

HEARING BOARD FOR LEAVE CLEARANCE

Rehearing

April 4, 1944

MEMBERS OF THE BOARD: Guy Robertson, Project Director  
W. J. Carroll, Relocation Officer

INTERVIEWER: Frank Emi  
9 - 21 - A  
Heart Mountain, Wyoming

USES 18559

Robertson: We have your leave clearance hearing back, Frank, and we want to question you some more.

Emi: Why wasn't it passed on the last time?

Robertson: I think the trouble this time may be your part in the Fair Play Committee....You have had one leave clearance hearing before, haven't you Frank?

Emi: I had two, one just before the move to Tule Lake and then another one.

Robertson: You had a segregation hearing and then a leave clearance hearing. The first was with Mr. Lechliter, which was a very short interview. Going back to Question 27 and 28, I believe in the original registration you qualified your answers to both questions then later, in the second interview with Mr. Carroll, you indicated you would like to answer Question 28 with an unqualified "yes."

Emi: Yes.

Robertson: Would you want to leave Question 27 with the same qualification you had before?

Emi: Yes.

Robertson: What is your attitude at the present time, Frank, about those questions? Do you want to make any change in your answers now or leave them as they are?

Emi: As far as Question 28 there is no change, that I think.

Robertson: That will be "yes?"

Emi: Yes.

Robertson: What about Question 27?

Emi: On 27, here's something that I would like to make clear, that I am not opposed to going into the army or anything like that. I think for any American that is the duty, and just as soon as I get my clarification of status and my rights restored I will be willing to go. I would like to ask that those things be made clear before I go out and risk my life for the country. One thing about us, when we go off to war we don't figure on coming back, we figure we sacrifice our life for the country, that is a heritage. If we are going to do that I like to leave something behind before I leave.

Carroll: What do you mean "that is a heritage"?

Emi: When you go off to war you are considered more or less a member of the family, you are supposed to be fighting for the government. In this case my country is the United States. That is the way we look at it.

Robertson: Let me see if I can get something over to you. I think your thoughts are a little bit wrong. It may be a fact that the Japanese government exacts that from all its people. I believe you will find that the United States government exacts only a willingness to do that. The United States government doesn't want a dead soldier, they want a live fighting man. I don't think you will find anything in the principles of the United States government that requires their soldiers to needlessly sacrifice themselves.

Emi: I don't mean going out and sacrificing yourself, but you go with the idea that you may not come back.

Robertson: I think that that is wrong, Frank; of course, when you go on to battle in armed formation you have to concede that there is a big possibility that you won't come back.

Emi: That is what I mean.

Robertson: On the other hand the percentage is very small. The boys in the field who come back are a large majority of the boys who went, so in going the army of the United States, you need not be a fatalist that you won't come back, but if you do join the army you will do your best to fight the enemy and come out alive.

Emi: I know there is some percentage in going and not coming back, but if you can come back it is so much the better.

Robertson: In the Fair Play Committee you boys have come out with the statement that you hereby resolve not to appear for pre-induction physical or for induction if called. There is a law in our statute books which says that every citizen, unless excused for some special reason, is subject to the call when he is needed in the army, either in time of peace or in time of war. Now that is a law on the books.

Emi: Yes.

Robertson: Don't you think you should obey that law implicitly?

Emi: We are not saying that we will not go to the army or anything, Mr. Robertson. Like myself, I would go any time if I was out in California or if I was given the rights of any other American citizen, and I still say that I am not saying I won't go as soon as I am treated as an American citizen should be treated. I would be glad to go.

Robertson: I think that is right; I think also you are making a mistake in that you are trying to bargain with the government of the United States on a law that is on the statute books, and that just can't be done. Now if you want to have that law repealed you shouldn't disobey a law in order to bring it up for repeal, there are plenty of ways to bring the case up without deliberately breaking the law of the United States. Don't you think it would be better for you to obey all laws of the United States and at the same time to work diligently to obtain that clarification of citizenship, or whatever you call it?

Emi: That is the best way, yes. At the same time, up to now we have been suppressed in our rights and privileges of American citizenship because the government said so, and we have more or less complied with that order; but, that order, I believe, is unconstitutional. Of course, that is before the supreme court now. I believe that order to comply with the Presidential Proclamation and was unconstitutional because the Constitution of the United States states that citizens shall not be deprived of life, liberty or property without due process of law. In my position, I do not know just what my status is as a citizen. I do not know whether I am a full fledged citizen, they say I am, but actual factors are a little bit different, and I don't know whether I am in the same status as the Indians, aren't they wards of the government, Mr. Carroll?

Carroll: I don't know that they are, they are on reservations.

Emi: Yes.

Robertson: They are considered wards of the government, but they are free Indians.

Emi: Not that I want to be a ward of the government, but that is just what I am not clear on. You told me last Friday as long as we are here, we have no constitutional rights if the WRA denies us those rights, but you said we could legally contest that in the courts.

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Robertson: I told you also that you must obey the laws as they are, that there isn't any one who can't contest the legality of the law. At the same time, there is no one who can give any one the right to disobey those laws as long as they are on the books.

