

Pleading the Fifth: Lillian Hellman and the HUAC Investigation of Hollywood

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On May 19, 1952, playwright Lillian Hellman wrote an open letter to John S. Wood, chairman of the House Un-American Activities Committee (HUAC). She had been subpoenaed by the congressional committee, and in her letter she puzzled through her legal options regarding her testimony. Hellman said:

I have been advised by counsel that under the Fifth Amendment I have a constitutional privilege to decline to answer any questions about my political opinions, activities, and associations, on the grounds of self-incrimination. I do not wish to claim this privilege... My counsel tells me that if I answer questions about myself, I will have waived my rights under the Fifth Amendment and could be forced legally to answer questions about others. This is very difficult for a layman to understand.

Stating that she was willing to answer questions about herself, but not anyone else, Hellman sought to cut a deal with the chairman:

I am prepared to waive the privilege against self-incrimination and to tell you everything you wish to know about my views or actions if your committee will agree to refrain from asking

me to name other people. If the committee is unwilling to give me this assurance, I will be forced to plead the privilege of the Fifth Amendment at the hearing.

Hellman had been subpoenaed by HUAC during the post-World War II “Red Scare,” when many Americans were convinced that domestic communism was the leading security concern in the United States. The members of HUAC set the goal of eradicating communist influence from government and society. With their ability to generate publicity through hearings, HUAC amplified the threat of domestic communism and inaugurated an era of anxiety and political conformity.

Hellman faced a conundrum that confronted many others in this era. During testimony, she could “name names,” that is, give HUAC the names of friends and associates who may have had connections to the Communist Party, thereby tarring their reputations and possibly subjecting them to congressional subpoenas as well. She could answer questions dur-

ing testimony about herself but not her associates; an option which often ended in a citation for contempt of Congress and jail time. Or, she could “plead the Fifth” Amendment, and refuse to answer all questions. Many people considered this last option to be an admission that one was a Communist, and those who chose this route were often “blacklisted” and could no longer find work.

The ruthlessness of HUAC’s pursuit of suspected communists in these committee hearings engendered criticism of their methods and exposed the dynamic tension between liberty and security in the early Cold War. Some Americans believed that HUAC was responsible for crushing America’s hallowed First Amendment liberties of free speech and association, and for forcing innocent Americans to take refuge in the Fifth Amendment’s protection of accused criminals. However, others believed that the only people whose liberties were endangered were those whose ideas or activities threatened the security of the very government that guaranteed their liberty.

Lillian Hellman’s letter can help students understand how the atmosphere of fear and suspicion during the Red Scare endangered the rights guaranteed to all Americans by the Bill of Rights.

c/o Rauh and Levy
1631 K Street, N.W.
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May 19, 1952

Honorable John S. Wood
Chairman
House Committee on
Un-American Activities
Room 226 Old House Office Building
Washington 25, D. C.

Dear Mr. Wood:

As you know, I am under subpoena to appear before your Committee on May 21, 1952.

I am most willing to answer all questions about myself. I have nothing to hide from your Committee and there is nothing in my life of which I am ashamed. I have been advised by counsel that under the Fifth Amendment I have a constitutional privilege to decline to answer any questions about my political opinions, activities and associations, on the grounds of self-incrimination. I do not wish to claim this privilege. I am ready and willing to testify before the representatives of our Government as to my own opinions and my own actions, regardless of any risks or consequences to myself.

But I am advised by counsel that if I answer the Committee's questions about myself, I must also answer questions about other people and that if I refuse to do so, I can be cited for contempt. My counsel tells me that if I answer questions about myself, I will have waived my rights under the Fifth Amendment and could be forced legally to answer questions about others. This is very difficult for a layman to understand. But there is one principle that I do understand: I am not willing, now or in the future, to bring bad trouble to people who, in my past association with them, were completely innocent of any talk or any action that was disloyal or subversive. I do not like subversion or disloyalty in any form and if I had ever seen any I would have considered it my duty to have reported it to the proper authorities. But to hurt innocent people whom I knew many years ago in order to save myself is, to me, inhuman and indecent and dishonorable.

Honorable John S. Wood -

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- May 19, 1952

I cannot and will not cut my conscience to fit this year's fashions, even though I long ago came to the conclusion that I was not a political person and could have no comfortable place in any political group.

I was raised in an old-fashioned American tradition and there were certain homely things that were taught to me: to try to tell the truth, not to bear false witness, not to harm my neighbor, to be loyal to my country, and so on. In general, I respected these ideals of Christian honor and did as well with them as I knew how. It is my belief that you will agree with these simple rules of human decency and will not expect me to violate the good American tradition from which they spring. I would, therefore, like to come before you and speak of myself.

