

THURSDAY

SENATOR CALLED NEGLIGENCE**Inquest Judge Challenges Ted's 'Wrong Turn' Story**By **WALTER R. MEARS** and **CORNELIUS F. HURLEY**
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BOSTON (AP)—Sen. Edward M. Kennedy's claim that a wrong turn led to his plunge from a narrow bridge on Chappaquiddick Island has been disputed by an inquest judge who said the senator was negligent in the accident that killed Mary Jo Kopechne.

Kennedy said he rejected as unjustified the inference and the finding of Judge James A. Boyle, whose inquest report raised new questions about the accident that altered American politics.

And with his statement, the last of the Kennedy brothers said yesterday he will speak no more of the fateful night on Chappaquiddick.

"The facts of this incident are now fully public," he said, "and eventual judgment and understanding rests where it belongs."

ON NOV. 3, the 38-year-old assistant majority leader comes up for re-election to the U.S. Senate. He said he does not know whether the inquest papers made public yesterday will be used against him in the campaign.

"That really isn't the uppermost thing in my mind," the senator said in Washington.

Kennedy's inquest testimony gave no clear account of his reasons for failing to report the accident to police until more than 10 hours after it happened. He denied any personal involvement with Miss Kopechne and said that at no time the night of the accident was he under the influence of alcohol.

IN HIS TARDY police report on the July 18 accident, and in his testimony to the secret inquest last Jan. 5, Kennedy said he turned by mistake onto the dirt road that led him to Dike Bridge and the accident. He said he and Miss Kopechne were headed for the ferry from Chappaquiddick back to Edgartown, on Martha's Vineyard.

In the major surprise of the inquest papers, Boyle said he didn't believe it. The judge, who retires from the bench at midnight tonight, recited the inquest evidence, then declared:

"I infer a reasonable and probable explanation of the totality of the above facts is that Kennedy and Kopechne did not intend to drive to the ferry slip and his turn onto Dike Road was intentional."

THAT ROAD leads away from the ferry crossing, across the bridge to a lonely, undeveloped beach on the easterly shore of Chappaquiddick.

Boyle's report described the bridge this way:

"Dike Bridge is a wooden structure 10 feet, six inches wide, has timber curbs on each side four inches high by 10 inches wide, no other guardrails, and runs at an angle of 27 degrees to the left of the road. There are no signs of artificial lights on the bridge or its approach."

"At a speed of even 20 miles per hour, as Kennedy testified to, operating a car as large as this Oldsmobile," the judge declared, "would at least be negligent and, possibly, reckless. If Kennedy knew of this hazard, his operation of the vehicle constituted criminal conduct."

THE JUDGE said Kennedy had been driven over the bridge twice on the day of the accident.

"I believe it probable that Kennedy knew of the hazard that lay ahead of him on Dike Road but that, for some reason not apparent from the testimony, he failed to exercise due care as he approached the bridge," the judge said. And he concluded:

"I, therefore, find there is probable cause to believe that Edward M. Kennedy operated his motor vehicle negligently on a way (roadway) or in a place to which the public have a right of access and that such operation appears to have contributed to the death of Mary Jo Kopechne."

BOYLE'S REPORT, dated Feb. 18, did not explain why no additional charge was filed against Kennedy, who pleaded guilty on July 25 to leaving the scene of the accident. Boyle sentenced him to two months in jail, suspended, and a year's probation.

The possibility of new charges remained among the unanswered questions. By state Supreme Court order, the inquest papers were released only after Dist. Atty. Edmund Dinis pronounced the case closed and certified that he planned no further prosecution.

Until that time, the inquest transcript and the Boyle report were locked in a courthouse safe.

A new Dukes County grand jury goes into session next month, and a top Massachusetts legal official says there is nothing to prevent it from reopening the case.

BOYLE COULD not be reached for comment.

In Kennedy's two-hour appearance at the inquest in Edgartown District Court, he testified that his destination when he and Miss Kopechne left a Chappaquiddick party was the Katama Shores Motor Inn in Edgartown, where she was staying, and then the Shiretown Inn, where he had a room.

Dinis asked Kennedy: Now, had you been over that road from the ferry slip to the cottage more than once that day?

Kennedy: Yes, I had.

Dinis: Did you recall at the time that you noticed you were driving on a dirt road, that the road from the ferry slip to the house had been paved?

Kennedy: Well, Mr. Dinis, I would say that having lived on Cape Cod and having visited these islands, I am aware some roads are paved.

Judge Boyle: I am sorry, that is not quite responsive. The question is whether or not you realized that the road from the ferry to the cottage was paved . . .

