

'ACCUSATORY PROCEEDING' CHARGED

Ted Asks Inquest Be Closed to Public, Press

BOSTON (AP) — Sen. Edward M. Kennedy's attorneys asked today that an inquest into the death of Mary Jo Kopechne be closed to the press and public and that all witnesses be subject to cross-examination.

Kennedy's counsel, in arguments before the Massachusetts Supreme Court, contended the inquest would be "an accusatory proceeding which could result in criminal action."

Edward B. Hanify, counsel for the Massachusetts Democratic senator, asked the full bench of the state Supreme Court to declare the state's inquest law unconstitutional or lay down a new body of restrictions on the proposed inquest in Edgartown District Court.

MISS KOPECHNE was found dead in Kennedy's car in a salt water pond on Chappaquiddick Island July 19. Kennedy said the car he was driving went off the side of a narrow bridge and plunged into the water. Kennedy escaped but Miss Kopechne was trapped in the car.

Hanify argued for a full hour of the two-hour hearing before five justices of the court. In addition to asking that the inquest be closed to the press and public, he called upon the court to quash a ruling by District Court Judge James A. Boyle which barred witnesses' lawyers from the court room except while their clients were testifying.

Hanify further asked the court to order Judge Boyle to disqualify himself from the forthcoming inquest because he was a party to today's appeal.

JOSEPH J. HURLEY, an assistant attorney general who represented Judge Boyle, told the court there had been a great deal of talk about "criminal consequences — and it is probable there could be some criminal consequences." He said that an inquest could clear persons of suspicion as well as indicating guilt.

Kennedy himself, on television, referred to innuendo and whispers and gossip," he said. "An inquest could serve to end this and to protect and clear the good name of Miss Kopechne as well, even though she is not, of course, a party to this hearing."

HURLEY ALSO said that when Hanify said the inquest at which more than 100 newsmen were accredited would be an invasion of privacy, there was no claim made on any constitutional right.

"If there were a right of privacy, these petitioners have lost it by their own action," he said.

"They attended a social event with Sen. Kennedy, a person of great prominence,

Continued from Front Page

as the petitioners say in their brief. The girls were Kennedy campaign workers and Kennedy on TV described Gargin as 'my friend.' Hurley referred to Joseph F. Gargan, Kennedy's cousin and one of the men Kennedy turned to for help after the accident.

"IF THEY WERE private persons before July 18, they are not private persons now, in view of all the publicity which has been cited here."

Hurley said that the peak of the publicity in the whole event came after Kennedy's television speech July 25.

"Another peak came when the petitioners brought this matter to this court.

"One reason the inquest should be public is the same as that which led Mr. Kennedy to go on television—to explain what happened.

"Since that time, many newspapers and national magazines have said editorially over and over that there still are many questions left unanswered," Hurley said.

HANIFY SAID the decision of Judge Boyle to admit only newsmen to the inquest would make it into a massive publicity situation in which the future rights of witnesses, or any person there who might be accused would be in peril. He said the clerk of the Edgartown court had posted a list of 100 different news media covering 132 individuals who were to be allowed to cover the inquest.

He said Sen. Kennedy did not try to block an inquest but instead had filed a motion asking that he be allowed "to participate fully in it."

The motion asked that he and other witnesses be entitled to be represented by lawyers and that they be allowed to cross-examine witnesses.

See KENNEDY— Page 6