

Albert Einstein on the McCarthy hearings and the Fifth Amendment, 1953

Introduction

During the “McCarthy hearings” of the 1950s, the government investigated American society and industry in an attempt to root out communist sympathizers. Among those investigated were scientists and scholars, who were called upon to appear before the committee to answer questions concerning their political affiliations. Some refused to testify, citing the Fifth Amendment. Rose Russell, a member of the Teachers Union of the City of New York, considered invoking of the Fifth Amendment in a letter to famous physicist and avowed socialist Albert Einstein in 1953.

Einstein advised Russell, as he did others, to refuse to testify but not on the grounds of the Fifth Amendment. In this May 28, 1953, letter Einstein wrote that although invoking the Fifth Amendment was not “unjustified,” the McCarthy hearings were not the circumstance it was meant for. “The 5th Amendment was adopted,” he wrote, “in order to make it impossible for the judicial authorities to bring the accused to confess through means of extortion.” He continued, “In the present cases, it is not a matter of violent extortion of the accused,” but rather a “matter of using people as tools for the prosecution of others that one wants to label as ‘unorthodox.’”

Invoking the Fifth Amendment was problematic, Einstein wrote, because “the individual is offered no legal middle ground for him to defend his actual rights.” In closing, he pointed to a more “revolutionary” tactic—“non-cooperation, like Gandhi used with great success against the legal powers of the British Authorities.”

Later that year, Einstein also counselled fellow physicist Al Shadowitz to refuse to provide testimony at the McCarthy hearings—not by invoking the Fifth Amendment, but by asserting that the questioning was in violation of the First Amendment.

Questions for Discussion

Read the document introduction and the transcript. Then apply your knowledge of American history in order to answer the questions that follow. (NOTE: These are most appropriate for AP/IB/Honors level classes.)

1. Identify Albert Einstein and explain his particular interest in the problem faced by Rose Russell.

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2. Why were individuals such as Russell called to appear before the Congressional Committee?
3. How did Einstein suggest that Russell react to being summoned to appear at the “McCarthy hearings”? Explain his reasoning.
4. **FOR ADDITIONAL RESEARCH:** What happened to people who invoked the Fifth Amendment, refused to appear, or were found in violation of the law as defined by the Congressional Committee?

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Transcript

Albert Einstein to Rose Russell [in German], [May 28], 1953. (Gilder Lehrman Collection, GLC05322)

Dear Rose Russell,

I feel obliged to answer your kind letter from May 21st. My intention was not to disparage the 5th Amendment as being unjustified.

The 5th Amendment was adopted in order to make it impossible for the judicial authorities to bring the accused to confess through means of extortion.

In the present cases, it is not a matter of violent extortion of the accused but a matter of using people as tools for the prosecution of others that one wants to label as “unorthodox” and pursue through an economic campaign of destruction. It is a misuse of Parliament’s immunity, carrying out practices that should fall into the machinery of the judicial fury (police). This procedure absolutely contradicts the nature of the arrest, if not also it’s exterior form.

The individual is offered no legal middle ground for him to defend his actual rights. That is why I argued that there is no way other than revolutionary non-cooperation, like Gandhi used with great success against the legal powers of the British Authorities.

----- A.E.

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Notes: Translation from original German.

Rose Russell responded to Einstein's letter on 13 June 1953 from Mt. Sinai Hospital in New York.

Dear Professor Einstein,

It seems to me that the powerful force of your letter advising intellectuals to resist the congressional inquisitions can be measured by the subdued tone of the editorial in today's New York Times. It cannot fail to give heart to many thousands the country over. I trust that whatever controversy it stirs up will be salutary for the cause of cultural freedom. May I say at this point that I have not made public your very thoughtful and valuable letter to me on the same subject.

Since the day I took the liberty of sending you a copy of The Nation, I have been here at Mt. Sinai, undergoing surgery. I am eager now to be back in the fight, and I want to thank you again, in behalf of those of us who bear the brunt of the attacks daily, for your wise and courageous counsel.

Respectfully, Rose Russell