

CONDEMN AND DEFEND THE UNWRITTEN LAW

TWO SIDES OF THE QUESTION

Man and Woman, Prominent in Public Life State Their Views on Subject at Present of Much Prominence—The Right to Defend the Integrity of Family Life Is One of the Pleas Made—Only Punishment to Fit the Crims.

BY JOAQUIN MILLER.

A woman, good or bad, shot a man, good or bad, in his hotel in our national capital, the other day. She stands, she says, "intrenched behind the 'unwritten law.'" She claims to have chased this man from Utah to Washington and shot him to death in his hotel, because he refused to provide for her and her two children; that she has twice been made a mother; that one of the children bears his name.

We have, up to date, been pretty tolerant of the woman who takes a babe on one arm and a pistol in the other hand and pursues a man to his death. But when there are two children, as in this case, one may well ponder a bit before he gives her the tears and tenderness so generously given to the guileless, misguided girl.

Like Highwayman's Act.

A woman cannot well come into court with a family of children and plead seduction and betrayal, as a girl too often does, and have the sympathy of both men and women. This woman's statement is that she asked the man either to marry her or give her money to support her children. He said "No; I will not," and with that she shot him to death, or, at least, did her best to kill him on the spot. Briefly and bluntly she shot him down in his hotel for refusing to give her money. The difference between this act and that of the ordinary burglar or highwayman is not very distinct.

Her declaration that the world will see the justification of her act is as the declaration of an insane woman. And this must be, as you will see, is her only excuse; and it will be pleaded so soon as a lawyer can be found to take care of her, her only defense. Yet there will be many ready to say "served him just right;" will say it without waiting to hear one single word of the other side. Sitting at a table to-day, some one read the woman's statement, wherein she supplemented the story of the attempted murder with the assertion that she "had not one cent." Whereupon a beautiful lady of more than ordinary culture and knowledge of the world was moved to tears and sighed: "Not one cent; think of it! But a hardened man, a husband and father with a family of daughters, sighed from the other end of the table: "Ah, my dear, there are others who have not a cent. If we are to allow all those who have not a cent to set out and chase those down who happen to have a cent or two where will that sort of plea lead us?"

Victim's Morals Irrelevant.

As said before, as to whether this man is a good or bad man, high or low, rich or poor, or whether the woman is either, neither, or all of these, does not figure at all in this dismal and pitiful case. Can a woman leave her children behind her and chase a man thousands of miles, and then when she murders him put as her last excuse the fact that she has not

Count up on your fingers, if you can do it on both hands, how many cases of this "unwritten law" idea have been conspicuous since the silly and insolent young idler in the Tombs began to exploit his defense for shooting a useful and industrious man in the back. Why, right in the column next to the ugly account of the "woman without a cent," who left her babes behind to travel for days and nights to kill a man, you read of a woman killing a doctor and pleading in justification "unwritten law." Pity her? Yes. But put her quietly in some good asylum, and, above all, don't exploit her as you have the young lunatic in the Tombs, who so enjoys being exploited. For see what comes of it all. The most piteous case of this character took place a stone's throw from the White House, in front of the old house where the assassins tried to kill Seward the night Lincoln was murdered. But it took place quite a dozen years before the fateful night at Ford's theater. A young politician of great promise, and, too, of subsequent great achievement, was living with his notably young wife on that same side of the square. A great iron fence enclosed the square at that time. Had it not been for that fence his retreating victim might have fled and escaped.

Two Cultured Victims.

Both the young men in this very first "unwritten law" tragedy were men of fortune, culture and position. One, the son of a poet who wrote "The Star Spangled Banner," the other a member of congress from New York and equally conspicuous and respected. The member of congress, seeing the other leave his home and wave a handkerchief back to his young wife, leaning out of the window, confronted him there by the iron fence in front of his door and telling him of his shame and that he must die, followed him up and shot him to death. I was reading law at the time of the trial and followed the case closely. I remember reading with surprise the plea, not of the advocate, but the plea of the judge for the prisoner. I recall how one of the jurors, the oldest of them all, going down on his knees in a corner of the jury room, prayed long and loud for the divine guidance in holding the hearthstone sacred.

