LEXOW TACKLES GROCERS.

AMAZED AT THEIR GREEDY DESIRE TO LIVE BY BUSINESS.

Hears with Satisfaction That They Lose Money on Sugar—President G. Waldo Smith Throws in Some General Information on the Subject of Legislative Folly—James B. Duke Begins to Tell About the Tobacco Rebate System.

Lexow's monster hunters, pursuant to the determination they expressed on Saturday, chased the Smith monster and the American tobacco monster yesterday. As usual they caught neither and wound up the day a very disappointed lot and much winded. The Smith monster is the other name for the Wholesale Grocers' Association, which the soda monster and the sugar monster, when they were being chased, asserted was in the coercion business to about the same degree that the labor monster is in that business. The hunters learned from the Smith monster that competition in the wholesale grocery business is such that if it were not for the factors' agreement, which the wholesale grocers importune the sugar monster to give them, and similar agreements which some sixty or seventy other monsters in the country accord to them, the staple food products would be sold at net cost, and the whole grocery business would go to the demnition bow-wows. The hunters also learned from the Smith monster that a margin of 1 per cent. in this country to-day meant life to business; that without that margin there would be worse prostration and more business disaster than the country had ever seen before. They were also told that if it were not for the ruinous competition in the railroad business times would be a great deal better; that is to say, if all the railroad companies were able to earn 1 per cent. net profit on their investment, that 1 per cent., distributed throughout the country, would mean unexampled prosperity. The companies are not able to earn that 1 per cent. now, because they carry freight at one-fourteenth of the price they used to get for it.

The tobacco monster had not been chased very far—only around the corner, as it were—when the Board of Aldermen appeared and demanded the use of their room for the regular weekly meeting. So the hunt had to be given up there until this morning.

The train from Nyack was only fifteen minutes late in the morning, but the train from Goshen did not get in until nearly three-quarters of an hour from the time the meeting should begin, and the trains from Niagara Falls and North Tonawanda did not get in at all. So Hunter Warner missed the day's session. The tobacco monster, in the persons of Mr. Duke and Josiah Browne, got around before the doors were opened, and it paced up and down the hall saying cuss words under its breath.

REGAN WITH THE WHOLESALE GROCERS.

The Smith monster came in just after the train from Nyack arrived, and when the Nyack statesman called from his throne "Is Mr. Smith in the room?" Mr. Smith walked up and took the stand.

He said that his name was G. Waldo Smith; that he was 66 years old, a wholesale grocer, and that he lived at 313 West Forty-sixth street. He was the President of the Wholesale Grocers' Association, which was not incorporated. The association covered New York city, a part of New York State, New Jersey, Connecticut, a part of Massachusetts, New Hampshire, and Vermont. It was known, he said, as the Wholesale Grocers' Association of New York and Vicinity. He told the hunters that there was no national monster of the kind, although attempts had been made to form one. The only condition necessary to become a member of his association was to be in the business of distributing food products at wholesale. The association had dues of $10 a year, and it had no affiliation with any other wholesale grocers' association. He was asked about other associations, and he said that the one in the South covered the section from Richmond to New Orleans and as far west as St. Louis.

Having thus put himself on record and in condition to be hunted, Mr. Smith settled back and the master of the hunt went after him.

Q.—By jurisdiction you mean jurisdiction over the sale of sugar, do you not? A.—We have no jurisdiction over the sale of sugar whatever.

Q.—Well, through the control of your jobbers you control the sales of sugar made by the jobbers, do you not? A.—Not by any manner of means or shape.

Q.—You mean to say you don't control the sale by jobbers of food products? A.—I do, sir, without reservation.

"Well, sir, if you don't control it, then who does?" demanded the master of the hunt, rubbing his hands and assuming to be surprised.

"No one exercises any such control," said the Smith monster.

"What?" demanded the master of the hunt. "Do you mean to say that the price of sugar is not a direct act of the Wholesale Grocers' Association nor as a result of an act of the producers of the materials disposed of by the jobber control is exercised over jobbers?"

"I mean to say," said the monster, "that there is no control exercised over the jobbers by the association of any kind or nature. The only thing that I know of the association doing is that the Secretary sends out every day notices of the change of price in sugar.

Q.—Why do you make a distinction in the case of sugar? A.—It is one of the most important articles in the trade. The sale of sugar is indispensable to the jobber.

Q.—Well, what actuates you in sending out these daily quotations? A.—I do not send them out, but I believe they are sent out by the Secretary. The Sugar Refining Company has adopted certain terms of sale, and we, in order to make these terms useful to ourselves, send out the quoted price in accordance with these terms.

"Yes," said the master of the hunt. "Now tell me when you were forced to make this agreement with the American Refining Company."

BEGGED THE SUGAR COMPANY TO MAKE PRICES.

