

A SLOT MACHINE ON TRIAL.

Richard G. Newkirk's Peculiar Suit for \$5,000

Damage to His Health.

He Dropped a Penny in the Slot, and, Instead of Being Cured of Rheumatism, He Says that His Shoulder Was Dislocated.

The penny-in-the-slot machine came up in court yesterday.

It was before Judge Andrews and a jury in the Supreme Court. The particular machine that was the cause of all the trouble stood like a prisoner in a corner of the room, its big face looking solemnly towards the jury box.

The plaintiff was Richard G. Newkirk, of No. 141 East One Hundred and Twenty-ninth street, who claimed \$5,000 damages for injuries received under false pretenses from the Automatic Electric Company, of Brooklyn, proprietors of the said machine.

After a trial, lasting all day, during which numerous witnesses testified to both the serious and the innocent qualities of the penny-in-the-slot machine, and after one of the jury had personally tested it, the

jury retired. A verdict was finally brought for the defendant, whereupon the machine smiled a broad smile and was joyous. It clicked and registered 599.

The plaintiff retired with a scowl towards the instrument and threatened an appeal.

A DISLOCATED SHOULDER FOR A CENT.

Despite the verdict he regards himself as deeply injured by this penny-in-the-slot contrivance. It took him in to the extent of one cent, and, as he says, dislocated his shoulder.

When Mr. Newkirk gave his testimony before Judge Andrews yesterday he looked menacingly towards the broad white face of the silent witness in the corner, and related in detail the story of the wrongs which he had suffered at its hands. He dwelt at length upon its dangerous and revolutionary tendencies and said in effect that it was time that the argus eyes of justice be directed to this insidious enemy in our midst. While he spoke the cold, glassy eye of the penny-

in-the-slot machine regarded him with calm malignity.

Mr. Newkirk's story was peculiarly interesting, and, as a plain, simple man talking to twelve business men in the jury-box, he appealed for protection for the public as well as himself from his silent but mysterious assailant. His story opened at the place of Edward J. McCoy, No. 208 Avenue A. It was a cold, windy day in March of last year, the 14th of the month.

Mr. Newkirk, who is a chronic sufferer from rheumatism, went in there to light a cigar and seek some relief from the pains and aches which were making life a burden. MR. NEWKIRK MAKES THE ACQUAINTANCE OF THE INSIDIOUS MACHINE.

As he turned to leave his eye fell upon the penny-in-the-slot machine, which was in the Supreme Court room yesterday. It was standing silent in a corner. Its rigid frame was upright against the wall like an Egyptian mummy in the Metropolitan Museum. It made no motion towards Mr. Newkirk, as he admitted in court yesterday, but it held out to him two bright nickel-plated hands like a green-goods man to a citizen of Oshkosh.

There was a label on the penny-in-the-slot machine, and Mr. Newkirk approached it cautiously.

"Drop a penny-in-the-slot," said the notice to Mr. Newkirk's fevered imagination, "and be cured of rheumatism, dyspepsia, neuralgia, headache and many other ailments."

A SIMPLE CURE FOR RHEUMATISM.

He read again. Yes, sure enough, there were the "directions" and a plain statement that, by dropping a single cent into the nickel orifice and grasping the "handles" he would be cured of rheumatism.

"Why, I've spent hundreds of dollars with doctors trying to get cured of rheuma-

tism," said Mr. Newkirk. "and here I can get cured for a cent."

"Let me have a cent," said he to Bartender Edward J. McMahon; "the pains have been pretty bad to-day."

Mr. McMahon and Citizen McAlarney, whose testimony was given in court yesterday, gathered about to see Mr. Newkirk cured of rheumatism by the machine.

The penny was dropped in the slot. It went down the iron throat, and was heard to rattle among the intestinal arrangements in the body of the instrument. On its broad face there was a hand and numbers all the way around the edge, running up to 600 at the top. Electricity was supposed to be stored up in some internal reservoir.

MR. NEWKIRK IN SURPRISE.

But Mr. Newkirk felt nothing, as he told the jury yesterday, when he first took hold of "the handles." He pulled one out according to directions, while Messrs. McMahon and McAlarney stood by with bated breath.

Still the aches of rheumatism continued, and it almost seemed as if Mr. Newkirk was not to get his money's worth.

The machine said nothing. Its face was calm and the hand refused to move. Mr. Newkirk pulled slowly and kept his eye fixed on the dial.

Suddenly there was a click and something snapped.

The hand jumped around to 596, and Mr. Newkirk let out a yell.

THE MACHINE CAPTURES MR. NEWKIRK.

He tried to let go of the "handle," but he couldn't. The machine held him a prisoner, and all the while the hand on its dial moved nervously like the shadow of a fatal smile, while "voita," as he described it, were coursing through his body.

Bartender McMahon became greatly alarmed. He shouted directions to Mr.

Newkirk how to let go, but was afraid to touch him, for he knew he was loaded with the deadly current.

Finally, as if having fun with Mr. Newkirk, the machine let up a bit. It dropped to 307 and gave him a chance to get his second wind. Raising his knee he pushed away the handle, and when time was called the machine had won in the first round.

It took Mr. Newkirk some time to recover his senses and when he did he found himself in a sorry plight.

