

New York City
April 17, 1937

TO WHOM IT MAY CONCERN:

In the interest of true justice, I am making a record of the following while it is all still fresh in memory.

Having been continuously present at the hearings before Referee Geo. Frankenthaler of the present litigation re. Master Institute of United Arts and the Roerich Museum, I am convinced that he has been hearing the entire case with a pre-conceived opinion which coincides with the basic contention of the defendants, and, while the record must show this to a certain extent, there has been so much said off the record that I feel it my duty to put the following in writing.

During the testimony of Maurice Lichtmann re. taking up residence at 311 Riverside Drive, the referee stated the following in effect: "Now, off the record, we all know, I think, what the two sides contend on this point, I mean - to avoid cluttering up the record I just want to show that I understand the two viewpoints,"... (Such remarks are often heard in this proceeding, and sometimes preface lengthy explanations which do show that he understands the two viewpoints and sometimes are followed by an evidence just to the contrary)... - "I know that the Horches claim that, in plain words, they were doing you a favor to let you come to 310 Riverside, - and you are going to say that you did the Horches a favor." (Then he immediately corrected himself by adding, -... "I mean the institutions - that you did the institutions a favor, -in a way").

In spite of the fact that the plaintiffs and their lawyer, Mr. Plaut, have been very insistent and outspoken from the very beginning in their charges against the Horches et al. of a treacherous plot involving slander, theft, forgery and breach of trust, the referee has seemed to me to lend a remarkably deaf ear to these serious charges, saying once, "We are not concerned with ethics here..", and again, "After all, you know, I'm not a policeman, - nor the district attorney." He has very actively fought against having any significance made of the fact that according to the contention of the ~~plaintiffs~~ plaintiffs they are still ~~members~~ # (still) members of the corporation and as such ~~have~~ have the firm of Greenbaum, Wolff and Ernst as their attorneys while in this proceeding the same law firm opposes them ~~and supports~~ other members of the same corporation.

When Mr. Plaut was leading up to the introduction of the testimony of William Wood, the referee began to show great wonder and amazement, finally breaking in, off the record, with some such words as, "You dont mean that you are going to imply that something was taken!?!..." To which Mr. Plaut answered, "Not only that, - I'm going to prove it!" which seemed to astonish the referee.

Without the help of Greenbaum, Wolff and Ernst this usurpation could not have proceeded, and the referee not only protects them but also refuses to let into the record the names of certain officials in Washington without whose aid the plot could not have even begun, although he has allowed aspersions to be cast upon other non-participants who are on the side of the plaintiffs. When the referee very improperly (in

my opinion) cross-examined Maurice Lichtmann as to the meaning of special name which he sometimes used, Mr. Plaut explained afterward very frankly off the record that many people intimately connected with this work had used similar names and did not hesitate to give the names of some officials in Washington, D.C. who were thus connected. The referee then quickly said, "Let us not have these names in the record, - you know we have been trying to withhold from the record the names of people not actually involved in this proceeding...etc.." To which Mr. Plaut answered, "We have not been entirely successful in this attempt.....
 ...Let us then stipulate into the record that such names were also used by certain persons internationally and politically known." To this the referee agreed, but he proceeded to dictate himself the stipulation and was careful to omit the word "politically".

When Sina Lichtmann testified that she was present 13 years ago when Louis Horch was trying to get Professor Roerich to sign not only a batch of notes for which he did not receive the money but also a paper proclaiming Horch as the owner of all Prof. Roerich's paintings to be painted in the future, the referee's questions to her, such as, "Were you present at all such conversations between Prof. Roerich and Horch?" etc. and his obvious incredulity at her emphatic affirmations at all times that she was always in Prof. Roerich's complete confidence and knew especially well his affairs and plans regarding the institutions which she founded with him, as well as the nature of Horch's participation in them, all tend to show that the seeds of slander against Prof. Roerich planted long ago by Horch and his allies have taken root in the mind of the referee. When she claimed that the batch of notes just introduced in evidence was the one she had seen signed years ago under such strange circumstances and was defied by opposing counsel to pick out any notes which she recognized, she proceeded to do so and was immediately subjected to the most grueling cross-examination by the referee which ended in his banging his fist on the table and saying in open anger, "This attempt at identification is nothing but a farce!... I was enraged when it began.... There is nothing in the world that can ever change my opinion on this point although I may not judge the entire case from this alone.... You are lucky there is no jury here because then you would not have a chance.... I can tell you right now that these notes were not signed at the same time...There is not a person living who could pick out some certain notes from among many and identify them as having been seen so many years ago... Why, I myself could have picked out the notes she wants to identify..." (I believe that the referee would not consider this to be self-contradictory, but that according to the witness' understanding it is). At the finish of this outburst in which he practically called the witness a liar and definitely stated that nothing in the world could ever change his mind about it; that it was an absurdity to pick out certain notes from the batch, - he demanded that she do just that absurdity, and of course she declined quietly, having remained exceedingly calm throughout but evidencing great perplexity from the time of about the middle of the referee's cross-examination until she left the stand.

Dudley Fosdick