IS CHARGED WITH RIFLING LETTERS

Railway Mail Clerk, Living at Asheville, Held For Federal Court.

Asheville, Oct. 12.—Alvah W. Flynn, of Asheville, railway mail clerk, is under $1,500 bond today, following his arrest and arraignment on a charge of embezzling money from special delivery letters on the Salisbury-Knoxville mail division of the government onthe Southern Railway.

Flynn was arraigned before Vonno Gudger, United States Commissioner, and waived preliminary examination after which the commissioner placed his bond, which was made by his brothers, also residents of this locality. His commission and badge as a railway mail clerk were removed by postoffice inspectors after his arrest and the charge against him will be investigated by the Federal grand jury at the next term of the district court in November, it is expected.

Government postal officials have been missing special delivery mail on the Salisbury-Knoxville division for some time and do not know just how much money is missing as a result of these losses, they said today. Flynn was suspected of taking special delivery letters several months ago and postoffice inspectors began to center their efforts on the division on which he worked, they said. A few days ago two letters containing a total of $18 were dispatched through mails by the inspectors, one being sent from New Orleans to Asheville and another from Newport, Tenn., to this city. Flynn operated on trains 101 and 102, and trains 35 and 36. When 102 reached the city Thursday night, the letters were due here, and were missing from the pouch, it is alleged. When Flynn reached the station early Friday morning for his outbound trip, inspectors took him in custody and in a search of his clothing money enclosed in the letters was found on his person, being identified by numbers and serial, according to statements brought to the attention of the U. S. Commissioner.

Though cats hate water, their love for fish is so strong that many instances of their diving into water for a finny meal have been noted.

MISCARRIAGE OF JUSTICE.

Raleigh News and Observer.

The verdict of the jury in the case of State vs. W. B. Cole, in which the defendant was charged with the killing of Bill Ormond was returned yesterday morning after the jury had been out since around noon of the preceding day.

It is a verdict that shocks the State's sense of justice. After the evidence was all in, the consensus of opinion of people who followed the case closely was that the verdict of homicide was the one most in keeping with the evidence that had been presented. In view of the charge of Judge Finley, it is impossible to understand how the jury could reach a verdict of not guilty. In his charge to the jury Judge Finley said:

"If the defendant fails to satisfy you that he was insane as hereafter defined at the time of the killing or that he killed the deceased in self-defense, then it would be your duty to at least find the defendant guilty of manslaughter. If you find from the evidence that the defendant entered into the fight willingly and that the deceased started to get his pistol and then the defendant had reasonable grounds to believe and did believe that he was about to be killed or receive some great bodily harm at the hands of the deceased and under such apprehension shot and killed the deceased, he would be at least guilty of manslaughter."

Not one man in a thousand believes that Cole was insane or that he killed in self-defense. The best that could be justly pleaded for him is set forth in the above statement by Judge Finley—that "if" he did believe he was about to be killed or receive some bodily harm at the hands of the deceased and under such apprehension shot and killed the deceased, he would be "at least guilty of manslaughter."

Taking the uncontroverted testimony at its face value, that is all that he could have feared. The judge made it so plain that it is not open to any other construction than that Cole was "at least guilty of manslaughter."

In the face of that plain statement from Judge Finley, it is inconceivable how the jury could have rendered a verdict of "not guilty." If the jury had so far departed from the law thus plainly laid down in a case where an appeal should lie, there would have been sufficient reason why the verdict should not stand. But, of course, the prosecution has no appeal.

It seems to be clear then that the jury acted under some phase of the so-called "unwritten law"—a comfortable way to say that the law was disregarded. That is to say, the jury acquitted Cole because it believed Ormond had slandered his daughter. Slander of an innocent woman is not to be excused and nothing can be pleaded in extenuation of it. However, the laws of North Carolina prescribe a punishment for such a crime, inadequate, to be sure, but, nevertheless, punishment fixed by the law of the Commonwealth. If the jury based its verdict upon the "slander letter," as seems to be clear, it flew in the face of the clear charge by the presiding judge. Said he:

"If the jury shall find from the evidence that the prisoner shot the deceased, as he contended, because the deceased had written to him a slanderous letter of threats, and not because of any insanity at reasonable apprehension of great bodily harm to himself, or death, and was not insane as explained then it would be the duty of the jury to convict the defendant of murder in the second degree or manslaughter at least, as the jury may find the facts to be from the evidence and the law heretofore given, because such act would constitute no justification in law for the taking of human life.

"If the jury find from the evidence that the deceased had slandered the defendant's daughter, such slander would not in fact relieve him from responsibility for his act or justify him in taking human life by reason thereof."

Again, toward the close of his remarks, Judge Finley said:

"The court charges you, gentlemen of the jury, that no man has the right to kill another in North Carolina for slandering his family; slander is a crime and the law provides a penalty for it but it is not the death penalty. The court further charges you that no man has a right to kill another because he has been threatened by him; a threat alone not being sufficient to justify killing but you are to try the case under the law and the evidence as above stated."

These extracts lay down the law as it is written. Nowhere else does Judge Finley make a statement that in the least modifies these. He made it clear that Cole could be acquitted only if the jury believed he shot in self-defense or was insane. Does anybody who has followed the case believe that Cole shot in self-defense or that he was insane, except the twelve men in the jury box—if they believe it?

