

MRS. KENNEDY SUES TO HOLD UP BOOK ON ASSASSINATION

State Justice Sets a Hearing
for Dec. 27 and Orders 3
Defendants to Appear

QUICK DECISION PLEDGED

Widow of President Asserts
That the Author Had
Violated Her Rights

*Texts of principal documents
are on Pages 18 and 19.*

By JOHN CORRY

Mrs. John F. Kennedy asked a justice of the State Supreme Court yesterday to block the publication of "Death of a President," a book she said she once had authorized in the interest of "accuracy, good taste and dignity."

Saul S. Streit, the ranking justice of the court, said he would hold a hearing Dec. 27 on her contention that William Manchester had violated her rights with his plans to have published the unapproved manuscript of his book about the assassination of her husband.

Justice Streit said he would "decide the matter shortly" after the hearing.

He ordered Mr. Manchester; Harper & Row, Publishers, Inc., and Cowles Communications, Inc., the publisher of Look magazine, to appear before him to show cause why an injunction against the book should not be granted. All are defendants in Mrs. Kennedy's suit.

At Stake in the Suit

At stake are the following:

¶ A four-part series of 80,000 words from the book in Look magazine scheduled to begin in the issue on sale Jan. 10.

¶ The 300,000-word book, scheduled to be published in March or April by Harper &

Row.

¶ Plans for publication of the work abroad in book and serial form.

A spokesman for Look said that, if Mrs. Kennedy was upheld, a substitute issue would not be published. He said there was not enough time to prepare one.

Neither Mrs. Kennedy nor the Senator appeared in court here.

The suit joins together in a court fight celebrated names in politics and publishing. It involves old friends from both sides, substantial amounts of money, and, indirectly, political tensions between Senator Kennedy and President Johnson.

It is being fought, Mrs. Kennedy's complaint said, because the publication of "Death of a President" would cause her "great and irreparable injury" and "result in precisely the sensationalism and commercialism which we—Robert F. Kennedy and I—have sought so strenuously to avoid."

Three Key Clauses

"The threatened publication is in total disregard of my rights and, if it goes forward, will utterly destroy them," she said.

Mr. Manchester had two lengthy interviews with Mrs. Kennedy when he gathered material for the book. Her friends say that Mrs. Kennedy "made no attempt at self-censorship"

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SUIT IS FILED HERE BY MRS. KENNEDY

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in the interviews and that she had revealed her deepest thoughts.

"I am shocked that Mr. Manchester would exploit the emotional state in which I recounted my recollections to him early in 1964."

This, she had said, is her foremost objection to the book.

The most important issue is whether the defendants had permission from the Kennedys to publish. Mrs. Kennedy and the Senator said they did not.

Three clauses in an 11-point memorandum signed by Mr. Manchester and the Senator on March 26, 1964, are involved.

The first says that Mrs. Ken-

nedy and the Senator must approve the text of the book. The second says that Mr. Manchester may not dispose of subsidiary rights without their approval, and the third that the book may not be published before Nov. 22, 1968, exactly five years after the assassination of President Kennedy.

Harper & Row has said that Senator Kennedy told Mr. Manchester in a telegram last July that "members of the Kennedy family will place no obstacle in the way of publication of his book."

However, in a five-page affidavit in support of Mrs. Kennedy, the Senator said that the "telegram makes no statement approving either text, or time, or mode of publication."

The telegram said:

"Should any inquiries arise re the manuscript of your book I would like to state the following:

"While I have not read William Manchester's account of the death of President Kennedy, I know of the President's respect for Mr. Manchester as an historian and a reporter. I understand others have plans to publish books regarding the events of Nov. 22, 1963. As this is going to be the subject matter of a book and since Mr. Manchester in his research had access to more information and sources than any other writer, members of the Kennedy family will place no obstacle in the way of publication of his work.

"However, if Mr. Manchester's account is published in segments or excerpts, I would expect that incidents would not be taken out of context or summarized in any way which might distort facts of or the events relating to President Kennedy's death."

Sent at 'Urging'

Mr. Kennedy said the telegram had been sent at the "urging of defendants Manchester and Harper."

"I was told by Harper's representatives," he said, "that Manchester was becoming ill from an obsession with the thought that the book might never be published."

He sent the telegram, the Senator said, "after repeated requests to send a message which would allay his fear..."

Mr. Kennedy said that before and after the telegram was sent Evan Thomas, the editorial vice president of Harper & Row, and Mr. Manchester "assured me and others associated with me that nothing would be published without the approval of Mrs. Kennedy and myself."

The Senator said that on July 29, the day after he sent the telegram, he spoke with Mr. Manchester and that he had been "specifically and emphatically assured" that the original contract would be followed scrupulously.

Meet With Editors

On Aug. 4, the Senator said,

he received the following telegram from Mr. Manchester and Mr. Thomas:

"Homer Bigart of Times is on to book and serial story and has gathered many facts including price of sale. We have been evasive in our replies regarding money. Under existing terms we expect book to be larges [sic] single contributor to library and are delighted with that prospect. In the absence of any further discussion we must assume that original signed agreement prevails."

