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Senator Kennedy And the Press

THE ELEVENTH HOUR postponement of the Mary Jo Kopechne inquest — by order of Associate Justice Paul C. Reardon of the Massachusetts Supreme Court at the request of lawyers for Sen. Edward M. Kennedy — has aroused a new wave of criticism against the senator.

This criticism is unfair. His attorneys obtained the delay, pending a full bench review of the state's inquest law, by raising what Justice Reardon called "grave constitutional questions" that the scheduled inquest would have deprived him of his full rights to counsel, to cross-examine witnesses, and to present evidence.

Every man is entitled to the protection of his full constitutional rights and Kennedy's lawyers would have been remiss in their legal responsibility had they not sought to retain them for him.

By the same token, the criticism of the press voiced by the Kennedy attorneys at the inquest appeal hearing also is unfair and uncalled for. In Edgartown last week, they had labeled the projected inquest as an "accusatory procedure," and they asked only for due process of law so the senator's rights would be fully safeguarded.

IN BOSTON, they coupled these arguments with a protest that "a gathering crescendo" of "massive publicity" threatened to turn the inquest into "a public pillorying" and "a general inquisition." The inference here was plain — the public and the press were much to blame for the whole sorry mess.

This plea found a sympathetic ear on the bench. Justice Reardon's views on curbing the press are well known. In postponing the inquest, the justice admonished all lawyers and court officials to have no further comment about the case under threat of "appropriate action" by him. This is a court prerogative.

However, newspapers also have a prerogative — the constitutional right of a free press to print the news. Thus, it would be highly undesirable for them suddenly to adopt a cease-and-desist attitude in this particular case.

Newspapers across the nation began demanding a fuller explanation from Sen. Kennedy and a more thorough investigation by state authorities shortly after the drowning tragedy on Chappaquiddick Island last July 18. It by then had become apparent that the case was to be closed with nothing more than the senator's routine report to police; his brief court appearance to plead guilty to leaving a fatal accident scene, and his own explanation offered via TV — no questions asked.

The newspapers had — and still have — the responsibility. The obligation of newspapers to fulfill the public's right to know is no less a responsibility than that of Sen. Kennedy's lawyers to make certain their client is afforded the full safeguards of his constitutional rights.

THIS IS NOT a case involving some John Doe. The central figure in the matter now before the court is the scion of a world-renowned family, a member of the Senate of the United States, and — until last July 18 — was a leading contender for the Presidency. It was he — not the press; not the public — who failed for 10 hours to report to police the death of the girl passenger.

Against this background we object to the argument of counsel that "a gathering crescendo of publicity" is now endangering Sen. Kennedy's constitutional rights. Publicity has been his lifeblood for at least the past 10 years.