

(Mr. Dinis resumed the questioning and Senator Kennedy said he had not been successful in his attempt to reach Burke Marshall, that he then returned to Edgartown and went to the local police department, arriving "sometime before 10 a.m." and made a statement.)

Q: Now, I have in my hand what purports to be the statement that you made to Chief Arena at that time, and in this statement you say-- well, would you read it first, Senator?

A: Yes.

That is correct. (The text of the statement follows.)

(On July 18, 1969, at approximately 11:15 p.m. on Chappaquiddick, Martha's Vineyard, Mass. I was driving my car on Main Street, Chappaquiddick, on my way to get the ferry back to Edgartown. I was unfamiliar with the road and turned right onto the Dyke Road instead of bearing hard left on Main Street.

After proceeding for approximately one-half mile on Dyke Road, I descended a hill and came upon a narrow bridge. The car went off the side of the bridge. There was one passenger with me, Miss Mary Jo Kopechne, a former secretary of my brother Robert Kennedy.

The car turned over and sank into the water and landed with the roof resting on the bottom. I attempted to open the door and window of the car but have no recollection of how I got out of the car.

I came to the surface and then repeatedly dove down to the car in an attempt to see if the passenger was still in the car. I was unsuccessful in the attempt.

I was exhausted and in a state of shock. I recall walking back to where my friends were eating. There was a car parked in front of the cottage, and I climbed into the back seat. I then asked for someone to bring me back to Edgartown.^{23/} I remember walking around for a period of time and then going back to my hotel room.

When I fully realized what had happened this morning, I immediately notified the police.)

Q: Now, Senator, prior to the effort you made to contact Burke Marshall by phone, did you make any other phone calls?

A: I made one call after 8 o'clock in the morning from the public phone outside of the restaurant at the Shiretown Inn.

Q: One call?

A: That is all. [T]

Q: And to whom did you make this call?

A: Mr. Stephen Smith, the party that I felt would know the number.

Q: With regard to the statement that you made at the police sta-

23/ This request was elaborated on in his inquest testimony, but isn't it a pity the Chief did not ask him whom he asked, how he managed to do so under the circumstances, how he managed to get back to his hotel and whether any rescue attempt was made at that time?

tion, Senator, you ond up by saying, "When I oly realized what had happened this morning I immediately contacted the police." Now, is that in fact what you did?

THE COURT: Mr. Dinis, are you going to ask the statement be put in the record?

MR. DINIS: Yes, your Honor.

THE COURT: Mr. Kennedy already said this was a copy of the statement he made. He already testified as to all his movements. Now, won't you let the record speak for itself? [U]

MR. DINIS: All right, your Honor.

Q: I show you, Mr. Kennedy, what purports to be a copy of the televised broadcast which you made approximately a week after the accident. Would you read that statement and tell me whether or not that is an exact copy of what you said? 24/

A: (Complies) Yes.

After a quick reading of it, I would say that that is accurate.

Q: Now, Senator, in that televised broadcast, you said, "I instructed Gargan and Markham not to alarm Mary Jo's friends that night," is that correct?

A: That is correct.

Q: Can you tell the Court what prompted you to give this instruction?

A: I felt strongly that if those girls were notified that an accident had taken place and that Mary Jo had in fact drowned, which I became convinced of by the time that Markham and Gargan and I left the scene of the accident, that it would only be a matter of seconds before all of those girls, who were long and dear friends of Mary Jo's, to go to the scene of the accident and dive themselves and enter the water and with, I felt, a good chance that some serious mishap might have occurred to any one of them. [VII] 25/

MR. DINIS: I have no further questions of Mr. Kennedy.

MR. KENNEDY: Your Honor, could I talk to my counsel before being released, just on one point that I might like to address the bench on?

THE COURT: Go ahead.

(Off-the-record discussion between Mr. Kennedy and his lawyers.)

THE COURT: And I think we can put in the record this question: Why did you not seek further assistance after Mr. Markham and Mr. Gargan had exhausted their efforts in attempting to reach Mary Jo?

MR. KENNEDY: Because I was completely convinced at that time that no further help and assistance would do Mary Jo any more good. I realized that she must be drowned and still in the car at this time, and it appeared the question in my mind at that time was, what should be done about the accident. 26/

24/ See appendix.

25/ This response merits being set apart because of its thought content; hence, the lineal separation. Don't you agree?

26/ A weighty decision; nothing simple, like calling the police. Once again, "completely convinced" of her death and that she was still in the car.

But the immediately preceding was not the "one more point" Mr. Kennedy had in mind. Ever the cavalier, and reputed even to have been eager for the inquest from the beginning (and the four-month postponement as well?), the conscientious senator made the following statement, which concluded his overt participation in the inquest.

MR. KENNEDY: Since the alcoholic intake is relevant, there is one further question, your Honor, and although I haven't been asked it, I feel that in all frankness and for a complete record that it should be included as a part of the complete proceedings, and that is that during the course of the race that afternoon that there were two other members of my crew and I shared what would be two beers between us at different points in the race, and one other occasion in which there was some modest intake of alcohol would be after the race at the slip in which Ross Richards' boat was attached, moored, that I shared a beer with Mr. John Driscoll. The sum and substance of that beer would be, I think, less than a quarter of one, but I felt that for the complete record that at least the Court should at least be aware of these instances as well.

THE COURT: Anything more?

MR. KENNEDY: There is nothing further.

THE COURT: Anything further, Mr. Dinis?

MR. DINIS: No, your Honor.

THE COURT: All right, you are excused, subject to further recall.

(Discussion off the record.)

* * *

But Mr. Kennedy was not recalled ("An inquest is not a trial of anyone."). He went back to his seat in the Senate, where his colleague, the gentleman from Montana, the Honorable Mike Mansfield (Senate Majority Leader), welcomed him and told him that that was where he "belonged." At any rate, that is where a whopping majority of the voting citizens of the Commonwealth of Massachusetts returned him in the general elections the following November and it is where he is now, in early 1972.

Now, for a better and more complete understanding of the foregoing testimony, it is respectfully suggested that the reader review same and then carefully peruse that which follows.

THE PERJURIES
OF
EDWARD M. KENNEDY

When, in the course of human events, it becomes necessary for one person to charge another with perjury, a decent respect to the opinions of mankind requires that the accuser should declare the causes for making such accusations.

Here goes.

PERJURY No. 1 (p. 6)

After hedging, the Senator yielded to the persistence of Mr. Dinis and admitted that the front window on his side had been open. Shortly thereafter, in his account of events immediately following the plunge into the pond (p. 7), he stated, "I can remember...feeling along the side to see if the window was open and the window was closed." Then, in the middle of page 8, he again said it was open. Kennedy admirers may be moved to explain these several self-contradictions as merely evidence of understandable uncertainty of memory and that he had been merely "correcting himself." Indeed, Mr. Kennedy had evidently forgotten that in the statement given to Chief Arena the morning of July 19th, purportedly giving the basic facts of the "accident" and to which he attested as to accuracy (see page 17 herein), he said, "I attempted to open the door and window of the car...", thus clearly implying that the window was closed.

Scuba diver John Farrar testified that he found the front window on the driver's side open (The Inquest, pp. 78 and 80).

PERJURY No. 2 (p. 6)

Senator Kennedy stated he had been driving approximately 20 miles per hour. (This was supported by Inspector George W. Kennedy (no relation to the Senator, he claimed), supervisor of the Registry of Motor Vehicles in Oak Bluffs, at the other end of Martha's Vineyard, in his testimony, which will be examined later.)

At 20 miles per hour, the rate is slightly more than 29 feet per second. Further in his testimony (The Inquest, p. 80), John Farrar stated that he had made some measurements "...as to the position of the car from the point of impact, the height of fall and the height of the water. ... The measurements of the position of the car with relationship to the bridge and the marks I found to be a projectory (sic -- trajectory?) or a distance from the point of impact to the car of approximately 36 feet and a drop of approximately eight feet. (The 36 feet) would be the point mea-

sured from approximately the middle between the two marks on the bridge to the perpendicular in front of the car." (Note: The "two marks on the bridge" were made on the rub rail by the wheels as the car went over--the right front wheel first, then the left. This was because of the angle of the bridge to the road.) The horizontal distance the automobile hurtled from the bridge, then, was 36 feet, which increases the estimated speed even of that of Inspector Kennedy, who was generous enough to allow for a ten per cent variance and estimated the speed, in his opinion, at "20-22 miles per hour."

But that isn't all there is to it. When it left the bridge, the car traveled through air; then it struck water, which reduced its speed and the distance it would have traveled otherwise before hitting the bottom of the pond. Had this further distance been only three feet, the speed must be adjusted to about 26-1/2 miles per hour, based on considerations taken into account thus far. We can fix this as the minimum speed thusly, that conjecture being accepted:

The vertical drop was eight feet, Mr. Farrar said, but the photograph of the bridge on page 121 of The Inquest at slack tide forces the conclusion that this was only to the water. There was another six feet to go through water, totalling 14 feet, probably less a few inches. Now then, from one of the first laws we learn in physics, the Law of Falling Bodies, we know that during the first second of fall the vertical distance traveled is 16 feet (if wind resistance is not a factor and it certainly was not here). Had this been a dry gully, the time lapse during the fall would have been seven-eighths of a second. But the cushioning effect of the water that reduced the horizontal distance also offsets this time fragment, vertical momentum considered as well, so that we may reasonably conjecture that the time between bridge and pond bottom was within a negligible fraction of one second. Mr. Farrar's measured 36 feet and the additional subjunctive three, totalling 39, gives us the estimated 26-1/2 miles per hour, which is 39 feet per second.

In its totality, the problem is complex, aggravated by unavoidable inexact measurements. Still further comments and observations will be made in a subsequent section, where presentation will be more opportune.

PERJURY No. 3 (p. 7)

Mr. Kennedy stated that at no time after he turned onto the unpaved Dike Road had he realized he had made a "wrong turn" (until just the moment before going off the bridge). Yet, he admitted he knew the road from the cottage (where the cook-out was held) to the ferry was paved. He also admitted having become "generally aware sometime" while on Dike Road that it was unpaved. Accordingly, therefore, he had to know that he was not on the way to the ferry, which he said was his immediate destination.

See further discussion concerning both Dike Road and the bridge in a later section.

PERJURY No. 4 (p. 7)

The Senator relied strongly on darkness to support his alibi. First, it was "an extremely dark night", which prepares the

unwary listener or her to accept his claim "pitch blackness" under water at that moment. Note his reference to it four times in the course of this portion of his narrative. The truth is that the headlights of the car remained on for a few minutes after the plunge and created quite a bit of underwater illumination, although necessarily diffused. Mr. Kennedy reveals this himself (and the Engineering Department of the Oldsmobile Division of General Motors confirms it) further on when he relates his alleged return to the car after having been swept some 30 or 40 feet downstream (see page 9 and Perjury No 6). This was how he distinguished the front of the car from the rear, he said! Further on (p. 13), he relates how the headlights of the Valiant illuminated everything sufficiently for him to "see exactly what was happening" (the diving by Mr. Gargan and Mr. Markham) and make suggestions. I do believe there would have been enough light to have permitted such visibility, as, from having swum in the waters at Martha's Vineyard, I know it is remarkably clear.

PERJURY No. 5 (p. 8)

In his earlier testimony (pp. 7-8), he insisted that he had been upside down after the car ran off the bridge. If it did not turn over, how was this explained?

In the statement given to Chief Arena (see p. 17), it was stated, "The car turned over and sank into the water and landed with the roof resting on the bottom." Although unsigned, the Senator attested to its accuracy in his testimony.

PERJURY No. 6 (p. 9)

The tide changed (low) at approximately 11:30 a.m. on Saturday, July 19th, according to Mr. Farrar's testimony (The Inquest, p. 80), and which can be confirmed by those at the scene at the time. The tide oscillation is approximately every six hours. Therefore, it was low tide at approximately 11:30 p.m., when Mr. Kennedy alleges the accident occurred. Accordingly, there was no current at all. Even if the car did not run off the bridge until a few minutes after it was (alleged to have been) sighted by Mr. Look at 12:45 a.m., the current could not have been running as fast as described. The time of the accident has been firmly established as far as testimony is concerned, however, as approximately 11:30 p.m., since* every surviving member of the party who admits having been at the cottage when the Senator left has given from 11:15 to 11:30 as the time of his departure, and his sworn account is that he proceeded directly to the bridge from having made a "wrong turn." This could not have taken more than a few minutes. Then he spent fifteen minutes diving for Mary Jo (he said), another fifteen minutes recuperating (he said) and still another fifteen minutes returning by foot from the bridge to the cottage for assistance (he said), arriving there at approximately 12:15, which has also been corroborated by others in the party.

* almost

Here are the questions and answers concerning the length of acquaintance with Mary Jo by the long and dear friends in their respective testimonies (The Inquest, pages as noted).

