

Senator Rejects Findings Of Judge as Unjustified

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ator Kennedy on the Capital steps and he added a few comments. Asked if Miss Kopechne's parents might file a civil action against him, he replied, "I suppose that's always a possibility," but added that he had no such indication.

One reporter asked if Mr. Kennedy believed the transcript of the inquest might be used against him in his re-election campaign. The Senator said he did not know and added: "That really isn't the uppermost thing in my mind."

The imputation of negligence and untruth in Judge James A. Boyle's report came as a surprise to Senator Kennedy's associates. They were aware that the release of the inquest report would produce a revival of public interest in the accident, but they thought its contents would be relatively non-controversial.

The Senator's aides had been pressing for the release of the report as soon as possible, believing that it would mark the legal close of the Chappaquiddick incident and would clear the political atmosphere in Senator Kennedy's re-election campaign this fall.

G.O.P. Eyes 1972

As a political matter, the report appeared certain to focus even more importance on the Senator's re-election campaign as the first real tests of whether the public accepts Mr. Kennedy and his story of the accident.

Before today's events, few people believed that the Senator could exceed his 1964 majority of 1.13 million votes this year. The 1964 campaign involved special circumstances: Mr. Kennedy was in a hospital, recovering from an airplane crash; President Johnson was opposed by Senator Barry Goldwater and the assassination of President Kennedy was still fresh in sympathetic Massachusetts minds.

A number of Democratic politicians expect the Republican party to make a substantial

investment in the Massachusetts Senate race, not because they stand much chance of beating Senator Kennedy but because they could weaken his standing as a potential national candidate in 1972 if his majority could be trimmed this year.

The report came at a time when party leaders were increasingly speaking of Senator Kennedy again as not just a Presidential candidate, but as the Presidential candidate. The cloud of scandal seemed to have blown away; his spirits his Senate activity appeared reinvigorated.

None of the Senator's potential competitors for the Democratic nomination had caught the fancy of the voters, and party leaders were beginning to talk of drafting Senator Kennedy, regardless of whether he was interested in running.

Recording Canceled

There also was evidence that the Massachusetts Senator was prepared to move more freely into the public arena. He had not appeared on a radio or television interview since Senator Robert F. Kennedy's assassination in June, 1968, but he had accepted such an engagement with Metromedia News; the interview was to have been recorded tomorrow morning.

Tonight Mr. Kennedy's office reported the cancellation of that appointment. One aide rescheduled the recording for Friday, but another said he must be in Boston at that time.

If Democratic politicians were uncertain after today's report, Senator Kennedy seems to have been uncertain before it. A visitor to his home last weekend came away with the report that the Senator had talked about what he might do if he left politics altogether—write, teach, travel.

His commitment to the Massachusetts campaign seems firm. But after that campaign, no one—least of all the Senator himself—seemed to know what was ahead on the political track.

Judge Questions Truth Of Kennedy Testimony

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18-19.

When Mr. Kennedy testified at the inquest last Jan. 5, it was the first time that he had submitted to questioning about the accident. His testimony did not appear to contradict his earlier statements. But Judge Boyle found key elements in it neither "reasonable" nor "probable." These were:

"The Senator's testimony that he and Miss Kopechne had left the party on Chappaquiddick Island with the intention of catching a ferry back to Martha's Vineyard.

"His testimony that it was a wrong turn that took him onto the dirt road that led to the narrow, unmarked bridge.

"The judge's "presumptions of fact" were based on testimony revealing that Miss Kopechne left her purse in the cottage when she left with the Senator and that she told none of her friends where she was going. According to the testimony, Mr. Kennedy spoke only to his driver, John B. Crimmins, whom he asked for the keys to the car.

Judge Boyle apparently found it strange that Mr. Kennedy did not ask Mr. Crimmins to drive him and Miss Kopechne back to their hotels at Martha's Vineyard. This would have enabled the driver to bring the car back to Chappaquiddick and pick up the other girls who had not been planning to spend the night in the small cottage where the party was held.

Cross-Examination Barred

However, Senator Kennedy was not subjected to aggressive cross-examination during nearly two hours on the stand. The judge held that cross-examination was not appropriate in an inquest.

Mr. Kennedy testified that he had never been on Chappaquiddick before the day of the accident and that he himself had not been at the wheel of his car when he visited the island earlier in the day.

Asked whether he realized that he was not heading to the ferry after turning onto the dirt road, he replied: "At the moment I went off the bridge, I certainly did."

