

THE UNWRITTEN LAW

WE have been hearing much lately about the Unwritten Law, and it seems to have a better standing in some of our courts and in the minds of many of our people than the Divine injunction "Thou shalt not kill." As a pretext for satisfying his blood-thirst, the American man-killer has hit upon nothing so convenient and plausible as this so-called Unwritten Law. But he is in some danger of overworking it.

I asked my friend, Col. Bill Clark, who has known all brands of men and has lived much in the West and South, what he understood by it, the Unwritten Law being more popular and more frequently invoked in those sections than with us in the East. A certain careless ease in corralling the Main Chance has during some years permitted to my friend a station of leisure and philosophy on Broadway, where it is often my pleasure to hold converse with him on my visits to the Big Town.

"Well, suh," said Col. Bill Clark, "I figure it out something like this, 'specially as I've seen the game played down in Texas. A man has a grudge against another man, no matter what; maybe it's money he owes him, or a crimp in politics, or a business juggle, or a hoss trade, or any of a hundred things that breed man-hate, or maybe it's just pure cussedness,—anyhow, suh, he makes up his mind to kill the man. So one fine mahning he loads up his gun and says to his wife before leaving the house:— 'Mary, I'm going to kill Jim Smith for attempting your honor and trying to break up our happy home. Don't forget!'

"And he strolls away and bags his game without any trouble, for nine times out of ten the poor devil he kills isn't looking for it and gets no chance to defend himself.

"Well, suh, the killer gives himself up and goes quietly to jail, looking sort o' sad and resigned, like as if it was a thing he had to do against his will. When the police ask him, 'For Gawd's sake, Tom, what fuss did you have with Jim Smith? Thought you were always the best of friends,' he just blurts out, 'Go and see my wife,—she will tell you all about it.' She does, too, and as dead men don't contradict, nor speak up for themselves, the jury takes her word for it, and her husband is freed by the Unwritten Law.

"It doesn't have to be a strong story, either," added Col. Bill, reflectively. "Why, I know of a case where a man killed another who, according to his wife, had got the better of her some fifteen years before,—a mighty long time to keep still about it, suh. Nobody believed it and everybody did believe that money was at the bottom of the affair, the killer being heavily in debt to the killed, as it turned out afterwards. But,

no matter, suh, the avenger of his wife's honor went neck-free. You couldn't get any other deal down Texas way."

I was pleased to find that Col. Clark's observation agrees with mine, viz., that cases where the Unwritten Law is justly pleadable are very rare indeed. In the West and South crimes against women are visited with swift and awful punishment. Now seduction without violence is one of the most difficult things in the world to bring about, for it almost necessarily implies the consent of both parties. Under the ordinary conditions of civilized society, a good woman is sufficiently protected by her own virtue. There is much truth in the old saw that trouble of this kind usually comes to those who look for it. And the curse of Cain weighs heavily enough upon us in this country,—leading the world as we do with our terrific and unparalleled Murder Crop,—without deepening the horror and judgment of it by our present epidemic of appeals to the Unwritten Law. . . .

Since the foregoing was written an honorable citizen of Virginia slaughtered a young man accused by his daughter of criminal assault, and was acquitted after a very brief trial. The case is notable from the fact that it was perhaps the first in which the Unwritten Law governed the issue without any pretence to the contrary. The learned trial judge did not make even a perfunctory salaam to the Statute of Homicide, and with true Virginian chivalry he ruled out all evidence which might tend to disprove the alleged assault. In his exalted view of the matter, the only pertinent question was, Did she accuse him to her father? If so, the jury had to decide whether the father was blameless in acting as he did, *i. e.*, in snuffing out a human soul without notice or mercy. The jury with commendable promptitude agreed that he was blameless, and the venerable murderer stepped forth into light and freedom amid the applause of his neighbors and the numerous reporters and photographers of the press. It was a great day for Law and Order, and especially for the Honor of the Family, in Virginia.

Still, chivalry aside, here was a fine young man most brutally killed and the public is left in ignorance as to whether he deserved his death, even from the Southern point of view.

For imaginative or designing or hysterical or sexually deranged women have often told similar stories of assault, which were afterwards disproved. Students of criminal phenomena are well acquainted with this singular delusion to which women of a certain temperament are often subject, and which is really pathologic in character. There was a young woman, not long ago, who brought suit against a man in the New York State courts, alleging that he was the father of her child, and yet at the same time denying that she had ever held sexual relations with him—or with any other man! The case was thrown out of court, the judge ruling that he was without jurisdiction as to miracles.

If men are to be butchered on the mere say-so of women who may be perverse or pathologic, then I suppose the Virginian idea of honor will do as well as any other. It can indeed add something to the burden of scorn and contempt but nothing to the load of guilt under which we lie as a people.

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