Miss Esther Newburgh (p. 96):

THE COURT: How long had you known Miss Kopechne?

THE WITNESS: Since 1967.

Miss Ann Lyons (p. 112):

Q: How long did you live with Mary Jo?

A: Three years.

Miss Rosemary Keough (p. 115):

Q: How long had you known Mary Jo Kopechne?

A: I came to Senator Robert Kennedy's office September of 1967 and I have known her since then.

Miss Susan Tannenbaum (p. 118):

Q: How long had you known Mary Jo?

A: Approximately a year.

Miss Maryellen Lyons:

This Miss Lyons was not asked the question.

Miss Keough had known Miss Kopechne less than two years, and we do not know if "since 1967" (for Miss Newburgh) means more or less than two years, but let us say the total for these two was forty-eight months.

If we consider only the three years Miss Ann Lyons shared the Washington apartment with Mary Jo and the "approximately a year" for Miss Tannenbaum (which could have been less than twelve months), the total for these two is another forty-eight months and the total for all four is ninety-six months, or an average of only twenty-four months acquaintance. Adding as much as a year to Miss Ann Lyons' acquaintance to allow for possible previous acquaintance brings the average to only twenty-seven months. By everyday standards, the length of acquaintance for any one of them is hardly a "long time".

THE ANOMALIES
OF
EDWARD M. KENNEDY

Choosing a title for this section wasn't as easy as one might think. Many of the referenced statements were in all probability as perjurious as those in the preceding section, but sufficient absolute proof is lacking to warrant making such an outright charge, or some kind of defense is conjecturable, as sober reflection on the various circumstances will show. For most of them, quasi-perjuries might be accurate enough, but it was the definition given in a leading modern dictionary for the word, "anomaly", that decided the matter: Deviation from the normal or common order, form, or rule; abnormality.

That definition accepted, the reader may already have decided that the inquest, itself, was rather anomalous.

ANOMALY A (p. 5)

Mr. Kennedy said no one else was in the car with him but Miss Kopechne. Note the following excerpted testimony of Police Chief Arena (The Inquest, p. 85).

(Mr. Arena was describing a telephone conversation with the Senator, who was at Police Headquarters, the Chief having telephoned from the Malm house after having left the Dike Bridge Saturday morning after the recovery of Miss Kopechne's body.)

THE CHIEF: ...I said words to the effect that "I am sorry, I have some bad news. Your car was in an accident over here and the young lady is dead." He said, "I know."

I said, "Can you tell me was there anybody else in the car?"

He said, "Yes."

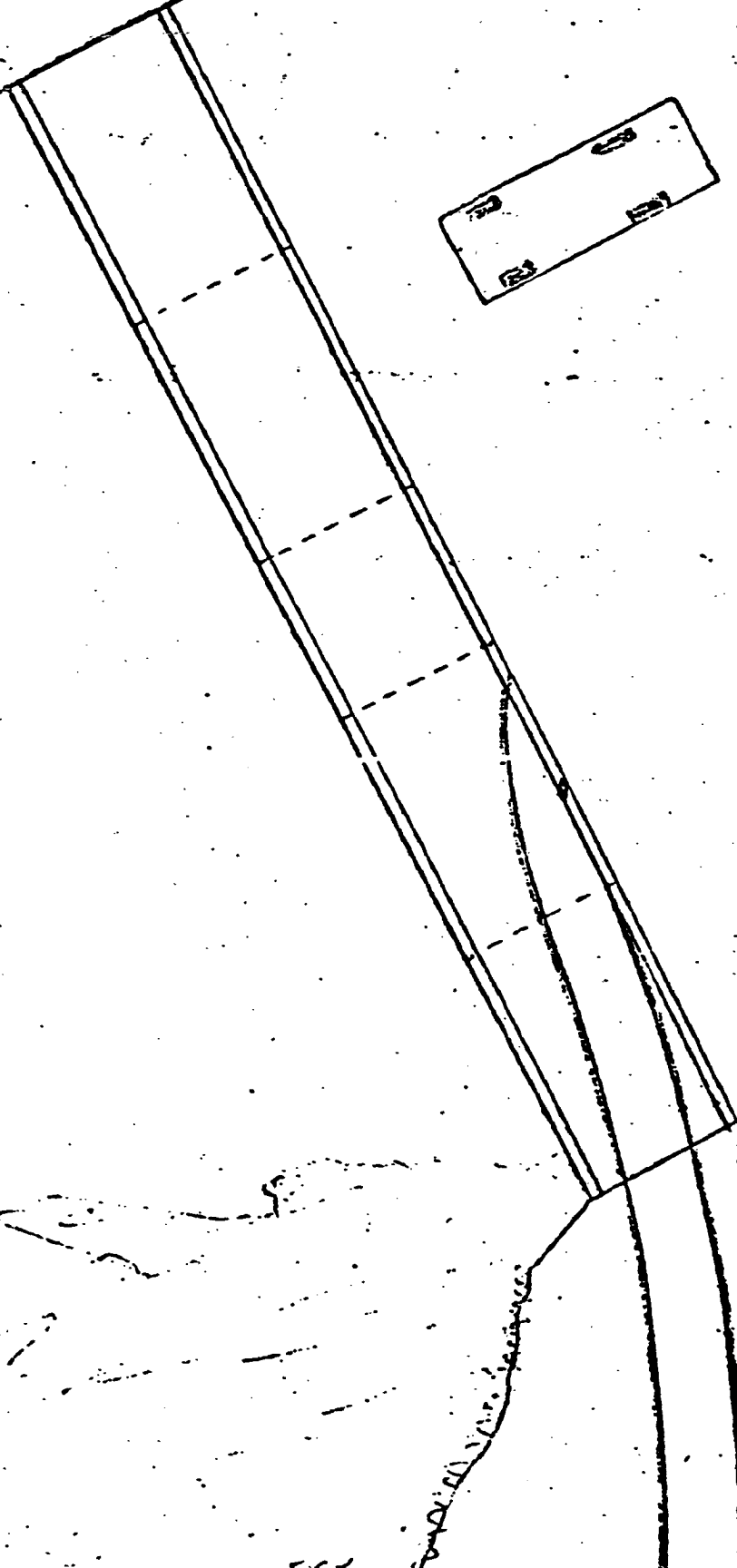
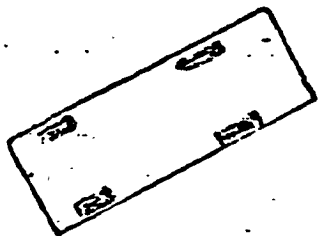
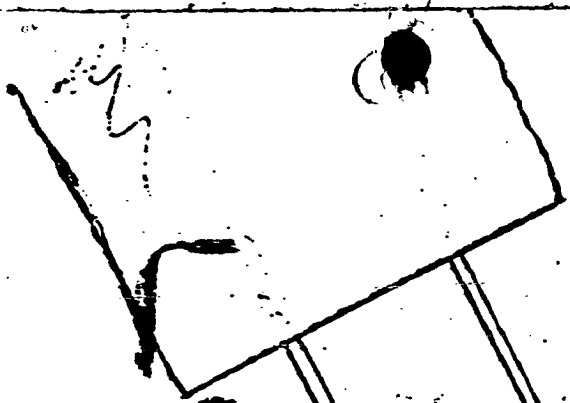
I said, "Are they in the water?"

He said, "No."

Since no one else heard both sides of the conversation, Mr. Kennedy's battalion of advisors^{1/} could accuse Chief Arena of falsifying--one word against another--or they might even railroad him into that federal mental hospital-prison^{2/} in Springfield, Missouri, if Mr. Arena insisted on his version. On the other hand, they could offer the explanation that what the Senator had really meant was, "Yes, I can tell you if there was anybody else in the car. No, there wasn't." If the reader wishes to believe this,

^{1/} See Teddy Bare, pp. 43-44.

^{2/} If the reader's interest is aroused, see Destroy the Accuser, (Freedom Press Publ. Co. P.O. Box 462, Allapattah Sta., Miami, Fla.; or order from Council for Statehood, P.O. Box 1121, No. Miami, Fla.) in which former Attorney General Robert Kennedy played a prominent role.



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however, read on, read on, read on and on and on... and ponder on Anomaly C.

ANOMALY B (p. 6)

The Senator said Mary Jo had been in the front seat; yet, in his emotion-packed narrative of the events following the alleged unsuccessful rescue attempts, he declared his belief that she was in the back of the car. In fact, as Zađ Rust was also observant enough to note in Teddy Bare (p.223) that is just where she was found! (See bottom of page 13, herein.)

ANOMALY C (p. 6)

This is most unusual. Note the stipulation that there was nothing (to his knowledge) on the back seat at that particular time. Why the qualification? To be sure, there must have been times when another person or object had been on the back seat. As with virtually every other survivor of the party, Mr. Kennedy's memory regarding seemingly inconsequential detail was often unreliable, but not this time! He had evidently read Deputy Sheriff Christopher Look's account of having seen an automobile strikingly similar to the Oldsmobile at the junction of Chappaquiddick Road, referred to as "Main Street" by the Senator, and Dike Road (where the Senator should have made a left turn to reach the ferry but turned right instead) an hour and a half after the Senator said he left the cottage.

The Sheriff's account was totally unacceptable to Mr. Kennedy, of course, as Mr. Look had been positive that this was the same car he had seen pulled from the pond the next morning, complete with the beginning letter and the first and last digit of the license number he managed to note mentally-- L 7 - - - 7. This is also the probable reason for Mr. Kennedy's answering pertinent questions in advance almost immediately following this statement about not stopping, backing up or driving into Cemetery Road. Salient portions of Deputy Sheriff Look's testimony ran thusly: 2a/

A: I noticed it was a dark car that passed in front of me.

Q: Where did it go when it passed in front of you?

A: It went into a little dirt road maybe ten feet off the road that is commonly known, I believe, as Cemetery Road, and it stopped and as it stopped I proceeded around the corner and looked into the mirror of my car and noticed the car started to back up.

A: When the automobile passed in front of me and also when I was walking towards it, there appeared to be a man driving and a woman in the front right-hand side and also either another person or an object of clothing, a handbag or something, sitting on the back.

2a/ The Inquest, p. 73.

This was a fantastic feat of memory! He remembered the car "just beginning" to go off the bridge, but was uncertain about applying the brakes -- "perhaps" a fraction of a second before--

Now let us revert to Perjury No. 2 and look further into the testimony of Inspector George Kennedy. By his own estimate, the Inspector arrived at the bridge that morning at about 10:30 and noticed some "skid marks" on the bridge "starting at the edge of the bridge on the dirt." There were numerous mentionings of the skid marks, which, for some unclear reason, he seemed to imply were easier both to detect and measure on the wooden bridge than on the all-gravel approach. That there had been actual braking, however, does not appear to have been firmly and incontestably established, although Judge Boyle seemed to think so in his Report. In a contradictory vein, in The Bridge at Chappaquiddick (p. 257), Jack Olsen tells us that the "skid marks" were so light that no rubber residue was left and that accident experts who examined the area later were uncertain whether the brakes had been fully activated. Also anomalously, in the August 1, 1969 cover story, Time (p. 12, and of which the frequently quoted Mr. Olsen is a senior editor, remember) says there were no skid marks.

Now let us approach the matter of the Inspector's estimate of 20-22 miles per hour as the speed of the Oldsmobile on its take-off run. Assistant District Attorney Armand Fernandes examined Inspector Kennedy. The following excerpt has been slightly abridged to relieve the reader of irrelevancies.^{2b/}

Q: ...drawing on your experience and based on the physical evidence, are you able to form an opinion--and I want a yes or no answer--

A: I would say yes.

THE COURT: Wait a minute. He hasn't asked you as to what.

Q: --as to what speed a car would be traveling in order to leave the skid marks which you described for the Court?

A: Yes.

Q: Could you tell us what your opinion was?

A: Approximately 20 to 22 miles per hour.

Q: And how do you base that--?

A: All right, a car operating at 20 miles per hour has a reaction time of any person operating approximately three-quarters of a second before a person removes his foot from the gas and applies the brake. Approximately at 20 miles an hour the vehicle would move approximately 22 feet in the three-quarters of a second for the reaction time. Then a vehicle, after the brakes have been applied, should stop in 25 feet. Now, there is a distance of 25, 22 -- 47 feet.

THE COURT: Well, I'm going to stop you there now...I don't know...

Neither does anyone else know, Judge.

Surprisingly enough, however, instead of His Honor asking how the Inspector had determined that the car had actually stopped with-

2b/ Ibid., p. 68.

in the 47 feet from the beginning of the "reaction time" required for validity, the questions that followed concerned the weight of the car, condition of the tires and brakes (both excellent), etc. At no time was this fact established.

