

## Statement of Judge on Inquest Rules

EDGARTOWN, Mass., Jan. 5—Following is a statement today by Judge James A. Boyle, presiding over the inquest into the death of Mary Jo Kopechne:

It appears to me appropriate that, at the outset of this inquest, the reason for its existence, the result it is intended to accomplish, and the rules of procedure and conduct I am adopting and ordering, with reasons therefor where advisable, should be pronounced, to the end that all should take due notice thereof and be duly forewarned.

### [1]

The pertinent statutory provisions in Massachusetts exemplify a public policy that the inquest serves as an aid in the achievement of justice by obtaining information as to whether a crime has been committed (Massachusetts Supreme Judicial Court, 1969).

Inquests are, of course, primarily for the purpose of ascertaining whether any crime has been committed (Massachusetts Law Quarterly, January, 1921).

The primary object of an inquest to ascertain the facts to decide the question of whether or not criminal proceedings shall be instituted against the person or persons responsible for the death (Massachusetts Law Quarterly, 1925).

### [2]

An inquest is an investigation. It is not a prosecution of anybody. It is not a trial of anyone. It is the duty of the court to seek out and receive any and all information and testimony which is relevant, pertinent and ma-

terial to the question as to whether criminal conduct caused or contributed to the death, and, conversely, to reject that which is not.

Although the judge is not bound by the rules of evidence that apply in criminal cases, it is as much the duty of court to decline to receive such improper testimony to the end that persons innocent of any criminal involvement be not injured in reputation.

### [3]

For the reasons stated above, and because this is not an adversary proceeding, transcript of testimony will not be furnished to the District Attorney or counsel.

### [4]

The District Attorney, who is given an option by statute to examine witnesses, does not function as a prosecutor but rather as an aide to the court in the presentation of testimony. This assistance does not relieve the court of the duty to seek and obtain additional information, if it considers such to be necessary.

### [5]

Witnesses will come into the courtroom singly, may be represented during their appearance in the courtroom by counsel for the sole purpose of advice on constitutional rights against self incrimination and, where appropriate, on privileged communications, and for no other purpose, and counsel for that witness will leave the courtroom when the witness leaves the courtroom.

If circumstances arrive where, in my opinion, the cause of justice will be served, I will relax this rule.

if counsel have additional testimony which will be helpful and material, I will receive it.

### [6]

I will not exercise the option to separate witnesses. The physical facilities of the courthouse will not allow it and (a) much time has elapsed, (b) many witnesses have been interviewed by the press, (c) some have previously testified in another court, (d) some have been closely associated; that I question if separation will have any value.

However, witnesses, after testifying, are ordered not to discuss that testimony with anyone, except his or her counsel. Until the transcript of testimony and the court's report have been made public. There may be some difficulty those witnesses who have duty in this regard as to the same counsel so such counsel is ordered not to discuss the testimony of one client with another client.

### [7]

Witnesses, if not fully briefed by counsel before testifying, will be advised by the court as to their constitutional right not to incriminate themselves.

The inquest has been closed by the Massachusetts Supreme Judicial Court. As I interpret that decision, the purpose is to prevent pre-trial publicity, in the event of a subsequent criminal prosecution. However, nothing in this announcement would jeopardize that. Therefore, since the press is here in force outside and may publish that which is conjectural or distorted, it is my intention to release this announcement to the news media.