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REPLY TO:
New York Office

April 29, 1996

BY TELEFAX

Mr. Ken Follett
P.O. Box 708
London SW10 0DH, ENGLAND

Re: Follett with Crown
(The Third Twin)

Dear Ken:

You have asked me to review the second draft (31 March 1996) manuscript of *The Third Twin* to see whether it raises any problems of defamation. In doing so, I have assumed the literal truth of the disclaimer which appears on page 2 of the manuscript, i.e., not only that the book is a work of fiction, but that it is entirely either a product of your imagination or used fictitiously and that any resemblance to any actual people is entirely coincidental. Based on that assumption, the manuscript does not raise significant problems of defamation or invasion of privacy under the law of the State of New York.

Defamation and invasion of privacy are both intentional torts. In order to commit them, your mental state must be one that intends to do so or intentionally ignores a substantial possibility that you have done so. Given the fact that all of the events, characters and institutions are fictitious and the product of your imagination, you have clearly not intentionally defamed or invaded the privacy of any living person. Given further that by commissioning and (presumably) acting on a report of an investigator, you have taken steps to reduce or eliminate the possibility of any

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accidental resemblance between your fictional characters and institutions and actual persons or organizations, you have taken the steps necessary to avoid negligently disregarding a substantial possibility that you are actually invoking real people or organizations.

Daniel Starer's excellent report indicates that there are a number of coincidental similarities between real people or organizations and the characters in the manuscript. I discuss below a number of those similarities. Where there is any question of a problem, I recommend, more, in most cases, out of an abundance of caution than from an absolute legal necessity, that you consider modifying in order to avoid any possibility that the manuscript be considered actionable:

✓ 1. **Berisford Jones** (52,1)¹. Apparently there is an academic who received a Ph.D. in education from Indiana University in 1981-82. While Daniel Starer was unable to find anyone by that name in Baltimore, given the fact that Berisford Jones is the villain of your book, I recommend you either verify that the Berisford B. Jones who received a Ph.D. from Indiana is no longer alive or you change the name of your character.

✓ 2. **Paul Barck** (53,8). As Paul Barck is another villain and as Compuserve has located two living U.S. residents with that name, I recommend you change the name of your character as well.

× 3. **Stephen Logan** (59,1). Stephen Logan is your hero, and you have given him a common name. There are probably several hundred people in the United States bearing his name or a close variation. As you say nothing defamatory about him, and as the name is so common, I see no need to change it.

4. **William Temple** (74,2). The worst that can be said of this character is that he broke off a relationship with one woman when he decided he was in love with another

¹Reference is to manuscript page and line.

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one, and that he later came back and expressed to the first woman his regrets. Defamation consists of telling untruths that hold the person described up to the scorn and obloquy of the community. It is doubtful that you have said anything about your character which would hold him up to community scorn, even if it turned out there was a real Will Temple whose physical or professional characteristics were similar to your character. However, I think it might be worth asking Daniel Starer to verify that there is no anthropologist anywhere in the United States whose name is Will or William Temple.

5. **Dorothy Dickson** (116,3). Although you say nothing defamatory about Dorothy Dickson, given that there is a John Hopkins student with a similar name, you may wish to change the name of your character to avoid any problem whatsoever.

6. **Brian Allison** (166,11). As you have cast him as an unsympathetic character, I would either confirm that there are no police officers anywhere in the United States with this name or change the name of the character.

7. **Maurice Bell** (222,8). As he is also an unsympathetic character who is ready to compromise principles of academic freedom for the sake of raising money for the university, I would either confirm that there are no university administrators in the United States with this name or change the name to something else.

8. **Penny Walters** (225,6). I would recommend confirming that there is neither a stewardess nor a Ph.D. with this name and would change her name if either searches came up positive since there is at least a suggestion that somehow she has sold out her intellectual talent by becoming a stewardess.

9. **Robert Sample** (259,5). I recommend changing this character's name.

10. **Peter Watson** (280,7). In his report, David Starer identifies this character as Pete "Wilson" in the

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last paragraph on page 7 of his report. Assuming that that is a typo and he searched under the name of Watson, given that there is an academic with that name and the character in the book is identified as someone who probably "had photos of naked boys in his desk drawer," I would change the name of the character even though it is a very common name.

If David Starer actually searched under the name of "Wilson," I would recommend a new search under the name of "Watson."

11. **Cotswold Medical Clinic** (308,6). I strongly recommend changing the name of the institution in your book given the fact that it is the place at which the illegal cloning and in vitro fertilization took place since there is a medical clinic by the same name in North Carolina.

12. **Dick (Richard) Minsky** (314,1). I think that probably there is no need to change the name of this character since the Minsky referred to in the *Inquirer* article that David Starer located is a book designer who lives on Long Island.

13. **Henry Quinn** (396,12). I recommend verifying that there is no attorney in the United States whose name is Henry Quinn and, if so, considering changing the name of this character.

14. **Russell Brewer** (442,19). I recommend verifying that there is no attorney in the United States by this name.

15. **Control Data Center**. If there actually is a military data center with this name, I would do nothing. If it is fictional, I would choose a name which does not invoke Control Data Corporation.

I have made the foregoing recommendations even though I do not think that you are clearly required to make the changes, but because, having commissioned the Starer report, it might raise questions of good faith should you not use it. If you are not prepared to make all the changes