

Dow Legal Case Files: Summary Document

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This document was produced as part of a grant project funded by a Mass Humanities Research Inventory grant to better document the Harry Hom Dow Papers housed at Suffolk University's Moakley Archive and Institute. The summary document has three goals, namely: to give a generalized description of the legal files in the Harry H. Dow collection concerning Chinese immigration; to provide more detailed descriptions of the records found in the case files; and to connect the creation and use of the documents mentioned above to broader historical contexts related to immigration policy. Although the collection is currently closed to research due to privacy concerns, this is the first step in a partnership between Chinese Historical Society of New England (CHSNE) and Suffolk University's Moakley Archive to explore ways to make the files more accessible.

Overview: Content in the Legal Files

Harry Hom Dow served many Chinese American clients in his Boston and New York legal offices during the 1950s. At the heart of Dow's collection, which was donated to Suffolk University, are the 400-plus client files document the complex and (intentionally) difficult process for Chinese immigrants to the U.S.

His practice specialized in immigration and naturalization law, with offices located at 85 Bayard Street in New York City and at 52 Chauncy Street in Boston. The majority of Dow's clients needed assistance with applications for admission to the United States for themselves and their extended family. The case files include Dow's case notes, correspondence, affidavits and supporting documents such as certificates of birth, death, marriage, income tax returns, photographs, family histories and medical records. The collection also includes files from 1929-1942 that generally relate to Dow's tenure working for the United States Immigration and Naturalization Service (INS) as an interpreter/translator. The legal case files from the early and mid-1960s are generally legal work that Dow performed for friends and acquaintances. ([Suffolk Archives Finding Aid, MS 111](#))

Most of the Harry H. Dow legal case files are currently kept in their original folders, many of which had descriptors "Sec. 1993", "Sec. 4(a)", "Section 101 (27)(a)", or "503 action" written on their outer covers. **They were subsections of the legal statutes that pointed to the legal basis for Harry Dow's clients' applications for admission to the United States.** Some legal statutes that appeared in the records are listed below:

- Section 1993 of the Revised Statutes of the United States (1878), which conferred U.S. citizenship to children born "out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth" also U.S. citizens.
- Subsection 4(a) of the Immigration Act of 1924 (with later amendments). This subsection placed minor children and "the wife, of a citizen of the United States who resides therein at the time of a filing of a petition under Section 9" under the category of "non-quota immigrant" for the

purpose of application for immigrant visas.¹ The Immigration Act of 1924 was repealed with the passage of the Immigration and Nationality Act of 1952 (66 Stat. 279).

- Subsection 101 (27)(a) of the Immigration and Nationality Act of 1952. The subsection continued the classification of an immigrant who is the child or the spouse of a U.S. citizen as a nonquota immigrant.
- Section 503 of the Nationality Act of 1940 (54 Stat 1171).

The case files constitute a sizeable collection of the documents and supporting materials used over the course of various Chinese persons' application for entering the United States. Chief among these materials are court affidavits executed by the fathers and husbands residing in America, as required by the State Department.² These affidavits lay out the familial and spousal relationships between Harry Dow's clients and the Chinese applicants whose entries the clients were sponsoring, the travel histories of the Chinese applicants, as well as personal information pertinent to their claims of citizenship or petitions for immigrant visas, such as birthplaces, birthdates, and names of spouse. Additional materials include head photographs of individual Chinese applicants; letter correspondence among Harry Dow, the applicants and their family, the U.S. Consulate at Hong Kong, domestic branches of the Immigration and Naturalization Service (INS), and sometimes other attorneys; blood group test results required by the U.S. government to support or disprove claimed paternity ties between the applicants and their alleged fathers who had sponsored their applications; U.S. travel documents; court orders and submissions. (For a description of common materials that can be found in the case files, see Appendix A.)

