

A LECTURE TO THE PUSH.

JUDGE PHILIPS REFUSES A NEW TRIAL FOR 'PINKY' BLITZ.

A Significant Address Delivered From the Bench—Why Are Not Allege and Willard Brought Into Court?

Acts On Judge.

The "push" made a lively but determined effort in the federal court this morning to save "Pinky" Blitz, the vice "repenter," from going to the penitentiary for illegal voting, but Judge Phillips overruled the motion of Blitz's attorneys for a new trial, and used some emphatic and pointed language which culminated with unambiguous words in the ears of Recorder of Voters C. S. Owsley and several other members of the "push" who were in the court room at the time.

Blitz has one further chance yet to save himself from the penitentiary. There is pending a motion in arrest of judgment which attacks the indictment under which he was convicted, on statutory grounds. Judge Phillips postponed passing on the motion in arrest until tomorrow morning in order to give the attorneys for Blitz a chance to present authorities in favor of the writ of certiorari. Judge Phillips everybody in the court room became satisfied that the agency was only temporarily deferred and that tomorrow the motion in arrest will be overruled and Blitz sentenced to the penitentiary.

FOUR LAWYERS FOR BLITZ.

When the case was called this morning it was seen that Attorney A. S. Lyman and Attorney J. W. Beebe had been secured to assist ex-Governor T. T. Ottensmeyer and J. H. Sikes in the defense of Blitz. Three from attorney sat together and consulted frequently during the argument on the motion for a new trial. Attorney Sikes read the thirty-seven affidavits introduced for the purpose of proving an alibi for Blitz on the day that he is said to have voted the illegal ballot. Attorney Lyman and Beebe contested these affidavits, with attacking the indictment under which Blitz was convicted and argued that the motion in arrest should be granted. Mr. Ottensmeyer made no address in behalf of Blitz, and District Attorney Neal spoke but briefly for the government.

When Judge Phillips began to deliver his opinion in the case there was intense attention. The court room was crowded, in the doors, the gallery and the benches. He said that he had attentively to see if he could gain an intimation of his law from the words of the court. He had not long to wait.

Judge Phillips carefully reviewed the case from the time Blitz was indicted last November up to the time of his trial and conviction at the present term of the United States district court. He said that a new trial, when asked for on the ground of newly discovered evidence, should be granted with reluctance on account of the injury to which testimony may be manufactured by parties starting a new trial. On the trial of the case Judge Phillips said the defense for Blitz was an alibi and the affidavits presented, used to prove the same thing. He pronounced that the affidavits had not shown proper diligence and had been guilty of unparliamentary neglect in not representing the evidence which was merely circumstantial in the case. He said that he got up in a perfunctory manner and in one instance the name of the alibi had been omitted altogether.

"The occasion of the trial," said Judge Phillips, "Blitz was represented as a person almost entirely unknown either in politics or the business world, yet if we are to believe these affidavits, one election day he was under the eyes of the hawk and a year afterwards important witnesses are produced who testify to every move he made that day."

SOME RELEVANT QUESTIONS.

Here Judge Phillips warned to his work and gave expression to some thoughts which created a mild excitement in the court room and raised many knowing glances to be exchanged.

"The most remarkable thing in this case," he said, "is that Andy Fuloy, a witness for Blitz was challenger at a precinct where Blitz voted. Fuloy's bartender, Joseph Higgins, was a judge of election and his record as bartender was clerk at the same precinct. These witnesses swore that they did not see Blitz at the polls that day, and tried to take the case from the jury by swearing that he was not there at all. William A. Tracy, one of the men in whose name Blitz had been convicted of voting, registered from 410 Main street, which I believe is the number of Fuloy's saloon. James Willard was registered from 414 Main street. Why are these two men affidavits here to show where Willard and Allegretti are they fictitious, or are they real and honest? The vigilance of these men who have testified in behalf of Blitz and who are not unknown to some in local politics, cannot enable them to produce these men if they are in existence. No man has sworn that either Allegretti or Willard was at the polls, yet the books show they voted. Where are they?"

At this point all eyes were turned upon Recorder of Voters Owsley, who looked as though that the words of the judge had stung to the quick.

Continuing Judge Phillips said:

"The remarkable part of the evidence adduced and reliance in this case is that the government got the right man when it convicted Blitz. The motion for a new trial is overruled."

Judge Phillips had previously intimated that he would consider the indictment all right and that he would overrule the motion in arrest of judgment, but consented to postpone the matter until tomorrow morning to afford Attorney Beebe a chance to cite authorities. In the event of the motion being sustained the indictment against Blitz will be quashed and a new case will be returned.

Attorney Sikes objected to the ruling of Judge Phillips and said he would take the case to a higher court.

Indictments were returned November 10, 1892, against Maurice, alias "Pinky" Blitz, and "Slim" Smith, for illegal voting, and against A. Beebe, alias L. E. Baker, alias "Tom" A. P. Kelly and Joseph Higgins, his bartender, for assaulting United States deputy marshals. Smith was never arrested and the case against Fuloy and his bartender will probably be solved.

HE SHAVED 'ON SUNDAY.

1893-11-27-KansasCityStar-pl-A Lecture To The Push

Clipped By:



ianhmunro
Fri, Oct 17, 2014