 1861, South Australia in 1882 and Victoria in 1887. Naturalisation was abolished Australia-wide in 1903.

Except for a brief period between 1885 and 1898 Chinese were effectively disenfranchised in Canada from 1875 to 1947. Although able to be naturalised, Chinese Canadians were denied the vote and were barred from a wide range of government and other employment.

The first attempt to deny naturalisation to Chinese in New Zealand occurred during the passing of the Aliens Act Amendment Act 1882. During the debate on the Act an attempt was made to take away the right of naturalisation to children of naturalised Chinese. This was done by adding the proviso, ‘that nothing in this Act shall apply to persons of the Chinese race.' Section two of the Act stated that children of naturalised persons were deemed to be naturalised. The proviso would have excluded children of naturalised Chinese from automatic naturalisation.

Although not stated in the legislation, the desire to disenfranchise Chinese New Zealanders was strongly in the minds of parliamentarians. Thomas Dick, MP for Dunedin West, summed up this sentiment by saying, ‘He thought they should adhere to the resolution not to admit members of the Chinese race to the privileges which were granted to other naturalised subjects of Great Britain. Other people came to settle, but the Chinese were brought here in shoals by a head man . . . and after a time they went away again.'(2) The Legislative Council

strongly objected to the proviso, one member considering it, ‘only a repetition of the injustice they had been guilty of in passing the Chinese Immigrants Act.'(3) It was defeated with the change of the word ‘Act' to ‘section.'

In addition to this parliamentarians feared that naturalised Chinese would be ‘bought' as block voters. It was deemed that retaining a higher fee for naturalisation of Chinese would act as something of a deterrent to this, even though, as one member pointed out, ‘if a moneyed man wished to buy their votes, he did not think the difference between 5s. and 22s. 6d. would stop him.'(4) In its final form the Act meant Chinese were still able to be naturalised, but had to pay more than other people for the privilege.

The question of placing barriers on naturalisation of Chinese was again raised during the passage of the Aliens Act Amendment Act 1892. In earlier versions of this Act an attempt was made to place obstacles to Chinese naturalisation by stipulating that Chinese naturalised in other British places would not automatically be naturalised in New Zealand. However this was dropped when it was pointed out that in that form the Bill would not receive the Royal Assent. A provision which was passed was section four, which abolished the fee for naturalisation, except in the case of Chinese. The rationale behind this, as with the Aliens Act Amendment Act 1882, was the fear that unscrupulous candidates for Parliament would pay for Chinese to be naturalised, thereby effectively buying their votes, and would use them as a block vote. As with the 1882 Act the high fee for Chinese was meant to act as a deterrent to this possibility. Many disagreed with the provision. Legislative Councillor James Fulton described the Bill as a ‘miserable irritating way of treating exceptionally the Chinese.' Whitmore called it, ‘a shabby little method of harassing these people.'(5) The question of fees for Chinese became academic following the prohibition on naturalisation of Chinese in 1908.

Other attempts were made in Parliament to tighten up on naturalisation of Chinese. In May 1887 Richard Seddon asked the Premier, Vogel,

if there is any foundation in the rumour that Chinese in New Zealand get naturalised under the Aliens Act, and forward the certificates home to their friends and relatives in China; and that these friends and relatives impersonate the Chinese in whose favour the certificates were issued, and on arrival in the colony produce these certificates and evade paying the poll-tax?(6)

Vogel replied that as naturalised Chinese were not exempt from payment of the poll-tax under the 1881 Act Seddon must be referring to the use of exemption certificates to evade paying the poll-tax. His promise to do something to tighten up on the evasions in the next parliamentary session did not eventuate. However the idea of targeting

Chinese naturalisation as a means of preventing poll-tax evasion was planted in Seddon's mind.

Later that same year one of Seddon's associates, Richard Reeves, again asked the government about Chinese naturalisation, this time actually calling for its abolition. (7) Major Atkinson, replying for the government, said that although the question of Chinese immigration was a very important one, he did not think the question of Chinese naturalisation was important at that time as, ‘the number applying for naturalisation was practically nil.'(8) In addition his government was loath to treat with hardship Chinese who had been in the colony for many years.

So the matter sat for the time being. In 1888 the Chinese Immigrants Act Amendment Act was passed, section two of which was to have a profound effect on the whole question of the naturalisation of Chinese in New Zealand. This section, introduced by the Legislative Council, exempted Chinese naturalised in New Zealand from the provisions of the 1881 Act, the 1888 amendment Act, and all subsequent Acts restricting entry of Chinese into New Zealand. The exemption of naturalised Chinese from immigration restrictions led to an obsession in anti-Chinese politicians' minds that a loophole in the legislation had been created. This obsession led to the eventual cessation of naturalisation for Chinese.

The reason behind the introduction of the exempting clause by the Legislative Council was the feeling by the Council that an injustice had been done and would continue to be done to people who legally were British subjects. Councillor Waterhouse explained the reasons in detail,

It was enacted under the Aliens Act 1880 that every person naturalised was entitled to all the rights and capacities which a natural-born subject of the United Kingdom can enjoy or transmit within the Colony . . . There were a number of Chinese at the present time who were entitled to all these privileges; and yet this Act withdrew from them to a certain extent these privileges, and entailed upon them if they went away the necessity of paying a new poll-tax on their return, which was a violation of the privileges conferred upon them by the letter of naturalisation. The naturalised subjects who had come under the law, and had become their fellow-subjects, were as deserving of protection in their rights and privileges as European subjects of the Queen were themselves, and it was an important duty of the Legislature not to allow any injustice to be done to them. (9)

Or as Pollen stated more simply, ‘In the amendment which we made in the Bill we have endeavoured to preserve the rights of natural-born and of naturalised subjects of the Queen.'(10)

Not surprisingly the House violently objected to the clause, rightly perceiving that in large measure it would negate the objectives of the Bill. In fact the Council had originally exempted Chinese naturalised in any part of the British Empire, horrifying the House with visions of thousands of Chinese

naturalised in Hong Kong and Singapore
swarming, restriction-free, into New Zealand. So contentious was the clause that no
progress was made on the Bill for four months and eventually a Free Conference
of both Houses was called to break the stalemate. The outcome of the conference was a victory
for the Council, even though a compromise had to be agreed on. The clause exempting Chinese naturalised
anywhere in the British Empire was dropped, but a new clause exempting Chinese
naturalised in New Zealand
was agreed to. It was a compromise that
clearly delighted the Council. As
Whitaker stated, ‘the Council had got everything their own way, and had
obtained everything they had asked for.
The first clause had been amended because, as he understood, it
conflicted with the Act of 1881, and therefore it had to be brought in unison
with it.'(11) However, despite this
victory for the Council, a weapon had inadvertently been given to the
anti-Chinese faction in the House which it could use to demand the abolition of
Chinese naturalisation in New
Zealand.

In 1893 Seddon was elected Premier and the
political climate immediately became much more conducive to anti-Chinese
legislation. In 1894 William Pember
Reeves introduced his Undesirable
Immigrants Exclusion Bill, which, in the end, was not passed. In October that year G W Russell asked the
government if it would ‘introduce a short Bill this session to prevent the
wholesale naturalisation of Chinese now going on in the colony, with the
apparent object of evading restrictive legislation on Chinese
traders?'(12) As the above-mentioned
Bill was not to be proceeded with, he suggested a short Bill of one or two
clauses to deal with the matter. Reeves,
who had a spate of introducing short Bills into Parliament that session,
replied that if he were to introduce any more short Bills, ‘he would be
threatened with a parliamentary strike.'(13)
However his solution to restricting the naturalisation of Chinese was to
call for a report on the character and length of residence in New Zealand of the applicant for
naturalisation. He thought that this
‘might perhaps prevent the naturalisation of undesirable Chinese.'(14) It is uncertain whether this measure had any
effect.

In 1895 and 1896 two further anti-Chinese
Bills were introduced to Parliament.
Neither of these, however, contained clauses prohibiting the
naturalisation of Chinese. Both of these
two Bills failed to pass. In July 1896
Seddon introduced yet another anti-Chinese Bill. This was the Asiatic Restriction Bill, section 18 of which proposed to put
into
practice what had been hoped for since at least 1882: the prohibition of
naturalisation of Chinese. During the
debates on the Bill, Seddon gave the following arguments for ceasing
naturalisation of Chinese,

The Customhouse officers have papers to prove
that the Chinese are evading the law.
They have been taking the certificates of the Customhouse officers and
sending them to China,
and on those papers Chinese have been coming to the various ports; but, when
questioned, it has been found that they have never previously been to the

Colony at all. When you have absolute proof that a race who have the privileges of our colony will deliberately evade the law, I say it is our duty to stop it. If they will evade the law when they have only £10 to pay, why, Sir, if you give them the same privileges and the same certificates, you will have these certificates bringing £90 premium to be sold in Hongkong or Canton. When you find that the paltry sum of £10 will be evaded, what will they not do if you make it £100! Therefore the only way to stop that is not to issue these certificates at all; and if you do that there is no chance of their evading the law. (15)

These were, in effect, the same arguments that had been used by Seddon and others since 1887.

The Bill was passed but failed to receive the Royal Assent, mainly because the definition of Asiatic included the Japanese, with whom Britain had recently concluded a treaty and who they therefore did not want to offend. Seddon's government responded by quickly passing the Chinese Immigrants Act Amendment Act 1896, which put into effect the most pressing elements of the Asiatic Restriction Act, namely raising the poll-tax from ten pounds to one hundred pounds, and doubling the tonnage restriction on Chinese passengers.

Seddon was still adamant about further restricting Chinese immigration, and in 1897 he introduced yet another restriction Bill which was practically the Asiatic Restriction Act 1896 again, with some cosmetic changes. The clause prohibiting Chinese naturalisation remained. This Bill also failed to pass. At this point the Australasian colonies were urged by the Colonial Office to try to achieve restriction of Chinese immigration by using a test that required an immigrant to read a passage presented by a Customs official. If the immigrant failed the test they were denied entry to the country. By putting restriction on educational grounds, the embarrassing question of race discrimination was avoided. This solution was accepted by most of the colonies, New Zealand included. Seddon therefore dropped the previous method of increasing the existing restrictions and introduced a Bill that used the reading test suggested by the Colonial Office. Introduced in 1898 it was passed the next year. It imposed a reading test on all non-British immigrants, but exempted the Chinese. The exemption for Chinese was on the grounds that they had already been dealt with by previous legislation.

Feeling that the problem of immigration restriction was settled for the moment the question of abolishing naturalisation of Chinese was left to lie for the time being. No further legislation was passed restricting Chinese immigration to New Zealand until the Chinese Immigrants Amendment Act 1907. This imposed a reading test on Chinese similar to that imposed on other non-British immigrants in 1899, but was much more stringent. The feeling that Chinese

had been dealt with by earlier legislation and could safely be exempted from the reading test had obviously died. In fact the intervening years had seen calls for even more stringent restrictions on Chinese immigration. Increasing the poll-tax was not seen as a solution, so the reading test was resorted to. The government believed, somewhat optimistically, that this new measure would virtually shut the door on Chinese immigration. During the debate on the Bill Premier Joseph Ward stated that

The test we propose means more restriction than any poll-tax could effect . . . with the proposal for a reading-test in English we believe that it will have the effect of restricting the influx of Chinese very greatly indeed, and, in fact, my own belief is that it will practically have the effect of prohibiting them.(16)

In 1908 the government undertook a general review of all previous legislation and in August of that year passed the Consolidated Statutes Enactment Act 1908. Under this Act eight hundred and sixty Acts of Parliament were consolidated, including all the legislation relating to immigration restriction enacted to that date. These were consolidated as the Immigration Restriction Act 1908. In sympathy with this review and the consolidation of the immigration restriction legislation it was decided to do what had been proposed on so many occasions since 1887: cease naturalisation for Chinese. The process was described in a 1946 Internal Affairs Department memo

In 1907 the ‘Chinese Immigrants Amendment Act' was passed in order to restrict the immigration of Chinese into New Zealand. In view of this legislation (which was embodied in the Immigration Restriction Act1908) the Minister of Internal Affairs decided not to naturalise Chinese and placed the matter before Cabinet for a decision. Cabinet decision on the 4th February was decline naturalisation.(17)

The reasons put forward were the same as had activated the anti-Chinese naturalisation proponents all along: to close the loophole on poll-tax evasion. An Internal Affairs memo of 1935 explained that, ‘This decision was much in view of our special immigration legislation with respect to Chinese, particularly in view of the possibility of Letters of Naturalisation being made the subject of traffic in order to evade poll-tax.'(18)

So it was that the incredible step of disenfranchising an entire group of immigrants was taken in an attempt to prevent a few of them from entering the country without paying an already unjust entry tax.

Interestingly, the cessation of
naturalisation did not lead the government to take the logical step of
repealing the exemption of naturalised Chinese from the provisions of the
restriction Acts. In many respects, however,
taking privileges away from people who were naturalised New Zealanders, Chinese
or not, would have amounted to political suicide.

Between 1908 and 1952 only three Chinese
were naturalised in New
Zealand, under exceptional
circumstances.(19) For the rest
naturalisation remained an impossibility.
The administrative process from cessation of naturalisation of Chinese
in 1908 to 1946 was described in a 1946 Internal Affairs memo

.
On 7th May, 1912, the question [of naturalisation of
Chinese] was submitted by the Under-Secretary to the Minister who directed that
the ‘previous decision remains.'

.
On 21st September, 1921, the Minister minuted a
memorandum regarding the Naturalisation of a Chinese subject as follows:-

‘There is no reason why Naturalisation and vote
should be granted to Chinese except on very special personal grounds. Refuse.'

On 18th March, 1923, a memorandum explaining the position was sent to
the Hon. Minister . . . The Minister again decided that no action should be
taken.

.
On 9th December, 1935, the question was again submitted
to Cabinet but was deferred until after the census of 1936 had been taken.

.
On 8th April, 1937, the Government Statistician
provided information then available regarding the Chinese. Consequently, the question was re-submitted
to Cabinet which directed:-

‘Postponed until census figures in regard to
Chinese are prepared and until full amount of financial responsibility is
determined.'

.
On the 2nd November, 1937, The Government Statistician
supplied . . . statistics relative to Chinese in New Zealand. . . The matter was
accordingly re-submitted to Cabinet but on the 13th November was deferred.

.
On 18th of July, 1939, the question was once more placed before Cabinet but no action was taken.

.
In May, 1940, the Government placed a ban on Naturalisation generally as a result of War conditions.

.
On 18th June [1946] Mr. John O'Shea interviewed the Minister of Internal Affairs concerning the application made by J.L. Choy. On 19th June the Minister minuted the file:-

‘Under-Secretary, Internal Affairs.

Mr. John O'Shea saw me about this case personally and I shall be glad if you will submit the papers so that I may take it to Cabinet for a decision. I understand that the general question of naturalisation of Chinese has been raised and this case contains good material to evidence the need for a change in policy.(20)

Only one other significant event relating to Chinese naturalisation during this period was omitted by the above chronology. In 1936 the newly-elected Labour Government's granting of the old-age pension to Chinese led many to believe that naturalisation was to be reintroduced. Prior to 1936 the pension was not available to Chinese, whether naturalised or not.
A 1939 Internal Affairs memo explained the understandable misunderstanding on the part of the Chinese

There is at present a considerable number of applications from Chinese who wish to become naturalised. These applications originated when an announcement was made by the Government that the bar against Asiatics receiving the pensions would be removed. The Pensions Act was amended accordingly in the year 1936.

As you are of course aware at the present time naturalisation is not necessary for the purpose of obtaining an age-benefit under the Social Security legislation.

All these applicants have been promised that they would receive a further reply when a decision was given in their cases, and as many of the applications have been on record for over two years I would suggest, for your consideration, that you take the matter to Cabinet, for a decision as to whether naturalisation is to be granted to Chinese.(21)

REINTRODUCTION OF NATURALISATION

The move towards the reintroduction of naturalisation of Chinese began, however tentatively, with the election of the Labour Government in 1935. Among its many radical social policies was a commitment to eliminate institutionalised racial discrimination. As the Department of Internal Affairs noted, ‘In 1935 the removal of race discriminatory legislation became a live question and in 1937 the then Minister of Internal Affairs directed that the question of the resumption of the naturalisation of Chinese should be decided by Cabinet. The subject was repeatedly placed before Cabinet but no decision was made.'(22)

As noted above a number of reasons of varying validity saw the decision repeatedly postponed. The most valid reason was World War II. In May 1940 government placed a general ban on naturalisation for the duration of the war.

In 1946, following the end of the war, the question of the reintroduction of naturalisation of Chinese once again arose. The commitment of the Labour Government to end racist policies was undiluted. A further impetus to this commitment was the pressure of post-war political realities. Former third-world British colonies had let it be known that immigration policies that had been acceptable prior to the war would no longer be so. As Brawley notes, ‘In the early post-war period the restriction of immigration on the grounds of race was increasingly seen by the emerging international community as untenable.'(23) In addition other Pacific-rim countries that had denied either naturalisation or the franchise to Chinese were also preparing to reintroduce these rights. The United States reintroduced naturalisation for Chinese in 1943 and Canada reintroduced the franchise for Chinese in 1947. Australia took somewhat longer, it was not until 1960 that Chinese were again able to be naturalised.

As part of this move towards reintroducing naturalisation for Chinese the Department of Internal Affairs reviewed the ongoing reasons for the prohibition, and concluded that

It will be seen that so far as can be ascertained from this Department's file the reasons for the present ban on the Naturalisation of Chinese are:-

(a) The intention of part III of the Immigration Restriction Act, 1908. In this connection it should be noted that this section of the Immigration Restriction Act was repealed by the Finance Act, no.3 of 1944 and it is, therefore, questionable whether this objection has now any validity.

(b) The
possibility of trafficking in Naturalisation papers in order to gain illegal
entry into New Zealand
and to evade poll-tax.(24)

The main reasons for abolishing the
naturalisation of Chinese had therefore ceased to exist. However, the government again appeared
reluctant to act on the evidence.
Additional pressure was put on the government to resolve the Chinese
naturalisation question with the passing of the British Nationality and New Zealand
Citizenship Act 1948, under which New Zealand
citizenship was created, and the granting of New Zealand constitutional
independence in 1947 under the Statute of Westminster.

Because of these pressures the Department of
Internal Affairs set out to review the question. It found once again that the original reasons
for imposing the prohibition no longer applied.
A June 1948 memo to the Prime Minister from the Department noted that

The ban on Chinese naturalisation was intended
originally to bring naturalisation policy into conformity with the principles
of the Immigration Restriction Act 1908, and the radical amendment of that Act
in respect of the Chinese by the Finance Act no.3 of 1944 has destroyed the
basis of any special treatment of Chinese nationals. Further, the policy of the present Government
to end racial discrimination is a positive factor requiring reconsideration of
the present ban.(25)

In addition it again found that the other
main objection, the fear of trafficking in naturalisation certificates by
Chinese, was no longer valid

One previous objection to Chinese
naturalisation was the possibility of trafficking in naturalisation
certificates. Such traffic, if it
existed at all in New Zealand, appears to have been limited to two or three
cases at the most, and officers of the Customs Department do not think that the
resumption of Chinese naturalisation on a small scale would have any adverse
effect whatever on the operation of the Immigration Restriction Acts. Thus it appears safe to disregard this
objection.(26)

One factor that did concern the Department,
however, was the possibility that Chinese might apply for naturalisation solely
for the purpose of bringing their families out to New Zealand.

This concern was caused by the March 1948
Cabinet decision approving a quota of 50 entry permits for the wives and minor
unmarried children of Chinese men who had arrived in New
Zealand prior to 30 April 1928, the date when the last

adult male Chinese permanent permit holders had entered New Zealand. One condition of the concession was that, ‘the Chinese concerned has applied for and is considered suitable for naturalisation in New Zealand.'

As the Department noted ‘The result has been a flood of applications for naturalisation applications from men who not only are in most cases unsuitable for naturalisation, but have no desire to be British at all, the naturalisation applications being mere formalities for the purpose of allowing the entry applications to proceed.'(27)

Another difficulty was the matter of dual nationality. Under Chinese law at that time, naturalisation in another country did not automatically mean the Chinese person lost their Chinese nationality. A formal divestment of Chinese nationality by the Chinese government was required. The New Zealand government was not happy about Chinese being nationals of both New Zealand and China, and therefore wished to make divestment of Chinese nationality a prerequisite for Chinese seeking naturalisation in New Zealand. A major concern relating to dual citizenship of naturalised Chinese was the possibility that it would slow the assimilation process. Internal Affairs explained that ‘Dual nationality . . . was especially undesirable in the case of Chinese with their preference for Chinese education and upbringing for their children, for Chinese-born wives and other instances of adherence to the traditional Chinese way of life.'(28)
One hurdle to this condition, however, was the difficulty in obtaining the release given the civil war that was raging in China at that time. The Department's solution to these problems was to only accept naturalisation applications from Chinese considered to be ‘highly assimilated', and to require divestment of Chinese citizenship, but with a proviso that the condition could be waived at the Minister's discretion. The Department of Internal Affairs therefore recommended to Cabinet on 12 July 1948 the reintroduction of naturalisation of Chinese on the following terms

That the naturalisation of nationals of China be now resumed, grants to be limited for the present to the most highly assimilated types, namely men with British wives, parents with children attending New Zealand schools, and young people educated in New Zealand schools, and no grant be made unless the applicant is considered to stand closer to a New Zealand way of life than to that of the Chinese community in New Zealand.

That Chinese applicants be required in general to obtain release from Chinese nationality before a certificate of naturalisation is issued, but with reservation of the right of the Minister of Internal Affairs to waive this condition in any individual case.(29)

Cabinet approved the recommendation on 15 October 1948.

The recommendation was not proceeded with,
however, due to continuing objections from the Chinese Consul-General, who, was
insistent that Chinese nationals about to be naturalised ‘should first be
required to obtain divestment of their nationality of origin from his
Government.'(30) As noted above the
Consul-General objected on the grounds that he was not prepared to recommend
the necessary renunciation of Chinese nationality where the desire for
naturalisation was not wholly genuine, but based on ulterior motives.

This impasse was not able to be overcome for
the meantime. A concession was reached,
however, in relation to the condition that Chinese applying to bring their
wives and children to New
Zealand must have applied for, and be
considered suitable for, naturalisation. Walter Nash, Minister of Immigration,
outlined the change in a letter to the Consul, Wang Feng

Dear Sir, I have to refer to your letter of the
2nd July, in which you made representations regarding the conditions under
which consideration is given to allowing the wives and children of Chinese
residents of New Zealand
to enter this country. . . With respect to condition (b) which requires that
the applicant shall have applied for and be considered suitable for
naturalisation in New
Zealand, I have to thank you for bringing to
my notice some of the difficulties involved in this position. After full consideration of the position, I
have come to the conclusion that this condition is open to objection in certain
respects and it has therefore been decided to amend the condition to read:-

‘(b) that the Chinese concerned is considered
to be a satisfactory resident of New Zealand.'