The Smith monster smiled as he replied: "We were never forced to make any agreement with the American Sugar Refining Company. The terms were fixed at our solicitation. I think it occurred six years ago last June. The agreement was made between Mr. Havemeyer, Mr. Searles, and other individuals, and we wholesale grocers had an interview granted us by the sugar people."

The monster, to the great delight of the hunters, went on and said that neither representatives of the Mollenhauer nor the National Sugar Refining Company, nor any of the companies that compete with the American Sugar Refining Company were present when these agreements were made, but at the same time the wholesale grocer monster had agreements almost exactly similar with these competing companies.

Q.—Are not the policies adopted by you the policies in vogue and practised by the various wholesale grocers' associations throughout the United States? A.—We have no practices of any name or nature.

And the monster went on and said that the wholesale grocers got their quotations on which the price of sugar was fixed from the sugar refining companies. The master of the hunt suddenly exclaimed, "Who drew up the rules and regulations that govern the actions of the wholesale grocers?"

"The only rules and regulations that I know anything about," retorted the monster, "were drawn up by a committee eight or nine years ago. So far as my knowledge goes, they have never been adopted."

"Now," said the master of the hunt, dropping his right eyelid, drawing down the right side of his forehead, and hoisting the entire left side of his face, while he pointed the index finger of his right hand at the monster and punched a hole in the desk with his lead pencil with his other hand, "now, does not the American Sugar Refining Company issue the rules and regulations under which the members of your association sell their product?"

"Why, no, sir," said the monster.

"Now, you be a little careful. Be careful. Do you swear to this?" demanded the master of the hunt, stepping out of his seat and continuing to punch holes with his lead pencil.

"Why, certainly," said the monster. "I don't know to my knowledge anything of the kind, and I'll swear that I don't know."

WOULDN'T TESTIFY THE RIGHT WAY.

Q.—You hold yearly meetings, do you? A.—Yes, sir, and we have to send all over town to get a quorum, too.

"Now," thundered the Chairman, his whiskers bristling like Herr Most's, fire spitting out of both eyes and hair almost on end, "now, isn't it a fact that you have to send all over town to get a quorum because those in your organization are simply instruments in the hands of the Sugar Refining Company?"

"No, not by any means," said the monster. "Ask the refiners."

The master of the hunt leaped down from his throne with a green-covered book in his hand and, thrusting it at the monster, demanded if he had ever seen that book before, or one like it. It was a book of the rules and regulations of the Wholesale Grocers' Association. The monster replied that he guessed it was all right, although he did not remember having seen one.

Q.—How comes it that if you are President of the association you have not seen one? A.—I don't know. Maybe that book is promulgated by the sugar people.

Then, indeed, there were shrieks of joy.

"Ha, ha, ho, ho, he, he!" snorted the master, climbing up on his throne like a two-year-old, nudging his fellow hunters in the ribs. "Ha, ha, ho, ho, he, he!"

In the midst of the joy the monster completed his answer, which was: "As I understand it, that book contains the terms of sale which had been adopted by the American Sugar Refining Company at our solicitation and request. At our demand, I might say."

"Oh!" said the master, "at your demand?"

"Yes, at our demand," said the monster, and he went on and said that this particular form of agreement, which is in operation now, was made at the demand of the wholesale grocers of the West and the South. It was simply a slight change from the original, which had been made at the demand of the wholesale grocers of the East.

GROCERS SELL SUGAR AT A NET LOSS.

The master of the hunt hurled question after question at him, and at last the monster said: "If the Chairman will allow me to explain I will say that five or six years ago, in New York and in the greater part of the United States, the wholesale grocers were selling sugar at its net cost, without receiving one solitary cent to pay them for the cost of handling the goods. The result was that ruin and destruction stared them in the face, and many were on the point of bankruptcy. In this emergency they went to the American Sugar Refining Company."

"Yes, now, that's what we want. Was it starting the sugar refiners in the face, too?"

"No; they had nothing to do with it."

Q.—Well, what about the customers? A.—The customers were willing to pay us for the trouble we were put to in handling the sugar. And I want to say right here that to-day the consumers of sugar are getting it at the net cost, with two-thirds of the actual cost of handling added. The sugar refiners allow us a rebate of 3-16 of a cent; that is exactly two-thirds of the cost of handling, and we sell it for exactly what we pay for it. In other words, our profit from the refiner amounts to 4 32-100 per cent., and the cost of doing the business is 6½ per cent., so that we are losing about one-third of the cost of doing business; whereas, before the refiners helped us we were out the entire cost.

This statement was so plain and so very disgusting from a monster-hater point of view, that the master of the hunt declared it was very much involved, and made the stenographer read it over to him.

Q. (Snarled) Who do you mean by we? A. I mean myself and my partners. Thirty per cent. of our trade is sugar.

"Oh," said the master, grinning, "then you have been talking just about your own little business. You mean that it costs you more than you get to handle the sugar? You are only speaking for yourself."

"I was only speaking for myself," said the monster, "but I will now say to you that it is so with every other firm."