Inspector Kennedy also made some measurements—the "skid marks", the distances from the edge of the bridge to the points where the wheels went over. The right one was 18 feet, the left, 33 feet, two inches. But an extremely interesting thing about the locations of those points of departure from the bridge that the Inspector did not reveal is that the one made by the left wheel ended less than four feet from the "peak" of the bridge. This will be more clearly understood from a superficial description of the bridge construction in Anomaly G. Suffice it to say here that there is an elevated center section and that the ramp sections on either side have a gradient of some eleven degrees or more. What this means is that the vehicle ran 15 feet up an eleven-degree inclined plane before plunging off and that this would have had a decelerating effect, which means further that the estimated speed of 26-1/2 miles per hour when the car hit the edge of the bridge is due another upgrading. How about 28?

Here is some more. On each side of the bridge there is a low curb or rub rail nine inches wide and there was a deep gouge at the approximate midpoint between the two tire marks caused by the transmission housing as it went over. From the standpoint of horizontally directed force, as when the transmission housing gashed across it, the width is equivalent to thickness. This caused more deceleration, of course, and so more speed upgrading is necessary. To 30?

But we aren't finished yet. If the brakes were applied, as Inspector Kennedy indicated, this would mean more deceleration from the beginning of the bridge. The Inspector stated, and rightly so, that it takes a greater distance to stop on wood than on macadam and still more if the surface is lightly sandy. The mentioned 25 feet was for macadam. One of the pieces of defensive evidence submitted on Senator Kennedy's behalf was a rather sophisticated engineering study, mentioned more fully in Anomaly G, that included several one-the-scene tests made following the accident. Here is an excerpt: 2bb/

Data on a test performed in the presence of Mr. George Kennedy, of the Massachusetts Division of Motor Vehicles, in which a 1969 Chevrolet approached the bridge at 20 mph. The brakes were applied at the instant the front wheels touched the bridge. The car came to a stop with the front wheels at a distance of 33 feet from the beginning of the bridge. The test was performed on a dry bridge, but with a slightly sandy surface.

That was just two inches short of where the left front wheel of the Oldsmobile went off, wasn't it? Accordingly, if the 1967 Oldsmobile was traveling at only 20-22 miles per hour as it approached the bridge, as both Senator Kennedy and Inspector Kennedy maintained, it should have at least decelerated sufficiently that, if it did not stop completely, only the right front wheel would have gone over. But did it? You know it didn't. The flight of the Oldsmobile ended 36 feet further east on the bottom of the neck just entering into Poucha Pond. And so we are now faced with more necessary speed upgrading. 35? 40? 45? 50?

We do not know why Inspector Kennedy obviously ignored this greater distance, since he said the car had been moved from its original spot at the time of his arrival, but we do know from his testimony that the Senator knew that the Inspector knew about the plunge. From the bridge, the Inspector went directly to Police Headquarters, where the Senator was at the time and spent about forty-five minutes with him. But Inspector Kennedy is an honorable man; so are they all, all, honorable men (and women).

Now, what was that Judge Boyle said at the opening just two days before Inspector Kennedy testified?

2bb/ ibid., p. 93.

"It is the duty of the Court to seek out and receive any and all information and testimony which is relevant, pertinent and material to the question as to whether criminal conduct caused or contributed to the death..."

Just what the Inspector expected to accomplish with the injection of the "reaction time" factor is also unclear or what bearing it has. Moreover, I am inclined to believe that three-quarters of a second is more than generous--in other words, a long time--for a man only 37 years of age, in good physical condition and mentally alert. When drunk? That's different, but the Senator swore he was cold sober.

And if we may revert to the upwardly adjusted estimated speed at which the Senator and Mary Jo may have been traveling, this puts the report of the two Malm ladies, mother and daughter, who were living in the "Dyke House" (estimated from only 100 to 150 yards from the bridge) in a slightly different key. Both told Chief Arena (The Inquest, p. 87) they had heard a car going past unusually fast toward the bridge some time between 11:15 and 11:45 p.m., although their accounts did not coincide exactly in every detail. What puts it a little off-key is that the time is a minimum of one hour too early to meld with Deputy Sheriff Lock's report. But isn't it a pity the Malms couldn't have testified in person?

ANOMALY E (p. 7)

Why was he so sure no one would be looking for them until morning? Should he not have assumed that the others would have returned to Edgartown as planned? And would Miss Newburgh (Mary Jo's roommate at the motel) not have missed her when she returned? And would Mr. Gargan (who shared Mr. Kennedy's room at the Shiretown Inn) not have missed him? Would the normal reaction not have been to inform at least some of the others and, both having been discovered missing, go look for them and/or notify the police?

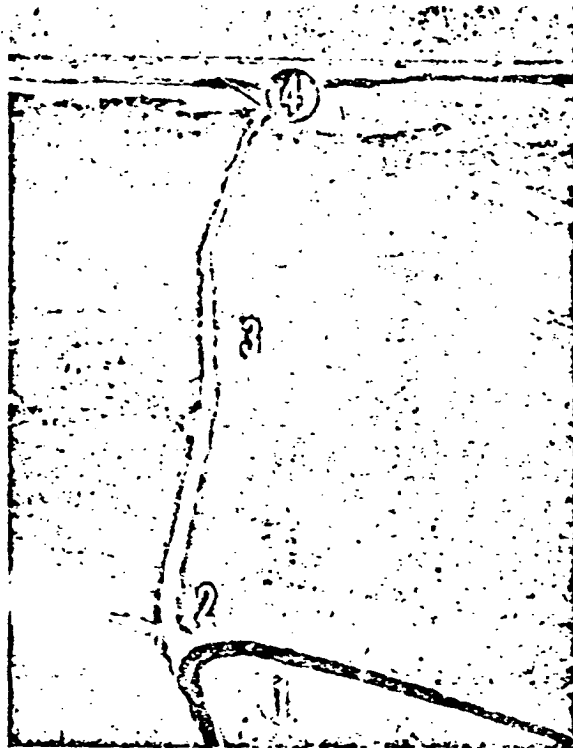
ANOMALY F (p. 8)

Had he really been upside down, with no seat belt holding him (none was mentioned), all his weight would necessarily have been on his head, since he was obviously using his hands to try to hold the water back, and there was no mention of this uncomfortable position. The contusion on top of his head and the minor neck injury attested to by a physician by affidavit does not necessarily confirm that he did land on his head.

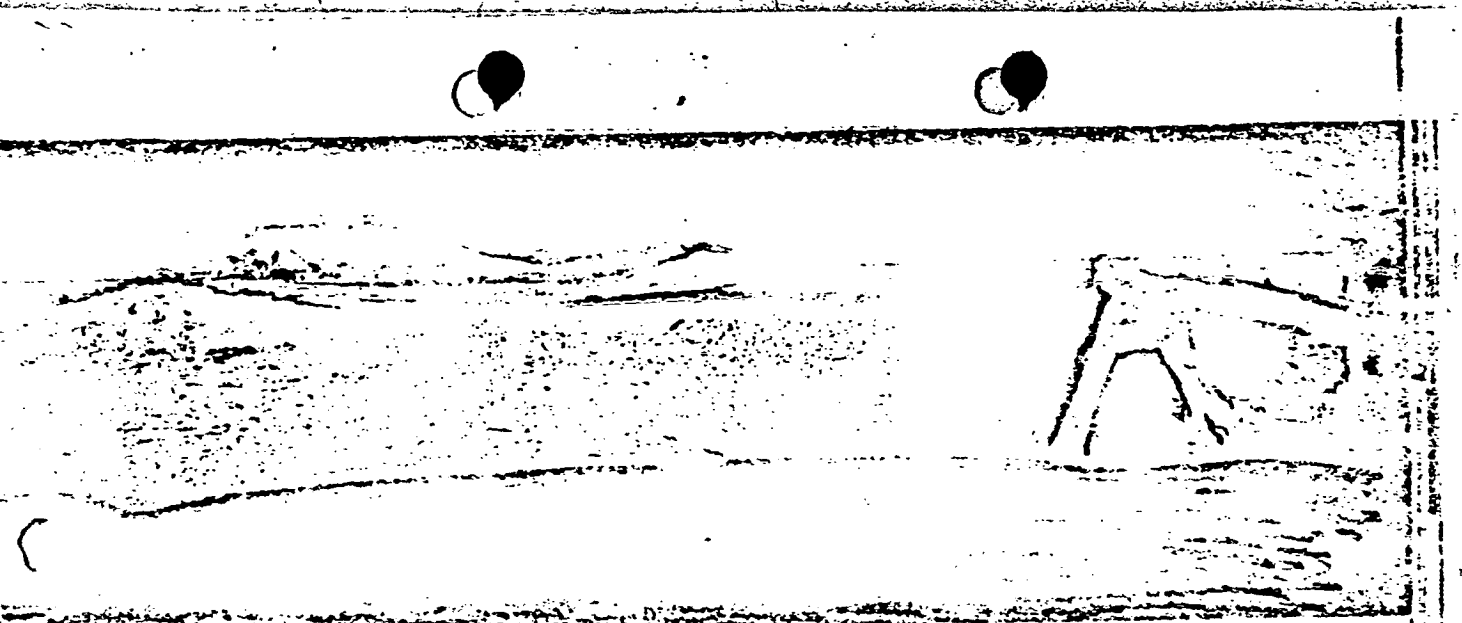
ANOMALY G (p. 9)

The Senator's implication is clear that he did not see the

Scene of tragedy on Chappaquiddick. (1) The blacktop road along which Senator Kennedy drove with Miss Kopechne as his passenger. (2) Where Kennedy said he intended to turn left to follow the blacktop road to the Edgartown ferry. Instead, he turned right onto (3) Dyke Road, a sandy lane that leads to (4) Dyke Bridge, from which the Kennedy car plunged into the tidal pond at the right.



—Milton Sivila Photo



Aug. 1, 1969

APPROACH TO DIKE BRIDGE AS ILLUMINATED BY AUTO HEADLIGHTS

STEVE HANSEN

bridge until he was practically on it for the simple reason that he didn't know it was there, despite having been over it twice that day. The argument here could well be that "someone else had been driving" and he just hadn't paid any attention to the local scenery, which held no novelty for him. This argument might win credence from some and prove difficult to dispute if the Dike Bridge was an ordinary one, but it isn't; it is extraordinary and the extraordinary, the anomalous, attracts attention.

Author Olsen tells us more than once in The Bridge at Chap-paquiddick (e.g., pp. 116 and 135), that it is clearly visible from the road from a distance of 200 yards or more, partly due to its angle to the road. As if the rather abrupt change in scenery wasn't enough to attract attention (the trees and brush lining the road stop before reaching the Malm house), the road becomes increasingly rough, with ruts and a couple of pot holes not far from the westerly end of the bridge that cause any normal driver to slow down, bridge or not. And it is reasonable to assume that Mr. Crimmins is a normal driver. Then there is the unusual 27-degree angle of the bridge to the road (according to Inspector George Kennedy) and then the narrowness of the bridge, itself--only ten feet, six inches wide--to command the attention. (The cited article in Time (p. 12, Aug. 1, 1969) says the local residents recommend coming to a full stop before going onto the bridge, then inching forward at a respectable 5 m.p.h. until safely on the other side.)

But these, other than the width, are only the approach factors; there is the bridge, itself. Most rural bridges are essentially level with the road and it is, indeed, possible to zip past them without notice; but not the Dike. It is "humpbacked", and this contributes mostly to its visibility from a distance. In an elaborate report in the form of an affidavit by professional engineer Eugene D. Jones, Vice President in charge of the New England Division of Frederic R. Harris, Inc., Consulting Engineers, the bridge is described as having a center span 11'-9" long. Let's say twelve feet. Then it says this span varies in clearance from three feet to five feet above the water. It does not say, however, whether this variance is due to the tide or if it refers to the levels of the center approach sections to the said center span. Looking at various photographs of the bridge, it is easy to believe the reference is to the bridge, itself. These approach sections appear to be between 15 and 20 feet long and rise, ramplike, to meet each respective end of the elevated center span. This is why it is known locally as "the hump". The center span looks as if it is easily two feet above the beginning of each approaching ramp section, which would give the ramps a gradient of no less than ten degrees, and going over it the first time in an automobile, whether driving or as a passenger, must be quite an experience. With a wheelbase of ten feet, four inches (according to the manufacturer) and a minimum clearance of just about six inches, Mr. Crimmins must have had some misgivings before reaching the other side and quite possibly some conversation with the Senator as to whether to risk it! For example, read the following excerpt (slightly abridged) from Mr. Crimmins' testimony and see if you agree. 2c/

2c/ Ibid., p. 49.

