

# Excerpts From Judge's Report in Kopechne Inquest

BOSTON, April 29 (UPI)— Following are excerpts from the report by District Judge James A. Boyle on the inquest into the death of Mary Jo Kopechne:

I list my findings as follows:

The decedent is Mary Jo Kopechne, 28 years of age, last resident in Washington, D.C.

Death probably occurred between 11:30 P.M. on July 18, 1969 and 1 A.M. on July 19, 1969.

Death was caused by drowning in Poucha Pond at Dike Bridge on Chappaquiddick Island in the town of Edgartown, Mass., when a motor vehicle, in which the decedent was a passenger, went off Dike Bridge, overturned and was immersed in Poucha Pond. The motor vehicle was owned and operated by Edward M. Kennedy of Boston, Mass.

The statute states that I must report the name of any person whose unlawful act or negligence appears to have contributed to Kopechne's

death. As I stated at the commencement of the hearing, the Massachusetts Supreme Court said in its decision concerning the conduct of this inquest, "The inquest serves as an aid in the achievement of justice by obtaining information as to whether a crime has been committed."

Therefore, in guiding myself as to the proof herein required of the commission of any unlawful act, I reject the cardinal principle of "proof beyond reasonable doubt" applied in criminal trials but use as a standard the principle of "probable guilt."

I have also used the rule, applicable to trials, which permits me to draw inferences, known as presumption of facts, from the testimony. I find these facts:

Kennedy was the host and mainly responsible for the assembly of the group at Edgartown. Kennedy was rooming at Shiretown with Gargan, his cousin and close friend of many years. Kennedy had employed

Crimmins as chauffeur for nine years and rarely drove himself. Crimmins drove Kennedy on all other occasions herein set forth, and was available at the time of the fatal trip.

Kennedy told only Crimmins that he was leaving for Shiretown and requested the car key.

The young women were close friends, were on Mattha's Vineyard for a common purpose as a cohesive group, and staying together at Katama Shores.

Kopechne roomed with Newburgh, the latter having her possession the key to their room.

Kopechne told no one, other than Kennedy, that she was leaving for Katama Shores and did not ask Newburgh for the room key.

Kopechne left her pocketbook at the cottage when she drove off with Kennedy. It was known that the ferry ceased operation about midnight and special arrangements must be made for a later trip. No such arrangements were made.

Ten of the persons at the cookout did not intend to remain at the cottage overnight.

Only the Oldsmobile and the Valiant were available for transportation of those 10, the Valiant being the smaller car.

LaRosa's Mercury was parked at Shiretown and was available for use.

I infer a reasonable and probably explanation of the totality of the above facts is that Kennedy and Kopechne did not intend to return to Edgartown at that time; that Kennedy did not intend to drive to the ferry slip and his turn onto Dyke Road was intentional. Having reached this conclusion, the question then arises as to whether there was anything criminal in his operation of the motor vehicle.

From two personal views, (which corroborate the engineer's statement and other evidence), I am fully convinced that Dike Bridge constitutes a traffic hazard, particularly so at night, and

must be approached with extreme caution. A speed of even 20 miles per hour, as Kennedy testified to, operating a car as large as this Oldsmobile, would at least be negligent and, possibly, reckless. If Kennedy knew of this hazard, his operation of the vehicle constituted criminal conduct.

Earlier on July 18, he had been driven over Chappaquiddick Road three times, and over Dyke Road and Dike Bridge twice.

I believe it probable that Kennedy knew of the hazard that lay ahead of him on Dyke Road but that, for some reason not apparent from the testimony, he failed to exercise due care as he approached the bridge.

I, therefore, find there is probable cause to believe that Edward M. Kennedy operated his motor vehicle negligently on a way or in a place to which the public have a right of access and that such operation appears to have contributed to the death of Mary Jo Kopechne.