"How do you know?" thundered the master.

"I know by general observation," replied the monster.

"What observations?" sneered the master.

"Oh, about forty years in business," said the monster, grinning and shaking his cane.

"What statistics make it possible for you to know the profits of other persons in the business?" demanded the master, again drawing the lid of his left optic and throwing up the right side of his face.

"I have a general knowledge of the wholesale grocer's business, derived from forty years' experience," replied the monster.

THE RULES AND REGULATION BOOK.

The master and the other hunters tossed their heads at the idea that a man who had been forty years in a business knew anything about it. And then the master quoted Rule 3 of the Grocers' Rules and Regulations book. This rule provides the rebate of 3-16th of a cent. The monster said that that meant that anybody who complied with the rule would get the rebate. The rule, he said, was made by the sugar monster and acquiesced in by the grocer monster. The master insisted on calling the books of rules the rules and regulations of the wholesale grocers; the monster insisted on speaking of them as the terms of sale used in the sugar business. The regulations provided that the price of sugar, when it was changed, should change simultaneously in all parts of the country. For instance, when it changed at 10 o'clock here, standard time, it changed an hour earlier in points governed by central time. This provision in the book seemed to convince the hunters absolutely that it was a very wicked book and that there was no question that it was a production of the sugar monster.

The master read other sections of the book and the monster said that they were nothing more than ordinary rules of business, rules that were in use long before the American Sugar Refining Company had anything to do with factors' agreement or before it came into existence. The rules were allowing 1 per cent. discount for cash in ten days, a less per cent. for cash in thirty days; relating to terms of credit, &c., such as are in use not only in the sugar business, but in almost every other business in the country to-day.

"I want to say to you," said the monster, at last, "that the difference of 1 per cent. in the wholesale grocers' business to-day, means the difference between success and failure."

AGREEMENT WITH THE SUGAR REFINERS.

The master of the hunt leaped up, and, leaning far forward, shaking the green book in his hand, he demanded: "Now, since you have seen this agreement, do you mean to say that the price of refined sugar in this country is not fixed by the American Sugar Refining Company?"

"I have not had any knowledge about it," said the monster. "I don't personally buy and sell sugar at all. I am giving you my best knowledge."

"Well, now, Mr. Smith," said the master, "I am sorry that we've got to know more about your business than you know about it in forty years. Now, just look at this paper and state if it isn't the general plan under which you operate?"

The monster thought a good deal of this forty years of experience of his, and he was just a bit nettled as he took the paper which the master handed. As he read it, he said: "As I have been telling you, the only thing out of the ordinary in the agreement between the American Sugar Refining Company and its factors is the fixing of the minimum price at which their product must be sold.

"Read it," thundered the master.

"Um-m," said the monster. "'Condition pay thirty days.' Yes, that's the same as all along. 'Less 1 per cent.;' well, that's just what we've been having; same as every sensible business. 'Bill require paid thirty days;' yes that's business. 'Pay all expenses;' always did it; no change in that. 'Rebate three-sixteenths;' um-m, um-m. Ye-e-s. Now what's the matter with it? Isn't that just what I told you? It fixes the price, that's all; the minimum price at which sugar should be sold. That's what I've been swearing to."

"And you mean to tell me," demanded the boss hunter, "that there is only one condition named there?"

"Certainly," said the monster, "only one out of the ordinary, as I've been telling you."

Q.—Doesn't it compel you to make an affidavit? Isn't that a condition? A.—Oh, that only relates to the price at which the product is to be sold.

Q.—Does not this affidavit compel you to swear that you have sold the sugar in compliance with conditions named in the contract? A.—Certainly.

Q.—And you mean to say, notwithstanding these two additional conditions, that there is only one condition in the contract? A.—I mean to say that the only condition relates to the selling price of the sugar.

The master slipped back on his throne and almost dropped out of sight behind the big desk for a moment. When he bobbed up again he had the famous old "equality book" that he still had in mind as fixing the price of sugar, although in reality it fixes a uniform rate of freight. The Smith monster assured him that the equality book did not work in his case, because his goods were all delivered in the city and there were no freight rates. Then he had a chance to complete his explanation about the origin of the factors' agreement. He said:

WHY NOT DICKER AS THEY DID IN THE YEAR 1?

"The wholesale grocers went in force to the American Sugar Refining Company and they begged relief. Why, man, they went six times and spent three hours each time pleading with the American Sugar Refining Company to fix a price limit. The sugar refining company did not want to do it. Finally they told us that if we could get 95 per cent. of our people to agree to demand it, then they would accord it. We went to work and we got 99 per cent. of all the wholesale grocers to ask the refiners to adopt this rebate system, and they did."

Q.—You people went to all the grocers in the country and secured this meeting of minds on the adoption of a plan that would fix a definite price and a definite profit? A.—We asked them to grant us a limited price and a rebate. We asked them for protection.

