

The New Zealand Experience.

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THE NEW ZEALAND EXPERIENCE Steven Young Mr Chairman/Madam Chair, Delegates I am greatly honoured to be invited to address you today on the subject of the New Zealand experience in seeking redress for our Poll Tax, which was almost exactly the same as your Head Tax here in Canada. First, I should say that my day-job is a consulting engineer in Wellington, New Zealand designing commercial buildings. However, for more than 25 years now I have been involved in various Chinese community organisations, generally been damned as some sort of activist, and for my sins I have often been assigned the job of editing the newsletter – or the other way round. As a hobby I helped edit Chinese Voice which was a Chinese newspaper within Wellington's City Voice. Out of this work has grown my web site at <http://www.stevenyoung.co.nz/chinesevoice> which is, in all modesty, the largest website in the world devoted to the Chinese in New Zealand. A sizeable proportion has been added in the last three months – all devoted to our Poll Tax, its history and the reconciliation process which is presently under way. Although I was born in China some time after the Second World War, I came to New Zealand when I was three years old – my grandfather and father having paved the way many years before. I am therefore a descendant of a Poll Taxpayer and a member of the Tung Jung Association of New Zealand which my father and grandfather helped found. Partly because I am currently vice-president of the Tung Jung Association and partly as a web publisher and commentator, I have been appointed to the Government's advisory committee to work on a reconciliation process following the Prime Minister's apology for the Poll Tax. (If you think an apology should follow a reconciliation process -rather than precede it - then you may be right!). That advisory committee is currently helping to design, manage and monitor the community consultation process. The outcome of that process will be recommendations for the Government to act. Many of the basic documents relating to the history of our Poll Tax, the New Zealand Government's apology, reconciliation process and community reaction are all available on my web site and I commend it to your attention.

1. LEARNING FROM EACH OTHER The wonderful news for the overseas Chinese communities, particularly in New Zealand, Australia and Canada, has been the NZ Government's apology to the Poll Taxpayers and their descendants delivered by the Prime Minister, Helen Clark, at Chinese New Year 2002. Let me say right at the beginning that the work of the Chinese in NZ leading up to that apology was partly inspired by the bold steps taken by Chinese Canadians in seeking redress for your own Head Tax. We in NZ have been aware of your work and have been encouraged in our efforts by your brave example. I hope that now you, in turn, will learn something from NZ's efforts, progress and mis-steps.

2. PROGRESS IN NEW ZEALAND TO DATE So where are we today in NZ with our reconciliation process? The Prime Minister has made a public apology on behalf of the Government of NZ. An advisory group has been formed and has produced a consultation proposal. A public information kit has been assembled and has just been issued. The Government has placed advertisements in the media inviting submissions. A community education program is to be initiated by some community groups. The public consultation process, predominantly for the descendants of the poll taxpayers, is about to begin as I speak. Within two or three months, officials will collate the submissions and, after consulting with the advisory group, arrive at a number of recommendations for the Government to implements as the final part of the reconciliation process.

3. EXPECTED OUTCOME OF THE CONSULTATION PROCESS Of course we do not know what the outcome of the public consultation process will be. However, based on the consensus of comments from community leaders it may result in Government support and funding for: Researching and recording the history of the Chinese in New Zealand. A re-writing of the curriculum and official history of NZ to include the history of the Chinese – (which is currently ignored or dismissed in two sentences.) Community projects which will help restore in some measure the cultural loss suffered by the early Chinese and their descendants up until almost the present day arising from their enforced cultural isolation and separation from their families because of the Poll Tax and other discriminatory legislation. The Government is already on record as saying that there will be no compensation payments to individuals.

