DEMANDS DEVERY'S REMOVAL

MERCHANTS' ASSOCIATION PREFERS CHARGES TO MURPHY.

It's Fairly Up to Tammany, Now, What to Do About the Trial Room Bully—Injustice, Tyranny and Oppression Alleged, and Specific Instances of Each Cited—An Immediate Hearing Asked For, and if Not Granted Other Action Will Be Taken—Fight Is to a Finish.

The Merchants' Association, through its counsel, served upon Police Commissioner Murphy yesterday formal charges against Deputy Commissioner Devery and a demand that the Commissioner remove Devery from office. The charges are based on Devery's conduct of the trials at Police Headquarters, and contain fifteen specifications tending to show that the Deputy Commissioner has been guilty of "injustice, tyranny and oppression."

Accompanying the charges was a brief letter from the Merchants' Association requesting an immediate hearing of them. Commissioner Murphy took the papers home with him when he left Police Headquarters and said he would read them over last night. He will make known this morning his decision as to whether or not he will entertain the charges. Last night he would not discuss them. It is thought hardly probable, however, that he will ignore a complaint from an association representing the commercial interests of the city, and which may be considered to have only the betterment of the business interests of the city at heart.

When Mr. Devery was asked if he had anything to say in reply to the merchants' charges he said he hadn't seen them and didn't know anything about them. It was suggested that he might like to see a copy.

"Have you got them?" he asked. Then he added with as good an assumption of indifference as possible: "Oh, I haven't got time an' I haven't got my glasses An' say, maybe I might need a copy of *Bradstreet's*, too. I might not find such a whole bunch of merchants among 'em."

It was evident, however, that the Deputy Commissioner was a great deal more troubled than he cared to show. He had a long talk in the afternoon with Councilman Tom Foley, who recently defeated ex-Judge Divver for the Tammany leadership of the Second Assembly district, and who, Mr. Divver says, was materially aided in his fight by the police under Devery's orders, with Frank Goodwin, who deposed John C. Sheehan as the leader of the Ninth Assembly district, and who is generally regarded as a warm friend of Mr. Devery's; and with "Battery Dan" Finn. These three talked for an hour with Devery. When they left his office they all had nothing to say. In view of "Big Tim" Sullivan's talk with Squire Croker on Monday night, Councilman Tom Foley's visit to Devery was regarded as highly significant of the gravity of Devery's position.

Devery's friends realized plainly, in fact, yesterday, that now that the Merchants' Association have taken up the fight against him in earnest, his position is very grave indeed. The Association intend to make the fight to a finish. If Commissioner Murphy does not give its charges immediate consideration it is the association's intention to take other action. Just what form that action will assume in the event of the Colonel's hanging up the charges and not granting a hearing within a few days it could not be learned definitely yesterday. It is understood, however, that if it should become necessary an appeal would be made to the Mayor. Then if nothing was done Gov. Odell would be asked to take the police situation in hand.

In preferring these charges against Devery it is not the intention of the Merchants' Association to interfere with the action by the District Attorney against Devery on the complaint of neglect of duty and oppression made by Policeman Oneill. The specifications are similar but the merchants' is a civil proceeding simply. The Merchants' Association believes, as it has already told Commissioner Murphy, in correspondence which has been published, that Devery's methods are injuring the business of the city and that it will be for the good of the city to remove him, and the association is prepared to push its charges to a finish no matter what it may cost.

Following are the merchants' charges against Devery in full:

Hon. Michael C. Murphy, Police Commissioner, City of New York:

SIR:—The Merchants' Association of New York, a corporation organized under the laws of the State of New York, hereby prefers charges against William S. Devery, First Deputy Police Commissioner of the City of New York, in the discharge of the duties of that office, and for being guilty of injustice, tyranny and oppression in his official capacity as First Deputy Commissioner of Police of the City of New York while presiding as a Commissioner of Police at the trials of members of the uniformed force of the Police Department of the city of New York upon and with members of the uniformed force of the Police Department of the City of New York, of which said conduct the fines and penalties enumerated in the specifications hereunto annexed, the said William S. Devery then and there well knew were without authority of law and contrary to the police regulations of the said city of New York.

In support of these charges the Merchants' Association of New York presents the specifications hereunto annexed.

FIRST SPECIFICATION.