HIS NEW BATCH OF ACHES.

Not only was the rheumatism still there, but a lot of new aches and pains as if the machine had shot into him the disease it had taken out of other people. He could not raise his arm. His right shoulder was stiff and sore.

Mr. Newkirk vowed vengeance on the penny-in-the-slot machine. He shook his fist in its face and declared that he would have justice if he had to drag it to the Court of Appeals.

Then he went out and consulted Dr. D. Harvey, of the Eye and Ear Infirmary, and was laid up in bed for six weeks. He retained Lawyer James T. McMahon, of No. 176 Broadway, and Mr. McCoy told the Automatic Electric Battery Company that they were not giving his customers a fair shake.

AN ELABORATE COMPLAINT.

Lawyer McMahon prepared an elaborate complaint, which was duly served upon the defendant. It stated "that said defendant, by printed instructions conspicuously placed upon each of said automatic batteries, represented to the public that said batteries possessed remedial and curative properties and healing virtues, and induced persons to pay money to said defendant and use the said batteries for the cure of various diseases."

Also, "that directions on each of said batteries instructed persons desiring to avail themselves of the alleged benefits thereof to place a cent in a slot on said batteries and pull out a handle or metal bar which protruded therefrom."

A SHOCK-BUT NO CURE.

Then the complaint went on to say that Plaintiff Newkirk on the date named, "relying on the representations, so as aforesaid made by the defendant," had put his penny in the slot and pulled out the handle; whereupon, instead of being cured of rheumatism, he "received from said battery severe and permanent injuries to his right arm and shoulder." Wherefore the plaintiff demanded \$5,000.

As Judge Andrews told the jury yesterday, the question was one of facts and not of law. This was the trouble which Mr. Newkirk encountered from the outset. President F. G. Williams, of the Automatic Electric Battery Company, repudiated the notion that the penny-in-the-slot machine could injure any man, and said it was as innocent as the babe unborn.

THE MACHINE'S DEFENSE.

Electrical Expert Boovers, sworn by the defendant, looked at the ample face of the instrument in the corner and said it only contained "three volts," which, he said, instead of injuring a man, would do him good.

Lawyer Haley Fiske, attorney for the defendant, denied that the penny-in-the-slot machine made the representations claimed for it by plaintiff, and in proof introduced in evidence the machine itself.

The "instructions" on its face were read. Among other pleasing statements which they made was this: "Positively no unpleasant shock."

When Mr. Newkirk heard this he smiled a

grim smile and felt his right arm. It was found, however, that although rheumatism, neuralgia, dyspepsia and other fleshly ills were mentioned in bold type, the penny-in-the-slot machine did not exactly claim to cure them for a cent. It only said that the frequent use of "mild electrical currents" was good for these complaints.

President Williams corroborated this. He was unable to remember any cases where people had been cured by the machines; but he said there were many such.

Dr. Harvey said he had treated Mr. Newkirk, and that the severe injuries he had suffered from might have resulted from an undue shock of electricity. On cross-examination, however, he admitted that they might have come from other causes.

THE TESTIMONY OF A WITNESS.

Edward J. McMahon was sworn by the plaintiff and graphically described the scene when the machine turned the current on Mr. Newkirk, while McAlarney's deposition was read to the same effect.

Collector Stephens, who visits the machines every two weeks in the places where they have been deposited, told the jury how he loaded them up and took out "the money which they have earned."

The one in question, he said, was in good working order when he visited it. He never heard of people being injured by the machines before, and said sometimes as a practical joke men were induced to pull one handle out all the way before touching the other, when they would receive the full shock. This might have been done by Mr. Newkirk, but even then he did not think it would injure him. Where the "instructions" were obeyed the machines always worked well, he said.

THE JURY'S ORIGIN.

The plaintiff's counsel had to satisfy the jury that his client's injuries had resulted

from the penny-in-the-slot machine, a difficult thing to do with so mysterious an agent as electricity. In case they were so satisfied, said Judge Andrews in his charge, they should find judgment for the plaintiff in the amount they believed him to have been injured.

In summing up for the defense Lawyer Fiske offered to let the jury take the machine with them when they retired. They need have no fear, he said, for it was a mild and inoffensive instrument.

A DUTY CAUTIOUS JURY.

Nevertheless, the jury declined this generous offer.

They eyed the machine curiously, standing at a respectful distance. It bore an innocent expression on its face. It seemed to say: "Gentlemen, stand by me now. I'm your friend. Don't be afraid, but let us shake hands."

One of the jurymen was touched by this appeal from the silent and helpless instrument. He offered to try it if somebody else would put a penny in the slot.

The coin was dropped into it and the jurymen pulled out the handle slowly and cautiously while his colleagues stood around as if expecting a scene. The hand registered regularly and the jurymen got a mild shock.

Mr. Newkirk regarded this proceeding with a cynical smile. The machine was all right now, he thought, trying to make friends among the jury, but how about last March?

A SECOND SHOCK FOR MR. NEWKIRK.

The jury was out about half an hour. Mr. Newkirk said he felt confident of victory. When the jury returned and said they had agreed he smiled. It was then announced that the verdict was for the defendant.

Again Mr. Newkirk received a severe shock. He thought at least they might have given him his cent with costs.