

KENNEDY INQUEST IS SOUGHT AGAIN

Prosecutor Sends a Letter
to District Court Judge

By JOHN H. FENTON
Special to The New York Times

BOSTON, Aug. 4 — Judge James A. Boyle, the presiding judge of the Edgartown District Court on Martha's Vineyard, received today a formal request for an inquest in the death of a Washington secretary who drowned July 18 in an automobile driven by Senator Edward M. Kennedy.

The request, considered to be a mandate by legal sources here, was received shortly before noon from District Attorney Edmund Dinis, prosecutor for four southeastern Massachusetts counties.

Judge Boyle, who imposed a suspended sentence of two months in jail on Mr. Kennedy July 25 after the Senator had pleaded guilty to a charge of leaving the scene of an accident, said he would reply to Mr. Dinis "within a reasonable time."

It was expected that the court's decision would be made in the next few days, possibly tomorrow. Mr. Dinis is expected to hold a news conference after he receives his reply.

Mr. Dinis has also begun to explore legal steps for an autopsy on Mary Jo Kopechne, 28 years old, who drowned when Mr. Kennedy's car plunged off a narrow bridge into a salt water pond on Chappaquiddick Island, near Martha's Vineyard.

Permission Needed

Miss Kopechne is buried near Plymouth, Pa. To perform an autopsy, it would be necessary to gain the permission of her parents and of the Pennsylvania authorities to exhume the body.

The accident that led to Miss Kopechne's death went unreported for nearly 10 hours.

Dr. Donald R. Mills, an assistant medical examiner for Dukes County, who viewed the body, gave a verdict of death by accidental drowning. He also took a blood sample that indicated a level of alcohol consistent with two cocktails.

Last Thursday Mr. Dinis filed a formal request for an inquest with Chief Justice G. Joseph Tauro of the State Superior Court. The request was denied on the ground that district courts had jurisdiction.

The District Attorney then wrote to Judge Boyle and to Judge Kenneth L. Nash, administrative head of State District Courts.

Judge Nash replied immediately, asserting the request

should be directed to Judge Boyle. While Judge Boyle declined to discuss the situation, it was believed he was pondering the possibility of disqualifying himself, since he had presided over the original hearing.

Under Massachusetts law, an autopsy is accepted as confirmation of the medical cause of death. An inquest is a process for determining the legal causes, as distinct from the medical. Neither is mandatory.

Section 8 of chapter 38 of the Massachusetts general laws covering inquest says that the State Attorney General or a District Attorney may "require" an inquest to be held even if the medical examiner's report says death was not caused by negligence or the act of another person.

The word "require" has been interpreted by legal sources as making an inquest mandatory, under those circumstances.

If the judge's report in an inquest seems to warrant it, the District Attorney may summon a grand jury to hear evidence and decide whether a criminal indictment should be served on anyone involved in the death.

The inquest proceedings are held before a single judge without a jury. He has the power to subpoena witnesses and to take testimony under oath.

The judge may exclude anyone except those directly concerned with the case and may order that those called to testify be separated from one another to prevent their conversing before they are examined.