I trust that you and your Government will find
this quite satisfactory. (31)

On 22 June 1950 the Department of Internal
Affairs recommended a compromise. This involved having Chinese applicants make
a formal renunciation of Chinese nationality.
The formula was described by the Under-Secretary as follows

I consider that Chinese applicants, until it
proves possible to make formal arrangements for divestment, should be required
to make a unilateral declaration to the effect they formally renounce their
Chinese nationality and will not seek the protection of any foreign government
or perform any duties developing on them by reason of foreign allegiance. This would serve the first purpose of
divestment but would be of no validity at International law and the Chinese
Government could still lay claim to grantees as being their nationals.(32)

This was agreed to, no doubt in large
measure because of the changed political situation following the Nationalist
Government's loss of the civil war and its removal to the island of Taiwan. It was decided to use the following format

for this declaration

I . . . of . . . renounce my Chinese
nationality and my allegiance to the Republic of China and to any sovereign or
sovereign body in China
present or future.(33)

Unlike other applicants for naturalisation,
Chinese were required to make the declaration as well as the oath of allegiance
before a Stipendiary Magistrate. The
reason for this condition was set out by the Department as follows

. . . by the requirements that a declaration of
renunciation of Chinese nationality be made and the oath of allegiance
subscribed before a Stipendiary Magistrate, it is hoped to impress on
applicants by a degree of solemnity in the completion of the grant the
importance of the step they were taking.(34)

With the acceptance of these modifications
it was decided on 22 June 1950 that the previous recommendation for the
reintroduction of naturalisation of Chinese be resubmitted to Cabinet. The Department recommendation to reintroduce
naturalisation was with the following conditions

A. Grants to be limited for the present to the
most highly assimilated types, namely men with British wives, parents with
children attending New Zealand
schools, and young people educated in New Zealand; in the case of married
men the case to be considered in the light of its effect on the whole family,
i.e., wives and children.

B. No grant to be made unless the applicant is
considered to stand closer to a New Zealand way of life than to that of the Chinese
community in New Zealand.

C. All grantees to subscribe a unilateral
declaration of renunciation of their Chinese nationality.(35)

As can be seen from these conditions, the
decision was tentative and cautious in the extreme. The hesitancy can be attributed to the
ongoing perception of the ‘unassimilable' nature of the Chinese.

The recommendation was approved and was
formalised in March 1951 as part of the Government's review of immigration
policy relating to Chinese. Under this document naturalisation for Chinese
was resumed with four conditions

(1) That their primary loyalty is to New Zealand.

(2) That they comply with the normal requirements for naturalisation.

(3) That they subscribe a declaration of renunciation of Chinese nationality.

(4) That they are closer to the New Zealand way of life than to the Chinese.(36)

So, sixteen years after the reintroduction of naturalisation had first been raised by the Labour Government, and forty-three years after the right had been taken away from them, Chinese New Zealanders were again able to become citizens of their adopted country.

In August 1952 Mabel Sang, a radiographer from Napier, was the first Chinese to be naturalised following the reintroduction of naturalisation.(37) She was naturalised on 28 August 1952. On being asked by the New Zealand Listener why she had decided to become naturalised, she stated that, ‘in her work and in social activities outside, she has been treated and made to feel like any other New Zealander.'(38)

There remained only one final inequality in the naturalisation of Chinese to be removed. This was the necessity for Chinese wishing to be naturalised to subscribe to the declaration of renunciation of Chinese nationality. By 1958 the reason for the declaration, that there was a possibility of divided loyalty for Chinese between New Zealand, Nationalist China (Taiwan) and the People's Republic of China if they retained Chinese nationality, was felt by the government to be groundless, and that the Chinese were integrating well into the New Zealand community. It was decided that, ‘with the introduction of civic naturalisation ceremonies . . . the dignity and solemnity surrounding the final grant of a certificate of naturalisation is such that there appears to be no further need to make special arrangements for Chinese to appear before Stipendiary Magistrate to take the Oath nor to subscribe a declaration renouncing their Chinese nationality.' (39) It was therefore recommended on 18 February 1958 that

paragraph 1 (xi) of the Cabinet Minute be cancelled and Chinese applicants for naturalisation be dealt with under the normal statutory requirements and procedures.(40)

This was approved by the Minister of Internal Affairs in May 1958. With the approval of this recommendation Chinese were able, for the first time since 1882, to obtain naturalisation in New Zealand under the same conditions as any other immigrant. The whole long saga of Chinese naturalisation was finally at an end.

PRIVILEGES AND EXEMPTIONS FOR NATURALISED CHINESE

Naturalised Chinese enjoyed exemption from the legislative restrictions put in place against Chinese immigration. But exactly what were naturalised Chinese exempt from? For the first seven years of the poll-tax regime naturalised Chinese were subject to the tax. In 1888 it was decided under the Chinese Immigrants Act Amendment Act that naturalised Chinese were to be exempt from the provisions of that Act, and by extension the earlier 1881 Act as well. This decision meant that naturalised Chinese were exempt from all subsequent immigration restrictions. This, of course, was the reason behind the cessation of naturalisation of Chinese in 1908. A 1920 letter from the Department of Internal Affairs in response to an enquiry regarding the position of naturalised Chinese in New Zealand outlined the policy and privileges relating to naturalised Chinese at that point

Q.1. Can a Chinese become a British subject by naturalisation whether he be a resident of New Zealand or China?

Answer: Under the Aliens Act, 1908, Chinese, as well as subjects of other friendly countries, may lawfully be naturalised in New Zealand, provided that at the time of applying for naturalisation they are actually resident in the Dominion. An application for naturalisation could not be made by a Chinaman resident in China.

As a matter of public policy, however, Chinese have not since 1906 [sic] been granted naturalisation in New Zealand, and there is no prospect of the embargo being removed in the immediate future.

Q.2. ‘If he can become a British subject and is residing in China, would he then have to pay the poll-tax before landing in New Zealand?

Answer: There are a number of Chinese in New Zealand who were naturalised prior to

1906. Some of them pay occasional visits
to China. On returning to New Zealand and producing their
Letters of Naturalisation they are not required to pay poll-tax.

Q.3. And again assuming
he can so become a British subject, would it be permissible for him to bring
his wife to New Zealand
free of poll tax? or would she have to
be naturalised too?

Answer: The Aliens Act
1908, provides that where a man becomes naturalised his wife is also deemed to
become a naturalised British subject without the necessity of separate Letters
of Naturalisation being issued to her.
The wife of a naturalised British subject is also exempt from poll-tax,
provided that proof is produced of a permanent monogamous marriage.

NOTE:- It should be borne in mind that
naturalisation exempting from poll-tax is naturalisation in New Zealand. A Chinese naturalised in Australia is not a British subject in New Zealand.
(41)

EXEMPTION FROM CERTIFICATE OF REGISTRATION PROVISION

In addition to the exemptions from
restrictive immigration legislation, naturalised Chinese were until 1920 also
exempt from the necessity of obtaining a re-entry certificate if leaving New Zealand
on a temporary absence. This exemption
was abolished in 1920 by section 5(2) of the Immigration Restriction Amendment Act 1920. This stated that ‘A person shall not be
deemed to be of British birth and parentage by reason that he or his parents or
either of them is a naturalised British subject.' In other words naturalised Chinese were to be
subject to the provisions of the new Act, one of which was the need for
non-British permanent residents to obtain a re-entry certificate when
travelling overseas. It should be noted
that Chinese were not singled out for special treatment by this clause, all
other naturalised New Zealand citizens were also required to obtain re-entry
certificates when travelling overseas, as was noted by the Internal Affairs
Department in 1950

In common with other naturalised subjects
Chinese would not have free re-entry into New Zealand but would have to
comply with Section 5 of the Immigration Restriction Act, 1920.(42)

LEGISLATION
NATURALISED CHINESE NOT EXEMPT FROM

Although exempt from most of the restrictive
immigration legislation, naturalised Chinese were not exempt from legislation

that discriminated against Chinese actually in the country. The 1898 Old Age Pensions Act specifically excluded Chinese ‘whether naturalised or not', as did the 1911 Widows' Pension Act and 1926 Family Allowances Act which not only excluded naturalised Chinese, but local-born Chinese as well. In addition under the 1901 Opium Prohibition Act Police were able to enter without a search warrant the home of any Chinese, whether naturalised, local-born or not.

RIGHTS AND PRIVILEGES DENIED NON-NATURALISED CHINESE IN NEW ZEALAND

As stated at the beginning of this essay the denial of naturalisation to any person or group of persons condemns them to a marginalised existence and deprives them of the rights of citizenship. It renders them politically powerless and without a voice in the running of the country or even in matters that affect them personally. The details of the marginalisation suffered by Chinese in New Zealand between the years 1908 and 1952 are listed below. The list applies to all aliens and was compiled in April 1951 by the Nationality and Naturalisation Section of the Department of Internal Affairs. Apart from a brief period during World War II all aliens other than Chinese could rectify any disabilities they might have suffered from by becoming naturalised, an option not available to Chinese.

DISABILITIES OF ALIENS

GOVERNMENT SERVICE

Public Service

An alien may not enter the Public Service without the consent of the Governor-General. This restriction, set out in section 36(1) of the Public Service Act 1912, covers both permanent and temporary employees, but not casuals; it applies in all Departments of State under the control of the Public Service Commission.

Post & Telegraph Department

From 1918-1951 aliens could not be appointed to the permanent staff. The

policy was changed in March 1951.

Railways

There has never been any restriction on
the employment of aliens.

Police Department

There is no regulation restricting the
entry of aliens into the Police Force, but an alien may be incapable of taking
the oath of loyal service, and in practice aliens are not accepted.

Armed forces

Any person who is for the time being an
alien may, with the approval of the Army Board, be enlisted in the Army . . .
The previous legislation provided that only British subjects could enter the
forces. This rule was relaxed during both
World Wars.

MASTERS, MATES AND MARINE ENGINEERS

Only a British subject may present himself
for examination for the certificate of competency which qualify him to be a
master, mate or engineer of a British ship with a New Zealand port of registry.

ENGINE DRIVERS

Certificates under the Mining Act 1926,
the Coal Mines Act 1925 or the Inspection of Machinery Act 1928. An alien cannot sit for the examination to
qualify for the position of engine-driver under any of the above Acts.

DENTISTS

A dentist whether British subject or alien
whose qualifications were obtained at a University outside the British
Commonwealth has usually to complete three further years of study at the Otago
Dental School to qualify for registration.

MEDICAL PRACTITIONERS

If a doctor (whether alien or British subject) is included on the United Kingdom Medical Council's main register, he is entitled to immediate registration in New Zealand . . . in other cases registration in New Zealand on qualifications derived from a British or non-British country is [at] the discretion of the New Zealand Medical Council, and as a general rule a British subject or alien whose qualifications were obtained at a university outside the British Commonwealth has usually to complete three further years of study at Otago Medical School to qualify for registration.

BARRISTERS AND SOLICITORS

An alien may not be admitted a solicitor of the Supreme Court of New Zealand . . . This disability inherited from the common law of England applies in practice also to barristers and judges of the Supreme Court and to notaries public who are in practice persons who have been admitted as solicitors. Before the law was declared in 1928, aliens were in fact admitted as practitioners.

ARCHITECTS

An alien cannot become a registered architect as the New Zealand Institute of Architects restrict their membership to British subjects.

RADIO OPERATORS LICENSES

No alien can be granted any kind of wireless telegraphy operator's certificate. This restriction exists by virtue of a Cabinet decision to that effect.

AIRCRAFT PERSONNEL

Pilots

Although there does not appear any specific reference in the Air Navigation Regulations 1933 to the holding of Pilot's licenses by aliens, the Civil Aviation Branch advise that as a matter of policy the consent of the Minister would be obtained before an alien was granted a license.

Aircraft maintenance engineers

A candidate for a license must be of British nationality or shall be exempted in writing from this requirement by the Minister.

Flight engineers

A candidate for a license must be of British nationality or shall be exempted in writing from this requirement by the Minister.

EDUCATION

An alien is subject to compulsory school attendance in the same manner as a British subject. Alien householders may participate in the election of school committees, and may be elected to the same. An alien may sit for all school examinations, matriculate at University and hold a free place.

Bursaries

No bursary shall be awarded to . . . any person (a) who is not a British subject by birth or naturalisation or (b) who has not resided in New Zealand for the 12 months immediately preceding the last date in any year on which applications for bursaries . . . relates.

Scholarships

The majority of scholarships can be held by an alien except a few which are privately endowed.

LOCAL BODY ELECTIONS

1. An alien is not capable of being elected or appointed as a member of a territorial local authority nor of voting at an election of members of such a local authority.

2. The restriction probably applies to local authorities other than territorial local authorities (e.g: power boards)

3. Harbour Boards

An alien is incapable of being elected or appointed to be a member of a Harbour Board.

RESERVE BANK

An alien may not become Governor,

Deputy-Governor or a member of the Board of the Reserve Bank.

JURY SERVICE

An alien may not service on a jury.

ADOPTION

An alien may have difficulty in obtaining from a Magistrate an order for his adoption of a British child, as the Magistrate may in his discretion regard the severance of nationality to be not in the child's interest.

ELECTORAL RIGHTS

An alien may not vote at Parliamentary elections. [includes qualification to stand as a Member of Parliament]

CHANGE OF NAME, ADDRESS, OCCUPATION

There is no restriction on an alien changing his name, whether by poll, usage or custom. However any alien who changed his name, whether by marriage or otherwise is required to notify the nearest police station. Furthermore any alien who changes his private address, business address or occupation is required to also notify particulars to the police.

BRITISH SHIPS

Aliens may not own nor hold a share in a British ship; even naturalised aliens are to some extent debarred from doing so.

LAND AGENTS, AUCTIONEERS, HOTEL LICENSEES

In these occupations there may be indirect restrictions on the entry of aliens. A person desirous of becoming a land agent must satisfy a magistrate that he is a, ‘fit and proper person' to hold a land agent's license, and it is conceivable that an alien who had been refused naturalisation or did not desire it might find difficulty in convincing the court of his suitability.

CLOSING HOURS OF SHOPS

The Shops and Offices Amendment Act excludes shop occupiers who are not British subjects from participating in polls to determine closing hours. The intention is to prevent the determination of these hours by alien groups such as the Chinese who in many districts form a majority of the fruit retailers and laundrymen. Their exclusion from these polls does not materially affect their economic success.(43)

STATUS OF CHINESE MARRIAGE IN NEW ZEALAND

The exemptions available to naturalised Chinese were only available to their wives and children if the marriage could be proved. As marriage in China earlier this century was a civil, not a legal procedure, Chinese marriages were mostly not recognised in New Zealand.

In 1897 the Crown Law Office declared that under the Aliens Act of 1880 a woman married to a naturalised person is herself naturalised, but in the case of Chinese insisted it, ‘could not accept the marriage from a country where polygamy was accepted.'(44) This somewhat dubious decision was later revised.

In response to a query to the Department of Internal Affairs regarding the status of Chinese wives of naturalised Chinese, it was stated

The Aliens Act 1908 provides that where a man becomes naturalised his wife is also deemed to become a naturalised British subject without the necessity of separate Letters of Naturalisation being issued to her. The wife of a naturalised British subject is also exempt from poll-tax, provided that proof is produced of a permanent monogamous marriage.(45)

The need for Chinese to be able to prove marriage legally was again restated in 1948 where one condition of the quota of 50 permits granted to Chinese permanent residents (who had arrived in New Zealand before 1928) to bring their wives and children to New Zealand was

that the Chinese concerned will be required . . . to produce a marriage certificate in respect of his wife . . . or satisfactory evidence in lieu of such certificates.(46)

The remedy for Chinese who wanted to obtain the exemptions available to naturalised Chinese was to obtain a Western marriage certificate prior to returning to or arriving in New Zealand. This was usually done in Sydney.

WIFE OF NON-NATURALISED CHINESE NEW ZEALANDER LOSES NEW ZEALAND

CITIZENSHIP

The adoption in 1923 of Part III (especially section 12) of the British Nationality & Status of Aliens Act 1914 into the British Nationality and Status of Aliens (in New Zealand) Act meant that the wife of an alien lost her New Zealand citizenship. Between 1908 and 1952 when Chinese were not allowed to be naturalised any European New Zealand woman who married a Chinese lost her New Zealand citizenship. Other aliens could rectify this if they wished by becoming naturalised, but not Chinese since they had lost the right to naturalisation. As has been correctly noted this often led to a woman having no nationality at all. In recognition of this the Act was amended in 1935 so that the wife of an alien was able, after making a declaration, to retain her citizenship as long as she remained in New Zealand. As the New Zealand Yearbook explains

> the New Zealand Act allows a woman who has lost her British nationality by reason of her marriage to an alien the right while she remains in New Zealand to claim the same privileges as if she had remained a British subject. The legislation does not seek to alter the fact that such a woman has in law ceased to be a British subject; it merely says that upon making the prescribed declaration she is, while she remains in New Zealand, entitled to all the rights and privileges and is subject to all the duties and obligations of a natural-born British subject.(47)

Between 1935 and 1946 seven women married to Chinese made the declaration.

The provision was repealed in 1946 by the British Nationality and Status of Aliens (in New Zealand) Amendment Act. This provided the provision that ‘no woman British subject lost her nationality on marriage even if she automatically gained foreign nationality, unless she declared herself an alien.'(48) The provision was made retrospective, which surely was a relief to the small community of New Zealand wives of non-naturalised Chinese New Zealand men.

NATURALISATION OF ALIENS DURING WARTIME

Although naturalisation of Chinese was prohibited between 1908 and 1952 the Second World War provided an opportunity for one Chinese New Zealander to be naturalised during that period. As Nancy Taylor explains

the British Nationality and Status of Aliens
(in New Zealand) Amendment Act of August 1943, following enactments in the United Kingdom, provided that anyone who was or had been in the forces during the war and who was deemed a proper person to become a British subject could be naturalised.(49)

The Chinese New Zealander who benefited from this concession was Anthony Joe. Joe, ‘a national of China', served with the Royal New Zealand Air Force from February 1944 to June 1945 and was granted naturalisation on 15 December 1947 on the basis of his military service.(50) It was stated as part of his recommendation for naturalisation that it was felt ‘such a grant made now to a Chinese ex-serviceman might have a tonic effect on the local Chinese community.'(51)

(1) National Archives.
Internal Affairs Department
IA 1 116/7 pt 2 Memo for Minister, 22 June 1950

(2) NZPD vol.43 1882, p.572

(3) ibid, p.315

(4) ibid, p.572

(5) NZPD vol.72, 1891, p.246

(6) NZPD vol.57 1887, p.227

(7) NZPD vol.58 1887, p.220

(8) ibid

(9) NZPD vol.60 1888, p.395-6

(10) ibid, p.245

(11) NZPD vol.63 1888, p.468

(12) NZPD vol.86 1894, p.611

(13) ibid

(14) ibid

(15) NZPD vol.94 1896, p.317

(16) NZPD vol.142 1907, p.842

(17) IA 1 116/7 Pt 1 Chinese
- general question of naturalisation, 24 June 1946

(18) ibid. Memo, 9 December
1935

(19 Frank Kow Kee, married
to a European, two sons served in New Zealand
armed forces during WWI, Kathleen Pih, adopted as a baby by European parents
and at time of naturalisation a final year medical student at Otago University,
and Anthony Joe, who served in the RNZAF during WWII. IA 116/7 pt 2 Memo, 22
June 1950

(20) IA 1 116/7 pt 1 24 June 1946

(21) IA 1 116/7 pt 1 Memo, 6 July 1939

(22) IA 1 116/7 pt 2 Memo, 22 June 1950

(23) Brawley, 1993 p.17

(24) IA 1 116/7 pt 1 24 June 1946

(25) IA 1 116/7 Memo for Walter Nash from Assistant Under-secretary Internal Affairs 9 June 1948

(26) IA 1 116/7 Memo for Minister of Internal Affairs, 12 July 1948

(27) IA 1 116/7 pt 1 Memo, 12 July 1948, p.3

(28) IA 1 116/7 pt 2, 22 June 1950, p.2

(29) ibid, p.4

(30) IA 1 116/7 Pt 2, 3 Jan 1952

(31) IA 1 116/7 Pt 2, 14 September 1948

(32) IA 1 116/7 Pt 2, 22 June 1950, p.3

(33) IA 1 116/7 pt 2, 26 June 1951

(34) IA 1 116/7 pt 2, 3 Jan 1952

(35) IA 1 116/7 pt 2, 22 June 1950, p.3

(36) Labour Department L 1 22/1/81, 13 March 1951, p.2

(37) IA 1 116/7 pt 2, 25 July 1952

(38) New Zealand Listener 26 Nov 1954, p.26

(39) IA 1 116/7 pt 2 Naturalisation of Chinese, 18 February 1958

(40) ibid

(41) IA 1 116/7 pt 1 15 April 1920

(42) IA 1 116/7 Pt 2 22 June 1950, p.2

(43) Abridged and edited
from: IA 116/10 Aliens and foreigners - legal status of in New Zealand pt 1, April 1951

(44) Sedgwick, p.275

(45) IA 1 116/7 pt 1 Letter
from Dept, 15 April 1920

(46) L 1 22/1/81. Customs
Dept memo C 33/253/M. Asian immigration. 29 September 1950, p.4

(47) New Zealand
Official Yearbook, 1942, p.45

(48) Encyclopaedia of New
Zealand 1966 vol.II, p.637

(49) Taylor Home Front vol II p.872

(50) IA 1 116/7 pt 1 memo for
Minister Internal Affairs 7 Nov 1947

(51) ibid

THUMB-PRINTS
AND EDUCATION TEST

In its attempt to restrict the immigration
of Chinese into New Zealand,
the New Zealand
government introduced two measures that caused profound offence and became
infamous within the New Zealand Chinese community. These were the thumb-print and the education
test.

THE THUMB-PRINT

The thumb-print was introduced as a means of identifying Chinese who wished to leave New Zealand on a temporary basis and then return. The history of the requirement goes back to the imposition of the very first restrictions on Chinese immigration. Under section 14 of the Chinese Immigrants Act 1881, a Certificate of Exemption was issued to Chinese wishing to leave New Zealand for a brief time. The certificates were proof of prior residence and also payment of poll-tax. They were designed to protect Chinese from having to repay the tax on their return to the country. Until 1900 Certificates of Exemption were also used as replacements for lost poll-tax certificates.

