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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:

I knew it was a good sign when at the PEN dinner last Thursday, Michelle Sidrane quite spontaneously began talking about how excited she was to have the book. But, of course, one tends to discount anything publishers say, and so it was wonderfully pleasant to spend this last weekend finding out that she was right.

I think in many ways *The Third Twin* is your best book since in it you have joined the suspense and adventure of your earlier triumphs with a subtle commentary on social policy in a way in which the reader is both entertained and compelled to think about the issues that you raise. Bravo!

As you can see from the enclosed report, the few issues that I raise are really *de minimus*. The manuscript as it stands is not only immensely satisfying as a story, but almost without legal issues.

Cordially,



Kenneth David Burrows

KDB/ss  
Enclosure

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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

## KENNETH DAVID BURROWS

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April 29, 1996  
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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)<sup>1</sup>. 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

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<sup>1</sup>Reference 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

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I suggest, I think that at the least you should consider changing Jones (#1), Barck (#2), Allison (#6), Bell (#7), Cotswold (#11), and Control Data Center (#15), as well as verifying the Watson (#10) search.

\* \* \*

While going through the manuscript, I came across a number of matters -- largely language -- which seemed discordant. While they have practically nothing to do with any legal issues, I set them forth for what they may be worth:

(5,8) "Ivy League" is a precise term referring to the eight colleges (Cornell, Harvard, Yale, Brown, Princeton, Columbia, Dartmouth and Penn) that regularly compete against each other in sports.

(9,7; 67,8) "bone" is not an American synonym for "fuck." I presume it is an anglicism.

(9,18; 69,20; 87,1; 526,5; 528,19) "Car park" is an anglicism. The American usage is "parking lot."

(79,8) "Driving license registries" is, I presume, an anglicism. The American usage would be "motor vehicle bureau records."

✓(154,15) "Fell about" is an anglicism. The approximate American usage would be "broke up."

✓(207,19) "Skirting-board" is an anglicism. I believe that the American usage would be "floor molding."

(264,4-268,16) A bail hearing is a critical stage in a criminal proceeding since the accused's liberty rights are directly involved. While it is possible that an appearance before a bail commissioner for a misdemeanor would not require counsel, it is unlikely. However, it is inconceivable that counsel would not at least be offered to an accused felon at an arraignment proceeding before a judge, especially one that took place hours or days after the arrest. While your character is probably impulsive and

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foolhardy enough to refuse the opportunity to be represented by Legal Aid or other assigned counsel, he should at least be offered such an opportunity. It is unlikely that his companions, who are portrayed as habitual or at least experienced criminal types, would turn down such an opportunity.

✓ (422,3) "Take legal advice" is an anglicism. The American usage is "get legal advice."

(617,2) "Coloured[sic] soldiers weren't allowed to carry firearms [in World War II]." Although it's true that many black soldiers during World War II were used as servants rather than fighting troops, that was not universally the rule. There were a number of regiments of black soldiers. Moreover, there was no general prohibition against soldiers who were acting as servants from being armed when appropriate.

Sincerely,



Kenneth David Burrows

KDB/ss

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REPLY TO:  
New York Office

April 29, 1996

Mr. Daniel Starer  
Research for Writers  
59 West 85th Street  
New York, NY 10024

Re: Follett with Crown  
(The Third Twin)

Dear Mr. Starer:

I thought that your report was excellent and eliminates most of the concerns that I might otherwise have had. There are a number of areas where I felt that further research might be useful, and I have indicated them in my report to Ken, a copy of which I enclose herewith. Presumably, after he has had a chance to consider it, you will hear from him with respect to whatever additional research he thinks is appropriate.

In the meantime, I enclose a handwritten page which I found inside the manuscript and which I presume represents your notes. The items referred to do not appear to be reflected in your report.

Yours sincerely,



Kenneth David Burrows

KDB/ss  
Enclosure  
cc: Mr. Ken Follett

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Y

S28 13  
 S38 14  
 S39 bottom  
 S52 middle  
 S86 14

Francis  
 Fanny Gallaher *wash DC*  
 Francine

book: Identical Twins Reared Apart by Susan L. Farber

CD-ROM usage realistic?

almost a million Jones in America → do you want me  
 to check real number for this and then other names search on CD-ROM?

Would need to dial 4 digits before the 7-digit #

1-xyz-123-4567 for long distance