

The vagueness of the agreement RFK permitted Man to draw is ample indication he never expected to invoke it, which in turn indicates he never expected to have any question of the fact of the assassination to be reported by the Government. Had this not been so, he would never have permitted a vague agreement subject to varying interpretations, an agreement that may have been worthless, to represent the paper commitment.

See NYT article by Sidney
Zion 12/20/66

Mrs. Kennedy Reported to Have Rebuked de Gaulle

By ROBERT ALDEN

Mrs. John F. Kennedy took President de Gaulle of France aside just after the funeral of President Kennedy and told him of the ideals and hopes for Franco-American relations that her husband had held, according to a source who has read the manuscript of William Manchester's "The Death of a President."

Even in this hour of extreme personal distress, the manuscript is said to report, Mrs. Kennedy chided the French President for the obstacles she said he had put in the patch of relations between the two countries.

Before the funeral, she had placed a personal letter, an emotional document, into the coffin of President Kennedy. She is described as very eager that this letter be excised from the book and from the serialization in Look magazine before they are printed.

"It is not an over-emotional letter," said the source who read the manuscript. "It is a very good letter, the kind of a letter that a woman very much in love with her husband might write."

The Manchester manuscript also makes considerable use of a number of letters that she had written to her husband, some in conjunction with their daughter, Caroline, who was 5 years old at the time. Mrs. Kennedy wants these letters omitted.

She is said to be particularly upset because Mr. Manchester included in the book a letter that she had sent to her husband from Greece one month before the assassination.

Behaved 'Like Queen'

In the book, Mrs. Kennedy is described by the source who read the manuscript "as behaving like a queen in her ability to make decisions and her assurance in making those decisions."

But the one decision that she hesitated to make herself was how best to tell Caroline of the death of her father. According to the version, Mrs. Kennedy went to her mother, Mrs. Hugh D. Auchincloss, to seek advice.

Mrs. Kennedy asked her mother whether she felt it would be better for her daughter's nurse to tell the girl of the tragedy or whether she should tell her daughter herself.

Mrs. Auchincloss in this case,

the source reported, took matters into her own hands and asked the nurse to tell Caroline of the President's death.

"I could not help myself," the source who had read the manuscript said. "I wept when I read how the nurse told the little girl of the death of her father. It was as heartbreaking as anything in this book filled with heartbreak."

This is believed to be another portion of the manuscript that Mrs. Kennedy wants omitted because of its personal nature.

As for the Kennedy's son, John, who was then 2 years old, he had been taught to salute the flag almost as soon as he could walk. But when he tried to salute he would invariably hit his nose or his ear.

At the funeral, however, when Mrs. Kennedy, according to one version of the manuscript, said, "Salute your Daddy," as they stood before the coffin, John for the first time gave a perfect salute.

Confusion Is Reported

The manuscript also is reported to tell much about the confusion in Texas just after the assassination, giving this picture: The police radio system failed at the time of the shooting, and, as a result, Parkland Hospital, toward which the Presidential car raced, was not informed of the shooting.

When the car arrived, no one was prepared for it and, in the attendant excitement, Mrs. Kennedy was barred by a nurse from entering the room where her husband had been taken. She reportedly wrestled with the nurse in an effort to get into the room. Finally, she gained admission after a doctor gave her permission.

The Manchester manuscript was said to describe in great detail how Mrs. Kennedy insisted on staying with the coffin of her husband at every stage of the journey to Washington. It indicates that it was this insistence that had

caused some friction on the airplane that took the dead President and the new President, Lyndon B. Johnson, back to Washington. The source who read the manuscript reported:

Mrs. Kennedy wanted to stay in the rear of the plane with the coffin. But Mr. Johnson requested that she appear in the picture that was taken as he took his oath of office aboard the Presidential plane.

Finally, Mrs. Kennedy came forward to appear in the picture. But at this crucial point, the official photographer's camera failed and there was a tedious delay in the most uncomfortable circumstances before the picture could finally be taken.

When the airplane, Air Force One, arrived in Washington there is confusion as to what occurred at the airport.