¹ It should be noted that the Immigration Act of 1924 was a restrictive immigration law more than an enabling legislation with respect to immigration of Chinese. The Act established numerical limits on annual immigrant numbers, instituted immigration quotas by ethnicity, and affirmed then existing entry prohibitions by race. In the context of Chinese immigration, the Act explicitly barred the admission of "alien ineligible to citizenship". The term referred to people barred by law from naturalizing, which had included non-citizens of Chinese race, with few exceptions. Only with an amendment approved in 1930 (46 Stat. 581), did Chinese wives who had married U.S. citizens prior to the passage of the 1924 Act become admissible to the U.S. The Immigration and Nationality Act of 1952 continued the classification of an immigrant who is the child or the spouse of a U.S. citizen as a nonquota immigrant. For a discussion of the increased difficulty experienced by Chinese women in gaining entry following the passage of 1924 Act, see Sucheng Chan, "The Exclusion of Chinese Women, 1870-1943," in *Entry Denied: Exclusion and the Chinese Community in America, 1882-1943*, ed. Sucheng Chan (Philadelphia: Temple University Press, 1991), pp. 94-137; Subsequent to the repeal of Chinese exclusion in 1943 (57 Stat. 600) which allotted an annual quota of 105 to immigrants of Chinese ethnicity, a congressional act in 1946 (60 Stat. 975) provided that Chinese alien wives applying for entry should not be counted toward the annual quota. This brought Chinese wives under the category of "non-quota immigrant" mentioned in Section 4(a) of the amended Immigration Act of 1924. Ashley Braa and Alice Lowrie, "1946 Chinese War Brides Act (An act to place Chinese wives of American citizens on a nonquota basis)," *U.S. Immigration Legislation Online*, http://library.uwb.edu/static/USimmigration/1946_chinese_war_brides_act.html (accessed April 10, 2016).

² Mae Ngai, *Impossible Subjects: Illegal Aliens and the Making of Modern America* (Princeton, NJ: Princeton University Press, 2004), p. 207, mentions the documents required from Chinese applying for entry by virtue of U.S. citizenship derived from their fathers. "In 1950 the Passport Division of the State Department issued special regulations for Chinese derivative citizens applying for passports. Applicants had to submit affidavits from the American father in triplicate ..." **A copy of an instruction listing the required documents in citizenship cases can be found in File B5(e).**

Correspondence sampled from the legal files suggest that most family members of Harry Dow's clients stayed in Hong Kong while applying for travel documents to the U.S. For example, a son wrote to his father in New York in late 1952 reporting that "everyone in the family is well in Hong Kong" as well as requesting for funds to be sent promptly "for our use".³(**Letter 1 in File D33(d)**) Letters drawn from the same case folder mentioned the obstacles encountered by the family in the application process, including their interview with U.S. consular officers, required blood group tests to rule out false claims of paternity, and the high cost of living in Hong Kong.⁴

Lastly, many case files contain a long coaching document made for the Chinese applicant as an aid to prepare for the questioning of federal officials, either during their application for entry at the U.S. Consulate at Hong Kong or at the ports of entry to the United States. The coaching documents are written in Chinese and usually include a topics such as the family history of the Chinese applicant, travel histories of his family members, education background of his family members, the relative positions of buildings in the applicant's village, distance and road conditions to neighboring villages from the applicant's village, the interior design of the houses in the village, observance of Chinese customs etc.. One representative coaching document has been selected for translation into English. (For a full translated text, see Appendix B.)

Harry Hom Dow began his private legal practice in 1948⁵ following the repeal of the Chinese exclusion laws in 1943. In force from 1882 to 1943, the laws prohibited the naturalization of Chinese persons as U.S. citizens and restricted the admission of Chinese people to only a number of occupational classes, severely curtailing Chinese immigration for more than sixty years. Despite their repeal in 1943, enforced over sixty years, the exclusion laws left behind legacies which continued to color Chinese American citizenship and affect Dow's clients' applications for admission to the U.S. As such, the extensive application material contained in the Dow Legal Files needs to be understood in light of Chinese exclusion in addition to applicable immigration laws of the time.

Context: Chinese Exclusion 1882-1943

Congress passed the first Chinese Exclusion Act in 1882, after three decades of Chinese immigration to the West Coast following the Gold Rush. The Act of May 6, 1882 (22 Stat. 58) banned the admission of new Chinese laborers into the U.S. and prohibited the naturalization of Chinese persons who were already in the country. Subsequent legislations further expanded the scope of Chinese exclusion, extending the immigration and travel restrictions to all Chinese regardless of their countries of origin.