THE COURT: Did you drive (the Senator) to the beach?
 THE WITNESS: Yes, Your Honor.
 THE COURT: Did you drive him over the Dike Bridge?
 THE WITNESS: Yes, I did.
 THE COURT: Did you have any difficulty negotiating it?
 THE WITNESS: Just the hump.
 THE COURT: And you brought the car back over the bridge?
 THE WITNESS: Yes, sir.
 THE COURT: And is that an Oldsmobile Model 88?
 THE WITNESS: Yes, sir.

Now, why not consider a few noteworthy things about this bit of information? For instance, Mr. Crimmins' use of the colloquial term, "the hump", regarding the bridge and that His Honor did not have to ask what he meant by it. In fact, acquaintance with it was indicated by his apparent anticipation of difficulty. Also, Mr. Crimmins was not asked whether this was his first visit to Chappaquiddick Island, but Mr. Kennedy claimed it was his. Mr. Crimmins arrived on Martha's Vineyard on Wednesday, the 16th, and spent that night alone at the cottage. Messrs. Gargan, Markham and LaRosa arrived the next afternoon and evening, but spent the night at the Shiretown Inn. The next day, Friday, the 18th, Mr. Crimmins met the Senator at the local airport and, as we know from the Senator's testimony, drove him to the cottage, then to the beach. Instead of remaining at the beach, however, Mr. Crimmins then went to the Shiretown Inn and drove the Senator back to the cottage that evening after the race. The point here is that there was little opportunity for him to learn such a term for such a remote and obscure structure as the Dike Bridge. Of course, Mr. Crimmins could well have visited the island previously, but he gave his residence as South Boston, his occupation as legal aide and investigator, and part-time chauffeur (evenings and weekends) for the Senator when the latter is in the Boston area, having enjoyed this relationship for nine years. Where did he get the familiarity?

And then, there is the unmistakable and almost inimitable sound made when driving over a wooden bridge of this type, accentuated by "the hump", which is concave on the undersurface, of course, and which probably amplifies and deepens the tone.

Back to the Jones report, it even includes the results of a survey of Dike Road. To the uninitiated, technical terminology descriptive of the simplest thing can sometimes be almost overwhelming. Here, for example, is the way the licensed surveyors described it, in part: "...the roadway is on tangent for approximately 225'...then curves to the right on a radius of 900' for approximately 51'. From the end of this curve, the roadway continues on tangent for approximately 263' to Station 5+40. From this point, the alignment of the roadway is a series of three (3) closely connected curves as it approaches the bridge." Rather than being a good layout for part of an amusement park ride or a proving-ground course, a quick glance at the aerial photo of Dike Road on page 30, U.S. News & World Report, Sept. 15, 1969, will show the curves to be very gentle. In fact, except for possibly the last

Erratum

The excerpts on this page (32) were erroneously ascribed to the Jones Report. Actually, they are from still another report prepared by Donald L. Sullivan, of the Arthur D. Little Company. It is in the same section of The Inquest as the Jones Report.

150 feet, it would probably be a good place for beginners learning to drive. Here are a few more excerpts from this highly professional and technical study and report (pp. 92-95, The Inquest).

Approaching the bridge, the road is straight for at least 3/10 of a mile, except for the last 150 feet. A 1½ downgrade extends from 630 feet to within 100 feet of the bridge. (Note: A 1½ downgrade is practically level and this is probably the "hill" referred to in the statement given to Chief Arena, page 17.*) Vegetation on the right at a distance of about 120 feet from the bridge forces one to turn to the left, so that high-beam headlights do not illuminate the bridge at this point. Just as one turns back to the right at between 90' and 30' from the bridge, one's lights are deflected sharply upward so that again the bridge is not illuminated. The rapid right turn, left turn, and sharp upward deflection are not only distracting but also make it difficult to see the bridge before one is on it.

Sounds gruesome, doesn't it? What this report does not reveal (in The Inquest) is the approximate point in distance from which the bridge is first illuminated when driving at night and becomes visible. Neither does it reveal that the road widens perceptibly well before reaching the Malm house and that the "closely connected curves" are actually very, very gentle S-curves, so gentle that they can be negotiated practically without turning the wheels by permitting the path of a vehicle to be almost straight and approach the left lane momentarily as it progresses, the roadway turning slightly to the right, thus keeping the bridge in view. Thus it is, too, with the "vegetation on the right" that "forces" a turn to the left. It is part of a smaller, but also gentle, S-curve. In other words, the rapid turns are necessitated only if the driver hugs the right side of this little-traveled road, and the losses of view of the bridge resulting therefrom are only momentary. Yes, to be sure, this is "driving by the book" and is technically correct, but any normal, experienced driver, especially when driving on an unpaved country road with no lane markings, and when it is obvious that no risk exists with respect to another oncoming vehicle, will permit his car to ease from one side to the other to straighten out gentle curves. But here is some more--

The motion picture (Yes!--Auth.) shows that the bridge is visible for a period of less than three seconds prior to the accident if the car approached the bridge at 20 miles per hour.

The series of still pictures shows that at distances in excess of 100 feet from the bridge that the high-beam headlights strike the ground for a long period of time well in front of and to the left of the bridge. Just as the headlights come right, toward the bridge, at a distance of between 100 feet and 50 feet, the headlights are tipped up sharply by the rising terrain.

There is even more of such description and, if one is not

* --Auth.

swept away on a wave of sympathy for the Senator, one is forced to ask a few questions. As a starter, with such horrendous terrain (surely, the Senator must have realized there was nothing like this on the paved road between the cook-out cottage and the ferry!) what normal driver would not drastically reduce speed? Did Mr. Crimmins do so? Incidentally, that cited photo in Time clearly shows the probable "rising terrain" as a bump that extends pretty much all the way across the road, unless what was meant in everyday language as a "dip". Mr. Jones and his party evidently missed this photo (how did the Senator miss it?)--but Mr. Jones, also, is an honorable man; so are they all, all, honorable men (and women).

And then there was Mary Jo, who had been over the route to and from the ferry not just twice that day (as had the Senator), but five times. Did she notice nothing anomalous about going down Dike Road? If she did, did she mention it to the Senator? And if she did, did the Senator pay no attention? Did it not jog his own memory?

And what about the ~~matter of~~ warning sign on the roadside prior to reaching the junction with Dike Road, with an arrow and the words "To the Ferry" in reflector-type illumination? (This was not mentioned in the inquest.)

Less than three seconds' visibility, did he say? All right, two and three-quarters. So we deduct an excessively long three-quarters of a second for reaction time (according to Inspector Kennedy) and we have two seconds left, or 59.8 feet from the edge of the bridge. Shall we say 60? Now, the 25 feet the Inspector had given for stopping at 20 miles per hour was on dry macadam and, a little later in his testimony, he said "On wood, the car would travel much farther." This is believable. In fact, part of the study conducted by Mr. Jones included the testing of a 1969 Chevrolet at Dike Bridge in September 1969, when it required 33 feet to stop, the brakes having been applied the moment the front wheels touched the bridge traveling at 20 miles per hour. (He even got the Inspector and the Chief in the act, the brake testing being done in the presence of the former, with the latter clocking the speeds.) This still leaves 27 feet of bumpy Dike Road, plus the 18 feet from the edge of the bridge to the point on the right rubber rail where he went over, making 45 feet of roadway and bridge between the vehicle and Poucha Pond after reaction time and expanded stopping distance, during which it is uncertain whether Mr. Kennedy (the Senator, that is) actually applied his brakes.

~~_____~~
This was an expensive report, undertaken, Mr. Jones said, at the request of Ropes & Gray, Attorneys at Law. Need we ask who requested Ropes & Gray, Esqs., to request Frederic R. Harris, Inc., Consulting Engineers, to make the study? According to a statement in the introductory portion of the exhibit, the inspection of the road and bridge was made on December 29 and 30, 1969, just a week before the inquest. Why? Did the Senator think the residents of Martha's Vineyard were unaware of the condition of the road and bridge, or was he afraid it might go further and be the concern of others lacking first-hand familiarity? It did.

ANOMALY H (p. 9)

As in Anomaly D, he remembered "just beginning" to go off the bridge, but could not be positive about turning his wheels. Let's see what else Inspector Kennedy said about the "skid marks". 2d/

A: When I arrived at the scene I observed a car in the water on the right side of the bridge. I had noticed skid marks on the bridge starting at the edge of the bridge on the dirt and continuing straight to the right and over.

Paraphrasing the description of the tire marks in The Bridge at Chappaquiddick, it was as if the wheels had been "locked in position." And with an acknowledged minimum of almost three seconds visibility time? I submit that "reaction time" for turning wheels is appreciably less than that for braking. But what was that the Judge said in his report about the turn onto Dike Road?

I infer...that Kennedy did not intend to drive to the ferry slip and his turn onto Dike Road was intentional. ... I believe it probable that Kennedy knew of the hazard that lay ahead of him on Dike Road, but that, for some reason not apparent from the testimony, he failed to exercise due care as he approached the bridge.

ANOMALY J (p. 9)

One may well ask what kind of response Judge Boyle could possibly have expected to such a question. However, it is rumored that the popular opinion in and around Edgartown is that Mr. Kennedy waited as long as he did to report to the police because he was very drunk. This, of course, would have been obvious to another person. And then there would have been an incriminating "breath test" to be feared if this was true. However, there is yet another possible reason for the delay. Please be patient.

ANOMALY K (p. 10)

The Senator said he couldn't swim because of the current, so he swam to where he could wade. That was really a good trick and it indicates tremendous resourcefulness. However, Perjury No. 6 puts the tale of the attempted rescue in a different light. See also Perjury No. 4.

ANOMALY L (p. 10)

Now the Senator is absolutely right! The bridge does run almost east-west. In the course of preparing this material, I examined a rather large-scale map of Chappaquiddick Island that was prepared by the U.S. Coast & Geodetic Survey that also shows

2d/ Ibid., p. 66.

compass directions by degrees. Believe it or not, it even shows Dike Road and the bridge. I would bet that a line from the center of the road from Wrong-Turn Junction to the beginning of the bridge (the road is almost straight) would have a bearing of very nearly 120 degrees. Now then, if we subtract Inspector Kennedy's 27 degrees for the angle of the bridge to the road we get 93 degrees, which is almost due east (90 degrees). (The map is in slight error; it shows the bridge at an angle to the road on the easterly side of the cut, rather than the westerly.)

Supportive to this is the introductory phrase preceding the first quotation from civil engineer Eugene Jones's report given on page 31: "Starting at Station 0+00 and proceeding in a south-easterly direction, the roadway is on tangent...etc." This does not necessarily mean due southeast, or a bearing of precisely 135 degrees, but in that general direction, which could be 120 degrees.

But what is anomalous about this? Why, simply that the Senator said (see page 4) he had never been on Chappaquiddick before the day of the swim and later cook-out, and such accuracy as to the lay of such a road and ramshackle bridge is unusual. Incidentally, the people around those parts thought such a statement was a little anomalous. Participating in the Edgartown Regatta, which he did that Friday afternoon (the race), has long been a family tradition, and in all that time he never visited Chappaquiddick.

ANOMALY M (p. 11)

It is a pity we don't know where "up to ~~here~~" ^{this point} was, but it is surmisable that it was somewhere on the upper part of his body, perhaps around his neck or chin. This is based on scuba diver Farrar's estimate of a depth of from six to seven feet in the immediate vicinity of the vehicle at approximately 8:45 a.m. when he recovered the body. Mr. Kennedy is reputed to be six feet, two inches, tall, and let us be mindful that it was a slack tide he had plunged into and the water, therefore, was lower than it had been at the approximate midpoint between tides, as with Mr. Farrar. And if he had been truly unable to stand, as he claimed, how would he have been able to say "It was up to ~~here~~" ^{this point}?

ANOMALY N (p. 11)

Here are some excerpts from the testimony of Chief Arena: ^{2e/}

A: This (statement) is from Sylvia R. Malm. She is the mother of the family. "On Saturday morning, July 19, 1969, two boys knocked on my door and said there is a car upside-down in the water by the bridge. ...Sometime during the evening before, I was aware of a car going faster than usual going toward the Dike. I have no idea of the time. I think I went to sleep sometime between 11:30 and 12:00 midnight, but I do not know the time. I heard nothing during the night. ... a night light was burning all night."

2e/ Ibid., p. 87.

Then I have a statement from Sylvia A. Malm, who is the daughter. "On Friday night, July 18, 1969, I was in bed underneath an open window which faces east (that is, the bridge. — Auth.) from 11 p.m. to 12 midnight, looking at the clock just before I turned my light out."

Remembering how Senator Kennedy shouted Mary Jo's name (p. 9) and that the lights of the Valiant must have shone into Miss Malm's window when he returned with Messrs. Gargan and Markham to resume rescue operations, we must pause to regret that the Malms are such deep sleepers. But Chief Arena said, a little further on--

A: Yes, there is a house diagonally across the street on the right (occupied by a Mrs. Smith). I had a conversation with Mrs. Smith and she stated she had a night light in one of her children's rooms which she left on all night. This was on the road side of the house.

