

June 10, 1969

Mr. Louis Bergman, Editor
The New York Times Magazine
Times Square, N.Y. 10036

Dear Mr. Bergman,

The rest of the libelous article is the result of a third source.

I refer to your letter of 16 and the generous advice and opinion you were so kind to give me the day before. It took exactly two months, which is about the period of some gestation. It is unresponsive, evasive, and as much a disservice to the New York Times as the article of which I wrote you.

Remarkably enough, neither in this letter nor in any other communication have you denied the accuracy of my charge against Epstein and your publication of his unimpeached writing. That I said to this:

"Without exception, every statement he makes about me is either false, designed as libel or both". Your magazine misrepresented this, with the proper understanding of the great and powerful dispensing judgments to and for the benefit of the least and unimportant, you refuse your non-response with this lovely opinion, "I'm afraid the conclusion is not encouraging for you." Conclusion on what? "Your letter on the Epstein piece". Am I to be "encouraged" at the New York Times acknowledgment that it prints libel? Great encouragement? That instead of a great newspaper it is a partisan, creating news, coin, as an arm of government? This I could not find "encouraging". And your "decision, what is that?" is that there was no libel in the article, and quite apart from that matter, the article itself was sound."

Would you rather go to Atlantic City or by bus?

My question has no less meaning than your "answer".

Whether or not, within the meaning of the law, there is libel in this article is an opinion I would seek not from you but from a lawyer. If he decides the skilled defense you employes did violate the law we then might seek a court decision. What I asked of you is not a court ruling, though I am now persecuted you could have issued it, not an court in anyway for damages inflicted. I asked, after proving beyond the doubt of reasonable men that Epstein's is egregious error, that you undo the damage you had done to the quest for truth on a great national issue and "retract and apologize for Epstein's error and libel, asking it a matter of record in your paper." Thereafter, I pointed out that, with books now under consideration, this deliberate error continued to render damage.

Samuel Short Cousins

Now, Mr. Bergson, there is something you and I both know, if it took you ten months to prove it to yourself, "without exception, every statement he (Spain) makes about me (emphasis added) is either false, designed as libel or both." You do not challenge this because you cannot. You do not dispute it because, I know, you lack the intellectual integrity one might hope for in an editor of a great newspaper. Instead you use your libel, Spain, and resort to shameful evasion. Whether or not there is a legal action for libel in the article as my yet determine in the prescribed manner, but while from those special New York Times definitions of words we have discrimination, like describes libel as defamation, Spain's writing about me is and was designed as precisely this, and this is what you find publishable when an American President is mentioned as so many countless names, none having been adequately mentioned. Your evasion can be taken only as confirmation, for by now that you surely know, and your diabolical refusal to right the wrong can be interpreted, I think only, as evidence Spain was your weapon, doing your dirty, whitening those defamations honorable men will not. I might add, manufacturing them.

So much for your pretensions and evasive tactics that, in the meaning of the law there is no libel or your opinion that I would never be able to collect or be able to afford the effort. Let me be clear, "quite apart from that matter, the article itself was sound". But it is not "quite apart from that matter" that I asked nothing of the damage. Whether or not the article is "sound" apart from the fact that it "without exception...is either false, designed as libel or both" or it relates to me to the issue. This is by no means to concede that your involvement was not concrete or justified, for whether is the case. It is simply that you are not well enough to face the issue and that, at the very least for the establishment of an historical record, I will not be diverted from it.

It is a nonsequitur to follow this with these words, "So we cannot print your original letter". Whether or not you mean or would is entirely unrelated to anything you have said and is, in fact, an independent decision. If your purpose in printing the original article that you now mean is precisely inaccurate was other than the sympathetic publication of support for the entire the official fiction you would have no difficulty, no problem of my kind, in setting the record straight.

Then you get clever, in a most sneaky way. "If however you want to write us a short letter not more than 250 or 300 words challenging Spain's interpretation of the assassination, we'd be glad to consider it for publication." This you follow with what you may have intended as kindly, frankly advice, "but I'd like to caution you to avoid difficulty, assume details that would simply baffle our readers." In short, you ask me to write about other than the basis of my complaint and build in the rejection. If your readers made sense, honest sense, got anything but defamation from Spain's writing, you need never worry about their comprehension.

How can anyone "challenge Spain's interpretation of the assassination" when there is no such thing? Utly covered that he is, he equivocates and hedges everything, can fairly be said to have changed first a monster conspiracy headed by Earl Warren and now to believe that government can do us wrong. It would be easier to grasp a lubricated coil.

But the fact that you made me even a conditional offer, I believe you intend, can later be referred to, should I see, as an offer of good faith on your part. It is not, and were I to accept it and you did print it, since you eliminate any possibility of my addressing the damage done me, would simply be made to seem that I endorse your defamations. Really, this is too cheap of you.

Where do you leave the matter?

You have failed to deny or by indirection dispute my charge that what you published about me, without exception, is inaccurate. You fail to dispute or deny that it was designed to be defamatory. You are the editor; you should know. Is this the Sunday Magazine interpretation of "all the news that's fit to print"? But your letter leaves no doubt that you now know my complaint to be valid. You merely tell me to go to hell in what only superficially is polite language. Had you done the obvious, you'd have asked Epstein for substantiation of his falsehoods and distortions. I presume you did. That certainly didn't require two months, not even for him. So, since you found out that he is the accountant I accurately described, you had to make a policy decision: you would not retract, but you'd make a meaningless offer that, if I were to accept it, would hurt no more and seem to be my approval of the defamations.

Whether or not this is unfair you, I once would have thought it below The New York Times.

The tremendous and needless tragedies in the wake of the great one at the beginning of the circumlocution are, in large measure attributable to the abdication of those to whom in a society like ours we look for leadership and information. Without both, a democratic society cannot function. All failed not the intellectuals, the lawyers, the press. Had any one fulfilled its obligations, all of history might have been different. What your voice and now your personally are cast in this invidious role.

What I may or may not be able to do about this only time will tell. But one thing this correspondence does establish, and that is a record, your record, on an issue of central national significance. In failing your responsibilities, which are here surely those of anyone in your position, you define yourself as no one could for you.

I have a general understanding of the recent decisions on libel and realize you might perhaps claim that such defamations as you in this and other cases have published in Manhattan were on a "controversial" person. My understanding of this decision is that it would be otherwise if there were a showing of malice or willfulness. You may have discussed those with whom you consulted during those two months if you did not present to them Epstein's other speeches and writings and others in the New York Times, including several British writers. In fact, I suggest the possibility to you that there may be part of the record that, despite the competence of the Times staff, may not have been available to you.

In any event, I hope it is not a difficulty to believe it is not possible for the New York Times to be honest in this matter, to undo the harm you have, by whatever motive force, to the degree you still can. If you do not, you add yourself on the Times to those listed.

Sincerely,

Harold Weisberg