"You think that was right, do you?" demanded the master. "You think this factor system is right, and on the same principle applied to every trade in the country, the factor system, a system of that description, there would not be a single article that would be sold in the markets of the United States but that syndicate which controlled it would fix the price of everything, be it a ploughshare or a twenty-five story building."

The monster had been grinning. Now he rapped his cane on the floor and declared with considerable emphasis: "My dear sir, if all the goods sold were of uniform price, quantity, and quality, and they were left to competition, they would all be sold at absolutely the net cost, and the whole trade in the United States would be absolutely ruined, and more prostration and disaster than exists to-day would soon occur throughout this country."

"Why," demanded the master hunter, again leaping up and shaking his finger at the monster, "has not that been the case during the 1,800 years of the Christian era prior to the organization of the syndicates?"

"Well," said the monster, "I can answer as far back as twenty-five years ago. The reason is simply this: Twenty-five years ago only 5 per cent. of all the goods sold in a retail store were of uniform quality, quantity, and price. At that time there was great competition in sugar. Some sugar was better than others; it was sold in hogsheads. Now 75 per cent. of all the goods that are sold by wholesale grocers are of uniform quantity, quality, and price, and the hundredth man in the business fixes the price for the ninety-nine. The ninety-nine have got to meet his conditions."

"Ah, yes," said the master, "a splendid difference for the consumer."

"The consumer does not find any fault with the condition of things to-day," retorted the monster.

Once or twice during the examination the monster had spoken of riding downtown on the cable road and paying five cents. Now the master figuratively leaped at him and said, "That five cents was fixed by law. The State controls that price. Do you not see that if this method of business keeps on prices have got to be regulated in the same way?"

"I see this," said the monster, "that the more Congress and the Legislature let things alone the better it would be for the entire community, capitalists, merchants, and laboring men, whose interests are identical with those of the capitalist. The merchant, the capitalist, and the laboring men are one and inseparable; and any assault made on either one or any assault made on trade in general is an assault on all, and affects all equally."

HAS TO EXPLAIN THAT BUSINESS LIVES ON PROFITS.

The witness said that more than sixty staples dealt in by wholesale grocers were sold under the same terms as sugar, but without any agreement; that the rebate system was coming in everywhere, and that it was absolutely necessary in order to keep down a competition that meant absolute ruin. In answer to a question asked by Senator McCarren, he said that he believes that the American Sugar Refining Company would be delighted to get rid of the factor system and rebate system, because it was a nuisance. Hunter Mazet wanted to know how it was that if wholesale grocers could not live without the rebate system, clothing dealers could. The monster said that clothing varied in quality. "Granulated sugar," he said, "is granulated sugar."

The monster then declared that the only terms on which he would deal in staples, if he could help himself, was the rebate system. "If we didn't have a rebate system," he said, "we would have to sell goods below cost in less than a month." He said that if the Arbuckles built a sugar refinery, as they threatened to do, then the factor system of the American Sugar Refining Company would probably go to the dogs, because Arbuckle would be the hundredth man and he would set the price to the other ninety and nine. He told about several articles that were sold under the rebate system, but merely with an understanding and without any agreement, and declared that the rebate system was twenty-five years older than the Wholesale Grocers' Association. Then he declared that any system of doing business that compelled a transportation company, a corporation, or a merchant to do business without adequate compensation is opposed to the public policy and to the best interests of the people.

"I want to say that except for the aid of the limited price system, all staple goods would sell at actual net cost. I want to say that what this country needs more than anything else is 1 per cent. profit on all business transactions. If the $3,475,040,203 of railroad stocks in the country could earn 1 per cent. profit, that would restore instant prosperity. They can't do it, because competition has driven down the business until to-day they can charge but 1-14 of the rate for freight that they used to charge fourteen years ago."

AMERICAN TOBACCO COMPANY NEXT.

"That'll do, that'll do," said the boss hunter. "We don't want anything more of you, Mr. Smith." And the Smith monster left the stand grinning and happy.

The master hastily called for the tobacco monster, and Mr. Duke, the President of the American Tobacco Company, took Mr. Smith's place.

Mr. Duke said that the tobacco monster was a New Jersey corporation, and that it had originally purchased five cigarette-making concerns, none of which was organized under the laws of New Jersey. The monster has organized under the laws of New Jersey, he said, because they were more favorable to corporations than the New York laws. He referred chiefly to the tax law.

Q.—Was it not that law of the State of New Jersey which permits the acquisition of the stock and securities of other companies in the same business that induced you? A.—That didn't induce me, for we didn't propose to buy any of the stocks or securities of any other corporations.

Mr. Duke admitted that he was one of the principal stockholders of the new corporation. After the corporation was completed and after the original companies had been purchased and were doing business under the new name, nine other companies were bought. These companies were, most of them, in the business of manufacturing plug tobacco and smoking tobacco.

