

RESPONSES FILED IN KENNEDY SUIT

Harper and Manchester Say Widow Approved Book

By JOHN CORRY

Harper & Row and William Manchester told Mrs. John F. Kennedy yesterday that she had in fact, approved publication of "The Death of a President," and that to block the book now "would be contrary to public policy."

The publisher and the author filed separate, but similar, answers in State Supreme Court to Mrs. Kennedy's suit to prevent publication of the book. In turn, Justice Saul S. Streit said he would hear the complaint against Harper & Row Jan. 18.

Last week he said he would hear the case against Mr. Manchester on Jan. 16.

One participant in the dispute, however, said he expected a settlement in less than a week. But he also said he had been "fooled before" during the negotiations.

Justice Streit conferred 20 minutes with the attorneys in the dispute before announcing the hearing Jan. 18. "The story is brief," he said afterwards. "Negotiations have not been completed."

Talks Continuing

He also said that the discussions of a settlement were continuing. "In the event the negotiations are not completed," he said, "the parties will go to trial."

In their answers, Harper & Row and Mr. Manchester offered broad denials of virtually all Mrs. Kennedy's charges. Mrs. Kennedy had said the publication of "The Death of a President" would violate her "dignity and privacy."

She had based the suit, however, on the alleged breach of a contract between Mr. Manchester and Senator Robert F. Kennedy, her brother-in-law. The contract had stipulated that the book, the story of her husband's assassination, could not be published before Nov. 22, 1968, and that its text must be approved by the Senator and herself.

Harper & Row said that Mrs. Kennedy had "consented to and—or approved the mode, time and text of publication . . ." Mr. Manchester said Mrs. Kennedy had "consented to and—or approved the publication . . ."

'Course of Conduct'

Neither, however, said exactly how the approval was given, although both noted Mrs. Kennedy's "course of conduct and her approval of and acquies-

cence in the course of conduct of others."

This was an apparent allusion to the Kennedy advisers who read and suggested revisions in the manuscript of "The Death of a President." Both Mrs. Kennedy and Senator Kennedy have insisted that they have not read the book.

In nearly identical language, Harper & Row and Mr. Manchester also said that, if Mrs. Kennedy's motion for a permanent injunction publication was granted, their rights under the First and 14th Amendments to the Constitution would be abridged.

The First Amendment guarantees the right of free speech. The 14th says that no state may "deprive any person of life, liberty or property, without due process of law."

Availability of Manuscript

Harper & Row said Mrs. Kennedy "refrained from reading" the manuscript although it "repeatedly" had been made available to her.

The publisher said, as did Mr. Manchester, that Mrs. Kennedy had waited "an unconscionable length of time" before bringing the suit.

Harper & Row wants to publish "The Death of a President" in the spring. Look magazine, whose publisher, Cowles Communications, was named in the original suit, will begin a four-part, 60,000-word serialization of the book in the issue that goes on sale next Tuesday.

Mrs. Kennedy, who reached an agreement with Look after it agreed to revise some, but not all, of the passages she found offensive, filed the suit on Dec. 16. The manuscript, however, was completed at the end of last year, and Look paid \$665,000 for the serialization rights last July.

Mr. Manchester also said that since the court action was based on an alleged breach of contract with Senator Kennedy, the suit was invalid unless the Senator joined it.

"No effective judgment or relief can be rendered in his absence," he said.

Senator Kennedy had filed an affidavit in support of Mrs. Kennedy's suit, but had not joined her as a plaintiff.

In gathering material for the book, Mr. Manchester interviewed Mrs. Kennedy twice for a total of about 10 hours, and recorded the conversations on tape. He also obtained letters written by Mrs. Kennedy and her daughter, Caroline, to President Kennedy.

Point of Issue

Mr. Manchester's use of the tape-recorded conversations and of the letters seems to be Mrs. Kennedy's chief source of agitation. She has asked that she be given possession of both the tapes and the letters.

In his answer, Mr. Manches-

ter said that Mrs. Kennedy had given him at least one letter she had written to her husband and that a "portion" of the letter would appear in the book.

He insisted, however, that any material that Mrs. Kennedy might claim under common law copyright, such as the tapes or the letters, was not "actionable." He said he had made "a fair use" of the material in the book.

While Mrs. Kennedy's suit, which she filed Dec. 16, was a lengthy document containing copies of letters, affidavits, a complaint and supporting exhibits, Harper & Row and Mr.

Manchester filed comparative brief rebuttals, five pages for each.

Neither one quoted passages in the book or letters or conversations with Mrs. Kennedy or her advisers. It is known, however, that both Harper & Row and Mr. Manchester are relying on lengthy chronologies and documents that they plan to introduce if the dispute does reach a hearing before Justice Streit.

Neither Mr. Manchester nor executives of Harper & Row appeared in court yesterday. Mrs. Kennedy was represented by Simon H. Rifkin of the law firm of Paul, Weiss, Rifkind, Wharton & Garrison.

Mr. Manchester was represented by Carleton G. Eldridge of Coudert Brothers, and Harper & Row by Edward S. Greenbaum of Greenbaum, Wolff & Ernst.