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 Crime.

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 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 today with her children and her victim on his feet about his business.

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, son of a prominent politician of 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 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 toil and are costing so much to maintain them—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 so 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 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 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 innuendos 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."

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.*

THE LIE CHARITABLE

BY HARLAN EUGENE READ

When it came to the point of actually carrying out his intentions on that wonderful May afternoon, Mr. J. Spencer Parker seemed to accomplish no more than a hunting dog chasing a rabbit in the tall rye, continually jumping up and down and never getting anywhere. A dozen times he walked resolutely toward the brass door-knob of 1316, and as many times he concluded to saunter languidly past, as if he had no other reason for appearing in that neighborhood than simply to sun himself. But finally he summond up courage enough to pull the bell-knob, and an imitation cow-bell tinkled in the back of the house.

"J. Spencer Parker, upon my word!" exclaimed the middle-aged woman who came to the door. "And pray what brings you here to-day?"

She spoke in a sweet, musical tone, in pleasing harmony with the diffident demeanor of her guest, whose every motion was quiet and respectable, and whose voice sounded strangely like hers, as he replied: "Just visiting, ma'am. I wished to pay you my regards, Mrs. Simpson, and to congratulate you upon Mr. Watkins, who is coming to board with you."

"Congratulate me!" cried Mrs. Simpson. "Why, I am indeed delighted to hear that. Do you know, I have never seen him yet?"

"Yes?" The look in Mr. Parker's eyes was far away as he replied, and his body bent forward attentively. "I have known Mr. Watkins—Jeremiah Watkins, ma'am—from a boy. I am glad he is come to such a home as yours."

"Indeed, you please me, Mr. Parker," returned Mrs. Simpson. "I shall be especially happy to tell our boarders what sort of person they may expect."

Mr. Parker gave a sudden start, but carefully recovered himself. "Ah," he said, "that's what I came to tell you of."

"Indeed?"

"Yes, Mr. Watkins is a—a—a gentleman."

Again the courteous speaker leaned forward as he spoke, struggling awkwardly for the next word—"but I want you to know that he is a—a gentleman."

"Ah!" returned Mrs. Simpson, with ready intuition. "Then he is perhaps eccentric?"

"Not exactly," replied Mr. Parker, thoughtfully and sweetly, "but he looks, let me say, he looks rougher than he is."

"But he is—"

"Yes," said Mr. Parker. "He is a gentleman."

Half an hour later the door closed softly, and J. Spencer Parker came down the front steps of 1316, at first smiling, and then sadly, walking with slow, unsteady step. As he passed by the little corner grocery store, he paused and smote himself pathetically on the breast.

"Liar!" he said, groaning. "Liar! And yet—it had to be done. God forgive me!"

Anyone who had happened to see Mr. Parker's friend, Mr. Jeremy Watkins, on the next day, when he came with his trunks to 1316, might have been excused for cherishing the suspicion that he was not exactly a Beau Brummel or a Lord Chesterfield. He cursed the baggage man for letting his trunk fall roughly to the ground, and quarreled with him over his fee; and, to further give vent to his feelings, he strode to the door and gave the bell knob a vicious jerk. There was not a look on his face or a gesture of his body that did not reveal him a coarse, ill-mannered young man, properly of the stable, rather than the house. His square, rough face, with its loose mouth and broad nose, his burly shoulders and big hands, and his clothing, inviolate with respect to any previous contact with the whisk broom, bespoke a vulgarity of person that he did not attempt to conceal. It seemed almost impossible that he should be a friend or acquaintance of such a person as J. Spencer Parker.

Mrs. Simpson, radiant, sweet and fresh, appeared at the door, and gazed at him for a moment. Then, seeing his trunks, she extended her hand and said:

"Mr. Watkins, I suppose?"

"Yes." J. Watkins was on the point of asking her who in h—l she thought he was, with two trunks right there before her eyes; but something in her ladylike manner evidently different from what he had been accustomed to, checked him.

"I am so glad to see you," she went on. "So glad to know that we are to have you here. We are almost like a family here, and so you can imagine how much I was pleased to learn that our new lodger was a cultivated gentleman."

Watkins flushed angrily, supposing that she was making sport of him, but one glance at her frank, ingenuous face convinced him of her sincerity.

"Some one must have been here—" he stammered, uncomfortably, "telling you about me."