As early as 1883 the government became aware that Chinese were sending the Certificates of Exemption back to China as a way for new immigrants to avoid paying the poll-tax. Accordingly it began tightening the issuing procedures of the certificates. A Customs Department memo of 1883 required that Certificates of Exemption were not to be issued to any Chinese who was not able to produce an exemption from payment of poll-tax certificate under s13 of the 1881 Act. Certificates were also not to be granted on a written application only.(1)

As very few Chinese availed themselves of the opportunity of acquiring the payment of poll-tax exemption certificate, this instruction was later modified so that Certificates of Exemption could be issued on satisfactory proof that the applicant was entitled to the earlier-named certificate.(2) As an added precaution against possible misuse of the certificates, they were to be issued to applicants only at the time when they were actually leaving the country.

In 1887 it was decided that physical descriptions were to be written on the Certificates of Exemption to enable the holder to be identified.(3)
Identification of certificate holders became increasingly more rigorous. An 1897 memo instructed Customs officers that

> The holder must be questioned as to his identity with the person named in the certificate, and he must be required to produce corroborative evidence if there is any doubt. . . Any evidence is to be attached. . . . (4)

A further refinement to the system was introduced in 1900. Photographs and

thumb-prints of the applicant were to be added to the existing means of identifications. Officers were advised that they were to

record such personal description of the Chinese as may aid in his identification and also retain an impression of his thumb on sealing wax.(5)

Legal difficulties again forced a change in the system of identification. From 1887 it had been decided that the temporary deposit of the poll-tax was required in cases where the identity of the certificate holder was in doubt.(6) On receiving conclusive proof of identification, the deposited poll-tax was to be returned to the person in question. Lengthy delays in this procedure forced many Chinese to threaten legal action to recover their poll-tax deposits. It was decided, therefore, that, ‘the proper time for requiring the evidence [of first payment of poll-tax] is before giving the Certificate.'(7) As it was often almost impossible to produce the necessary evidence proving first arrival in the Colony, it was decided in 1903 to waive the requirement and to assume that all Chinese resident in New Zealand at the time of the decision were legally entitled to Certificates of Exemption.(8)

A new system was instituted to simplify the identification of returning Chinese. From 13 June 1904 all new Chinese immigrants were required to record their finger and thumb-prints on both their poll-tax certificate and on the poll-tax butt kept by the Customs Department. In addition prints were to be recorded on the Certificate of Exemption as well as the copy of the certificate kept by the Department for later identification purposes. On returning to New Zealand prints were again taken so they could be compared with those on the poll-tax butt and on the copy of the certificate.(9)

Under the Immigration Restriction Act 1908, which consolidated all immigration legislation to that date, the thumb-printing system was formalised in the Immigration Restriction Act regulations. These made provision for Chinese residents in New Zealand to leave New Zealand for a period of up to four years provided they applied for a Certificate of Registration, and provided they supplied, ‘impressions of [their] thumbs on both forms of certificate for the purposes of identification, if necessary, on [their] return.'(10) The necessity to record thumb-prints on the poll-tax certificates was also retained.

As noted above the whole Kafkaesque procedure was meant to prevent Certificates of Exemption and Registration being used to evade payment of the poll tax. In effect, however, the need to provide both photographs and thumb-prints as a means of identification implied that all Chinese looked the same, an idea deeply offensive to the Chinese.

The Chinese also felt that the need to provide thumb-prints put them in the same category as criminals, and were, not surprisingly, greatly insulted by it.

The thumb-print requirement was not abolished until 1920 when the provisions of the Immigration Restriction Amendment Act 1920 rendered its retention supposedly unnecessary. A 1921 Customs memo informed officers that

It has now been decided that in future thumb-prints are not to be required from any Chinese on whose account poll tax is paid . . . it will not be necessary either to take thumb-prints . . . from a Chinese admitted under a permit with photograph attached. (11)

The Chinese Consul, Lin Shih-yuan, summed up the feelings of the Chinese in New Zealand when he called the thumb-printing provisions ‘degrading and barbarous'. In a letter to William Downie Stewart he noted that

Thumb-prints are used in China in the identification of criminals, and, consequently, is a very cruel and unjust thing to apply it to the Chinese who are free from guilt and who are the subjects of one ally of the intents of the late war. (12)

He found the abolition of the thumb-prints an ‘empty compliment', and, as the only one of the Australasian and North American nations to impose such a measure, correctly noted that, ‘the way that New Zealand treats the Chinese is the worst among all the white states.'(13)

EDUCATION TEST

Along with the poll tax and the tonnage restriction on Chinese travelling to New Zealand on passenger vessels, the other major restriction on Chinese immigration to New Zealand was the education test. The education, or reading test, was brought in as part of the Chinese Immigrants Amendment Act 1907. Section three of that Act stated that

It shall not be lawful for any Chinese to land in New Zealand until it has been proved to the satisfaction of the Collector or some other principal officer of Customs at some port in New Zealand that such Chinese is able to read a printed passage of not less than one hundred words of the English language, selected at the discretion of such Collector or principal Officer.

The origins of the education test can be traced to 1897. It was the method devised to restrict undesirable migrants to British colonies without reference to the embarrassing question of race.
The Colonial Secretary, Joseph Chamberlain, was at the time coming under increasing pressure, both domestic and foreign, to ‘control the embarrassingly xenophobic tendencies of Britain's Australasian colonies.' At the Colonial Premiers' Conference in London in 1897, Chamberlain suggested the solution to achieving effective restriction could be by using the model of the Natal Immigration Restriction Act 1897. This entailed a dictation test requiring an intending immigrant to read a passage in any European language the Customs official presented.

The method was called the ‘Natal Formula.' By putting restriction on educational grounds the tricky and embarrassing question of race discrimination could be avoided. The ‘Natal Formula' was subsequently adopted by most of the Australasian colonies, New Zealand included. The Immigration Restriction Act 1899 included a section that stated immigrants would be deemed prohibited if, on demand, they were unable to ‘write out and sign . . . in any European language, an application in the form numbered two in the Schedule hereto, or in such other form as the Colonial Secretary from time to time directs.' (s3(1))

In New Zealand this provision was never exploited to its full potential.
As P. S. O'Connor wrote, ‘No attempt was made to demand the writing out of forms in any language other than English, and by obligingly enshrining in its act a single fixed form the government made itself an easy victim of those who could be drilled to recognise and write out a few carefully learned lines.'(14) Under section 21 of the 1899 Act, however, the Chinese were exempted from the test. It was felt at the time that with the restrictions already in place against the Chinese, namely the poll-tax and tonnage restriction, the Chinese had already been ‘dealt with'.

In 1907 the question of further restricting Chinese immigration was raised again in Parliament and the government introduced its Chinese Immigrants Amendment Act 1907. Introducing the Bill, the Attorney-General John Findlay, stated that

Honourable members will observe that it is a further extension in the direction of the exclusion of Chinese from our country. I need not repeat what was said here the other day - that absolute exclusion is not permitted by reason of the international relationship between the Mother-land and China, and so this method of imposing restrictions upon the admission of Chinese is necessarily resorted to. (15)

It was hoped that, in lieu of a total

prohibition on Chinese immigration, the reading test would be an effective block on their immigration.

It is in addition to the poll-tax; and I am informed that the number of Chinese who can read the English language in such a manner as would reasonably be asked by the Collector of Customs will be few, and will reduce the influx of Chinese into this country to practically nil. (16)

The Chinese community petitioned the Governor-General protesting against the Bill, but to no avail. It was duly passed and a further barrier to Chinese immigration to New Zealand was put in place.

A consolidation of all the immigration laws to date took place in 1908, and the reading test was carried over as s42(1)(a) of the new Act (1908 no.78).

In 1920 the New Zealand government introduced a Bill that was a radical rethinking on immigration policy and immigration restriction. The provisions of that Bill, later to be passed as the Immigration Restriction Amendment Act 1920, made earlier restrictions such as the education test redundant. The permit system, which was the crux of the 1920 Act, was seen as an effective control on immigration since immigration was at the discretion of the Minister of Customs. Consequently the test was repealed (s4(1)(c)). The Prime Minister, William Massey, on reporting the intention to repeal the test, noted

I have mentioned the question of alien immigrants, and honourable members will know that at present what is provided to safeguard foreign immigration is the education test. Well, the education test - and members know it as well as I do - has been of very little value indeed, and we are dropping it. The provisions of this Bill will take its place, and I feel certain if we can bring it into operation - and I have no doubt of that - that they will be found much more effective.(17)

So was abolished a short-lived experimental measure in the quest to achieve effective restriction on non-European immigration to New Zealand.

NOTES

Chinese Consul Lin Shih-yuan's protest
against the education test, 1920:

The literature test is the most unfair of
all. Before they are allowed to land,
the Chinese immigrants are called upon to pass the test. The white man is asked simply to read his own
language, but a Chinese is required to read 100 words of a language foreign to
him. These 100 words are selected by a
Customs officer, and the reading must satisfy him, and he has great power in
this respect. Now those Chinese who have
bad luck and fail in the examination, unless appealed to the magistrate at
once, must, according to the law, be deported immediately by the boat in which
they came, and find their way back to their native land without even a brief
stop after a long and fatiguing trip on the ocean. . . If humanity means
anything, such a state or condition should not be allowed to exist any longer. So, for the sake of humanity, I appeal to the conscience of the New
Zealand people, and ask, if the positions
were reversed, would they tolerate it? I
venture to say that the way that New Zealand treats the Chinese is
worst among all the white states.(18)

Example of education test:

Who those little boys were, I shall probably
never know to my dying day. They were
very pretty little men, with pale faces, and large, sad eyes; and they had
beautiful little hands, and little boots, and the finest little shirts, and
black overcoats lined with the richest silk; and they had picture-books in
several languages - English and French and German, I remember.

2. Two finer little men I never set eyes
on. They were travelling on the
Continent with a very handsome, pale lady in mourning, and a maid-servant
dressed in black too; and on the lady's face there was the deepest grief.(19)

(1) Customs Dept memo, 5 June 1883

(2) ibid, 25 July 1883

(3) ibid, 20 October 1887

(4) ibid, 17 August 1897

(5) ibid, 15 May 1900

(6) ibid, 20 October 1887

(7) ibid, 9 December 1902

(8) ibid, 6 October 1903

(9) ibid, 13 June 1904

(10) New Zealand Gazette 23 July 1908, p.2996

(11) Customs Dept memo, 4 March 1921

(12) quoted in Sedgwick, p.248

(13) ibid, p.249

(14) O'Connor, p.44

(15) NZPD vol.142 1907, p.961

(16) ibid

(17) NZPD vol.187 1920, p.907

(18) Lin Shih-yuan to William Downie Stewart. Hocken Library MS 985/1/44/1: 1 June 1920, quoted in Sedgwick, p.249

(19) National Archives. Customs Department. C-W 16/4 ‘Education test for Chinese.' 1919-1920

see also:

Customs Department memo no.1919/69 6 November 1919 - Reading test for Chinese

NZPD vol.134 1905, pp.397-398. Method of identifying returning Chinese explained.

NZPD vol.136-137 1906, pp.758-759. ibid

CERTIFICATES
OF REGISTRATION

Certificates of Registration were re-entry permits. They were issued to any permanent or New Zealand-born alien resident (New Zealand birth did not always guarantee full naturalisation rights) wishing to leave New Zealand on a temporary basis. The intention was to prove a person's right of re-entry and was only required by those who needed a permit to initially enter New Zealand.

From 1920 to 1987 the period of absence was set at four years. The exception was a brief period between 1951 and 1957, when the period of absence was reduced to eighteen months. This was introduced as part of the government's policy of assimilating the Chinese New Zealand community. By forcing Chinese to stay in New Zealand and forgo the traditional visits to China, it was hoped they would begin to regard New Zealand and not China as home. The policy was probably changed when the government saw that it was redundant as the Chinese themselves were no longer interested in returning to a China ruled by communism.

Up to 1920 Certificates of Registration were solely for Chinese. Until 1908 they were called Certificates of Exemption.

Certificates of Exemption were originally introduced following the passing of the Chinese Immigrants Act 1881. The intention was that Chinese should only pay the poll-tax once, when they first arrived in the country. The Certificates were to protect Chinese from having to repay the poll-tax if they left New Zealand for a brief time and then returned. Certificates of Exemption also came to be used as replacements for lost poll-tax certificates.

As early as 1883 the government became aware of an illegal traffic in both Certificates of Exemption and poll-tax certificates. Certificates were being sent back to China and being used by new immigrants to evade paying the poll tax.

Accordingly, in 1886 the government tightened its procedures. A new emphasis was placed on identification of the person to whom the certificate was issued. To ensure that only genuine returning Chinese were exempted from the provisions of the Immigration Acts, physical descriptions, photographs, and thumb and finger-prints were attached to the Certificates.

From 1886 to 1908, the means of identification used on the Certificates was governed by Customs Department policy. During this period the Customs Department increased the number of identification requirements bringing further refinements to the system of

identifying returning Chinese.

With the passing of the Immigration Restriction Act 1908, the systems developed by the Customs Department were formalised in the publication of the Immigration Restriction Act regulations. Part of this formalisation entailed renaming
Certificates of Exemption, ‘Certificates of Registration'.

A significant change in immigration policy was made in 1920. The new system meant that all people who were not British or Irish had to have a permit to enter the country. Before this the only requirement was that a non-British or Irish immigrant (excepting Chinese immigrants) be able to write 100 words in any European language on the demand of a Customs official.

After the permit system was introduced there was a need to ensure that these other permit-carrying immigrants were also exempt from having to re-prove their status every time they left and re-entered the country. The solution was a re-entry permit modelled on the Certificate of Registration for Chinese. As with Chinese the period of absence was set at four years, although occasional exceptions to this rule were allowed.

Chinese continued to be singled out however. Although the finger-printing was abolished, poll-tax certificate details such as the receipt, number, date and port were required to be attached to the Certificate of Registration. The purpose was to continue to prevent the illegal traffic in immigration papers.
In addition, naturalised Chinese were no longer exempt from having to obtain a re-entry certificate (set out in section 2 of the Chinese Immigrants Act Amendment Act 1888 and consolidated by the Immigration Restriction Act 1908).
Section 5(2) of the 1920 Immigration Restriction Amendment Act stated ‘A person shall not be deemed to be of British birth and parentage by reason that he or his parents or either of them is a naturalised British subject.'
see also Certificate of Registration

This singling out of Chinese only stopped when the levying of poll tax was discontinued in 1934. It meant that Chinese coming after 1934 didn't need to attach poll-tax details to their Certificates of Registration. On the surface, Chinese and other permit-carrying immigrants were treated on the same basis.

In 1939, following the decision to allow New Zealand Chinese men to bring their wives and dependent children to New Zealand for a two-year period, it was decided to amend the regulations relating to Certificates of Registration so that the certificates were issuable only to persons fifteen years of age or over.
This was introduced to prevent the children born to Chinese women who

had come under the provisions of the two-year concession, from returning to New Zealand at a later date. The decision was clearly discriminatory, and showed the continuing paranoia of the New Zealand government in relation to Chinese immigration.

For 67 years there was no significant change to the New Zealand immigration permit system. That was until the passing of the Immigration Act 1987. While there were substantial changes in the wider arena of immigration, there was little change to the area governed by Certificates of Registration.

The 1987 Act displayed a distinct shift in thinking. The emphasis was not on permits for entry into the country but permits to stay in the country. A permanent residence permit was introduced. This actually expires when the holder of the permit leaves the country. Those wishing to travel overseas and return to New Zealand are required to obtain a Returning Residents Visa. This visa is not unlike a Certificate of Registration. The visa is an endorsement in a person's passport showing they are entitled to a new residence permit when they return to New Zealand.

In theory Chinese were treated no differently to other immigrants with regard to the provisions of the re-entry permits. But in practise they were subject to discrimination. The main discrimination affected local-born Chinese.

LOCAL-BORN CHINESE AND CERTIFICATES OF REGISTRATION

The question of where local-born Chinese fitted under the provisions of the Certificates of Exemption was not raised when the Chinese Immigrants Act was passed. In 1881 there were no local-born Chinese, so Certificates of Exemption covered all Chinese wanting to temporarily leave New Zealand.
By the beginning of the 1900s, however, there was a growing population of local-born Chinese. The custom in the community of sending local-born children to China to acquire a Chinese education meant the question of whether these people should come under the provisions of the Immigration Acts was becoming more common. The rationale behind the

Certificates of Registration, as with the Acts under which they operated, was restriction. The fear was that new Chinese immigrants would come to New Zealand without paying the poll-tax or undergoing the reading test by illegally acquiring legitimate Certificates of Registration or naturalisation papers. Chinese naturalised in New Zealand were exempt from the provisions of the immigration restriction Acts.

Where did Chinese born in New Zealand fit? Were they exempt? A 1915 Customs Department memo gave Customs officials guidance on how to treat both local-born and naturalised children.

Where it becomes known to Collectors that Chinese children born in New Zealand are leaving with their parents or guardians for a visit to China or countries abroad, warning should be given that certificates of identification will be necessary if such children wish to return, also that they must return within four years to land without restriction. Children of naturalised Chinese who have resided with their parents in New Zealand during infancy are not Chinese within the meaning of the Act but it is nevertheless desirable in their own interest and for purposes of identification that they should take out papers showing photos and thumb or finger prints, it being understood that in their case the time limit of four years will not apply.(1)

The question of whether local-born Chinese should have the same legal status as naturalised Chinese was not tested legally until 1919, when Joe Lum and Chu Ah Nui, Chinese not naturalised in New Zealand, wished to take their six local-born children to China for a visit. The question presented by them to the Supreme Court was, are Chinese born in New Zealand subject to the provisions of the restriction Acts? The first difficulty was the ambiguity of the definition of ‘Chinese' in section 2 of the Immigration Restriction Act 1908. This gave the definition of ‘Chinese' as ‘any person born of Chinese parents . . . but does not include Chinese naturalised in New Zealand.' According to Sir John Findlay, this definition was unintelligible and it was ‘absurd that children born in this country who go to China for education should be treated as immigrants on their return.'(2)
The case was summed up by J. Herdman

The purpose of the statute is to prevent the entrance and re-entrance into New Zealand of certain classes of persons except upon conditions imposed by the statute.
As Chinese who have been naturalised in New Zealand are, in consequence of the definition of ‘Chinese' in s.2 of the statute, not touched by the prohibitions which affect Chinese resident in other parts of the world, a naturalised Chinese may leave New Zealand and return to it with the same freedom that a natural-born British subject possesses. But it is contended that a child born of Chinese parents within New Zealand, who accordingly acquires British nationality by birth and not by the artificial process of naturalisation, has no unrestricted right to leave New Zealand and to return after the lapse of years because it is said he is a ‘person born of Chinese parents.' In other words, it is said that his rights of British citizenship are curtailed. It is difficult to imagine that the Legislature intended to deal more favourably with naturalised Chinese than with Chinese whose birth within New Zealand gave them the status of British subjects. Upon the other hand I

can well believe that it was intended that the immigration of Chinese who are British subjects by birth in other parts of the world should be restricted; but I am unwilling to decide that Parliament intended to discriminate between Chinese naturalised in New Zealand and Chinese in New Zealand who are British subjects by birth to the disadvantage of the latter, and that of deliberate purpose it created a situation which is anomalous. . . In my opinion the meaning of the words ‘any person born of Chinese parents' which appear in the early part of the definition should be limited so as to exclude persons born to Chinese parents within the boundaries of New Zealand. (3)

The case was decided in favour of the plaintiffs, Joe Lum and Chu Ah Nui.

The outcome of this case, however, did nothing to change the status of local-born Chinese with regard to re-entry requirements for non-naturalised Chinese. Local-born Chinese New Zealanders still had to obtain Certificates of Registration when they wished to leave New Zealand on a temporary absence. The Immigration Restriction Amendment Act 1920 formalised this discrimination (against both naturalised and local-born Chinese) and reversed the verdict of the 1919 Joe Lum case. Section 5(2) of that Act abolished the exemption which stated naturalised Chinese did not have to obtain a re-entry certificate when temporarily leaving New Zealand. The new provision presumably included local-born Chinese as well.

This appears to have been confirmed by P.A. Ponton, who in 1946 described a Certificate of Registration as being

issued to any permanent or New Zealand-born alien resident who leaves New Zealand, and it authorises his re-admission into the country. (Ponton, p.119)

The obvious contradiction in the phrase ‘New Zealand born alien resident' appears not to have been noticed. This was reiterated in a 9 April 1951 Labour Department memo regarding Certificates of Registration which stated that

‘Chinese' are to be regarded as all persons of Chinese extraction whatever their nationality (therefore including Chinese born in New Zealand).(4)

Chinese, however, were not alone in this. Other naturalised citizens of New Zealand also had to obtain re-entry certificates when travelling overseas. A 1950 Internal Affairs memo noted that,

In common with other naturalised subjects Chinese would not have free re-entry into New Zealand but would have to comply with Section 5 of the Immigration Restriction Amendment Act 1920.(5)

However Chinese continued to be subject to special attention. A Customs Department memo of 1 March 1955 on Certificates of Registration noted that ‘In future, no certificates . . . will be issued by this Office to any alien, or to any British national who is wholly or partly of Indian or Chinese race.' It also advised that ‘No enquirer should be informed that there is any distinction between Asiatic and non-Asiatic applicants.'(6)

This discrimination against non-European New Zealanders (that is, Indians and Chinese) continued until the 1960s, when it appears to have been quietly dropped. Replying to a 1966 letter on behalf of an Indian naturalised in New Zealand who was worried he might be refused re-entry to New Zealand on his return from an overseas trip, the Labour Department stated, ‘if the person mentioned is travelling on a New Zealand passport a re-entry permit is not required.'(7) Although Chinese were not mentioned in the letter, the reply seems to indicate that by 1966 the discrimination had at last been abandoned.

(1) National Archives, Auckland. Customs Department - Gisborne. C GS 1 22/1-3 Box 16 Memo no.1915/90 22 December 1915.

(2) GLR 1919, p.471

(3) NZLR 1919, pp.752-753

(4) National Archives, Christchurch. Customs Department - Christchurch. CH 22/1/1 33/25/22 6 April 1951 Memo from labour Department.

(5) National Archives. Internal Affairs. IA 1 116/7 pt 2, memo 22 June 1950

(6) National Archives, Auckland. Customs Department - Gisborne. C-GS 1 22/1-3
Box 16
Letter 1 March 1955.

(7) National Archives, Auckland. Labour Department. L 22/1/95 21 January 1966.

NZPD vol.134 1905, pp-397-398 Method of identifying returning Chinese explained.

NZPD vol.136-137 1906, pp.758-759 ibid.