The Chinese exclusion laws prohibited most Chinese persons from being admitted to the U.S. However, they allowed Chinese laborers who had been in the U.S. prior to the enforcement of the 1882 Chinese Exclusion Act to return within a year's departure from the U.S. to return within a year's departure from the U.S. The exclusion acts also permitted the entry of Chinese merchants, teachers, students, and tourists, who were collectively known as the "exempt-class" Chinese. As such, the Chinese Exclusion Act of 1882 marked "a watershed in U.S. history. Not only was it the country's first significant restrictive

³ See Letter 1 in File D33(d), as labeled by Zi Jing Teoh in August 2015.

⁴ See letters in File D33(d). Some already translated by Zi Jing Teoh in September 2015.

⁵ MS 111 Finding Aid.

immigration law; it was also the first to restrict a group of immigrants based on their race, nationality, and class.”⁶

The U.S. government required the “exempt” Chinese and resident Chinese laborers to show travel documents issued by the Chinese government and vised by U.S. consulates abroad to prove their identities before they could be admitted into the United States. New Chinese migrants who did not come under the legal categories eligible for admission used various strategies to circumvent Chinese Exclusion. Many leveraged on the weakness of a rudimentary paper identification system of the time to gain admission into the U.S., by applying for entry with false certificates and travel documents obtained from other exempt-class and Chinese laborers as evidence of their admissibility.

Unable to ascertain the identities of Chinese applicants from official documents alone, immigration officials interrogated the applicants to examine their identities and their claims of eligibility for admission. Chinese arriving at U.S. ports of entry frequently called and depended upon their kin and fellow co-villagers as witnesses to provide corroborating testimonies on their travel histories, birthplaces, and occupations, in order to show that they belonged to the admissible classes. The occurrence of illegal immigration in spite of Chinese exclusion laws fostered distrust of the Chinese by immigration and customs officials. Hence Chinese applicants facing official interrogation stood against the prejudice of officials who scrutinized their testimonies for inconsistencies. Although the tight, corroborating testimonies from the witnesses might help a Chinese applicant’s case, inconsistencies could also be used to discredit the applicant and lay the grounds for denying admission to the Chinese applicant.

The 1898 ruling on *jus soli* citizenship and the high discharge rates of Chinese defendants by federal courts during the first decades of Chinese exclusion opened a new gateway for Chinese to enter the U.S. semi-legally. At U.S. sea ports and the land borders with Canada and Mexico, “young Chinese men arriving in American during the first decades of the twentieth century claimed that they were born in the United States and taken back to China at a young age by their parents. When customs and immigration inspectors excluded Chinese entering without documentation, Chinese turned to the courts to overturn those decisions.” The practice of asserting birth citizenship was further enabled by the destruction of records kept for Chinese in the San Francisco Hall of Records in the 1906 earthquake. “The courts’ discharge papers in these cases created documentation of native-birth citizenship where none had previously existed.” Furthermore, the possession of these discharge papers would later allow the Chinese men to bring their children or other immigrants who claimed to be the men’s children born in China, in a systematic practice known as the paper sons system that continued into after the repeal of Chinese exclusion laws.⁷

The perceived success of Chinese in gaining entry illegally also pushed U.S. government and officials to introduce more restrictive measures against the movement of Chinese persons into and out of the country, whether they are citizens or not. By 1911, Chinese residents intending to temporarily depart the United States were required to undergo “pre-investigations” which entailed being interviewed by

⁶ Erika Lee, *At America’s Gates*, p. 24. For a history of Chinese exclusion in the United States, its enforcement and impact on Chinese Americans, including patterns of immigration, see Erika Lee, *At America’s Gates*.

⁷ Quoted from Mae Ngai, p. 205; See Erika Lee, pp. 151-188 for entry through U.S.-Canadian and U.S.-Mexican borders.

officials to check the legitimacy of their residence in the country.⁸ These investigations extended to family members, business partners, and other connections as well—their collected testimonies being “carefully checked and cross-referenced with earlier statements made by all parties.” Over the years, as suspicious officials increased the time and effort in scrutinizing Chinese testimonies, the questions they posed to the Chinese saw increase both in quantity and difficulty. Chinese applying for entry encountered tens to hundreds of questions, some asking for the place of burial of their family members, how often they visited their grave sites, number of chickens their neighbors owned back in China, rows of houses in their villages, types of windows in their houses, etc.⁹

Coaching Document

The extreme length and detail of these interrogations made passing them impossible without dedicated preparation from the Chinese applicants, regardless of their legal status.¹⁰ Many resorted to using “coaching books” which provided carefully crafted answers to likely questions from immigration officials, including supposed details of an applicant’s “famil[y] history, village life and geography, occupations, and relationships.”¹¹ This method of memorizing from prepared answers in anticipation of official interview apparently continued to be used by Harry Dow’s clients and family, as evident from the presence of coaching documents in a large number of case folders.