Senator Kennedy said he had answered Mr. Manchester and Mr. Thomas with the following reply:

"Re telegram where you say quote in absence of any instructions signed agreement prevails unquote. Agree, and that provides that Mrs. Kennedy and I must give permission for publication of book and that has not yet been given."

Throughout the summer, representatives of the Kennedys, notably Richard Goodwin, a former assistant to President Kennedy; John Siegenthaler, the editor of The Nashville Tennessean, and Edwin O. Guthman, the national news editor of The Los Angeles Times, met with editors of either Harper & Row or Look and suggested revisions in "Death of a President."

The defendants are expected to assert that these meetings indicated that the Kennedys were willing to accept both the serialization of the book and the subsequent publication in the spring.

Spokesmen for the Kennedys have said, moreover, that they detected some feeling in the family that the dates specified in the contract might have been waived if material that was considered objectionable was removed.

However, in his affidavit, Senator Kennedy said it was incorrect to infer that because "certain of Mrs. Kennedy's friends and my friends read portions of the manuscript and made suggestions as to its text, Mrs. Kennedy and I have somehow approved the manuscript."

The Senator said that he had never read "Death of a President" and that "no one who read the manuscript had au-

thority to approve it on behalf of Mrs. Kennedy or me."

In her 11-page affidavit, Mrs. Kennedy said:

"I have never seen Manchester's manuscript. I have not approved it, nor have I authorized anyone else to approve it for me.

"I cannot be said to have approved what I have never seen, and yet, because it is widely known that I personally (and the Kennedy family) extended so much help to defendant Manchester, it will only be natural for the public to believe that the manuscript is published with my approval."

Earlier this week, Mrs. Kennedy issued one of her infrequent public statements in which she said that the book contained "inaccurate and unfair references to other individuals."

She did not identify the other individuals, but those who have read the original manuscript insist that it presents President Johnson unfavorably, that it speaks of Mrs. Kennedy and her friends as being infuriated by his behavior after the assassination in Dallas, and that it contains gratuitous insults to Mr. Johnson.

Senator Kennedy and his colleagues are said to have believed that these characterizations of Mr. Johnson and references to Mrs. Kennedy's annoyance with him would strain future Johnson-Kennedy political alliances.

It was reported yesterday that in October, Mr. Goodwin and Mr. Siegenthaler, as well as Theodore C. Sorensen, Pierre Salinger, Arthur Schlesinger Jr., Burke Marshall, James Greenfield and John Douglas, all of whom were involved in President Kennedy's Administration, met in the Senator's apartment here and suggested that agreement be sought with the publishers.

Other sources have indicated that Senator Kennedy had favored this course, too, and that Mrs. Kennedy was instrumental in pressing the suit. The Senator has been described as being provoked and irritated by the book, but reluctant to sue.

In her complaint, Mrs. Kennedy asked the court for five forms of relief.

She asked first that Mr. Manchester, Harper & Row and Cowles Communications be enjoined permanently from publishing the manuscript and from letting others publish the manuscript until she approved both the text and the date of publication. She also asked that they be barred from giving anyone a copy of the text without her approval.

Secondly, she asked that the three defendants be permanently barred from publishing or using any of the letters from herself and from her daughter, Caroline, to the President, that might be in the possession of Mr. Manchester.

She asked also that the letters and any copies of them that might have been made be returned to her.

The third request Mrs. Kennedy made was that the defendants be barred permanently from using the tape-recorded interviews she gave to Mr. Manchester, and she asked that the tapes and all copies be returned.

Mrs. Kennedy said that Look magazine had used her name in advertisements and promotion circulars. She said the use of her name without permission had violated her rights under Sections 50 and 51 of the New York State Civil Rights Act.

These sections protect the right of privacy and say that the use, without written consent, of anyone's name, portrait or picture for advertising purposes is a misdemeanor.

Mrs. Kennedy asked that Cowles Communications be permanently enjoined from using her name in its advertisements.

Her final request was that her rights be embodied in a declaration and that she be granted both compensatory and punitive damages for the defendant's actions, together with the costs of the suit.

The papers were filed by Martin Gold, an attorney with Paul, Weiss, Rifkind, Wharton & Garrison, the law firm that will represent Mrs. Kennedy.

Kennedy Lawyer Argued For Printing of Frick Book

Simon H. Rifkind, who will lead the legal battle to bar Chester's book about President Kennedy's assassination, recently argued the opposite side in another book dispute.

Only last week he urged a Federal court to permit publication of "Pennsylvania—birthplace of a Nation." He cited First Amendment guarantees of free press and speech. The book was written by Sylvester K. Stevens, executive director of the Pennsylvania Historical and Museum Commission.

Miss Helen Frick, daughter of Henry Clay Frick, a Pittsburgh coal tycoon, sought to stop its publication on the ground that it defamed her father, who died in 1919.

The court reserved decision on a motion to enjoin Miss Frick's legal fight to block the book's publication.

REMEMBER THE NEEDIEST!