The man was acquitted, partly because it was made to appear that he really loved his wife, but mainly because the victim had by his acts and some foolish admission to a friend, made it appear that he had no real heart in the affair, but rather gloried in his crime. It is to be admitted that the hearts of all, both women and men, were with the wronged man, especially when he again took the frail woman to his heart and lived the life of a good husband till death took her from him.

Lines By C. H. Webb.

As an example of the unexampled pity for both parties to the tragedy let me quote a few lines written at the time by C. H. Webb, of New York,

almost anything. But I defy you to find anything like this "unwritten law" in all the lessons, laws, precepts and examples to be found between the lids of the Book of Books. I confine you let us live by the sacred decalogue. There is all the law. Accept the sermon on the mount, the holy lesson of our Savior, who prayed, "Forgive us, as we forgive others."

"Unwritten Law" Is New.

It may be well enough for those who care to entertain any sort of patience with the "unwritten law" plea to understand distinctly that it is entirely of mushroom growth and character. Think of Draco or Lycurgus entertaining such absurdities. You will see nothing of the sort even hinted at in Justinian's code. Coke upon Littleton, no commentator, ancient or modern, ever mentioned anything of the sort. The law was the law, that was all. Blackstone was a brave, bright poet, a sentimentalist as well as mighty expounder of the law. But surely he would have laughed in the face of any advocate who might have dared to talk to him of the "unwritten law." There is literally nothing of the sort outside of America, and there is really nothing of the sort here except a sort of subterfuge for law, used by demagogues. And the sin of it all is the misleading of silly people who mock at the laws that have cost so much toll and are costing so much to maintain them—

threatened her life, if she had retreated to the wall to elude him, it would have been a case of justifiable homicide. But his crime against her was a more atrocious one than murder. It took away her good name, the love and affections of her friends and relations, her future, her faith in and respect for herself—and her trust in God and man.

Written in the Mother's Heart.

And, again, the man takes, under the unrighteous laws of certain states, his child away from its mother. Which law comes first—that written in the statute books or that written in the heart of every mother by the pangs of childbirth? So sure as she lives, that mother will obey the unwritten law, and the child she will have. It is only ten years since there was taken from our statute book the law that a man could by will give his unborn child to whom he pleased, without reference to the paramount claim, by affection and suffering of its mother.

A member of the bar in the one state in the union where there are no divorce laws once told me that in his state they had no serious trouble as to domestic infelicities. "If a man abuses my sister he knows whom he has to deal with." In this case the unwritten law seemed to be preferred to the statute law, which severs the marriage bond on adequate grounds well proven. I suggested to the gentleman that all women were not so



cranks seeking notoriety through the newspapers. And oh, the pity of it! Pity for living and dead! But pity most for this deadly disease spreading over the land like a plague, which laughs at the decalogue, the holy lessons and the life and death of Jesus Christ, invoking the hideous and defiant plea of "the higher law."

FOR UNWRITTEN LAW

Dean of the Washington College of Law Defines It as the Right to Defend the Integrity of Family Life.

BY ELLEN SPENCER MUSSEY.

Dean of the Washington College of Law. The unwritten law might be defined to be right to defend the integrity of family life against all invasion and invaders. While the family has no distinct legal entity apart from the persons who compose it, yet, in the interest of society, the law holds the more intimate family relations as sacred and not to be inquired into by a court of justice. It is on this ground that communications between husband and wife are privileged, and they cannot testify as to confidential communications made by one to the other during the marriage.

Marriage is a civil institution as well as a contract, and it should be a religious sacrament. Law cannot make or unmake the true marriage relation, but so far as the relation concerns society and the state, it must control it.

The Family as a Unit.

The law regards carefully all property rights. It deals promptly with the trespasser and the thief, and enforces contracts. The murderer, the embezzler, the perjurer, have justice meted out to them as enemies of the commonwealth.

But the law does not deal with the family as a unit. Every student of sociology knows that the homes of the commonwealth are its real cornerstones, but the law does not recognize it. It is the one institution still left to the defense of the head of the family. In the very nature of things, there is always a woman in the case. If the crime is against her personally, if she be over the age of 16, what remedy does the law give her?