Q.—What proportion of the trade was represented in the nine companies consolidated? A.—That is pretty hard to say, but approximately I should say that between 80 per cent. and 90 per cent. of the cigarette business was controlled by the five original companies.

Q.—After the acquisition of the other nine establishments what proportion did the combination control? A.—They had anything they were in a different line of business. I should say that they represented 5 per cent. of the plug tobacco business and 10 per cent. of the smoking tobacco business and 60 or 70 per cent. of the all-tobacco cigarette business.

TWICE AS MANY MEN EMPLOYED AS BEFORE.

In answer to further questions, the tobacco monster said that the factory of Goodwin & Co., the factory of Hall & Co., and the factory of the Consolidated Cigarette Company were closed after they had been acquired, and the business done in them was transferred to other companies. The transfers were made because these businesses had been conducted on property that was not owned by the American Tobacco Company. They were transferred to property that it owned. He could not tell how many employees had been discharged from the three factories, but he thought the number was very small, and that a majority had found employment in other factories owned by the company.

Q.—Can you tell me how many persons are employed by the tobacco company in comparison with the total number employed by the concerns that were consolidated? A.—I think that about double the number are employed to-day.

Q.—Has the output increased? A.—It has increased very largely.

Mr. Duke said that the company's business in this town is done now in a factory in Twenty-second street which has a much larger capacity than all the old factories put together. He did not know what had become of the books of the original companies that were consolidated. He thought it likely that many of them had been destroyed, for two or three of the old factories had been burned and everything burned with them. As for the increase in the number of employees and in the output of the American Tobacco Company, he said that he could obtain the figures and he would obtain them.

THE REBATE AGREEMENT.

He produced a copy of a consignment agreement, under which the company transacts all its business. It has been in operation since 1895. Section 7 of this agreement gives to the consignee a rebate of 2½ per cent., provided he does not discriminate against the cigarettes manufactured by the American Tobacco Company in favor of the cigarettes of any competing corporation and does not sell below a certain price.

Q.—Has that ever been violated? A.—I heard that some of them cut the price.

Q.—And you consider yourself justified in withdrawing this agreement on the violation of that particular clause? A.—I think that when any clause of an agreement is violated either party is justified in withdrawing the agreement. Agreements are made to be lived up to and not to be violated.

Section 8 was taken up next. That section of the agreement provides that if the consignee handles the goods of the American Tobacco Company exclusively and refuses to sell or deal in, directly or indirectly, the goods of any other company, he shall be entitled to an additional rebate of 7½ per cent. The monster said that he thought a violation of that agreement was just as serious as a violation of the other, but that it had not been the company's custom to withdraw an agreement for failure to deal exclusively in the company's product. The man who didn't simply lost 7½ per cent. rebate; he was permitted to keep the 2½. He was permitted to keep that as long as he did not cut the price.

Q.—Isn't it a fact that no one engaged in the tobacco business can be successful unless he handles your product, so great has been the demand created? A.—He can compete all right, but he can't make so much money.

Q.—Isn't it the same as in the sugar business? A.—There is a big difference between sugar and tobacco. Sugar is sold as sugar; tobacco is sold according to the brands entirely.

Q.—Yes; and your brands are so well known that the small dealer cannot exist unless he deals in them? A.—Yes he can, too; they do do it.

Mr. Duke insisted that the successful operation of this system did not mean that the tobacco business was to be a monopoly.

"Why," he said, "any man can make and sell tobacco providing he can get a market. All they have got to do is to get up their brands and then find a market for them. We can't have a monopoly as long as it is possible to do that.

Q.—Isn't it a fact that you have created such a demand for your brands that the small merchant must take them; and do you not by that system make a monopoly of that business? A.—Oh, no, we have no monopoly of the tobacco business.

It was at this point that the Board of Aldermen interfered, and the master hunter announced that it was with deep regret that he was compelled to say that the hunt must be postponed until another day. The hunters will continue the chase of the tobacco monster this morning at 10 o'clock.

MARTIN O'BRIEN ACQUITTED.

He Thought Oliver Had a Knife and Knocked Him Down in Self-Defence.

The trial of Martin O'Brien for manslaughter in the first degree in the killing of William Oliver on Sept. 20 was finished in the criminal branch of the Supreme Court in Brooklyn yesterday. Several witnesses for the prosecution testified that O'Brien crossed the street, furiously attacked Oliver, and kicked him into insensibility.

O'Brien declared that Oliver was the aggressor, and that, mistaking a paper of tobacco with a tinfoil covering in Oliver's hand for a knife, he defended himself by knocking him down. When Oliver was picked up the paper of tobacco was found in his hand. The jury, after three hours' deliberation, brought in a verdict of acquittal.

Col. Garnett Wants a Greater New York Celebration.

Col. John J. Garnett went over to Brooklyn yesterday and conferred with Mayor Wurster and Bridge President Berri in regard to a grand celebration to commemorate the accomplishment of the Greater New York. According to Col. Garnett's plans, the celebration is to follow closely the passage of the charter and to include many notable civic and military features. Mayor Strong, so Col. Garnett says, is heartily in favor of the project.