Emi: As I was saying, I was always under the impression in order to contest any law it would have to be broken and then processed through the courts and final decision is up to the authorities.

Robertson: That is one way of contesting a law, but it has already been contested by more than one, twenty-five or thirty or three hundred people wouldn't have any more effect than one. There is a way to contest a law without breaking the law as I told you the other day.

Emi: Of course that part is up to the individual which way he would like to contest it.

Robertson: That part is up to the individual, but in this hearing I am trying to determine whether you want to be an American, a Japanese, or something else. I am also trying to determine whether you are the kind of a fellow who will obey the laws of the United States Government. We have a leave clearance procedure, and when we send some one out we are supposed to send out only law abiding citizens. Now this leave clearance hearing today is for me to determine how much respect you have for the laws of the United States regardless of what has happened or what position you are in. If you take the position of determining whether the laws are unconstitutional and whether you are going to evade the law if you feel it is unjust to you, then you might also take it upon yourself to have the same attitude outside regarding the laws of the country.

Emi: Well, coming back to the first statement, whether I want to be Japanese or not. I don't know how the other people are, but I don't think I have ever mentioned or indicated in even one way, where my loyalty to this country is concerned, I don't think I have indicated that I have any sympathy or anything for Japan because I don't know how it is. This is where I was born and educated and all my friends were all Americans, Caucasians, and in my business it was dealing with Caucasians, and I, at least I believe, I think I am a real American. That is the way I was brought up to think and I think if any loyal American were placed in the position that I was that he would, as an American and human, I think he would think like I did on this particular question. I don't know, you are not in a position where you may not be able to think like me or any other American because you have certain duties to perform. That can't be helped.

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Robertson: Frank, don't misunderstand me. As far as my sympathy for your position is concerned, I have a lot. I can see where you have the feeling you have. I think there is a difference between you and me that I will have to obey the laws as they are written and I will have to take the channels outlined to me if I think those laws are unjust in order to correct those unjust laws. I don't believe there is any one who would regard you as Japanese. In the conversations I have had with you and knowing about you, I don't think you would get along in Japan, but, unfortunately in the situation here we have to have assurance also that you are a good, law abiding American. I don't know what questions to ask to bring it out. I imagine you told me in your conversation just about how you feel about it, but I would like to persuade you that you are making a mistake in taking the initial step in breaking the law and that it is going to be hard for the people outside to understand why you break the law, because they are not familiar with your situation. It is the government of the majority and it seems to me that the first obligation you have to yourself would be to protect yourself by obeying the laws, that you also have the obligation to yourself of trying to correct an injustice. I wouldn't for a minute suggest to you that if you feel you have been unfairly dealt with that you should pass it by without protesting, that is also an American privilege. Do you think the activities of the Fair Play Committee have been subversive?

Emi: I don't think so, Mr. Robertson.

Robertson: Do you think you have influenced other people to not answer the Selective Service call?

Emi: No, I don't think so because at some of the meetings I have attended they have always come out and stated that if the person wants to get into the Fair Play Committee just to evade the draft we don't want them. They also stated many times at the meetings those people who had intention of joining the committee just to evade the draft were not welcome. As you know, it is up to the individual.

Robertson: Let me ask you, Frank, what do you think you can do by refusing to appear for Selective Service to clarify your situation. What, in other words, have you in mind, what is your aim?

Emi: I just wonder if it won't bring more attention to the fact that we, as American citizens in here and subject to the army, as such, that it would call the public's attention to the fact that we haven't rights of citizens and they would try to remedy that. Of course, they will have to see both sides of the question, if they only see that we are violating the Selective Service Act naturally there isn't any one that would be in sympathy with us, but in a court that is where I think a person has the right to present both sides of the picture.

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Robertson: If you go to court you are going to be tried on one charge and that charge will be that you refused to answer the Selective Service call. Now the judge trying you on that, it has to be yes or no, did you refuse or didn't you refuse. It isn't why you refused or under what conditions you refused. Are you guilty or aren't you guilty. The charge is there, the judge is going to pass sentence on that one question. He will have no authority to waive that law. He has to judge on the law as the law is written. After the sentence is passed and it is guilty you will probably be treated the same as the boys down at Poston who contested the law. There was nothing that ever came out about it and they went into the court and the court sentenced them to three years in the penitentiary. What will you do if you get into the penitentiary?

Emi: You have no rights.

Robertson: That is what I am trying to get over to you. What I am trying to say, Frank, is this isn't the time and isn't they way. I think you have four strikes against you when you start out in that manner to fight public sentiment in time of war, you have everything against you to start with. I think some other manner would be much better. This leave clearance hearing I called you for seems to have turned out to be a lecture, I guess.

Emi: Maybe I need it.

Carroll: Don't you think there are other means of establishing your liberties as a citizen other than violating the Selective Service Act?

Emi: Well, I don't know, I may. I suppose there are. I suppose such steps have been taken in cases pending.

Carroll: Have you taken any steps besides this one?