It is anomalous, too, that the Senator used the word, "cottage", whereas Mr. Dinis said "houses." The truth is, I believe, that the so-called Malm house is a cottage, which is to say, a small house, as are most houses on Chappaquiddick Island. In his report following the inquest, Judge Boyle referred to it thus: (The Inquest, p. 125): "A short distance before Dyke Bridge, there is a small house called 'Dyke House', then occupied by a Mrs. Malm and her daughter."

The significance of this is that there had been ample opportunity to observe both the Malm (or "Dyke") house and the Smith house twice the preceding day, going to and returning from the beach, especially the return, since there are no trees to obscure the vision between the bridge and the house. There was also an opportunity to observe one or more of these houses on the way to the bridge on that fatal drive, particularly if he was driving only 20 miles per hour.

Notice, also, still another attempt to clutch at the mask of night. Darkness is conceded. The crescent moon was below the horizon a full hour before the alleged time of the "accident". However, the eye adjusts to gradations of light, the pupils dilating with diminution of luminosity, and Mr. Kennedy had been exposed to this "pitch blackness" by his own reckoning a minimum of a half-hour. And bear in mind the absence of trees to obscure the starlight, faint as it is. (It was a clear night, remember? And he said he saw the "silhouettes" of the trees. Against what?)

ANOMALY D (p. 12)

Mr. Kennedy said that Mr. Gargan's arm was "all bruised and bloodied." Let's look at portions of the testimonies of just a few persons who saw Mr. Gargan the next morning. Richard P. Hewitt was the ferry operator who took our heroic trio to and from Chappaquiddick Island that Saturday morning and had this to say: 2f/

2f/ Ibid., p. 81.

Q: Do you recall whether or not any of them (Kennedy, Gargan or Markham) appeared to be injured in any way?

A: I didn't notice anything that would make me think that they were injured.

Mr. Gargan happened to be at the Police Station at the same time as Inspector Kennedy, who said this: 2g/

Q: Were you in close proximity to Mr. Gargan?

A: I was.

Q: Did you have occasion to see his arms?

A: I did.

Q: Did you observe any marks?

A: I did not.

Q: Did you make any observations as to limping or any sign of injury to anyone?

A: No limping on anybody.

And Chief Arena had this to say: 2h/

Q: In your observation of Mr. Kennedy (the Senator), did you make note of any injuries or bruises?

A: No physical injuries.

Q: To Mr. Markham?

A: No, sir.

Q: To Mr. Gargan?

A: No, sir.

In describing her activities Saturday morning at the cottage, Miss Newburgh said (having slept in the same room with Mr. Gargan and several others who considered themselves marooned): 2j/

A: (Mr. Gargan) was walking out the door when I got up at 8 o'clock. I didn't talk to him. I just saw him for a few minutes. I saw him for five minutes when he picked me up in the car, another ten minutes in the cottage and I saw him later that morning.

Q: ...did you observe any injuries that he had received?

A: No.

Q: Was there mention by anyone that he had received injuries anywhere in any manner at that time?

A: No.

This anomaly could be defended on grounds of the way it had "seemed at the moment" when the Senator was purportedly in a "state of shock." On the other hand, let us remember that Mr. Kennedy said Mr. Gargan had managed to get half-way into the vehicle at one time, which Mr. Gargan later corroborated in his own testimony. And let us remember, also, that the windows of the car on the passenger's side were "blown out", which means that Mr. Gargan might well have cut one of his arms on the underside, for instance, on a fragment of glass. Such a cut could have been sufficient to produce visible bleeding, but slight enough to have escaped notice if covered by his shirt sleeve. Let us remember this bloodiness.

2g/ Ibid., p. 72; 2h/ Ibid., p. 86; 2j/ Ibid., p. 98.

ANOMALY P (p. 13)

This is, first, an extension of Anomaly B, preceding.
Next, if the reader wishes to avoid being swept away by a strong but artificially-generated current of sympathy, reviewing Perjuries No. 6 and 7 is recommended. Here, the Senator seems to be "borrowing" sympathy genuinely due Mrs. Kopechne and using it as a blind for his not having sought professional assistance, the explanation he gave for not doing so in his response footnoted 26, page 18, notwithstanding. In addition to several houses between the bridge and the ferry where assistance could have been summoned or obtained, there is a fire station (unmanned, but with a device for registering alarm) with a red light that burns all night) only a couple of hundred yards or so from the cook-out cottage toward the junction of the paved road with Dike Road.^{3/} For some reason, known or unknown, this was not brought out during the inquest, but it was known to the party. Miss Ann Lyons was one of a group that went for two walks along the road after the Senator and Mary Jo left and she said this about one of them: "^{4/}...we walked well past the fire station on this particular walk." And, most ironically, the Chief of the Volunteer Fire Company lives almost right across the road, even nearer to the cottage, and he was home that night. This was not mentioned in the inquest, either.
The reader will recognize the remainder of this response as part of the "sympathy current."
See also footnote 26, page 18.

ANOMALY Q (p. 14)

The sympathy current is still the theme of this portion of the yarn, the main stream being shifted back to well known human limitations, physical fatigue from "diving" and the inability to hold his breath being the Senator's principal complaints, with a reprise on his own life becoming endangered. Those who have reviewed Perjury No. 6, along with Anomaly M, are best prepared to withstand the onslaught and see the whole matter of the "diving" surrounded by a huge question mark.

As for the alleged swim, the channel at the ferry run is now sometimes referred to in and around Edgartown as "Teddy's credibility gap." It is narrow, yes, and the tidal current is reputed to be particularly ferocious, and many Martha's Vineyardites have serious doubts that he did it, good swimmer though he may be. Messrs. Gargan and Markham are not of that ilk, however, as we can see from their testimonies. Mr. Gargan first--^{6/}

Q: Now, when you saw the Senator jump into the channel there, did you see him reach the other side?

A: I did not.

Q: Weren't you concerned about his--

^{3/} Teddy Bare, p. 65.
^{4/} The Inquest, p. 108.
^{5/} Teddy Bare, p. 65.
^{6/} The Inquest, p. 36.

A: No. 7

Q: --ability to make it?

A: No, not at all. The Senator can swim that five or six times both ways. That may seem unusual, Mr. Dinis, except I have been with the Senator 30 years swimming and sailing and I don't know if you know the breakwater off Hyannisport, but we used to swim every day around that, the breakwater, and it is the only thing the Senator has done since his back injury, besides skiing. The real form of exercise for the Senator since the back injury is swimming.

And now, Mr. Markham--8

Q: Were you concerned with the fact of whether or not (the Senator) would arrive safely on the other side?

A: No, I wasn't.

Let us note that this confidence was not dampened by their knowledge of Mr. Kennedy's (claimed) previous exhaustion, plus his having been clothed at least in a shirt and slacks, which would have offered some impediment, not to mention sneakers that can get quite heavy when filled with water (you can't keep it out, not even with your hands).

No doubt there are times, depending on varying factors, when that current is dangerously swift for a swimmer, even should he be Senator Kennedy. Whether it was so at approximately 1:30 a.m., which is within a few minutes of the time he alleges he made the swim, is subject to question, however. You see, they have funny water at Martha's Vineyard. It is funny in other ways than not being able to hold it back with your hands. Now, even a self-respecting Arizonian knows there are high and low tides (flood and ebb, if you want to be very nautical) at any place on the ocean. But that isn't enough at Edgartown; at times, at least, they have "double floods" and "double ebbs". This anomaly contributes to surface currents in that channel, which is considerably deeper than the one at Dike Bridge, being quite different from those, say, six or seven feet below the surface. Since the body is essentially horizontal when swimming, the surface currents are the ones the Senator had to worry about. Coincidentally, at the same place where the map of Chappaquiddick Island was inspected⁹ they have a book published by the U.S. Department of Commerce entitled Current Tables, 1969, Atlantic Coast of North America, and it gives all kinds of information about ocean currents, including at Edgartown. It shows that at 0036 hours (1:36 a.m. EDST), when Senator Kennedy should have been in the water, the surface current was slack. (This is despite a high water time of 3:49 a.m., EDST.) No wonder Jared Grant, owner of the ferry and who was on duty the night of July 18th-19th, and who remained at the Edgartown ferry slip until 1:20, said in his testimony: "It was a beautiful night, very calm. The water was like glass."¹⁰ The only way the subsurface current

7 Remember Inspector Kennedy's eager response? Anomaly D, p. 27.

8 The Inquest, p. 46.

9 National Ocean Survey Administration, 30 Rockefeller Plaza, New York City.

10 The Inquest, p. 83.

could have affected ~~man~~ would have been had he ~~opped~~ ~~swimming~~ and treaded water so that his feet might have reached the tidal current. But treading water is just as fatiguing as swimming, and there was no mention of it, anyway. The classical ~~maneuver~~ tired swimmers resort to in order to rest is floating, which the Senator did mention in his response footnoted 12, page 11.

But for all the currents and tides in the affairs of Senator Kennedy, the ineluctable question arises: was the swim necessary? It was not.

Mr. Grant, the ferry owner, had more to say.^{11/}

Q: Were you available for calls if someone wanted the ferry that night?

A: I was. Year round, we are on call 24 hours a day.

Q: And is there a public telephone that you are aware of also on Chappaquiddick?

A: Yes.

Q: When do you normally close down?

A: Usually, we close down at 12:00 (midnight).

Q: And if someone wanted you after 12, where would they call?

A: My house.

Q: If I am at Chappaquiddick and I want the ferry and you are not at the landing...If I use the telephone, where does this call get me, to your home?

A: Yes...there is a regular dial system and my number is posted.

Now then, if that trio didn't know the telephone was there, with the number plainly marked, what view should we take of the "private" phone call to the Senator's dear old friend, Burke Marshall, the next morning from Chappaquiddick? (See Anomaly S.)

"It is the duty of the Court to seek out and receive any and all information and testimony which is relevant, pertinent and material to the question as to whether criminal conduct caused or contributed to the death..."

Yes, Judge, thank you. You told us that in your opening remarks (page 1).

And so now perhaps we should revert to the skepticism about the swim and see what we can see.

Well, it is certain that the Senator did NOT cross on the ferry. And if he didn't swim....? Well, still another report that did not find its way into the inquest was that a motorboat perhaps a little more than fifteen feet in length with three persons aboard was sighted in the Edgartown harbor about a half-hour later than the alleged swim. It was approaching a mired sailboat when, just after having been spotted, its lights and motor were suddenly cut.^{12/} This proves nothing, of course, not even with an-

^{11/} Ibid. p. 83.

^{12/} Teddy Bare, p. 82-83.

other verifiable report that earlier that night a boat was stolen, but this is offered by some as the reason the Senator was seen at the Shiretown Inn at 2:25 a.m. in dry clothing (See Anomaly R).

What it is that imparts a lingering quality to these irrelevancies is portions of the testimonies of the Lyons sisters, Maryellen and Ann (or Nance). When asked about conversation with Messrs. Gargan and Markham after their return to the cottage at about 2:00 a.m., Maryellen said:^{13/}

A: We, you know, when they arrived, we asked them, you know, where they had been; what had happened. Oh, it was just, "Oh, don't even ask us, we have been looking for boats." It was confused.

Q: That they had been looking for boats, they said that?

A: That was one of the things they said,...

And Nance replied thusly:^{14/}

Q: Did Mr. Markham or Mr. Gargan indicate why Mr. Kennedy decided to swim when boats were available? (Could he have meant the ferry? --Auth.)

A: They said that they had been looking for a boat and couldn't find one.

Q: They, meaning Mr. Kennedy, Mr. Gargan and Mr. Markham?

A: Mr. Gargan and Mr. Markham, I believe.

Q: Had been looking for a boat?

A: Yes.

Q: But not Mr. Kennedy?

A: I don't--you know, they just said, you know, "We were looking for a boat."

Q: Was the purpose of the boat to assist the people at the party to get across, did you know?

A: No, I would assume that this was among the three involved.

Unfortunately the above (especially the last response) calls for more digging. We must ask why, and seek for the answer, such a boat if found would not have been for the benefit of all? As it was, ten persons (five men and five women) slept very uncomfortably in two rather small rooms. But merely by reviewing, one answer may be found for those willing to accept it in the Senator's well known humanitarian proclivities. He was simply, but bravely, striving to prevent further possible loss of life and/or serious injury. You see, had a boat been found (other than the ferry--at 1:30-2:00 a.m.?) and the Valiant returned for the remainder of the party, making several trips if necessary, the question of Mary Jo's whereabouts would certainly have arisen, as well as why just the Valiant? The truth could not have been long suppressed and.... well, the Senator told us his fears in his response footnoted 25, page 18.^{15/}

^{13/} The Inquest. p. 102; see also p. 103.

