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Erika Mann
Kilchberg/Zürich
November 23, 1955

Dear Mr. Buchwald.

Thank you very much for both your kind letters. And may I say in advance that we do desire to proceed. Please let us know what that "modest retainer" would have to amount to, and what percentage of the eventual harvest you would expect us to turn over to you.

Of the various possibilities suggested in your second letter only Paragraphs 1, 4, and 5 would seem to apply.

The suit averted to in Paragraph 2, does not recommend itself, as the defendant would almost certainly insist that it was Klaus whom he had had in mind. And there is not suit in the United States for defaming the memory of a deceased person, there would be nothin the estate could do in this context.

The suit averted to in Paragraph 3 would seem equally unfeasible. None but the family (wife and children) were named in the will which render Winchell's legatee a free fabrication.

Thus the suits referred to in Paragraphs 1, 4, and 5 would be the only ones we should be able to maintain.

Re. Paragraph 1 : it is only too true that "the matter published was done so wilfully and intentionally without just occasion or excuse". But whether it "caused damage to the deceased's estate depends on the meaning attributed to the term "damage". As for any material damage, I doubt that such was actually caused, and even if it were, we should find it all but impossible to prove. If, however, "damage" does - as it surely should - also imply things other than material, - such as harm done to a famous man's well earned reputation, shame heaped upon the very name under which he published so many works dear to the heart of humanity, then the "novelet" did cause severe damage to the deceased's estate". And, rightly or wrongly, I take it that for maliciously circulating a falsehood grossly injurious to the moral and intellectual stature of a dead man whose efforts as a writer were meant not merely to entertain but also and above all to help, encourage and strengthen, morally, the international reading public, - I take it, then, that for maliciously circulating such a falsehood a suit may be maintained in New York as elsewhere. Am I mistaken?

Re. Paragraph 5 : While I knew from the beginning that the weekly "Overseas News" is being circulated all over Western Europe, the U. K., and Maroque, I have learned but recently that the Winchell column containing the scandalous "news item" appeared also in the "Rome Daily American" (of October 25th). The latter sheet being the only English-language-paper available in Rome, both the American and the British colonies are said to be addicted to it, just as no Anglo-Saxon tourist would alledgedly go without it.

Numerous cities and countries besides those mentioned could no doubt be named and found to have served the Winchell column as exhibition grounds. Presently, however, the U.S.A., the U.K., and Italy (i.e. New York, London, and Rome) would appear to be the places where suits need to be maintained.

Your first letter (of November 15th) does not - as did your first communication ~~HH~~ refer to the criminal aspect of the case. Is not Winchell's offense of the sort in which the D.A. is wont to take a measure of interest? How about that kind of suit?

Thanks for labouring before you could even be certain that anything would materialize.

With every good wish and kindest regards, also from my mother,

I am

yours very sincerely

ERIKA MANN

Barzard
Bruchwald

[23.XI.55]

VIII/144

