

Jackie Files Suit

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entire case rests, however, will be made clear at the hearing when Rifkind asks for a temporary injunction forbidding publication of Manchester's manuscript.

If the temporary injunction is granted Mrs. Kennedy will have won.

A temporary injunction is handed down before a trial is held on the issue in question. At the trial, a permanent injunction is requested. If the temporary injunction has been granted, and is affirmed by the higher courts, the permanent order follows as simply as night follows day because both sides usually exhaust all their available arguments in the hearing for the temporary injunction.

Mrs. Kennedy has charged that the defendants, by publishing Manchester's material, will violate the agreement the author signed.

The basis of the suit—that a violation of contractual agreements is about to take place—avoids the issue of a constitutional abrogation of freedom of expression.

One thing is certain: no court in the nation has the power to prevent publication of any material on the grounds

that it is defamatory, false or offensive. Not even pornography can be censored before publication.

Prior censorship is forbidden not only by the United States Constitution, but by the constitutions of all 50 states. The only time an offended person may take action is after the disputed material has been published. Only after publication may printed matter be seized.

So a careful delineation must be made by Rifkind between prior censorship of Manchester's book and breach of contract. The latter is completely different from prior, illegal restraint.

In effect, Mrs. Kennedy is taking legal action to enforce an agreement, not to demand that the law censor Manchester's book.

Her case, in the light of the agreement which was signed by Robert Kennedy and Manchester, appears to be strong. Yet the publishers and Manchester have said that they will go ahead with publication.

Two of the defendants have issued a statement that:

"Harper & Row and Mr. Manchester were officially advised in July, 1966, that members of the Kennedy family will place no obstacle in the way of publication' of the book."

The legal weight and validity of the statements issued by each side will be determined at the hearing. It is conceivable that the agreement between the Kennedy and Manchester, which specified a date of publication (Nov. 1968) and the right of review, has been superseded by later oral agreements.

The Senator refused all comment on the case today in an appearance at the Overseas Press Club, 54 W. 40th St., where Arthur Schlessinger Jr. presented him with his three-volume history of state of the union messages.