

The foregoing might well be submitted without comment. There are few acquainted with the publishing business, and indeed not many intelligent readers who cannot see that this ruling, if carried out impartially, would exclude at least 30 per cent. of all the papers now registered in the second class from the privileges therein enjoyed. But, with some explanations, and with a few comments, the injustice which has been meted to us will be made still more glaringly apparent. Take for instance the first section of the official paper: "The proprietors of the paper are interested as the proprietors of a business largely advertised in its columns." This furnishes presumptive evidence that the paper is designed primarily for advertising purposes. Now, who that is familiar with the periodical literature of the day doubts for a moment that the Harpers are largely interested as proprietors in an extensive publishing business; the Appletons ditto; the Scribners ditto, and hundreds of others less prominent. And still these immense publishing houses all issue magazines and papers in which their business is largely advertised.

The second section puts the circulation at 12,000 and the paid-up subscription at 3000, and concludes that "three-fourths of the issue is, therefore, designed for free circulation." In our interview with the auditor we stated explicitly, and he took it down at the time, that our bona fide subscription list amounted to about 5000; that it sometimes exceeded, and sometimes fell below this number. When, at a much later period of the controversy, only indeed a few weeks ago, we were asked to make affidavit as to the paid-up subscription list, we stated not less than 3000. We did not refer to our books; had not the time to do so. It is no small matter to look over a list of something over 5000 names and see just how they all stand in regard to their subscriptions. We did feel safe however in making an affidavit that there were not less than 3000 on that list who were all up to the mark. Every publisher knows that subscribers are dilatory and that there are often those who fall quite behind in renewing. We have perhaps been more particular than most have been in erasing names who have not shown sufficient interest to promptly renew. But for us to have, say, 2000 or 3000 in arrears in a circulation of about 5000 would certainly not be surprising. And still many of the names of the parties in arrears would be perfectly good for their subscription.

The official paper has it that "It will not do to say that this extraordinarily large issue in excess of the paid-up subscriptions consists of sample copies." Why not? We have explained over and over again that these sample copies are mainly sent out in the fall of the year just as we are entering upon our new volume. We have said all the time that it had an average during the year of 12,000 per month; but we have not said that we issued each month 12,000 copies, neither to advertisers whom we wished to interest in advertising in our columns, nor to the post-office department in this controversy. We have explained fully that in November of 1890, one month before the close of the 5th

volume we issued some 25,000 sample copies; that in the previous October, as we were drawing near the close of the 5th volume, we issued 20,000; that in the September previous we issued 10,000. These large issues in the fall and just before a new volume were expressly for the purpose of increasing our circulation. According to our best information we did no more sampling than our neighbors in the publishing business. We did nothing like as much as many did. For instance, we received a circular from a Washington publication, asking us for our advertising, and as an inducement stated in so many words that they were going to issue 100,000 sample copies each month for four months! This occurring right under the very eaves of the Washington office. The post-office officials know just as well as we do that there are any number of publications which have done more sampling than ours has, and which are, nevertheless, not thus discriminated against.

The foregoing official paper says: "The law does not in terms limit the number of sample copies that may be sent out at second class rates. But it does require 'that the publication shall have a legitimate subscription list.'" Well, have we not a legitimate subscription list? So long as the law does not limit the number of sample copies, if, in the judgment of the officials, we were exceeding the bounds of propriety by sending out as many as we did, why did they not give us warning to that effect, and allow us to correct the alleged abuse? But what were the facts? The first intimation we had at all of alleged excessive sampling was when some six bags of our issue printed in April were thrown back upon us on complaint that we were sampling too much. We did not grumble at this, but affixing the stamps, forwarded the papers, and said that it was unnecessary for them to bring the matter to the attention of the department, as we were willing to abide entirely by the privileges they were disposed to accord us in respect to the number of sample copies we were entitled to send. But this action was only the thunder of an approaching storm. In a few days more we received the official documents, dated the 20th of April, relegating our HEALTH MONTHLY to the third class, the order bearing precisely the same date as the one issued to Dr. Sara B. Chase, excluding her paper entirely from the mails! We remarked then to some of our friends that Dr. Chase and her *Physiologist* were in the more fortunate position; they were where they could compel the postal authorities to rescind their order. The act was unconstitutional, if it was not indeed unlawful. It was really both. The officials themselves were not slow to discover their mistake and to make haste to retreat. But in our case the law is so indefinite and leaves the matter so wholly optional with the postmaster to determine what shall and what shall not be admitted to the privileges of the second class, we had—and so far as we can see have—no redress in the matter.

To give anything like a summary of the correspondence which has passed between our attorneys and ourselves in this controversy would make an article which would nearly fill the columns of THE HEALTH MONTHLY. There would not be room even for our own advertising.