A young woman went into a city to support herself, unwarned, inexperienced; her faith and her affections found an unworthy object. Too late, she found the man was already married, and in a wild moment she shot him fatally. If the man had boldly

fortunate as to have brothers, but the reply was that seldom was there a case in which there was no male relative, and that he believed that were such a case to arise of gross abuse, there was always to be found in the community a man who would protect the woman and her rights.

Two Noted Tragedies.

Who that reads the recent trial of Gillette for the murder of his victim can forget the coolness with which he claimed he said: "Tell your father; if you don't, I will." There comes a mental picture of that father and what swift vengeance he would have meted out to the destroyer of his child. Was Gillette such a degenerate that to him the unwritten law had no meaning, or was he merely talking for effect?

The unwritten law which says "Vengeance is mine," is no excuse for the disgraceful broils of the degenerate man and woman who find their only pleasure in dissipation. The man who despoils innocence himself—who gives his name and his protection to a woman whose life has been like unto his own, is not in any sense the defender of what the home stands for. His sense of moral obligation for himself is too blunted to fit him, to judge of the transgressions of another. He is himself an outlaw when judged by the standards of common morality. His propensity to shoot is the result of a heated brain, or the lack of brains.

No woman, no man, is safe with such a creature at large.

Let us add to the unwritten law another section: "Let there be no invidios against the chastity of woman, but only straightforward statements with page and verse," and the violator of this law shall be placarded: "This person took away the good name of another without cause," and walk the streets in shame.

In the heart of every man, there dwells first, absolute faith in his mother. That is his birthright, and in proportion to his faith in and affection for his mother will be his faith in and affection for his wife. On that foundation is built his attitude to his offspring. The true son, the true husband, the real father, in all these relations, owes to the home a clean standard of living. He should never invite into that home a man who does not himself respect virtue. The man who is a despoiler of virtue in one instance is an unsafe guest and friend. How much more so, when license is his rule of conduct.

"Protect my innocence or I fall into the trap that is laid for me."

THIS IN NEBRASKA

EVENTS OF INTEREST OF MORE OR LESS IMPORTANCE.

President Reusing Speaks of Charities and Corrections—Mr. Bryan to Speak at Peru.

OMAHA—In his annual address before the Corrections and Charities conference in this city, President Reusing paid many tributes to the condition of charities and corrections and spoke of the courtesy of Superintendent Morris of the Associated Charities in arranging for the conference. He declared that because the political laws of the state were such that inexperienced men and women are too often put in charge of the state institutions only to be removed in two years and succeeded by other equally inexperienced men and women, it has been found necessary to form a board, whose duty it was to inquire into causes of dependents and delinquents and to relieve the needs of unfortunate. He deplored that in the entire organization, there were no more than two dozen active workers, the rest being merely sympathizers and would-be office-holders.

"A few enthusiastic workers," he said, "have formed what is known as the Nebraska State Conference of Charities and Corrections. Its work and aims may be summed up as follows: First, to disseminate and intensify interests in charity, seeing to it that only those receive charity who deserve it and will be benefited by it. Third, to rationalize penalty, taking the idea of retribution or vengeance entirely out of it. Fourth, the reform laws, institutions and administration, according to the above advanced ideas. Fifth, so far as we can to give such a healthful system and to man's whole moral and civic life that fewer will tend to poverty and crime than do now."

Mr. Bryan at Commencement.

PERU—President John A. Woodard of the senior class of the state normal, in reply to a unanimous invitation from the class, has received the following letter from Colonel W. J. Bryan:

"My Dear Mr. Woodard: I thank you for the very kind invitation which you extend on behalf of the class, and I am glad to note that your commencement comes at a time when I shall be at home, and I take great pleasure in accepting. Please present my compliments to the class and assure them that I appreciate the honor which they do me."

Mr. Bryan's acceptance has occasioned much gratification, not only among the members of the senior class, but the other classes as well, and among the friends and patrons of the school. Colonel Bryan's non-partisan address made in chapel during the campaign here was regarded, as one of the best addresses ever given at Peru. His coming again will be hailed with pleasure by patrons and students of the school.

Petition for Pardon.