The next thing he was conscious of, the Senator said, was Miss Kopechne struggling next to him on the front seat of the car as it overturned in the water, then "the rushing of the water, the blackness, the fact that it was impossible even to hold it back."

Mr. Kennedy, who testified that he was "absolutely sober" when the car went off the bridge, told of diving to the point of exhaustion to save Miss Kopechne, after struggling out of the car, then of being swept out into the pond by a strong current.

Denies Seeing Lights

He said he never saw the lights of the houses near the bridge, and returned to the cottage where the party was being held to get help.

Asked why he did not then try to phone the police, Mr. Kennedy said he had intended to do so.

But first, he said, he returned with Joseph Gargan, his cousin; and Paul Markham, a former United States Attorney for Massachusetts, who dived for 45 minutes in an attempt to reach Miss Kopechne.

According to the Senator's testimony, it was past 1 A.M. when Mr. Gargan and Mr. Markham drove him to the ferry slip. On the way, he said, they repeatedly stressed the importance of his phoning the police when he reached Edgartown on Martha's Vineyard.

Mr. Kennedy said he agreed but was more preoccupied by worries about how he would meet his duty to notify Miss Kopechne's parents or his own family. This concern led him to the desperate hope, he said, that what he knew to be fact was only nightmare.

To See Her Walking

"I was almost looking out the front window and windows trying to see her walking down that road," he said. "I related this to Gargan and Markham and they said they understood this feeling, but it was necessary to report it."

Before diving impulsively into the channel to swim to Edgartown, he said, he told his companions, "You take care of the girls, I will take care of the accident."

Mr. Gargan said he was not worried by the Senator's sudden dive because he knew his cousin to be a strong swimmer. But Mr. Kennedy testified that the swim nearly cost him his life and left him in an even deeper state of confusion and exhaustion.

Back in his hotel room, the Senator testified, he continued to wrestle with his hope that Mary Jo Kopechne was still alive. "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," he said.

He could not find, he said, "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."

Tells of Phone Call

The only reason he returned to Chappaquiddick Island the next morning, he testified, was to make a call in private to Burke Marshall, a family friend and former high Justice Department official under Robert Kennedy. That done, he said, he went directly to the police.

Edmund Dinis, the District Attorney questioning the Senator, noted the discrepancy between this testimony and his original statement that he went "immediately" to the police in the morning. But Judge Boyle would not let him ask Mr. Kennedy to explain it.

When Mr. Markham took the stand at the inquest, he testified that Mr. Kennedy had tried to keep him and Mr. Gargan from becoming implicated in the case. "Look," he quoted the Senator as saying, "I don't want you people in the middle on this thing. . . . As far as you know, you didn't know anything about the accident last night."

Esther Newburgh, one of the five young women who remained behind in the cottage, said that Mr. Gargan collapsed on a couch after returning there. According to the testimony, Mr. Markham, also exhausted from the diving, dropped on a couch too and slumped across a girl's legs.

He testified that the young woman was annoyed—that all the young women were in an irritated mood over having been stranded at the cottage, but apparently unaware still that anything serious had happened.

All the witnesses agreed there had been no heavy drinking at the party. Mr. Crimmins told of taking the leftover vodka and rum back to his cottage in the Kennedy compound in Hyannis Port.

The only corroboration for Senator Kennedy's testimony that Miss Kopechne wanted to leave the party because she was tired came from Mr. Crimmins. "She was bothered by the sun on the beach that day," the driver said.

After the Senator left the Edgartown Police Station on Saturday, he was driven to the airport. George W. Kennedy, a Motor Vehicles Bureau official who was in the car, recalled that the Senator sat in the front seat and kept mumbling, "Oh my God, what's happened, what's happened."

A series of five affidavits and medical reports were introduced in evidence by Senator Kennedy's lawyers to demonstrate that he suffered a concussion in the accident and that his disoriented frame of mind was not unusual, in the opinion of specialists, for persons in that condition.

Mr. Kennedy did not attempt to resolve a discrepancy over the time of the accident between his testimony and that of Christopher Look Jr., who testified that he was almost certain he had seen the Senator's car some 90 minutes after the accident occurred if the times given by Mr. Kennedy were accepted as correct.

Judge Boyle did not attempt to resolve this discrepancy either. His report put the time of the accident between 11:15 P.M. and 1 A.M.