A fork lift truck was rolled up to the airplane to take off the coffin. A military honor guard accompanying the truck was waved away by Presidential military aides aboard the plane.

Lift Not High Enough

But the fork lift truck did not elevate into a high enough position to reach the door, and only with great difficulty was the coffin placed aboard.

Mrs. Kennedy, along with other close associates of the late President, jumped down onto the truck. But, according to one source who read the manuscript, President Johnson was kept from joining the party by the broad shoulders of Kenneth O'Donnell, an aide and close personal friend of the late President, who stood in the doorway of Air Force One.

Another source who read the manuscript disputes that Mr. Manchester made a point of this shouldering aside of the new

President. "That was not his intention," the source said.

Mr. Manchester's personal feelings toward President Johnson are also a matter of speculation. A friend of Senator Robert F. Kennedy said yesterday that Mr. Manchester has "a poisonous dislike for Mr. Johnson."

At the end of his manuscript, Mr. Manchester is said to list 500 interviews he had with people who had knowledge of President Kennedy and the assassination. In each case he lists the date of his interview.

President Johnson's name is not listed. Mr. Manchester reportedly submitted questions to the President through Bill D. Moyers, the Presidential news secretary. The questions are said to have gone unanswered.

One editor who read the Manchester manuscript said that in his opinion the impression that the book had left was that whatever President Johnson had done he had done because he had felt it was best for the country.

"He might have been poorly advised by those around him," the editor said, "but the impression that I got from the book was that he was trying to do what he could to hold the country together at a terribly difficult time."

As for Mrs. Kennedy's objections, one reportedly involves Mr. Manchester's description of how, as the party arrived at Parkland Hospital, she tried to shield from view with her hands the head wound her husband had suffered. It is said she did not want President Kennedy taken into the hospital until his head had been shielded from view by the coat of a Secret Service agent.

Mrs. Kennedy is also said to insist on the deletion of an ac-

count in the manuscript that is said to tell in her own words of the last evening she spent with her husband before they flew to Dallas. And also a portion of the manuscript that is said to describe the desperate loneliness she experienced on her first night back at the White House.

Mrs. Kennedy is also said to want the deletion of Mr. Manchester's description of her putting her own wedding band on the finger of her husband as he lay dead in Parkland Hospital.

People close to the Kennedy family said yesterday that most of Mrs. Kennedy's objections stemmed from the sale of the magazine rights by Mr. Manchester to Look magazine for \$665,000 in July.

Phone Calls Reported

In August, Gardner Cowles and his wife, Jan, reportedly began receiving telephone calls at their apartment in New York from Mrs. Kennedy demanding deletions in the Manchester manuscript as it was to be published in Look.

According to one description, the pressures from Mrs. Kennedy were so strong that Mr. and Mrs. Cowles found themselves in a "state of terrible tension."

On one occasion, Mr. Manchester and Mr. Cowles, along with Richard Goodwin, an associate of the late President, flew to Hyannis Port to meet with Mrs. Kennedy. She is said to have vigorously condemned what Mr. Manchester and Mr. Cowles were doing.

Mr. Cowles in September agreed to certain deletions. But then Mrs. Kennedy reportedly resumed new pressure on him to suppress the entire story.

DO NOT FORGET THE NEEDIEST!

Issues in Book Dispute

Kennedy Suit Raises Legal Problems Beyond Question of a Broken Promise

By SIDNEY E. ZION

The legal dispute over "The Death of a President" reads so far like the first half of a law school examination question in Contracts I.

It is therefore deceptively simple. However, as any first-year law students knows, the real problems begin when you hear what the other fellow has to say. The crux of the Mrs. John

News Analysis F. Kennedy's lawsuit against William Manchester and his publishers

is whether he broke his promise to give her and Senator Robert F. Kennedy final approval over the contents of his book on the assassination of President Kennedy.

Since the memorandum of understanding signed by Mr. Manchester gave approval rights to the Senator and Mrs. Kennedy, the question would seem to involve factual issues rather than legal principles.

Did Mr. Manchester renege on his promise? Or did the Kennedys approve the book, in fact or by implication?

