

EXTRA. PLEADING FOR WIMAN

Gen. Tracy Asks for a Certificate of Reasonable Doubt.

Says that Intent to Defraud Was Not Properly Proven.

"The Judge's Charge Left the Jury No Alternative."

Justice Barrett listened to argument to-day, on the motion of Gen. Tracy and Mr. Boardman for a certificate of reasonable doubt as to the guilt of the conviction of Erastus Wiman.

Gen. Tracy presented the argument for the motion, Assistant District-Attorney Lindray opposing.

Because of the odor of escaping gas, Justice Barrett adjourned the hearing from the Chamber of the Court of Oyer and Terminer to the Supreme Court, General Term, room.

Erastus Wiman was convicted a month ago of forgery in the second degree, in indorsing the signature of E. W. Bullinger on a \$5,000 check drawn by the defendant against his firm, R. G. Dun & Co., and in favor of Bullinger, supposed to be in payment of a debt of the firm to Bullinger, but, as was shown, depositing the check in his own bank to his own credit.

Justice Ingraham, now in Europe, sentenced the Canadian-American to six months for the same crime.

Gen. Tracy insisted that the proof of the criminal intention of Wiman had not been properly proven, and that Justice Ingraham's charge to the jury on that point left them no alternative but a verdict of guilty.

The learned lawyer threshed out the old straw of evidence in the case. He told the provisions of the contract agreement between R. G. Dun and his associates, Wiman, Douglas and Thompson, had been disregarded constantly; how, in spite of the stipulation that neither Wiman nor Douglas nor Thompson should enter into any other business venture, Dun himself frequently agreed with Wiman to do so.

Gen. Tracy insisted that Dun knew all these things, including Wiman's overdrafts of \$25,000, and his method of drawing checks and indorsing Erastus Wiman's name on them, as if the drawer was a fictitious person.

It was insisted that Justice Ingraham erred when he told the jury that if they found that Wiman had acted in ignorance and took the proceeds wrongfully to use for himself, it must have been with criminal intent and forgery.

Gen. Tracy claimed that this was a question for the jury, and that the judge left it to them to determine whether Wiman thought he had the right to use Bullinger's name as that of a fictitious person.

"Justice Ingraham erred in refusing to charge at my request that the jury must find a criminal intent before they could convict," urged Gen. Tracy.

Gen. Tracy argued that it was for the jury to determine whether Wiman had the right to draw checks for the firm of R. G. Dun & Co., the richer of the two firms, \$5,000 a month for his own personal use, and the right to use the names of other persons as fictitious names in indorsements.

Gen. Tracy insisted that as Wiman had made it a part of his business to draw checks for the firm, and as he had paid any money, Wiman himself was not to be held responsible for the check.

Again I insist, said the pleader, if Wiman believed that he had the right to draw this check and use Bullinger's name as a fictitious name, there was no fraudulent intent on his part.

Oh, but you have said that there is no contention that Wiman was empowered to sign Bullinger's name," returned Justice Barrett.

That is not the argument I am making, said the pleader, and that the check was signed in the name of Bullinger, and that it was intended to do a criminal act, because he believed that he had a right to take another's pocketbook.

A certificate of reasonable doubt is usually accorded when the evidence is conflicting pending the appeal of the case to the General Term.

Justice Barrett ordered a recess at the close of Gen. Tracy's two-hour argument. Assistant District-Attorney Lindray's argument was heard in the afternoon.

After recess Mr. Lindray, Assistant District-Attorney, argued in opposition to the motion of Gen. Tracy.

He said that Wiman had used the name of Bullinger without the authority of R. G. Dun & Co., and instructed him to make out the check in question to E. W. Bullinger.

Continuing, he said that the evidence showed that on Mr. Wiman's own confession he was guilty of forgery.

In support of this, Mr. Lindray called attention to the check of Jan. 7, which Mr. Wiman had signed in the name of Bullinger, and had placed "W." under the name.

This showed that Mr. Wiman had no right to sign Bullinger's name, said the Assistant District-Attorney.

The latter then cited the evidence that Mr. Wiman had paid \$1,000 to the R. G. Dun & Co., and had charged it to Dun & Co., and how Mr. Wiman had committed other acts of a like nature, which showed that he was guilty of forgery.

TUG NICOL RAISED, IN A \$7.50 COTTAGE.