TO STOP TAX DODGING.

WESTCHESTER GRAND JURY GETS AFTER THE ASSESSORS.

A Red-Hot Presentment Against Nearly All of Them and Indictments for Some—Millions of Personal Property Escape—The Ridiculous Incompetency of Some of the Assessors.

WHITE PLAINS, N. Y., Feb. 23.—In pursuance of the charge delivered by Justice Keogh last week the Grand Jury has been investigating personal tax dodging, and to-day filed a presentment scoring nearly all of the Westchester county assessors. Several indictments were also handed in. Justice Keogh told the Grand Jury that the assessors had neglected for years to assess personal property, and he did not want this investigation to be a whitewash. The Grand Jury examined at least one assessor from each town, and members of the Boards of Supervisors of many of the towns, as well as substantial citizens. In part the presentment says:

"We find nearly all of the town assessors throughout the county are, in respect to the assessment of personal property for the purpose of taxation, chargeable with neglect of their sworn duty so entire and continuous as to constitute a violation of law destroying completely the intent and purpose of the act taxing personal property. In only three towns of the twenty-two in the county has there been a faithful effort at compliance with the letter and the spirit of the law, notably in the town of North Salem. On the other hand there is abundant evidence by the testimony of assessors themselves that many assessors either through incompetence or wilful neglect so lightly regard the sworn obligation of the office as never to have read the law or to have informed themselves of its contents, and who admit that they are absolutely ignorant of what the law constitutes personal property, notwithstanding the fact that they have annually, throughout their term of office, in some instances covering a period of twenty-five years, rendered sworn statements to the correctness of their assessment rolls as being made in compliance with law.

"We find also by the testimony of assessors themselves that no pretence is made at that diligent inquiry enjoined by the statute, that as a general rule no inquiry is made and no steps whatever taken to ascertain taxable personal property, and that in the occasion of exceptions to the rule inquiry is made only of the taxpayers themselves, and their offhand word is accepted as the basis for taxation, with no further inquiry for years after. In the cases of assessment made and sworn off as excessive, no subsequent assessment or further inquiry is made for years thereafter. Not even is examination made of the county records either in the Register's office for bonds and mortgages owned nor in the Surrogate's office for the inventory of estates, in both of which are publicly recorded millions of dollars of personal property, the subject of taxation, owned by residents of this county. No examination is made of the Surrogate's records in New York city or elsewhere for the inventories of estates, the executors or administrators of which reside in this county, making such estates assessable in this county.

"We also find that there are many residents of Westchester county who are in the open and every day enjoyment of a species of luxurious wealth, such as yachts, fast horses, costly equipages, kept for their own individual pleasure and enjoyment, contributing neither to their business nor livelihood, which of all classes of property certainly should bear its share of taxation, but which, on the other hand, is entirely overlooked by assessors; all kinds of chattels, merchandise, stores, manufactured products, farm stock and implements, household furniture above exemption so rarely as to be almost never included in the assessment rolls. The extent of this public grievance is forcibly disclosed by the assessment rolls for 1896, open to all taxpayers. As example we give a few of the towns, showing the total valuation of real estate and of personal property in each. In the following towns the ratio of personal property to real estate is less than 1 per cent.:

Towns.	Real estate.	Personal.	Taxpayers.
Pelham	$1,467,000	None	0
Mount Pleasant	15,000,000	$60,000	17
East Chester	915,800	8,000	4
North Castle	647,800	4,350	0
New Rochelle	4,074,000	37,000	0

In the following towns the ratio is less than 2 per cent.:

Towns.	Real estate.	Personal.	Taxpayers.
Mamaroneck	$3,305,000	$28,750	3, all corporation
Mt. Pleasant	5,335,000	71,950	4, all corporation
Scarsdale	907,000	16,500	7, all corporation
Yonkers	20,545,000	384,235	144, all corp'tion

"In contrast to these may be cited the town of North Salem, in which the assessors' faithful performance of duty has brought up the ratio to 87 per cent., the valuation being: Real estate, $871,000; personal property, $326,000. Taking the entire county of Westchester, the total assessed valuation of property for 1896 is $97,612,000, of which $94,393,000 is real estate, being 96.7 per cent., and $3,210,000 is personal property, being 3.3 per cent. This latter is paid by 660 taxpayers, being the total number of individual partnerships and corporations assessed for personal property in a population of over 150,000 in a county which is notoriously one of the wealthiest in personal property in the United States. This small per cent. of personal property would be even less if real estate were valued in all the towns at 100 per cent. of its value, as the law specifically requires; but we find that there is no uniform rule of assessment, the assessors in each town being a law unto themselves.