"Yes," replied Mrs. Simpson, "Mr. Parker was here yesterday. He thinks highly of you."

Again the surging suspicion that Mrs. Simpson was mocking him—and again the sweet and straightforward look from her.

"I have known him a number of years, ma'am," replied Watkins, in a subdued voice.

"So he said," returned Mrs. Simpson, "and it is indeed delightful that those who know one well can speak so well of him. But come—your trunks must be taken care of. I will call our man."

The man came—a wizened man, whose face was wrinkled into a constant smile; and as he bustled about, assisting Watkins with the trunks, he talked pleasantly and respectfully.

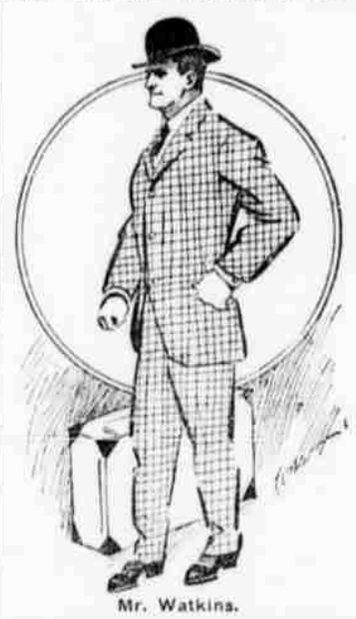
"You will be pleased here, sir," he said, as they stopped, panting, at the top of the stairs. "If I do say it myself, there are no more gentlemanly or lady-like people in the world, than at 1316."

Watkins, who had been just on the point of cursing the man roundly for dropping the trunk on his foot at the top landing, contented himself with blaspheming inwardly instead.

At dinner there was a general hush when he entered the room, and he was introduced to the lodgers, one by one. A sweet looking girl sat next him, who said:

"It will be so delightful to have you here, Mr. Watkins. Mr. Parker, who called here yesterday, tells us that you spent two summers in Europe."

Memories of rough debauches in London and Paris and feverish gambling at Monte Carlo came flooding to his brain. His only subjects of conversation, in regard to European travel, heretofore, had been coarse ones. But now, coloring, he spoke



Mr. Watkins.

of Notre Dame and the Louvre; of St. Paul's and Windsor. The unaccountable influence of this slight creature beside him, brought to his memory scenes of beauty and interest that he had looked on only in passing, and had long forgotten. He talked without roughness, and even found himself thanking the waitress for things she passed him. He felt pleasantly uncomfortable.

He walked that evening with two of his fellow lodgers, for a little exercise before retiring. One of them was the young lady whom he had sat next to at dinner. The other was a young lawyer who occupied the room next to his in the hall. Their talk was wholesome and happy. They asked him about his home and his business, not as curiosity seekers or idlers, but as people sincerely interested in him. They never talked of themselves; but answered his questions frankly.

When he returned to his room there was a flower on his bureau. The gas was burning low. The windows were slightly opened, and the fresh, pure air surrounded him. He found a pitcher of cool water at hand, and a glass stood near it. Presently, Mrs. Simpson knocked at his door. "It occurred to me," she said, sweetly, "that you might not yet have unpacked your books."

Watkins looked apprehensively at the cheap, trashy literature that adorned his shelves. "N—no," he said slowly. "I haven't."

"If you would like to use any of our books, just go down into the library and help yourself. You need not bother to return them to their places, if you get interested. Just leave them here in your room."

Upon the following Sunday one of the neighbors met Mr. Watkins in front of 1316.

"I suppose this is Mr. Watkins," he said, cordially offering his hand. "I am indeed glad to meet you, for I have heard of you from your friends. Come up to-morrow to 1324, three doors up, and have dinner. We shall be glad to add another gentleman to our list of acquaintances."

And so time passed, until one bright day, three months later, there came again to 1316 Mr. J. Spencer Parker. He pulled the door knob with some trepidation, and heard again the faint tinkle of the imitation cowbell in the rear. He talked again to the middle-aged, delightfully beautiful woman who answered his call. He left again in about half an hour. But this time, as he passed the little grocery store on the corner, he was seen to slap himself enthusiastically on the leg and to smile radiantly.

The Extent of His Generosity.

"Generous? Why, he's the stingiest man I ever knew."

"Yes; but he gives himself away whenever there is a call for any outlay of money."—Houston Post.