The said William S. Devery, on the 14th day of March, 1901, while acting as First Deputy Police Commissioner, under authority delegated to him by the Police Commissioner, and actually engaged in the investigation and trial of a complaint against Patrolmen Conboy and Hanley charged with not discovering a burglary, did conduct himself in a manner unbecoming a Deputy Police Commissioner, in that he did use language substantially as follows:

"It's impossible for the Police Department to stop these burglaries when the Magistrates wont hold the persons we arrest and have evidence against. Magistrate Poole is one of these men. Here is a young man who confessed that he was going to make a burglary. He was found in the wagon that took the stuff away, with the baggin' beside him and sittin' on a jimmy. And yet Magistrate Poole discharged him. If that isn't a case of malfeasance in office I'd like to know what is."

Then turning to Capt. Chapman, who had made the complaint against the patrolmen, the Deputy Commissioner continued:

"It's your duty to make a report of that to the Commissioner and recommend that he bring the matter before the District Attorney touchin' upon an indictment. It's your duty to let the business people of that district know how this case was treated, and that Magistrate Poole discharged the driver of that wagon after we arrested him. They want to know that when the police arrest men like that Magistrate Poole cuts 'em loose into the street to ply their vocation over again. This young man and those two others are guilty of all those burglaries in that district. Men like that are just cut loose to ply their vocation over again. If there ever was malfeasance in office this is. Magistrate Poole hadn't ought to be on the bench."

SECOND SPECIFICATION.

The said William S. Devery, on the 11th day of April, 1901, while acting as First Deputy Police Commissioner, under authority delegated to him by the Police Commissioner, and actually engaged in the investigation and trial of a complaint against Patrolman Warfield for not stopping a fight in a laundry belonging to one Charley Chinn, a Chinaman, and for abusing a Jew who told him about it, did conduct himself in a manner unbecoming a Deputy Police Commissioner, in that he did use language substantially as follows to an officer testifying for the policeman on trial:

"You police can't come over here and testify for each other an' fool me. You've got to protect Chinks and Sheenies the same as other people. Warfield, I fine you thirty days' pay. Hereafter you protect Chinks and Sheenies when they need protection."

THIRD SPECIFICATION.

The said William S. Devery, on the 25th day of April, 1901, while acting as Deputy Commissioner, under authority delegated to him by the Police Commissioner, and actually engaged in the investigation and trial of a complaint against Patrolman Urquhart charged with failing to arrest a woman at the request of the complainant, then conducted himself in a manner unbecoming a Deputy Police Commissioner, in that he used towards the complainant language substantially as follows:

"It takes two to do the solicitin', a lady and a gentleman. The lady won't solicit if you don't make goo-goo eyes. If you hadn't been making goo-goo eyes she wouldn't have troubled you. Anyway, I guess you were excited."

FOURTH SPECIFICATION.

The said William S. Devery, on the 25th day of April, 1901, while acting as Deputy Commissioner, under authority delegated to him by the Police Commissioner, and actually engaged in the investigation and trial of a complaint against Patrolman Cavanagh, charged with firing his revolver at a prisoner, and then allowing him to escape, then did conduct himself in a manner unbecoming to a Deputy Police Commissioner, in that he used language substantially as follows:

"Twenty days' pay for not hittin' him. Next time you hit him.".

FIFTH SPECIFICATION.

The said William S. Devery, on the 3d day of May, 1901, while acting as First Deputy Police Commissioner, under authority delegated to him by the Police Commissioner, and actually engaged in the investigation and trial of a complaint against Patrolman Michael J. McManus, charged with non-support of family, did conduct himself in a manner unbecoming a Deputy Police Commissioner, in that he used language substantially as follows:

(The complainant offered in evidence a certified copy of the records of the Court of Special Sessions showing McManus had there pleaded guilty to the charge for which he was then on trial. The attorney for McManus called Deputy Commissioner's attention that sentence imposed on McManus at Special Sessions had been imposed by three Justices, of whom Justice William Travers Jerome was one.)

"Justice Jerome, eh? This complaint's dismissed. There's a lot of tin soldiers runnin' around this town with popguns on their shoulders, shootin' 'em off in the streets and raising riot and rebellion an' degradin' the whole—the whole community. It's an outrage! Judge Jerome ain't goin' to run this town if I kin help it. I say it's an outrage. It's claimed here that this man was wrongfully convicted, an' I believe it. It's about time a halt was called."

SIXTH SPECIFICATION.

The said William S. Devery, on the 3d day of May, 1901, while acting as First Deputy Police Commissioner, under authority delegated to him by the Police Commissioner, and actually engaged in the investigation and trial of a complaint against Patrolman John Williams, did conduct himself in a manner unbecoming a Deputy Police Commissioner, in that he did use language substantially as follows:

"Yes. There was a big crowd around, wasn't there? Just what you fellows [meaning reporters] like. It's a pity there wasn't some of them tin soldiers around to make some noise and excitement for you. Too bad them tin soldiers didn't go there with a brass band an' give you another sensation!"