^{14/} Ibid. p. 109.

^{15/} The Senator evidently cared naught for the safety of Messrs. Crimmins, Tretter and LaRosa. But perhaps none of these gentlemen were long and dear friends of Mary Jo's.

The "tourist" was Russell E. Peachey, innkeeper of the Shiretown, whose testimony included the following.

A: (Describing a portion of the Inn) ...The second floor has, three units plus the deck ... Mr. Kennedy was on the second floor occupying space that entered off the deck area.

Q: Did you have occasion to see him sometime on the 19th?

A: I just happened to be standing in front of the office... and I heard footsteps coming across the deck. There were no lights up there, so I just thought I would wait to see who it might be, whether the person had any business being up there or not; and the individual came down the steps, and as he (the Senator) touched the ground, he turned around the steps and I asked if I could help him.

Q: Did you recognize him?

A: It wasn't until I spoke to him that I realized who it was.

Q: There are no lights on the deck?

A: There is a light up there, but it seemed to me that someone had switched it off. I can't really say whether that light was on or not. If it is, it is kind of a floodlight that is focused down to the floor of the deck right near where the steps enter up on the deck and it is purely to light the steps just slightly up there.

Q: So what did this person say?

A: I asked if I could help him. He said, "No." ... He said he had been awakened by a noise coming from a party next door. He went to look for his watch, he couldn't find it, and wondered what time it was. I turned and looked in the office.

Q: He was awakened?

A: Right.

Q: What did you do?

A: I turned and looked in the office window at the clock and I told him it was 2:25.

Q: What did this person do?

A: Thanked me, turned and went back to the quarters.

The reader is now requested to read ahead as far as footnote 20 in the testimony, page 16. What can be more obvious than that one of these two gentlemen demonstrated a disregard for the truth? At least, the compleat truth? Reverting to the preceding response of the Senator's, there was no mention of anything but retaining full consciousness prior to the confrontation with Mr. Peachey. If he had not been awakened, as he claimed, what was his motive for making the false statement? (According to Mr. Peachey's account, is a furtiveness apparent here?) And if Mr. Peachey falsified, what could he possibly have expected to gain, or what could he have attempted to conceal? It may help the reader to decide which of the two accounts to accept by reviewing some of the respective testimonies.

By the way, with a throbbing headache does it seem more logical to look for an aspirin than trying to find out what time it is?

Let us avail ourselves again of the testimony of Ralph Hewitt, the ferry operator who was on duty Saturday morning, July 19, 1969. Mr. Hewitt had stated that he had taken Senator Kennedy and two other gentlemen (one of whom he recognized as Mr. Markham) to Chappaquiddick. Mr. Fernandes asked further--16/

Q: And could you tell us where they went on Chappaquiddick?

A: They didn't go very far. They stood around the point over there.

Q: Well, how long were you in their company or in their vicinity?

A: Oh, I would say approximately 20 minutes or so.

Q: And how did you measure this time to be 20 minutes?

A: Well, I figured that I made two or three trips in between the time I took them over and the time I took them back.

Q: Do you know what they were doing?

A: They appeared to be just milling around, waiting for something or someone.

THE COURT: Did you see anyone use the telephone?

THE WITNESS: No, I didn't.

Q: They were not in the telephone area?

A: They were in the telephone area...within 50 feet of the telephone.

Q: Did you have a conversation with Mr. Bettencourt?

A: Yes.

Q: What did he tell you?

A: He told me that the car that went off the Dike Bridge had been identified as Mr. Kennedy's.

Q: And then did anyone relay that to Mr. Kennedy?

A: Yes--or not to Mr. Kennedy, but to Mr. Markham.

Q: And who did that?

A: I did.

Q: What did you tell Mr. Markham?

A: I asked him if he was aware of the accident and he said, "Yes, we just heard about it."

Q: And after you relayed that information to them, what did you do?

A: I had passengers on the ferry; I went back and went to Edgartown.

Q: Did they go back with you?

A: Yes.

Q: How long after you relayed that information?

A: Within a couple of minutes.

One must suppose, I suppose, that it took the information that the car had been discovered and it was therefore generally known for Senator Kennedy to "fully realize" what had happened. THEN he immediately reported the matter to the police, as he said in his statement a little later at the Police Station (p. 17). In The Bridge at Chappaquiddick (p. 131), we are given a slightly different, but more

complete and deftly recounted version of this excursion.

The Mr. Bettencourt referred to is presented as a well known personality in the environs of Edgartown and the recognized authority on the tides at Poucha Pond. (It was he who predicted that it would be slack that day at approximately 11:30 a.m., and thus it was.) Mr. Bettencourt had heard the news, also, and had come over in his car on the ferry. He recognized the Senator and walked over to the threesome and informed Mr. Kennedy of the fact and even offered him a lift to the bridge. It was declined, however, the reason given to Mr. Bettencourt being that he (the Senator) was returning to Edgartown.

But return immediately, he did not. Mr. Hewitt did not hear this brief exchange of words, and after the mentioned two or three trips he decided Senator Kennedy must still be ignorant of the tragedy and approached them. Mr. Kennedy, one would surmise, was not anxious to engage in conversation with Mr. Hewitt, as he managed to keep a little distance between them and he seemed to be gaining. Not easily daunted, however, Mr. Hewitt called out and asked if he had heard about the accident, but the people's White Knight had taken refuge among some cars that were parked in the area. At this point, former United States Attorney Paul Markham, in a flash of a flanking movement, leaped into the breach with his line, "Yes, we just heard about it." Mr. Hewitt was forced to retreat to the ferryboat at this and made preparations for the return trip. The Senator was quickly persuaded to come out of seclusion and they all went back to Edgartown on the very next trip. Upon arrival, Mr. Kennedy literally leaped ashore and was so determined to get to the Police Station with an absolute minimum of dribbling of the sands of time that he nearly knocked someone over who innocently, if carelessly, found himself in his path. (See photo, p. 11B, Time, Aug. 1, 1969.)

ANOMALY T (p. 17)

Someone connected with the inquest must have had reason to be curious about telephone calls the Senator might have made because a summons was issued to the New England Telephone and Telegraph Company, which was responded to by their general accounting supervisor, A. Robert Malloy, who followed Senator Kennedy on the witness stand. Mr. Malloy was accompanied by Charles R. Parrott, Esq., attorney in behalf of the Telephone Company.

Even Judge Boyle had a little difficulty with some of Mr. Malloy's responses that concerned the Telephone Company's billing system. After shaking out the ashes, telephone subscribers can have any number of billing account numbers they wish (if they can afford it) all over the country. Moreover, any number of credit cards can be issued, authorized by the subscriber, of course, making telephone calls chargeable by holders of these cards to that specific number. Mr. Kennedy has such a credit card and he has several billing account numbers, as well. Mr. Malloy said he had been able to investigate "three of (Mr. Kennedy's) accounts, one in Boston, one in Washington and one in Virginia." He brought with him only the original records for Boston, however, and it was understood that this number was in

person(s) made the first two calls on that date. Who made the may be unimportant, or why, as well as who made the 6:30 p.m. call.

~~None of the other witnesses mentioned making any phone calls, had~~
~~ever.~~

It also seems reasonable to infer that there had been a number of calls and that Mr. Malloy had a fair stack of those operator's original call cards; otherwise, why should there have been a compilation on a sheet of paper? And only four, selected at random (?), received notice and comment? Mr. Kennedy did quite a bit of telephoning later that Saturday morning, and so did Mr. Markham, according to Jack Olsen.^{18/} This was from the Police Station. In fact, requesting to use a telephone was the first thing the Senator did upon his arrival, and Mr. Olsen tells us further that the then future Senate "whip" was so nervous during a part of this time that he required assistance in dialing. Moreover, a number of these calls (both by Mr. Kennedy and Mr. Markham) were to points in several other states. It seems reasonable, also, that the twenty-four-minute call begun at 10:57 was made by the Senator to Mr. and Mrs. Kopechne. Some of the other frantic calls no doubt concerned getting Mary Jo's body off the island as quickly as possible, but let Zad Rust^{19/} tell you about that.

And did anyone overlook Mr. Parrott's phrase that Mr. Malloy had "just about all" of the cards with him? Can there be any other conclusion but that both Mr. Malloy and Mr. Parrott were concealing o t h e r calls of which both had knowledge? His Honor overlooked it. Consider the brief colloquy that immediately followed the last response:

THE COURT: Do you want to offer this as an exhibit?

MR. DINIS: Well, your Honor, I don't see any harm in offering it for the record.

THE COURT: It doesn't at the moment tell me anything.

MR. DINIS: No, it doesn't, and it may not, but we will make it part of the record.

THE COURT: Exhibit No. 4, I believe.

One reason the records didn't tell his Honor anything at that moment or at any later moment may have been that no further questions were asked, not of the Senator nor of any of the several witnesses who followed. Such questions might have been for example: Who besides the Senator held credit cards billable to his account, in Boston and/or elsewhere?. Who made any of the numerous calls, to whom, and why?

More important, his Honor displayed no interest whatever in calls that might have been charged to either his Washington account or the one in Virginia. We may deduce, then, that the "someone" who was curious about telephone calls emanating from Martha's Vineyard on those two days that were directly connected with Senator Edward Kennedy was not the Honorable James A. Boyle.

But there was other interest; active interest. And some of the other active interest was outside the judiciary machinery of

^{18/} The Bridge at Channasuddick, p. 138, 139.

^{19/} Teddy Bore, p. 35-39.

with one minor exception

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the Southern District of Massachusetts. One such interested person was Ralph Clifford, editor-publisher of the New York Graphic, a small newspaper published in New York City. Mr. Clifford made up in personal courage for the limited circulation of his struggling periodical when he came out with an "extra" edition on October 6, 1969, carrying the following headlines: '12 KENNEDY PHONE CALLS DETAILED BY N.Y. GRAPHIC. In the feature story, it was revealed that a total of 17 calls were made that were charged to Senator Kennedy's Washington, D.C. office, although only 12 were being detailed. Yes, they all emanated from the area of Edgartown, several of them from the Shiretown Inn -- (617) 627-4283 -- and a few from -- guess what? -- the COOK-OUT COTTAGE!

Yes, dear reader, according to that feature story in the New York Graphic, there was a telephone in the cook-out cottage -- (617) 627-4020. (A typesetter's error listed it as 527-4020. Mr. Malloy explained in his testimony that the digits 627 indicated the Edgartown area.) Slightly abridged, the Graphic detailed the 12 calls as follows, the first three having been from the cottage:

First Call

The first call we were able to pinpoint was made at 11:57 p.m., Friday, July 18, to (212) 935-8790 in New York City, an unlisted number, which is registered in the name of Theodore Sorenson,^{20/} who was a special assistant to President John F. Kennedy. The duration of the call was two minutes.

Second Call

The frightened callers placed the second call at 12:04 a.m., Saturday, July 19, to Hyannisport, Mass., to (617) 775-4732. This is an unlisted number at 165 Greenway, Hyannisport, a house once used by the Kennedy family and presently utilized by them as an office facility. The call lasted six minutes.

Third Call

Eight minutes later, another urgent call was placed to the same number in Hyannisport and the conversation consumed 18 minutes.

It is assumed that after this last call from the cottage that the midnight callers "borrowed" a boat ride, or "swam", as the Senator claims he did, to Edgartown. An odd coincidence, reported by the Manchester (N.H.) Union Leader's investigative reporter, Arthur E. Egan, Jr., is that a power boat was reported "stolen" that night. It was recovered less than 200 yards from the Shiretown Inn, where the Senator was registered.

Fourth Call

There were no further calls made until 2:54 a.m., when the apprehensive callers dialed (202) 233-9600. This is the Washington, D.C. office of Marshall & Hamilton, at 1825 K St., N.W. It is believed that this four-minute call was made to contact Burke Marshall, Senator Kennedy's Washington attorney. Marshall is a former Assistant U.S. Attorney General.

^{20/} Ibid., p. 43, previously cited.

Fifth Call

At 5:04 a.m., the Marshall & Hamilton office was called again and the conversation period was three minutes.

Sixth Call

At 5:54 a.m., which indicates the nervous callers were awake throughout the night, a call was placed to (202) 393-3111, the telephone number of Kennedy's brother-in-law, Stephen Smith, in Washington. This significant call consumed 27 minutes.

Seventh Call

At 5:28 a.m., the dismayed callers at the Shiretown Inn telephoned Theodore Sorenson again and spoke for 21 minutes, a possible indication that the Kennedy advisor had been surely reached.

Mr. Sorenson was quoted in the establishment's controlled press on August 25 as having denied that telephone calls were made in the early hours of July 19, after the incident. Mr. Sorenson stated, "No telephone calls were made that night, and since I was supposedly the recipient to two of them, I'm in the position to know."