"This flagrant and long-standing violation of the law is, in the opinion of the Grand Jury, a serious menace to the growth and prosperity of our county, which is largely made up of homes of the many small holders of real estate, who are building their homes in our growing cities, so heavy as to deter by its hardship many others from similarly investing, while it engenders that spirit of injustice and unrest which ever results from the spectacle of those possessed of wealth escaping all share of taxation, a condition of affairs which it is the intent of the law and the sworn duty of its officers to prevent. The Grand Jury, in view of these facts, feel it their duty to return to the court indictments in certain cases, and to direct, as they thereby do, that the District Attorney institute civil proceedings to collect the penalty for neglect of duty."

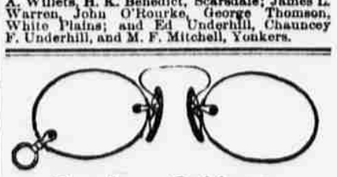
In discharging the Grand Jury this afternoon Judge Keogh spoke in substance as follows:

"You have made all good citizens your debtors. The examination which you have made has been patient, impartial, and most intelligent. In some cases the testimony has been so clear as to compel you to find indictments. The presentment which you have made is a wholesome arraignment of incapable public officials. It will be welcomed by all good citizens, and will be received by the law evading citizens as a notice to them that in this county henceforth an honest effort will be made to place all citizens equally under the law. It has satisfied me and all who read it that in almost every town in this county, with one splendid exception, millions of dollars worth of personal property have entirely escaped taxation, thereby causing a most unjust and odious burden upon the owners of real estate.

"I shall be here next October to hold a term of the Supreme Court. The assessment roll for this year will not then be complete, and I will see to it that every assessor in this county is again summoned before that Grand Jury to convince them that the patriotic work which you have begun will be honestly and courageously prosecuted to its end."

The assessors against each of whom the Grand Jury directs the District Attorney to institute proceedings are:

Daniel J. Smith, William H. Bates, Joseph W. Halstead, Bedford; Samuel Fee, East Chester; John Mable, Eugene B. Hill, John M. Tuthill, Cortlandt; Alex McClelland, Dykman O'Dell, Philip A. Edmunds, Greenburgh; Julius Waldorf, James H. Hyatt, Nicholas E. Burger, Harrison; William H. Tilford, Mamaroneck; J. H. Newman, David Haight, M. J. Martin, Mount Vernon; Horace D. Llewellin, Lewis Tuft, Oscar Smith, New Castle; James Ross, George Lambden, Peter Burger, New Rochelle; Thomas P. Brundage, Martin P. Miller, Edgar A. Huestis, North Castle; William D. Steager, Ebenezer Fowler, A. J. Norwicke, Ossining; Stephen Hoyt, Cyrus Bishop, Nathaniel H. Voris, Lewisboro; Joseph English, Pelham; George Fancher, Henry C. Brown, Henry W. Miller, Poundridge; Josiah W. Bulkeley, Charles H. Stevens, William H. Gedney, Rye; Oliver A. Hyatt, George A. Willets, H. K. Benedict, Scarsdale; James L. Warren, John O'Rourke, George Thomson, White Plains; and Ed Underhill, Chauncey F. Underhill, and M. F. Mitchell, Yonkers.



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BODILY EXAMINATION OF WOMEN.

Court Pondering How Far It Should Be Allowed to Go in a Damage Suit.

An argument on how far a physical examination should be permitted to go under the new law, which permits a defendant sued for damages for injuries to the person to have such an examination of the plaintiff made, was heard yesterday by Justices Conlan, McCarthy, and Fitzsimons, sitting as a General Term of the City Court.

The suit is brought by Lizzie Lawrence, who alleges that she fell downstairs at the house 72 First street, owned by Levi Samuels, and severely injured her left leg, and that the accident was caused by the condition of the carpets in the hall or on the stairs. She asks for damages against the owner. Landlord Samuels obtained an order for her physical examination, which was to be conducted by Dr. Mary Putnam Jacobi, before Thomas C. O'Sullivan as referee. In describing what took place on the examination Abraham Fromme, her lawyer, said to the Appellate Court yesterday:

"She was compelled to submit to a physical examination in the office of the referee, exhibit her limbs, answer questions propounded by the physician, and was compelled to submit to and do all sorts of antics, performing all sorts of what might be termed acrobatic feats. She was compelled to lie down upon a sofa. Her shoes and stockings were taken off. Measurements of her ankles were taken; the ankles were moved in different directions by the physician; she was compelled to move her feet and shut her eyes, and to call out when she was in pain while the examination was taking place; she was compelled to walk off the sofa, and step on the sofa, and sit down again."