Kennedy: Yes . . .

Judge Boyle: . . . At any time after you got on the unpaved road, the so-called Dike Road, did you have a realization that you were on the wrong road?

Kennedy: No . . .

Dinis: Well, after you realized it was an unpaved road and that you were driving at 20 miles an hour, what happened then?

Kennedy: I went off Dike Bridge or I went off a bridge . . .

Dinis: Did you realize at that moment that you were not heading for the ferry?

Kennedy: At the moment I went off the bridge I certainly did.

In his report, Boyle noted that Kennedy normally did not drive, and that John B. Crimmins, his chauffeur, was among the guests at the Chappaquiddick party. Six men were there, as were six young women who had worked in the presidential campaign of the late Robert F. Kennedy.

AMONG THE other points Boyle cited:

"Kennedy told only Crimmins that he was leaving for Shiretown, and requested the car key . . .

"Kopechne roomed with



—AP WIREPHOTO
JUDGE J. A. BOYLE
 Doubts Kennedy story.



SEN. EDWARD M. KENNEDY
 Rejects judge's findings.



THE PARENTS of Mary Jo Kopechne, MR. AND MRS. JOSEPH KOPECHNE, stand at the door to their home in Berkeley Heights, N. J., yesterday. Mrs. Kopechne said she would have no immediate comment on the release of the report of an inquest into the death of her daughter.

Esther Newburgh, the latter having in her possession the key to their room.

"Kopechne told no one, other than Kennedy, that she was leaving for Katama Shores and did not ask Newburgh for the room key.

"Kopechne left her pocketbook at the cottage when she drove off with Kennedy.

"It was known that the ferry ceased operation about midnight and special arrangements must be made for a later trip. No such arrangements were made."

THE JUDGE'S summary of testimony on the accident itself:

"Between 11:15 and 11:30 p.m. Kennedy told Crimmins (but no other person) that he was tired, wanted to return to Shiretown to bed, that Kopechne did not feel well (some conflict here—see pages 32 and 346) and he was taking her back to Katama Shores, requested and obtained the keys to the Oldsmobile, and both he and Kopechne departed."

Page 32 of the transcript records this exchange between Kennedy and Dinis:

Denis: In your conversation with Miss Kopechne prior to your leaving at 11:15, did she indicate to you any necessity for returning to Martha's Vineyard or to Edgartown?

Kennedy: Prior to that conversation, no.

Page 346 includes Crimmins' account of his conversation with Kennedy. "He told me he was going to take Miss Kopechne back, that she wasn't feeling well. . . . She was bothered by the sun on the beach that day."

Three of the five girls who remained at the cottage said Miss Kopechne had not told them she was leaving.

THE JUDGE reported: "Kennedy stated he drove down Chappaquiddick Road toward the ferry, that when he reached the junction of Dike Road, instead of bearing left on the curve to continue on Chappaquiddick Road, he mistakenly turned right onto Dike Road, realized at some point he was on a dirt road, but thought nothing of it, was proceeding at about 20 miles per hour when suddenly Dike Bridge was upon him. He braked, but the car went off the bridge into Poucha Pond and landed on its roof."

Kennedy testified that after the plunge he recalled Miss Kopechne struggling, kicking "and I, at this time, opened my eyes and realized I was upside down, that water was crashing in on me, that it was pitch black. . . .

"I realized that Mary Jo and I had to get out of the car."

HE SAID HE remembered pushing at the door, groping for the window.

"And I remember the last sensation of being completely out of air and inhaling what must have been a half a lung full of water and assuming that I was going to drown and the full realization that no one was going to be looking for us that night until the next morning and that I wasn't going to get out that car alive and then somehow I can remember coming up to the last energy of just pushing, pressing and coming up to the surface."

"I have no idea in the world how I got out of that car," Kennedy said.

KENNEDY SAID the tide swept him 30 to 40 feet from the car. He said he waded back against the current and began diving to the automobile in an effort to rescue Miss Kopechne.

He said he dove seven or eight times, until he was exhausted, then crawled and staggered to the bank of the pond. After 15 or 20 minutes, Kennedy said, he started down the road, "walking, trotting, jogging, stumbling as fast as I possibly could."

Back at the cottage, Kennedy found Raymond S. La Rosa outside and asked for his cousin, Joseph F. Gargan, and Paul F. Markham, a friend and former U.S. attor-

ney, who were in the cottage.

HE, GARGAN and Markham drove back to the bridge, Gargan and Markham stripped and began diving to the submerged car. Kennedy said they tried for 45 minutes to find Miss Kopechne. They failed, took Kennedy to the ferry crossing, urging him to report the accident to police, then returned to the cottage.