CHRONOLOGY OF CERTIFICATES OF EXEMPTION

1881: Chinese
Immigrants Act 1881 no.47

s13: Chinese may apply, within two months of passing of Act, for Certificate of Exemption from payment of poll-tax

s14: ‘Certificates of Exemption may be granted in cases of temporary absence from the Colony.'

1883: Customs Department Circular Memo no.178:

Certificates of Exemption under s14 to be granted only to those Chinese resident in New Zealand before 19 December 1881 and not to be granted on written application only as the Certificate may be sent to China and used to evade the poll-tax. No Certificates to be issued to Chinese who do not hold an exemption Certificate under s13.

1883: Customs Department Circular Memo no.186:

Permission given to grant Certificates of Exemption under s14 of 1881 no.47 without the need to see Exemption Certificate under s13 if proof provided that Chinese was living in New Zealand before the date the Chinese Immigrants Act 1881 came into operation. Documentary proof to be attached to the Certificate of Exemption under s14. To help avoid Certificates being used to evade the poll-tax, Certificates to be given to Chinese only at the time of their leaving the Colony.

1883: Customs Department Circular Memo no.309:

Certificates of Exemption under s14 are ‘on no account' to be returned to Chinese returning to New Zealand after a temporary absence. If retained by Chinese they may be used to evade payment of poll-tax by new Chinese immigrants.

Some Ports issuing Certificates of Exemptions without requiring proof of residence in New Zealand prior to passing of 1881 Act. This course of action to stop.

In cases when Certificate under s13 used as evidence that the holder is exempt from the poll-tax, these are to be endorsed with Customs date stamp and signature of official. This procedure

designed to prevent such Certificates being reused so as to evade paying poll-tax.

1886: Customs Department Circular Memo no.322:

List of documents proving prior residence in New Zealand attached to the Certificate of Exemption issued under s14 of 1881 no.47 to be written on the Certificate (see Customs Department Memo 1883 no.186)

1887: Customs Department Circular Memo no.382:

Certificate under s13 of 1881 no.47 no longer considered sufficient for holder to be exempt from payment of poll-tax.
Only Chinese holding Certificates of Exemption under s14 to be exempted.
To help prevent Certificates being used to avoid the tax Customs officials are to write on the Certificate as full a physical description of the holder as may aid later identification.

1887: Customs Department Circular Memo no.392:

Chinese with Certificates of Exemption are exempt from payment of poll-tax only if they return within the time specified on the Certificate. Time period not set. Late returnees to pay tax.

1900: Customs Department Circular Memo no.64:

Chinese wishing to go to China for a temporary visit and who have lost their poll-tax Certificate must register with the Department as well as provide photographs and thumbprints in wax. On return Chinese must deposit the poll-tax until proof of identification confirmed. A form detailing the above proof to be given

to Chinese.

1902: Customs Department Circular Memo no.209:

Proof of payment of poll-tax must be forthcoming before Certificate of Exemption to be issued. Prompt returning of poll-tax deposit desirable as many Chinese unhappy with delays in return of their deposits.

1903: Customs Department Circular Memo no.274:

Because of the great difficulty in confirming proof of arrival and payment of poll-tax by Chinese applying for Certificates in lieu of duplicate poll-tax certificate (see 1902 Memo. no.209), it was decided that all Chinese in New Zealand at that date were legally entitled to Certificates of Exemption and were able to obtain the Certificates ‘without proof of payment of tax on first arrival' being required.

1904: Customs Department Circular Memo no.350:

Thumbprints required under Memo no.64, 1900, to be henceforth taken in ink, not wax, and prints of four fingers of each hand instead of thumbs to be taken. Prints to be on the following:

1. Reverse of poll-tax receipt.

2. Poll-tax butt kept in Office.

3. Certificate (in lieu of duplicate poll-tax certificate) given to Chinese.

4. Copy of Certificate kept in Customs Department Office.

1908: Immigration Restriction Act Amendment Act 1908

S2 Chinese naturalised in New Zealand exempt from provisions of Act, therefore exempt from Certificate of Registration provisions. Reiterates exemption set out by 1888 no.34 s2.

s2(1)(c) Chinese allowed to travel overseas and return to New Zealand within four years if registered and provide thumbprint.

1908: New Zealand Gazette 23 July 1908, p.2996.

Regulations relating to Immigration Restriction Act Amendment Act's provisions of Chinese providing thumbprints for ‘re-entry' certificate set out. Time period of absence set at four years, form of certificate set out. Certificate called ‘Certificate of Registration.' Poll-tax to be received on deposit, and to be returned upon identification. These regulations were a formalisation of previous Customs Department memos relating to Chinese leaving New Zealand on a temporary basis.

1911: Customs Department Circular memo no.963:

Informed officials that thumbprints only were required on Certificates of Registration forms, not fingerprints.

1920: Immigration Restriction Amendment Act 1920 no.23:

Introduction of permit system for entry to New Zealand. Thumbprinting and education test for Chinese abolished. Under this Act the Certificates of Registration previously only required by Chinese were extended to include all immigrants ‘who . . . would require a permit to enter New Zealand.' S5(2) abolishes exemption from Certificate of Registration provision for naturalised Chinese.

1921: New Zealand Gazette 13 January 1921, pp.113-115

Regulations relating to Certificates of Registration under 1920 Act set out:

s11(1) Regulations to apply to anyone ‘who is a person who would require a permit to enter New Zealand.'

s12(1) Certificate of Registration entitles holder to return to New Zealand within four years.

Form no.5 (p.115) sets out form of Certificate of Registration.

1921: Customs Department Circular memo no.23
4 March 1921 Advised officials of abolition of thumbprinting system for identifying Chinese.

1927: New Zealand Gazette 24 February 1927, p.508

Regulations
under Immigration restriction Acts: Name and date of poll-tax certificate to be attached to application for Certificate of Registration for identification purposes.

1930: New Zealand Gazette 16 January 1930, pp.78-86

Consolidation of previous regulations under Immigration restriction Acts.

s18(1) Regulations apply to anyone ‘who. . . would require a permit to enter New Zealand.'

s18(4) Form of Certificate (of Registration) to be given to applicant.

s18(5) Certificate entitles holder to return to New Zealand within four years.

Form 13: Form of Certificate of Registration set out. These regulations made no change to the 1921 regulations.

1939: Immigration Restriction Regulations
1930, amendment no.2 Statutory Regulation
1939/57.

Certificates of Registration issuable only to a person who is fifteen
years of age or over. Introduced to prevent children born to refugee women
residing temporarily in New Zealand
under February 1939 concession from returning to New Zealand at a later date. Revoked by Statutory Regulation
1948/44.

1951: Customs Department memo 33/25/11 9 April 1951:

Period of absence from New
Zealand on Certificate of Registration for
Chinese reduced from four years to eighteen months. No extensions or exceptions. Chinese to
include all Chinese, whether local-born or otherwise.

1957: Four years reintroduced on
Certificates of Registration.

1987: Immigration
Act 1987 no.74:

s14(c)(1) and s18 brought in the Returning Residents Visa. Persons in New
Zealand holding a residence permit wishing, ‘to travel
overseas and return to New Zealand'
must have a Returning Residents Visa ‘as your residence permit expires when you
leave New Zealand.'
(Getting a Returning Residents Visa. Wellington: NZIS, 1993).

The Returning Residents Visa made no
substantial change to the old Certificate of Registration introduced under the Immigration Amendment Act 1920, merely

introducing a change in name.

TEMPORARY AND PERMANENT PERMITS

In 1920 the New Zealand government passed the Immigration Restriction Amendment Act 1920. This Act constituted a radical rethinking of New Zealand's immigration policy. Previously New Zealand had set barriers and tests in an attempt to restrict the type of immigrants it did not want. Under the new Act all non-British immigrants had to apply for a permit to enter New Zealand.
Effectively it was a change in the balance of power. Restrictive immigration barriers, by their very definition, may be overcome by resourceful would-be immigrants. This was not possible under the new system. The power to decide who could come to New Zealand now lay solely in the hands of the Minister of Customs. As was noted at the time, the new Act might well have been called ‘An Act for the total exclusion from New Zealand of the Chinese.'(1)

The Act provided for two types of entry permits. Permanent entry was provided by section 5 of the Act, while section 8 stipulated that temporary permits of six months duration (renewable on application) were available for the purposes of business, pleasure or health. The power to totally exclude Chinese from New Zealand now lay in the hands of the government. However, for the sake of international relations, it was decided in 1921 that an annual quota of 100 permanent entry permits be granted to Chinese.
The new Act abolished an earlier concession for Chinese (under the Immigration Restriction Amendment Act 1910) in which those coming to New Zealand for a temporary visit, for business, pleasure or study, were able to do so without paying the poll-tax.

In 1925 Cabinet decided to exclude women from the annual quota of permits to Chinese.
The decision was taken as part of New Zealand's policy of gradually reducing its Chinese population. The exclusion of Chinese women was seen as, ‘another means of preventing the Chinese population from increasing.'(2) Up until that time there had been no distinction between males and females in the restriction of Chinese immigration. The 1925 decision thus ended the immigration of Chinese women into New Zealand until 1935, when a concession of ten permits a year for the wives of Chinese born in New Zealand was introduced. A further concession of five permits a year for the wives and minor, unmarried children of Chinese naturalised in New Zealand was granted. It is not known when this concession was granted, but as naturalisation of Chinese was discontinued in 1908, very few applications under this concession were received. (3)

As

early as 1924 the government imposed restrictions on the issuing of temporary permits to Chinese. These related to the employment of Chinese on temporary permits. Ponton explains

Chinese were creating a special problem. Many of them were landing under the authority of temporary permits and were accepting employment in New Zealand. At the end of the six months allowed they were applying for an extension, endeavouring in this manner to obtain a foothold in the country. This was entirely counter to the spirit of the legislation, for a temporary permit was intended for those people who visited New Zealand for the purpose of business, health or pleasure.(4)

Consequently it was decided Chinese on temporary permits were not to engage in manual labour. The position was outlined in a letter to the Reverend Alexander Don,

It is a further consideration of the issue of a temporary permit to a Chinese that he will not, during his stay in the Dominion, engage in any occupation (manual, clerical or other) not requiring expert, technical or specialised knowledge.

The reason for the restriction was stated quite plainly to Don

For your own confidential information, I may say that the restrictions . . . were imposed as it was found that a considerable number of Chinese were coming to New Zealand and obtaining admission as temporary visitors when their object was to obtain or perform manual work in this Dominion. (5)

In 1926 Cabinet decided that no permanent entry permits should be issued to Chinese that year. This decision was largely the result of representations from the potato growers' community of Pukekohe, which had been hit by a price slump. The community blamed the Chinese for the problem and formed a White New Zealand League, which helped push through the twelve-month ban on entry permits for Chinese. The temporary ban became permanent, and for the next 25 years no permanent entry permits were issued to adult Chinese males.

Other than the exceptions for the wives and children of local-born and naturalised men, the only means for Chinese to enter New Zealand during this period was on a temporary permit. Not surprisingly it was used assiduously as a means to gain entry to New Zealand. Despite the 1924 restriction many Chinese managed to remain in the country for a considerable length of time by applying for and being granted renewals on their permit. Others merely disappeared into the woodwork as soon as they arrived in

the country. This practice was so
widespread that as early as 1927 the government passed regulations in an
attempt to stamp it out. The regulations
stipulated that people arriving on a temporary permit may require a guarantee
from a New Zealand
citizen that the government would be repaid any expenses incurred if the
temporary permit holder defaulted on their permit. The Christchurch
Press explained

It has been the custom for relatives of Chinese
or Hindus to come to the Dominion on a visit and where there has been evasion
the plea has always been made by the offender, after arrest, that he was
penniless and unable to return to the country.
In some instances the Customs have been put to quite a lot of expense
and trouble before being able to deport a man . . . The new regulations aim at
preventing the Dominion from being put to any further expense as the result of
the immigration laws.(6)

In addition to the standard temporary permit
a special class of temporary permit was also available to Chinese ‘business
managers.' The concession was explained
in a 1951 Labour Department memo

In the past, temporary permits were granted for
Chinese to enter New Zealand
for the purpose of managing the business enterprises of Chinese permanent
residents who wished to visit China
for the purpose of living with their wives or to visit their families or attend
to business or family affairs. The
temporary permits were normally granted for a period of two years or until 30
days after the return to New
Zealand of the permanent resident but
extensions were often granted. This concession was abused by the Chinese in
that the persons who came here did not in the majority of cases comply with the
conditions of entry. Many of them did
not undertake the management of the business concerned but took up employment
with other Chinese or went into business on their own account.

The utmost difficulty was experienced in
checking on whether applications were bona fide or not while enquiries by both
Customs and Police Officers into the activities of the men who were admitted
met with a most un-cooperative attitude on the part of members of the Chinese
community who were approached.

In 1937 it was decided to tighten up on the
concession and temporary permits were only to be granted where special
circumstances could be proven to exist.
It was found in due course however that even though fewer applications
were being granted, the proportion of unsatisfactory cases was as high as ever.

A few permits were granted in the immediate
postwar period but when the Chinese temporary permit holders (including 93
business managers) who were stranded here during the war, were granted
permanent residence in 1947 it was decided to discontinue the concession
entirely. Several appeals by Chinese for
its re-introduction have been rejected. (7)

It is not known when the concession was originally granted, but the earliest known date of a temporary permit being granted under this concession was in 1928.(8)

A further loophole used by Chinese at the time related to student concessions. In 1930, the Chinese community requested that government reinstate the 1911 concession scheme, allowing Chinese students to come to New Zealand for the purpose of study. This was agreed to. Although undoubtedly many genuine students came to New Zealand under the revised scheme, it has to be admitted that in general the Chinese used it as a means to get around the almost total prohibition on Chinese immigration, and to bring young, able-bodied men to New Zealand to help in businesses owned by Chinese already resident in the country. Unlike the temporary permit, which granted only a very insecure residence in New Zealand, the student permit allowed the permit-holder to reside in New Zealand legitimately for anything up to 14 years.

By these means Chinese managed to circumvent the exclusionist policies in force between 1926 and 1951. The government was aware of this, and in 1950 commented that

it is obvious that the pre-war policy of allowing the entry of Chinese on temporary permits for long periods was in many ways an unwise one and since 1947 temporary permits for Chinese from China have only been issued in isolated cases . . . It is most apparent that the Chinese have in the past managed to use the temporary permit system very successfully as a means of getting around the total prohibition on the entry of adult male Chinese as permanent residents, and it is now felt that in general no Chinese from China should be allowed to enter New Zealand on temporary permit. (9)

Over time the Chinese themselves began to see the temporary permit as merely a de facto permanent permit

The Chinese community seemed to have the impression that persons who came here on temporary permit would be allowed to remain permanently after completing five years residence.(10)

The granting of a temporary permit was seen merely as a prelude to the granting of the permanent permit.

1939 CONCESSION

In 1939 the government granted a temporary permit concession which allowed Chinese permanent residents to bring their wives and children to New Zealand for two years as war refugees. It was made clear this concession was exceptional and strictly of a limited duration. To underline this the applicant was to deposit two hundred pounds for the maintenance and possible deportation of his family, and to enter a bond of five hundred pounds guaranteeing his wife would take away, at the end of the two years, any children born to her while in New Zealand. Due to changed conditions in China, and Japan's entry in the world war, it was not possible for the permit holders to leave New Zealand at the end of the two year period. At the end of the war a shipping shortage again prevented the return to China of the permit holders. In 1947, following repeated requests from the Chinese community, the government granted permanent residence to all the 1939 permit holders, as well as to those children born to them. In addition it was decided to grant permanent residence to other temporary permit holders who had been stranded in New Zealand by the war. These included students, business managers and other Chinese living in New Zealand on temporary permit. A total of 478 Chinese men gained permanent residence under this concession. Although hailed at the time as a humanitarian gesture, the granting of permanent residence to all Chinese temporary permits holders was seen by the government as the only solution to an unsolvable problem, and was merely a prelude to shutting the gate on Chinese immigration altogether. The first step to introducing this policy was the abolition of the temporary permit, which was done in 1947.

In 1951, as part of the review on Chinese immigration policy, it was decided to further tighten up the issuing of permanent permits to Chinese. The policy on temporary permits to Chinese was reiterated. The student scheme was discontinued and no further temporary permits were to be issued to Chinese visitors from China (although permits to Chinese visitors from countries other than China would be granted). In addition, except for the policy of family reunion, no permits for permanent residence were to be granted to Chinese.

For the next thirteen years the door was firmly shut on Chinese immigration. The passing of the 1964 Immigration Act saw a tentative loosening of the strict exclusion policy. As part of the much touted non-discriminatory nature of the new Act, provision was made for ‘non-family reunion policy' Chinese to apply for permanent residence in New Zealand. Knowing that the likelihood of being accepted was very slim very few Chinese took advantage of this. In addition, the policy of accepting immigrants from the white, European Traditional Source Countries also kept Chinese permanent residents to a minimum.
In 1974 a further move in the direction of a non-discriminatory immigration policy was made when the Inter-Departmental Committee on Resettlement's Review of Immigration Policy recommended that, ‘efforts should be directed towards the early removal of discrimination on ethnic grounds between citizens of any one country.' (11) It was a case, however, of one step forward and two steps back, as the review also stated that, ‘an ‘open door' policy, which would admit anyone from anywhere . . . does not accord with the policy

objectives and is not in the best interests of the country.' (12)

It was not until the implementation of Kerry Burke's Review of Immigration Policy in 1986, and the introduction of the points system in 1991, that Chinese have finally been on a more or less equal footing with other immigrants in the granting of both temporary and permanent residence permits.

(1) Round Table 1920, p.222

(2) National Archives. Labour Department. L1 21/1/81 Customs Dept memo C 33/253/M. Asian immigration 29 September 1950, p.2

(3) ibid, p.13

(4) Ponton, p.86

(5) National Archives. Dunedin. Customs Dept 22/2/2 ‘Chinese in New Zealand' AG 254 Pt 1 Letter to Alexander Don 30 April 1925

(6) Press 3 October 1927, p.8

(7) National Archives. Labour Department. L 21/1/81 Customs Dept memo C 33/253/M. Asian immigration - Chinese ‘business managers' 29 September 1950

(8) National Archives. Labour Department. L 26/1 Register of temporary permits, 1921-1939. Joe You Wah arrived Wellington 5 July 1928 to ‘manage

business.' Departed for Sydney 20 February 1930.

(9) National Archives.
Labour Department. L1 21/1/81 Customs Dept memo C 33/253/M. Asian immigration
29 September 1950, p.4

(10) ibid

(11) AJHR G.34, 1975, p.48

(12) ibid

CHINESE
‘BUSINESS MANAGERS'

In addition to the standard temporary permit
available to Chinese tourists and merchants there was also a temporary permit
available to Chinese ‘business managers.'
These allowed Chinese to enter New Zealand
in order to look after the businesses of Chinese New Zealand permanent
residents wishing to return to China
for a short period. The permit was
usually for a period of two years or until 30 days following the return to New Zealand
of the permanent resident.

There were several conditions attached to
the issuing of the ‘business manager' permit.
A 1931 letter from the Comptroller of Customs notifying that Gin Fung
Ling had been granted a ‘business manager' permit, outlines these,

‘This is to certify that on the arrival in New Zealand of Gin Fung Ling
. . . a temporary permit will be granted to him . . . for the purpose of
managing the business of his father . . . during his absence on a visit to

China . . . provided that the following conditions are complied with:-

(1) that he is in good mental and physical health;

(2) that, on arrival, a deposit of one hundred pounds (£100) sterling is paid to the Collector of Customs in respect of the said Gin Fung Ling, such deposit to be refunded if Gin Fung Ling complies with the conditions of such temporary permit and departs from New Zealand within the period set out therein; otherwise the deposit will be forfeited to the Crown;

(3) that, on arrival, he signs a declaration giving the following information:- Name, age, nationality, race or people to which he belongs, occupation and residence; also places of birth of himself and father;

(4) that, on arrival, he produces to the Collector of Customs two recent unmounted half-length photographs of himself not exceeding in size 4 1/2 by 3 1/2 inches and not less than 3 inches by 2 inches;

(5) that, on arrival, he takes the oath of obedience to the laws of New Zealand;

(6) that he arrives in New Zealand within a period of six months from the date of issue of this certificate. (1)

In addition a note stated the certificate, ‘must be delivered up by the person to whom it is granted to an Officer of Customs at the first port of arrival in New Zealand so that when finished with it may be forwarded to the Comptroller of Customs, Wellington.'(2)
This was obviously a precaution against the certificate being used in a fraudulent manner by other Chinese in order to get around the restrictions

current at the time.

It is not known exactly when the concession was first granted, but the earliest known date of a temporary permit being issued under this concession was in 1928, when a Joe You Wah arrived in Wellington on 5 July 1928 to ‘manage business.' He departed Wellington for Sydney on 20 February 1930.

The concession was discontinued in 1947.

A 1950 Customs Department memo outlined the history of the concession and the reasons for discontinuing it.

In the past, temporary permits were granted for Chinese to enter New Zealand for the purpose of managing the business enterprises of Chinese permanent residents who wished to visit China for the purpose of living with their wives or to visit their families or attend to business or family affairs. The temporary permits were normally granted for a period of two years or until 30 days after the return to New Zealand of the permanent resident but extensions were often granted.

This concession was abused by the Chinese in that the persons who came here did not in the majority of cases comply with the conditions of entry.

Many of them did not undertake the management of the business concerned but took up employment with other Chinese or went into business on their own account.

The utmost difficulty was experienced in checking on whether applications were bona fide or not while enquiries by both Customs and Police Officers into the activities of the men who were admitted met with a most unco-operative attitude on the part of members of the Chinese community who were approached.

In 1937 it was decided to tighten up on the concession and temporary permits were only to be granted where special circumstances could be proven to exist. It was found in due course however that even though fewer applications were being granted, the proportion of unsatisfactory cases was as high as ever.

A few permits were granted in the immediate postwar period but when the Chinese temporary permit holders (including 93 business managers) who were stranded here during the war, were granted permanent residence in 1947 it was decided to discontinue the concession entirely.
Several appeals by Chinese for its re-introduction have been rejected. The following reasons may be advanced for not reviving the concession:

(1) the policy of not granting permission for temporary entry which has been applied to Chinese from China since the 1947 concession;

(2) the continued abuse of the concession in the past in spite of all efforts to confine it to ‘deserving' cases;

(3) the fact that the main benefit accrued to Chinese and the benefit to this country as a whole would be more than offset by the trouble of administering the concession and the fact that the temporary permit holders would be taking or sending their earnings out of New Zealand.(3)

(1) National Archives. Dunedin. Customs Department. C 22/2/2 Chinese in New Zealand 1930-35, 8 August 1931

(2) ibid

(3) National Archives. Labour Department. L1 22/1/81 Customs Dept memo C 33/253/M. Asian immigration - Chinese ‘business managers.' 29 September 1950

STUDENTS

On two occasions concessions were made for Chinese to come to New Zealand to study. The first was in 1911 and was the result of a protest by Li Ching-fong, the Chinese Minister in London, to what he called the, ‘very oppressive and undiscriminating' restrictions contained within the Immigration Restriction Act 1908 and the Immigration Restriction Act Amendment Act 1908.