Wreckers Lifted Her from Her Ocean Bed This Afternoon.

Found Her Exactly Where "The Evening World" Located Her.

Have Practically Purchased the Lockwood Property.

But Legal Proceedings Prevent Their Erecting a Palatial Home.

It is Possible that Bodies May Be Found in Her Hull.

HIGHLANDS OF NAVESINK, N. J., July 8.—The wreck of the tug James J. Nicol, which foundered off this coast Sunday, June 23, was raised to the surface of the sea this afternoon by wreckers.

The hull of the vessel is distinctly visible from the Highlands.

Whether it contains any of the bodies of the forty or more persons who were drowned by the sinking of the Nicol cannot be determined from this point.

The raising of the tug was accomplished very quickly and apparently very successfully. This was no doubt due to the smoothness of the sea.

The wreckers are now towing the bulk towards Sandy Hook, and may beach the wreck there.

SANDY HOOK, N. J., July 8.—Slowly, like a fun, the tug Nicol, the wrecking of which was reported in the Evening World, was towed up through the latter bay towards Sandy Hook.

First came the Wallace E. Flint, which had a long hawser fastened to the derrick of the tug Nicol, and the other side of the large derrick, which kept on the outside, which kept the tug over the side of the Nicol or what is left of her. She hung in a slung of iron chains from the large boom of the Wallace E. Flint, and the tug Nicol was hoisted above the surface.

Capt. Kivlin, of the Chapman Derrick and Wrecking Company, 29 South street, with two tugs and a steam derrick boat, capable of hoisting 35 tons, towed the tug Nicol up to the surface this morning to raise the wreck of the tug James J. Nicol.

The tug was found just where "The Evening World" located her. The wrecking of the tug Nicol, which was reported in the Evening World, was towed up through the latter bay towards Sandy Hook.

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Leaders Hesitate to Put the Call for a General Strike to a Test.

NEW ARBITRATION IDEA PROPOSED.

Big Four Employees and Others Returning to Work at Various Points.

(Special to The Evening World.)

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The fact that trains are moving on all the roads and that it has been deemed safe to withdraw the regulars from Hammond to-day lends strength to the belief.

"The truth is," said an official well posted on labor affairs, "that many men who rushed impulsively into the movement have taken a second sober thought and have paused, since the proceedings about the city and its suburbs began to favor so strongly of Anarchy.

These men are beginning to lose faith in Debs, and that, of course, means the beginning of the end. It is not long for a renewal of general violence and the return of peace naturally means a brighter outlook for a speedy settlement."

The conference of labor leaders at Ullrich's Hall to-day reiterated some of last night's resolutions against oppression, starvation wages and Federal interference.

It also resolved that the City Council should be asked to request President Cleveland to withdraw the regulars. This resolution was sent to Gov. Altgeld, together with the declaration that: "We insist that Your Excellency take legal steps to compel the withdrawal of said army forces at once, and please Your Excellency the support of the law-loving organized trades in Chicago in the accomplishment of this result."

Another resolution declared the necessity for the presence in Chicago of President Cooper, of the American Federation of Labor.

A committee of seven representing the labor unions met a committee of four from the City Council at 1 o'clock, and after a full discussion as to the gravity of the case the City Council Committee was informed by the Labor Committee that unless the Pullman Company agreed to arbitrate before to-morrow night all organized labor in Cook County would withhold their services.

The chairman of the City Council Committee suggested that a committee of five prominent business men be invited to visit the Pullman Company, and as arbitrators, but to determine if the Pullman Company has anything to arbitrate. He also suggested that the committee

consist of two officials of the Pullman Company, two prominent citizens to be appointed by the Judge of Cook County, and the fifth to be chosen by the four.

A committee representing the laboring men appointed a sub-committee of three and they with the Council Committee went at 2 o'clock to confer with Vice-President Wickes, of the Pullman Company, to see whether he would submit to the investigation of the Committee of Five.

This new line of peace-making effort may develop into something gratifying to all sides.

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However, in view of the present stringent orders to the State and regular troops, and of the unshaken change in the feeling of many prominent laboring men, it is felt that this gathering need not result in any extensive disturbance or disastrous clash of forces.

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The fields to-day were considerably reduced by scratching, but there were enough horses left to insure good racing. The weather was cool and pleasant.

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