

15 JUNE 68
THE NEW YORK TIMES, 5

TV: Truman Capote Defines His Concept of Justice

He Offers Theories on the Assassinations

By JACK GOULD

IDLE speculation over the guilt or innocence of murder suspects who are in custody but have not yet been brought to trial surely is not within the acceptable province of entertainment television shows.

On Thursday night's Johnny Carson program over the network of the National Broadcasting Company, Truman Capote, author of "In Cold Blood," indulged in an orgy of rampant conjecture on the assassinations of President Kennedy, the Rev. Dr. Martin Luther King Jr. and Senator Robert F. Kennedy.

Mr. Capote adroitly argued that there was a possibility all three assassinations were part of one large conspiracy rooted in the "Manchurian Candidate" theory of disrupting a nation through calculated murder of selected national leaders. Under far from adequate questioning by either Mr. Carson or Ed McMahon, Mr. Capote threw out the conspiratorial concept and then deftly backtracked that it might not be so. But save for the element of coincidence in the method of the assassinations the damage was done in giving coast-to-coast prominence to a possibility that thus far is a long way from a proven fact.

But where Mr. Capote's

televised behavior was infinitely more disturbing was in its implied invitation to millions of viewers to disregard the judicial process and reach independent judgments on who was guilty or who was not before verdicts have been reached in the courts.

Mr. Capote, for a specific example, said flatly that he did not believe James Earl Ray, arrested in London and accused as the slayer of Dr. King, murdered the Negro leader in Memphis. In virtually the same breath he asserted that Sirhan Bishara Sirhan was guilty of murdering Senator Kennedy because, he said, there were so many physical witnesses to the crime.

Mr. Capote, who may persuade mass audiences to believe that he is an expert in all kinds of crimes because he wrote about one case at great length, should display more responsibility. No matter what one reads in the newspapers or sees on television the determination of guilt or innocence of an individual legally remains unsolved until the trial court and subsequent appeals courts finally act.

In support of "The Manchurian Candidate" theory of selected murders, Mr. Capote cited the trial of black militants accused of threatening the lives of outstanding Negro leaders. His unmistakable implication was that the case was a fait accompli. He omitted mention that as he spoke the trial was still

continuing in State Supreme Court in Queens and the defense had yet to be heard.

Mr. Capote ridiculed the composition of the President's Commission on Violence, a matter that falls within the range of fair comment, and he condemned the United States Supreme Court for decisions that tilted the scale in favor of criminals, a balance of the judicial process equally open to a legitimate diversity of opinions.

But Mr. Capote's concluding remark reflected the writer's essential impatience with legal procedure. As a practical matter in today's trying times, he suggested that he truthfully thought it better if one innocent person is punished rather than to have 100 guilty persons go free. If it becomes a matter of accepted national policy, rather than a deeply disturbing inadvertence, that prosecution of the guilty can only be done at the expense of a certain percentage of the innocent, then the rule of law turns into a jungle.

No one would deny Mr. Capote's right to harbor any opinions, but a television network does have a journalistic obligation to see that cases still pending in the courts are not casually second-guessed outside legal channels. If the country disapproves of individuals physically taking the law into their own hands, then it can no less frown on individuals intellectually doing the same.

Uses Carson's Show for Conjecture Orgy

Television has ample facilities to keep abreast of all the developments in the King and Senator Kennedy assassinations. But journalism as a whole will suffer irreparable damage if personal editorials by laymen on the guilt or innocence of suspects before trial become commonplace on the airwaves and defense counsels raise the inevitable question of whether prospective jurors may have been unduly influenced.

Mr. Capote's untoward remarks will not help resolve the difficult problem of simultaneously protecting the rights of free trial and the rights of free press. If popular entertainment shows such as Mr. Carson's are cluttered up with the random guesses of celebrities that one man is guilty and another innocent, then the courts and the American Bar Association may be amply justified in urging more stringent measures against excesses in journalism in criminal cases.

Mr. Capote said he had made a personal bet of \$1,000 to \$500 that neither the King nor Kennedy assassination suspects would come to trial within a year. That he prefers his own instant verdicts on TV is a form of justice far more frightening than the law's possible delay.