In the interests of not only, ‘encouraging trade, but also . . . intellectual studies' Li sent a memorandum to the New Zealand government proposing five changes to the above-mentioned Acts. The first suggested that, ‘Chinese officials, students, and merchants with capital shall be granted the same privileges and facilities in landing at any port of New Zealand as are granted to the subjects of other Powers who have treaty relations with England.'(1) In response, the New Zealand Prime Minister, Joseph Ward, agreed to two of the proposals. A letter dated 24 February 1910 to the Governor-General states he

begs to state that the proposals Nos. 1 and 5 of the memorandum of proposed modifications in the New Zealand Regulations for the Immigration of Chinese are agreed to, and that an amending Bill to make the changes operative will be introduced at the earliest opportunity. The period during which the immigrants will be permitted to remain in New Zealand will be fixed by the Minister of Customs in each case.(2)

Section five of the Immigration Restriction Amendment Act 1910, passed on 25 October of that year, provided the legislative machinery to allow the changes to occur. The specifics were published as regulations in the New Zealand Gazette on 23 March 1911. These stated that the regulations were to apply to ‘bona fide merchants, tourists, or students, including Chinese, who cannot comply with the provisions of the Immigration Restriction Act, or to Chinese merchants, tourists, or students who, although able to comply with such provisions, do not wish to pay poll-tax.' It also stated that, ‘students may land and remain for a period . . . not exceeding six years.'

It is not known how many Chinese took advantage of this concession, but after only nine years the concession was abolished. Section eight of the Immigration Restriction Amendment Act 1920 repealed the relevant section of the 1910 Act which had provided the means to implement the concession. In addition the regulations relating to it were repealed in January 1921.

In 1930 the Chinese community with representations from the Chinese Association and the Chinese Consul, requested the government reinstate the 1911 concession scheme for students. The government agreed with four conditions: that the student must not be younger than ten years old, that no student could be accepted unless his father was permanently resident in New Zealand, that the student not engage in any work other than study while in New Zealand, and that he was not to remain in New Zealand after he was twenty-four years of age.

It has been asked why the Chinese community was so keen to reinstitute the student scheme. The reason is simple. The government had stopped granting permanent residence permits in 1926. Although it was still possible to obtain temporary six-month to two-year permits, entry for Chinese males to all intents and purposes ceased after 1926. Chinese businesses, being very labour intensive, found themselves suffering a labour shortage. The answer was to reinstitute the student permit scheme which allowed a young able-bodied man to reside in New Zealand for anything up to fourteen years.
Although undoubtedly many genuine students came to New Zealand under the scheme, it has to be admitted that in general the Chinese used it as a loophole to get around the restrictions on immigration imposed at the time.

The student scheme lasted until 1950 and during that time was well utilised by Chinese. In the pre-war period (1930-1941) 262 students arrived. In the post-war period (1946-1950) 139 students arrived.

In 1947 it was decided to grant permanent residence to all the Chinese temporary permit holders who had been stranded in New Zealand by the war. This included all those on student permits and ex-students who had been transferred to temporary permits, amounting to 293 Chinese people.

Although the scheme continued for another three years, it was decided to discontinue it following a 1950 policy review into Chinese immigration undertaken by the government. Point ix of the policy review, approved by Cabinet in March 1951, stated that, ‘the granting of students' permits to minor children of Chinese residents be discontinued.'(3) It was discontinued partly in line with the general trend of the rest of the policy, which was to stop further immigration of Chinese. Also, because of the situation in China, it would be impractical to ask students to return there at the end of their schooling.

A comprehensive overview of the 1930-1950 Chinese students scheme was compiled by the Customs Department in September 1950 as part of the policy review on Indian, Chinese and Pacific Island immigration and provides a concise history of the scheme:

Admission of the sons of Chinese

Permanent Residents as students

The Immigration Restriction Regulations,
1930 made special provision for the first time for the temporary entry as
students of persons requiring a permit to enter under the 1920 Act. Many requests had been made by Chinese
permanent residents that their sons should be permitted to come here for
education and strong representations had been made by the Chinese Consul in Wellington. There was also
a need to put the admission of other alien or coloured students on a proper
footing. Four of the conditions in connection with the issue of student permits
are:-

1) that
the student shall not, at the date of intended arrival in New Zealand, be under the age of
ten years;

2) that,
except with the special authority of the Minister (of Customs), a permit shall
not be granted to any person unless his father is domiciled in and is residing
in New Zealand;

3) that,
except with the special permission of the Minister, nothing in the permit shall
be deemed to authorise a student to remain in New Zealand after he has reached
the age of twenty-four years;

4) that
while the student is allowed to remain in New Zealand under the authority of
the permit he will not engage in any work of any kind whatsoever other than
study.

(The
second condition has special reference to the matter under review).

The following figures are of interest.

Student Permits for Sons of Chinese

Year Issued	Permits Students arrived		
1929 (originally on permit. to student	-	6	temporary Transferred permit 1930.
1930 9	1		
1931	11	6	
1932 3	4		
1933 1	1		
1934 8	5		

Year Issued	Permits Students arrived

1935	11	10
1936	16	13
1937	25	22
1938	66	48
1939	112	83
1940	40	63
1941	27	18
1942	1	-

(a few students who entered first on
Temporary permit may have been omitted from the figures for arrivals).

In April, of 1938 some alarm was felt at the
large numbers of sons of Chinese who were coming in on student permits. Although the minimum age of ten years was fixed by the regulations (Condition (1) above) the maximum was in effect twenty-four years (Condition (3) above). Applications were being received in respect of youths of 19 and over while some of the Chinese who had entered were merely attending private schools (for a prescribed minimum of five hours per day) to receive elementary instruction in English or other primary school subjects even though some of them were as old as 22.

It was obvious that the system of student
permits was being used to get round the total restriction on the admission of Chinese as permanent residents which had obtained since 1926. Although a student permit is a temporary permit a Chinese could get his son in at the age of 10 and keep him here for 14 years so long as he was receiving schooling. It was known that many of the ‘students' were helping their fathers in their business enterprises outside their brief school hours.

It was decided to lay down a maximum age of 15 years for entry to New Zealand of Chinese students proposing to attend public primary schools here (or sixteen years where the student proposed to attend a private school for elementary training). It was also decided to lay down maximum ages beyond which Chinese students would not be allowed to attend primary schools and secondary schools in New Zealand.

The figures above show however that these steps did not have the effect of reducing the number of student permits issued, even though those under 16 years were being denied entry. The outbreak of war, however, had the desired effect.

During the war many of the students either completed their schooling or reached an age and a stage, at which they found further progress impossible. As return to China was out of the question they were transferred to temporary permits.

In 1947 when it became necessary to review the position of Chinese in New Zealand on a temporary basis there were:

141 students from China on students permit

152 ex-students who had been transferred to temporary permits

———

293

Some of these persons had been here for as long as 18 years. Cabinet approved of permanent residence being granted to students from China who had been in New Zealand for at least five years and who had completed their schooling, and all these students were eventually permitted to join their fathers in permanent residence.

Since the end of the war in the Pacific the relevant figures for students from China are:-

Year	Permits Issued	Students Arrived
1946	2	-
1947	37	10
1948	58	54
1949	47	57
1950 (to 30/6/50)	7	18

Conditions in China recently have had a noticeable effect.

With the granting of permanent residence in

1947 to the ‘refugee' wives and children who came in 1939/40 and to the students and ex-students who had arrived from 1929 to 1941, together with the concessions of permanent entry for the wives and minor unmarried children of fifty residents in each of the years 1948 and 1949 it has become obvious that there will be the utmost difficulty in insisting that the sons of Chinese residents who enter as students must return to China when they complete their education. In an extreme case such a person could come here at the age of 10 years and stay with his father while receiving some degree of education until reaching the age of 24 years.

The political and economic situation in China would also be a factor should efforts be made to return such students at a later date.

On a review of the position it would appear that there is little justification for regarding the sons of Chinese residents admitted as students as being here on temporary permit on the strict understanding that they must eventually return to China and it would appear therefore that they should not be allowed to enter unless we are prepared to accept them permanently. The question of their admission really goes hand-in-hand with the general question of the entry of the wives and children of Chinese residents. There is a strong case for discontinuing the issuing of student permits to the sons of Chinese residents because of the unsatisfactory features which have been outlined above. If the sons of Chinese residents are to be admitted it is desirable that it should be on the basis of uniting family groups and they should come here with their mothers and sisters. The idea of letting them come here as students on the understanding that they would return to China on completing their education has just not worked out that way in practice and obviously cannot be made to work.

The only possible use for the practice which might have value would be to put all Chinese children entering (with their mothers) on students permits, and obliging them to reach a good standard of English education before granting them permanent residence. The administration problems would be considerable however with a scheme of this kind and it is known that the tuition of Chinese children (born in China) is already quite a problem in many of our public schools. Unless we were prepared to deport any students who did not comply with the conditions of their permits, the Chinese would probably treat the matter rather lightly and the scheme would achieve little. (4)

POST-WORLD WAR TWO STUDENT SCHEMES

Since World War II there have been two ways in which Chinese have come to New Zealand as students. These are as private or government-sponsored students. Private students include those who have been awarded scholarships financed by their own governments as well as those funded by family or by private means. Government-sponsored students are

those financed by the New Zealand government. Private overseas students are administered by the Department of Labour while government-sponsored students are under the supervision of the Ministry of Foreign Affairs and Trade. The most significant of the New Zealand government funded schemes was the Colombo Plan.

COLOMBO PLAN

The Colombo Plan was instituted in response to post-war political realities in the South East Asian region. Decolonisation of the region was progressing rapidly and the newly-independent Asian nations were less than tolerant of the restrictive immigration policies of Australia and New Zealand. In addition, fear of Communism led to the formation of military alliances in the region such as ANZUS and SEATO. Like these, the Colombo Plan was designed to achieve security although its means were economic aid and friendship not military alliances. The Plan was described as, ‘enlightened self-interest.' As part of that objective New Zealand agreed to allow students from the South East Asian member countries of the plan to come to New Zealand to study at tertiary institutions. The countries included Ceylon, India, Pakistan, and later Burma, Cambodia, Indonesia, Laos, Malaya, Nepal, the Philippines, Thailand, Vietnam and Singapore.

In the first ten years of the plan nearly 900 students studied in New Zealand. Like Australia, New Zealand saw the student scheme as an effective means of fostering friendship with its South East Asian Colombo Plan members, while retaining its restrictive immigration policies against the citizens of those countries. In the late 1970s the New Zealand Official Development Assistance Programme (ODA) began to supplant the Colombo Plan. The aims of the ODA have remained similar to those of the Colombo Plan, with less emphasis, however, on regional security. In addition the countries of the South Pacific have been included, and in fact most of New Zealand's ODA now goes to those countries.

It is not known how many ethnic Chinese students came to New Zealand under the Colombo Plan, but it can be surmised that a large number of those from countries such as Indonesia, Vietnam, Singapore and Malaysia would have been ethnically Chinese.

PRIVATE STUDENTS

Following the end of World War II New Zealand moved to reinstate the student permit that had been introduced in 1930 allowing individuals to study at a New Zealand secondary school or university. The permit was to last only as long as the duration of the course of study.

The reintroduction of the student permit in 1951 coincided with the commencement of the Colombo Plan. The reasons behind allowing private students to come to New Zealand were described in 1979 and were broadly the same as for the Colombo Plan and the ODA

The primary aim in permitting persons from other countries to study in New Zealand is to train them to a stage where they can be of value in the development programmes of their own countries . . . The secondary aim . . . is to provide opportunities for cultural exchange between the people of New Zealand and people in other countries of the world. (5)

In keeping with the aims of the private overseas student policy restrictions were placed on countries from which students could be accepted. Again these were broadly similar to those of the Colombo Plan and the ODA programme, namely students from the South Pacific and South East Asia. The South East Asian countries were Indonesia, Singapore, Vietnam, Thailand and Malaysia. In 1974 this was extended to include Laos, Cambodia, Korea and the Philippines.(6) A small number of students from Hong Kong were also accepted. This list was supplemented again in 1979 by the addition of China and Iraq. (7)

As with the Colombo and ODA plans a large number of ethnic Chinese came to New Zealand under the private overseas student policy. Although permits under the policy allowed the student to remain in New Zealand for a maximum of only four years, by 1977 the New Zealand government was concerned that many students were not returning to their countries on completing their studies. The main area of concern was students from Malaysia. As Malaysian students constituted the majority of private students in 1976 (83percent) (8), and most of these were Chinese (9), the fear was largely of a racial character.

From 1977 a quota of 300 permits per annum was imposed on students from Malaysia. In 1979 a further restriction was placed on Malaysian students with the passing of the Education Amendment Act 1979, section two of which imposed a fee of $1,500 on private overseas students, ‘in certain cases.' This section was framed specifically to limit the number of Chinese students from Malaysia. The reasons given by the government (National) for the action were that most Malaysian students came from wealthy

families, a high proportion of them remained in New Zealand after graduation instead of returning home, and that overseas students received more than they were entitled to. Although all these justifications were subsequently disproved, and despite the fact that it was clearly discriminatory against Chinese Malaysians, the Act was duly passed. The fee remained in force until 1986.

Despite the obvious restrictive intention of these provisions the Chinese population of New Zealand was augmented by Chinese students who came to New Zealand under the private and government-sponsored student schemes and stayed on permanently after completing their studies. Those who stayed did so through marriage to a New Zealand citizen.

During the period when the Occupational Priority List and Traditional Source Country (TSC) policies were in force, Chinese students were unable to apply for permanent residence on occupational grounds. The 1986 abolition of the TSC opened the way for Chinese students to seek permanent residence in New Zealand. Kerry Burke noted the significance of this change'

Hitherto students from developing countries, even though appropriately qualified, have not been eligible to acquire permanent residence status in New Zealand on occupational grounds and have been required to leave this country on completion of their studies. With the removal of national origin as a criterion in migrant selection this rule is no longer appropriate and it will be open to private overseas students with the requisite skills or qualifications who also meet other standard immigration requirements to be granted permanent residence. (10)

Students on government-sponsored schemes were also able to apply for permanent residence once they had completed their studies or obtained a release from their sponsor.

A further development in policy relating to overseas students was the introduction in 1989 of the full-fee student policy. This allowed students from any part of the world to study in New Zealand if they paid the total cost of their courses and living expenses. The policy was seen as a major source of revenue for New Zealand. Since the introduction of the full-fee student policy a considerable number of Chinese have entered New Zealand on student visas. In February 1991, for example, 500 students from Guangzhou arrived in Wellington. Paying $6,000 each the Chinese students were enrolled in courses in English, business and computer studies and mechanical engineering.(11)

Some Chinese, however, used the student visa as a means to gain entry to the country and then arranged by various means to obtain permanent residency. An initial crackdown on this practice occurred after the Tiananmen Square incident of June 1989 and resulted in a flood of student visa applications from China. The New Zealand Herald noted that, ‘The official crackdown has been sparked by evidence that almost 90 percent of people from China entering Australia to learn English were failing to return home on schedule.'(12) The reason for the flood of applications was also noted: ‘Although New Zealand officials refuse to give figures, local language schools believe the Chinese suppression of student demonstrators in Peking's Tiananmen Square last June has sparked a flood of 10,000 student visa applications in the past year.'(13) In response to this the New Zealand government amended the private overseas student policy on 24 November 1989 to, ‘require English language students to have completed a high school education and to have either a job to go home to or a place after their language course in a New Zealand tertiary institution.'(14) The change in policy was described as a government attempt to close another immigration loophole.

Since then the New Zealand government has continued to be reluctant to issue student visas to Chinese. The Evening Post reported in 1991 that, ‘The Government has been reluctant to issue visas for Chinese students coming to New Zealand because it believes many of them do not intend going back to China . . . experience with Chinese students here and in other countries offering English language courses was that many students used the courses as a stepping stone to a life outside of China.'(15) Because of this the government decided to ban short-term visas for Chinese students pending a review. Part of the outcome of the review was to further amend the student policy so that private overseas students from China and Iran were required to have a university degree or to be government-sponsored before they could enter New Zealand.(16) However, many of those Chinese students who entered New Zealand on student visas had genuine reason to fear for their safety. This was acknowledged in June 1994 when 600 Chinese on student visas were granted permanent residence on humanitarian grounds directly related to the Tiananmen Square incident.

Although government policy officially continues to encourage overseas students to study in New Zealand, students from China are not encouraged. Although the student visa ‘loophole' in the immigration policy is used by some Chinese to gain entry to New Zealand, it is not unique to them, and is also used by nationals of other countries as a means to improve their prospects. Auckland's Dominion English School director John Langdon correctly noted that, ‘It was human nature for people to strive to better themselves economically. But it was also the role of immigration authorities to control the flow of people.'(17) It would be fair to say in regard to the history of the various student schemes in New Zealand that wherever there are people wishing to improve their lot, means to circumvent a nation's immigration policies will always be found.

(1) AJHR
1910 A-2, p.45. It is possible Li Ching-fong used the American student scheme of 1908 arising from indemnities imposed on China following the 1900 Boxer Rebellion as a model for his suggestion of a student concession scheme in New Zealand.

(2) National Archives C.O. 209/271, 24 February 1910

(3) National Archives.
Labour Department L1 22/1//81 Customs Department memo C.M.(51) 18, Asian and Polynesian immigration. March 1951.

(4) National Archives.
Labour Department L1 22/1//81 Customs Department memo C 33/253/M, Asian immigration-admission of the sons of Chinese permanent residents as students. 29 September 1950.

(5) New Zealand. Dept of Labour. Statement of current immigration policy. 1979, p.13

(6) AJHR 1974 E-21, p.6

(7) AJHR 1979 A-1, p.32

(8) NZUSA. Submission . . . 1980, p.41

(9) ibid.

(10) AJHR 1986 G-42, p.34

(11) Evening Post 13 February 1991, p.1

(12) New Zealand Herald 8 February 1990, p.1/5

(13) ibid

(14) ibid

(15) Evening Post 4 December 1991, p.3

(16) ‘The policy dates to early 1992 when the Government was worried that young students from China and Iran were enrolling at New Zealand schools as a way of getting out of their own countries.' Press 3 December 1993, p.6

(17) ibid

WOMEN

For several reasons very few Chinese women came to New Zealand in the years prior to the start of World War II. In most cases traditional Chinese mores prevented them from joining their men overseas. While it was the duty of the men to go overseas to earn money for the family, it was the duty of the women to stay home and look after the young and the elderly. A wife at home was also an inducement for the men to return to China and it was expected that the men would be away for only a brief period before returning home. Combined with this were the harsh working and living conditions of the early Chinese immigrants, considered unsuitable for Chinese women, and the introduction of the poll-tax and reading test. The expense of the tax and the tuition necessary to pass the reading test were further disincentives to bringing a wife to New Zealand. The majority of Chinese men were only prepared to pay the necessary sum to bring out a hard-working son, cousin or nephew to help in the shop, laundry or market garden. To bring out a wife or daughter was an unnecessary luxury. It will come as no surprise then that until 1939 the proportion of Chinese women to Chinese men in New Zealand

was never more than 21 percent.

For the first forty-four years of New Zealand's policy regarding Chinese immigration, no distinction was made between Chinese men and Chinese women. Until 1925 Chinese women were treated on the same basis as Chinese men. They were subject to the ten, later one hundred pound poll-tax, to the tonnage restrictions on Chinese passengers as well as the education test.

In 1920 the government passed the Immigration Restriction Amendment Act which introduced the requirement that all non-British immigrants be in possession of a permit before being allowed to enter New Zealand. The Chinese Consulate negotiated a quota of one hundred permits a year for Chinese immigrants. Twenty five Chinese women were included in that quota. In 1925 the government decided to exclude women from the quota. The decision was taken as part of New Zealand's policy of gradually reducing its Chinese population, the exclusion of Chinese women being seen as ‘another means of preventing the Chinese population from increasing.'(1) This effectively ended the immigration of Chinese women into New Zealand. However there were a few exceptions to this rule. A quota of five permits a year for wives of naturalised Chinese New Zealand men was granted and in 1935 a further concession of ten permits a year for wives of Chinese men born in New Zealand was introduced.(2)

In 1939 a special one-off concession was granted in response to the escalation of the Sino-Japanese war that had begun in 1937. By 1939 the Japanese had invaded Guangdong, the home province of the majority of Chinese in New Zealand. Fears felt by Chinese New Zealand men for the safety of their wives and children in Guangdong led the New Zealand Chinese Association and the Presbyterian Church to request that these men be allowed to bring their families to New Zealand for the duration of the war. The government responded by allowing Chinese New Zealand men to bring their wives and children to New Zealand for a period of two years, provided they pay a deposit of two hundred pounds, and a bond of five hundred pounds. The concession lasted for only one year but, while it lasted, 249 women and 244 children entered New Zealand.
Due to the escalation of the war in China the women were not able to return at the end of the two-year period. In 1947 all the original women and children, augmented by infants born between 1939 and 1947, were still in New Zealand. Once again the New Zealand Chinese Association and the Presbyterian Church made representations to the government asking that these women and children be allowed to remain in New Zealand. The government responded positively and granted permanent residence to all the women and children, including those children born to the women during the eight years they had been in the country.

This left the problem of the wives of the approximately 1,600 remaining Chinese men in New Zealand who, due to continuing unsettled conditions in China following the defeat of the Japanese in 1945, and the probability that these conditions would continue for the foreseeable future, would be unable to return to China to reunite with their families. The problem was brought to the attention of the government which responded in March

1948 by granting an annual quota of fifty permits to Chinese New Zealand men to bring their wives and minor children to New Zealand. These were only for men who had lived in New Zealand for twenty years. As well as the twenty-year residence requirement, a further condition stipulated that the Chinese men concerned had applied for and were considered suitable for naturalisation in New Zealand. However, as was pointed out by several members of the Chinese community, at that rate it would take thirty years for the 1,600 Chinese men to be reunited with their wives.(3)

A continuing consideration in New Zealand government policy relating to the immigration of Chinese women up to the 1950s was the fear of an increase in the local-born population if young Chinese women were allowed permanent entry. The exclusion of Chinese women from the annual quota of one hundred permits in 1925 was based on this fear. The desire to prevent an increase in the local population was again in the minds of the government when the annual quota of fifty entry permits for wives and children of New Zealand Chinese men of twenty years residence was granted in 1947. It was decided that, ‘in granting concessions for the entry of the wives and children of Chinese residents we should try to avoid creating immigration problems for the future as well as keeping in mind a policy of preventing any undue increase in the Chinese population of this country.' (4) The means of achieving this was to give preference to applicants who had been longest married. The outcome was that most of the wives admitted would be past child-bearing age and, ‘their admission should not result in an increase in Chinese births on as large a scale as that which followed the 1939 concession.' (5) This policy was found to be most effective in preventing the growth of the local-born population and was to be used in the future as the basis for granting permits to wives of Chinese New Zealand men.

