

3/4/71

Dear Senator Ervin,

When I wrote the enclosed letter earlier today, I had not had the opportunity of looking at the morning paper. The Washington Post's account of your yesterday's hearing with Mayor Alioto as the witness gives added point to what I was saying, especially with reference to my allegations of what I believe is official perjury.

His testimony is that the Department of Justice made available to writers who wrote adverse to his interest at the time of a political campaign in which he was a candidate what is described as "raw, unevaluated hearsay".

Yet that same Department of Justice refused me access to the public record of the public trial of an American citizen. It first denied possessing the evidence it had originated and then certified for transmittal to the court. It repeated this denial, both times in writing, and added that even if it had this public information it would not give it to me because it was, in the Deputy Attorney General's words, part of an investigative file for law-enforcement purposes. This it never was.

Only on the eve of the hearing did the Department agree to give me this information. Then it stalled. Meanwhile, giving me nothing, it was bombarding the court with pleas that on its promise to deliver alone the case became moot! Finally I got a summary judgement against it, but to this day delivery has not been complete, and I have recently learned why, because the evidence it sought to withhold was staged, not genuine. I now have part of what it withheld and I have seen the original and can direct you to it, should it interest you. Yet a Department of Justice lawyer, knowing it to be false, and with it the sole hence material issue before the court, swore that he had delivered this evidence to me.

Currently I am suing for what is refused me, pictures of official evidence of an official proceeding.

Both cases are in Federal District Court in Washington. The first is C.A. 718-70, the second C.A. 2569-70.

Thus, a pattern emerges. The Republican administration feeds raw, unevaluated hearsay, what it should not do and what is within the exemptions of the law, to a writer or writers opposing a candidate of the Democratic party, and at the same time denies public evidence in official proceedings to a writer who it knows will not say what it wants to be said.

In the second case, an agency head swore I had not requested the evidence he had reportedly refused me, in writing. With the suit for precisely this evidence, his false swearing could not be more material.

This raw and unscrupulous exercise of raw power is what I had in mind when I asked about the meaningfulness of First-Amendment guarantees.

Sincerely,

Harold Weisberg