The lawyers differed as to whether Dr. Jacobi had considered the examination sufficient. But when the examination had progressed thus far the defendant stated that unless Miss Lawrence would waive claim for any other injuries than to her left leg the examination must proceed further. He referred to the conduct, which he stated that she was otherwise rendered sick and sore about the person through her fall. Counsel for the plaintiff would not waive further claim, and counsel for Miss Lawrence refused to permit the examination to proceed. Application was then made by the defendant for an order that Miss Lawrence be examined, so that it might be ascertained if there were any other injuries about her body. He offered to have her examined at the private office of Dr. Jacobi before any witness that Miss Lawrence might name. The offer was refused, and Justice Schuchman denied the motion for the further examination. The appeal heard yesterday was from the order of Justice Schuchman refusing to direct the examination to proceed.

It was argued in behalf of the defendant that the original order did not limit the examination to a part of the person, and that, as under the allegations of the complaint, the defendant was in danger of the plaintiff proving at the trial other injuries to her person he could be protected only by the full examination contemplated in the original order.

In opposition it was urged that the examination had gone as far as the law contemplated, and that there was no need of a further examination unless it was intended to use this law as a means of oppression, so that, perchance, the woman, through a sense of modesty, would forego her rights to recover for her injuries rather than submit to the ordeal. Counsel quoted from Justice Gray (141 U. S., 250), who said:

"The inviolability of the person is as much invaded by a compulsory stripping and exposure as by a blow, and to compel any one, especially a woman, to lay bare the body or to submit to the touch of strangers in the course of a lawful authority is an indignity and assault and a trespass."

Counsel said that this opinion of Justice Gray gave a fair idea of how the law looked upon such an examination up to the time the act in question was passed, and that the act was constitutional "by a very small margin."

The court reserved decision.

DR. HATHAWAY RESIGNS.

He Specifies That the Opposition of Orrin Banks Had Nothing to Do with It.

The Rev. Isaac W. Hathaway, one of the Jersey City ministers who have been actively engaged in pulpit politics for several years, has decided to resign the pastorate of the Westminster Presbyterian Church. When Mr. Hathaway began to mix up Republican politics with his pulpit utterances many of the conservative members of his congregation objected, but to no avail.

The feeling became so strong that Mr. Hathaway contemplated resigning, but was dissuaded by his adherents, who outnumbered his opponents. On Sunday, Feb. 14, James E. Banks, who had been a member of the church for twenty years, and Superintendent of the Sunday School for eight, resigned as Superintendent, and took his letter of withdrawal from the church.

The trustees and deacons held a meeting last Tuesday night and discussed a resolution which had been offered at a previous meeting, that the board of officers resign in a body. Dr. Hathaway, in making his announcement, gave a résumé of the work he has done since he became pastor, and said:

"Mr. Orrin Banks has been one of my persistent opponents, but this opposition has had but slight consideration in bringing about the conclusion which I have announced."

It is expected that Dr. Hathaway will preach his farewell sermon next Sunday.

The Gunboat Helena Makes Fifteen Knots.

NEWPORT NEWS, Va., Feb. 23.—The gunboat Helena, the sister of the Wilmington, which made a successful run in the bay on Saturday, had a trial test of speed for the first time to-day, and exceeded her contract speed by two and one-tenth knots. If the ship does as well on her official trip she will earn her builders here a bonus of $40,000. The contract speed is thirteen knots.

Æolian Recital

To-day (Wednesday) at 3 P. M.

Admission Free to All.

One person should not be dependent upon the musical mood of another. All have not the time required for the acquisition of such skill as is necessary for the production of good music. Few of us have the ability of an artist, but all of us have an intense love for and enjoyment in good music.

Each of us may have just the music he most needs and admires, exactly when he wants it played, with just the expression his mood calls for. He may have a programme made of one kind of music—or another—or of various kinds, he may have a Beethoven Sonato, followed by a popular song, and that by Schubert's Serenade. He may have a Strauss Waltz or a Wagner Overture, he may have Humor or Tragedy, Pathos or Mirth, Sentiment or Solemnity. The how is told in one word—Æolian.

PROGRAMME:

1. Overture, "Rienzi"..... *Wagner*
2. By Moonlight..... *Bendel*
3. Moraima, Caprice..... *Espinosa*
4. March, "King Cotton"..... *Sousa*
5. a. Alice, Romance..... *Ascher*
   b. Valse de Concert..... *Wieniawski*
6. Theme, Variations and Finale, No. 63..... *Depiler*
7. Murillo, Allegro de Concert..... *Terschak*

18 West 23d St.

WOMEN DISCUSS HEALTH.

WITH INCIDENTAL TALK ABOUT BICYCLES, SKIRTS, AND SPINES.

And Several Side Remarks About the Intolerable Self-Sufficiency and Wisdom of Men in General, and Some Personal Experiences.

The Brooklyn Health Culture Club met at Dr. McCune's, 53 Orange street, yesterday afternoon. Mrs. E. C. Lumsden, the President, was in the chair. After the usual business preliminaries she introduced Miss Etta Morse Hudder, who spoke on the bicycle.

"The saddle question is becoming such a serious one," began Miss Hudder, "that I'm interested in bringing it before all of you who ride, or expect to ride, or