Mrs. Kennedy Cancels Holiday at Sun Valley

SUN VALLEY, Idaho, Dec. 16 (AP)—Mrs. John F. Kennedy has called off her plan to spend a Christmas-New Year's skiing holiday at this resort, a spokesman said today.

The wife of the late President had had reservations starting Dec. 26 at Sun Valley, where she and her two children spent the holiday last year.

A resort spokesman said she had canceled the reservations today, but no reason was given.

Senator Robert F. Kennedy, Democrat of New York, and his family still have reservations starting Dec. 21.

Italians Rule Book Obscene

SARZANA, Italy (AP)—"The Invisible Woman," an adventure strip book, has been seized by the police. The prosecutor held it to be obscene because too much of her was showing.

Manchester Assured Magazine Kennedys Approved Publication

Copy of Accord With Cowles,
Publisher of Look, Is Filed
in Suit Over the Book

By SIDNEY E. ZION

William Manchester assured the publishers of Look magazine, in a written agreement last August, that the Kennedy family had approved the publication of his book "Death of a President."

A copy of the agreement, which calls for the payment of \$665,000 to the author for world serialization rights by Cowles Communications, Inc., publisher of Look, was filed as an exhibit yesterday by the lawyers for Mrs. John F. Kennedy.

Mrs. Kennedy is seeking to halt publication and distribution of the serialization and the book. She asserts that she did not authorize publication of the manuscript and that Mr. Manchester breached his contract with her. She contends that the contract requires that the manuscript be approved by her before it can be published.

Look Magazine is scheduled to begin Jan. 10 an 80,000-word serialization of portions of the 300,000-word manuscript.

Paperback Rights Sought

Meanwhile, Dell Books offered \$1-million yesterday for the book's paperback rights to Harper & Row, Publishers, Inc., publisher of the hard-cover edition. Donald Fine, editor in chief of Dell Books, said he believed this was the largest offer ever made for paperback rights.

A spokesman for Harper & Row said that it was company policy not to accept a paperback offer until the hard-cover edition had been published. He said he knew of no other offers. Publication of the hard-cover edition is scheduled for April.

In the memorandum of agreement with Cowles Communications, dated Aug. 11, 1966, Mr. Manchester gave the following covenant and warranty:

"That said manuscript was prepared by him with the authorization, consent and cooperation of Mrs. Jacqueline Kennedy and Senator Robert F. Kennedy and that Senator Kennedy has, speaking for the Kennedy family, approved the publication of same."

The author also warranted that he owned or controlled "exclusive first newspaper, magazine and periodical publication rights" in the manuscript.

Look Selected Material

According to the second edition of Webster's New Inter-



Associated Press

Gardner Cowles

national Dictionary, a warranty is "a collateral engagement or undertaking . . . that a certain fact regarding the subject of a contract is, or should be, as it is expressly or impliedly declared or promised to be."

A covenant is described as "an undertaking or promise of legal validity."

According to the dictionary, the breach of such a warranty does not avoid the contract but "renders the warrantor liable for damages."

Under the agreement, Look magazine is entitled to select and omit whatever material it may desire. But the publisher agreed to submit first proofs and final photo copies of the articles to Mr. Manchester for final approval "so that there can be no question [of having] substantially changed the meaning of any of the material."

Gardner Cowles, editorial chairman of Cowles Communications, also agreed to submit the articles through the author to Mrs. Kennedy or Senator Kennedy "if the author timely notifies" the company that either

of them desires to review the material for purposes of determining whether the Look articles changed the meaning of the material in the manuscript.

The agreement continued: "It is understood that failure by the author, (or by Mrs. Kennedy or Senator Kennedy in the event they exercise their right to review the material) to communicate any objection or disapproval to one of Cowles' editors . . . at Cowles' New York City office within five days after receipt of such material shall be deemed the equivalent of affirmative approval thereof by such person."

In her affidavit filed yesterday, Mrs. Kennedy said she had not approved or consented to the serialization. Senator Kennedy said the same thing in his affidavit.

The agreement also provides that, in the event of a lawsuit against the publisher, Mr. Manchester is obligated to pay the amount of any "adverse monetary award, judgment, or verdict," if the case goes to trial.

Payment of Lawyers

Up to the point of actual trial, the publisher must pay the costs and expenses of the defense, including attorney's fees. If a trial ensues, however, Mr. Manchester is obligated to pay the costs and expenses of the trial and any subsequent appeals, including attorney's fees.

If Cowles agrees to a settlement that is unsatisfactory to the author, it has the right to pay the settlement price and Mr. Manchester need not contribute. On the other hand, if Mr. Manchester approves the settlement he is obligated to pay the settlement price.

The amount the author need pay as indemnification to the publisher is limited to the "total sum paid, or payable" to Mr. Manchester under the agreement.

Under the payment clause of the agreement, Mr. Manchester received \$365,000 upon execution of the agreement, meaning Aug. 11, 1966.

The balance of \$300,000 is to be paid in five approximately equal installments, beginning Jan. 10, 1967, and then each Jan. 10 through 1971.

The agreement called for the beginning of serialization in Look magazine on Oct. 18, 1966, with the last installment scheduled for Jan. 10. This was later changed so that the first installment is due Jan. 10.