No criminal case in a decade in North Carolina, if ever, has attracted the profound interest that has accompanied the Cole trial. For two weeks the people of North Carolina have had their minds on the proceedings in Rockingham.

The shock of the killing of young Bill Ormond, who was gassed in the war and who suffered greatly by reason of his service in France, stunned the people. The fact that the killing was done by W. B. Cole, a rich and influential cotton manufacturer, that it grew out of the relation of sweethearts that once existed between Ormond and Miss Elizabeth Cole, the fact that the parties were both prominent, Ormond being the son of an esteemed Methodist minister, intensified the interest.

From the first news, the tragedy looked like assassination. Immediately, the popular verdict was "guilty." But the friends of Cole declared publicly that when the evidence was all in the people would see that Cole had done the right thing and he would be applauded.

The trial came on with little more known. The defense announced that it would rest upon Cole's statement that he killed Ormond in self-defense, that the killing was promoted by Ormond's slander of his daughter and he was suffering with insanity at the time of the commission of the act. As the trial proceeded there was no corroboration of Cole's contention that he shot Ormond in self-defense and if he had not done it, Ormond would have killed him.

The preponderating evidence was that Cole shot Ormond, not in self-defense. In fact, that plea was not strongly pressed. The trial had not progressed far when it was generally accepted that the insanity plea was made to secure the admission of evidence otherwise incompetent, for no evidence by experts was offered to show that Cole was insane at any time. Everything with reference to the trial showed that Cole was mentally alert and there was no foundation for the plea.

If the insanity plea had been relied upon, evidence from alienists would have been introduced. It is always possible to secure such expert testimony, for there are doctors who believe that no man in the possession of his faculties will commit such a crime.

These matters being eliminated, though not expressly withdrawn, the whole case rested upon the plea that Ormond slandered Cole's daughter in a way that justified the father in killing him. The "slander letter" was the chief reliance upon this point but there was some evidence that the slander had been repeated promiscuously. Cole's counsel relied upon what is an enlargement of the unwritten law, to wit, that if a man slanders the daughter, of another the two-year sentence prescribed by law for such offense is wholly inadequate and that Cole did what any father should do to the man who imputed unchastity to his daughter. That was the whole burden of the defense.

Everything rested there, the other matters sinking into comparative insignificance. The "self-defense" plea hadn't a sound leg to stand on and the insanity plea wasn't even supported by one alienist.

Every good man feels a sense of outrage if a good woman is slandered. There is no defense for it and there should be no toleration of it. If, when the slander letter was first received by Cole, he had met Ormond and had mortal combat with him, the feeling would have been with the father. But it was six months after the letter had been written and after Ormond had written a letter that Cole's attorneys thought would prevent a clash.

It is a debatable question whether the presiding judge should have admitted the "slander letter" seeing that it was six months old. There will be lawyers who feel that, having admitted the letter, he should also have admitted the letters identified by Miss Cole as having been written by her to Ormond.

There are occasions when almost any man will be so indignant that under a sense of outrage he would kill the man who would wrong his daughter or falsely impute unchastity to er. But he will do so knowing that he has no justification in law. The man who thus kills, takes the law into his own hands, preferring to avenge the good name of his family than to preserve his own life. He does not declare that he has done right. He only regrets that circumstances were such that death was preferable to submit to the wrong done his daughter.

There are those who would have approved it, after Cole received the "slander letter," he had at once avenged the stain he felt had been placed on the honor of his family. Such people would say, however, that the attack should be made in an open way. If the evidence had shown that Cole and Ormond each had a gun in action, the matter would have been very different. One can't plead self-defense when he shoots without warning.

In the arguments to the jury, an attempt was made to draw a parallel between Cole and Andrew Jackson. Old Hickory, did, indeed, kill two men who had reflected upon his wife but the men who paid the penalty for the slander had the chance for their lives in a duel? In those days, the code duello was the recognized manner by which gentlement settled such controversies.

Those who condone the killing of Bill Ormond, who approve the liberation of his slayer base their opinion on the "unwritten law" theory. When ever any man or any set of men, take upon themselves the punishment of an offender, law is flouted and respect for law is decreased, and there is always danger that private vengeance will usurp the place of law.

At any rate, if a man chooses to become the executioner of a penalty not recognized by law, and the process of justice, he ought to pay the penalty for violating the law.

In this case, the ends of justice required the conviction of Cole for manslaughter. A greater penalty should have been exacted. Less than this is a miscarriage of justice.

Cole is Sane.

Raleigh News and Observer.

When Judge T. B. Finley found W. B. Cole sane, in the sanity hearing held before him yesterday in Wilkesboro, he was merely reaching the determination that had been reached previously by those who had followed the case.

There is every evidence that the jury disregarded the law and the charge of the court when it acquitted Cole of the charge of murdering Bill Ormond. There would have been no point in committing to the State Hospital for the Insane a man who is sane, merely because the jury had failed in its verdict.

It merely emphasizes the point that the defense never intended seriously to plead transitory insanity or self defense. Cole's plea was the "unwritten law." That was the plea accepted by the jury. The plea of self defense and insanity was offered primarily for t he purpose of securing the admission of evidence otherwise incompetent. The court allowed itself to be tricked and the plea having accomplished its purpose was abandoned.

IT ALWAYS PAYS TO USE THE TRIBUNE PENNY ADS. TRY IT.

The United States Daughters of 1812 has branches in forty-one states.