4. DIFFERENCES BETWEEN THE NEW ZEALAND AND CANADIAN APPROACHES

It is immediately apparent that the approach of the Chinese New Zealanders and the Chinese Canadians to redress for the Poll Tax/Head Tax is markedly different. The Canadian approach is, as I understand it, to take court action to force the Government to pay for the injustices suffered by the Chinese under the Head Tax legislation. In NZ, the Chinese community is, in effect, agreeing to what amounts to a political settlement of the Poll Tax issues. In this approach the Chinese community and the wider community represented by the Government, arrive at a compromise which takes into account their relative political weights. If you were a mathematician you would say:

$$PW = MW \times n$$

weight = moral weight x number of people represented

The political settlement is taken at the point where the hypothetical political seesaw is in equilibrium. You will immediately notice that in New Zealand, in the final submission, no attempt has been made to build a legal case of any kind. (Earlier on, a legal approach was considered by the NZCA and an eminent Chinese Constitutional lawyer consulted, but for various reasons such an approach was rejected.

5. SIMILARITIES AND DIFFERENCES BETWEEN NEW ZEALAND AND CANADA

Although both New Zealand and Canada are former British colonies, now members of the Commonwealth, Parliamentary democracies and common law jurisdictions, there are many differences. There are obvious disparities in population, land area and geography. Whereas New Zealand's nearest large neighbour, Australia, is more than a thousand miles away across an ocean, your nearest large neighbour is right on your doorstep with possibly a greater influence. More importantly, I think, is the size of the Chinese Poll Taxpayer population relative to the total population. Nigel Murphy, (Alexander Turnbull Library, NZ) in his research estimates that the total number of Poll Tax payers was about 4500 who, in total, paid 310,000 pounds or the equivalent of \$NZ20,000,000 - \$NZ30,000,000. Prior to about 1985, when there was an influx of new immigrants, the total Chinese population in NZ was in the order of 35,000 - in a total NZ population of 3,750,000 or less than 1%. By way of contrast, the total indigenous Maori population was about 400,000 or over 11% of the total.

6. LEGISLATIVE CHANGES GIVING RISE TO TREATY CLAIMS.

As it happened, in 1985 legislative changes gave considerable powers to a Waitangi Tribunal to hear grievance claims by the indigenous Maori people and to make recommendations to Government for redress. At the same time, the NZ Court of Appeal interpreted law in a manner which made the Treaty of Waitangi in effect part of the unwritten Constitution of New Zealand – even though it probably was never intended to be used in this way. This is described in some detail in my paper at: <http://www.stevenyoung.co.nz/chinesevoice/> The Treaty settlement process has been sputtering on for more than 15 years, with the process being perceived by the general public as an unhappy one, with new claims being presented faster than old ones are disposed of, and no end in sight. The nett effect is, rightly or wrongly, justifiably or otherwise, the general population has become very chary of seemingly interminable claims of Maori grievances and claims for compensation. As it happens, many of these claims were well justified and needed redress; nevertheless the general public in NZ, including the Chinese, has become sensitized to any claims for grievances.

7. THE POLITICAL LANDSCAPE IN NEW ZEALAND

New Zealand recently changed to a Mixed Member Proportional form of proportional representation. The effect of this change is that minority groups and minority parties have a greater say than under the previous First Past the Post system. The MMP system creates a new type of MP called a List MP who gets a place in Parliament essentially by party appointment. Pansy Wong, our first Chinese MP is a List MP. It is doubtful that she would have won a seat as a constituency MP under the FPP system because the Chinese votes are scattered all around the country. Under MMP the Maori vote becomes very important as it is 11% of the total. It is therefore not surprising that recently policies of both the main parties reflect at least an accommodation of Maori aspirations. In part, this has fueled some rather outrageous Maori Treaty claims such as the right to a part of the electromagnetic spectrum, and the spectacle of settlement funds being used to buy a Rugby League team and similar activities. The effect is that the NZ public, including the Chinese view all grievance claims with a jaundiced eye. The average NZ Chinese, being good racists themselves, revile the Maori for their claims (many legitimate) and would never contemplate accepting money to settle any grievance. Indeed many openly espouse the view that there is, in fact, no justifiable claim of any grievance. Couple this with Chinese pride in their economic independence and faith in the efficacy of their own hard work, and it is now easy to understand why the notion of a financial compensation has been almost unanimously rejected by nearly all Chinese community groups, organisations and leaders. Of course, this view is partly the result of NZ's assimilationist policies of the 1950s which characterised the Chinese as a "model minority" as long as we kept silent and didn't make trouble.

