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ADVANCE FOR AMS OF SUNDAY, DEC. 25 (800)

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AP NEWSFEATURES WRITER

(ADVANCE) NEW YORK, DEC. 24 (AP)-THERE'S MANY A SLIP 'TWEEN
PEN AND THE PRINTED PAGE.

ASK WILLIAM MANCHESTER.

HE ISN'T THE FIRST (AND INDUBITABLY NOT THE LAST) TO LEARN
IT ISN'T ALWAYS WHAT THE AUTHOR WRITES THAT GETS INTO PRINT.
SOMETIMES IT'S THE FINE PRINT.

HIS WRANGLING WITH THE KENNEDY FAMILY OVER "THE DEATH OF
A PRESIDENT," HIS BOOK ON THE ASSASSINATION OF JOHN F. KENNEDY,
IS ONLY THE MOST RECENT--AND ONE OF THE LOUDEST--LITIGATIONS
IN THE HISTORY OF LITERATURE.

DISPUTES OVER THE WRITTEN WORD ARE PROBABLY AS OLD AS THE
ALPHABET.

JAMES BOSWELL, THE BIOGRAPHER OF DR. SAMUEL JOHNSON, WAS ONLY
ONE OF MANY TO HAVE TROUBLES WITH HIS MISSION. SIR JOHN HAWKINS,
JOHNSON'S LITERARY EXECUTOR, FELT THE POST ENTITLED HIM TO WRITE
THE OFFICIAL LIFE OF THE GREAT LEXICOGRAPHER. BOSWELL AND HIS
ALLIES CLAIMED SIR JOHN WAS UNWORTHY OF THE TASK AND CALLED HIM
THE "ASSASSIN OF JOHNSON'S MEMORY."

IT TOOK 130 YEARS BUT A CRITIC SAID, AFTER A RECENT RE-
PRINTING OF HAWKIN'S NARRATION, THAT HIS WORK "WASN'T BAD."

THE RELATIVE MERIT OF A BOOK IS RARELY THE FACTOR THAT GETS
IN INTO THE COURTS.

~~IN MANCHESTER'S CASE, AS USUAL IN THAT THE USUAL DISCS OF
LITERARY LITIGATION INVASION OF PRIVACY WAS NOT INVOLVED.~~

JACQUELINE KENNEDY SUE^{basically} OVER BREACH OF CONTRACT, A MEMORANDUM
SHE AND MANCHESTER SIGNED, SAYING SHE WOULD HAVE FINAL APPROVAL
OF HIS MANUSCRIPT.

SUCH CONTRACTS AREN'T UNPRECEDENTED, SAID MISS SHIRLEY FINGER-
HOOD, A LITERARY ATTORNEY, BUT THEY RARELY GET INTO LEGAL DISPUTES.

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THE STATUES GOVERNING INVASION OF PRIVACY VARY IN WORDING FROM
STATE TO STATE BUT BASICALLY PROHIBIT USING A PERSON'S NAME OR
LIKENESS WITHOUT HIS CONSENT UNLESS HE IS A PUBLIC FIGURE.

A PUBLIC FIGURE COULD BE A PRESIDENT. OR HE COULD BE SOMEONE
WHO IS CONSIDERED TO HAVE BECOME NEWSWORTHY. THE QUESTION,
THEN, IS WHEN DOES A PRIVATE PERSON BECOME PUBLIC? IT IS A
SLIPPERY POINT.

"IF SOMEONE IS KIDNAPED, POSSIBLY YOU COULND'T REPORT AS NEWS WHAT HE MAY HAVE SAID TO HIS WIFE WHEN THEY WERE MARRIED 40 YEARS AGO," SAID MISS FINGERHOOD. "BUT IF YOU WERE WRITING ABOUT THE KIDNAPER, WHAT HE SAID TO HIS WIFE OR HIS ANALYST OR ANYBODY MAY BE MATERIAL AND OF PUBLIC INTEREST."

THE RIGHT OF PRIVACY OFTEN COMES FACE TO FACE AGAINST THE FIRST AMENDMENT OF THE CONSTITUTION: FREEDOM OF SPEECH.

THE HILL CASE, NOW BEFORE THE SUPREME COURT, IS AN EXAMPLE. IN 1953 JAMES J. HILL AND HIS FAMILY WERE HELD HOSTAGE IN THEIR SUBURBAN PHILADELPHIA HOME BY A GUNMAN. A WRITER, JAMES HAYES, WROTE A NOVEL, "THE DESPERATE HOURS", BASED ON THE INCIDENT. LATER IT WAS MADE INTO A PLAY. LIFE MAGAZINE DID A STORY ABOUT THE PLAY, SAYING IT WAS BASED ON THE HILL'S EXPERIENCE. THE HILLS SUED THE MAGAZINE, CLAIMING THE STORY WAS AN INVASION OF PRIVACY. THEY EVENTUALLY WON \$30,000 DAMAGES. LIFE HAS APPEALED.