I am prepared to waive the privilege against self-incrimination and to tell you everything you wish to know about my views or actions if your Committee will agree to refrain from asking me to name other people. If the Committee is unwilling to give me this assurance, I will be forced to plead the privilege of the Fifth Amendment at the hearing.

A reply to this letter would be appreciated.

Sincerely yours,

Lillian Hellman

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It can also help them understand why the founders included the Fifth Amendment's protection against self-incrimination in the Bill of Rights.

The Hollywood Investigation

The motion picture industry was the subject of HUAC's first major post-war investigation. The presence of "Reds" anywhere in society was intolerable to the members of HUAC, but communists in Hollywood were especially menacing because they were in a position to incorporate communist propaganda into movies with nationwide or even global distribution.

In a report submitted to the House of Representatives on June 6, 1947, HUAC charged that communists in Hollywood were controlling the content of movies: "Communist screen writers, directors, and producers have employed subtle techniques in pictures, in glorifying the Communist system and degrading our own system of government and institutions." The report also accused communists of "preventing certain good American pictures, which sought to glorify America and the American system, from being produced."¹ Convinced that these "un-American" activities must be exposed and halted, HUAC subpoenaed dozens of people from the movie industry to testify to the committee in October 1947.

These hearings featured several of the investigative procedures that would be exploited by HUAC, the Senate Internal Security Subcommittee (SISS), and Senator Joseph McCarthy over the next decade. Chairman J. Parnell Thomas asked leading questions, allowed friendly witnesses to "name names" of alleged communists without presenting proof, and indulged in rumors for the record. Unfriendly witnesses were confronted with unsubstantiated "evidence" of communist affiliations, asked probing questions regarding their political activities, and assumed to be guilty by association. The witnesses were asked "Are you now or have you ever been a member of

the Communist Party?"

Ten of those called to testify refused to answer this question, citing their First Amendment rights to free speech and association. Instead, they aggressively challenged the committee's right to ask it. Angered by their refusal to cooperate, Chairman Thomas threw them out of the hearing. The Hollywood Ten, as they became known, were cited and convicted for contempt of Congress for their refusal to testify. After unsuccessful court appeals, all ten served prison sentences of six to twelve months.²

Despite some public support for the principled stand on free speech taken by the Hollywood Ten, many people objected to their truculent attitudes and disdain for the committee, and press coverage was unsympathetic. Soon after the hearings, about 50 executives from the motion picture industry gathered over their concern that the uproar would hurt the industry's public image and have a negative impact on box office sales. In a statement released to the press, the executives announced that they had come to an agreement to fire the Ten because they had "impaired their usefulness to the industry."³ Thus the Hollywood blacklist was born. Over the next decade, this list of persons who were suspected of disloyalty to the United States government would grow to hundreds of names. Those on it found that work in the motion picture industry was no longer available to them. Evidence suggests that approximately 80 percent of the committee's unfriendly witnesses lost their jobs.⁴

The committee's attention turned back to the movies in 1951-1952. The Hollywood Ten had all been members of the Communist Party, but in the second round of Hollywood hearings the committee did not limit itself to questioning only card-carrying members. Ex-Communists and communist sympathizers (often called "fellow travelers" or "pinkos") were called upon to name names of others they knew to be or suspected of being communists.

By this time the actors and screen-

writers recognized that the country had chosen to sacrifice free speech in the interest of national security, and no one attempted to repeat the First Amendment defense used by the Hollywood Ten. Instead, those who refused to testify cited their Fifth Amendment constitutional right to not implicate themselves and were so dubbed "Fifth Amendment communists." To the committee, they were as "Red" as those who confessed.

Fifth Amendment, U.S. Constitution

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

Pleading the Fifth

The Fifth Amendment has five clauses generally aimed to provide legal protections to persons accused of crimes. One clause, referred to as the Self Incrimination clause, says, "No person ... shall be compelled in any criminal case to be a witness against himself." It means that a person accused of a crime can refuse to answer questions from police during arrest or can refuse to testify at a criminal trial or before a legislative committee.

This clause was included to prevent the government from forcing a person to confess to a crime, as this was sometimes done by using coercion or torture. To

ensure that people could exercise this right, in *Miranda v. Arizona* (1966) the Supreme Court required that persons placed in police custody be informed of their Fifth Amendment right to remain silent.