8. HISTORY OF THE POLL TAX RECONCILIATION IN NZ

Given the rejection of monetary compensation by the Chinese population in general, why then was an apology sought? To answer this question we need to refer again to the Maori claims under the Treaty of Waitangi. In 1985, through various legislation, it became

accepted in principle that the Government would compensate the Maori people for various injustices which had been visited on them by the European back to 1840. The first major settlement was made to the Tainui Tribe in 1995. At that time Prime Minister Jim Bolger stated that other groups could legitimately make claims for grievances that they might have suffered. Around that time, the Poll Tax was rediscovered through the historical research by Nigel Murphy, Manying Ip, James Ng and others. Nigel Murphy, a librarian at the Alexander Turnbull (National) Library was commissioned by the NZ Chinese Association in 1992 to undertake a full study of the history of the Poll Tax. The result in 1994 was the seminal "The Poll-Tax in New Zealand—a research paper", published in 1995. This documented in detail the history of the Poll Tax drawing on the wealth of material in the National Archives. News of the bold and decisive steps taken by the Canadian Chinese since 1988 was instrumental in inspiring us in NZ to research our own case in depth. The NZ Chinese Association considered the report over the next few years (since it only met formally once a year), with some branches in favour of pursuing some form of redress and others less enthusiastic. During this period NZCA had discussions with members of the Cabinet. The National Government's position was rather ambivalent, with Prime Minister Jim Bolger inviting claims but Philip Burden, the Minister of Trade Negotiations, (and the most pro-Asian of the Cabinet), against the idea of the an apology because of the financial implications for the Government. Around this time there was already a backlash against Asians in general and Chinese in particular because the large number of immigrants into NZ at that time were perceived to have increased property prices in Auckland, taken up places in the better schools and were generally idly rich. It was therefore not a good time to jump on the grievance compensation bandwagon as well. These anti-Asian sentiments died down with a reduction in immigration and a general realisation that the Asians were not as dangerous to the NZ way of life as originally thought. It appears that in 1999 there was a very casual approach made to Helen Clark by the NZ Ethnic Council, a forum for various ethnic groups to coordinate their activities. At the end of 1999 there was change of Government, and the new Ministers were briefed on outstanding issues including the possibility of an approach by the Chinese for an apology for the Poll Tax. The matter was again raised at the NZCA's AGM in June last year and another approach was made to Government. The matter came before Cabinet in September 2001. Things happened very quickly after that. NZCA was encouraged by the Government to make a formal submission before Christmas 2001 with a view to an announcement at Chinese New Year 2002. Because of this Government-driven haste, consultations with the Chinese community were sketchy at best and very soon gave rise to controversy as various long-established associations realised that this reconciliation was about to by-pass them. Some of these groups are now in the hands of educated, sophisticated and experienced managers and bureaucrats who wanted to slow down the process to allow better consultation and community education. And this is where the process stands at present. So you might almost say that we have had an accidental apology — one driven by the Government as much as by the local Chinese involved, with no one in the community expecting it to happen for many years. (The other questions is why the Government moved to make an apology at all — given that the relevant legislation was repealed in 1944.) Exactly why the Government forced the pace, one can only speculate. (Cabinet briefing papers to be released soon may well reveal the reasons.) You might think that it may have something to do with MMP and the need for the Labour Party in an election year to commune with a part of the electorate it lost touch with when National gave a list seat to Pansy Wong as the first MP of Asian origin. However I could not possibly comment.

9. PUBLIC REACTION TO THE APOLOGY In general, there has been favourable reaction to the apology: It has been welcomed by most sectors in the Chinese community, and at least accepted by the rest. Among the descendants of the Poll Taxpayers, there is a considerable faction who do not want any more done, thank you very much. These are not only the very young adults who have never suffered any discrimination, but also from the older generation who have successfully survived discrimination and gone on to prosper. Among the newer immigrants of less than a generation's standing, the apology has been welcomed as an indication that the Government is moving towards acceptance of a more multi-cultural society in New Zealand, and a recognition of the importance of Asia. It has also been accepted by the Chinese Embassy and Chinese Government as positive development in much the same light. I think it is fair to say that the apology has given some encouragement to our sister movements in Canada and Australia.