Such existing knowledge of long-distance calls are placed to Mr. Sorenson obviously proves the inaccuracy of his statement. (The preceding sentence is verbatim from the story. Its awkward structure indicates another typesetter's error, or some such similarity.--Auth.)

Eighth Call

At 6:04 a.m., again in the early hours of July 19, the anxious callers again dialed (212) 935-8790, Mr. Sorenson's private number, and the length of this conversation was seven minutes.

Ninth Call

The next call, placed at 6:56 a.m., lasting one minute only, was the third call made to (202) 223-9600, the Washington, D.C. number for Burke Marshall. Evidently, Mr. Marshall was still unavailable, or perhaps uncooperative.

Tenth Call

At 7:19 a.m., a fourth call was placed to Burke Marshall. The length of the call was two minutes.

Eleventh Call

Nearly an hour later, at 8:14 a.m., Theodore Sorenson was called for what was evidently the fourth time. The conversation which took place this call lasted 42 minutes, the longest call of the night.

Twelfth Call

Brother-in-law Stephen Smith was again called for the second time at 9:01 a.m. This call consumed 11 minutes.

To be sure, a couple of anomalies appear in this detailing besides the digital error in the cottage telephone number. The careful observer may already have noticed that the sixth and sev-

calls alleged to have been made--four of them. (Who accepted those calls at a business office at those hours? Or is there one of those nighttime automatic switching devices that relays incoming calls to another number?) And then there was the acknowledged call to Mr. Smith and the two the Graphic claims were made.

Suppose we take this 9:01 call and develop it from the standpoint of all visible ramifications. The Senator admitted having made one call after eight o'clock to Mr. Smith to find out Burke Marshall's telephone number (after having made four earlier ones) from the public telephone at the Shiretown Inn. Did this require eleven minutes? Assuming complete error on the part of the Graphic for the sake of argument for the moment, did the Senator never hear of calling Directory Assistance (formerly "Information") to obtain telephone numbers in distant cities? It's easy. You dial: (area code) 555-1212. Instructions are usually in every public telephone booth or on the telephone instrument. This call matches with the Graphic. At 9:12, Messrs. Kennedy, Gargan and Markham sprinted to the ferry slip just down the street, and arrived there probably by 9:15, where the ferry was luckily waiting. This is close enough to ferry operator Ralph Hewitt's estimate of "in the vicinity of 9:00 o'clock" as the time the triumvirate came aboard. (Would anyone like to guess why both Messrs. Gargan and Markham were necessary as traveling companions to make a phone call?) The ferry run is no more than 200 yards across, and even if the current was swift on that crossing we could expect an arrival and debarking at Chappaquiddick of no later than 9:20-9:25. Now we add the "20 minutes or so" Mr. Hewitt says they were "just milling around" on the point over there and we get 9:45 as the latest for casting off, Edgartown-bound. This would allow time for the Senator to reach the Police Station, as he guessed, "some time before 10:00." It is also very near the ferry slip.

But we have to go back to Chappaquiddick and we have to review a little in past testimony now. At the opening of the Afternoon Session, Mr. Kennedy said he had made a phone call from Chappaquiddick with the "intention of reaching Mr. Burke Marshall", but that he had not reached him. Now let's go back to the discussion of Anomaly S (p. 43) and recall the Court asking Mr. Hewitt if he saw anyone use the telephone. "No, I didn't", was the reply, although they were "within 50 feet of the telephone." The defense against this is so simple that the Senator's chief counsel at the inquest, Edward B. Hanify, Esq., would doubtless delegate it to a junior associate: Senator Kennedy had not been under constant surveillance by Mr. Hewitt during this period and the call had been made, or attempted, during one of the several runs back to Edgartown that had been acknowledged and when Mr. Hewitt obviously could not have observed it. Ah, so. Nolo contendere. But did this take 20 minutes?

Now we must reach ahead for bits of the testimony of Messrs. Gargan and Markham regarding this signal event. With Mr. Gargan on the stand, Mr. Dinis asked: 23/

Q: Now, did you have any conversation with the Senator and Mr. Markham on the Chappaquiddick landing that morning?

A: No, not to any great degree. The Senator did all the talk-

the Senator's name, alone. Mr. Dinis asked IV.

Q: Now, with regard to your records, do they show any calls emanating from Chappaquiddick or Edgartown?

A: Yes, they do, sir.

Q: Will you produce the records that show those specific calls emanating from Edgartown or Chappaquiddick for those particular dates, July 18th and July 19th?

MR. PARROTT: If I may address the Court at this point, your Honor, there is some primary evidence...or basic cards that are made by the telephone operator at the time the call is placed. Mr. Malloy has just about all of these with him as to calls originating in the New England area... To assist the Court, he has made a compilation which I think would be helpful..in their chronological time sequence from July 18th to July 19th.

Q: Would you explain this sheet showing the calls that were made as to what times of the day they were made?

A: Yes, sir. Like this first one-- On the 18th, was made at 10:08 a.m. and it lasted for one minute and 20 seconds. That was a call from Edgartown...to Arlington, Virginia.

Q: That this (another call.--Auth.) was made at 12:30 p.m. that day?

A: That is right.

Q: This at 6:39 p.m.?

A: That evening, yes, sir.

On the 19th, the first one was 10:57 (a.m.).

Q: And that call lasted 23 minutes?

A: Twenty-three minutes and 54 seconds, sir.

THE COURT: I ask this question now. You do not require the person initiating the call to identify himself?

THE WITNESS: No, sir.

THE COURT: In other words, anyone can use my credit card if they know the number?

THE WITNESS: Yes, sir.

For so brief an interrogation (even without a small amount of judicious editing, in the author's opinion), the foregoing is fairly burgeoning with anomalies. First, let us note that although the records could pinpoint calls emanating from either Chappaquiddick or Edgartown, the initiating point, (Edgartown) of only the first call was mentioned, along with the distant point. And it is most noteworthy that not only do those operator's original call cards indicate the originating city or area, with the distant point, they show the precise number of the telephone instrument from which the call was made, along with the distant number called. What this means, simply, is that the pinpointing with respect to location can be very exact. It is recommended that this be remembered, as it will assume greater significance a little later on.

Next, since the Senator did not arrive in Edgartown until approximately one o'clock Friday afternoon, the 18th, we may safely infer that at least one other member of the party who arrived earlier was a credit card holder for his Boston number and that that

17/ Ibid. p. 13.

enth calls are in reverse order. Neither of these is hardly worth mentioning, they are so minor, but Kennedy-campers are certain to pounce on the overlapping of times between the properly placed seventh call (5:54 to 6:21) and the eighth call, which began at 6:04 and ended at 6:11. The obvious question generated by this information is how Mr. Kennedy, or anyone else, could have made that eighth call when he was still carrying on the seventh and did not hang up until ten minutes after the eighth call was supposed to have terminated? That looks like a real stickler and no claim is made here for the absolute answer, but two reasonable conjectures can be offered. The first is that the eighth call was made by another party than the one engaged in the seventh. Who this might have been is an open question. Is it possible that one of the other five men went back to Edgartown with the Senator, theirs and other testimony notwithstanding? (Perjury was commonplace during that inquest.) It is doubtful. The one remaining, visible candidate is Joseph Kennedy III, the Senator's 'teen-aged nephew. Young Joe certainly was in Edgartown that night, Jack Olsen²¹ tells us, which appears to be supported by the District Attorney's interest, when questioning Mr. Kennedy, in whether Joe III had also stayed at the Shiretown Inn. "Not to my knowledge", was the reply.²²

The alternate possibility seems at the moment to be the more plausible. That is, that the 5:54 call to Mr. Smith did not last 27 minutes, but only seven. And it would also seem that the error in the length of the call occurred before it reached the Graphic.

Pursuing this avenue, let us note that the eighth call was to Mr. Sorenson (who later defended the trip to Chappaquiddick to make a telephone call) and it is doubtful that anyone but the Senator would have conversed with that gentleman for seven minutes. Could it have been advantageous to have both parties on the line simultaneously? Perhaps, but this would have required two separate and virtually adjacent telephone instruments, unless a "conference" call was arranged, which is most unlikely. An informational squib abridged from the detailing of the sixth call, above, seems to fit well enough with the deductive speculation that the error was in the length of the call. It was: "Throughout the past decade, Mr. Smith publicly has been referred to as an 'errand boy' for the Kennedy brothers." How does one justify conversing at six o'clock on a Saturday morning (even this one) for 27 minutes with his errand boy? And it was hardly a family chat.

Whatever the explanation for these detailing anomalies, errors of greater magnitude and consequence have been committed in publications of greater magnitude. And if the Presidential Hopeful ("Happiness is Kennedy in '72"--or at least in '76) was so nervous at the Police Station as to require assistance in dialing, may we not assume some understandable trepidation on the part of those involved in making this information public and been so affected by it? Let it be remembered that the date of this issue of the Graphic was almost exactly three months prior to the beginning of the inquest, and let us note the things that do line up properly, such as the admitted desire and attempt to call Burke Marshall and the actual

²¹/ The Bridge at Chappaquiddick, section, "The Edgartown Regatta."

²²/ The Inquest, p. 3.

ing and that was basically on the phone. After he finished, I think it was I that suggested that Paul go with him to the Police Station; that I would go to the cottage, tell the girls what had happened and take them back to the Katama.

And Mr. Markham obliged with this version: 24/

A: The Senator wanted to know where he could call. He said he didn't want to use that phone at the hotel there. He wanted some degree of privacy and there were going to be people around. So, Joe told him that there was a telephone on the Chappaquiddick side.

Q: And so you went with him to the ferry and crossed to Chappaquiddick?

A: Right.

Q: And what happened there?

A: He called Dave Burke.

Q: He called Dave Burke?

A: Right.

Q: Did he speak with him, do you know?

A: Yes.

Q: And do you know whether or not he called Mr. Marshall?

A: No, I don't think he called Mr. Marshall. He only called Mr. Burke and asked Mr. Burke to try to get ahold of Mr. Marshall and he wanted to talk to him and just to stand by. The place was going to be flooded with calls pretty soon and to get down to the office and to notify Burke Marshall.

Q: Then what did he do?

A: Then he concluded the telephone conversation. I said, "Do you want me to go to the Police Station with you?" He said, "Yes." He said, "Joe, you had better go tell the others what happened."

Isn't it interesting that none of these three mentioned the brief confrontations with Messrs. Bettencourt and Hewitt? The first, in particular, having been omitted, why was it anticipated that "the place was going to be flooded with calls pretty soon"? And if the name, Dave Burke, is new to the reader, Mr. Burke is an administrative assistant to Mr. Kennedy, and it may be noteworthy that at no point in his testimony did the Senator mention Mr. Burke.

Should we ask why it took some twenty minutes to make a phone call, the time Mr. Hewitt estimated they were there? It did not take that long. Let's remember that they appeared to be "just milling around, waiting for something or someone." Could that "something" have been an incoming phone call? --perhaps from the much sought Mr. Marshall, resulting from the 9:01 call to brother-in-law Stephen Smith? That would certainly establish the previous knowledge not only of the existence of the existence of the telephone on the Chappaquiddick side, but the number that might have been given to Mr. Smith for relay to Mr. Marshall (remember the "swim" and the "looking for boats" matter?).

So, may we surmise that perhaps the original intention in going to Chappaquiddick was to receive and not to make a phone call and that, if one was indeed made, it was after Mr. Bettencourt enlightened the Senator regarding the discovery at Dike Bridge? In this vein, remember that the ferry made two or three round trips before Mr. Hewitt catalyzed them into returning.

Now we flashback to Mr. Malloy, as he explained the information on the sheet concerning "just about all" of the calls that emanated from the Edgartown area that were billed to the Senator's Boston account: "On the 19th, the first one was 10:57." That was approximately approximately an hour and a half after the time of the alleged call from Chappaquiddick and almost two hours after the one from the Shiretown Inn (9:01) "to get Mr. Marshall's number." And we recall that, although he had examined the records of Mr. Kennedy's Washington and Virginia billing accounts as well, he had brought only those records of calls charged to his Boston number. Or would you prefer to believe that both the call from the Shiretown and the one from Chappaquiddick a half hour later (?) were paid for in nickels, dimes and quarters? (Let this be perfectly clear before leaving this discussion: Both Messrs. Malloy and Parrott are honorable men--so are they all, all honorable men (and women).)

