

LAWYERS CURBED IN KENNEDY CASE

Judge Bars Criminal Trial
Procedures at Inquest

By JOHN H. FENTON

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EDGARTOWN, Mass., Aug. 28 — Judge James A. Boyle denied today motions to apply criminal trial procedures to an inquest next week in the death of a secretary who drowned in an automobile accident involving Senator Edward M. Kennedy.

The ruling means that lawyers for the witnesses would not be permitted to cross-examine or to raise objections.

"Witnesses will come in singly and may be represented in court for the sole purpose of being advised of their constitutional rights against self-incrimination, and where appropriate, for privileged communication, and for no other purpose," Judge Boyle said.

Lawyers for Mr. Kennedy and others who attended a party on nearby Chappaquiddick Island, before the accident, on July 18, promptly filed exceptions.

This left the door open to appellate proceedings, possibly to the Federal District Court in Boston, for a showdown on the issue of due process of law under the broad Massachusetts statutes governing inquests.

Judge Boyle, after listening to arguments on the motions for nearly an hour, asserted, "I am not satisfied that the Supreme Court would read due process into our inquest procedure; that is for the Supreme Court to say, not for me."

The judge, who presides over the Edgartown District Court, where Mr. Kennedy pleaded guilty to a charge of leaving the scene of the accident, then set down the rules permitted him under the broad powers of Massachusetts law.

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All to Leave Together

The lawyers will be required to leave the courtroom with the witnesses they represent following individual testimony. Judge

Boyle had already indicated that witnesses would be sequestered, but he said today that he would decide later about the details. There is limited room in the ancient courthouse.

There have been only two inquests in the last 38 years in Edgartown. This will be Judge Boyle's first as a presiding District Court judge. In reply to assertions that the inquest would be accusatorial, he said yesterday, "This is not a trial, there is no defendant, and no person has been charged with a crime." Therefore, he said, he will have powers that he does not have in a regular trial.

The inquest will seek to determine the circumstances surrounding the death of Mary Jo Kopechne, 28 years old, of Washington, who was in a car driven by Mr. Kennedy when it went off a narrow bridge and dropped into a salt-water pond on Chappaquiddick Island.

The accident went unreported for about nine hours. A week later, Mr. Kennedy pleaded guilty to a charge of leaving the scene of the accident. Judge Boyle gave him a two-month suspended sentence.

Four lawyers representing Mr. Kennedy and three others representing 10 other persons who attended the Chappaquiddick party were allowed to file motions today seeking due process rights for their clients. The session had been adjourned from yesterday.

Edward B. Hanify of Boston, corporation lawyer to the Kennedy family, delivered the major presentation. He said that the presence of television cameras outside the courthouse and of newsmen in the jury box in the courtroom were examples of public interest in the case resulting from the involvement of Mr. Kennedy.

"The subject matter of this inquest has had more publicity than any fatal accident in the history of this commonwealth," Mr. Hanify said.

He cited a recent Supreme Court decision involving the Louisiana Labor-Management Commission investigating violations of the law in labor matters. He said this ruling supported his contention that the witnesses were entitled to full legal counsel.

In addition to Mr. Hanify, Robert G. Clarke Jr., his son, Robert G. Clarke 3d, and Richard J. McCarran represented Mr. Kennedy.

Paul J. Redmond and Daniel J. Daley Sr. represented five young women and three men. The women were Nancy Lyons and her sister, Maryellen, Esther Newberg, Rosemary Keogh and Susan Tannenbaum.

The men were John B. Crimmins, a longtime aide of the Kennedy family, and Charles Tretter and Raymond LaRosa, sailing companions of the Senator's.

Joseph P. Donahue, brother of Richard Donahue, a former aide of President Kennedy's, represented Paul F. Markham, a former United States Attorney from Massachusetts, and Jo-

seph F. Gargan, a Kennedy family cousin.

Mr. Markham and Mr. Gargan, both lawyers, joined Mr. Kennedy after the accident. They were also at the party.

With the other lawyers, Mr. Hanify insisted that the inquest was an "accusatory" proceeding.

Plain Mr. Kennedy

As for his particular client, Mr. Hanify said, "He comes here as Edward M. Kennedy, not as a Senator from Massachusetts, and in the courtroom he is a private citizen, stripped of every indicia, with the same human rights as the humblest person in this land."

The entire session lasted less than an hour. After Judge Boyle laid down his rules of procedure, court was adjourned. The inquest is scheduled to begin at 9:30 A.M. next Wednesday.

Under Chapter 28 of the General Laws of Massachusetts dating from 1877, the presiding District Court judge may exclude from the courtroom anyone not required by law to attend. It is the duty of the judge to file a written report to the Superior Court as to the time and place of death, all the material circumstances and the identity of anyone "whose unlawful act or negligence appears to have contributed thereto."

Beyond that, the powers of the judge are almost unlimited. Usually, inquests in Massachusetts are secret, but there have been many exceptions. Judge Boyle has ruled that the inquest will be open to the press. Fremont-Smith said.

Little, Brown Will Publish 'Bridge' at Chappaquiddick

A 100,000-word book on the death last month of Mary Jo Kopechne has been commissioned by Little, Brown, Inc. The announcement was made Thursday by Eliot Fremont-Smith, editor-in-chief for the Boston publisher.

The book, to be called "The Bridge at Chappaquiddick," will be written by Jack Olsen, a friend of the family of Senator Edward M. Kennedy, who was the driver of a car in which Miss Kopechne was killed.

The manuscript is due by late fall, with the publication scheduled for early next year, Mr. Fremont-Smith said.