The First Questions

Obviously these are the first questions to be answered. If it turns out that approval was given, then of course the presses may roll.

On the other hand, it is not clear that an injunction against publication will automatically follow a finding by a judge that approval was not given.

Since the defendants have not yet answered the charges in Mrs. Kennedy's complaint, the approaches they will take are speculative.

But lawyers said yesterday that the most natural defenses in a breach of contract action were waiver and estoppel.

In the context of the case, this would involve the contention that the Kennedys, by words or conduct, waived their right of approval—or at least are estopped from asserting it—by leading the defendants to believe they had approved the book and thus causing the publishers to "change their position" and go ahead with their plans.

Kennedy Anticipates Defense

Apparently anticipating such

defenses, Senator Kennedy filed an affidavit asserting that a telegram he sent to Mr. Manchester last summer was not a waiver of his right to approve the final manuscript. And he added that he could not bind Mrs. Kennedy to such a waiver in any event.

The legal effect given to the telegram could depend more on conversations among the parties before and after it was sent than on the exact words of the message, according to legal authorities.

They explain that the telegram is ambiguous—it talks of placing "no obstacle" in the way of publication but begins with a statement that Mr. Kennedy has not read the manuscript—and therefore needs to be seen in context before its legal consequences may be assessed.

Agency Law Theory

In like manner, the question of whether Senator Kennedy could speak for Mrs. Kennedy, even assuming he did waive approval rights, also depends on the circumstances. The legal theory involved here is one of agency law, a first cousin to the law of contracts.

In general, one person may not bind another without express approval. But if Mrs. Kennedy, by a course of con-

duct, "clothed" the Senator with apparent authority to speak for her, then she could be held to the consequences of his actions.

Another possible agency problem involves the fact that the Senator and Mrs. Kennedy assigned the reading of the manuscript to other persons.

Ordinarily this would probably be all right, but this is hardly an ordinary case. Some lawyers believe that the reading of the book was not subject to assignment to others unless Mrs. Kennedy and the Senator were physically unable to review the manuscript.

Professor Doubtful

Prof. Arthur R. Miller, who teaches copyright and equitable remedies law at the University of Michigan Law School, said in a telephone interview yesterday that he was "not at all sure" that the agreement be-

tween Mr. Manchester and Senator Kennedy "contemplated that a committee could have approval rights over the book."

Professor Miller also said that even if it were determined that Mrs. Kennedy had never approved the book, this would not necessarily mean that the courts could enjoin publication.

"For one thing," he said, "if the contract is interpreted literally, a court might throw the whole thing out on the grounds that it is an 'illusory contract.'"

Professor Miller explained that if the contract gave the Kennedys an absolute, arbitrary right to disapprove the book without explanation, it could be ruled "illusory."

He added that this would probably force the Kennedy legal forces to take the position that the Kennedys do not have an arbitrary right to reject the manuscript.

"But by doing this, by reading in a provision that they must be reasonable, the Kennedys end up with a tougher factual question," he said.

Agreement Criticized

A number of lawyers have commented that the agreement was inartistically drawn and that it involved people who never thought they would be in court.

Some legal experts believe that the vagueness of some portions of the agreement could be more troublesome to Mrs. Kennedy than to the defendants, since she is seeking the injunction.

Lawyers are divided on whether a court would grant an injunction even if the judge agreed with all Mrs. Kennedy's contentions.

Those who do not believe an injunction would be granted point to the fact that injunctions are seldom used in breach of contract suits, where damages are the usual remedies. They also question whether the First Amendment permits a prior restraint on publication.

Others argue that if Mrs. Kennedy is correct she has no other useful remedy than the injunction and that Mr. Manchester has in effect waived his right of free speech under the First Amendment by agreeing to subject his book to a virtual veto power.

In any event, most lawyers agree that at this stage in the proceedings, the case does not look like a typical literary law case or free speech proposition.

"It is a unique situation as far as I know," said Shirley Fingerhood, a New York lawyer, who specializes in literary law.

"I think it has less to do with privacy law and literary law than it does with old-fashioned breach of contract questions."