Emi: I have written to Mr. Myer to see if I could get out, but I don't know whether you would call that a step or not.

Carroll: Prior to the time of registration did you take any steps to determine what your status was?

Emi: I don't think I had much chance. We were, without being asked, put in here.

Carroll: Suppose you were going to be called for the draft, what action would you take to determine your status?

Emi: I don't know.

Carroll: Would you go out and kill a man to be put in court to find

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Emi: I certainly wouldn't.

Carroll: That is what you are doing when you violate the Selective Service Act. You are breaking the law to determine whether or not you are a citizen.

Emi: Here's something else, I was looking at it personally. Suppose my father, or my boss, or any one over me was working me, making me work and I am very willing to work, but I haven't had food for so many days I am hungry, I can't move, I can't work. I am willing to work but please feed me, give me some food and I can work. I just wonder if my position, as regards my rights, isn't illustrated something like that?

Robertson: I think that is an exaggerated case, but I think this, that fellow who couldn't work because he needed food, he could quit that man and go some place else to work for some one who will give him food, but, in the case of joining the United States Army, you can't just tip your hat to the Selective Service man and say, "Thank you, but I don't care to join." The Selective Service Act is an act which no one is supposed to do, while the man working for some one else, he can quit. You can't quit the army.

Emi: All I can say is that as far as the army is concerned, I have never said I won't go, but I believe that under the circumstances, I consider these acts unconstitutional acts which were precipitation upon me. I believe it is more my duty to try to uphold those supreme laws of the United States which is the Constitution, and you could say that you are fighting for democracy abroad, but if you lose democracy at home what have you won?

Robertson: Of course, Frank, when you get into that you get into something that is a fundamental. You say that you will answer Question 28 "yes", that you are loyal to the United States. You are loyal to the principles of the democratic government of the United States. At the present time we are fighting for the existence of the Constitution of our democratic form of government, and we firmly believe that unless every effort is made and unless people are willing to sacrifice and work there is a big possibility that we will be defeated by the Japanese government. If we are defeated by the Japanese we will have to live under the rule of the Japanese, and, of course, the American people don't want to do that, and at a time when the Nation is in grave danger you can't say "I'll fight for you if you will give me this, or I'll fight for you if you will do that". You will have to say that "I will fight for you and I hope that by fighting for you I am preserving the principles for which I am fighting." If we all take the attitude you have at a time like, this, if we all thought we had wrongs that we thought should be righted

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before we fight for our country, it would be only a short time before we wouldn't have a country.

Emi: That is true, the way you say it, but at the same time you must figure that any person would say or think like I do in my position if they were treated as an alien and put in camps with aliens, with no rights, not even as much right as enemy aliends of other Axis groups. Of course, I think it is widely acknowledged now that it was a mistake, more or less hysteria at the time, but still it is an accomplished fact and I believe that some remedy or rectification of such a great wrong is the proper thing the government should do. That is what I think.

Carroll: What are the requirements to be a member of the Fair Play Committee?

Emi: I don't know of any specific requirements. You have to be citizen and consider yourself a loyal citizen to be a member.

Carroll: Is their interpretation of loyal American citizen mean that they should not answer their draft call?

Emi: No. I think every loyal American citizen should protect and uphold the Constitution and the Bill of Rights.

Carroll: Are you a member of the Fair Play Committee?

Emi: Yes.

Carroll: And following that you think you are a loyal citizen? What would you do if you were notified to report for your call to the army tomorrow?

Emi: I don't know. Many things can happen between now and tomorrow. I may think one thing today and one thing tomorrow.

Carroll: What if I handed you your draft notice right now?

Emi: ~~I don't know~~. Right now I think you know the way I have been thinking.

Carroll: Would you go or wouldn't you go?

Emi: I would go just as soon as my status and rights are clarified.

Carroll: How can you declare you are a loyal American citizen, then?

Emi: Taking the stand I just told you, I believe that by doing that I am helping toward the rectification of the unconstitutional acts the government has committed.

Carroll: You already have a test case in court now. How can you further help it?

Emi: That is my individual feeling. I don't feel that it should be left to some one else.



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Carroll: Do you agree that it takes one case to test a law?

Emi: It may take one or many.

Carroll: Will you agree that it takes just one.

Emi: I think there are cases where one wouldn't.

Robertson: I think you will find one case is enough. What is your attitude going to be if these things are not clarified for you?

Emi: You mean in regard to the draft?

Robertson: In regard to your future and your loyalty. Supposing that this thing goes through and isn't clarified for you?

Emi: You mean the supreme court, that the evacuation was constitutional?

Robertson: Yes.

Emi: I would abide by those decision. If the constitution is interpreted that way by the supreme court I think the citizens should back up the decision if the supreme court says so.

Robertson: Let me ask you a few straight questions, then as far as I am concerned this hearing is closed. Do you consider yourself a loyal American citizen?

Emi: Yes.

Robertson: Are you willing to defend the United States against any foreign power?

Emi: Yes.

Robertson: I don't think I have anything further. Have you anything Joe?

Carroll: No, I don't believe I have.