In 1951 the government conducted a general review of policy regarding Chinese immigration. Amongst the recommendations agreed to was the reintroduction of naturalisation for Chinese, a decision to stop further Chinese immigration, to break the tie of Chinese with China and to assimilate the community here. In line with this the government decided to allow the remaining Chinese New Zealand men to reunite with their families. Policy therefore was, ‘that annually from 1 January 1951 entry permits be granted to the lawful wives and lawful natural minor children under 16 of 150 permanent Chinese residents who are married at the date of these decisions, priority being given to the wives and children of those Chinese who have the longest period of residence in New Zealand', and ‘that annually, entry permits be granted to the lawful wives and lawful natural minor unmarried children under 21 of 10 New Zealand-born Chinese who are permanently resident in New Zealand at the date of these decisions.' Applications for entry permits for wives and children of Chinese residents on temporary permits were to be declined. A further restriction was imposed and that was, ‘that other than for the dependants of New Zealand-born Chinese, no provision be made for the admission into New Zealand of the wives and children of permanent Chinese residents who marry after the date of these decisions.'(6) This restriction was abolished in 1954.

The quota system for reuniting Chinese families was discontinued from 31 December 1952 when consideration for Chinese immigration on individual application was reintroduced. For many Chinese New Zealand men the difficulty in sending for their wives continued, and some were to be separated from their wives for years. New Zealand-born Chinese men were, like other New Zealanders, allowed to bring their foreign-born wives and fiancées

to New Zealand, but in reality it was much more difficult for these men to do this than for non-Chinese New Zealand men.(7) This difficulty was exacerbated for many by the reluctance of the Chinese government to grant exit visas to wives of overseas Chinese.

For Chinese New Zealand women the situation was quite different from that of Chinese New Zealand men. They were unable to bring their fiancés to New Zealand under any circumstances. In 1954 the government decided that, ‘There was no reason to accept application from New Zealand-born Chinese women who wanted to bring their fiancés in, nor was there any reason to accept applications from Chinese women who were permanent residents.'(8) It was advised that, ‘young Chinese girls who had fiancés overseas . . . would have to realise that this contravened accepted policy and that ‘the woman is expected to join the man in his country.'(9) Chinese New Zealand women suffered not only racism at the hands of the New Zealand government, but had to put up with institutionalised sexism as well.

From 1952 up to the 1980s government policy regarding the immigration of Chinese women remained on the basic principle of ‘family reunification.' A statement of 1970 set out the government policy for this period, ‘The policy in respect of the permanent entry of Chinese and Indians is limited to the wives and legitimate or legitimised, unmarried infant children of males resident in New Zealand.'(10)

Despite the freeing up of policy regarding immigration of Chinese into New Zealand following the 1986 immigration review, and the passing of the 1987 Immigration Act, immigration of Chinese women into New Zealand has continued to be mainly on these grounds up to the present day. Although a certain percentage of Chinese women immigrating to New Zealand during the 1970s to 1990s period have come as professionals and business immigrants, the majority still come to this country as wives of local-born Chinese or as wives of new immigrants.

(1) National Archives: Labour Department. L1 22/1/81 Customs Department memo, 29 September 1950, p.2

(2) ibid, pp.2, 13

(3) Dominion 10 July 1948, p.

(4) National Archives:
Labour Department. L1 22/1/81 18 March 1951, p.13

(5) ibid, p.5

(6) ibid, pp.1-2

(7) Malcolm Mason. Wanted
to import - a bride!, in Accountants
Journal 42(5) Dec 1963, pp.157-158,
Sedgwick, pp.471-475.

(8) Labour Department memo,
21 June 1954, quoted in Sedgwick, p.471

(9) ibid.

(10) A look at New
Zealand's immigration policy. Department
of Labour, 1970)

1939
WIVES AND CHILDREN

In 1939 a special one-off temporary-permit concession was granted to the wives of Chinese New Zealand men. This was in response to the escalation of the Sino-Japanese war that had begun in 1937. By 1939 Guangdong, the home province of the majority of Chinese New Zealanders, had been overrun by the Japanese. As a humanitarian gesture the New Zealand government decided in February 1939 to allow Chinese New Zealand men to bring their wives and dependent children to New Zealand for a period of two years, provided they paid a deposit of two hundred pounds, and a bond of five hundred pounds.(1)

Because of the escalation of the war in China, the women were not able to return at the end of the two-year period. The permits were consequently periodically renewed.

Following the end of the war conditions in China continued to be unfavourable for the return of the women and children. In 1947, following representations from the New Zealand Chinese Association and the Presbyterian Church, the government granted permanent residence to all the women and children who had arrived under the 1939 concession, as well as to the children born to the women during the eight years they had been in the country.

A 1950 Customs Department memo summed up the history of the concession

In 1939 Cabinet approved a concession by which the wives and children under 16 years of age of Chinese permanently resident in New Zealand were admitted on Temporary Permit for two years provided that the husband deposited £200, lodged an unlimited Deed of Covenant executed by himself and two other persons regarding the maintenance of his family or their possible deportation, and entered into a bond for £500 guaranteeing that his wife would take away any children born to her while in New Zealand.

The first permits under this concession were granted in June of 1939. The Chinese Consul had estimated that about 150 Chinese in New Zealand would take advantage of the concession but by the 31st December 1939 permits had been issued for the temporary admission of 240 wives and 244 children and 146 wives and 147 children had arrived. Early in 1940 the concession was withdrawn following complaints that Chinese fruiterers were employing their wives and children in their shops while their assistants were starting their own businesses, in some cases taking over shops vacated by European fruiterers who had joined the forces.

Eventually 249 wives and 244 children entered New Zealand under the concession. The permits issued to the earliest arrivals expired before the outbreak of war in the Pacific and were extended because of the continuation of bad conditions in China. After Japan entered the war the return of all Chinese residing in New Zealand temporarily became impossible.

After the war the shipping shortage had the same effect. In 1947 the whole matter came up for consideration. By that time the number

of Chinese temporarily resident here was about 1,400, including about 450 children who had been born in New Zealand to the wives admitted on temporary permit in 1939. In July, 1947 Cabinet approved of permanent residence being granted to:-

(1) ‘Refugee' wives admitted in 1939 249

(2) ‘Refugee' children 244

(3) Children born in New Zealand to 437

‘Refugee' wives.(2)

CONDITIONS OF ADMISSION

Although seemingly motivated by humanitarian reasons, the scheme had strict conditions attached ensuring that the Chinese population of New Zealand would not increase as a result. The main conditions were that the husband must be a permanent resident of New Zealand, the temporary permit was for a period of only two years, and the wife would, on return to China, take with her any children born to her during her stay in the country.

Each application required the following:

(1) A statutory declaration to the effect that he was a permanent resident of New Zealand and that his wife and children were lawful.

(2)
Photographs of the wife and children (if any) for attachment to the permit when issued.

(3)
A deed of covenant executed by the husband and two other sureties that all costs on any public institution would be paid.

(4)
A bond for 500 pounds guaranteeing that the wife would take all children born to her in this country away from New Zealand, and that the husband would give all necessary consents for this. (3)

If the application was approved, the permit would then be issued subject to the following,

(1) that, on arrival, the sum of 200 pounds was deposited with the Collector of Customs, together with a deed to the effect that the deposit would be forfeited if the conditions of the permit were not complied with; and

(2) that the permit-holders arrived within one year of the date of issue of the permit.(4)

THE LEGAL STATUS OF CHILDREN BORN IN NEW ZEALAND UNDER THE 1939 CONCESSION

There were, however, legal difficulties in sending back to China children born in New Zealand. According to New Zealand legislation, a child born in New Zealand is a British subject, with all the rights of a British subject. To compel such a child to leave could potentially raise some unpleasant legal difficulties. Ponton discussed the problem and its attempted solution by the New Zealand government

The greatest problem was that of a child born to alien parents who were only in New Zealand temporarily. Was such a child a natural-born British subject? Under the Status of Aliens (in New Zealand) Act 1928, it seems as though the child would be, while he or she would most certainly not be an alien within the meaning of Section 2 of the Immigration Restriction Act 1908 (Lum v.

Attorney-General (1919), NZLR p.741). However the point revolves round the phrase ‘permanent residence' and although it could be maintained that the child had lived all his or her life here (even if it was only six months), no child of such a tender age could be said to have any permanent residence apart from the parents. To get back to the point at issue, the question was - could a Chinese wife here temporarily be forced to take away any child born to her in New Zealand? It appears that she could not for the father, who would be a permanent resident, would have certain rights re the custody of his children, even though these had been cut into by the Guardianship of Infants Act 1926. Consequently, although it was decided to require a bond of five hundred pounds that the wife should take away with her all children born to her in New Zealand, and that the husband should give all necessary consents for this, it seems from the above that there would be no legal means of forcing the child to leave the country. The five hundred pounds could be collected under the bond certainly, and it was hoped that this would deter the Chinese from breaking the terms of the concession. Doubtless this is the reason for the large amount required. (5)

CERTIFICATES OF REGISTRATION FOR CHILDREN BORN IN NEW ZEALAND UNDER THE 1939 CONCESSION

A further legal difficulty for the New Zealand government was the issue of Certificates of Registration, or re-entry permits, for the children born to women in New Zealand under the 1939 concession. Although legally entitled to the certificates, the government was determined that these children should not receive them. Again, the rationale was to prevent any increase in the Chinese New Zealand population. The fear, as seen by the government, was that the children born here during the two-year period would at some time return to New Zealand using the Certificate of Registration, and there would be no legal means of preventing them from doing so. Consequently the regulations were amended on 10 May 1939, and thereafter only people 15 years of age or over could obtain a Certificate of Registration. (6)

A confidential Customs Department memo set out the rationale behind the decision on 30 May 1939

The effect of the amendment to the Regulation is that the Minister of Customs now has discretionary power to refuse a Certificate of Registration to any person who is under fifteen years of age. It has recently been decided to grant permission in approved cases for the wives and minor children of Chinese residents of the Dominion to enter New Zealand for a period of two years, but before doing so it has been considered advisable for the Minister of Customs to be vested with power to refuse to grant Certificates of Registration authorising the re-admission to the Dominion of children who are born in New Zealand to Chinese women visiting their husbands in this country under the above-mentioned concession.

The amendment to the Regulations has been made for that purpose only and it is not the intention that other persons under

fifteen years of age who would have hitherto been entitled to obtain Certificates of Registration should now be refused such Certificates if they make application for them.

The Minister of Customs has accordingly granted a general exemption from the provisions of the new Regulations to all children under fifteen years of age permanently resident in New Zealand, except those Chinese children who are born in New Zealand while their mothers are residing in the Dominion on temporary permit. In future, when application is made to you for a Certificate of Registration by or on behalf of a Chinese child under the age of fifteen years (whether born in New Zealand or otherwise) every care should be taken before the Certificate is issued to ensure that the mother of such child was admitted to New Zealand as a permanent resident and is not merely residing temporarily in New Zealand under the above-mentioned concession. (7)

Following the July 1947 decision to grant permanent residence to all those who entered New Zealand under the 1939 concession, the problem of the re-entry and legal rights of residence of children born in New Zealand under the scheme became irrelevant. The five hundred pound bond was returned (8) and the regulations limiting the issue of Certificates of Registration to persons 15 years and over were revoked in 1948. The whole episode had done New Zealand no credit.

(1) Decision of Minister, 27 February 1939, C 33/24, quoted in Ponton, p.117

(2) National Archives. Labour Department. L1 22/1/81 Customs Department memo C 33/253/M Asian immigration. 29 Sept 1950, p.3

(3) Decision of Minister, 5 May 1939, C 33/24, quoted in Ponton, pp.119-120

(4) ibid

(5) Ponton, pp.117-118

(6) Statutory Regulations 1939/57

(7) National Archives.
Customs Department, Gisborne C-GS 1 22/1-3 Box 16

(8) The question of the refund of both the deposit and the bond has been a vexed issue with the Chinese New Zealand community, with many claiming the money was never returned. One unusual instance of proof of refund occurred when Dixon Yip stated during a Price Tribunal application hearing by the Wellington Chinese Laundrymen's Association in 1948 that ‘when a Chinese woman is permitted to enter New Zealand her husband has to make a deposit of ¤200 with the Customs Department. It was the refund of this ¤200 for my wife and ¤100 for my son which was spent in buying the car.' National Archives. Price Tribunal. IC 40/14. Hearing of Price Tribunal application by Wellington Chinese Laundrymen's Association, 14 September 1948, p.10

REMITTANCES

A number of reasons were behind the fact that Chinese men in New Zealand were not joined by their wives and children. Not the least of these was restrictive immigration policy. The fact remained, however, that the families of Chinese New Zealand men had to eat, and to this end the majority of Chinese New Zealand men sent a large proportion of their earnings home to support their families. The tradition of remittances from Chinese men living overseas is as old as Chinese immigration to Western countries itself. Prior to World War II this was a cause for much complaint amongst European New Zealanders, who accused Chinese of taking money out of the country to the detriment of the nation's economy. However there was no restriction on the practice until the early 1950s.

Following the 1951 policy decision to stop Chinese immigration, break the local community's tie with China and forcibly assimilate the community into the New Zealand way of life, it was decided to place restrictions on Chinese remitting money to their families in China. The continuing practice was felt to be a barrier to the assimilation of Chinese.

The 1951 Customs Department review of Chinese immigration policy noted:

It has been pointed out that the position whereby Chinese men live in New Zealand but have their wives and families in China is a most unnatural one. Until quite recently however most of the Chinese men preferred to have it that way. The admission of their families, it was hoped, would enable them to establish a family life here and would lead them to adopt higher standards of living and possibly Western ways. At present the only apparent result is that there are more Chinese in New Zealand.

Another factor in this question is the considerable amount of money which is being remitted to China by Chinese for the maintenance of their families. The figures for the past nine months are:-

1949	October	£15,000
	November	26,000
	December	20,859

1950	January	28,747
	February	13,645
	March	19,201
	April	14,463
	May	13,729
	June	39,326

Total= £129,111 for

the first six months of 1950

The Reserve Bank advise that the monthly average is about £20,000 so the annual rate is about a quarter of a million pounds. The number of Chinese remitting money is about 2,500 [Chinese population in 1951 was 3,633] but it is thought that there may be some duplication of files here due to the use of more than one name by Chinese. (1)

The answer, it was felt, was to place certain restrictions on the ability of Chinese to obtain the necessary postal notes by which to send remittances home.

Correspondence between the Departments of Internal and External Affairs in 1957 noted the restrictions and recommended abolishing them,

A complaint was recently made by a Chinese, a New Zealand citizen by birth, that Chinese in New Zealand are prohibited from purchasing British postal notes from post offices on the same terms as European residents of New Zealand.

The fact is that Chinese and Indians are by Reserve Bank instruction not allowed to purchase British postal notes at post offices to any value without Reserve Bank permit. Persons are identified as Chinese or Indian by physical appearance, at least in the first instance. No distinction is made between those who are New Zealand citizens and those who are not. One reason advanced for these provisions is the wish to protect Chinese from extortionate demands emanating from Communist China. . . Probably the main reason is the limitation of New Zealand funds remitted to India and China for the support of families.

While recognising that this aim is no doubt necessary and desirable, I would suggest that it is not best achieved by discriminating against New Zealand residents, many of them citizens, on grounds of race. I am particularly concerned about the discrimination against one class of New Zealand citizen because he is of Chinese or Indian origin. . . . It is also evident that it must be very difficult to police the restriction effectively, as no doubt Indian and Chinese call on European friends to purchase postal notes for them. Evasion of this kind tends to bring the law into contempt.

I am inclined to think that it would be more

honest and equitable to drop the discrimination based on race and seek the same end by imposing a corresponding restriction on remittance of British postal notes to China and India generally. I realise that this also would be difficult to police, but no more so than the present regulation.

I shall be pleased if you will give this question consideration and inform me whether you are prepared to make or support representations to the Reserve Bank. (2)

It is not known what the outcome of these suggestions was, or when exactly the above-mentioned restrictions were abolished.

(1) National Archives.
Labour Department. L1 22/1/81 Customs Department memo.

29 September 1951. Asian immigration, p.10

(2) National Archives.
Internal Affairs Department. IA 116/10
11 April 1957

CHINESE
OWNERSHIP OF LAND

There is a firmly-held belief among some older Chinese New Zealanders that in the past, Chinese were unable by law to purchase land in New Zealand. This belief, in its most popular form, is that Chinese were not allowed to own land in the period between the two world wars.

In the 1882 Return of theFreeholders of New Zealand (a list of people owning freehold land in New Zealand) at least twenty Chinese are recorded as owning land.
Since the end of the Second World War Chinese have bought and sold land in the same way as any other New Zealander.
So what of the belief that between the wars Chinese in New Zealand were unable to own land? Where does this idea come

from?

To many older Chinese it is just another example of legislative prejudice. There are also several published assertions of this belief. Daphne Meyer and Alex McLellan wrote in 1988 that, ‘Towards the close of last century a number of Cantonese-born Chinese arrived in the Otaki district via the Otago Goldfields and Wellington City. Land was leased (they were not permitted to own any then) and they settled down to raise vegetables for the Wellington markets.'(1) A 1994 NZ commercial grower article on the history of the New Zealand Chinese Growers Association stated,

There was another little piece of legislation which also made life difficult for the Chinese settler - he was not allowed to own land, and that was still on the Statute Books into the 1930s. (2)

And a 1987 history of Pukekohe wrote that, ‘Most Pukekohe Chinese arrived in the area around 1954-56 because it was the period when they were able to purchase freehold land. Prior to this era they lived in various parts of New Zealand and leased properties.'(3)

However the evidence against these assertions is overwhelming. Land ownership has long been one of the fundamental rights of aliens in Britain and in all British colonies. The Aliens Act, passed in New Zealand in 1870, stated quite plainly that, ‘Every alien friend resident in New Zealand may inherit or otherwise take by representation, acquire, hold, devise, bequeath or otherwise dispose of every description of property whether real or personal in the same manner as if he were a natural-born subject of Her Majesty.' (1870 no.40 s2) This right was reiterated in the Aliens Act 1880 and the Aliens Act 1908. The British Nationality and Status of Aliens (in New Zealand) Act 1928 again asserted the right of aliens to own property, adding the word land to the relevant section (s13). Finally, section 23(1) of the Citizenship Act 1977 states that every person not a New Zealand citizen is able to own land in New Zealand.

Furthermore, a 1926 attempt by the White New Zealand League to have Chinese debarred from buying or owning land in New Zealand was tactfully refused by the government. The Christchurch Press reported the story as follows

A reply to the request by the White New Zealand League that legislation be enacted to make the leasing or selling of land in any part of New Zealand to Asiatics subject to the approval of the local authority was received last evening from the Minister of Internal Affairs, the Hon. R.F. Bollard, by the Puakau Town Board, which endorsed the representation.

Mr Bollard intimated that the request could not be granted. ‘Our legislation at present,' he wrote, ‘allows for the acquisition of land by aliens in the same manner in all respects as by natural-born British subjects, although there are certain restrictions with reference to ex-enemy subjects. The law in this respect follows that of most countries, and to alter it in the way suggested would give grave offence, and probably involve the Imperial Government in serious difficulties.'

The letter said that although a number of Asiatics might have concentrated in certain districts, the restrictions on Asiatic immigration into New Zealand were more effective and more stringent than those of any country, and the total alien population here was extremely small. Through the Customs Department the government kept a close watch on immigration, and statistics showed that the number of Chinese, for example, at present in New Zealand was only about half what it was 30 or 40 years ago. If the acquisition of land by Asiatics became a menace, no doubt the government would require to consider the possibility of legislation, not withstanding the grave international difficulties that might arise. However, there did not at present appear to be sufficient warranty for legislative action. (4)

However, there was one occasion when Chinese, as well as other ‘aliens', were debarred by law from buying land in New Zealand. This was during World War II. In March 1942 the government brought in regulations preventing aliens from buying land and house property. These were directed at appeasing popular discontent at the apparent prospering of the many European refugees in New Zealand, as well as Chinese, at the perceived expense of New Zealand men fighting in the armed forces. The Aliens Land Purchase Regulations 1942 (Statutory Regulations 1942/77) stipulated that,

No person shall enter into any contract or agreement-

(a) For the sale of any land to an alien or providing for the acquisition in any contingency by an alien of any land; or

(b) For the lease of any land to an alien for a term of not less than three years; or

(c) For the assignment to an alien of any leasehold estate or interest in any land, whether legal or equitable, of which a period of not less than three years is unexpired, - unless the consent in writing has first been obtained.

These regulations remained in force until 1945, when they were revoked by the Emergency Regulations Revocation Order No.2 (Statutory Regulations 1945/181).

So, apart from this brief three-year period, Chinese were legally able to buy land in New Zealand. We have seen that before the World War I, and after the World War II, Chinese bought land in the same manner as any other New Zealander. Therefore where did the belief that Chinese were not allowed to purchase or own land in New Zealand come from? This can probably be explained by the fact that immigration legislation and policy during the inter-war period did nothing to encourage a sense of permanence among the Chinese community. The legislative marginalisation of the Chinese during that period led many Chinese to view their time in New Zealand as merely a sojourn. People planning on returning to their country of origin are less likely to enter into such financially demanding investments as land purchases. Sedgwick noted that,

Leasing. . . allowed the lessee to vacate the premises or land quickly or pass it on to another who would in turn take over the lease. This arrangement benefited all, for it removed the Chinese from the necessity of heavy capital investment while yielding a tidy rent for the shop or land owner. (5)

This also explains the common complaint by Europeans during the inter-war period that Chinese market gardeners tended to live in sub-standard housing. Living a bachelor existence on a short-term lease garden, and saving every penny so as to send it home to wife and family in China is not much incentive for building palatial accommodation.

All of these considerations, combined with the three-year period when non local-born, non-naturalised Chinese were legally debarred from buying land, can go some way to explain how the belief in legislative barriers to Chinese land ownership came about.