Coaching Document in Harry Dow’s Legal Files and the Clout of the Paper Son System

Researchers interested in using the coaching documents in the Legal Files for genealogical research should proceed with caution, as details of family and travel histories were likely to have been altered, omitted, or forged for the purpose of helping Harry Dow’s clients and their family give consistent, corroborating testimonies to U.S. officials. During the Chinese exclusion era, “claiming derivative citizenship became the principal method of illegal immigration of Chinese laborers”, a practice facilitated by the paper son system.¹² The practice involved Chinese men reporting the birth of new children (usually male) to the immigration service after a year-long visit to their native villages in China. Having records of new child births in their files therefore created opportunities for the men to sponsor their children or other Chinese of matching age to the United States as children of U.S. citizens. U.S. officials were generally aware of the illegal practice due to the impossibly high son-to-daughter ratio of the reported Chinese children born abroad. The difficulty in obtaining official vita records from China, however, compelled the immigration service to continue to “rely upon Chinese testimony” in processing entry applications based on derivative citizenship.¹³ Many Chinese coordinated with their witnesses and

⁸ (Zi Jing Teoh) The 1911 year was based on the Chinese Exclusion Act Case Files in National Archives, Boston, showing the pre-investigation documents from 1911 onward. Secondary sources point to the practice of pre-investigation of Chinese before departure in 1910. See Erika Lee, p. 131.

⁹ Erika Lee, pp. 81, 208-9, 239.

¹⁰ Erika Lee, p. 217.

¹¹ Erika Lee, pp. 195-7, 212. For a photographic replica of one coaching document from 1923, see “A Chinese Immigrant’s Coaching Document.” The New York Times. <http://documents.nytimes.com/a-chinese-immigrant-s-coaching-document> (accessed December 14, 2015).

¹² Mae Ngai, pp. 204-5

¹³ Erika Lee, pp. 201-3.

fellow applicants for consistent testimonies and memorized the details of their family history and village life as fully as possible in preparation for interrogations by U.S. officials.¹⁴

The Application for Travel Documents at the U.S. Consulate in Hong Kong

The Chinese exclusion laws were repealed in 1943. However, as Chinese immigration was still limited to an annual quota of 105, “most Chinese found alternative legal avenues for immigration as war brides and wives of citizens, refugees, and derivative citizens.”¹⁵ After 1946, Chinese children and wives of U.S. citizens were no longer subject to quota restrictions in immigrating to the United States.¹⁶ Indeed, the vast majority of the applications in the Harry Dow Legal Files consists of those of wives and children of U.S. citizens. “After the Chinese Revolution in 1949, the American consulates in China closed, and several thousand visa and passport applications that had piled up during the war years were forwarded to the consulate in Hong Kong.”¹⁷ The fact that most of the immigration cases in the legal files concerned the entry applications of Chinese wives and children might reflect the most common/easier modes of entry to the U.S. Many Chinese applicants represented by Harry Dow resided in Hong Kong while applying for travel documents from the U.S. consulate.

The remaining article outlines some paths toward entering the U.S. based on records found in the Legal Files for children of U.S. citizens.

Children of U.S. Citizens

1. Prior to 1952, subsection 201(g) of the Nationality Act of 1940 provided that a child born outside of U.S. territories, of a U.S. citizen who had had 10 years’ residence in the U.S., subject to other conditions, was a U.S. citizen at birth. However, to retain their U.S. citizenship, the child must have taken up residence in the U.S. before his 21st birthday for at least five years.

The case files contain applications submitted for Chinese children under the age of 16. There are correspondence between the Chinese attorneys and U.S. officials that suggests expedited process for these applicants. Some documents in these folders (Zi Jing: father affidavits and/or notice from U.S. government) mentioned the child’s intention to take up residence in the U.S. before turning sixteen.

