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upon unsubstantial ground was prevented, after the judges had determined, from a careful inspection of the record, that no good grounds for it existed. The execution which promptly followed prevented an appeal to lynch-law. It is not too much to say that the Virginia plan is ideal. In theory it is perfect, and in practice it has proven entirely efficacious. Under such a system the back-bone of the trial judge is sufficiently stiffened. He does not fear reversal upon a series of frivolous objections; he knows if he conducts the trial firmly and promptly the result will not be a failure of justice, provided no grave error of law is committed. In no state in the Union is the administration of criminal law upon a more wholesome foundation than in Virginia. The trial of the Strothers now in progress for the killing of Bywaters is a striking illustration of the promptness of the trial courts. Within a few months after the tragedy the case is in the hands of the jury. If all the states would simply adopt the Virginia plan, which is proving so efficacious and so just in practice, lynch-law in this country would soon become a thing of the past. No constitutional amendments would be necessary anywhere. Nothing more would be required than a few statutory changes that could be condensed within a very narrow compass. The moment that the people are convinced that they can safely rely upon the courts for the prompt and efficient enforcement of the criminal law, all motive for mob violence will disappear. Until that result is reached Judge Lynch will continue to reign."

Should the "Unwritten Law" Be Written.

An irreverent Englishman once said that the Americans were the greatest "law making" and "law breaking" people in the world. The more laws made, the more there are to break of course, might have been an answer to the witticism. But the fact is that we believe no people in the world rush to the law making power for more remedies for all possible evils, than do the people of these United States, and no people more calmly disregard many of the laws they have demanded. The secular press has lately been devoting some space to a proposition to incorporate into

the statute law of the Commonwealth the so called "unwritten" law. The reason for this is the occurrence of several cases of murder in which the jury declined to convict on the ground that the slayer was avenging a family wrong. The defense of course was insanity—temporary—a "brain storm," as a medical expert has termed it in another jurisdiction. The object of the new law is to prevent this sort of indirection, so those who favor it claim, and to allow as a statutory defense the *arriere pensee* which the jury is supposed to have in its mind when it considers such cases.

Is any legislation on the subject necessary? Is it wise? Should it be seriously considered? We do not believe that on sober second thought any one of these questions can be answered in the affirmative. Cases of the character named are, we are glad to say, rare in the State of late years. The defense made has, as an almost universal thing, resulted in an acquittal. Court and jury and the community as a general thing seemed satisfied with the result. If justice is obtained as the law stands now, why the necessity of any addition to the law?

Is it wise to place on our statute books as a part of our calmly considered legislation a law permitting any man to take into his own hands revenge for any injury, no matter how grievous? Is it not a step backwards instead of forwards? We have abolished the duello—probably as good a method of allowing a man to resent individual wrongs in a private way as could be devised. Shall we brand the duellist as a murderer, and yet allow a killing—in which usually the man killed is given no chance for his life—to be defended legally as no murder? What offenses shall be set down as justifying homicide, and how are they to be graded? Shall the same right now be granted to the injured wife as to the injured husband? If not, why not? Shall the sister have the right to slay, that the brother has? Who shall define the relationship? Who the degree of the offense? What rules of evidence shall prevail? The mere mention of a few of the difficulties in the way—the wide door to possible crime that might be opened, ought to make law makers and all thinking men ponder well whether in escaping one evil they do not fly to others far more dangerous and the result of which no man can foresee.

When juries begin to *convict* for lack of a defense in cases of this sort, and public conscience is shocked at such convictions, then let us seek a safeguard for the unfortunate slayer in legislation. Until then let us be satisfied with results, which do not seem to call for legislative interference.

Justification for Publishing Strother Case.

One of our subscribers has called us to task for our full report of the case of the Commonwealth v. Strother, made in our last number. In our judgment a law periodical is the only one in which such a report should be made in full. To the general public the details of such a case, published in the daily journals, are attractive or repulsive, as one may choose to look at it. It appeals to one class of readers in a prurient way, to another in a painful one. And in addition to this it goes into the hands of a mixed multitude, large in extent, incapable of wise discrimination, and liable to be more hurt than benefited by such a report. In the pages of a law periodical it reaches not only a limited public, but a class of men who read it for information and use—not from idle curiosity. The details of many a valuable surgical operation, if given in the daily press would be horrible and indecent. In the pages of a medical journal they prove helpful to the profession of medicine and useful to humanity. So the report of the Strother case, in a journal read almost, if not entirely by lawyers, is of great value to them in finding out the views of the courts, calling their attention to many questions both of law and evidence and better fitting them for the practice of their profession and the benefit of their clients. We took this view entirely into consideration in publishing our account of the case. We were at a considerable expense to get an accurate report from a purely legal standpoint and not from mere chance reporting. We made it for *lawyers*, and for *their* use and theirs alone, and we feel entirely justified in our own minds, not only as to the usefulness, but the "befittingness" of the Register's action in the case. We hope our friends will consider it in that light.