Now another flashback--to the discussion of Anomaly R (p. 42). Do you still believe the Senator didn't know what time it was, that he couldn't find his watch, dressed and went out looking for a clock or someone with a watch? Or would you rather believe he was looking for a telephone? (The Shiretown evidently does not have telephones in each room, or the switchboard was understandably closed at that hour; else, why should the 9:01 call have been from a public phone?) Would the Senator want to admit this to Mr. Peachey, whom he neither expected nor wanted to meet? After Mr. Kennedy returned to his room (with the knowledge of the time), did he wait a half-hour for Mr. Peachey to leave for the night, then go back down to the deserted lobby and make the 2:54 a.m. call in an attempt to reach his dear old friend, Burke Marshall? Did he then return to his room for a couple of hours, where he "almost tossed and turned" and paced the room wondering what to do about the accident and grieving for the loss of a devoted friend?

Whatever the answers to these questions, do you have a better understanding of why the Senator said (footnoted 19, p. 15) that he "never really went to bed that night?"

By the way, if his watch wasn't waterproof, it wouldn't have done much good if he had found it. Or did he "forget" it early in the evening as he left for the cook-out? Or would it have been run down by that time, in any event?

ANOMALY U (p. 18)

This is one of several anomalies that must be shared with Senator Kennedy, Judge Boyle being one, the extent or degree being arbitrary. It refers, of course, to Mr. Dinis's having just asked Mr. Kennedy if he had, indeed, done what he claimed in his statement with regard to notifying the police. He was at the very sword-

point of having to face obvious perjury when his honor intervened, as he did on several other occasions.

What is more apparent than that the Senator had "fully realized" what had happened, even, for the sake of argument, accepting his questionable account of events? One of the defenses was an affidavit from Robert D. Watt, M.D., with offices at Cape Cod Medical Center, Hyannis. Dr. Watt stated that he had visited and examined Mr. Kennedy on July 19, 1969 (obviously, the afternoon) and diagnosed "concussion, contusions and abrasions of the scalp, acute cervical strain." He said further, "The diagnosis of concussion was predicated upon the foregoing objective evidence of injury and the history of the temporary loss of consciousness and retrograde amnesia. Impairment of judgment, and confused behavior are symptoms consistent with an injury of the character sustained by the patient."

25/ It is most apparent that Dr. Watt did not question the history as it was given.

Another conceivable defense is to draw a rough parallel with certain boxers, for example, who have been known to fight several rounds they were subsequently unable to recall. In such instances--and no doubt there are others not limited to boxing--the seemingly intelligent actions of the individuals were due largely to conditioned reflex. They were engaged in activities for which they had undergone intensive training as to courses of action under varying circumstances. In other cases, actions for which there was subsequent amnesia may have been due to extensive repetition, which is merely another form of conditioned reflex. But such was not the case here in either instance. Consider, for example, that rationality was required to go to the cottage for assistance, having recognized his own limitations. And let us recall a portion of his dramatic response, footnoted 17 on page 13, where he said, "A lot of different thoughts came into my mind at that time about now I was going to really to be able to call Mrs. Kopeckie at some time in the middle of the night to tell her that her daughter was dead..". Is this not full realization? Does it indicate "confused behavior" when (he said) he instructed Messrs. Gargan and Markham "to take care of the girls" and that he would "take care of the accident" just before plunging into the channel at the ferry slip (?). Had he been in a state of shock, with impaired judgment, would these two gentlemen not have noticed it immediately, such as when he gave "suggestions" to them in their diving attempts a full hour previously at the outset of the resumed attempted rescue operation? (See response footnoted 15, page 13.) And they had no qualms whatever about his ability to swim the channel.

In Edgartown, Mr. Peachey saw nothing unusual in his bearing or manner; it was what he was doing, not how (?), that had aroused his curiosity. Neither was there any suspicion of drunkenness.

As if the preceding were not enough, there was his behavior following daylight--those he met and talked with before the trip to Chappaquiddick (p. 15, following the response footnoted 19). Once again, Jack Olsen recounts in his finest style^{26/} the casual, leisurely manner in which the Senator went about these early morning chance happenings. That, of course, was necessarily only hear-

25/ The Inquest, pp. 90,91.

26/ The Bridge at Chappaquiddick, section, "The Morning After."

say, but we can find sufficient evidence for credibility from two sources in testimony given at the inquest. The first of these was from Mr. Ross Richards, one of the Senator's yachting comrades, who also, by chance, had a room practically adjacent to Mr. Kennedy's at the Shiretown. Mr. Fernandes asked Mr. Richards: 27/

Q: Now, did you have occasion to see the Senator or Mr. Kennedy at approximately 7:30 on the 19th?

A: Yes, sir.

Q: Would you tell us where you saw him?

A: I was entering from Water Street, taking a left into the cottage at Shiretown and he was walking in a westerly direction towards me and I was walking in an easterly direction.

Q: And did you have a conversation with him at that time?

A: At that time we said, "Good morning", and he turned and I kept walking, nodded and said, "Good morning", and he turned and walked with me.

Q: What was the conversation at this time?

A: It was about the prior race the day before, I happened to win the race and he congratulated me on it and we discussed that back and forth for maybe ten or fifteen minutes.

Q: So you walked and discussed this matter and then you went up to the porch or deck which is adjoining both rooms and you also discussed this?

A: Right.

Q: How long were you in his company all told?

A: It was until 8:00 o'clock.

Q: So, would it be safe to say approximately half an hour?

A: Half an hour.

Q: And within this time you had conversation with him?

A: Yes.

Q: About the races and anything else?

A: And the weather. It was a nice day.

Q: Was there any discussion about Chappaquiddick Island?

A: There wasn't a word mentioned of Chappaquiddick.

Q: Were you joined by anyone?

A: Stanley Moore followed behind us and he was sitting on the porch with us.

Q: And he, too, shared in this conversation?

A: Yes, sir.

Q: Now, what observations, if any, did you make of the Senator at this time as to any injuries, his appearance or attitude?

A: I didn't notice anything out of the ordinary.

Q: You noticed nothing out of the ordinary in his speech?

A: In his speech, no.

Q: In appearance?

A: In appearance, no.

Q: Now, did anyone else join or come onto the deck during that time?

A: My wife came out around 7:50. She heard us talking out there and we were about to go to breakfast, so she came out and sat for five or ten minutes.

Q: Did anyone else come?

A: No, sir.

Q: Were you ever joined or see Mr. Markham or Mr. Gargan that morning?

A: Mr. Markham, Mr. Gargan-- I remember the bell at 8:00 o'clock. It rang and we asked the Senator if he would like to have breakfast with us and he said, no, he wouldn't, but he may join us later, and at that time Mr. Markham and Mr. Gargan--

Q: May I stop you? -- You said the Senator discussed the possibility of joining you at breakfast later?

A: Later.

Q: And then you say Mr. Markham and Mr. Gargan came on the deck?

A: Yes, sir.

Q: What happened when they came up on the deck?

A: They went directly to the Senator's room and opened the door and he followed them into the room.

Q: Did you see them confer?

A: No, I didn't.

Q: They did not confer prior to entering the room?

A: They did not.

Q: Did you see them leave?

A: No, I didn't.

Later that day, Tuesday, Mr. Markham gave the following as his version of the episode.^{28/} It could not be as complete, but 'tis enough. He was asked where in the Shiretown he went upon returning to Edgartown that Saturday morning.

A: I went in along the side up into the back courtyard there. I went up the back stairs to the porch which was outside of the room, where the Senator's room--

Q: And where was the Senator when you saw him?

A: He was seated out on the porch at a table.

Q: Who was with you at this time?

A: Mr. Gargan.

Q: What did you do upon arriving there, what did you say?

A: I didn't say anything. I went up the steps. I saw the Senator seated there and it was obvious to me at that time that nothing had been done.

Q: Well, how was it obvious to you that nothing--

A: Well, there was no commotion. There was no--he was just seated there at the table.

Q: Alone?

A: No. I remember Mr. Richards being in the immediate vicinity and also another gentleman.

Q: Was it Mr. Moore?

A: Moore. Stan Moore, right.

Q: And did you have a conversation at that time?

A: At that point, no. I went directly to the door of the room where he was. It was locked. I think he told Joe Gargan that he

had left the key inside and closed the door and Joe went down and got another key and returned.

If this portion of Mr. Markham's testimony is the truth, the whole truth and nothing but the truth, and if the Senator's kicking himself out of his room (who doesn't do this occasionally?) indicates confused behavior and impaired judgment, then we must accept Dr. Watt's opinion without question.

With further reference to Dr. Watts and his affidavit, and to strive to match Senator Kennedy's assiduousness and desire for completeness, it would be in order to mention that Judge Boyle rejected the affidavit "because he considered it to be immaterial and not pertinent."^{29/} With the affidavit subjected to close scrutiny, however, this rejection increases Judge Boyle's share in this anomaly, the exposition of which again requires a little review.

We must revert to Senator Kennedy's testimony, page 8, and the response footnoted 7. This, of course, was reiteration of the same declaration made in his statement at the Police Station (page 17), as well as in his famous radio/TV "explanation", which was, essentially, "I have no idea how I got out of that car." Dr. Watts mentioned "retrograde amnesia", it will be recalled (page 53, footnoted 25). Perhaps, like the "double floods" and "double ebbs" they have in the tides at Edgartown, there is something like "double retrograde." This will be more clearly understood (or will it?) if we refer to the specific "history" Dr. Watts referred to, apparently as it was given to him.^{30/}

The history of the present illness was as follows: (The Senator) stated that he had been in an auto accident last night on Martha's Vineyard. The car went off a bridge. There is a lapse in his memory between hitting the bridge and coming to under water and struggling to get out. There was a loss of orientation--at the last moment, he grabbed the side of an open window and pulled himself out. He was not clear on the events following but he remembered diving repeatedly to check for a passenger--without success. He went for help and returned. Again, effort to rescue passenger was without success. He was driven to the ferry slip and swam to the main body of land. He went to his hotel where he slept fitfully until 7:00 a.m.

Retrograde amnesia? Well, in his talk with Dr. Watt, Mr. Kennedy evidently had amnesia for having told Police Chief Arena in that unsigned statement he collaborated with Mr. Markham on that he had "no recollection of how (he) got out of the car", and that was only a matter of hours earlier. Then, on radio/TV he reiterated the denial of how his escape came about, evidently having experienced amnesia for what he told Dr. Watt. The amnesia was unquestionably still in force during the inquest. This sounds more like "oscillating" amnesia.

But anomaly seems to beget anomaly. Note the alleged "loss of orientation." In what way? The Senator fully realized that he was upside-down (page 7) and he remembered clearly enough the direction the tidal current swept him (he said), and even drew a dia-

^{29/} Ibid., p. 39.

^{30/} Ibid., p. 90.

knowing

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grams and sketches of his movements--where he dove, and the position of the submerged Oldsmobile in relation to the bridge. He experienced no difficulty in finding the cottage on foot. Just what kind of orientation did he lose?

And shall we note, again for the sake of completeness, that in Dr. Watt's account the window was open, whereas, on the witness stand (page 7) he said the window was closed. (That he reversed this on the very next page and said it was open is further indication of "oscillating" amnesia.)

Finally (?), we note the statement that after returning to his hotel he "slept fitfully until 7:00 a.m." This is more anomalous, of course, but we must remember that Mr. Kennedy was not under oath when he gave that account to Dr. Watt. However, one may notice that he snapped out of it rather quickly and without much difficulty when Mr. Richards' testimony is considered.

This fits well enough in the schedule of telephone calls detailed by the New York Graphic, please note (Anomaly T). He met Mr. Richards at approximately 7:30 a.m., which means he could have just made the tenth call at 7:19. Then, after going into the room at approximately 8 o'clock, he could very easily have made the eleventh call, after conferring with Messrs. Gargan and Markham, at 8:14. This over at 8:56, he went downstairs and made the call from the public phone at 9:01. These first two calls mentioned, at 7:19 and 8:14, would be predicated on a telephone in the room and the switchboard now open. Mr. Tretter's testimony^{31/} fits well enough, too, as he recounts how he unintentionally intruded into the room to find that it was a "private thing" and was requested to leave. This was a few minutes after eight.

There is an insistent question concerning this matter of the Senator notifying the police when he had "fully realized what had happened." First, however, a supposition or two are necessary. We recall that Mrs. Malm called the police because two boys had knocked on her door that morning and told her there was a car upside-down near the bridge. Then word got around rather quickly and Mr. Betten-court heard about it, who, in turn, informed Senator Kennedy, who ~~thereupon~~ shortly after fully realized that his identity as owner of the car would become known from the license number being checked (it was, in fact). Now then, suppose the two boys had not decided to go fishing (that is what took them to the area) that Saturday morning and that no one had crossed the bridge. Or, suppose that, instead of being remarkably clear, the water around Martha's Vineyard was very muddy and the car had not been visible, not even at low tide.

Question: How long would it have been before the Senator decided to notify the police? If this question seems unusual, let us remember that he told Mr. Richards that he might join him and his wife for breakfast "later." And shall we also remember that the information first given out to the members of the party was simply that they "couldn't find Mary Jo?" She was "missing."

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