2. The Immigration and Nationality Act of 1952 repeals both the Immigration Act of 1924 and the Nationality Act of 1940. Subsection 301(7)(b) of the 1952 Act allows for some children born outside of U.S. territory to one U.S. citizen at the time of birth to retain their citizenship, on the condition that “he shall come to the United States prior to attaining the age of twenty-three years ...” among others.

According to historian Mae Ngai, “applicants had to submit affidavits from the American father in triplicate, photographs from childhood onward, and other documentation”. “In 1951 the consulate began to use blood tests to determine paternity. It soon added bone x-rays to ascertain age.” The

¹⁴ Mae Ngai. P. 205.

¹⁵ “Repeal of the Chinese Exclusion Act, 1943,” *Office of the Historian, U.S. Department of State*, <https://history.state.gov/milestones/1937-1945/chinese-exclusion-act-repeal> (accessed April 18, 2016); Mae Ngai, p. 206.

¹⁶ See footnote 1.

¹⁷ Mae Ngai, p. 206.

requirement for blood tests were only applied on Chinese immigration cases initially.¹⁸ The official papers and supporting material can be found in the Legal Files collection.

Researchers can also find letters (in Chinese language) among family members and correspondence with Harry Dow that show the coordination between the family and Harry Dow for meeting the official requirements for entry applications, including disclosure by applicants of testimonies given at the consulate. There are also letters that are routine in nature, written by Harry Dow, including arrangement for payment and collection of official documents.

The Legal Files contain successful as well as unsuccessful cases. There are official letters informing applicants or Harry Dow about the result of their application. Some case folders contain travel documents issued to the applicants for their travel to the U.S. There are also letters informing the Chinese of the rejection of their application. The grounds for rejection included blood tests that are incompatible with paternity or inconsistent testimonies. Sometimes applications seemed to have stalled when the documents requested by the government were not furnished.

Court papers found in the Legal Files suggest that it is possible for Chinese to appeal the decision of U.S. officials through judicial review. Some documents cited Section 503 of the Nationality Act of 1940, which provided that any person claiming to be U.S. national, being “denied such a right or privilege by any Department or agency” may seek redress from federal courts. Furthermore, if the person was outside of the United States, they might “obtain from a diplomatic or consular officer of the United States ... a certificate of identity ... and may be admitted to the United States with such a certificate ...”¹⁹ For instance, file B5(d) contain such a Certificate of Identity issued to a prospective Chinese plaintiff in late 1951, pursuant to Section 503. Later in 1953, the Court of District of Columbia declared the plaintiff to be a U.S. citizen. Invoking Section 503 did not necessarily guarantee the granting of a Certificate of Identity from the U.S. consulate for travel to the U.S. In another instance in File D21(d), the Consulate denied the application for a Certificate of Identity on the grounds of inconsistent testimonies provided and blood group test results that were incompatible with claimed paternity with a U.S. citizen.

Harry Dow worked with attorneys in different areas on some cases. Some correspondence between the attorneys contain discussion on the points of law and facts to be challenged and the performance of witnesses.

Conclusion

Following the passage of the Immigration and Naturalization Act of 1965 which repealed the quota system for immigration based on national origins and “established preferences for family and occupationally based immigration”, Chinese immigration has increased markedly.²⁰ The Chinese population in the United States also increased significantly from 237,292 recorded in the 1960 census to 1,648,696 in 1990.

Most cases in the Legal Files took place between 1950 and 1958. As a result, Dow’s legal files contain a wealth of materials that document a major pathway for Chinese immigration to the United States, namely via family of U.S. citizens of Chinese ancestry. The collection offers glimpses at the bureaucratic

¹⁸ Mae Ngai, p. 207.

¹⁹ Nationality Act of 1940 (54 Stat. 1171); Mae Ngai, p. 207.

²⁰ Mae Ngai, p. 227.

procedures involved, as well as the experience from the people who underwent the processes—be they aspiring immigrants looking for a better life, or families anticipating reunification, or both. With a wealth of material that had been produced at the intersection of multiple geographies, generations, languages, legislations, administrations, and people, the collection holds a valuable potential to add to the enduring debates on immigration for all stakeholders in the 21st century and testifies to the significance of Harry Hom Dow as an attorney who played a prominent part in this history.