(1) Historical Journal: Otaki Historical Society vol.11 (1988), p.56

(2) New Zealand Commercial Grower 49(4) (May/June 1994), p.11

(3) Pukekohe: 75 years, 1912-1987 (Pukekohe: Borough of Pukekohe, 1987), p.22

(4) Press 10 May 1926, p.8

(5)
Sedgwick, p.321

Chinese acquire
land, in Press, 4 November 1942, p.2

WAR
SERVICE

One of the strongest expressions of commitment to ones country is to be prepared to lay down ones life to defend it. The question of who will and won't serve in a nation's armed forces during a time of war raises fundamental questions of identity and national allegiance.
After World War II many New Zealanders questioned the allegiance of New Zealand Chinese. Letters to the editor asked how many Chinese fought for New Zealand in both World War I and World War II. A 1950 letter to the Dominion asked

Sir,
will C Wong of Waipukurau please tell us how many of his countrymen did go away with the New Zealand forces to each of World Wars I and II, and also how many of his countrywomen went and served with them?
Pakeha and Maori went shoulder to shoulder and did their bit, but I have yet to learn the number of New Zealand Chinese and Indians who went and helped them. (1)

Clearly, the loyalty and commitment of Chinese New Zealanders was being put in doubt.
The facts of the matter are that despite considerable disincentives against fighting for New Zealand, many Chinese New Zealanders made that decision in both World War I and II.

Not surprisingly fewer Chinese volunteered for service in World War I, a time of intense and overt racism against Chinese. One is far less likely to fight for a country that blatantly makes it known you are unwelcome. By World War II, however, racism had lessened and many Chinese New

Zealand men and women felt sufficiently comfortable with a New Zealand identity to be prepared to volunteer to fight for it.

The position of Chinese New Zealanders in both wars was relatively simple. Although under s7 of the Defence Act 1909 aliens were unable to serve in New Zealand's armed forces, this prohibition was suspended during both wars.(2) The suspension was formalised in 1939 under the Alien Enlistment Emergency Regulations, section 3 of which stated that, ‘An alien may hold a commission or may be entered or enlisted in any of His Majesty's New Zealand forces as if he were a British subject.'(3) Although these regulations were repealed in 1947, the right of aliens to serve in New Zealand's armed forces was formalised by s152(1) of the New Zealand Army Act 1950.

Ironically, while the 1908 prohibition on Chinese naturalisation denied non-naturalised, non local-born Chinese New Zealanders the right to join the armed forces, all Chinese New Zealanders were able to join up and fight during both world wars.

In addition, local-born Chinese New Zealanders were subject to conscription just as all other New Zealand men of eligible age. This was provided for under s3(2) of the Military Service Act 1916 which stated that, ‘every male natural-born British subject who is for the time being of military age, and who is at the passing of the Act, or subsequently becomes, resident in New Zealand' was liable to be called up for military service.

The means of determining who would be called up was based on the National Register. This was a list of males between the ages of 17 and 60 which had been compiled under the National Registration Act 1915. Although a significant number of Chinese names are to be found in the National Register, it is not known exactly how many were conscripted for military service under the Military Service Act. One, Clarence Eric Kee, was called up and served with the Canterbury Infantry Regiment from 1917 to the end of the war, suffering wounds during his service in France. His father, Frank Kow Kee, was granted naturalisation on this basis in 1920, one of only four Chinese naturalised between the prohibition years of 1908 and 1952.

Several other Chinese New Zealanders also served during World War I, mostly as volunteers. Willie Shack Horne enlisted with the Third Reinforcements and served in France for several years.(4) Wilfred and Gerald Chong, sons of Chew Chong of New Plymouth, both enlisted and served in France. Gerald suffered shell shock and never completely recovered.

Although it may not be possible to determine the number of Chinese New Zealand men who served in World War I, it is significant that many of those who enlisted, such as Willie Shack Horne and Gerald and Wilfred Chong, had European mothers and were well assimilated into white New Zealand society. As stated above, there would nave been little incentive for the majority of Chinese men in New Zealand during World War I to consider enlisting for service in the New Zealand forces.

As in World War I all Chinese, whether naturalised, local-born or alien, were eligible to enlist in the New Zealand armed forces during World War II. Local-born and naturalised Chinese New Zealanders were also subject to conscription under the provisions of the 1940 National Service Emergency Regulations.(5) Under these regulations a General Reserve was formed consisting of all New Zealand male residents between the ages of 16 and 46. All those on the General Reserve were liable to be called up by ballot for military service. Regulations 9 and 12 allowed men to remain in ‘Essential Occupations' to ensure the maintenance of ‘supplies and services essential to the life of the community.' Many Chinese New Zealand men liable to serve were exempt because of their engagement in market gardening, an essential occupation. Many also took advantage of this loophole to avoid conscription by taking up work on market gardens. A question remains whether Chinese New Zealanders were actually conscripted or not. In 1946 Philip Matthews wrote,

Chinese of military age and medical grading were, subject to the rights of appeal granted to all New Zealanders, required to serve in the home defense forces, but were not drafted for overseas service, although a number of Chinese did volunteer and go overseas from New Zealand. (6)

Whether Chinese New Zealanders were actually called up or not, a large number chose to volunteer for service. As Bill Chun of Wellington said in 1995, I had a boring job at that time . . . and I just thought there must be better things to do in life than this . . . All your friends were joining up and going into the forces and suddenly you felt a bit alone. (7)

Another Wellingtonian, Jim Tso, also volunteered.

In those days . . . everybody want to do their bit because personally you got to do your bit because otherwise the enemy came to attack your country. (8)

The position of the liability of aliens for
war service during World War II was set out by the War Cabinet on 10 July 1942:

The present position of aliens in this Dominion
is that War Cabinet has directed that:

(i) Every encouragement be given to allied,
neutral, and enemy aliens of refugee or other approved friendly status to
render voluntary service in the army (including the Home Guard, Navy, Air
Force) and Emergency Precautions Scheme;

(ii) No compulsory service be applied to aliens
except in the case of allied aliens whose Governments approved of the
conscription of their nationals. (No
such approval has yet been given for the conscription of the nationals of an
allied national);

(iii)
All aliens be subject to the regulations in respect of national service
other than in the Armed Forces, Home Guard and E.P.S. - the utmost care to be
exercised to safe guard against aliens being directed to work in industries
closely associated with the war effort.(9)

A later addition to this was the decision that,
‘Aliens joining the Armed Forces be permitted to apply for Letters of
naturalisation.'(10)

Two outcomes of these decisions were as
follows. Under the Emergency Reserve Corps Regulations 1941 amendment no.3(11) aliens were subject to service under the
Emergency Precautions Scheme (EPS). The
main effect of this for Chinese was that ‘alien' Chinese New Zealanders were
liable for service in the Home Guard.
The other outcome was that aliens who served in the armed forces were
eligible for naturalisation. Section 4
of the British Nationality and Status of
Aliens (in New Zealand)
Amendment Act 1943 provided the
mechanism for this provision to take place.

At least one Chinese New Zealander benefited
from this concession. Anthony Joe served
with the RNZAF from February 1944 to June 1945 and was granted naturalisation
on 15 December 1947 on the basis of his military service.(12) It was stated as part of his recommendation
for naturalisation that it was felt, ‘such a grant made now to a Chinese
ex-serviceman might have a tonic effect on the local Chinese community.'(13)

Following the end of World War II compulsory military training was introduced for all male New Zealanders of 18 years of age (Military Training Act , 1949). Under this Act all Chinese males born or naturalised in New Zealand became liable for military training upon reaching eighteen years of age. Compulsory military training was temporarily suspended by the National Service Registration Act 1958. Section 3 of that Act stipulated that all males in New Zealand aged 18-21 years must register as liable for military service. The National Military Service Act 1961 reintroduced compulsory service for all 18-21 year-old New Zealand males. The term of service was to be 14 weeks. Compulsory military training was abolished by the Volunteers Employment Protection Act 1973.

Most, if not all local-born and naturalised Chinese men undertook compulsory military training. The majority found no racial discrimination during the training and many even found the experience rewarding. Inevitably discrimination was occasionally encountered. In 1950 a Chinese New Zealander appealed for exemption from compulsory military training on the grounds of fear of being humiliated for being Chinese. The New Zealand Herald reported the case,

An 18 year-old Chinese, G. Tiy, appealed against service with the armed forces before the No.2 Military Service Postponement Committee yesterday.
Through his counsel, Mr D. A. Ewen, the appellant said that, although he did not object to being in the Army, his position would be unbearable if he had to go into camp. Mr Ewen said Tiy was employed by a firm of painters in Auckland, and had to work alone because his workmates suggested that he was a Communist and that members of his race were Communists.
Those suggestions humiliated Tiy.
Tiy was a full-blooded Chinese who was born in New Zealand, Mr Ewen continued. . . Tiy had no political views, but he thought that camp would be intolerable if it were a continuation of the conditions that he had already experienced. (14)

In the event Tiy was not exempted from military service. Despite such discrimination and potential humiliation as experienced by G. Tiy, significant numbers of Chinese New Zealanders have been called up and have volunteered to fight for New Zealand during all its major military conflicts.

(1) 16 October 1950, p.6

(2) IA 116/10 - Disabilities of aliens, 13 April 1951

(3) Statutory Regulations 1939/281

(4) IA 1 20/2/136 Petition of Shack Horne 1933

(5) Statutory Regulations 1940/117

(6) Matthews, p.4

(7) City Voice 20 July 1995, p.16

(8) ibid

(9) IA 116/3/2 6 October 1943

(10) ibid

11) Statutory Regulations 1942/187

(12) IA 1 116/7 Part 1, 7 November 1947

(13) ibid

(14) New Zealand Herald 19 December 1950, p.8

BUSINESS
IMMIGRATION POLICY

In 1987 the fourth Labour Government instituted a radical and controversial new immigration policy. Introduced under its 1987 Immigration Act and 1986 Burke review, it abolished barriers to immigrants previously barred from New Zealand. Under the new policy immigrants were to be selected on personal merit and qualifications, not on race or country of origin.

Both the review and the Act were part of the Labour Government's extensive restructuring and deregulation of the New Zealand economy. A new, freer approach to immigration was seen as a way of stimulating the local economy by attracting wealthy immigrants with links to lucrative overseas markets.

One of the major elements in this effort to attract wealth was the Business Immigration Policy (BIP). The BIP, launched in August 1986, was, ‘designed to attract experienced entrepreneurs with investment capital who could contribute to New Zealand's economic development.'(1) The criteria was set out in section 3.3 of the Burke review: ‘Prospective migrants who wish to establish themselves in New Zealand as self-employed business people or investors will be assessed according to the potential contribution they can make to the New Zealand economy and society . . . Prospective business migrants will, however, be expected to have funds in the order of NZ$150,000 [increased to NZ$200,000 in 1987] readily available for transfer to New Zealand to meet housing, living and personal establishment costs in their first year.'(2)

The BIP was designed as a replacement for an earlier entrepreneur scheme introduced in 1978.(3) The earlier scheme, called the Entrepreneur Immigration Policy (EIP), while similar to the later BIP, was much more restrictive and did not achieve what it set out to do. Burke described the EIP as follows,

Since 1978 it has been possible for overseas entrepreneurs of proven ability wishing to invest in and establish business here to migrate to New Zealand irrespective of age, occupation or national origin provided they met other immigration criteria and brought to New Zealand skills and capital of benefit to the country. Proposals for investment have had to receive support from the relevant government agencies before entry was finalised and generally those approved have been in manufacturing, horticultural/agricultural processing, tourism or other enterprises constituting an additional unit of production. ‘Passive' investment in real estate or property has not been acceptable. (4)

Burke concluded that over the seven years it
was in operation the policy had failed to live up to expectations,

Two hundred and twenty-five successful
applications and a total of NZ$106 million investment in seven years, while
useful, could not be described as a significant element in either total
immigrant flow or the nation's development.
Despite the increasing flexibility with which it has been administered .
. . the entrepreneur programme has not succeeded in capturing the attention of
more than a few of the potential investors who are also being actively sought
by countries such as Australia and Canada.(5)

The answer, therefore, was to change the
criteria for business immigration to make it less restrictive and more
attractive to potential business immigrants.
The main means of doing this was by changing the emphasis from the
selection of investment proposals to the selection of people.(6) Another feature of the new policy was the
decision to actively promote it overseas.(7)
Despite the deliberate efforts to attract business people to New
Zealand, the government did not expect a large number of immigrants to enter
under the new policy, ‘In light of the requirement for NZ$150,000 to meet
initial personal establishment costs and the competition for good people from
other countries of migration, a substantial or sudden impact in terms of total
numbers of business immigrants entering New Zealand is not expected.'(8) In fact the BIP was an outstanding success,
surprising even its authors.

It was also to have a dramatic effect on
Chinese immigration to New
Zealand.
As Manying Ip noted, ‘Ironically, the government did not envisage the
outcome that most of the applicants would be the new-rich Chinese from Taiwan
and Hong Kong . . . From 1987 . . . to November 1991 the Business Immigration
scheme was the chief avenue by which Chinese people gained entry into New
Zealand.'(9) The reason the majority of
business migrants were Chinese (10) was due to the coinciding of the liberalisation
of New Zealand's
immigration policy with the deteriorating situation in the migrant's countries
of origin. Hong Kong migrants were
seeking a political haven from the 1997 return of Hong Kong to China. The uncertainty surrounding this event was
exacerbated by the repression of student demonstrators in Tiananmen Square, Beijing
on 4 June 1989. Taiwanese migrants were
also concerned about the political situation in Taiwan,
as well as being attracted by the chance to escape the hectic, overcrowded and
polluted lifestyle of Taiwan's
big cities. Private immigration
consultants agents in New Zealand
spotted the new market and assiduously courted potential migrants in both Hong
Kong and Taiwan,
setting up offices in both countries.(11)

Not surprisingly, the sudden arrival of a
large number of migrants from such non-traditional source countries as Hong

Kong and Taiwan
produced a range of expectations and reactions.
On the one hand the new migrants were expected to perform an economic
miracle, revitalising the New
Zealand economy with their supposedly famous
Chinese business sense. On the other hand their presence, especially in Auckland where the
majority settled, provoked a racist backlash.
The migrants were accused of inflating house prices, causing stress on
local schools, driving showy cars, stripping the coastlines of shellfish and
generally not fitting into the Kiwi lifestyle.

In addition, the business migrants were
perceived as not fulfilling the economic potential expected of them. The new, unfamiliar and very dissimilar
business culture of New
Zealand made it very difficult for the new
migrants to perform as expected. As
Manying Ip noted, the business migrants, ‘Used to reaping fast returns, are
non-plussed with this country's small, sluggish economy. Baffled by unfamiliar laws and business
practices, many new migrants find it easier to return home and conduct their
business there.'(12) The tendency of
many business migrants to spend long periods out of the country attending to
businesses also caused much criticism.

These criticisms, combined with the
negativity of public feeling and a change of government in 1990, led to a
tightening of the policy. In November
1991 a new policy, called the Business Investment Category (BIC), was introduced.
This attempted to address the perceived problems of the old BIP. The main changes were that the applicant had
to speak a minimum level of English and had to commit their funds in a New Zealand
investment for at least two years. In
addition, in an attempt to prevent the new migrants from congregating in Auckland and Wellington,
the level of funds to be invested was set at a higher level for those areas
than for other areas of New
Zealand.
This was a clear acquiescing to the racist outcry from certain sectors
of the white community.

The full details of the new scheme are set
out below:

The Business Investment Category (BIC) requires
applicants to score a minimum number of points in the employability section of
the General Category (points system) for qualification and/or work or business
experience. Prospective immigrants must
also be able to show that the business investment funds are the direct result
of their own business or professional skills over a period of at least three
years. There are three different types
of investment under which they can qualify in the BIC. All require funds to be invested in New Zealand
for a minimum of two years (and not in the purchase of possessions that could
be for personal use):

1. At least $NZ750,000 into a passive

investment such as bank accounts, trust funds or listed stocks.

2. At least $NZ625,000 in a commercial venture
in either the Auckland or Wellington regions.

3. At least NZ$500,000 in a commercial venture
anywhere outside the Auckland or Wellington
regions.(13)

Though in general business migrants will be
allowed to place their money in investments of their choice, a residence visa
will not be granted until funds have been lodged in a New Zealand investment, and if
those funds are not kept there for at least two years, the residence permit may
be revoked.

The Category will be open to business people of
all ages, and will require a minimum level of English language ability on the
part of the principal applicant or their spouse or an adult child over 17 years
of age. (14)

Although it could be seen that the new BIC
addressed real problems with the old BIP, it can also be perceived that the
tightening of rules reflected a desire to limit the number of Chinese migrants
entering under the business category. As
Vaughan Yarwood noted in 1993, ‘The Government's recent tightening of rules for
migrants entering New Zealand under the Business Immigration Programme . . .
has been criticised for treating Asians ‘like lesser human beings.' The new criteria oblige applicants to commit
their families, business skills and capital to New Zealand for two years with
neither residency nor security guaranteed, after which their situation will be
formally assessed.'(15)

Former Minister of Immigration Aussie
Malcolm put it a little more bluntly, seeing the change as a U-turn and a,
‘political response to latent racism in New Zealand - one with grim
economic ramifications.'(16)

The government, however, was quite clear and
unashamed in its reasons for introducing the changes, claiming, ‘the tough new
rules are having the desired effect of discouraging Hong Kong migrants tempted
to use the programme as a temporary safety net until the dust settles following
the return of Hong Kong to China in 1997.
The policy shift . . . also addresses another problem. By attracting younger, more educated and
skilled migrants from beyond the Asia/Pacific catchment, it minimises the
tension that surfaces wherever migrant nationalities are
concentrated.'(17)

One of the main outcomes of the change in
policy was a significant dropping off in applicants under the BIC. In 1991 the BIP accounted for 32 percent of
total residency approvals. In the first

six months of 1992 the new BIC contributed only 0.5 percent of approved migrants.(18)

Instead of applying for entry under the BIC, business migrants opted to enter under the General Category, an easier and less expensive option. However, as Aussie Malcolm noted, ‘the main reason more people are not applying under the BIC is that they are simply not convinced that they are wanted. The entrepreneur says you are asking me to make a commitment to New Zealand, move my family here and lock up a bundle of money for two years in return for a form of temporary residence. After two years, I still have to pass the judgement of a bureaucrat in accordance with a policy that can be changed at any time.'(19)

The meaning of the changes was clear. In the words of David Barber, ‘the new business policy . . . is not working.'(20)

Although the government persevered with the BIC it was clear its effective life was limited. This was especially so in the case of business migrants from Asia, where government increasingly undermined this avenue of entry. Responding once again to continuing public calls to limit the number of Asian immigrants, the Government further tightened the criteria for entry to New Zealand.

On 1 July 1995 it raised the pass mark for migrants under the General Category from 29 points to 31. Although in theory having no effect on BIC applicants, in practice it further limited the number of business immigrants able to come to New Zealand. Aussie Malcolm put it succinctly in a newspaper article published at the time,

Mr Malcolm . . . said that changes announced by the Government . . . would pit business immigrants against others on a points basis . . . Under the new system 3 to 5 points will be awarded for direct investment between $750,000 and $175,000 and up to 10 points awarded for ‘accumulated earnings funds' between $750,000 and $3 million. Mr Malcolm said that while an investment category remained in the policy, merging it with a general category effectively closed it down. In reality, investors would not seek entry. (21)

A racial bias behind the changes was also perceived by Malcolm, ‘presumably the Government had decided ‘that the yellow faces in New Zealand are more problems than the benefits of $1.5 billion a year.'(22)

The real death knell to the business immigration policies, however, was sounded in October 1995 when the government

introduced yet another set of policy changes.
Once again the changes were introduced in response to continuing
negative reaction to the number of Chinese immigrants and were aimed at further
limiting Chinese immigration. The changes applied to the General Skills
(formerly General) and Business Investor (formerly Business Investment)
categories. The major changes included:

(1)
Points-based system for both general and business categories. The points system changed from a fixed pass
mark, previously 31 points, to a floating pass mark. ‘In weekly ass
the Immigration Service will decide the number of points required for a pass.' (23)

(2)
An English language test that, if failed, required immigrants to post a bond of
$20,000, refundable
in full if the test was passed within three months of arrival, and in part
($14,000) if they passed within twelve months. If the immigrant failed to pass
after twelve months the government
retained the full $20,000.

(3)
Introduction of residence status linked to the tax status of the principal
applicant of migrant family. In effect it penalised immigrants who spent
large periods of time out of the country. This was designed to encourage a commitment
to live in New Zealand.

The government explained that the policy
changes were designed as, ‘a clampdown on ‘free-riding' business immigrants who
do not contribute to the New
Zealand economy.'(24) Roger Maxwell, Minister of Immigration
noted, ‘business immigrants had to make ‘more of a commitment' to New Zealand.
He said some immigrants, who spent most of their time out of New Zealand and
could not show they had invested in the local economy, could soon lose their
returning residents visas as they came up for four-yearly review.'(25)

Not only were new Chinese business
immigrants to be severely restricted but those already in New Zealand were to be penalised
for not ‘performing'. The new policy
drew harsh criticism for its perceived racial bias. The predictable result was a further dramatic
drop in business category applications from Asian countries, a result the
government no doubt intended. The drop
and the reasons behind it were explained in an article in the New Zealand Herald,

The number of people applying to migrate to New Zealand
has plunged since the Government changed its immigration policy last
October. The slump was particularly
noticeable in the controversial business category that attracted large Asian
investments to New Zealand. Applications this year in the business
investor category to the end of May totalled 11, representing a 96 per cent
fall from the 330 for the same period last year . . . Among some of the changes
. . . the Government moved to tighten loopholes that allowed business
immigrants to gain residency by investing passively in New Zealand, and return
to their country of origin. Investments

must now be direct, with the applicant owning 25 per cent or more of the enterprise. It made ongoing residency entitlement of a whole family contingent on the principal applicant being a resident for tax purposes - which means being in New Zealand for at least 183 days a year. And it set up a strict English language test which . . . was portrayed in Asia as racist. (26)

In effect, the changes were aimed almost exclusively at Chinese immigrants. Mr Maxwell noted that the changes were ‘introduced to control immigration'.(27) It would have been more accurate if he had said they had been introduced to control Chinese immigration.

The October 1995 policy changes have effectively ended business immigration from Asia. The reasons are not hard to discern. The language requirement was the single most important reason for the collapse. In addition the racism implicit in the changes was a crucial factor. As one commentator put it, ‘Asians resent the new policy. They feel they are welcome only for their money, and have made their feelings evident by no longer applying. One of my Asian friends commented sarcastically that the ‘language policy is superb if it is the wish of New Zealand to keep the country solely English-speaking, and it wishes to maintain its culture inherited from Britain, and distance itself from Asian countries.''(28) In many respects this is exactly what New Zealand did want.