SEVENTH SPECIFICATION.

The said William S. Devery on the 16th day of May, 1901, while acting as First Deputy Police Commissioner, under authority delegated to him by the Police Commissioner, and actually engaged in the investigation and trial of a complaint against Patrolman Patrick Mulligan, charged with intoxication while on duty, did conduct himself in a manner unbecoming a Deputy Police Commissioner, in that he did use language substantially as follows:

"If you wanted to go on a bum, why didn't you get a surgeon to give you sick leave for a couple of days? Any one would a' done it."

EIGHTH SPECIFICATION.

The said William S. Devery, on the 20th day of June, 1901, while acting as First Deputy Police Commissioner, under authority delegated to him by the Police Commissioner, and actually engaged in the investigation and trial of a complaint against Patrolman Meehan, after Patrolman Meehan had presented a letter from Park Commissioner Clausen which stated that Patrolman Meehan had done his duty and no more in making the arrest on account of which the charges then being investigated had been brought against him, did conduct himself in a manner unbecoming a Deputy Police Commissioner in that he did use language substantially as follows:

"Commissioner Clausen ain't the general public. If the children want to play on the grass they've a right to. 'Tain't for Commissioner Clausen to make rules and regulations to stop 'em. I'll fine you thirty days' pay, Meehan, and that will teach you fellows not to go a' chasin' ladies an' children off the grass."

NINTH SPECIFICATION.

The said William S. Devery, on the 27th day of June, 1901, while acting as First Deputy Police Commissioner, under authority delegated to him by the Police Commissioner, and actually engaged in the investigation and trial of a complaint against Patrolman Joseph Burke, after Capt. O'Brien had asserted that Patrolman Burke was guilty of lying, did conduct himself in a manner unbecoming a Deputy Police Commissioner in that he did use language substantially as follows:

"Now, don't you call your men liars. You want to remember that all human bein's is equal, an' you ain't got no right to bully one of your men in that way. After this you just keep your head. You've been a bullin' your way thro' this department for a good many years an' it's got to stop."

TENTH SPECIFICATION.

The said William F. Devery, on the 8th day of August, 1901, while acting as First Deputy Police Commissioner, under authority delegated to him by the Police Commissioner, and actually engaged in the investigation and trial of a complaint against Patrolmen John Findley and James H. Kane, did conduct himself in a manner unbecoming a Deputy Police Commissioner in that he did use language substantially as follows:

"Well, men have been dismissed from the force for less offences than that, and I shall close this case by recommending that both of you be dismissed from the force. All these men ought to be out on patrol duty instead of being up here taking sides with either of these two roundsmen, humiliating themselves by being coerced into shaping their testimony so as not to hurt anybody's feelings. I don't like all this political testimony, and while there are so many guerrillas trying to find fault with the police, it's a disgrace to have to haul all these policemen up here to cut each other's throats."

ELEVENTH SPECIFICATION.

The said William S. Devery on the 15th day of August, 1901, while acting as First Deputy Police Commissioner, under authority delegated to him by the Police Commissioner, and actually engaged in the investigation and trial of a complaint against Officer John Hessian, charged with neglect of duty, did conduct himself in a manner unbecoming a Deputy Police Commissioner, in that he used the following language in questioning complainant:

(Round-man Bennett, the complainant, testified that he was alongside of Hessian when he discovered Hessian talking with a woman.)

Devery asked of Hessian:

"Q. Are you near-sighted? A. Well, my back was turned to the roundsman.

"Q. Well, the lady must have been facing the roundsman. Didn't she tip you off? There is a good deal of tipping off going on. Didn't the lady tip you off? A. She couldn't see me.

"Q. I wouldn't stand talking to a lady of that kind again if she couldn't tip you off when the roundsman was four feet behind me. That is pretty close, pretty near up to it. You wouldn't have any tin soldiers running around long after you and not nail you. You are easy, like a lot of other people that are put up against it and fall to it?

"A. Well, the man and woman were sitting alongside each other.

"Q. When you are caught that close you want to stand up with nerve and show nerve. You don't know anything then. * * * No matter under what circumstances a man doesn't want to know anything when he is caught with the goods on him, he must say no to everything. Don't stand up and try to throw the roundsman. You tell that young lady, the next time you are talking to her, when you have got your back in one direction, let her look in the other so that she can tip you off quick. Don't get caught, always get tipped off if you can. Now, I will fine you ten days for not being tipped off."

TWELFTH SPECIFICATION.