"THE BASIC QUESTION," SAID LIFE'S ATTORNEY, HAROLD MEDINA JR., "CONCERNS THE FIRST AMENDMENT. IF TERE IS A NEWSWORTHY EVENT, DOES THIS GIVE A MAGAZINE THE RIGHT TO REPORT IT EVEN IF IT INVADES PRIVACY?"

LIFE SAID "THE DAILY PRESS WOULD BE SUBJECTED TO CRIMINAL FINES AND CIVIL RECOVERIES FOR THE PUBLISHING OF VIRTUALLY EVERY LINE OF PRINT."

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A SIMILAR INCIDENT CONCERNED A FORMER CHILD PRODIGY WHO WAS THE SUBJECT OF A PROFIEL IN THE NEW YORKER MAGAZINE. HE CLAIMED HIS CHILDHOOD WAS NO LONGER OF PUBLICINTEREST, NOW THAT HE WAS AN ADULT. THE COURT HELD HIS PRIOR LIFE WAS STILL OF PUBLIC INTEREST AND OVERRULED HIS SUIT.

WARREN SPAHN, THE BASEBALL PITCHER WHO WON WON MORE GAMES THAN ANY OTHER LEFTHANDER IN HISTORY, FILED SUIT RECENTLY TO STOP PUBLICATION OF A BIOGRAPHY, "THE WARREN SPAHN STORY," WRITTEN

BY MILTON J. SHAPIRO. SHAPIRO ADMITTED HE HAD NOT CONSULTED SPAHN NOR ANY OF HIS FRIENDS.

IN UPHOLDING AN INJUNCTION AGAINST THE BOOK, NEW YORK SUPREME COURT JUSTICE JACOB MARKOWITZ CALLED IT "A NONFACTUAL NOVELIZATION-- AN UNAUTHORIZED INTRUSION." THE COURT ALSO NOTED "A PUBLIC FIGURE IS SUBJECT TO BEING EXPOSED IN A FACTUAL BIOGRAPHY, EVEN ONE WHICH CONTAINS INADVERTANT OR SUPERFICIAL INNACURACIES. BUT SURELY HE SHOULD NOT BE EXPOSED, WITHOUT HIS CONTROL, TO BIOGRAPHIES NOT LIMITED SUBSTANTIALLY TO THE TRUTH."

ERNEST HEMINGWAY'S WIDOW, MARY, ON THE OTHER HAND, LOST HER SUIT TO STOP PUBLICATION OF A. E. HOTCHNER'S RECOLLECTIONS OF HER HUSBAND, "PAPA HEMINGWAY." SHE HAD CLAIMED THE BOOK WAS AN INVASION OF HER PRIVACY--NOT HIS, BECAUSE BY STATUTE A DEAD PERSON HAS NO PRIVACY TO BE INVADED--AND WOULD COMPETE UNFAIRLY WITH HEMINGWAY'S OWN WORKS.

"WE WERE FRIENDS BEFORE PUBLICATION," HOTCHNER SAID OF MRS. HEMINGWAY. "SINCE THEN, WE HAVEN'T SPOKEN."

BESIDES THE MEMORANDUM MRS. KENNEDY HAD SIGNED WITH MANCHESTER, SHE ALSO HAD A CASE IN COMMON LAW AGAINST HIS USE OF HER LETTERS. AN INDIVIDUAL HAS AN IMPLICIT RIGHT OF COPYRIGHT OVER WHAT HE HAS WRITTEN, EVEN A LETTER, SAVE FOR A FEW EXTRACTS. THE AMOUNT OF WORDS THAT MAY BE EXTRACTED, HOWEVER, IS NOT FIXED BY LAW.

IRONICALLY, THE KENNEDYS FIGURED IN ANOTHER BOOK DISPUTE, ALTHOUGH IT NEVER REACHED THE COURTS. THE PHOTOGRAPHER, DAVID DOUGLAS DUNCAN, WAS COMMISSIONED IN 1962 TO DO A BOOK ON THE WHITE HOUSE.

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THE PUBLISHER WAS TO BE HARPER & ROW, THE EDITOR WAS EVAN THOMAS AND SERIAL RIGHTS HAD BEEN SOLD TO LOOK MAGAZINE, AN EXACT PARALLEL TO MANCHESTER'S CASE.

UNLIKE MANCHESTER, HOWEVER, DUNCAN RESERVED FINAL APPROVAL TO HIMSELF, AND HE BACKED OUT BECAUSE THE KENNEDYS PERMITTED THE NATIONAL GEOGRAPHIC MAGAZINE TO DO A PHOTO STUDY OF THE WHITE HOUSE WHICH BECAME A \$1 GUIDE TO THE BUILDING. DUNCAN CLAIMED THIS HAD UNDERMINED HIS BOOK, WHICH WAS TO BE NON-PROFIT.

"BOOK LITIGATION IS ALWAYS GOING ON," SAID MISS FINGERHOOD. "ALWAYS."

END ADVANCE FOR AMS OF SUNDAY, DEC. 25; MOVED DEC. 23.

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