

Kennedy Wins Right To a Closed Inquest In Kopechne Death

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BOSTON, Oct. 30—The Supreme Judicial Court of Massachusetts granted Senator Edward M. Kennedy today the right to a closed inquest in the death last July 18 Mary J. Kopechne.

But the court declined to disqualify Judge James A. Boyle of the Dukes County District Court as presiding magistrate, as the Massachusetts Democrat had asked. The inquest was ordered last August by District Attorney Edmund Dinis of southeastern Massachusetts.

The court also left to the discretion of the presiding judge whether lawyers could cross-question witnesses and present evidence at the inquest.

Date May be Set Soon

Today's unanimous decision laid down new ground rules that will close all future inquests in Massachusetts to the press and public. Transcripts will be impounded pending release by an order of the Superior Court.

The court said that the general rules outlined in the decision were intended to "avoid embarrassment, by premature publicity about such investigations, either to the Commonwealth or to potential defendants in making a defense."

Since the court asserted that the principals in the decision should not hinder or delay the Kennedy inquest, it was expected that Judge Boyle would soon be able to set a date. He was not immediately available for comment.

Mr. Kennedy left Washington

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for Boston for air without knowing of the decision. On landing here, he said: "I am grateful that the Supreme Judicial Court has acted expeditiously and I am hopeful that if there are any additional proceedings that they will be held very soon."

The Senator said that he would abide by the ground rules set by the court's decision, including that of appearing as a witness.

There also remains the matter of an autopsy sought by District Attorney Edmund Dinis of southeastern Massachusetts. Judge Benard C. Brominiski of Luzerne County, Pa., has placed under advisement a petition by Mr. Dinis for the exhumation of the body of Mary Jo Kopechne, the secretary who died in the accident. She is buried in Larksville, Pa.

Miss Kopechne, 28 years old, was riding with Mr. Kennedy when his car ran off a narrow bridge and dropped into a tidal pond on Chappaquiddick Island, near Martha's Vineyard Island, off the Massachusetts coast last July.

The accident went unreported for about nine hours. A week later, Mr. Kennedy made a national television appearance to discuss the case. But his explanation of the events of July 18 and 19 appeared to many to have left some questions unanswered.

Mr. Dinis, who moved to

make a formal investigation after the Senator's television appearance, has the authority to call a grand jury instead of an inquest. From the outset he has declined to discuss specific details of his plans.

Under Massachusetts procedures, Mr. Dinis "required" an inquest of Judge Boyle on Aug. 4. The judge, who had presided over a hearing at which Mr. Kennedy pleaded guilty to leaving the scene of an accident, fixed the date of Sept. 3 in the district courthouse at Edgartown, on Martha's Vineyard.

Objections By Kennedy

Judge Boyle said the inquest would be open only to accredited news reporters and that lawyers could be present only to advise their clients while testifying. He denied them the right of cross-examination or the presentation of evidence.

But lawyers for Mr. Kennedy objected on constitutional grounds of due process to Judge Boyle's ground rules. And on appeal to the Supreme Judicial Court, the inquest was stayed.

Five members of the court heard formal petitions for a change of ground rules on Sept. 9 in Boston.

The ruling, which came down late this afternoon after 10 other cases had been decided at the opening of the court day, reviewed the accepted facts and cited other similar cases.

The court said that although the Kennedy case presented "unusual problems" it would not make a specific ruling on it but rather would prescribe procedural rules for any future inquest.

The Kennedy case, the court

said, had aroused great public interest, both through the efforts of the press and the Senator's appearance on television.

"If the proceedings are public," said the court, "the activities of the news media may be such as to make it difficult, if not impossible, for a long time to insure a defendant a fair trial in any criminal proceedings which may follow an inquest."

The ground rules were prescribed, the court said, "to protect the integrity, the investigatory character and the effectiveness of inquest."

The ruling said: "all inquests shall be closed to the public and to all news media. Witnesses may be accompanied and advised by counsel while in attendance or testifying at an inquest. In other respects, the inquest shall be conducted in the sound discretion of the inquest judge in general in accordance with the principles already discussed above."

In ordering the transcript of the inquest to be impounded, the court said that it must eventually be published, "at the earliest possible time consistent with fairness to all parties."