Those who “pled the Fifth” to HUAC managed to stay out of jail, but at what price? Most were blacklisted, and couldn’t find work for years or even decades. When HUAC refused the deal Hellman offered in her letter to the committee, she followed through with her pledge to plead the Fifth. Hellman was subsequently blacklisted for refusing to testify, even though her open letter to the committee did engender some positive media coverage for her principled stand.

HUAC’s hearings put many people like Hellman in a challenging situation with no good options. Hellman tried to protect her reputation by using this letter to assert her innocence directly to the public, and painting herself as being cornered into using the Fifth to protect her friends and family, not herself. She did not serve time in jail, but she lost her livelihood as a playwright.

Classroom Activity

A classroom activity can help students analyze Ms. Hellman’s arguments both for and against invoking her Fifth Amendment privilege against self-incrimination and come to a determination as to why such a right exists within the U.S. Constitution. Students will also look at the context of the letter to discuss the history of anti-communistic blacklisting in the 1940s and 1950s.

Introduction:

Begin this activity in a full-class setting to discuss the first portion of the document—the date of the letter, May 19, 1952, the House Committee on Un-American Activities, and the line “I am under subpoena to appear.” Ask students to determine the historical context of the letter and the significance of a subpoena before a House committee. Lead students to place the letter in the time

period of the Second Red Scare. Briefly share details with the students about the congressional investigation process.

Document Analysis:

In small groups of 2-3, ask students to focus on the remaining passages within the letter. Direct students to collaboratively identify Ms. Hellman’s rationale or arguments for choosing not to invoke her Fifth Amendment privilege against self-incrimination as well as her arguments for invoking her Fifth Amendment right. Instruct them to record their answers.

Discussion:

Come together as a full class once more to discuss the implications of the Fifth Amendment. Ask students to consider the following questions:

- Some people consider that invoking the Fifth Amendment is equivalent to admitting guilt. How can invoking the Fifth Amendment be seen both as an admission of guilt and a protection of freedoms?
- Why did the First Congress codify this right within the Bill of Rights? Why was it so important to them and why does it continue to have significance today?
- If subpoenaed as Ms. Hellman was, what would you do? Would you testify against yourself and your family, friends, coworkers, or classmates?

This activity is available on DocsTeach.org, the National Archives lesson plan website for educators. See www.docsteach.org/activities/student/analyzing-the-5th-amendment-right-against-selfincrimination

Document

The Hellman letter is part of the “Amending America” exhibit in the National Archives Building in Washington, D.C. The exhibit will be open until September 4, 2017. For more information, see www.archives.gov/amending-america/.

Document Citation:

Letter to the House Un-American Activities Committee (HUAC) from Lillian Hellman regarding testimony, May 19, 1952; Investigative name files, series 1, House Un-American Activities Committee; Records of the United States House of Representatives, Record Group 233; National Archives Building, Washington, DC. 🌐

Notes

1. U.S. House Representative J. Parnell Thomas extension of remarks on communist influences in the motion-picture industry. *Congressional Record*. 80th Congress, 1st session, 1947, vol. 93, part II (6 June 1947): A2688.
2. William K. Klingaman, *Encyclopedia of the McCarthy Era* (New York: Facts on File, Inc, 1996), 186.
3. Quoted in Walter Goodman, *The Committee: The Extraordinary Career of the House Committee on Un-American Activities* (New York: Farrar, Straus, and Giroux, 1968), 218. This document became known as the Waldorf Statement.
4. Ellen Schrecker, *The Age of McCarthyism: A Brief History with Documents*, 2nd Ed. (New York: Palgrave, 2002), 87.

References

1. *Guide to Congress*. 5th Ed. Washington, D.C.: CQ Press, 2000.
2. *Journal of the U.S. House of Representatives*, 79th Congress, 1st session.
3. *Inventory of Records of the House Un-American Activities Committee*, Record Group 233, Records of the U.S. House of Representatives, 1995.

CHRISTINE BLACKERBY is the co-curator of the new exhibit *Amending America* at the National Archives Building in Washington, D.C. She is an Education and Public Outreach Specialist at the Center for Legislative Archives in the National Archives. She can be reached at christine.blackerby@nara.gov. The classroom activities were created by Emily Worland, a former intern at the Center. **KIMBERLEE RIED** served as editor on this article and is the Public Programs Specialist at the National Archives in Kansas City. She can be reached at kimberlee.ried@nara.gov.

Join Christine Blackerby at NCSS in D.C. for a conference session about the National Archives app “Congress Creates the Bill of Rights” and our related distance learning programs. The session is on Saturday, December 3, at 5:00 pm in Room 203B of the Walter E. Washington Convention Center.