Atlanta, Georgia

August 8, 1946

My dear Professor Foster:

I have just received your letter of August 6th which contains the map you made, bearing the legend "Atlanta in 1864 To Illustrate Margaret Mitchell's "Gone With the Wind"--Copyright 1946 by Finley Foster." It appears that this is the map Colonel L. P. Grant made for the fortification of Atlanta, and on it you have superimposed actual buildings of the 1860's as well as fictitious houses I mentioned in my novel "Gone With the Wind."

This is going to be as unpleasant and embarrassing a letter as I have ever written and if there were any possible way to avoid writing it I would not write it. That I must embarrass myself by writing it is not my fault. Before I go into the unpleasantness of this letter, I want to thank you sincerely for your interest in my book and its characters which made you use them in your course in the American Historical Novel, and which made you make this map which you have copyrighted. I cannot help having a sense of appreciation of your interest. At the same time, my heart sinks as I view your "Copyright 1946" on my material. You see, I have been through this before.

I realize that your motives were of the best, that you did not wish to make money from the sale of this map, and I am sure you did not intend either to violate the law or to cause me an enormous amount of trouble. But the law has been violated and I will be caused much trouble. In view of this, may I call on you to not circulate this map anywhere, and, if you have sent it to any of the people or organizations you mentioned, such as the Atlanta Historical Society, the Carnegie Library of Atlanta, the Emory University Library, that you write and get them back and inform me? The mere fact that you have copyrighted a map on which appear fictitious houses of fictitious characters I created, with my name and the title of my book at the top, would lead anyone who sees it to think I had acquiesced in the preparation of it, and that each fictitious house marked on the map was correctly marked. This is not true, and if this map is circulated the amount of trouble it will cause me will be enormous.

I want to to say first that I went to a great deal of
trouble and spent much time to so mix the topography of Atlanta
that it would be impossible for anyone to say exactly where
this or that house which I had created was built. I did this
purposely, as I did not wish (1) to embarrass the present day
descendants of people who had lived at certain spots by making
the general public think their forebears had been characters
in my book simply because they had lived in houses on spots I
had mentioned. (2) I wished to avoid any legal complication
arising from such identification. Not once but almost every
day in the ten years since "Gone With the Wind was published,
I have stated personally, by letter or in public print that
there were no actual sites for the houses of the characters I
created. The "rubberneck" automobiles, anxious to turn a penny;
the makers of small guides who had little to show to tourists;
even some of the hotels and boarding houses have glibly pointed
out this or the other place as "where Aunt Pittypat lived", and
I have denied them all and forced them to desist from spreading
these false impressions. Not only has this been embarrassing
for me, but in some cases it has been bitterly humiliating to
people whose very worthy grandparents lived on or near spots
pointed out as "Belle Watling's place" and so forth.

The makers of maps have been legion and I have had
to refuse them all, not only for the reasons mentioned above
but because of the commercial tie-up angle, which I will men-
tion later. After ten years I am naturally worn and fatigued
by this matter, and I am trying to devote my time to the care
of my husband, who has been seriously ill for eight months.
Matters such as you have brought up come in waves, and I realize
that if your map gets into circulation I will have a wave of
tourists, letters and calls from the curious, letters from his-
torical societies, calls from Atlanta people who are either
pleased or indignant, et cetera. I hope you will assist me in
avoiding this problem, which I did not bring on myself, by de-
stroying these maps and retrieving any which you have put in
circulation. You may think that your copyright notice is a
protection. I note in your letter that you say you copyrighted
it, "... not for sale; ... to be able to keep control of its
use." In a long and varied experience in such matters, I would
say that four times out of five people pay no attention to a
copyright notice and take their chances that the copyright owner
will not fight for his possessions. I am in a position to know
about this, as a great many people have learned, to their sorrow,
that I will fight for my copyright, and the law courts of this
country and Europe will show settlements in my favor. I know
what I am now going to write is not pleasant, and yet I must
write it. You had no right to copyright material I had created
which was already copyrighted by The Macmillan Company, and, which
according to successful settlements I have won in such matters,
was also protected under any reasonable interpretation of the Fair Trade Act. You took Colonel L. P. Grant’s map of the Confederate fortifications of Atlanta, which, I believe, was based on Vincent’s map of Atlanta of 1852, on which the copyright had expired. Colonel Grant’s map is in the public domain, and I doubt the legality of any copyright upon anything so long in the public domain. On this map you superimposed “fictitious places” — “Aunt Pittypat’s house,” “Ashley Wilkes’ house,” “Dr. Meade’s house” et cetera — “to illustrate Margaret Mitchell’s GONE WITH THE WIND.” You had no right to use my copyrighted characters and to misconstrue my work, under any copyright law or under the Fair Trade Act. My characters are protected by copyright; I have a common law right in them, too, and “in all derivatives of them,” and they cannot be used for commercial or other purposes without my permission and that of The Macmillan Company, who hold the copyright.

In matters such as your map, another complication arises. Some years ago I entered into an agreement with Metro-Goldwyn-Mayer concerning what is known in the trade as “commercial tie-up” rights. These commercial tie-ups are “derivatives” of my book and the moving picture made from it, and were such articles as Scarlett O’Hara dolls, “Gone with the Wind” jewelry et cetera. Every offer for a map of the “Gone with the Wind Country” or “Gone with the Wind” Atlanta (either maps accurate as to Atlanta streets of the day or fanciful and decorative maps) has been refused for the reasons stated above. As you have copyrighted this map, it gives the appearance that I have given permission for the printing of a map by you after selling the tie-up rights to Metro-Goldwyn-Mayer, and, moreover, have evidently let you have it for nothing when Metro-Goldwyn-Mayer and I could have made considerable money had I ever given my permission for such a map. In other words, you have taken something from the public domain and copyrighted material, put them together and secured a copyright on them. You did this without notification to me or asking my permission, and the fact that you consulted Mr. Wilbur Kurtz doesn’t have much to do with the matter, as Mr. Kurtz has no authority to speak for me. He is well aware that I had no definite sites for any fictitious houses I created.

May I hear from you at once that you have not sent copies of your map to the organizations you mentioned or to the unnamed people you mentioned? If you have already sent the maps out, may I hear what steps you have taken to get them back? I believe you would have no difficulty or embarrassment in retrieving them, for you could state that there was some
error or mistake in the copyright and that it was necessary for you to have them back. I will take up with Mr. George Brett, of The Macmillan Company, the matter of your copyrighting the material already fully protected by copyright.

While it wouldn't matter to you, I am sure, it would be very embarrassing to me, for I have promised long ago that if The Macmillan Company ever wished to use maps as endpieces showing the Atlanta campaign or the Atlanta of that period, an artist friend of mine would be recommended for the job. Now your map, with its definite legend that it is to illustrate my book, makes it appear that I have given permission to you.

I am quite certain you didn't mean to cause me trouble now or in the future, for it is obvious that only a kind interest in my book prompted you to your action. But I can assure you it will cause me trouble and at a time when I can ill afford to spend the time away from my husband to write letters such as this.

Sincerely,

Margaret Mitchell Marsh

(Mrs.) John R. Marsh