A lengthy petition with many signatures was presented to Gov. Mickey by Attorney L. W. Billingsley, asking for the pardon of Charles D. McMillen or Red Crow, who has served three years of a sentence of eight years for the crime of manslaughter. The governor paroled McMillen some time ago to a harnessmaker at Benedict, but he returned voluntarily to the penitentiary, claiming that he feared that his surroundings there were such that his temper might get the better of him and also get him into trouble again.

Good Prices for Land.

STERLING—Land about Sterling is bringing good prices. Last week E. Zulke bought the 220-acre farm of J. R. White seven miles north of Sterling for \$29,000. It is one of the best improved farms in this county. The following week George Frey of Hebron, Neb., bought the H. G. Fitch 160-acre farm two miles east of Sterling for \$12,000.

Attempt to Burn Schoolhouse.

BRADSHAW—An attempt was made a few nights since to set fire to the public school building at this place. The scheme had been carefully planned by the would-be incendiary. A box about ten inches square had been filled with excelsior which was well soaked with coal oil, while over this had been drawn a sack well soaked with oil.

Engineer Teal Drops Dead.

NORFOLK—Andrew Teal, one of the oldest and best known Northwestern engineers, who had been in the service for many years here, dropped dead from heart failure.

A Woman Falls Dead.

KEARNEY—Apparently in the best of health, Mrs. Albin Lund, wife of a prosperous and prominent farmer east of the city, fell dead at her home, from heart disease.

Argument of Tax Case.

The famous Nebraska railroad tax cases which the railroads have been trying persistently to stave off will be argued before the United States supreme court at Washington, Tuesday, January 22. This date was agreed upon between Attorney General Norris Brown, representing the state, and Charles J. Greene, special attorney for the Burlington, who was armed with written credentials authorizing him to act for John N. Baldwin, for the Union Pacific.

NEBRASKA BRIEFS.

The Kearney Realty company has filed its articles of incorporation with the secretary of state.

The Enevoldson Land company of St. Paul has been incorporated with a paid up capital of \$8,000.

E. L. McGregor, a wealthy farmer of Cedar county, suicided last week. His dead body was found in his barn.

Sam Thomas, who was arrested at Keokuk, Ia., for swindling, is wanted in Fremont, for the same kind of a job.

A matrimonial agency in St. Joseph got \$125 out of a Cass county man, but the promised wife was not forthcoming.

The Salvation Army on Christmas day distributed twenty-five baskets of food and over 150 garments to the worthy poor of Beatrice.

The Andrews Dental company of Omaha with a paid up capital stock of \$25,000 filed its articles of incorporation with the secretary of state.

The 2-year-old son of Mrs. O. F. Willems, living near Diller, pulled a can of hot lard over and was badly burned about the neck, arms and thigh.

Switchman Mose S. Jennings, at the McCook yards lost a leg in an accident while switching cars. It was amputated below the knee. He will recover.

Seigle Crossley, a farmer living seven miles north of Mason City, had his foot crushed in a corn sheller. It is thought the limb will have to be amputated.

At North Platte, after a sensational trial at the preliminary hearing of Miss Mirth Clark for the murder of John Leonard, the county judge discharged the defendant.

As showing the tendency of Pawnee county lands to advance, F. M. Colwell sold last the forty-acre fruit farm of G. R. Martin, one-fourth of a mile west of Table Rock, for \$110 per acre.

At the annual meeting of the stockholders of the Bruno State bank of Bruno, it was unanimously voted to increase the capital stock to \$10,000 and erect a new modern brick bank building.

The annual report of the treasurer of the State University Athletic board has been made and it shows the total receipts for the year were \$17,689.50 and the expenditures \$15,296.27, leaving a balance of \$2,393.27.

Thomas and Robert Halpin, the oldest 15 years old, living with their uncle and guardian in Valley county, are said to be the victims of such cruel neglect that the matter has been investigated by the county court.

Andrew Teal, one of the best known locomotive engineers in the state, died at Norfolk from valvular heart trouble. Mr. Teal had just completed his twenty-five years of service for the Chicago & Northwestern railway.

The Tecumseh city council has passed resolution and placed the same upon record pledging the council to raise annually the \$600 required by Andrew Carnegie for the maintenance of the proposed new library building.

Andrew Arnold, an old Gage county resident who was thrown from his horse a few days ago at his farm near Inavale, died from his injuries which resulted in concussion of the brain. He was 56 years of age and leaves a widow and six children, two daughters and four sons.