The said William S. Devery, on the 29th of August, 1901, while acting as First Deputy Police Commissioner, under authority delegated to him by the Police Commissioner and actually engaged in the investigation and trial of a complaint against Patrolman Edward Oneill charged with abusing a prisoner whom he arrested for violation of the Sunday law, did conduct himself in a manner unbecoming a Deputy Police Commissioner, in that he used the following language in questioning complainant:

In answer to questions Patrolman Oneill said:

"A. I had to pull my pistol to make him (the complainant) drop the tongs, because there was three of them and I was there alone.

"Q. At what time was that? A. About 10 o'clock in the morning.

"Q. It is too bad they didn't throw you through the window. A. Well——

"Q. I say, they should have thrown you through the window. What right have you to go in and interfere with that man in his business place? A. Didn't he commit a violation of the law in my presence?

"Q. What good would it do that lady if she went in there and bought groceries or meats or anything else if she didn't have plates to put them on? I think he has just as good a right to sell plates as anything else. A. I am ordered to close them stores up and I am obeying orders. I am ordered from the station house to close them stores up.

"Q. At a certain time? A. Yes, sir; this is a hardware store and house furnishing goods.

"Q. He sells dishes and cups and saucers and pots to boil potatoes in and different other things that people wish to eat. A. Then I brought him out——

"Q. And it is not for you as a police officer to go in there with a pistol and take that man out. A. I had to protect my life.

"Q. Yes. I will tell you what they ought to have done with you. They ought to have thrown you through the window. You will have enough of that, enough, in a day or two, with Mrs. Nation and the rest of the tin soldiers that she has come to reenforce, to enforce the blue laws without going in and clouting and clubbing a man like this. A. I wasn't going to be clubbed.

"Q. You ought to make the fifth or sixth wing of the party now that is starting to do this work. You ought to have a little axe with you, going in there with your pistol to force a poor man like that out of his business place. It is the rottenest kind of work, interfering with business people and their rights, on the part of all these people that are doing it in the city of New York, now, where there are 4,000,000 of people. It is high time that it should be stopped, and the people ought to stop it. Here is a man and his son, taken out of their business place before 10 o'clock in the morning, at the point of a pistol. It is a bloody outrage, the way people go on, and even you as a public officer. You ought to have plenty of time, so that you can go and join this band. They are virtually like a lot of people that have been cut loose of an insane asylum. One mad woman came here yesterday and about four or five crazy lunatics were here before. You ought to resign from the Police Department and go and join them. I will fine you thirty days' pay. A. You won't do anything of the kind. I will go higher. I suppose if I would stand for a shake-down I wouldn't get thirty days' pay.

"Q. You have been cruel to your horse and everything else. A. This is because I wouldn't stand for a shake-down.

"Q. I will have you ordered before the Board of Surgeons. The case is closed. A. I wouldn't give twenty-five for a transfer.

"Q. What did you say? A. I said I wouldn't stand for a shake-down and I have been transferred four or five times since."

Deputy Commissioner Devery: "I will make a complaint against you for insubordination. I will take none of your talk. Get out of here. You are a loafer."

In concluding the hearing, the following threat was used toward Patrolman Oneill by the Deputy Commissioner at this trial, but is not to be found on the stenographer's minutes of such trial—"I'll break you."

THIRTEENTH SPECIFICATION.

The said William S. Devery, on the 12th day of September, 1901, while acting as Deputy Commissioner, under authority delegated to him by the Police Commissioner, and actually engaged in the investigation and trial of a complaint against Patrolman John Marrinan, charged with wearing a soiled uniform on inspection, in answer to the plea that the uniform had been soiled by contact with the mud-stained clothes of a woman whom he had arrested for intoxication, and found her lying in the gutter; then did conduct himself in a manner unbecoming a Deputy Police Commissioner, in that he used language substantially as follows:

"Oh, did she put your clothes on for you? No matter how filthy she was, she was cleaner than you. Just spit it out, just spit it out, old sport." Before Patrolman Marrinan could say much, Deputy Commissioner again angrily broke in, "That's no excuse; your inspector found your uniform filthy. I will fine you fifteen days' pay, you bum. Now go, you dirty bum, you, and see if you can get that fine remitted. Go on, you bum, you loafer. You are dirty, filthy, unclean and everything else. Fifteen days' pay, now go and get somebody to remit that fine. Will you? You are a dirty bum." Turning to the reporters then present, he said: * * * (Here is quoted a remark that cannot be printed in a newspaper.)

FOURTEENTH SPECIFICATION.

The said William S. Devery on the 2d day of May, 1901, while acting as First Deputy Police Commissioner