Kennedy faced extensive inquest questioning about the delay in the accident report.

DINIS: Was there any particular reason why you did not call either the police or the fire department?

KENNEDY: Well, I intended to report it to the police . . .

DINIS: I see, and did something happen to prevent this?

KENNEDY: Yes.

DINIS: What was that?

KENNEDY: . . . Mr. Markham and Mr. Gargan said to me at different times as we drove down the road towards the ferry, that it was necessary to report this accident.

"A lot of different thoughts came into my mind at that time . . .

"I JUST wondered how all of this could possibly have happened. I also had sort of a thought and the wish and desire and the hope that suddenly this whole accident would disappear, and they reiterated that 'this has to be reported', and I understood at the time that I left that ferry boat, left the slip where the ferry boat was, that it had to be reported and I had full intention of reporting it, and I mentioned to Gargan and Markham something like 'you take care of the girls, I will take care of the accident' — that is what I said and I dove into the water . . ."

By that time, Kennedy said, he was convinced Miss Kopechne had drowned.

HE INSTRUCTED Markham and Gargan not to tell the other girls of the accident.

His explanation:

"I felt strongly that if those girls were notified that an accident had taken place . . . that it would only be a matter of seconds before all of those girls . . . would go to the scene of the accident and dive themselves and enter the water and with, I felt, a good chance that some serious mishap might have occurred to any of them."

Kennedy said he swam to

the Edgartown side of the channel and went to his hotel room.

IN THE morning, he saw Gargan and Markham at the hotel.

"Well, they asked had I reported the accident and why I hadn't reported the accident and I told them about my own thoughts and feelings as I swam across that channel

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Judge Disputes Ted's Story of 'Wrong Turn'

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. . . and as I almost tossed and turned, paced that room and walked around that room that night . . .

"I told them how I somehow believed that when the sun came up and it was a new morning that what had happened the night before would not have happened and did not happen, and how I just couldn't gain the strength within me, the moral strength to call Mrs. Kopechne at 2 o'clock in the morning and tell her that her daughter was dead."

KENNEDY, MARKHAM and Gargan took the ferry back to Chappaquiddick.

"It was to make a private phone call to one of the dearest and oldest friends that I have and that was to Mr. Burke Marshall," Kennedy said.

"It was my thought that once I went to the police station that I would be involved in a myriad of details and I wanted to talk to this friend before I undertook that responsibility."

MARSHALL IS a lawyer, a former assistant attorney general under Robert F. Kennedy. Sen. Kennedy did not reach him. Boyle's summary said Kennedy also telephoned his administration assistant, David Burke, in Washington.

Kennedy then returned to Edgartown and reported the accident to Police Chief Dominick Arena. "I think it was sometime before 10 a.m." he said.

As Kennedy left the witness stand, the judge again sought an explanation of his failure to seek further aid the night of the accident.

"IT IS BECAUSE I was completely convinced at that time that no further help and assistance would do Mary Jo any more good," Kennedy said.

"I realized that she must be drowned and still in the car at this time and it appeared the question in my mind at that time was, what should be done about the accident."

Kennedy said that a week

'Toilet Tissue' Appeal Denied

The 5th U.S. Circuit Court of Appeals here has declined to rule on a prisoner's petition written on toilet tissue.

Lawrence Conklin, an inmate of the Florida state prison at Raiford, Fla., had submitted a petition four and one-half feet long to a district court asking that prison officials be enjoined from allegedly refusing to furnish sufficient writing paper.

The appeals court noted yesterday 10 sheets of white bond paper were available to Conklin every day.

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after the accident he was considering resigning from the Senate. Five days after that he said he would remain, would run again, and if re-elected, would serve a full term.

UNTIL THE the accident and its aftermath, he had ranked at the head of the list of potential Democratic challengers to President Nixon in 1972. A six-year Senate term would take him past that election, and Kennedy said his full-term pledge meant he was out of the 1972 presidential picture.

In his inquest testimony, as in his televised account of the accident last July 25, Kennedy denied any involvement with Miss Kopechne.

"I HAVE NEVER in my life, as I have stated in my television talk, had any personal relationship whatsoever with Mary Jo Kopechne," he testified.

Kennedy said he had two drinks of rum and Coca-Cola during the Chappaquiddick party, some beer earlier in the day.

Judge Boyle: In your opinion you would be sober at the time that you operated the motor vehicle to the Dike Bridge?

Kennedy: Absolutely sober.