Vernon Bascom, cashier of the National bank of rawnee City, received a message from Centralia, Wash., to the effect that his brother, Frank A. Bascom, a conductor on the Northern Pacific, running between Portland and Tacoma had been injured in a wreck, and probably would not live.

A claim for \$350 for interest on a claim of \$3,300 will be filed with the state-auditor by O. B. Poik, of Cleveland, O. The company, after being in litigation with the state of Nebraska for fifteen months, obtained judgment for the \$3,300, and now wants the interest on its money from the time the contract was completed until the case was decided.

The requisition of the governor of Colorado for the return to Fort Collins of J. B. Flora has been honored by Governor Mickey. Cousins, who is now under arrest at Omaha, is charged with obtaining money under false pretenses, it being alleged that he borrowed a horse for an hour and secured from Howard Russel \$90 under a chattel mortgage on the animal.

Less grain was produced in Nebraska this year than last, according to the estimates made by the state labor bureau on the acreage and production of the various crops. An increase of about 8,000,000 bushels is noted in winter wheat, but spring wheat fell short about 200,000 bushels. Corn fell short almost 2,500,000 bushels of the production of last year.

Twenty-two stacks of hay belonging to Al Tift on land southeast of North Platte, near the stock yards, was burned. The tonnage destroyed was in the neighborhood of 150, and the total loss will amount to over \$1,200.

J. D. Brown, for fifteen years the leading business man of Burchard, has sold his stock of general merchandise and retires from business with a comfortable fortune.

Letters written three years ago were last week found in the United States mail box in the Omaha National bank building, where a defective box had prevented their being seen and removed by the mail gathered since the time they were dropped in the box.

Of the remaining \$4,400 indebtedness on the city electric lighting plant at Tecumseh, \$2,000 will be paid January 1. It was hoped the council would be able to free the debt at this time, but it was not. During the past year the city has reduced its total bonded indebtedness \$4,000.

Recent Cases Involving the So-Called "Unwritten Law"

- Mrs. Anna Bradley** Shot and killed former Senator Arthur Brown of Utah in Washington hotel for refusing to marry her. Held on murder charge.
- Mrs. Angie Birdsong** Killed Dr. Thomas Butler at Monticello, Miss., for boasting of alleged relations with her. Found guilty of manslaughter.
- Amasa C. Campbell** Killed Dr. Benjamin Harris of Chicago in lawyer's office because he says victim wrecked his home in Antigo, Wis. Case pending.
- Lucille McLeod** Tried on charge of murdering William T. Nieman of Chicago in Empire hotel. Nieman had promised to marry her. Was acquitted.
- Harry K. Thaw** Killed Stanford White in New York Roof Garden Theatre, alleging White had ruined his wife, Evelyn Nesbit Thaw. Murder trial pending.
- Nan Patterson** Tried and acquitted of killing Caesar Young, a bookmaker, in a cab in New York. Had lived with Young, who was married.

a cent? Surely any one not entirely insane should have saved the price of the fare for her children. "Unwritten law," indeed! There is a weak and foolish fop in New York who has kept the press busy for half a year guessing whether he will plead in defense of cowardly murder, when he slipped up and shot a brilliant man of brains and achievement in the back, this same "unwritten law" or simply emotional insanity.

Now, have we not had about enough of this "unwritten law" nonsense? Who will be the next man or woman to shoot someone in the back or belly, and plead the "unwritten law"? I say and you know that had it not been for the noisy and foolish fop in the Tombs with his plea about the "unwritten law" this poor woman out of the far west would be at home to-day with her children and her victim on his feet about his business.

son of a prominent politician at the time, and our minister to Mexico: This for the wronged member of congress:

Blood on his hands,
A stain on his bed;
Pity them all—
Living and dead.

And this is for the handsome and dashing betrayer:

Billows of sod
Swell o'er his breast
Pleading with God—
There let him rest.

Sentiment is noble and inspiring. I have no use for either man or woman without deep and sincere sentiment and sympathy in all things. But you search the Bible in vain for anything like this "unwritten law" disease. There are those who tell you that you can find anything you want to find in the Bible. And, true, you can find many strange things. You can find