The press in NZ has given the apology favourable coverage but with many letter writers and editorial writers cautioning against making claims for financial compensation. In the case of the letter writers, many could fairly be classed as red-neck, while the editorials have reflected the general public's views, which include to some degree the views held within the Chinese community itself. However, it should be pointed out that to date, no one involved has raised the possibility of a financial claim — the nearest being the possibility that some Government Departments might divert some of their budget and resources towards supporting historical research.

10. EFFECT ON THE CHINESE COMMUNITY The effect on the Chinese community, at least among the descendants, has been generally positive. The consultation process has forced them to communicate with one another as they have never done before. It has also forced the people involved to think and rethink their place in NZ society. At the same time, a few personal agendas and foibles have been exposed for the enlightenment of all. There has been a revitalization of some community groups who until now have been

happily doing their own thing and avoiding such issues as where they fit in the larger scheme of things. They have rediscovered the fact they need to be actively engaged in community affairs if their role is not be taken over by others no better qualified. Some dormant rivalries among various community groups have broken through the surface. However, these have been managed in a reasonable way without serious breaches in traditional relationships.

11. COMPARISON OF THE NZ AND CANADIAN APPROACHES I cannot claim to have a detailed knowledge of the Canadian approach, however after three days I have a better understanding than before. Essentially in NZ we have decided on a political settlement as opposed to a fight through the courts drawing on basic legal principles and international law. In NZ what we, the descendant of the Poll Taxpayers, will get out of it will reflect: Our political weight – or the balance of support for any proposed outcome among the Chinese and non-Chinese, and the degree of interest and concern of the Chinese population. (Amazingly, there are many Chinese, who even now, could not care less about the Poll Tax and want to leave it in the past "where it belongs.") The general community's disdain for monetary compensation given the apparently interminable Maori claims, with large payouts but little tangible benefits to the Maori at grass-roots level, apart from greater cultural awareness and an increase in pride. The pride of the Chinese in their achievements and their self-reliance.

12. SHORTCOMINGS OF THE NZ APPROACH The process has been driven and controlled by the Government. Thus we have the oddity of an official apology followed by a search for a reconciliation process. The haste of the process has meant that: There is inadequate community education, to the degree that some members of the Chinese community do not even realize that what they had to put up with in their formative years (such as discrimination, cultural isolation) was not necessary, fair nor normal. Poor research resulting in, for example, the PM's speech being translated into Mandarin and grass-roots county-based associations being ignored in the initial consultation process, resulting in a split in the Chinese community. Once dealt with in this rather hasty manner, the matter will be closed "forever" and will be very difficult to raise again politically.

13. UNANIMITY OF OBJECTIVES Nevertheless, given all these faults, as a member of the consultative group of some 20 people, I can report that there is no dissension in that group on two key points: No one wants monetary compensation. No one openly advocates suing the Government. There is some dissension as to whether the process ought to be formalized further in the House of Representatives.

14. HOPED-FOR OUTCOMES Research into the history of the Chinese community in NZ. NZ history officially rewritten to reflect the role of the Chinese in its development. Projects to restore in some measure the cultural loss suffered as a result of enforced isolation and separation arising from the Poll Tax and other discriminatory laws.

15. CONCLUSION I am sorry that I cannot bring to this conference news of a great victory by the Chinese in New Zealand following a well-organised and valiant battle against great odds led by great heroes. What we hope to achieve (and I think we are well on the way) is a recognition of past wrongs and positive action by the Government to redress these to some degree. In the process we hope to effect a positive change in the hearts and minds of all New Zealanders with whom we share the country. At the same time we will bring the Chinese community closer together to celebrate a common heritage of triumph over adversity. Perhaps those who paid the Poll Tax, now mostly gone, will find these two outcomes sufficient redemption of those old certificates.

16. DISCLAIMER These comments are personal and based on long-term involvement in Chinese community affairs and current official involvement in the reconciliation consultation process. This paper has been reviewed by leading figures in the consultation process including Nigel Murphy, Kirsten Wong, Esther Fung, David Fung, Allen Chang, and others. However all errors are mine alone.

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