When the 1986 Business Immigration Policy was conceived it was not expected the majority of the applicants would be Chinese. As with the 1865 invitation by the Dunedin Chamber of Commerce to Chinese goldminers to revitalise the Otago economy, the would-be saviours soon became unwelcome guests. The changes that have been made to the business immigration schemes since their implementation in 1986 show New Zealand's schizophrenic attitude to Chinese investment and Chinese immigration. In many ways it does appear that New Zealand wants Chinese ‘only for their money'.
Rolf Cremer states that, ‘The New Zealand Government must state unambiguously and frequently, at home and abroad, that Asian immigrants, like all other immigrants, are warmly welcome, and that New Zealand wants to be the place of choice for Asian people to live, study and work'.(29) At this stage New Zealand has a long way to go before these sentiments are wholly adopted.

(1) Trlin and Kang, 1992, p.62

(2) AJHR
1986-87 G-42. 3.3. Entrepreneur and Business Immigration, p.20

(3) AJHR
1979 G-1, p.25 for details on institution of the EIP

(4) AJHR
1986-87 G-42, p.19

(5) ibid, pp.19-20

(6) ‘Government has decided that the main thrust of entrepreneur immigration should be changed from selecting proposals to selecting people.'ibid, p.20

(7) ‘greater emphasis should be placed on this avenue for immigration to New Zealand in the presentation of and publicity about our immigration policy.'ibid

(8) ibid, p.21

(9) Ip, 1995, p.191

(10) Between 1986 and 1990 2,731 approved applicants were from Hong Kong and Taiwan, while 1,091 came from all other places. Compare this to the figures for the EIP, where out of 225 approved applicants, only 21 came from a ‘Chinese' country - Hong Kong

(11) By November 1988 there were over 30 immigration consultancies in Hong Kong alone. National Business Review weekend review, 18 Nov 1988, p.W15

(12) Ip, 1995

(13) NZ Business,
April 1995, p.14

(14) New Zealand's immigration policy
NZIS, 1991, p.14

(15) Yarwood, 1993, p.36

(16) ibid

(17) ibid

(18) ibid

(19) National
Business Review 4 Sept 1992, p.28

(20) ibid

(21) New Zealand Herald 21 July 1995, p.1/1

(22) ibid

(23) Evening
Post 23 October 1995, p.11

(24) New Zealand Herald 5 July 1995, p.3

(25) ibid

(26) New Zealand Herald 21 June 1996, p.1/1

(27) ibid

(28) WCA newsletter March 1997, p.20

(29) ibid, p.21

OCCUPATIONAL
PRIORITY LIST AND TRADITIONAL SOURCE COUNTRIES

In 1973 the Labour Government (elected in 1972) conducted a review of immigration policy resulting in a change to the emphasis on immigration from Great Britain.
Prior to the review British immigrants of wholly European ancestry had virtual free entry to New Zealand.
Under the provisions of the review, implemented in May 1974, immigrants from Great Britain had to obtain an entry permit to New Zealand on the same basis as other immigrants.

The controls were introduced partly as a response to an unprecedented upsurge in immigrants from Britain and Ireland in 1973 and 1974. The government was also concerned that many of these immigrants, ‘came without meeting any criteria and without pre-selection unless they were prohibited on the grounds of character or health.'(1)

As part of the new controls selective criteria were introduced with regard to British immigrants. This involved, ‘the introduction for the first time of both quantitative and qualitative elements of control in respect

of the main body of immigrants.'(2)
Critical selection was based on a list of occupations which New Zealand needed. This was matched to the skills an intending
immigrant possessed.

The scheme was outlined as follows,

The first step in the contingency plan was to
prepare lists of occupations that placed in different categories of priority
those occupations in which there were labour shortages in New Zealand
that might be satisfied by immigration. . . . These lists were not all
inclusive. There were groups of
occupations which were not listed either because the recorded number of
vacancies was too small or because the training required should be provided in New Zealand
without any need to bring in migrants specially to fill vacancies. Among these were those whose qualifications
lay in the cultural and similar fields and those who might be coming to New Zealand
to set up in business. The absence of an
occupation was not necessarily to mean that a particular person should be
excluded if he had a guarantee of employment and there was a real need for his
services. (3)

Called the Occupational Priority List (OPL),
this method of selecting migrants was introduced on 1 April 1974.(4) In addition to meeting the requirements of
the OPL, the intending immigrant was also required to have a firm job offer
from a New Zealand employer, as well as to come from what was known as a
‘traditional source country'.

As noted by Kerry Burke in 1986 (5) the
origin of the Traditional Source Country list is obscure, although there is no
doubt it intended to keep a check on non-European immigration to New
Zealand. The Department of Labour's
Immigration Division described the favoured countries of immigration in 1978
as, ‘comprising most of the industrialised and developed countries of Western
Europe, the United Kingdom,
the United States of America
and Canada. These are countries from which New Zealand has traditionally taken substantial
numbers of immigrants in the past, and which have vocational training systems
which are similar to those in New
Zealand.'(6)

New Zealand did, however, allow a small number of immigrants from
non-traditional source countries, albeit under very strict conditions,

Arising out of an agreement entered into at the
World Employment Conference, held in Geneva in
1976, New Zealand
does not recruit skilled people from developing countries which themselves have
a current or potential need of their skills.
As a result of a recent decision by the Government, however, it is now
possible for people to migrate to New Zealand on occupational grounds from

other than traditional source countries if they have skills which are needed in New Zealand, if the skills they possess are not in demand in the country of origin, and if it is not possible to obtain the skills from a traditional source country. (7)

The countries that were designated Traditional Source Countries in 1977 were: Australia, Austria, Belgium, Canada, Denmark, Finland, France, the Federal Republic of Germany, Iceland, the Republic of Ireland, Italy, Luxembourg, the Netherlands, Norway, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland, and the United States of America.(8) It is unlikely the list was significantly changed until its abolition in 1986, if at all.

In addition to the above-mentioned immigration restrictions on those from non-traditional source countries, there was also a very much smaller Occupational Priority List for non-traditional source countries. In 1977 the Minister of Immigration, T.F. Gill, noted that,

Nationals of traditional migrant countries may be recruited in the full range of 243 occupations on the occupational priority list, while the list that applies to nationals of non-traditional migration-source countries is very much smaller, with only 4 occupations. One of the main reasons for this distinction is that New Zealand agreed at the World Employment Conference not to recruit skills from developing countries, which themselves have need of them. (9)

By the use of the OPL and the Traditional Source Country designation New Zealand got to have its cake and eat it too, severely restricting immigration from non-European countries, but not discounting possible immigration from those same countries if New Zealand was in special need of their skills.

In 1986 the new Labour Government (elected in 1984) conducted another review of immigration policy. The outcome was a radical re-think of immigration policy. The resulting freeing up of immigration restrictions was part of Labour's free-enterprise philosophy and formed an integral part of an extensive restructuring and deregulation of the New Zealand economy. A freer immigration policy, providing a ‘level playing field' approach to immigration, was seen as a way of creating contacts with lucrative overseas markets, especially in northern Asia.

One part of this policy was the abolition of the Traditional Source Countries criteria for immigration. Kerry Burke noted in the review that,

The most significant of these changes relates to the ‘traditional source' criteria in migration selection. . . . Selection according to national origin is inherently discriminatory in that important decisions affecting individuals have been made on the basis of the applicant's nationality. Difficulties have been experienced by employers wishing to recruit good quality migrants whose occupational skills are at least equal to those available from previously preferred sources. More generally, the traditional source approach has restricted the entry to New Zealand of people from countries and regions of present and future economic and political importance to New Zealand. (10)

Perhaps most significantly, Burke pointed out that, ‘If non-traditional markets for New Zealand exports are to be developed and expanded it is important to build up personal as well as commercial relationships and the inflow of capital is more likely to proceed in an environment which welcomes human as well as financial investment.'(11)

Abolishing the Traditional Source Country designation was seen as an important economic policy decision for New Zealand. Therefore it was decided from February 1986 to, ‘abolish national origin as a factor in immigrant selection and to assess applicants solely on criteria which evaluate personal qualities, skills, qualifications, potential contribution to the New Zealand economy and society and capacity to settle well in this country.'(12)

In November 1991 the National Government, elected in 1990, introduced a policy change in immigration, part of which replaced the Occupational Priority List with a points system that ranked applicants on their work experience, age and settlement factors. This, combined with Labour's abolition of the Traditional Source Country criteria in 1986, made immigration selection in New Zealand as equal as it had been since the introduction of the permit system in 1920.

The implications of these two decisions for Chinese immigration to New Zealand have been considerable. Highly qualified Chinese from Hong Kong, Taiwan, Singapore and mainland China have arrived in significant numbers since 1986, more than doubling the Chinese New Zealand population. Not surprisingly reaction to this sudden influx of immigrants has seen a call for the reintroduction of restrictions on immigration. These restrictions are not unlike those brought in by the Occupational Priority List and the ‘Traditional Source Country' designation in the first place.

(1) New Zealand Foreign Affairs Review 24(5) (May 1974), p.32

(2) ibid.

(3) ibid, pp.32-33

(4) ibid, p.33

(5) AJHR 1986-87 G-42, p.15

(6) New Zealand. Department of Labour.
Immigration Division. Immigration and New Zealand: a statement of current immigration policy, 1978, p.2

(7) ibid.

(8) NZPD vol.413 1977, p.3091

(9) ibid, p.3114

(10) AJHR 1986-87 G-42, p.15

(11) ibid.

(12) ibid.

REGISTRATION
OF ALIENS

Between the years 1917 - 1923, and 1939 -
1977, Chinese New Zealanders, along with other aliens resident in New Zealand,
came under the provisions of various alien registration Acts and regulations.

For security purposes Chinese had to
register their name and address, and notify police of any change of employment,
name and abode. Although Chinese were
not singled out by these enactments, as all ‘aliens' were subject to the
provisions, they were probably more irksome. Unlike other aliens, Chinese were
unable to be naturalised.

Non local-born, non-naturalised Chinese
continued to be subject to the provisions of the Acts until 1952, when naturalisation
of Chinese was re-introduced. New
Chinese immigrants, like all other alien immigrants, continued to be subject to
the provisions of the Aliens Act 1948
until its repeal in 1977.

An historical overview of the control of
aliens was provided by Walter Nash in 1948:

There is a short historical survey associated
with the explanation. The Bill is really
for the purpose of keeping a check on the other-than British group in the New Zealand
community. From 1881 to 1921 the
allegiance of birth places was recorded statistically in the Dominion. It was not until 1917 that the administrative
control was imposed.

This was achieved by the Registration of Aliens
Act, 1917, which required aliens to
register and to notify changes of address.
It also provided that the Government Statistician should compile and
maintain a register of aliens. The Act
was amended in 1920 and was suspended in 1923.
From 1923 to 1939 aliens were not required to register, the only control
being that exercised by the Minister of Customs who took notes of all who came
into the Dominion, and also other steps if necessary in connection with any
action required.

One result of the relaxation of the
administrative procedure was that on the outbreak of war in 1939 no one knew
how many aliens were registered in New Zealand, where they were to be
found, or how they were employed. It was obvious at that time there was a grave
potential danger to national security and other things associated with
war. It was not until 1940, when the Aliens Emergency Regulations replaced
the Aliens Control Regulations of
1939, that an effective system of control was established. At the end of the war these regulations were
amended to provide the basic security requirements of registration,
notification of change of address, change of name, deportation, and all the
other things associated with security, and they have been continued in force
until the 31st December of the present year by the Emergency Regulations Continuance Act 1947. The regulations are
now being repealed. They operate, as I have said, only until the
31st December of this year, and it has been thought desirable to embody the

substance of the amended regulations into the legislation for two reasons, first, because - and I am sorry to say this - the security needs have not diminished. . . At present . . . the security aspect is the paramount one, and in this connection it should be emphasised that almost every country of any importance maintains its own aliens' registration scheme. I wish it was not so, but unfortunately it is.'(1)

The leader of the Legislative Council criticised the Aliens Act 1948 and the continuing necessity to register aliens

It is [a] sad commentary on world affairs to find that even the most democratic countries like New Zealand [are] having to take steps in peace-time to register the aliens in their midst. (2)

By 1977 post-war paranoia and security fears had faded and with it the need to maintain a register of foreign nationals in New Zealand. The Citizenship Act 1977 did away with registration of aliens. The New Zealand yearbook of 1978 noted that, ‘Up to 31 December 1977 the registration of aliens in New Zealand was provided for by the Aliens Act 1948, which was administered by the Department of Internal Affairs. Upon the introduction of the Citizenship Act 1977 the requirement that aliens be registered was abolished.'(p.76)

As was noted during the debate on the 1977 Citizenship Act

The aliens registration clauses are in many ways a hangover from the paranoia of WWII and are no longer necessary in New Zealand. (3)

* * *

CHRONOLOGY OF REGISTRATION OF ALIENS ACTS AND REGULATIONS

Registration of Aliens Act 1917 no.12 s10(1): Every alien registered under this Act who changes his abode. . . shall, within fourteen days, give written notice. . . of the fact and of his new place of abode. . . ‘

New Zealand Gazette 1917 no.165, 8 November 1917, pp.4138-4140: Regulations and forms under 1917 no.12

Registration of Aliens Amendment Act 1920 no.7 s6: Aliens to notify police of change of name.

Registration of Aliens Suspension Act 1923 no.7: Registration of aliens suspended.

Alien Control Emergency Regulations 1939 - Statutory Regulation 1939/132 reintroduced registration of aliens:

s3(1)
Every alien in New Zealand to register

s11
Aliens to notify police of change of abode

s15
Aliens to notify police of change of name

These regulations were continued under the Aliens Emergency Regulations 1940 - Statutory Regulation 1940/273

Emergency Regulations Continuance Act 1947 no.66 continued to enforce all the provisions introduced since 1939.

Aliens Act 1948 no.28 continued these provisions:

s6
Every alien in New Zealand
to register.

s11
Aliens to notify police of change of name, of change of abode and change of job.

Citizenship
Act 1977 no.61 Registration of aliens repealed.

(1) NZPD vol.283 1948,
pp.3108-3109

(2) ibid, p.3321

(3) NZPD vol.415 1977, p.4384

DISCRIMINATION
IN ADMINISTRATION OF IMMIGRATION POLICY

Accusations of discrimination against

Chinese in New Zealand's
immigration policy did not cease with the abolition of blatant anti-Chinese
policies like the poll-tax, reading test, tonnage restriction and the policy of
not granting permanent residence to Chinese.
Prior to the abolition of these overt discriminatory policies Chinese
knew where they stood and attempted to accommodate themselves to the
anti-Chinese measures that existed.
Following the Second World War there was an increasing trend towards
non-discriminatory immigration policy in countries such as Australia, New
Zealand, Canada
and the United States. While publicly proclaiming non-discriminatory
immigration policies, however, each country was careful to ensure that
immigration continued to be strictly controlled. For Chinese wishing to emigrate to New Zealand
little change occurred between the years 1951 and 1986. In many ways it was easier for Chinese to
enter New Zealand
during the period 1920-1950 than it was during the period 1951-1986. From 1951 to 1964 the door was firmly shut on
new Chinese immigration. Only the wives
and lawful minor children of New Zealand
permanent residents and New
Zealand citizens were officially allowed
entry. Between 1964 and 1986 the door
was opened fractionally to new Chinese immigrants. While New Zealand proudly claimed in both
1964 and 1974 that its immigration policy was now non-discriminatory and based
solely on merit, those Chinese who tried to enter New Zealand during this
period knew better. The following cases
show how firmly New Zealand
was still committed to controlling Chinese immigration during the 1951-1986
period:

THE CASE OF ADRIAN CHAN

In 1966 Adrian Chan, of Hong Kong, was
appointed teaching fellow at the University
of Otago. Chan, who was to teach Chinese history and
Chinese-American relations while working towards a Ph.D, was shocked to find
that after accepting the teaching position at Otago and arranging his affairs
he was granted only a six-month temporary permit, renewable for a maximum of
two years. Chan commented, ‘I can't
complete my degree in that time. It
takes three years . . . and I can't budget my life on a six-monthly basis.'
(1) Noting that the reason for only
granting a six-month permit seemed to be racially based, Chan said, ‘It is time
Mr Shand (the Minister of Immigration) got used to the fact that Orientals can
be something other than market gardeners.' (2)

There was widespread support for Chan. The New Zealand University Students'
Association stated that

The association is shocked at the report that .
. . Adrian Chan. . . could only obtain a six-month entry permit. . . it is also
disturbing that he was not able to find this out until he had refused other
offers of jobs . . . New Zealand universities are already at a disadvantage in
that they cannot offer competitive salaries to attract staff from overseas or
to retain their own graduates. Now to

low financial incentive is added insecurity of tenure, at least for university lecturers who happen to be Asian. (3)

Glenda Ward wrote

It is apparent that we in New Zealand can no longer point a superior finger toward examples of racial discrimination in other countries . . . Now we read that after being appointed a teaching fellow at the University of Otago, a young man was able to get only a six-month temporary entrance permit for no other reason, apparently, than that his skin is yellow. We cannot with any human dignity boycott segregated football matches in one breath and hire a man on terms of second class citizenship in the next. (4)

‘Canterbury' also pointed out the discrimination evident in the decision

A report in this morning's ‘Press' states that a Hong Kong university lecturer could obtain only a temporary entry permit (renewable) to work in New Zealand. If this is so, why did the Labour Department tell ‘The Press' recently that there were no immigration restrictions within the British Commonwealth. (5)

In reply to these criticisms, the Minister of Immigration stated that he was

well aware that Orientals can be something other than market gardeners. We have a large Chinese community of loyal citizens engaged in many occupations.(6)

In answer to the question of the length of the permit, he said,

People of Australia and New Zealand admit thousands of students from countries where education facilities are inadequate to aid these countries. So that the aid may be effective, we insist that they return.(7)

He then went on to attack Chan

Mr Chan is not unique in beginning to abuse his host almost the moment he sets foot in the country. There are always some people who support their statements with an inadequate choice of facts . . . Mr Chan would do well to ponder that by behaving in the way he has begun to do, he is doing his best

to damage and destroy the wealth of goodwill which New Zealanders as a whole feel towards those of his race who have settled here.(8)

Rather than answering the criticisms placed before him, Shand did his best to avoid them, a tacit admission that they had substance. As ‘Ordinary citizen' said

Mr Shand, apart from his patronising and hectoring attitude, did not state any valid reason why Mr Chan was not given a longer permit - three years for instance.(9)

THE CASE OF LAWRENCE WONG

In 1972 Lawrence Wong, a university student from Wellington, pointed out a blatant case of discrimination against Chinese by the Immigration Department. Wong's father, a New Zealand citizen and resident for more than 30 years, applied to have a Hong Kong relative visit New Zealand on a twelve-month tourist permit. A year later a six-month permit was granted. The Labour Department also demanded three declarations that no extensions would be sought, even though such extensions were allowed under the Act. In addition a letter of re-employment was demanded from the applicant's employer in Hong Kong. ‘It's obvious that if the declarations were not given', Mr Wong told the Truth, ‘no permit would have been granted.' (10) When the visitor applied for an extension a month before his six-month permit was due to expire, the application was rejected on the grounds that, ‘‘written undertakings' had been given that no extension would be sought.'(11) As it seemed obvious that a clear case of discrimination on the grounds of race had occurred, Wong wrote to the Minister of Immigration seeking an explanation of, and justification for, the actions of his Department. The Minister, David Thomson, replied that, ‘it was departmental procedure to demand declarations in ‘appropriate cases' . . . and to use such declarations as the reason for refusing an extension of stay here.' (12) However, as was pointed out at the time, no explanation was offered as to why the applicant had been an appropriate case for discrimination. Further correspondence with the Minister elicited conflicting and equally unsatisfactory replies. Commenting on the case, Wong said that, ‘like most of the Chinese community, he is humiliated and greatly concerned at the discrimination displayed by the New Zealand Immigration Department officials against Chinese.' (13) He challenged Mr Thomson to reconcile his statements in Parliament that, ‘There must be no discriminatory provisions in our law', and ‘We cannot have any second-class citizens in our law.' As Wong said, ‘New Zealand Chinese did not seek special treatment or privileges', all they wanted was equality. ‘As responsible citizens, they expect the benefits of full rights as enjoyed by Europeans.'(14)

THE CASE OF ALAN YOUNG

A further instance of discrimination towards
Chinese in the administration of immigration policy occurred in 1975 when a Mr
Alan Young wrote to the Evening Post
pointing out discrimination against Chinese by immigration officials. He wrote, saying he felt compelled to
publicly protest

at the blatant unjust administration of the
Labour Government's immigration policy in granting six month's extension for
European visitors to New Zealand
from Great Britain
and elsewhere who hold British passports, but deny such extensions to Chinese
visitors holding British passports.(15)

The case referred to occurred

when a British-born Chinese called at the
immigration office and handed in a completed official extension application
form, together with the passport and air ticket, [and] a junior clerk
immediately returned the form after he had written thereon the following:
‘Application declined as you are only entitled to six months from date of
arrival.'(16)

Mr Young went on to say that he was

astounded by this colour discrimination from a
Government whose members have had so much adverse comment in respect of other
countries such as apartheid in South
Africa, and whose election undertaking was
to eliminate racial discrimination.
Coloured voters will, no doubt, remember this discrimination in the
coming elections.(17)

In response, the Minister of Immigration,
Fraser Colman, said

The article [in the Evening Post] referred to set out in some detail my reply to the
editor in answer to allegations contained in a letter from a
correspondent. My reply pointed out that
in some measure temporary entry policy reflects the extent to which New Zealand
citizens are granted visitor's facilities in other countries. For example,
there is a fair degree of parity between the facilities which the United Kingdom
grants to New Zealanders and which we allow to Britons. On the other hand, there is little parity
between the policies of some countries (I could mention Hong Kong) and New Zealand. In this respect we are more
generous. All these comments were quoted and clearly
demonstrate that this Government's policies are not discriminatory but, having
developed over the years in a rather ad hoc manner, contain some apparent
anomalies. As mentioned in my reply to
the editor of the Evening Post, they
are being examined in the temporary entry section of the review of immigration
which the Government has undertaken. (18)

It is obvious that when a government
publicly declares a non-discriminatory policy, and then privately continues to discriminate against certain groups, cases such as the ones quoted above will occur.

(1) Press 2 March 1966, p.1

(2) ibid

(3) Evening Post 5 March 1966, p.22

(4) Press 5 March 1966, p.14

(5) ibid

(6) Press 4 March 1966, p.1

(7) ibid

(8) ibid

(9) Press 5 March 1966, p.14

(10) Truth 31 October 1972, p.9

(11) ibid

(12) ibid

(13) ibid

(14) ibid

(15) Evening Post 18 June 1975, p.7

(16) ibid

(17) ibid